

**MSWG****MINORITY SHAREHOLDER WATCHDOG GROUP****Badan Pengawas Pemegang Saham Minoriti Berhad**

Incorporated in Malaysia * Company No. 524898-M

The Observer

02 March 2018

VOICE OF MSWG

In two months' time, the Malaysian Code on Corporate Governance 2017 ("MCCG") will be a year old since taking effect on 26 April 2017.

Public listed companies will recall that the new MCCG introduced numerous changes, compared to the 2012 Code, in an effort to elevate the standards of corporate governance in Malaysia.

We are in the early stages of the annual report season and we have noticed that the first wave of companies that held their Annual General Meetings after 1 January 2018 have yet to comply with some of the provisions of MCCG 2017.

Most of the non-conformance relate to independent directors at the board level.

Two-Tier Voting Not Adhered To When Independent Directors Term Extended Beyond 12 Years

There have been some instances of boards failing to adhere to the two-tier voting process when retaining independent directors beyond their 12-year tenure.

Public listed company should be reminded that MCCG 2017 states that if a board intends to retain an independent director beyond nine years, it should justify and seek annual shareholders' approval.

And if the board continues to retain the independent director after the twelfth year, the board should seek annual shareholders' approval through a two-tier voting process.

The two-tiers comprise:

Tier 1: Voting by Large Shareholder(s)

Tier 2: Voting by other shareholders.

However, under the Code's guidance, Large Companies (i.e. companies on the FTSE Bursa Malaysia Top 100 index or companies with market capitalisation of RM2 billion and above at the start of the companies' financial year) are not encouraged to retain an independent director for a period of more than 12 years.

The Code, as a 'Step Up' better governance policy, exhorts boards to have a policy which limits the tenure of its independent directors to nine years, regardless of whether the company is a Large Company or not.

Listed companies should also be reminded that the two-tier voting practice is now applicable, for such resolutions (extending the tenure of independent directors beyond 12 years) which are tabled at general meetings held after 1 January 2018.

We have also noticed instances of non-compliance with the new Practice under the Code which state that at least half of the board must comprise independent directors and for Large Companies, there must be a majority of independent directors.

This marks a significant shift from the 2012 Code, which merely states that in cases where the chairman of the company is not an independent director, the board must comprise of a majority of independent directors.

CEO and Chairman Same Person

We have also noticed instances where the roles of Chairman and CEO are vested in the same individual. The Code advocates the Practice whereby the positions of Chairman and CEO are held by different individuals.

Separating the Chairman and CEO positions promotes accountability, facilitates division of responsibilities between them and reduce any concentration of powers, so that no one individual is able to influence the board's discussions and decision-making.

The Chairman's role centres on leading the board in its collective oversight of management while the CEO focuses on the business and day-to-day management of the company. Any compromise in this regard increases the chances of fraud occurring.

Not Adhering to 28 Days' Notice for AGM

Finally, there have been instances where listed companies have not complied with the extended notice period of 28 days to inform shareholders of upcoming annual general meetings.

MCCG 2017 has extended, by one week, the previous notice period of 21 days to further strengthen the relationship and engagement between the company and its shareholders, since there is now more time for shareholders to arrange their schedule to prepare for and attend the AGM.

Early Transition Preferred

Companies should take all reasonable steps to ensure that they are able to make an early transition to adopt the principles and apply the practices in MCCG 2017.

Listed companies can further enhance their corporate governance by adopting the 'Step Up' provisions in MCCG 2017.

Kuala Lumpur Kepong Bhd (KLK) and Batu Kawan Bhd (BKB)

On 13 February, our representatives attended the Annual General Meeting (AGM)s of both KLK and BKB, which had two Independent Directors with tenure of more than 9 years (one of whom had served the company for more than 38 years).

We raised two points:

1. No Resolutions were tabled for shareholders' approval to retain the two long-serving independent directors as per MCG 2017.
2. Both long-serving Independent Directors also serve in the Nominating Committee, and one of them is the Chairman.

The Board said that it is the best arbiter as to the independence of these two directors and whether they could continue to serve as independent directors.

We acknowledge that the Board and the Nominating Committee are primarily responsible for assessing the qualities and independence of the Independent Directors. However, the board should seek shareholders' decision on the independence, professionalism and suitability of the directors concerned through the requisite shareholder voting process.

This is because shareholders are the owners of the listed company. Shareholders are distinct from the board, and are in an unbiased position to gauge the 'independence' of the independent directors.

Furthermore, the independence and objectivity of the Nominating Committee, dominated as they are by the long-serving independent directors, might be questionable.

Under MCG 2017, listed companies are now required to provide a meaningful explanation for the practices they have applied or the alternative practices they have adopted.

In cases where board independence may be compromised or even perceived to be compromised, more substantive and cogent explanations must be provided.

We felt that such explanations were lacking in the KLK/BKB case.

