MINORITY SHAREHOLDERS WATCH GROUP
BADAN PENGAWAS PEMEGANG SAHAM MINORITI BERHAD
(Incorporated in Malaysia . Registration No. 200001022382 (524989-M))

The Observer

24.11.2023

❖ Beyond the boardroom: Director steps forward with derivative action

The Malaysian stock market encountered a rather unusual or probably unprecedented event recently whereby a company director commenced derivative proceedings against individual directors and management of the company (the Parties) for alleged breaches of fiduciary duties.

The involved entity, Malaysian Genomics Resource Centre Bhd (MGRC), received an Originating Summons (OS) on 25 October 2023 from one of its independent non-executive directors (ID/the Applicant) to commence derivative proceedings under Section 347 and Section 348(2) of the Companies Act 2016 (CA2016), in the name of MGRC, against individual directors and management of the Company for alleged breach of fiduciary duties.

In its reply to a query from Bursa Malaysia on 9 November, MGRC disclosed that the OS is about certain transactions entered into by the Company and its subsidiaries with external parties. The following claims were made against MGRC's board and relevant officers of the Company for breaching their fiduciary duties:

- The obtaining of approval from the board prior to executing certain transactions.
- The directors have failed to exercise their duty of supervision of control and failed to make the necessary disclosure at the material time.
- The MGRC board have voted to change the company's financial year end (from 30 June 2023 to 31 December 2023) instead of resolving the audit issues highlighted by its external auditors.
- Lack of management and disclosure in the operational and financial management of the company.

Subsequently, on 16 November, MGRC filed an Affidavit in Reply and a Supplementary Affidavit in Reply in response to the OS at the Shah Alam High Court.

Both affidavits defended MGRC's stand with the view that the Applicant is not acting in good faith and for the best interest of the Company, as the parties concerned have taken the necessary steps to review all the affected transactions in ascertaining the next best move to be taken for the best interest of the Company and its stakeholders.

Apart from the potential costs which may be awarded against the Company and the corresponding legal costs, MGRC said other costs in relation to it have yet to be determined.

A case management was fixed on 23 November by way of e-review.

Derivative action

Simply put, derivative action is an action brought by a shareholder or director of a company in the name of and on behalf of that company in respect of wrongs done to the company.

Often, derivative actions are brought to enforce any infringement of the company's right when the board of directors refuses to do so. It intends to remedy the wrongdoings committed by the board of directors or its major shareholders. Shareholders or directors could pursue this when a board of directors refuses to pursue or defend actions against harm done to the company by other third parties.

While IDs owe fiduciary duties to the company like other directors, they play a unique role in safeguarding the interests of minority shareholders. If they deem that other directors have breached their fiduciary duties or harmed the company, pursuing a derivative action may be seen as a responsible and necessary step.

Derivative actions bolster accountability within a company, serve as a deterrent against future misconduct and reinforce the principles of transparency and accountability in corporate governance.

Conversely, the potential legal liability arising from derivative action encourages IDs to champion and uphold high ethical standards within the organisation. It underscores the importance of active oversight to minimise financial risks and legal repercussions.

Before pursuing a derivative action, IDs should demonstrate that they have exhausted internal remedies within the company, such as bringing their concerns to the attention of the board or attempting to rectify the issues through internal processes. If the dispute involves legal claims, breach of conduct or issues that cannot be resolved in the boardroom, it may be necessary to take the matter to court.

IDs are tasked with oversight and governance roles, ensuring the company is in good hands. The unprecedented steps taken by the director of MGRC may inspire IDs to play a more active and vigilant role in corporate governance.

Lim Cian Yai
Manager, Corporate Monitoring

MSWG AGM/EGM Weekly Watch 27 November - 1 December 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.

