



The Observer

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❖ Holding Boards Accountable

Shareholder activism in Malaysia should get a shot in the arm from recent development in Boustead Holdings Berhad when it announced that a writ had been filed on 29 June 2020 for a claim up to £6.4 million, against its former chairman, managing director and four other directors for breaching their fiduciary obligations as Directors under the Companies Act 1965.

As of 11 August, when the announcement was made through Bursa Malaysia, the writ was yet to be served.

Based on news report, the action taken by Boustead Holdings is believed to be tied to its plan to embark on a RM5.4 billion debt restructuring exercise which will include the sale of non-core assets to improve its long-term financial position (Source: *theedgemarkets.com*, 12 August 2020).

Boustead Holdings, the flagship listed vehicle of the Armed Forces Fund Board (LTAT), is understood to have presented the plan to its bankers last June. Shares of Boustead Holdings which were traded as high as RM4.40 in August 2015 have been on a downward spiral ever since, touching an all-time low of 34.5 sen on 23 March. As of 19 August, it was traded at 62.5 sen.

What transpired at Boustead Holdings bears semblance to the action meted out by FGV Holdings Berhad on 23 November 2018 against its former top brass and 14 former directors that the company believed was responsible for a bad deal four years earlier.

The group is seeking to recover a RM514 million loss from its RM1.1 billion acquisition of London-listed Asian Plantation Ltd (APL) in 2014.

Recall that when it was listed in mid-2012, FGV was hailed as the second largest initial public offering (IPO) in the world after Facebook. From its IPO reference price of RM4.55 per share, FGV's share price had in fact traded as high as RM5.46 apiece.

But lower crude palm oil (CPO) prices and its various loss-making investments have weighed down the share price of FGV considerably, even to an all-time low of 71.5 sen on 20 March (19 August: RM1.19).

Shareholder activism at general meetings

Both the Boustead Holdings and FGV legal suits should be viewed positively by all levels of shareholders – not only within both companies but across the whole spectrum of listed issuers in the local bourse.

Even for minority shareholders, this shall inspire them to voice their discontent by rising to challenge unscrupulous head honchos and directors for their fraudulent management maneuvers. This is especially so given minority shareholders – particularly, retail investors – are the least protected corporate participants due to their limited voice in corporate decision-making.

A good place to start would be at the company's AGMs. Beyond the souvenirs and free food or even share prices and dividends, minority shareholders should be delving deep into the fundamentals of the company.

As with both Boustead and FGV, their stock value did not crumble overnight but over time due to elements of mismanagement coupled with misaligned investment strategies. This is where minority shareholders – whether they are institutional shareholders, hedge funds or the retail/individual shareholders – should step in to exercise their rights as partial owners.

When to intervene?

While it is often said that the majority or controlling shareholders have the upper hand when it comes to the power of voting, there are exceptions whereby the minority shareholder can intervene:

- **Ultra vires and illegality acts:** Directors cannot take any action which is ultra vires, i.e. acting or done beyond one's legal power or authority. In such cases, every shareholder features a right to restrain the company from

pursuing a prohibitive act by bringing an injunction suit against the act of the majority.

- **Breach of fiduciary duties:** Actions can be brought against promoters or directors for breach of their fiduciary duties to the company.
- **Fraud on minority:** This means taking decisions and passing resolutions which might discriminate between majority and minority shareholders, often giving undue advantage to the majority shareholder/s.

How to intervene - Class actions and derivative lawsuits

If the wrongdoing has proven to affect the company's financial performance and share value substantially, minority shareholders can embark on a class action or collective lawsuit path.

This mechanism enables one or more plaintiffs to file and prosecute a litigation on behalf of a larger group or class wherein such class has common rights and grievances.

Essentially, class action is an ideal platform for minority shareholders to air their grievances while ensuring less cost of litigation, reducing multiple suits on same subject matter and increasing their chances of success in the process.

The judgment or settlement arising from the suit encompasses all members of the group or class where penalties paid by the defendant/s are divided among class members.

Related to the class action suit is the derivative lawsuit in which a shareholder files a suit on behalf of the corporation against a person or party who has injured the said organisation. The suits are usually brought against insiders of the corporations such as directors, officers or board members who have been accused or suspected of acts that caused harm to the corporation.

But class actions and derivative lawsuits do take time and money and not many shareholders are prepared to invest either. Perhaps the relevant authorities can consider setting up a scheme that would help to fund class action suits brought against companies by minority shareholders.

