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Companies lacking in internal measures to prevent corruption

- **41%** of listed companies do not disclose their internal anti-corruption policy

- **The guidelines on adequate procedures provide clarity on the soon-to-be-enforced Section 17A of the MACC Act**



By
Sharina Ahmad

It is time to tackle corruption, the Minority Shareholders Watch Group (MSWG) says.

It points out that 41% of the companies listed on Bursa Malaysia do not have an internal anti-corruption policy.

“The 41% refers to listed companies and as such the figure will definitely be greater for small-scale businesses. Most companies are not ready.”

“Local businesses have not implemented adequate internal measures to prevent potential acts of corruption.” MSWG CEO Devanesan Evanson tells *FocusM*.

He says according to the Securities Commission (SC), as of May, only 59% of listed companies in the country had an internal anti-corruption policy.

“The statement does not state that the policy is adequate. Furthermore, these policies may have different levels of sophistication as they are not necessarily benchmarked against the guidelines on adequate procedures (pursuant to Section 17A of the Malaysian Anti-Corruption Commission Act (MACC Act)).”

The MACC Act was launched by Prime Minister Tun Dr Mahathir Mohamad on Dec 10, 2018.

As it is, the bribery rate in Malaysia is worrying with a drastic increase to 35% in 2018 from 19% in 2014, according to PricewaterhouseCoopers’ Global Economic Crime Survey 2018.

The survey says Malaysian companies have suffered bribery and corruption in their daily operations and this marked a significant increase in the four-year period.

The consulting firm says the 35% is considered a very high figure as even the rule-of-thumb often refers to a tolerance level of not more than 5%.

According to the Corruption Perception Index 2018, Malaysia is ranked 61 out of 180 countries – one notch higher than the previous year.



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Guidelines adequate but not exhaustive

According to Devanesan, the guidelines on adequate procedures provide clarity on the soon-to-be-enforced Section 17A (S17A) and are deemed adequate but not exhaustive.

“They are, after all, merely guidelines which may have to be adapted to the particular needs of a business. In some instances, some other procedures (not included in the guidelines) may be deemed necessary,” he explains.

At best, he says the guidelines mitigate the risk of sanctions and it would be foolhardy to assume that the procedures will enable a company or a director to completely avoid risk of sanction.

Devanesan further explains that adequate procedures should have five-pronged principles (with the acronymy TRUST) as follows:

- Top-level commitment – there should be a commitment from the board level
- Risk assessment – risk management using a suitable risk framework
- Undertake control measures – implement controls to mitigate risk to acceptable levels
- Systematic review, monitoring and enforcement – the itera-



Local businesses have not implemented adequate internal measures to prevent potential acts of corruption, says Devanesan

five process as risk is dynamic and ever-changing

- Training and communication – staff and management need to be trained on the methodology and procedures of risk and control.

In addition, Devanesan says companies should also, amongst others, establish and implement policies and procedures on anti-bribery/corruption.

These include conflicts of interest, gifts, entertainment, hospitality and travel donations and sponsorship (including political donations), facilitation payment, financial and non-financial controls, record keeping and enforcement.

Why are companies holding back on compliance to S17A?

The major causes, according to Devanesan, are that the companies believe that corruption will never happen to their company or to them as directors and as such choose to live dangerously.

Some hope that the June 2020 deadline for S17A to come into effect will be extended while others procrastinate, hoping that they will get things in order at the very last minute. Some also may try to avoid the cost of implementing the TRUST principles.

“I suppose the major reason is the somewhat typical lethargic Malaysian attitude of we still have time,” he says.

He mentions the target is for all companies to adopt the five-pronged TRUST Principles.

“The SC has presented its anti-corruption action plan to the cabinet special committee chaired by Mahathir, with recommendations to prevent corruption, misconduct and fraud – and I am sure that the plan will include a 100% target.”

Technology to enhance monitoring

The SC has leveraged on artificial intelligence (AI) substantially when coming out with its inau-

gural corporate governance (CG) monitor as it was “data mining” from template-based CG reports of many listed companies.

“Other listed companies can leverage on technology like data-mining to make sense of huge volumes of data and to discern trends. There are drawbacks when using AI as the ability to rationalise is limited... AI will pick the answer you give as the answer without rationalising logically whether it is the right answer,” explains Devanesan.

“Because CG is also all about the state of mind and ethics and morality, technology will have limited relevance in enhancing CG,” he adds.

Devanesan explains on the ongoing initiatives to strengthen the CG landscape. To this end, MSWG poses its questions at annual general meetings (AGMs) from two perspectives; financial and strategic CG.

“We make it a point to raise CG issues at AGMs of listed companies based not only on the practices outlined in the Malaysian Code on Corporate Governance 2017 but also on other standards of CG such as Organisation for Economic Cooperation and Development and the International Corporate Governance Network principles,” he says.

“We also cover CG issues in our weekly newsletter and through advocacy in the media. MSWG is also a regular counterpart to the SC and Bursa Malaysia whenever they envisage changes to the CG landscape. That is an opportunity for MSWG to help shape and persuade the future of CG laws, rules and codes. MSWG’s main focus is from the minority shareholder perspective.” ^{Devanesan}

Challenges to grow institutional and corporate subscriber base

As a corporate subscriber, a public listed company (PLC) is entitled to the MSWG Asean Scorecard, a report card on how the listed company ranks among its peers.

“The scorecard comprising about 146 questions has been agreed on as the scorecard amongst Asean countries and is used when recognising top PLCs at the Asean level (once every two years) and at the annual MSWG-Asean Excellence Awards, the latest of which was held on July 31” says Minority Shareholders Watch Group (MSWG) CEO Devanesan Evanson.

He says the PLC may also choose to have a one-to-two-hour session with the MSWG team on how to improve its CG score and where it could have lost points.

“Unfortunately, many PLCs do not appreciate the

value of the scorecard as they view it as a cost without appreciating its benefits.

“The scorecard only costs RM4,000 each and with a two-hour interactive session with MSWG thrown in, it costs RM5,500 per scorecard.

“This is where MSWG will have to communicate the value proposition of the corporate subscriber package which comes with the scorecard. Maybe, we need to market it more effectively.”

Devanesan notes that MSWG is in the process of devising a revised business plan for the years 2020 and 2021 which will focus on new initiatives and explore new revenue sources.

“This will be presented to our board and, on due approval, to the Capital Market Development Fund (CMDP). The CMDP provides funding for MSWG’s operations,” he adds.