MSWG TEAM

2 March 2018

MSWG'S AGM WEEKLY WATCH 5 - 9 MARCH 2018

For this week, the following are the AGMs/EGMs of companies which are in the Minority Shareholder Watchdog Group's (MSWG) watch list.

The summary of points of interest is highlighted here, while the details of the questions to the companies can be obtained via MSWG's website at www.mswg.org.my.

Date & Time	Company	Venue
08.03.18 (Thur) 10.00 am	Top Glove Corporation Bhd (EGM)	Top Glove Tower, 16, Persiaran Setia Dagang, Setia Alam, Seksyen U13, Shah Alam

MSWG'S WATCHLIST

W T K HOLDINGS BERHAD ("WTK")

WTK announced that the High Court of Malaya in Kuala Lumpur had on 22 February 2018 ordered AMV to be wound-up and appointed Dato' Narendrakumar Jasani a/l Chunilal Rugnath (NRIC No: 491120-04-5377) [Liquidator Approval No. 708/03/18(J/PH)] of Grant Thornton Consulting Sdn Bhd as the Liquidator of Alanya Marine Ventures Sdn Bhd ("AMV"), a wholly-owned subsidiary of WTK.

The company is of the view the total impact as mentioned above should be accounted in WTK Group's financial results for fourth quarter ended 31 December 2017 ("4Q2017") by way of deconsolidation of AMV from WTK Group. This is due to the uncontested winding-up petition filed on 18 December 2017 and served on 22 December 2017 to AMV resulting in an imminent loss of control on the hearing date set on 22 February 2018. On the said date, the court had ordered AMV to be wound-up and appointed a liquidator thus confirming the total loss of control of AMV on 22 February 2018 as evident since December 2017.

Nevertheless, after due deliberation and having taken the view of the company's external auditors of the accounting treatment based on their interpretation of the relevant applicable accounting standards, AMV's accounts would only be deconsolidated from WTK Group in the first quarter ending 31 March 2018 ("1Q2018") and the impact on its financial results arising thereof are as below:

(A) For fourth quarter ended 31 December 2017

The accounts of AMV would be prepared on a basis other than a going concern. Hence, all its investments / receivables would be assessed for impairment, which would also be recognized in WTK Group's consolidated account. Arising thereof, WTK Group would record an impairment loss of approximately RM136 million.

(B) For first quarter ending 31 March 2018

Upon the court winding-up order, as well as the appointment of the liquidator on 22 February 2018, AMV's accounts would be deconsolidated from WTK Group and would realize a gain from deconsolidation of AMV. Arising thereof, WTK Group would record a gain on deconsolidation of approximately RM85 million.

The net effect of (A) and (B) above would result in a loss of approximately RM51 million for WTK Group.

However, the aforesaid profit guidance statement is based on preliminary assessment by the company on currently available information pending the finalisation of WTK Group's financial results for 4Q2017 and 1Q2018. Details of WTK Group's financial results for 4Q2017 and for 1Q2018 will be disclosed when the Company announces its unaudited financial results for 4Q2017 on or before 28 February 2018 and for 1Q2018 on or before 31 May 2018.

[Source: WTK's announcement on Bursa Malaysia's website on 23 February 2018]

LOCAL NEWS AND DEVELOPMENTS

Hibiscus - the story of a successful SPAC

<https://www.thestar.com.my/business/business-news/2018/02/24/hibiscus-the-story-of-a-successful-spac/>

Possible solutions for MP Corp

<https://www.thestar.com.my/business/business-news/2018/02/24/possible-solutions-for-mp-corp/>

Malaysia's 2017 labour productivity up 3.6%

<https://www.thestar.com.my/business/business-news/2018/02/23/malaysias-2017-labour-productivity-up-36/>

Leading Index up 1.6% in December, economy seen expanding in first half

<http://www.thesundaily.my/news/2018/02/23/leading-index-16-december-economy-seen-expanding-first-half>

Local manufacturers face debt collection delays – FMM

<http://www.theedgemarkets.com/article/local-manufacturers-face-debt-collection-delays---fmm>

After filing suit, Alliance seeks to 'resolve' the matter with AmBank

<http://www.theedgemarkets.com/article/after-filing-suit-alliance-seeks-resolve-matter-ambank>

SC Charges Former MD of Johor Land Bhd and Businessman for Insider Trading

https://www.sc.com.my/post_archive/sc-charges-former-md-of-johor-land-bhd-and-businessman-for-insider-trading/

Malaysia in integrity crisis, with worst score on graft index

<http://www.theedgemarkets.com/article/malaysia-integrity-crisis-worst-score-graft-index>

Felda Global Ventures to dispose of more non-core assets

<http://www.thesundaily.my/news/2018/02/25/felda-global-ventures-dispose-more-non-core-assets>

