

FAQs - AGM exemption, change of FYE and AR filing timelines

Q: What is the rationale behind the Companies (Amendment) Act 2017 reforms on annual general meeting and annual returns?

A: To reduce the regulatory burden for companies, the law reforms simplify the timelines for the holding of AGMs and for the filing of ARs as well as introduce a new AGM exemption for qualifying private companies.

Q: When will the Companies (Amendment) Act 2017 amendments on AGM and AR come into effect?

A: The Companies (Amendment) Act 2017 amendments on AGM and AR took effect on 31 August 2018 and apply to companies with financial years ending on or after 31 August 2018.

Q: When the Companies (Amendment) Act 2017 amendments on AGM and AR come into effect, will the amendments apply to the immediate preceding financial year?

A: The Companies (Amendment) Act 2017 amendments on AGM and AR apply to financial years ending on or after 31 August 2018.

AGM and AR filing timelines

Q: What are the AR filing timelines for companies with financial years ending on or after 31 August 2018?

A:

- For listed company: File AR within 5 months after FYE
- For any other company: File AR within 7 months after FYE
- For companies having a share capital and keeping a branch register outside Singapore, align the timeline for filing ARs to within 6 months (for listed companies) or 8 months (any other companies) after FYE.

In this context, “listed” means a company that has been admitted to the official list of a securities exchange in Singapore. The applicable timeframe is determined based on whether the company is listed as at its FYE date.

Companies may apply for an extension of time to file its AR.

If your company:

- has dispensed with the holding of AGM; or
- sends financial statements to members within 5 months after the FYE and intends to make use of the AGM exemption,

you can file AR after the sending of financial statements to your members. If your company is a private company that is a dormant relevant company exempt from preparing financial statements, you can file your AR after the end of the financial year.

However, if you filed your AR and are subsequently required at the request of at least one member to hold an AGM, you would need to separately inform ACRA of the AGM date.

In all other cases, you can file your AR only after holding the AGM.

Q: What are the AGM timelines for companies with financial years ending on or after 31 August 2018?

A:

- For listed company: Hold AGM within 4 months after FYE
- For any other company: Hold AGM within 6 months after FYE

In this context, “listed” means a company that has been admitted to the official list of a securities exchange in Singapore. The applicable timeframe is determined based on whether the company is listed as at its FYE date.

Private companies are exempt from holding AGMs in certain scenarios. Additionally, if your company is a private company, you may dispense with the holding of AGM if all members pass a resolution to do so.

Q: For companies with FYE ending on or after 31 August 2018, what if a member of a private company requests for an AGM to be held within the prescribed timeline?

A: The company is then not exempted from holding AGM and directors must hold an AGM within 6 months after FYE. The company may seek the Registrar’s approval for an extension of time to hold AGM.

Q: For companies with FYEs ending on or after 31 August 2018, what if a member or auditor requests for a general meeting to lay the financial statements to be held within the prescribed timeline?

A: The directors of the company must hold a general meeting to lay the financial statements within 14 days after the date of request.

Q: My private company is exempted from holding AGM, but is unable to file the Annual Return within the prescribed timeline (i.e. 7 months after FYE), What should I do?

A: You may apply for an Extension of Time (EOT) before the expiry of the prescribed timeline via BizFile+.

AGM Exemption

Q: My company intends to be exempted from AGM and has sent out its financial statements within 5 months after FYE. Can I proceed to file the annual return after sending the financial statements or should I wait and see if there is any member's request for AGM to be held?

A: If a private company sends financial statements to its members within 5 months after the FYE, it may proceed to file its annual return after sending the financial statements. However, if there is a valid member request for the holding of AGM, the company must notify the Registrar of the date that the AGM was held within 14 days of the date of AGM. The company must lodge a “Notification of AGM date” e-form for this purpose.

Q: What is the AGM exemption for companies with financial years ending on or after 31 August 2018?

A: Private companies will be exempted from holding AGMs if they send financial statements to their members within 5 months after FYE. Private companies that are dormant relevant companies will be exempted from holding AGMs. However, private companies will be required to hold an AGM if a member requests for an AGM to be held not later than 14 days before the 6 months after FYE. Additionally, private companies will be required to hold a general meeting if a member or auditor requests for a general meeting to lay the financial statements to be held not later than 14 days after the date the financial statements were sent.

