MINORITY SHAREHOLDER WATCHDOG GROUP

Badan Pengawas Pemegang Saham Minoriti Berhad

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MESSAGE FROM THE CEO

The markets were abuzz last week with news of Facebook's looming IPO which, although it augers well for the tech sector, had many corporate governance practitioners reeling with what can only be described as brazenness on the part of company founder and CEO, Mark Zuckerberg.

For one, the use of a two-tier share structure gives Zuckerberg disproportionate voting rights (10-1!) and founder control of the board, which will make it difficult for shareholders' voices to be heard. For another, the provisions he has installed for board dependence gives Facebook a "controlled company" exemption to corporate governance rules. As a controlled company, it won't have to maintain a majority of independent directors on its board, and it won't need to have a compensation committee or an independent nominating function. In addition, Zuckerberg's designees - including Washington Post Chairman Donald E. Graham and Netscape founder Marc Andreessen - have voting control: if director Peter Thiel gives up his board seat, the board itself will decide who should fill it, increasing Zuckerberg's control further.

Clearly, shareholders who choose to buy Facebook stock will, in effect, be surrendering to his perceived genius, and he certainly presents a strong case. Markets would prefer the visionary and youthful vim of a Global Game-Changer in charge. Still, Facebook's debut will pose a huge dilemma to institutional funds that are required to invest according to rules of corporate governance. Will we one day find ourselves on the receiving end of a Zuckerberg-style structure? It depends on how successful our efforts at creating a knowledge economy are.

On to local matters, where and we find ourselves at the tail-end of a holiday-shortened week during which Malaysians banded together to celebrate Maulidur Rasul and Thaipusam. This gave us a glorious four-day weekend but left only three days of trading activity.

In market news, minority shareholders will be pleased to note that the KLCI finally broke through its end-2011 high of 1530.73 points. This was to be expected, though, since our Malaysian market had lagged the region as well as Wall Street for most of January and some catch-up was in order. Share trading was unusually active, with more than 4.6 billion shares changing hands on 8 February 2012.

Penny stocks dominated the list of the most active counters, with some counters making several-fold gains within days. In addition, the Exchange has issued more Unusual Market Activity (UMA) queries over the past month to alert minorities to be vigilant on DBE, TMS, Hibiscus, Maybulk Nicorp, Compugt and Puncak.

It does appear that the bullish market uptrend is still intact, though the one thing that most market players are anticipating this year is a general election call. Minorities must be aware and expect some profit-taking once Parliament is dissolved, although when this will happen is the big question.

Cheers

Rita Benoy Bushon

MSWG's Quick Take on Ongoing Corporate Transactions

SP SETIA BERHAD (SPSETIA): In the notice of the revised take-over offer, Tan Sri Liew Kee Sin (TSLKS), the Group President and CEO, as well as a substantial shareholder of SPSETIA, is now one of the joint offerors giving revised offer prices of RM3.95 and RM0.96 for each SPSETIA share and its warrant respectively. The consideration for the revised offer will be satisfied by Permodalan Nasional Berhad (PNB) and all the offer securities acquired via the offer will be registered in the name of PNB.

MSWG's COMMENT: We see this revised offer at only additional 5 sen per share not attractive from the perspectives of free cash flow valuation, strong management team, the Company's proven track record and future growth, and the expectation of an increase in the Company's value over time based on the land banks they have. TSLKS has been given a put option with respect to the sale of his own shares.

On MSWG's Watchlist

Sime Darby Berhad (SIME) / Eastern and Oriental Berhad (E&O): Following the filing of a suit by E&O minority shareholder Michael Chow Keat Thye calling for a judicial review to overturn the waiver granted to SIME from having to make a Mandatory General Offer (MGO) to minority shareholders of E&O, the Securities Commission (SC) is seeking to recuse High Court judge Abang Iskandar Abang Hashim from hearing the suit, which is scheduled to be mentioned on 15 February 2012. Following this, it was reported that SC is revisiting the idea of disclosing its rulings on major decisions relating to the Takeover Code. This is welcome news.

