MINORITY SHAREHOLDERS WATCH GROUP
Badan Pengawas Pemegang Saham Minoriti Berhad (524989-M)

The Observer

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Time to appoint independent moderators at virtual general meetings

The COVID-19 pandemic has been a game-changer for the conduct of general meetings. As people maintain social distancing, public-listed companies (PLCs) have no choice but to embrace technology in an unprecedented manner to engage their shareholders at general meetings.

The pandemic has hastened the adoption of Practice 12.3 of the Malaysian Code of Corporate Governance, which encourages PLCs to leverage technology to facilitate remote shareholders' participation at general meetings and to provide the option of voting in absentia. PLCs have adopted virtual general meetings, not by choice, but by necessity, both legal and social.

However, we has noticed certain shortcomings in the way the Q&A sessions are handled at general meetings. Measures need to be taken to strengthen the transparency of how PLCs handle these Q&A sessions.

Now, we would like to call for PLCs to appoint independent moderators at virtual general meetings to improve and enhance the transparency of the question and answer (Q&A) sessions.

There were instances of questions raised by shareholders during live streaming were not addressed by the Board during the meeting.

Corporate representatives of MSWG too have experienced the situation of PLCs skipping their questions posed via the query box during live streaming of the virtual general meetings.

Though shareholders may sometimes get feedback from the PLC that the PLC was not able to address the question during the virtual general meeting due to 'lagging' or 'buffering', but their questions risk not seeing the light of day during the virtual general meeting.

Given the setting of a virtual meeting, we are concerned that some PLCs may conveniently "overlook" questions posed by shareholders, especially if they are hard-hitting, sensitive or controversial questions.

Such questions may not be addressed by the moderator of the Q&A session who, more often than not, is the company secretary or an employee of the PLC. That is why it is important to have independent moderators to moderate the Q&A sessions. A handful of PLCs have had such independent moderators and that is a welcome and commendable initiative.

The presence of independent moderators to moderate the Q&A session in a fair, objective and impartial manner will ensure that all relevant questions are answered.

The idea with virtual meetings is to replicate the physical meeting as far as possible; and this includes asking uncensored questions.

Alternatively, all questions posed during the virtual general meeting should appear on the screen for absolute transparency. Shareholders will then be aware of the questions raised by other shareholders and the questions which are not answered by the Board. This will prevent incidents of questions being conveniently overlooked by the Board.

Moving forward, we foresees virtual meetings being the preferred choice of the PLC (no longer a choice by necessity); and transparency of the Q&A sessions then becomes essential. It is important to encourage vibrant shareholders' activism even in a virtual meeting environment.

The day the "Bird" lost its flight

That the Court of Appeal recently upheld the acquittal of former Silver Bird Group Bhd managing director Dato' Jackson Tan Han Kook and executive director Derec Ching Siew Cheong from 134 charges of using forged documents to cheat Malayan Banking Bhd has brought back a grim reminder of the company's fall from grace and subsequent delisting in 2014.

Having claimed trial to the forgery charges involving a sum of RM67.4 million on 7 December 2012, Tan felt vindicated that "the truth has set me free" after a span of eight years. But the same cannot be said if justice has been rightfully served to minority shareholders who had their investment in the "High 5" bread loaf and "Silverbird" brand cake maker 'burnt to ashes'.

Recall that Silver Bird was embroiled in a chain of legal suits and civil action since 2012 after making headlines on accounting irregularities following revelation that it had a RM112 million hole in its finances which later turned out to be RM297 million.

It all started when the company declared that it was unable to meet its 29 February 2012 deadline to issue its annual audited financial results for the financial year ended 31 October 2011 following some concerns raised by its external auditors.

This sparked a legal saga when chairman of the board at the time, Datuk Gan Khuan Poh, suspended Tan and Ching, as well as the general manager of accounts and finances, Lai Poh Mei, from their positions.

The termination was followed by a writ of summons from Ching who claimed loss of salary amounting to RM90,000 from the date of termination, along with RM600,000 in damages for wrongful termination of employment.

Additionally, he also claimed RM2 million in losses stemming from force-selling of Silver Bird shares as a result of what he claimed was mismanagement on the board’s part and the company going into PN17 status.

In its counter-suit filed in August 2012 following an independent forensic audit by PKF Advisory Sdn Bhd, Silver Bird claimed to the tune of RM125.03 million against 10 parties which included Tan, Ching and Lai for fraud and for conspiring to defraud the company.

Additionally, the company also made a rare move to implicate its internal auditors – Audex Governance Sdn Bhd and Focus Internal Audit Solutions – as well as its external auditor Crowe Horwath for breach of duties and negligence.

