



MINORITY SHAREHOLDER WATCHDOG GROUP

Badan Pengawas Pemegang Saham Minoriti Berhad

Incorporated in Malaysia * Company No. 524898-M

The Observer

08 August 2016

MARKET AND REGULATORY UPDATE

BNM: ENHANCED CORPORATE GOVERNANCE STANDARDS FOR FINANCIAL INSTITUTIONS

Bank Negara Malaysia (BNM) had on 3 August 2016 issued enhanced standards to raise the bar for corporate governance across financial institutions. The revised standards strengthen the conditions for strong and effective boards, with greater emphasis on a sound risk culture and remuneration system in promoting prudent risk-taking. In addition, the standards address issues arising from more complex organisational structures and business models of financial institutions that have expanded in size and across borders. Collectively, this aims to set the gold standard for corporate governance in Malaysia, in line with the important role of financial institutions in the financial system and wider economy.

[Source: Media release on BNM's website on 3 August 2016]

MSWG'S COMMENTS:

The new CG guidelines with immediate effect for financial institutions where we believe is a positive move and we are supportive of it as it further strengthens the corporate governance framework for these financial institutions in an environment which is challenging:

- (i) A key area of improvement is on directors and senior management's remuneration which will be aligned to prudent risk-taking assessments reflecting the time horizon of the risks. This means that the payouts and bonuses would be staggered according to the risks being diminished;
- (ii) We noted that the 9-year tenure limit for independent directors has been imposed. However, flexibility has been given only for exceptional circumstances and during the transitional period. This should augur well for the financial institutions where long serving independent directors and the perception that their independence would be impaired would be a thing of the past;
- (iii) Mandating that the Chairman should not have served in the capacity of a CEO within the last 5 years would in our opinion strengthened the position of the Chairman as a non-executive director. It would thus avoid the perception that the Chairman's influence to address issues under his own legacies. The further requirement of a majority independent board would be a positive enhancement of which MSWG had over the years advocated to the PLCs.
- (iv) One of the important stands taken by BNM is to not allow active politicians, including member of any national or state legislative body, or who is an officer bearer of, or holds any similar office or

position in a political party, to be board members. This is an excellent change and we would like to emphasise our strong support to the move as we are of the opinion that politicians should not be involved in PLCs;

- (v) As far as the board composition is concerned, BNM emphasises that majority of the board should comprise independent directors. We noted most of the listed banks have complied to this requirement.

We hope that the rest of the PLCs in the other industries should also not wait for similar directive but effect change to promote good and effective governance process which in our view is itself a competitive advantage.

MSWG'S QUICK TAKE ON ONGOING CORPORATE TRANSACTIONS

YNH PROPERTY BHD ("YNH PROPERTY")

The Board of YNH Property announced that, after taking into consideration the feedback received from certain shareholders and stakeholders of the company, the Board decided to withdraw the Ordinary Resolution 2 and Ordinary Resolutions 4 to 18 in relation to the proposed establishment of a new employees' share scheme ("Proposed ESS") as set out in the Notice of EGM dated 12 July 2016. Following such withdrawal, the Board will deliberate further on the Proposed ESS and may table the resolutions to the shareholders in the future, with or without modifications.

[Source: YNH Property's announcement on Bursa Malaysia's website on 2 August 2016]

MSWG'S COMMENTS:

MSWG noted that the Board of YNH Property Berhad had decided to withdraw the resolution and to further review its proposed ESS.

In reviewing the scheme, we urge the Board to exclude the non-executive directors as recipients of the scheme as MSWG has been strongly advocating against granting of ESOS to non-executive directors.

CLIQ ENERGY BERHAD ("CLIQ ENERGY")

The Company stated in the announcement that the physical copy of the Annual Report dated 29 July 2016 ("AR") that was sent out to the shareholders contained an additional page entitled "Statement by the Management and Promoters of Cliq Energy" on page 6 of the physical copy of the AR. The Independent Directors of the company clarified that the "Statement by the Management and Promoters of Cliq Energy" was issued without the knowledge nor approved by the Board of Directors of Cliq Energy.

[Source: Cliq Energy's announcement on Bursa Malaysia's website on 2 August 2016]

MSWG'S COMMENTS:

The announcement made by the Independent Directors on the Annual Report's disclosures is a rare case and raises red flag. We urge shareholders to seek clarification on the matter as raised in the additional statement during the AGM.