India is said to be considering such a scheme to ensure that minority shareholders who need the financial support to assert their legal rights have access to do so.

To conclude, it is fair to say that all hope is not lost should minority shareholders find themselves in an unfair situation. Do not assume that just because minority shareholders do not possess enough voting rights, nothing can be done to rectify a wrongdoing.

If the conduct of the company's affairs has "crossed a line", minority shareholders do have the right to act against the wrongdoer.

Devanesan Evanson
Chief Executive Officer

MSWG AGM/EGM Weekly Watch 24 August – 28 August 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.

Date & Time	Company	Quick-take
25.08.20 (Tue) 09.30 am	AYS Ventures Bhd (AGM)	AYS has suffered its first annual loss in FY20 since its listing in 2012. It recorded pre-tax loss of RM7.78 million against pre-tax profit of RM21.13 million in the year before, despite a 28.2% jump in its revenue to RM768.21 million in FY20. The loss was due to increased expenses, impairment losses, lower product selling prices and margin compression due to foreign exchange and fluctuation in global steel price.
25.08.20 (Tue) 10.00 am	Time dotCom Bhd (AGM)	TIME recorded 13% y-o-y increase in revenue to RM1.11 billion, while pre-tax profit increased 21% y-y-o-y to RM358.7 million in FY19.

		Moving on, it will continue to work with regional partner to tap on the increasing demand for cross-border connectivity across ASEAN region, while further strengthen its position as a key regional data centre player and operator.
26.08.20 (Wed) 09.00 am	China Ouhua Winery Holdings Limited (AGM)	Its auditor has highlighted material uncertainty related to going concern of the company. This is related to full impairment made to amount due from subsidiary and investment in subsidiary amounted to RMB138.7 million due to continuous business losses in the subsidiary.
26.08.20 (Wed) 10.00 am	BIMB Holdings Bhd (AGM)	Overall, BIMB has achieved commendable performance in the first quarter FY20 ended 31 March 2020 with a 3.3% increase in net profit to RM209.24 million during the period. Meanwhile, it managed to keep its gross impaired financing ratio low at 0.83% VS 0.86% on 31 December 2019.
26.08.20 (Wed) 10.00 am	Panasonic Manufacturing Malaysia Bhd (AGM)	For FY20, there is a significant rise of 47.6% in its inventory level to RM73.2 million compared to the previous financial year. What are the reasons for the substantial rise in inventories for 2020?
26.08.20 (Wed) 03.00 pm	GHL Systems Bhd (AGM)	The Board of Directors does not recommend payment of dividend for FY19 as it views that the cash reserve can be better used to grow the business. What are its plans to better utilise its cash reserves for future business growth?
27.08.20 (Thur) 10.00 am	AMMB Holdings Bhd (AGM)	AMMB aims to attains a ROE of \geq 10% under its FY2021 – 2024: The Focus 8 Strategy. This will be a tall order for the banking group to achieve in view of current pandemic and a 17% contraction in Malaysia's second quarter GDP.
27.08.20 (Thur) 10.00 am	WCE Holdings Bhd (AGM)	The Group is expected to incur losses in the early years of toll

		operations due to the cessation of capitalisation of interest expenses for completed sections and the non-cash expenditure in respect of the amortisation of infrastructure development expenditure.
27.08.20 (Thur) 11.00 am	Greenyield Bhd (AGM)	<p>It changed its financial year end from 31 July to 31 December. It's PBT was RM4.54 million for the 17 months FPE 2019 (FY2018: RM0.2 million), mainly due to the recording of bargain purchase (which is a gain of RM6.2 million) arising from the acquisitions of SND Teguh Enterprise Sdn Bhd and Pullah PC Daud Sdn Bhd.</p> <p>Outlook of its business remains challenging. With the Covid-19 pandemic, how will its bottomline be affected going forward?</p>
28.08.20 (Fri) 09.00 am	Systech Bhd (AGM)	<p>It recorded marginally lower revenue of RM28.1 million in FY20 as compared to RM28.4 million in FY19. However, profit decreased significantly to RM0.2 million against RM1.3 million in FY19, resulted loss attributable to shareholders of RM0.6 million.</p> <p>It continues to invest R&D of its solutions, however, any major positive results have yet to be seen.</p>
28.08.20 (Fri) 10.00 am	Eduspec Holdings Bhd (AGM)	<p>It continues to be in red with net loss of RM54.43 million in FY19 (17-month FPE2019: net loss of RM52.33 million) on the back RM21.02 million revenue (FPE19: RM53.06 million of revenue). Its gearing ratio stood at 143%.</p> <p>There seems to be no light at the end of the tunnel for Eduspec given current challenging business operating environment and potential impact arising from Covid-19 pandemic.</p>
28.08.20 (Fri) 10.30 am	Poly Glass Fibre (M) Bhd (AGM)	<p>The Company will continue to embark on cost saving projects and cost cutting measures in order to weather through the global pandemic and economic crisis.</p>