Muhibbah Engineering: A CIMB Bank-led restructuring is reportedly in the works, and PricewaterhouseCoopers has been appointed as receiver and manager of the Asia Petroluem Hub (APH) project. If successful, the restructuring would bring in the additional funds needed to complete the APH project. For Muhibbah, it would mean both no provisions and possibly additional work from the APH.

Axiata Group: Axiata’s investment in India, Idea Cellular Ltd (“Idea”), a 19.7% associate, was affected by the Indian Supreme Court order to cancel 122 cellphone licences (2G spectrum) granted to eight operators in 2008. All of Axiata's 13 licences, nine under Idea and four other licences it got as a result of the merger with Spice Communications Ltd, are to be revoked. Axiata shareholders need to look at the implications of this exercise once more information is available. It should be noted that only seven licences are currently in use.

The affected operators were allowed to continue operations for the next four months until new auctions are conducted. The additional cost to bidders arising from the auctions appears to be substantial given that Indian government auditors had said that the sale might have brought in as much as US$36 billion (RM109 billion) of potential revenue to the treasury.

Local News and Developments

Getting the right people
http://biz.thestar.com.my/news/story.asp?file=/2012/2/7/business/10686577&sec=business%3Cbr%20/%3E

Global News and Developments

Facebook governance a concern for California pension fund
http://www.reuters.com/article/2012/02/07/us-facebook-calstrs-idUSTRE81601Q20120207

Unease with say on pay
http://www.pionline.com/article/20120206/PRINTSUB/302069999/unease-with-say-on-pay

Facebook: Corporate Governance Minefield
http://www.businessinsider.com/facebook-corporate-governance-minefield-2012-2

Sector Briefs - Plantations

The Malaysian Palm Oil Board's (MPOB) latest statistics for the Malaysian palm oil industry, as at 31 December 2011, showed month-to-month declines in both CPO production and stocks. CPO production had declined by 8.16% to 1,494,893 tonnes in December 2011 from 1,627,774 tonnes in November. CPO stocks had also registered a 1.49% reduction from 2,070,008 tonnes in November 2011 to 2,039,224 tones in December. Likewise, palm oil exports had also decreased by 4.49% from 1,664,591 tonnes in November 2011 to 1,589,883 tonnes in December.

Crop production figures announced by several plantation companies in December 2011 were consistent with the MPOB's statistics. The following table summarizes CPO production by company for November and December 2011.

COMPARATIVE CPO PRODUCTION IN NOVEMBER AND DECEMBER 2011 (in tonnes)			
Company	Dec 2011	Nov 2011	(%)
Sime Darby	202,407	211,544	-4.32
KLK	61,700	62,928	-1.95
IOI	56,505	59,759	-5.45
TWSPlnt	20,434	23,678	-13.7
Kulim	14,064	15,435	-8.88

HSPLANT	*13,797*	*14,342*	*-3.80*
IJM	*13,321*	*14,703*	*-9.40*
TDM	*9,777*	*10,370*	*-5.72*
UMCCA	*5,017*	*6,062*	*-17.24*

Source: Bursa Malaysia

On a year-to-year basis, CPO production increased by 11.3% from the previous year's 16.993 million tonnes to 18.913 million tonnes in 2011. While China remains the largest export destination for Malaysian palm oil, with a total 3.483 million tonnes in 2011 (2010: 4.027 million tonnes), Pakistan had overtaken India to become the No. 2 export destination with 2.134 million tonnes (2010: 1.769 million tonnes). This was followed by the Netherlands with 1.099 million tonnes (2010: 0.989 million tonnes).

The MPOB recorded an average CPO price of RM3,218.50/tonne in 2011 as compared to RM2,701/tonne in 2010.

Further information can be found on the MPO website at http://www.mpob.gov.my.

Feedback

We welcome your feedback on our newsletter and our work. Email us at watchdog@mswg.org.my with your comments and suggestions.

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