SUPERMAX CORPORATION BERHAD ("SUPERMAX")

YNH Property will hold an Extraordinary General Meeting ("EGM") on 12 August 2016 for shareholders' approval on the proposed change of auditors.

[Source: Supermax's announcement on Bursa Malaysia's website on 28 July 2016]

MSWG'S COMMENTS:

Messrs Crowe Horwath was appointed by the company during the last AGM on 16 June 2015, and yet the incumbent auditor is to be replaced by another smaller audit firm even before they commenced on the audit work for the financial year ended June 2016. We view this frequent change of auditors as unnecessary confusion that may result in negative publicity, especially the rationale of the change of auditors due to cost-savings opportunity is not convincing given the business scale of the company.

We believe that the primary focus on the appointment of auditors lies on audit quality rather than on reducing fees and saving costs. Hence, we hope shareholders of Supermax would attend the coming EGM and request the audit committee to justify the proposed change of auditors other than the cost factor.

MSWG'S WATCHLIST

MAXIS BERHAD ("MAXIS") / ASTRO MALAYSIA HOLDINGS BERHAD ("ASTRO MALAYSIA")

As reported in the news media on 2 August 2016, India's Central Bureau of Investigations has applied for warrants of arrest against Tan Sri Ananda Krishnan, Maxis Communication Berhad, Astro All Asia Networks PLC and its chief executive Augustus Ralph Marshall and two others in a money laundering case in New Delhi. The arrest warrants were over the Aircel-Maxis money laundering case involving former Telecoms Minister Dayanidhi Maran and his brother Kalanithi.

Tan Sri Ananda Krishnan, the major shareholder of Maxis in Malaysia, and Mr. Marshall, who headed Astro All Asia Networks, are sought by Indian authorities to testify in a money-laundering case against former telecom minister Dayanidhi Maran and his brother Kalanithi Maran in connection with the 2006 Aircel-Maxis deal.

LOCAL NEWS AND DEVELOPMENTS

Discussion Paper on Fintech Regulatory Sandbox

http://www.bnm.gov.my/index.php?ch=en_press&pg=en_press_all&ac=3443&lang=en

Asdion share trade to be suspended if it fails to issue annual report in 5 market days

<http://www.theedgemarkets.com/my/article/asdion-share-trade-be-suspended-if-it-fails-issue-annual-report-5-market-days?type=Corporate>

Broad money growth at 1.9% in June, says BNM

<http://www.thestar.com.my/business/business-news/2016/07/29/broad-money-growth-at-1pt9pc-in-june-says-bnm/>

SC Charges Former Executive Director of Kencana Petroleum for Insider Trading

http://www.sc.com.my/post_archive/sc-charges-former-executive-director-of-kencana-petroleum-for-insider-trading/

Censof clarifies auditor's qualified opinion, says owed sum recoverable

<http://www.theedgemarkets.com/my/article/censof-clarifies-auditors-qualified-opinion-says-owed-sum-recoverable?type=Corporate>

Yi-Lai reverse takeover up in the air

<http://www.thesundaily.my/news/1919886>

Maxwell's actual loss 30% higher than first reported; PN17 triggered

<http://www.thestar.com.my/business/business-news/2016/08/02/maxwells-actual-loss-30pc-higher-than-first-reported-and-enters-pn17/>

GLOBAL NEWS AND DEVELOPMENTS

US economy grows at modest 1.2% in second quarter

<http://www.thestar.com.my/business/business-news/2016/07/29/us-economy-grows-at-modest-1pt2pct-in-second-quarter/>

World's biggest pension fund loses US\$51 bil in stock rout

<http://www.theedgemarkets.com/my/article/world%E2%80%99s-biggest-pension-fund-loses-us51-bil-stock-rout?type=Corporate>

EBA publishes 2016 EU-wide stress test results

<https://www.eba.europa.eu/-/eba-publishes-2016-eu-wide-stress-test-results>

China factory activity unexpectedly dips in July: official PMI

<http://www.reuters.com/article/us-china-economy-pmi-idUSKCN10C151>

Euro zone economic growth slows in quarter before Brexit

<http://www.reuters.com/article/us-eurozone-economy-gdp-idUSKCN1090XD>

MSWG Analysts

Lya Rahman, General Manager, Corporate Services, 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
Nor Khalidah Khalil, Analyst, Corporate Monitoring khalidah@mswg.org.my
Vinodth Ramasamy, Analyst, Corporate Monitoring vinodth.ram@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 mswg.ceo@mswg.org.my with your comments and suggestions.

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