29.08.20 (Sat) 10.00 am	Nextgreen Global Bhd (AGM)	Nextgreen will focus on develop its Green Technology Park in Pekan, Pahang for its new pulp and paper manufacturing venture. Currently, about 98% of its revenue are generated by the print and publishing business.
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One of the points of interest to be raised:	
Company	Points/Issues to Be Raised
AYS Ventures Bhd (AGM)	<p>Despite reporting a 28.2% increase in revenue of RM768.212 million in FY2020 (FY 2019: RM599.347 million), AYS has suffered its first annual loss since its listing in 2012. The recorded loss before tax for FY2020 is RM7.781 while FY2019's profit before tax was RM21.127 million (Page 13 of the Annual Report 2020).</p> <p>How does the Board plan to address the first annual loss recorded since its listing?</p>
Time dotCom Bhd (AGM)	<p>1. The Group's earnings and profit were impacted by provisions made for doubtful debts for shareholder loans given to an associate amounting to RM6.5 million (FY2018: RM7.2 million) and a provision for financial guarantees of RM16.1 million to secure banking facilities of the said associate in the current financial year. (Page 13 of AR)</p> <p>What were the reasons for making the provisions for the shareholders loans and financial guarantees? What is the probability of recovering them? What are the lessons learnt from this?</p> <p>2. Other income decreased significantly from RM24.437 million in FY2018 to RM0.515 million in FY2019 while other expenses increased substantially from RM0.968 million to RM24.469 million. (Page 77 of AR)</p> <p>What were the reasons for such significant changes? What is the outlook for other income and other expenses in FY2020?</p>
China Ouhua Winery Holdings Limited (AGM)	<p>The Company has paid RMB118.8 million to Huangwu Subdistrict Office, Zhifu District, Yantai City (the Local Government) in December 2013 for the purchase of 40 acres of land, buildings and ancillary facilities located in Yantai City.</p>

	<p>As of 30 April 2020, the Transaction is still pending completion and the land title ownership has yet to be transferred to the Company.</p> <p>Auditor UHY Lee Seng Chan & Co said they were unable to obtain sufficient appropriate audit evidence to satisfy the assessment on the extent of recoverability of the RMB118.8 million in the event the Transaction is not completed (page 53, Independent Auditor's Report, AR2019).</p> <p>a) What are the necessary evidences or documents required by the Auditor to assess the extent of recoverability of amount paid? Why were these documents not available for the Auditor to carry out their assessment?</p> <p>b) If the transaction is scrapped, will the Company's business continuity and operations be affected? If so, to what extent?</p>
BIMB Holdings Bhd (AGM)	<p>Local banks have granted an automatic six-month moratorium for all their individual and SMEs customers starting from 1 April 2020 to 30 September 2020 to help relieve clients' financial burden.</p> <p>a) What is the size of the loan involved under the six-month moratorium compared to Bank Islam's total LAF?</p> <p>b) What is the percentage of Bank Islam's total LAF that have been restructured and rescheduled (R&R) due to the COVID-19 pandemic? Under the R&R loan segment, which are the most affected sectors within Bank Islam's total LAF?</p> <p>c) What is the expected size of day-one modification loss to Bank Islam due to the six-month moratorium on hire purchase loans?</p>
Panasonic Manufacturing Malaysia Bhd (AGM)	<p>For FYE March 31, 2020, there is a significant rise in the inventory level of the Company by 47.6% to RM73.2 million compared to the previous financial year.</p> <p>What are the reasons for the substantial rise in inventories for 2020?</p>
GHL Systems Bhd (AGM)	<p>Impairments: (Page 89, AR 2019)</p> <p>1. What is the nature of impairment losses on property, plant and equipment – RM506,938?</p>