On 11 September 2013, the Securities Commission charged Tan and Ching with seven and eight counts respectively of furnishing false statements relating to the revenue of Silver Bird in 2010 and 2011 to Bursa Malaysia.

The charges under section 369(b)(B) of the Capital Markets and Services Act 2007 were made following an SC investigation in relation to false statements contained in Silver Bird’s eight unaudited quarterly financial accounts for the financial years ended 31 October 2010 and 2011.

If convicted, Tan and Ching would be liable to imprisonment for a term not exceeding 10 years and a fine not exceeding RM3 million.

On 28 February 2014, Bursa Malaysia Securities Bhd (Bursa Malaysia Securities) publicly reprimanded Silver Bird alongside Tan and Ching who were each fined RM500,000 for failing to make immediate announcement on defaults in payments by its subsidiary - Standard Confectionary Sdn Bhd, and inaccurate reporting on quarterly financial statement particularly on the carrying amount of property, plant and equipment, trade receivables, intangible assets, and cash and bank balances in the balance sheets.

Subsequently, in December 2015, Tan and Koperasi Permodalan Felda Malaysia Bhd's (KPF) former director Datuk Sarchu Sawal were acquitted of criminal breach of trust charges – without their defence being called – for misappropriating funds amounting to RM13.12 million in their capacity as the directors of a joint venture entity (in which KPF and Silver Bird are shareholders) through 20 banker's acceptance documents.

Subsequently, Silver Bird which was then known as High-5 Conglomerate Bhd (since July 2013) was delisted in October 2014 despite a RM16 million capital injection by white knights Covenant Equity Consulting Sdn Bhd and Suncsi Holdings Sdn Bhd to revive the company.

Painful lesson

From Enron to WorldCom, Lehman Brothers and Washington Mutual, it has been proven time and again that accounting and corporate fraud is a curse that would lead a company to bankruptcy and eventually its demise.

The ultimate lesson to be learnt from the Silver Bird episode is that by the time a lawsuit is filed and deliberated till the time a verdict or judgment is reached, the company in question has already become defunct (or delisted).

As such, it will be beneficial for minority shareholders to watch out for the following financial violations (which will likely trigger Bursa Malaysia's public reprimand orders) in the companies that they invest in:

- Failure to make an immediate announcement on material facts on a timely basis;
- Failure to submit annual reports or late submission of annual or quarterly reports;
- Failure to take into account the adjustments/inconsistent amount of reported profit or loss with audited amount;
- Market manipulation or insider trading; and

- Questionable corporate exercises.

Should they feel strongly that there are elements of negligence, default, breach of duty or breach of trust by a company's director, they can pursue the matter at the company's level (by alerting the company via whistle-blowing hotline or email), reporting their concerns to the market regulators (i.e. Bursa Malaysia or the Securities Commission) or dropping us a line at mswatch@mswg.org.my.

In all fairness, combating financial irregularities is a job for all stakeholders. The best weapon is to have a holistic internal control mechanism from the Board (including audit committee) right down to the senior management level and both the internal and external auditors.

It is imperative that these three core components must work hand-in-hand to detect financial hanky-panky without fear of favour.

But the hard truth remains that no armour can effectively curb human deceit. Past incidences have revealed tendencies among senior company management (e.g. CEO or finance director) of financially-troubled firms to coerce their accountants to commit irregularities vis-à-vis creative accounting.

In this regard, it is essential for a company's board to appoint vocal independent non-executive directors as "vigilantes" with at least one member who possesses accounting expertise to head the audit committee.

This will ensure an effective check and balance role, especially in mitigating the conflict of interest encountered by outside auditors who may be pressured by the top management to perform certain undesired tasks.

On the same note, both the independent directors and auditors must uphold their professionalism and code of conduct in executing their duties. This is likely as they are personally liable for any improper/unlawful act that may lead to them being hauled up to court where they will be charged and fined and/or jailed if found guilty.

Devanesan Evanson
Chief Executive Officer

MSWG AGM/EGM Weekly Watch 22 - 26 June 2020

For this week, the following are the AGMs/EGMs of companies which are in the Minority Shareholders Watch 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.

