MINORITY SHAREHOLDERS WATCH GROUP
BADAN PENGAWAS PEMEGANG SAHAM MINORITI BERHAD
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❖ Annual re-election of directors – a double-edged sword

With rapidly evolving markets, changing consumer demands, and technological advancements, boardroom refreshments are important to a company's long-term success. The regular infusion of new talent, diverse perspectives, and fresh skills into the boardroom is vital for staying agile and relevant in today's dynamic business landscape.

Already we have regulations in place to compel periodical refreshments in the boardroom.

For instance, the Companies Act 2016 states that one-third of the directors of a company shall retire from office every year and seek re-election. The Act further states that the directors to retire every year shall be the directors who have been longest in office since their last election.

All Bursa Malaysia-listed companies (PLCs) strictly adhere to this requirement, with most directors standing for re-election at intervals of not more than three years.

However, it is unusual to see public-listed companies go beyond regulatory requirements to the extent of requiring every director to stand for re-election on an annual basis. United Kingdom is one of the jurisdictions that has adopted the practice of requiring listed company directors to stand for re-election every year (see sidebar).

Based on MSWG’s observation, at least two PLCs - affiliated with each other, have taken the initiative to adopt such practices for years. Kudos to them.

In responding to queries on the rationale for such practice in a recently held AGM, the chairman of one of the PLCs explained that the practice would accord shareholders the right to assess individual directors’ performance every year. He added that doing so also elevates the level and standing of corporate governance for the said PLC.

The Company, a large-cap financial services provider (with a market capitalisation of above RM2 billion), has proposed the re-election of every director at its AGM since 2019, two years after its affiliate company started to do so. The requirement for annual re-election is enshrined in their board charters.

Better CG and shareholder empowerment

Proponents believe such annual re-election empowers shareholders with greater rights in charting the future of a company through its choice of directors. This in turn cultivates accountability among directors.

Such an approach enables shareholders to have active discourses to deliberate directors' performance yearly. If shareholders opine that the directors' performance is not up to mark, they can exercise their rights to vote against the re-election of that director.

Shareholders will be able to remove poor-performing directors if they manage to muster more than half of the votes cast. Such removal is a real possibility, especially in companies with fragmented and dispersed shareholding structures, where there is no single major shareholder or entity holding a significant portion of the company's shares. This then will be a form of minority shareholder activism as well.

By requiring directors to stand re-election annually, the company reduces the risk of long-term entrenchment and complacency while promoting independence and reducing the risks of conflict of interest.

By the same token, corporate strategies and priorities may evolve rapidly due to market conditions, regulatory changes, or other external factors. Annual re-election enables the board to adjust its composition to align with the company's evolving needs. It also brings new perspectives and skills to the boardroom, enhancing the diversity of thoughts and skillsets.

Results in a revolving door

Against the myriad benefits, the practice is contentious, controversial and highly debatable. Opponents of such practice are concerned that doing so can be detrimental to the company and can have wide-reaching consequences.

The UK Corporate Governance Code

The practice of annual re-election was incorporated in the UK Corporate Governance Code published by the Financial Reporting Council in June 2010.

Under Code Provision B.7.1 of the UK CG Code 2010, it was stated that all directors of FTSE350 companies should be subject to annual election by shareholders. The Code added that non-executive directors who had served longer than nine years should be subject to annual re-election.

Later in 2018, the Provision was amended to encompass PLCs with a Premium Listing (a segment with stringent regulatory and governance requirements) on the London Stock Exchange (LSE). The amended Provision 18 of the CG Code 2018 spells that:

"All directors should be subject to annual re-election. The board should set out in the papers accompanying the resolutions to elect each director the specific reasons why their contribution is, and continues to be, important to the company's long-term sustainable success."

Furthermore, the Code went further to limit the tenure of a chair to not more than nine years since their first appointment to the board (under Provision 19). It opines that long tenure can increase the risk of complacency and groupthink. Therefore, the Code opines that periodical refreshments could facilitate succession planning and the development of a diverse board, thus preserving a board's effectiveness, integrity, and independence.

The UK CG Code adopts a "comply or explain" approach, providing listed companies with the flexibility to choose their fitted governance approaches according to their particular circumstances, i.e., size, organisation and ownership structure, and resources.

All companies with a Premium Listing of equity shares on the Main Market of the LSE, regardless of place of incorporation, must report each year in their annual report and accounts on how they have applied the Principles of the Code and the extent to which they have complied with its Provisions, explaining the reasons and their chosen alternative arrangement for any departure.

It takes time for businesses to bear fruit. Similarly, directors require sufficient time to familiarise themselves with the company, business and industry, and the annual re-election system may not provide adequate time for newly appointed directors to contribute meaningfully.

As it is, constant re-election processes may turn boardrooms into a revolving door for directors, resulting in instability and hindering the formation of cohesive and effective boards. Frequent board and senior management changes also disrupt long-term strategic planning, undermining sustainable growth and value creation. For this reason, qualified individuals may be hesitant to pursue roles with companies with such annual uncertainties and may prefer companies with more stable and longer-term directorship tenures.

