



The Observer

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CEO's Message

A New Year and a Renewed Hope for Change



As MSWG moves forward into its 10th year in operation I am reflecting on some recent and upcoming developments that provide renewed hope for improvement in corporate governance and protection of shareholder interests in 2011:

- We launched the MCG Index 2010, which identified promising findings in terms of corporate governance disclosures and practices.
- We saw some encouraging signs from the courts in late 2010 as they began to hand out stiffer deterrent sentences in the latter part of the year to several individuals convicted of major fraud.
- The Securities Commission (SC) and Bursa Malaysia recently announced that corporate takeovers through the assets and liabilities route will now require the approval of 75% of shareholders, instead of a simple majority as in the past. MSWG had been advocating for this change for all of last year and we are pleased at this development for the betterment of the Malaysian capital market and protection of minority shareholders.
- The Securities Industry Dispute Resolution Center (SIDREC), was set up earlier this month. This independent dispute resolution body will help to resolve claims and disputes between investors and capital market intermediaries. This should help to address minor claims expediently and cost-effectively.
- The SC will be releasing a new five-year corporate governance blueprint covering the period from 2010-2015. The blueprint is being developed with significant input from the International Corporate Governance Consultative Committee (ICGCC).

In its 10th year, MSWG will continue to advocate for the rights of minority shareholders. We will continue to monitor and speak out on issues affecting minority shareholders, encourage the adoption and use of sound corporate governance principles by PLCs, and educate shareholders on their rights and responsibilities.

Cheers...

Rita Benoy Bushon

MCG Index 2010 Findings

Although MSWG is still a few weeks away from publishing the full findings of the MCG Index 2010, we would like to provide you with a snapshot of some of the more interesting findings.



(Photo: Winners of Distinction Awards at MCG Index 2010 Awards Dinner held 14 December 2010)

A total of 898 public listed companies on the Bursa Malaysia were put through a comprehensive four-stage evaluation process. The result was the generation of a Corporate Governance Index and score for the Top 100 companies. The score for the Top 100 companies in 2010 was 66.0, an increase of 3.8% over the score of 64.4 achieved in 2009. The highest score achieved by a company was 90.3, an increase of 5.2% over the previous year's highest score of 85.8.

In terms of findings related to board composition, there was an 11.7% increase in the proportion of companies having an Independent Director as Chair (33.5% of companies in 2010 vs. 30.0% of companies in 2009). More impressively, there was a separation between the roles of the Board Chair and the CEO at 82.5% of Public Listed Companies (PLCs). This is an increase of 37.5% over the 2009 figure of 60.0%. In addition, the proportion of companies where Independent Non-Executive Directors (INEDs) comprise 50% or more of total directors improved from 37.0% in 2009 to 40.2% in 2010. An improvement, albeit small this year, was noted in the area of Board gender balance: women now comprise 8.2% of all Directors, an increase from 7.5% in 2009.

This year's Index also saw improvements to corporate disclosures. A significant increase was seen in the proportion of companies disclosing whistleblowing policies (6.2% of companies in 2010 compared to 2.6% in 2009). Increases were also seen in the disclosure of CSR policies (50.9% of companies in 2010 vs. 49.4% in 2009), and dividend policies (5.7% in 2010 compared to 5.3% in 2009).

Global Developments in Corporate Governance

Proposed U.S. Rule Change to Better Protect Pension Plan Beneficiaries

The U.S. Department of Labor's Employment Benefits Security Administration (EBSA) is currently seeking comments on a proposed rule change that would more broadly define the conditions under which a person would be considered a "fiduciary" under the Employee Retirement Income Security Act (ERISA) by reason of giving advice to an employee pension plan or a plan's participants.

The proposed rule change will broaden the definition of fiduciary to include several parties not currently covered by the existing regulation. These include certain types of investment advisors, consultants, and proxy advisory firms. The current regulation has been in place since 1975. Since that time, consultants and advisors have played an ever-increasing role in pension fund management and administration. They have come to possess significant influence over investment and other decisions made by pension funds due, in part, to their knowledge of and dealings with increasingly complex financial products that have been introduced into the marketplace. While pension fund trustees are considered fiduciaries and are obligated to act purely in the interest of the pension funds and beneficiaries, many consultants and advisors are not - and trustees are swayed by their judgment.

What impact will this change have for Malaysia? The government has announced plans to establish private pension funds to complement EPF and provide alternative pension savings vehicles. In developing the legislation to support the new plans, MSWG encourages the government to set the bar high and establish the best possible level of protection to safeguard employee investments for their post-employment future. The setting of high standards for the private pension industry also sets a benchmark for financial markets as a whole, resulting in the adoption of these standards elsewhere in the marketplace for the benefit of shareholders and other investors.