One of the points of interest to be raised:	
Company	**Points/Issues to Be Raised**
SP Setia Bhd (AGM)	The Group has two malls namely the Setia City Mall and the KL Eco City Mall; the latter was opened in 2019. a) What is the gross and net rental yield of the Setia City Mall and KL Eco City Mall for FYs 2019 and 2018 respectively? b) What is the profit contribution of the Setia City Mall and the KL Eco City Mall to the Group's profit before tax in FY2019? c) What are the occupancy rates of the Setia City Mall and the KL Eco City Mall as at March 2020? d) What is the expected drop in rental income from Setia City mall and KL Eco City Mall respectively due to the imposition of the Movement Control Order ("MCO") that has been extended to 9 June 2020? e) What are the reliefs that the Company has given to the tenants of the Setia City Mall and KL Eco City Mall as their businesses are not allowed to open during the MCO period?
MMC Corporation Bhd (AGM)	The Group has a concentration of credit risk in the form of trade receivables due from a contractor of the Klang Valley Mass Rapid Transit project and a major international shipping line customer, representing approximately 72% (2018: 50%) of the total trade receivables of the Group (Note 24, page 266 of AR2019). What is the percentage breakdown of the trade receivables due from the contractor of Klang Valley Mass Rapid Transit project and the major international shipping line customer? Have any of these trade receivables due from these 2 parties been impaired? If yes, by how much?
Genting Malaysia Bhd (AGM)	In Malaysia, the Group has suspended operations at RWG, Resorts World Awana, Resorts World Kijal and Resorts World Langkawi since 18 March 2020 in compliance with the Movement Control Order announced by the Prime Minister.

	Similarly, as required by the respective authorities, RWNYC, RWC, RW Bimini, Resorts World Birmingham and the Group's other land-based casinos in the UK are also temporarily closed to curb the spread of COVID-19 (page 30 of Annual Report) a) What is the latest situation in relation to the operations of the aforesaid resorts/properties? b) Given the Covid-19 pandemic, how is the Group preparing itself to face the new business landscape? c) How does the Group plan to address the downward pressure on operating performance especially the bottom-line performance?
Dynaciate Group Bhd (AGM)	Under the Trade & Other Receivables (Note 10, Page 94 of the Annual Report 2019), RM 28,454,270 is due from companies in which certain Directors have a substantial financial interest. How much of this amount has been recovered to date? Who are the directors who have a substantial interest in these companies?
Dayang Enterprise Holdings Bhd (AGM)	The Group is planning to venture into engineering projects in the future by offering integrated offshore services to the valued customers. (page 21 of Annual Report) a) Please explain the strategies the Company will deploy to venture into this new business segment. b) How will the Company compete with competitors who are well established in the market? c) Who are the main players in this market segment in Malaysia? d) When does the Company plan to start this venture and what is the expected CAPEX?
Genting Bhd (AGM)	1. The Group has recognised an impairment loss of RM284.8 million of its investment in a life sciences company due to the adverse performance of its business activities, on the basis that the carrying values exceed recoverable amounts (Page 154 of AR).

	What is the nature of these business activities and any futher impairment loss to be expected in 2020? 2. Impairment losses and write-off of receivables increased from RM168.8 million in FY 2018 to RM312.6 million in FY 2019. (Page 134 of AR) What were the reasons for such a substantial increase and the probability of recovering the receivables?
Hengyuan Refining Company Bhd (AGM)	In the Chairman's statement, he mentioned that the Group is to invest USD400 million in CAPEX for projects planned for execution from 2017 to 2020. a) Please state the investment project type, amount and when it is to be incurred? b) How will the Group fund the USD400 million CAPEX? c) What are the expected financial and non-financial benefits to the Company arising from the USD400 million CAPEX?
KLCC Property Holdings Bhd @ KLCC REIT (AGM)	The prolongation of the redevelopment of the City Point Podium resulted in the Group incurring an impairment loss on the Investment Property Under Construction ("IPUC") amounting to RM2.8 million. (page 89 of Annual Report) a) What was the reason for the delay in the redevelopment of the City Point podium? b) When is the City Point podium expected to be completed? c) What is the expected cost to be incurred for the full completion of the City Point Podium? d) Will there be any cost overrun in the completion of the City Point Podium in view of the delay? If yes, what is the amount?
IHH Healthcare Bhd (new) (AGM)	1. In FY2019, the Group recorded an impairment loss of goodwill of RM214,780,000 (FY2018: RM66,168,000) (Page 206 of the Annual Report 2019) as a result of continued operating losses incurred by RGE Group and the Others CGUs (2018: Continental Group CGU) (Page 209 of the Annual Report 2019)