Misif: US wrong to impose import tariffs on Malaysian steel

<http://www.thesundaily.my/news/2018/02/22/misif-us-wrong-impose-import-tariffs-malaysian-steel>

Malaysia-China bilateral trade up 20.6pc in 2017

<http://www.themalaymailonline.com/money/article/malaysia-china-bilateral-trade-up-20.6pc-in-2017#bFTCo7x00j4xLLmE.97>

GLOBAL NEWS AND DEVELOPMENTS

US jobless claims near 45-year low as economic outlook brightens

<https://www.thestar.com.my/business/business-news/2018/02/23/us-jobless-claims-near-45-year-low-as-economic-outlook-brightens/>

Chinese manufacturing activity hits 19-month low in February

<https://www.cnbc.com/2018/02/27/chinese-pmi-china-reports-official-manufacturing-purchasing-managers-index-for-february.html>

China's property price growth slowed 'slightly' in January

<http://www.themalaymailonline.com/money/article/chinas-property-price-growth-slowed-slightly-in-jan#MVLXbPbPQe6QJ2SE.97>

Buffett says he needs to make 'huge' deal despite recent drought

<http://www.themalaymailonline.com/money/article/buffett-says-he-needs-to-make-huge-deal-despite-recent-drought#MFFPb1SvDrTm878f.97>

China insurance regulator takes control of Anbang Insurance Group, chairman prosecuted

<https://www.thestar.com.my/business/business-news/2018/02/23/china-insurance-regulator-takes-control-of-anbang-insurance-group-chairman-prosecuted/>

Geely buys Daimler stake in China's biggest overseas auto deal

<http://www.themalaymailonline.com/money/article/geely-buys-daimler-stake-in-chinas-biggest-overseas-auto-deal#hYCXq7JJVwsq6iHY.97>

UK economy lags behind G7 after 2017 growth rate cut

<https://www.thestar.com.my/business/business-news/2018/02/23/uk-economy-lags-behind-g7-after-2017-growth-rate-cut/>

Japan's stagnant inflation set to keep BOJ exit from stimulus distant

<http://www.theedgemarkets.com/article/japans-stagnant-inflation-set-keep-boj-exit-stimulus-distant>

Indonesia raises US\$1.25b in first Asian sovereign green bond sale

<http://www.themalaymailonline.com/money/article/indonesia-raises-us1.25b-in-first-asian-sovereign-green-bond-sale#ABDCm42KTQaMOspK.97>

India instructs banks to link their core systems with SWIFT after huge fraud

<http://www.themalaymailonline.com/money/article/india-instructs-banks-to-link-their-core-systems-with-swift-after-huge-fraud#5VPwfV2eYFKiDXFI.97>

US tells India to cut tariffs as trade friction heats up

<http://www.themalaymailonline.com/money/article/us-tells-india-to-cut-tariffs-as-trade-friction-heats-up#UOMLmf6iOCDGz1ix.97>

China's VIX stops updating amid government scrutiny of options

<http://www.theedgemarkets.com/article/chinas-vix-stops-updating-amid-government-scrutiny-options>

Volkswagen settles US diesel owner lawsuit on eve of trial

<https://www.nst.com.my/business/2018/02/338428/volkswagen-settles-us-diesel-owner-lawsuit-eve-trial>

Indian exchanges cut ties to foreign bourses after govt nod, sources say

<http://www.themalaymailonline.com/money/article/indian-exchanges-cut-ties-to-foreign-bourses-after-govt-nod-sources-say#OEiLwxXTDAi4QkE6.97>

MSWG Analysts

Lya Rahman, General Manager, lyarahman@mswg.org.my
Rebecca Yap, Head, Corporate Monitoring rebecca.yap@mswg.org.my
Quah Ban Aik, Head, Corporate Monitoring banaik.quah@mswg.org.my
Norhisam Sidek, Manager, Corporate Monitoring norhisam@mswg.org.my
Wong Kin Wing, Manager, Corporate Monitoring, kinwing@mswg.org.my
Hoo Ley Beng, Manager, Corporate Monitoring linnert.hoo@mswg.org.my
Elaine Choo, Manager, Corporate Monitoring, elaine.choo@mswg.org.my
Lee Chee Meng, Manager, Corporate Monitoring cheemeng@mswg.org.my
Abdul Halim Alias, Manager, Corporate Services, halim.alias@mswg.org.my
Mustaqim Yusof, Analyst, Corporate Services mustaqim.yusof@mswg.org.my
Muhammad Faris bin Mohamed Yusof, Analyst, Corporate Monitoring farisyusof@mswg.org.my

DISCLOSURE OF INTERESTS

- *With regard to the companies mentioned, MSWG holds a minimum number of shares in all these companies covered in this newsletter.*
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Feedback

We welcome your feedback on our newsletter and our work. Email us at corporateservices@mswg.org.my with your comments and suggestions.

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