Q: Can companies still dispense with the holding of AGMs for FYEs ending on or after 31 August 2018?

A: The option for private companies to dispense with the holding of AGMs under section 175A is retained. However, some provisions such as the timeframe of filing annual returns will be amended to achieve consistency with the new AGM exemption.

Q: If the company's constitution states that it must hold an AGM every year, can the company qualify to be AGM exempt under the CAA2017 or is the company bound by its constitution and must hold AGM annually?

A: If such a company does not hold an AGM because it meets the criteria to be AGM exempt under the Companies Act, it will not be in breach of the Companies Act. However, the constitution of a company binds the company and the members and as such, the company has to follow the provisions of its constitution if the constitution requires an AGM to be held annually. In such a case, the company may wish to amend its constitution if it wishes to make use of the AGM exemption in the Companies (Amendment) Act 2017. If the company's constitution states "An annual general meeting of the company must be held in accordance with the provisions of the Act" (which is the wording used in the Model Constitution in the Companies (Model Constitutions) Regulations 2015), no amendment to the constitution is required for the company to make use of the AGM exemption, as the exemption is provided for under the Companies Act.

Notification on FYE

Q: What are the rules on FYE for companies with FYEs ending on or after 31 August 2018?

A: Companies must notify the Registrar of their FYE upon incorporation. Companies incorporated before 31 Aug 2018 have an FYE deemed by law.

- Companies incorporated before 31 Aug 2018 which notified ACRA of their FYE date before 31 Aug 2018 have that date deemed by law to be the statutory FYE.
- Companies incorporated before 31 Aug 2018 which did not notify ACRA of their FYE date before 31 Aug 2018 have the anniversary of their date of incorporation deemed by law to be their statutory FYE.

Q: Can I not inform the Registrar of my FYE at incorporation on or after 31 August 2018 but do so subsequently?

A: It is a requirement in law that companies indicate their FYE at incorporation. From 31 Aug 2018, the incorporation form will include a field where the FYE of the company has to be entered.

Change of FYE

Q: Can I change the FYE of my company for FYEs ending on or after 31 August 2018?

A: Companies must notify the Registrar of any change in FYE. Companies may only change the FYE for the current or immediate previous financial year. Companies cannot change their FYE if statutory deadlines for the holding of AGM, filing of AR or sending of

financial statements have passed.

The Registrar's approval to change the FYE will be required if:

- The change in FYE will result in a financial year of more than 18 months; or
- The previously changed the FYE was changed on or after 31 August 2018 for a financial year ending on or after 31 August 2018 and it is within 5 years from the end of the previously changed FYE.

Q: Do I need to provide a reason to the Registrar to change my company's FYE for FYEs ending on or after 31 August 2018?

A: If the proposed change of FYE is one for which Registrar's approval is required, a reason will have to be provided to the Registrar.

FYE Period

Q: What should I do if my financial year period is not 12 months?

A: Companies with unusual financial year period such as 52 weeks rather than 12 months should notify ACRA of this if they want to avoid changing their FYE every year. Transactions for notification/change of FYE for FYEs ending on or after 31 August 2018 will provide for this.

Q: My company has a 52-week financial year period, which means that the company's FYE may be different every year. What should I do?

A: Companies with 52-week financial year period can indicate in the incorporation transaction form (from 31 August 2018) or the change of FYE transaction form (for FYEs ending on or after 31 August 2018) that it has a 52-week financial year period.

Q: My company was incorporated just before 31 August 2018 and the company is not required to file its first annual return before 31 August 2018. What will be the FYE for my company?

A: Companies incorporated before 31 August 2018 which did not notify ACRA of their FYE (via an annual return or a change of FYE transaction) before 31 August 2018 will have the anniversary of their date of incorporation deemed by law to be their statutory FYE.

Q: For companies with FYE ending before 31 Aug 2018, the law requires that financial statements tabled at an AGM must be made up to a date within 4 months (for listed company) or 6 months (for any other company) before the date of the AGM. Given that the timeline of holding AGM is aligned with FYE for companies with FYE ending

on or after 31 Aug 2018, is there a separate timeframe for the laying of financial statements?

A: Companies with FYE ending on or after 31 Aug 2018 must lay at its AGM the financial statements for the financial year in respect of which the AGM is held within the timeframe for holding the AGM i.e. within 4 months of the FYE (for listed company) or 6 months of the FYE (for any other company).