	Are there any goodwill impairments expected in 2020? If so, how much is the expected amount? 2. There is an impairment loss on trade and other receivables of RM62,689,000 recorded in FY2019 (Page 244 of the Annual Report 2019). a) Which receivables are involved in the impairment loss exercise? b) Is the amount recoverable? c) What are the measures taken to collect the receivables? d) How much of the impairment loss on the receivables have been recovered to-date?
Aeon Credit Service (M) Bhd (AGM)	AEONCR has offered several measures to help customers affected by COVID-19, including a two-month loan deferment measure from 1 April to 31 May, and the option to convert outstanding credit card balances into term loans for up to 36 months. a) What is the take-up rate of the loan deferment and conversion measures among eligible cardholders and eligible borrowers in Objective, Personal, Motorcycle and Auto Financing segments? b) What is the size of the total deferred and converted loan to AEONCR's total receivables?
Master-Pack Group Bhd (AGM)	Year-on-year growth of sales in Malaysia has moderated from 21.45% in FY18 to 4.11% in FY19. Does this signal a shift in customers' preference from Master-Pack products towards its competitors? Is this an industry-wide issue or is it a temporary setback faced by the Company alone? How will the Company better improve performance in the Malaysian market?
Pimpinan Ehsan Bhd (fka Triplc Bhd) (AGM)	Bursa Securities granted the Company an extension of time up to 30 November 2020 for the Company to submit a new regularisation plan to the Securities Commission Malaysia. What is the progress on the regularisation plan? Is PEB in a position to meet the deadline?
Magnum Bhd (fka Multi-Purpose Hldgs Bhd) (AGM)	Despite various challenges that the Company encountered in FY 2019, especially on the global front such as trade wars, Brexit and the coronavirus epidemic which has ultimately

	impacted the local Malaysian economy directly, the Company has performed relatively well and continues to address all the challenges with grit and confidence (page 7 of AR2019). However, given that the Covid-19 pandemic has already adversely impacted its business in Q1 and Q2 of FY 2020 (page 14 of AR2019), how is the Group preparing itself to face the new business landscape?)
Petronas Gas Bhd (AGM)	PGB is gradually migrating from depreciated replacement cost to net book value in valuing its assets. a) How does the change in asset valuation method determine the tariff for gas transportation business moving forward? How would the tariff for gas transportation be trending in the future, based on the migration of asset valuation method? b) What is the financial impact of this migration?
Paramount Corporation Bhd (AGM)	In January 2020, Paramount acquired a 49% equity stake in a Thai property development company, Navarang Charoennakhon Company Limited (Navarang). Navarang has just launched Na Reva, a premium high-rise condominium project in Bangkok, with a potential GDV equivalent to RM172 million. a) What is the Group's initial investment in this Thai property development company? b) Why did the Group decide to invest in this Thai property development company? c) What is the latest take-up rate of this condominium project as at May 2020? d) Does the Group intend to expand to other countries like Singapore, Australia and Vietnam for business expansion? Please provide the reasons to support the expansion of property development in the countries chosen, if any? e) What is the accounting policy adopted for the recognition of profit from this property development?
MYNews Holdings Bhd (AGM)	'Other payables' (Note 22 of the Financial Statements) increase from RM 8.0 million to RM25.95 million in 2019. What

	is the nature of these payables and what are the reasons for the increase?
Sime Darby Property Bhd (AGM)	The Group has made a provision of RM65.8 million in relation to an undertaking arrangement entered on the disposal of a property with a purchaser in prior years. (page 54 of the Annual Report) a) What was the reason for the provision of RM65.8 million? b) How is the property, that was not disposed, currently being used? c) What is the Company's plan for the unsold property? d) Who is the defaulting purchaser?
Malayan Banking Bhd (AGM)	Maybank established Responsible Lending Guideline in 2015 and slowly the guideline was expanded to form the environment, social and governance (ESG) policy in 2018. a) What are the results that have been achieved by Maybank over the years to create positive impact on ESG issues? Has Maybank obtained any accreditation or recognition at the international/national levels for ESG? b) Being the largest bank in Malaysia by asset size, Maybank is looked-upon as a "role model" to promote ESG agenda among industry peers. What are the specific targets set by the Group to promote responsible financing and to support Malaysia's transition to a low-carbon economy moving forwards? c) Is Roundtable on Sustainable Palm Oil and/or Malaysian Sustainable Palm Oil certification a pre-requisite before lending to the plantation sector?
Gas Malaysia Bhd (AGM)	The improvement in Profit after Zakat and Taxation and Minority Interest (PAZTMI) in 2019, was due to increase in revenue and higher share of profits in joint venture companies (page 27 of AR). Share of results in joint ventures increased significantly from RM4.853 million in FY 2018 to RM21.230 million in FY 2019.

	Which joint ventures, (please specify their nature of business), contributed to the bulk of the increase and are the increased contributions expected to continue?
UEM Edgenta Bhd (AGM)	The Company had paid RM1.05 million for other services provided by auditors in FY19 (FY18: RM340,000) (Note 7, Profit Before Tax, AR2019). What are the reasons for the sharp increase in fees for other services provided by auditors?

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DISCLOSURE OF INTERESTS

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

ENDS.