Republic of the Philippines
Department of Finance
Securities and Exchange Commission
SEC Building, EDSA, Greenhills, Mandaluyong City
Office of the General Counsel

19 January 2016

SEC Opinion No. 16 - 01
Teleconferencing for Stockholder's Meetings

Atty. Althea F. Acas
SEDLEX PROFESSIONAL PARTNERSHIP CO.
7B 7th Floor OPL Building
100 C. Palanca St.
Legaspi Village, Makati City

Dear Attorney Acas:

This pertains to your letter dated 16 April 2014 requesting an opinion on whether or not appearance and voting via teleconferencing and videoconferencing are allowed in stockholders' meetings.

You point out, among others, that the Corporation Code was passed back in May 1, 1980, a time when teleconferencing or videoconferencing was not yet an established business practice. It has been almost 34 years since the Corporation Code was enacted and the business landscape has change dramatically in the course of three decades. Nowadays, information and communications technology is an integral part of the conduct of business and commercial transactions.

Furthermore, you posit that the term "in person" may be construed as to include attending and voting done by actual person, despite not being physically present in the meeting. You further argue that E-Commerce Act apply similarly to the conduct of a stockholder's meeting as it was applied to board meetings in relation to SEC Memorandum Circular No.15.

The term "Teleconferencing" means an interactive group communication (three or more people in two or more locations) through an electronic medium. In general terms, teleconferencing can bring people together under one roof even though they are separated by hundreds of miles.[1]

Teleconferencing presupposes that the participants to such mode of communication *are in different places*. This type of group communication may be

[1] *Expertravel & Tours vs. Court of Appeals*, G.R. No. 152392, 26 May 2005, citing J. Carroll, *Teleconferencing*, CIX Dun's Business Month, 1 (1982), pp. 130-34

used in a number of ways, and have three basic types: (1) video conferencing - television-like communication augmented with sound; (2) computer conferencing - printed communication through keyboard terminals, and (3) audio-conferencing- verbal communication *via* the telephone with optional capacity for telewriting or telecopying.[2]

However, teleconferencing can only facilitate the linking of people; it does not alter the complexity of group communication. Although it may be easier to communicate via teleconferencing, it may also be easier to miscommunicate. Teleconferencing cannot satisfy the individual needs of every type of meeting.[3]

Section 51 of the Corporation Code[4] provides that "stockholder's or member's meetings, whether regular or special, **shall be held in the city or municipality where the principal office of the corporation is located, and if practicable in the principal office of the corporation**." This provision presupposes that the attendees to a stockholders' or members' meeting are *in the same place* during the meeting. This is in contrast to teleconferencing, where the participants are *in different places* although their communication with each other is facilitated through an electronic medium, making their presence in the meeting merely "virtual" or electronic.

The Commission previously opined[5] that:

> "xxx xxx xxx. xx xxx xxx in cases where the law requires a duly called meeting to carry out a corporate transaction, 'constructive' or 'electronic presence' is not a substitute for 'actual presence'."

On the other hand, the conduct of a meeting of the board of directors or trustees may be held anywhere in or outside the Philippines per Section 53 of the Corporation Code. The aforementioned provision does not limit the attendees to such meeting be in different places, with the attendees'' communication being facilitated through an electronic medium. In this regard, the Commission issued SEC Memorandum Circular No. 15 Series of 2001, providing the guidelines for the conduct of board meetings through teleconferencing.

For the foregoing reasons, Section 47 of the Corporation Code permits the "place" of the directors' meeting to be stipulated in the corporations'' by laws, but not in case of stockholders' meetings.[6]

---

[2] Ibid

[3] Ibid., citing R. Johansen, J. Vallee, and K. Spangler, Electronic Meetings: Utopian Dreams and Complex Realities, *The Futurist, XII* (No. 5, 1978), 313-19; L. Parker, M. Baird, and M. Monson, *Introduction to Teleconferencing* (Madison: University of Wisconsin-Extension, Center for Interactive Programs, 1982); and Sonneville, *Teleconferencing Enters Its Growth Stage.*

[4] Batas Pambansa Blg. 68 (1980).

[5] Ltr. to Wilma M. Valdemoro-Cua dtd. 9/10/93; SEC Opinion dated 4 August 1998, addressed to Ms. Ma. Pelita B. Dotado-Viliran, citing SEC Opinion dated 25 March 1981, addressed to Atty. Victor Africa.

Thus, under the present Corporation Code, a stockholder's voting and appearance cannot be conducted via teleconferencing or videoconferencing.

It may be of interest to you however that there are pending bills[7] in Congress that proposed amendments to the Corporation Code. This includes permitting the conduct of stockholders meetings through electronic means.

It shall be understood, however, that the foregoing opinion is rendered based solely on the facts and circumstances disclosed and relevant solely to the particular issue raised therein and shall not be used in the nature of a standing rule binding upon the Commission in other cases or upon the courts whether of similar or dissimilar circumstances.[8] If, upon further inquiry and investigation, it will be disclosed that the facts relied upon are different, this opinion shall be rendered void.

Please be guided accordingly.

Very truly yours,

CAMILO S. CORREA
General Counsel

---

[6] Section 47. Contents of by-laws – Subject to the provisions of the Constitution, this Code, other special laws and articles of incorporation, a private corporation may provide in its by-laws for:

1. The time, place and manner of calling and conducting regular or special meetings of the directors or trustees;
2. The time and manner of calling and conducting regular or special meetings of the stockholders or members;

[7] House Bill No. 4407 of the 16th Congress; and Senate Bill 2194 of the 16th Congress

[8] Paragraph 7, SEC Memorandum Circular No.15, Series of 2003