Knowing that they will face re-election once a year, directors might be tempted to take a short-term view and not act in the long-term interest of the company. They may suspect that they may not survive another term in office. They may think that they will not be able to be held accountable for their short-term decisions and actions. Bad management decisions may only surface a few years down the road.

All in all, the annual re-election of directors certainly does not augur well for long-term shareholders' value, they argue.

And because nomination and appointment of incumbent directors are often endorsed by controlling and major shareholders, critics contend that the approach will not meet the intended outcome in promoting the true spirit of advocating better CG.

No one-size fits all

The practice of re-electing directors yearly is a sword that cuts both ways. On the one hand, it promotes accountability and shareholder engagement by regularly assessing directors' performance and qualifications. And yet, the same practice might lead to a lack of accountability and short-term focus among directors, potentially compromising the company's strategic planning.

PLCs should determine what works best for them according to their unique circumstances and governance needs. Ultimately, the key lies in establishing a governance framework that ensures continuous director scrutiny, diversity, and adaptability, while fostering long-term value creation and stakeholders' confidence.

Lim Cian Yai
Manager, Corporate Monitoring

MSWG AGM/EGM Weekly Watch 24 – 28 July 2023

For this week, the following are the AGMs/EGMs of companies 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
26.07.23 (Wed) 10.00 am	Alliance Bank Malaysia Berhad (AGM)	For FY2023, the Bank registered strong performances across key financial metrics. Its revenue grew by 2.8% to RM1.92 billion, while its net interest margin was higher at 2.64%. Meanwhile, its net credit cost decreased from 48.1 bps to 31.9 bps, reflecting its proactive credit management. The Bank launched the Acceler8 2027, a refreshed strategic plan to guide the Bank towards its goals over the next four years. This includes ambitious financial performance, broadening of focus areas for growth, and progress on its ESG journey.
26.07.23 (Wed) 10.00 am	Aco Group Berhad (AGM)	ACO's revenue for FYE 2023 rose by 6% to RM132.5 million, driven by increased sales from industrial users. The fulfilment of backlog orders and the lifting of COVID-19 restrictions contributed to this growth. However, profit margins were lower due to higher raw material prices, resulting in decreased gross profit. Its net profit declined to RM5.7 million, impacted by higher administrative expenses. Despite these challenges, the company maintained a strong financial position with cash and cash equivalents of RM19.7 million.
26.07.23 (Wed) 11.00 am	Pantech Group Holdings Berhad (AGM)	Pantech Group achieved a record-setting year in FY2023, driven by its manufacturing and trading divisions. Revenue surpassed the one billion ringgit mark, reaching RM1.04 billion, up 38.11% year-on-year, while profit after tax reached RM115.63 million, reflecting a notable 61.15% improvement. The manufacturing division thrived with strong export demand and an improved product mix, while the trading division capitalized on domestic large-scale O&G projects and benefited from increased industry activities.

27.07.23 (Thur) 10.00 am	Malaysia Building Society Berhad (EGM)	The EGM is to seek shareholders' approval for the proposed acquisition of 100% interest in Malaysian Industrial Development Finance Berhad (MIDF) from Permodalan Nasional Berhad (PNB) for RM1.014 billion to be satisfied via the issuance of 1.05 billion new MBSB shares at an issue price of 96.5 sen.
27.07.23 (Thur) 11.00 am	Kim Loong Resources Berhad (AGM)	KLR achieved a 12% increase in revenue to RM1.91 billion in FY2023, mainly driven by higher average CPO and FFB selling prices, and higher sales quantity. Meanwhile, profit before tax (PBT) rose 20% to RM252.44 million. This is the first time the Group's PBT has surpassed a quarter of a billion mark. The management forecasts FFB production for FY2024 to be about 15% higher than that achieved in FY2023.
27.07.23 (Thur) 11.00 am	Atlan Holdings Berhad (AGM)	The Group's revenue for FY2023 was higher at RM381.3 million, a substantial increase of 48.3% compared to RM257.2 million in the previous financial year. Consequently, it returned to black with a net profit of RM27.3 million, as opposed to a net loss of RM4.4 million in previous year. The improvement was mainly due to the full resumption of the Group's duty-free outlets, higher orders received from customers and all factories were in full operations for the automotive segment.
27.07.23 (Thur) 02.00 pm	Crescendo Corporation Berhad (AGM)	FY2023 has been an encouraging one for the Group where it delivered a resilient performance of a full year's revenue of RM215.7 million resulting in a net profit of RM24.5 million as compared to RM217.1 million in revenue and RM21.5 million in profit in FY2022.
28.07.23 (Fri) 10.30 am	PGF Capital Berhad (AGM)	PGF has done exceptionally well in FY2023, achieving a total revenue of RM91.1 million (FY2022: RM57.6 million), its highest since inception due to a higher volume of insulation products produced and sold. Meanwhile, PGF recorded a net profit of RM16.3 million due to the higher revenue and a reversal of RM10.7mil impairment on land held for property development, based on a professional valuation.