Detailed information on the proposed change is available on the [EBSA website](#) at:

<http://webapps.dol.gov/FederalRegister/PdfDisplay.aspx?DocId=24328>

Update! International Corporate Governance Network (ICGN) Mid-Year Conference

Preparations are well underway to make this year's ICGN Mid-Year Conference the best ever! Scheduled for February 28 to March 2, 2011 at the Shangri-La Hotel Kuala Lumpur, the event is being hosted by the Employees Provident Fund (EPF) of Malaysia, with MSWG as its Premier Partner. Over 200 ICGN members and speakers from some of the largest investment houses and corporations in Asia and across the globe will bring a global perspective on "Asian Corporate Governance – The Future Steps".

Topics for presentation and discussion include:

- **The New Global Landscape:** Scene setter covering Asian boom, Western and Dubai financial crisis.
- **Asian growth and governance:** Governance issues specific to South East Asia.
- **Asian IPOs:** Reaching standards in corporate governance.
- **Moving from Shareholder Rights to Shareholder Responsibilities:** The UK Stewardship Code and beyond.

Breakout sessions will assess the state of corporate governance in China, India, ASEAN countries, Islamic capital markets and developed markets, and investigate the positive governance characteristics and shortfalls in each market. Each breakout session will propose recommendations for improvements in these markets.

Conference highlights include:

- Keynote Opening Address by YB Dato Seri Ahmad Husni Mohamad Hanadzlah, Minister of Finance, Malaysia.
- Post-conference tour of a palm oil site (limited availability).

Participants from Malaysia will be entitled to attend at the rate of £500 (British Pounds), a discount of £100 over the regular Conference rate of £600. To register, please visit the [Conference Registration webpage](#) at:

<https://www.icgn.org/conferences/2011-kuala-lumpur/-/page/984/>

and book under the "MSWG Rate".

Complete information can be found on the [Conference webpage](#) on the ICGN website at:

<http://www.icgn.org/conferences/2011-kuala-lumpur/-/page/982/>

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Changes to Shareholder Approval of Takeovers Via Assets/Liabilities Route

The SC and Bursa Malaysia jointly announced on Friday, 28 January 2011, that the threshold for shareholder approval of takeovers by the assets and liabilities route has been raised to 75% from the previous requirement for a simple majority. The new rule will come into effect for all takeovers announced on or before 28 January 2011.

The move was brought about to ensure that the interests of minority shareholders in a company with a concentrated shareholding structure would be protected, as a takeover under the old rules could be fairly easily achieved despite the impact on minority holders. The new approval threshold is expected to encourage foreign investors seeking a market with strong investor protection. Since the new threshold level has been in place for privatisations initiated through other routes, the rule change ensures that shareholders are equally protected, regardless of the route.

The change comes after SC's research indicated that mergers and acquisitions in other countries with the higher approval threshold were not negatively affected.

Seminar Creates Savvy Investors

MSWG's first Investor Education Programme seminar of 2011 was held on 26 January 2011. Entitled "**Lessons from the Investment Gurus: Learning from Benjamin Graham and Warren Buffett**", the seminar was facilitated by Mr. Ooi Kok Hwa, Managing Partner of MRR Consulting.

The full-day event was attended by 34 participants eager to benefit from the wisdom and strategies of two of today's most successful investors. Seminar topics included *Value and Growth Investing*, *Benjamin Graham's Three Forms of Value Investing*, and *Warren Buffet's Business Perspective on Investing*.

The seminar was approved by the Securities Industry Development Corporation (SIDC) as a Continuing Professional Education (CPE) training event, and MSWG was able to award 5 points to Capital Markets and Services Representatives License (CMSRL) holders that attended.



(Photo: Seminar participant speaking with facilitator Ooi Kok Hwa)

MSWG Training Centre Available for Events

MSWG's Training Centre is available for rental to groups during times when it is not being used for MSWG's investor education events. The Centre can comfortably accommodate up to 50 people in an air-conditioned classroom or seminar setting and comes complete with an audio video system allowing for computer-based presentations.

For additional information, including availability and rates, please call MSWG at 603 2070 9090.

Feedback or Questions?

We would love to hear from you with feedback or questions on this newsletter, or about any aspect of our work. You can reach us by **phone** at 603-2070-9090, by **fax** at 603-2070-9107, or by **email** at watchdog@mswg.org.my.

SELAMAT TAHUN BARU CINA! - GONG XI FA CAI!