	<p>2. What is the reason for the sharp rise in impairment losses on trade receivables of RM9.3 million in 2019 compared to RM2.8 million in 2018?</p>
AMMB Holdings Bhd (AGM)	<p>Bank Negara Malaysia (BNM) revised the 2020 growth forecast to between -5.5% and -3.5% from -2% and 0.5% expected earlier after the Malaysian economy contracted at -17.1% in the second quarter 2020.</p> <p>a) Against the earlier more optimistic target, how will the revised growth forecast by the central bank affects AMMB's view on domestic economy and strategy planning in FY21 and FY22?</p> <p>b) Following a challenging second half in FY21 and FY22, are the growth targets set by AMMB under the FY2021 – FY2024: The Focus 8 Strategy (e.g: attain a return of equity of $\geq 10\%$, strengthening retail, SME and Islamic Banking) intact? If not, to what extent have these targets been impacted?</p>
WCE Holdings Bhd (AGM)	<p>The Group has recorded a loss before tax of RM55.8 million during the financial year as compared to profit before tax of RM23.0 million in the previous financial year. The toll concession segment has reported a loss before tax in the current year mainly due to the interest expense in relation to the project financing for completed sections of the West Coast Expressway Project.</p> <p>During the financial year, the Group recognised interest expenses of RM93.9 million mainly in respect of the interest charges for completed sections.</p> <p>Going forward, the Group is expected to incur losses in the early years of toll operations due to the cessation of capitalisation of interest expenses for completed sections and the non-cash expenditure in respect of the amortisation of infrastructure development expenditure (Page 14 of the Annual Report 2020).</p> <p>When does the Group expect to break-even?</p>
Greenfield Bhd (AGM)	<p>Under the key audit matters, the auditors have highlighted that the Group has trade receivables that are past due but not impaired amounting to RM2,349,903 (page 93 of AR2019).</p>

	<p>a) To-date, how much of the RM2,349,903 have been collected?</p> <p>b) Does the Group expect a higher impairment in the financial year ending 2020?</p>
Systech Bhd (AGM)	<p>The Group's allowance for impairment losses on trade receivables increased significantly to RM1.0 million (2019: RM0.1 million) (Note 13, page 84 of AR2020).</p> <p>a) How much of the RM1.0 million of the allowance for impairment losses are aged more than one year?</p> <p>b) What measures have been taken to recover the said amount?</p> <p>c) To-date, how much of the impaired trade receivables have been collected?</p>
Eduspec Holdings Bhd (AGM)	<p>The Group's cash flow statements had RM6,598 negative cash and cash equivalents at the end of 29 February 2020 (page 64 of AR2020). The Group had net debt of RM45.5 million (17 months 2019: RM34.4 million) and the gearing ratio stood at 143% (Note 38, page 194 of AR2020).</p> <p>a) Given the Group's challenging business operating environment, the widening of the Group's losses, coupled with the potential impact by Covid-19, how will the Group prepare itself to meet its debt obligations especially the settlement of payables and loan repayments on a timely manner?</p> <p>b) What is the Group's targeted optimum gearing ratio?</p>
Poly Glass Fibre (M) Bhd (AGM)	<p>The Company will continue to embark on cost saving projects and cost cutting measures in order to weather through the global pandemic and economic crisis. One of the projects that the Group will be embarking on is installation of solar panels on the roof of the warehouse buildings (Page 8 of the Annual Report 2020).</p> <p>a) How much annual cost savings will the Group achieve with the installation of solar panels on the roof of the warehouse buildings?</p> <p>b) When is this project expected to be completed?</p>

	c) What are the other cost saving projects that the Group intends to execute in FY2021?
Nextgreen Global Bhd (AGM)	<p>The completion of the pulp and paper manufacturing plant is expected to take longer than expected (earlier estimated completion is December 2020) due to disruptions brought by the COVID-19 pandemic (page 22 of AR2019).</p> <p>a) What is the revised date for the plant to commence commercial production?</p> <p>b) Due to the delay in the construction of factory, an impairment loss of RM29.89 million was recognised during the year to write down the property, plant and equipment under construction to its recoverable amount (page 44, Independent Auditor's Report, AR2019).</p> <p>Based on current construction progress of the pulp and paper mill, does Nextgreen require further impairment in FY20? Will the delay result in cost overrun for the Company?</p> <p>c) As of 31 March 2020, Nextgreen's cash and bank balances is low at RM2.02 million. Apart from the ongoing private placement exercise of issuing up to 15% of new shares to raise fund, does the Company require further capital to complete construction of phase 1A of GTP?</p> <p>d) The production capacity of pulp and paper mill under Phase 1A development of GTP has been increased to 12,000 MT from 10,000 MT per year (page 18 of AR2019). How much is the estimated revenue contribution of the new production line per annum?</p>

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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.

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