28.07.23 (Fri) 11.00 am	SC Estate Builder Holdings Berhad (AGM)	For the 18-month FPE2023, SCBUILD's revenue decreased to RM2.47 million from RM3.35 million recorded in the 12-month FYE2022. Meanwhile, it saw a decline in gross profit margin level to 9.45% for FPE2023 (FYE2022: GPM of 14.24%). As a result, it incurred a net loss of RM3.99 million in FPE2023 (FYE2022: net loss of RM1.74 million).

One of the points of interest to be raised:	
Company	**Points/Issues to Be Raised**
Alliance Bank Malaysia Berhad (AGM)	For FY2023, Alliance Bank posted a 66bps increase in gross impaired loans (GIL) ratio to 2.51% from 1.86% in the previous year. The size of credit-impaired LAF increased by 44.47% year-on-year (y-o-y) to RM1.23 billion from RM853.27 million in FY2022 (page 226, Note 10 (vii) – Loans, advances and financing, IAR2023), mainly driven by LAF extended to manufacturing, construction, wholesale, retail trade, restaurants and hotels, and household sectors. a) What were the causes for the significant increase in credit impaired LAF during FY2023? Were the LAF impaired due to the expiry of the COVID-19 loan moratorium? What is the recoverability or reversal of these impaired LAFs? b) What are the GIL ratio and its comparative figures for consumer banking, SME & Commercial Banking and Corporate & Transaction Banking, respectively?
Aco Group Berhad (AGM)	The Group's trade receivables that were past due more than 61-90 days have increased to RM1,073,481 in FY2023 from RM568,220 in FY2022 (page 113 of AR2023). a) What challenges did the Group encounter in collecting trade receivables that were overdue by 61-90 days, considering the significant increase in the outstanding amount? b) What are the profiles of the customers who comprise the category of trade receivables that were overdue by 61-90 days in FY2023 for the Group? c) How much of the outstanding overdue amount has been collected to-date?
Pantech Group Holdings Berhad (AGM)	The improvement in the trading division can be traced to greater ability to secure and supply large-scale O&G projects domestically, spurred by the ramping up of industry activities following the previously moderate years. The strong demand was reflected in the increased trading revenue. Pantech Group was well positioned to capture the opportunities presented due to its strong and comprehensive product mix (page 21 of AR2023).

	a) What were the projects or contracts that played a significant role in driving the revenue growth? b) How has Pantech Group strengthened the capability of its trading division to secure and supply large-scale local projects in the oil and gas industry? Were there any specific strategies or investments implemented? c) What were the factors that led to the slight decrease in the trading division's profit margin in FY2023? What are the Group's expectations and strategies regarding the division's profit margins for FY2024?
Kim Loong Resources Berhad (AGM)	The Group's FFB production increased by 8% in FY2023, which was lower than its forecast of 15% growth as stated in FY2023's annual report. Meanwhile, total unit cost of production (per MT of CPO production) surged by 29% to RM2,150 in FY2023. a) What were the reasons for the lower-than-expected growth in FFB production in FY2023? b) What are the expectations for total unit cost of production for FY2024?
Atlan Holdings Berhad (AGM)	Several airlines operating at international airports in Malaysia offer duty-free and duty-paid products, with purchased items delivered to seats on board or picked up at selected airports. a) Is the Group's Duty Free segment facing a substantial loss of market share to these airlines? b) How does the Group defend its market share against airlines that offer duty-free shopping?
Crescendo Corporation Berhad (AGM)	The Group has inventories of completed properties not ready for sale amounting to RM22.3 million in FY 2023 compared to RM Nil in FY 2022. (Page 115 of AR) (a) Please explain why the completed properties are not ready for sale. (b) When does the Group expect to launch these completed properties? (c) What are the types and number of completed properties not ready for sale? (d) Does the Group foresee any difficulties in selling the completed properties not ready for sale? Please provide the reason for the answer.
PGF Capital Berhad (AGM)	<u>Fibre Glasswool and Related Products</u> Stocks have been shipped to the Group's newly established warehouses in Australia, enabling it to enhance its local customer service. With an improved distribution network in place, the Group anticipate this business segment to capture a larger share of the Oceania market (Page 16 of AR2023).

	(a) What is the Group's current warehouse storage capacity in Australia? (b) How efficiently is PGF using its entire warehouse space? What is the current warehouse space utilisation rate and expected utilisation rate in FY2024? (c) What is the Group's current and targeted market share in the Oceania market in the next two financial years?
SC Estate Builder Holdings Berhad (AGM)	The total cost incurred for the outsourced internal audit function of the Group for FYE2023 is amounted to RM16,000 (Page 69 of AR2023). Given that the fee is rather small (approximately RM888.88 per month), how does the audit committee assure itself that there would be adequate coverage and an effective audit function? How many internal audit reports were issued during the said period? What were the areas of coverage?

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DISCLOSURE OF INTERESTS

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