One of the points of interest to be raised:	
Company	**Points/Issues to Be Raised**
Menang Corporation (M) Berhad (AGM)	Menang Development (M) Sdn. Bhd. ("MDSB"), a wholly owned subsidiary of the Company had to dispose some of its properties at consideration prices of RM7,376,204 and RM576,311 as settlement of the purchase consideration of two parcels of land from Zillion Sdn. Bhd. (Page 111 of AR) a) Where are the locations of the land to be purchased from Zillion Sdn Bhd? b) Why did the Company choose to settle the purchase consideration of the land via the exchange of its properties and not by cash? c) Were the Company's properties that were exchanged for the land valued at market value? If not, why? d) What was the valuation method used when the Company acquired the land from Zillion Sdn Bhd?
Karex Berhad (AGM)	Regularisation of logistics networks enabled better planning of raw material inventories and product deliveries to customers, ultimately resulting in an improvement in aggregate gross profit margins ("GPM") which surpassed 25% for the first time since the financial year ended 30 June 2020. (Page 12 of AR 2023) a) Based on the current outlook for the Group's key input cost, what is the prospect of maintaining or further improving the GPM? b) Moving forward, which areas of improvement will be the focus for the Group to return to 30% GPM as previously achieved by the Group in FY2017? c) There is reported news that the Group is set to launch new condom products i.e., graphene condoms and synthetic condoms in FY2024. What would be the estimated range of GPM of these new products as compared to the existing latex condoms?
INSAS Berhad (AGM)	The Financial Services and Credit & Leasing segment, a key profit contributor to Insas in FY2023, recorded a 22.62% decline in segmental result to RM26.89 million compared to RM34.75 million in FY2022 (pages 189 and 190 of Annual Report 2023). Total revenue declined to RM66.41 million from RM79.42 million, with lower income across interest income, brokerage commissions and corporate finance advisory fee. How would the division perform in FY2024 in view of tepid retail participation in the stock market and a challenging macroeconomic environment? Does the Group foresee a recovery in lending activities with possible growth in loan portfolio size?
Classita Holdings Berhad (AGM)	Forensic auditor Virdos Lima Consultancy (M) Sdn Bhd was appointed in April 2022- to carry out an independent forensic audit on allegations of suspicious and irregular transactions at

	Caely (M) Sdn Bhd (Caely M), a wholly-owned subsidiary of Caely. On 23 October 2023, Virdos Lima submitted an investigation report to Classita. In a reply to Bursa Malaysia's query dated 25 October 2023, Classita said the forensic report revealed that there were 'irregularities concerning Caely-M's transactions with certain parties comprising of a series of questionable transactions, potential concealment of financial interests, and conflicting relationships, which undermined the transparency and credibility of the Company's financial disclosure'. The matter is currently pending litigation before the Court. a) Based on the findings of the forensic report, what weaknesses resulted in the said irregularities in certain transactions, conflict of interests and corporate governance issues? What has the Board and Management done to address the weaknesses or issues identified in the report? What recommendations (if any) were provided by Virdos Lima to strengthen Classita's risk management framework? Have these recommendations been accepted for implementation? Which are the recommendations which have not been accepted, if any? b) Classita said that the amount due from relevant parties highlighted in the investigation report had been fully impaired in the financial statements of the Group in prior financial years. To what does the impaired amount relate to? How much in total was impaired by Classita previously? How likely is the recoverability of the impaired amount? What are the avenues available to recover the said amount?
AWC Berhad (AGM)	1. The Facilities division reported its first-ever loss in its history of RM5.9 million compared to a profit of RM11.7 million in FY2022 (page 63 of AR2023). Its performance was impacted by: - Impairment of receivables amounting to approximately RM4.5 million (including RM2.9 million due from a related company under the Engineering division). - Increase in operating expenditures due to the impact of Minimum Wage Ordinance 2022 and amendments to the Employment Act amounting to more than RM5.0 million. - Costs from unscheduled works amounting to approximately RM5.0 million. a) Why was the related company under the Engineering division unable to repay its due to the Facilities

