

Genting Malaysia's RPT a triple whammy for minority shareholders

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Tan Sri Lim Kok Thay, the executive chairman of Genting Malaysia Bhd (GenM), via Kien Huat Realty III Ltd, is selling 46% of the common stocks in Nasdaq-listed gaming and entertainment company, Empire Resorts Inc (Empire), to GenM for US\$128.6 million (RM538.8 million) cash.

The related party transaction (RPT) is not to the benefit of minority shareholders in three aspects – a triple whammy.

1st whammy – Empire is a consistent loss-making company

Empire has been loss-making for the past two decades, according to Bloomberg. In fact, Empire posted the biggest-ever loss of US\$155.36 million for the financial year ended Dec 31, 2018.

Passing on a 46% stake in such a loss-making company to GenM, and by extension, to its minority shareholders, surely cannot be in their best interest. Given its history of consistent losses, Empire is expected to contribute negatively to the earnings of GenM, if past performance is anything to go by. The acquisitions are not value accretive and may negatively impact the earnings forecasts of GenM, according to RHB Investment Bank Bhd.

All that shareholders are left with is market discipline, which they used to discipline GenM by wiping out RM2.6 billion from the company's market capital in one day after the announcement.

2nd whammy – Drop in share price

On the day after the announcement, GenM's share price plunged as low as RM3.08 – a loss of 53 sen. It closed at RM3.18, down 43 sen. Although these are one-day statistics, it is an indication of how much minority shareholders would have lost if they had chosen to exit from GenM due to the unpalatable RPT.

UOB Kay Hian's head of research wrote in a research note, "Using a simple assumption, the acquisition could dilute GenM's net profit by 8%, assuming Empire continues to make losses equivalent to about RM580 million ..."

3rd whammy – Loss of potential dividends

If the purchase consideration for Empire amounting to RM538.8 million was paid out as dividends, it is estimated that shareholders would have received about 9 sen per share. Minority shareholders would have definitely preferred the 9 sen instead of being a partial owner of a consistently loss-making company.

No shareholder approval required

The transaction falls below the prescribed thresholds in the Main Market Listing Requirements (MMLR) that would mandate calling for an EGM for shareholder approval, at which the interested parties shall not vote. Thus, shareholders will not have a chance to vote against the transaction.

Perhaps what may be required is a minor tweak of the MMLR to ensure that companies that have been making losses for two decades are not passed on to public limited companies to the detriment of minority shareholders.

Alternatively, there should be some form of regulatory intervention or persuasion that such things do not happen.

GenM's viewpoint

GenM has stated that it does not expect the

proposed exercise to have any material effect on its consolidated earnings and earnings per share for the financial year ending Dec 31, 2019.

Reading between the lines, there will be an effect – only that the effect is not expected to be "material" – a subjective word. It is not a question of GenM's affordability of the

purchase consideration of RM538.8 million, which is to be settled in cash. In absolute terms, the RM538.8 million is substantial.

It would have been better if the announcement indicated an estimated impact on the bottom line instead of using the subjective speculative word "material" in stating that

there would not be a material effect.

Give me the money

Minority shareholders will probably be asking, "Why not give me the 9 sen per share dividend instead of a stake in a compulsive loss-making company?"

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Bursa: Three-tier shareholder approval requirement safeguards minorities

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“The Exchange believes that the current framework to safeguard shareholder interest in a privatisation is balanced and appropriate. Nevertheless, the Exchange will continue to keep abreast of developments and review this area from time to time,” it says in an email reply.

Bursa Malaysia opines that its listing requirements contain a balanced and proportionate framework for voluntary withdrawal of listing that safeguards shareholders’ interests and empowers them to make an informed decision on the proposal.

The framework consists of a stringent three-tier shareholder approval requirement whereby the withdrawal of listing must be approved by the majority in number of shareholders present and voting. This also represents at least 75% of the total number of issued securities held by such shareholders.

Moreover, objections must not be more than 10% of the total number of issued securities held by the shareholders present and voting.

“Under the three-tier shareholder approval requirement, we believe the minority shareholders’ interests are adequately

safeguarded. Via the dissenting vote of 10%, minority shareholders can collectively reject the privatisation proposal if they do not deem the withdrawal of listing or exit offer favourable to them,” says Bursa Malaysia.

Minority Shareholders Watch Group (MSWG) CEO Devanesan Evanson opines that SGX’s proposals are worthy of consideration as they will offer minority shareholders a higher exit price.

He, however, acknowledges that there will always be minority shareholders who would be satisfied to exit at a lower “not fair” price and that they may feel that SGX’s proposals would deprive them of the opportunity to exit at a lower price.

“It would be difficult to please all minority shareholders as each will have his own acceptable exit price. The proposition in relation to exit prices should be that minority shareholders should be offered the highest exit price possible, and the SGX’s proposals do exactly that,” Devanesan tells *The Edge*.

Another argument offered against SGX’s proposals is that it would be more difficult for offerors to get a listed company delisted

and that such a scenario means fewer privatisation offers in the future. This essentially means fewer exit opportunities for minority shareholders.

But Devanesan points out that minority shareholders will always have an exit opportunity — the prevailing market price.

Malaysian Investors’ Association (MIA) president Datin Ho Choy Meng agrees that whatever is applicable to SGX is workable for Bursa Malaysia. “The changes are positive and commendable as with immediate effect, exit offers must be equal to or more than the intrinsic value of the securities as determined by the independent advisers,” she says.

Since getting out has become harder and more expensive, Ho expects major shareholders to bear greater responsibility to ensure their companies are viable, well run and profitable. “This results in a win-win situation as all the shareholders will benefit from better dividend yields and increased share prices on the stock market. No longer can they offer a reasonable but unfair price to squeeze out minority shareholders.”

Ho stresses that MIA does not take kindly to directors who wilfully take star perform-

ers away from public investors. “It is selfish of majority shareholders to seek voluntary delisting and keep the company all to themselves. It is like snatching away from others the proverbial goose that lays the golden eggs.”

Market observer and shareholder activist Chong Chee Fern shares the view that Malaysia should follow in Singapore’s footsteps in order to better safeguard the interests of minority shareholders and pursue good governance.

“It is only fair that a fair price be offered to minority shareholders. There should be minimal market distortion, if any, as it involves exit cases only. After all, major shareholders are allowed to privatise the company at the intrinsic value of the shares, which is still deemed fair,” he says.

While Chong admits that this may lead to fewer privatisations in the future, he says it should not be a counter-argument against the introduction of a new voluntary delisting framework. “If major shareholders see value in the company and feel that they can do more and create more value by privatising it, nothing will deter them from doing so.” ■