

MINORITY SHAREHOLDER WATCHDOG GROUP

BADAN PENGAWAS PEMEGANG SAHAM MINORITI BERHAD

(Incorporated in Malaysia – Company No. 524989-M)

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Much more needs to be done

AS a frontline regulator committed to upholding high standards of corporate governance (CG) so as to maintain market integrity, Bursa Malaysia says this makes it its job to monitor adherence to CG standards by performing reviews of CG disclosures in annual reports. It also engages the listed issuers on their disclosure shortcomings to ensure adequate and accurate information on their CG practices.

Here are several key takeaways from Bursa Malaysia's "Analysis of Corporate Governance Disclosures in Annual Reports, 2012-2013" and comments from the Minority Shareholders' Watchdog Group (MSWG).

Whistle-blowing policy

- ▶ **Bursa's finding:** Disclosures on whistle-blowing were very brief as listed issuers mostly provided

a contact person or email address to receive communication from potential whistle-blowers. We noted lack of disclosures about appropriate communication and feedback channels to facilitate whistle-blowing.

- ▶ **MSWG's comment:** Malaysia had introduced legislative protection under the Whistleblower Protection Act 2010. Based on our findings, the number of public-listed companies (PLCs) with whistle-blowing policy is still small; only 51% of the top 100 PLCs disclosed their whistle-blowing policy. PLCs need to establish this policy, and for those which already have one, disclosures should not be limited to just providing a contact person to communicate with. What we found in our survey was that many of the bigger PLCs have a whistle-blowing policy and also disclosed greater details of the procedures and protection for

whistle-blowers. This is something we hope all mid-cap and smaller PLCs could emulate.

Long-serving independent directors

- ▶ **Bursa:** Fifty-five per cent, or 165, of listed issuers retained independent directors beyond the nine-year tenure and most of them provided some form of justification for their decision. Listed issuers that provided justification to retain an independent director beyond the nine-year tenure must also seek shareholders' approval. If they do not seek shareholders' approval, they must provide reasons and an alternative practice, if any. In this respect, our review found only about 6% in this group of listed issuers did not seek shareholders' approval.
- ▶ **MSWG:** A growing number of countries have adopted tenure-related guidelines. We also see the trend of institutional investors beginning to stipulate independent director tenure in their checklist as one of the elements of board independence. While there may be justification in exceptional cases to retain long-serving independent directors,

our view is that their tenure is best capped at nine years. Companies should also have proper board succession planning that includes sourcing for qualified independent directors.

Combined chairman and CEO roles

- ▶ **Bursa:** The number of listed issuers where the chairman also acted as CEO, increased slightly in 2013 from 2012. In 2012 annual reports, 12.8% of the chairmen also acted as CEOs and in 2013, the percentage increased slightly to 13.3%.
- ▶ **MSWG:** Splitting of the roles is considered globally as best practice and our PLCs which practise combined roles should re-evaluate their board leadership structure. Issues of potential conflicts of interest and balance of power in the board are big concerns for minority shareholders if the chairman and CEO are the same person. To ensure balance of power, the board should comprise a majority of independent directors if the chairman and CEO roles are combined.