	division? What were the circumstances that led to the impairment of receivables from this related company? What were the efforts taken to recover the receivables before the Group made the provision for it? b) What were the unscheduled works about? How did these unscheduled works arise? Instead of passing it down to customers, why did AWC bear the additional cost of unscheduled work? 2. Similarly, the bottomline of the Environment division was affected by a few unexpected factors namely: - Several projects in Singapore turning onerous amounting to RM4.2 million. - The downward revision of the gross profit margin for a project in Singapore by RM1.7 million. - Impairment on trade receivables of RM1.6 million a) Please elaborate on the reason that these overseas projects were 'onerous' contrary to usual operating conditions. How did these 'onerous' projects affect AWC's bottomline? b) Was the downward revision of the GPM for the Singapore project within AWC's expectations? If yes, did the Group incorporate this into its consideration when negotiating the contract with the client? If not, why was this unexpected? What caused the margin erosion for the said project?
Fintec Global Berhad (AGM)	Based on the latest annual reports and announcements made by the respective PLCs, Fintec's stake in Seacera Group Berhad, Focus Dynamic Group Berhad and NetX Holdings Berhad are 24.66%, 30.63% and 23.21%, respectively. a) Does Fintec exert significant influence over the board and management of these investees through its substantial stakes? Will Fintec consider exercising its control over these companies, considering Fintec's investment objective of investing for the long term? b) Compared to the existing accounting policies of recognising the fair value gain or losses of the investments in investee companies, how applicable is the equity accounting method to recognise the profit and loss of these investees in Fintec's account? c) Please clarify the application of fair value through other comprehensive income (FVOCI) or fair value through profit or loss (FVTPL) in Fintec's equity investments.

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d) DGB Asia Berhad's announcement dated 2 July 2020 indicated that Fintec ceased to be a substantial shareholder of the Company. In addition, DGB Asia's analysis of shareholdings as of 31 March 2023, stated in its annual report 2022, also did not list Fintec nor Fintec's subsidiaries as one of its shareholders.

Please clarify Fintec's interest in DGB Asia and where such information can be accessed.

e) How much has Fintec invested in Seacera, Focus Dynamics, NetX and DGB Asia? What is the current market value of these investments?

f) With the recovery in Seacera's share price following the upliftment of the Practice Note 17 status by Bursa Malaysia, is it the time for Fintec to reap returns from its investments? If not, when is the right time for Fintec to realise its investment in Seacera? What is the upside Fintec sees in Seacera?
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<tr><td>Cheetah Holdings Berhad (AGM)</td><td>
1. The allowance for impairment losses on other receivables increased substantially from RM12,678 in FYE2022 to RM1.7 million in FYE2023 (page 80 of AR2023).

a) Please provide the components of the other receivables that has the impairment losses.

b) What were the reasons for the substantial increase in the allowance for impairment losses on other receivables?

c) What strategies or measures is the Group considering mitigating the risks leading to such a significant increase in the allowance for impairment losses on other receivables?

d) How much of the impaired amounts have been collected to-date?

2. The allowance for impairment losses for amount owing by a subsidiary rose sharply from RM3.6 million in FYE2022 to RM27.5 million in FYE2023 (page 83 of AR2023).

a) What are the main reasons for the large increase in the allowance for impairment losses on amount owing by a subsidiary?

b) What is the likelihood of further impairment or reversal or recoverability of the amount owing by this subsidiary?

c) How much of the impaired amounts have been collected to-date?
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<tr><td>MAG Holding Berhad
(AGM)</td><td>The table below set forth the cash and bank balances of the Group:

<table>
<tr><td></td><td></td><td colspan="2">Group</td></tr>
<tr><td></td><td>Note</td><td>2023
RM'000</td><td>2022
RM'000</td></tr>
<tr><td>Cash and bank balances</td><td>(a)</td><td>163,668</td><td>162,038</td></tr>
<tr><td>Fixed deposit with licensed bank</td><td></td><td>1,342</td><td>1,308</td></tr>
<tr><td>Cash and cash equivalents</td><td></td><td>165,010</td><td>163,346</td></tr>
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Note (a): Included in cash and bank balances of the Group are bank balances amounting to RM162.1 million (2022: RM160.1 million) placed with financial institutions in the People's Republic of China ("PRC") (Page 113 of the AR2023).

a) In view that most of the cash and bank balances are deposited with the financial institutions in the PRC, please elaborate how this arrangement will impact the operations in Malaysia? Should there be no notable impact, please provide reasons for such lack of impact.

b) If the placements with financial institutions in PRC are intended for investment or expansion of MAG's business in PRC, please provide details of such investment and/ or expansion, including the nature of investment/ expansion, amount required, prospects of the investment or expansion. Please also indicate if the Group has the necessary resources to manage such investment/ expansion.

c) Has the Company conducted any risk assessment related to keeping funds in foreign banks, considering factors such as exchange rate fluctuations and regulatory changes in PRC?

d) Please justify how keeping funds in Chinese banks aligns with the company's overall strategy and contributes to enhancing shareholder value?</td></tr>
<tr><td>S & F Capital Berhad
(AGM)</td><td>The Group's current ratio dropped to 1.28 compared to the previous year's 3.07 which was due to the amount owing to other shareholders at the subsidiary level to fund the purchase and development of the newly acquired land in Kedah. However, the current ratio of 1.28 in FYE 2023 indicates that the Group is in relatively good financial liquidity to cover its debts (Page 11 of AR2023).

Does the Group plan to achieve a better current ratio level in the next two financial years? If yes, what is the Group's preferred current ratio level?</td></tr>
<tr><td>Rhong Khen International Berhad
(AGM)</td><td>High interest rates in the US affected furniture sales in the US as most of the customers had reduced orders by between 30% to 50%. The furniture industry also has to manage the over-inventoried situation in the US and rising labour costs in Malaysia and Vietnam. (Page 9 of AR2023)

a) What are the revenue and segment results for both the Vietnam and Malaysia operations, respectively in FY2022 and FY2023?</td></tr>
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	b) What is the Board's prospect on the over-inventoried situation in the US? Is the over-inventoried situation expected to continue throughout FY2024? c) The Group reduced its total workforce to approximately 4,200 workers in FY2023 as compared to approximately 5,900 workers in the previous year. (Page 4 of AR2023 and page 4 of AR2022) d) Besides the workforce reduction, please elaborate on the cost-controlling strategies adopted in the upcoming year in tandem with the reduced sales order from the US market.
Ageson Berhad (AGM)	Based on the Report on the Audit of the Financial Statements (Report) issued by the external auditors (EA), the basis disclaimer of opinion involves issues with four companies, namely Ageson Berhad, Ageson SMSGMBH Sdn. Bhd., Ageson Power Sdn. Bhd., and Ageson Industrial Sdn. Bhd. *(Source: The announcement dated 31 October 2023 on Audit report - Modified Opinion/ Material Uncertainty Related to Going Concern: Disclaimer of Opinion)* What steps are being taken to address the audit issues involving the abovementioned four companies as reported by the EA in its Report? Can the current measures address the issues highlighted by the EA?
CSH Alliance Berhad (AGM)	In FY2023, the Group recorded a fair value loss of RM21,999,999 on other investment, which comprises of unquoted equity investment in a Malaysian corporation. (page 94 of Annual Report (AR) 2023) a) Please explain the reason for the huge fair value loss. b) What is the name of this Malaysian corporation and your respective shareholding? What is the background of this company? c) CSH invested in this company in FY2021 with a net carrying value of RM22 million. What was the rationale for the investment? d) What is the probability of loss reversal going forward?
Uzma Berhad (AGM)	1. The Group has written off other investment amounting to RM3.975 million in FY 2023 as compared to RMNil in FY 2022. (Page 196 of AR) a) Please provide the nature of the other investment that was written off in FY 2023. b) What were the reasons for the write-off? 2. The Group had to impair fair value loss on unquoted equity securities of an amount of RM3.975 million from an initial investment of RM4.08 million in FY 2023. (Page 260 of AR)

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<td>a) Why did the Group decide to invest in the unquoted equity securities that led to a substantial fair value loss?

b) What is the main business of the unquoted equity securities in which the Group invested?</td>
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<td>Bonia Corporation Berhad
(AGM)</td>
<td>Two internal audit visits to the targeted business units that represented the key risk areas were carried out in FY2023. The fee incurred for the FY 2023 in relation to the internal audit function is RM29,680. (Page 93 of AR2023)

a) What are the key risks areas or cycles that have been covered by the internal auditor in FY 2023?

b) Given that the fee is rather small (around RM2,473 per month) compared to the Group's revenue of RM424 million for FY 2023, how does the Audit Committee assure itself that there would be adequate coverage and an effective audit function?</td>
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<td>Zen Tech International Berhad
(AGM)</td>
<td>As stated in the Independent Auditors' Report of Zen Tech under the Professional Scepticism section, the auditors were being sceptical on the Management's prior years and current year ventures on the acquisition of new business and new company's share which did not materialise and has an on-going litigation cases to recover the refundable deposits paid by the Company and the subsidiaries of the Company are as follows:

<table>
<tr><th></th><th>Company/ Director/Firm</th><th>Refundable deposits RM</th><th>Impairment</th></tr>
<tr><td>a)</td><td>World Gloves International Group Sdn Bhd and Goh Poh Seng</td><td>1,000,000</td><td>Impairment made in the financial year ended 30 June 2022</td></tr>
<tr><td>b)</td><td>Signature Healthland Sdn Bhd ("SHSB") and the Director of SHSB</td><td>3,500,000</td><td>Impairment made in the financial year ended 30 June 2023</td></tr>
<tr><td>c)</td><td>Lim Khai Guan of DS Agriculture Plantation Sdn Bhd ("DS Agri")</td><td>3,000,000 (Deposit paid to Messrs NZ Ling & Co)</td><td>No impairment made</td></tr>
<tr><td>d)</td><td>Messrs NZ Ling & Co</td><td>700,000</td><td>No impairment made</td></tr>
</table>
(pages 73 & 147 of AR2023)

a) The Group has a track record of entering into agreements to acquire new business and new company's shares by paying high deposits of 55% to 70% of the purchase consideration, then subsequently aborted and terminated the contracts. (page 119 of AR2023) Why has</td>
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	the Board allowed the Group to enter into the said agreements with high deposit payments? b) What guidance has the Audit Committee given to Management when negotiating the terms relating to deposits? c) Why were these deposits not being placed in an escrow account held by the lawyers to ensure that there is no issue with refunding the money? d) What were the consultancy services provided by Messrs NZ Ling & Co that warrants the consultancy fee of RM700,000? e) What is the Audit Committee and Risk Management and Investment Committees' views on the Professional Scepticism raised by the auditors? f) As the three agreements entered into did not materialise and they were followed by on-going litigation cases to recover the refundable deposits paid by the Group, how have the independent directors played their role in safeguarding the interests of the Company and of the minority shareholders? g) Has the Board put in place a robust risk management framework to mitigate the risk of losing huge sums of deposits arising from aborted and termination of agreements, going forward?
Jaya Tiasa Holdings Bhd (AGM)	Under the reforestation sector, the Group is currently managing a total reforestation area of 120,395 hectares. Out of the 75,622 hectares of plantable area, 39,145 hectares in total had been planted up till the closing of FY2023 (FY2022: 35,655 hectares). (page 11 of AR2023) a) How many hectares of forest plantations does the Group target to plant for financial year ending 2024? b) The Group's commitment to aggressively develop its forest plantations remains to be the ultimate priority in the Group's pursuit to fully plant by the year 2025 with fast-growing tree species such as Eucalyptus Pellita, Eucalyptus Deglupta (Kamarere), Albizia Falcataria (Batai) and Kelampayan not just for sustainable log supply but also to conserve the forest. (page 12 of AR2023) Given that the Group had only planted 3,490 hectares for FY2023, is the target to develop the remaining forest plantations, i.e. 36,477 hectares to fully plant by the year 2025, achievable?
Metronic Global Berhad (AGM)	The loss from operations widened by 132% to RM9.77 million from -RM4.2 million recorded in the preceding year, driven by significantly higher operating expenses at RM16.7 million (FY2023: RM5.74 million) (page 127 of AR2023). The items that contributed to this were:

	- Bad debts written off - RM1.07 million - Impairment losses on intangible assets - RM2.96 million - Loss on disposal of quoted shares - RM1.5 million - Loss on fair value changes of investment in quoted shares - RM1.2 million a) What were the bad debts related to? What efforts were undertaken to recover the amount before MGB wrote it off from its book? b) The impairment losses on intangible assets about the recoverable amount of e-commerce software (page 108 of AR2023). Why did MGB impair the recoverable amount of the e-commerce software? Was the impairment due to the new e-commerce venture that MGB announced in August 2022? If so, why did MGB impair the recoverable amount shortly after the launch of the new venture? c) What were the quoted shares that MGB disposed of in FY2023? Please provide the profit and losses recorded for the shares. d) As of 30 June 2023, the size of MGB's other investment increased to RM6.75 million from RM4.08 million. The portfolio comprises investments in quoted shares and REITs. What is the investing strategy adopted by MGB? What is the targeted return the Company wishes to achieve from these investments?
Scanwolf Corporation Berhad (AGM)	For FY2023, Scanwolf remained in losses with a net loss of RM10.4 million (FY2022: - RM17.07 million), primarily due to lower sales recorded in the Manufacturing division. This was the third consecutive year Scanwolf ended a fiscal year in red. The losses resulted in higher accumulated losses of RM23.7 million (FY2022: RM13.48 million), further lowering Scanwolf's total equity to RM57.4 million from RM67.32 million a year ago. Meanwhile, its total share capital amounted to RM82.02 million. These numbers raised concerns that Scanwolf might slip into Practice Note 17 status, should the loss-making condition persist. The situation is exacerbated by Scanwolf's persistently loss-making Property Development and Manufacturing division. Furthermore, external auditor Messrs PKF PLT also raised the issue of going concern of the Group and Company, in light of the net losses recorded by the Group and the Company. a) Given the net losses position, rising accumulated losses, depleting shareholders' equity, and low cash level, what are the viable strategies to ensure the long-term business continuity and sustainability of Scanwolf?

	b) What are the prospects of Scanwolf in the near term? When is the Group expected to become profitable? How is the core business of vinyl tiles flooring manufacturing expected to perform in FY2024? c) What was the outcome of the 'various business strategies to increase revenue' that were actively pursued by the Board and management? d) Scanwolf has RM15.33 million of financial liabilities that will be due within the next 12 months from 30 June 2023 onwards (pages 56 and 107 of AR2023). In view of the low cash level of RM200,004, how does the Management plan to cope with the short-term liquidity risk and the cash requirements of the Group?
Kluang Rubber Company (Malaya) Berhad (AGM)	The Group reported a profit after tax of RM 43.05 million for FY2023. This was primarily attributed towards the positive contribution from the Group's share of results of associates of RM4.31 million, as compared to a loss of RM13.48 million in FY2022 (page 19 of AR2023). Dividends received from associate decreased to RM2.40 million (FY2022: RM4.12 million) (page 96 of AR2023). Is the Company aware why the dividends received from associate decreased by 41.7% given that share of results of associates were positive?

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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.