



# The Observer

25.06.2018

## MESSAGE FROM THE CEO

Now that we are reaching the tail-end of the peak period of the AGM season, it is timely to share some of our observations in relation to corporate governance matters that we have noticed while perusing Annual Reports and CG Reports.

1. PLCs are required to disclose Alternative Practices when they depart from a Practice in the Malaysian Code on Corporate Governance (MCCG). This is a rule requirement under Paragraph 3.2A(b) of Practice Note 9 of the Main Market Listing Requirements (MMLR).

PLCs must follow the rule, as otherwise, they will be subject to sanctions.

Some PLCs fail to disclose the Alternative Practice.

What must be appreciated is that the disclosure must not be just of 'an' Alternative Practice, but that of an Alternative Practice that achieves the Intended Outcome stipulated in the MCCG.

While some PLCs disclose Alternative Practices, what we realise is that that Practice does not achieve the Intended Outcome.

A typical example of this is Practice 7.2 which requires the PLCs to disclose the remuneration component of top five senior management on a named basis including salary, bonus, benefits-in-kind and other emoluments in bands of RM50,000. Many of the Alternative Practices narrated do not achieve the Intended Outcome.

Large Companies (as defined under the MCCG), must, in addition, disclose the timeframe required to adopt a Practice (that it has not already adopted) and must also disclose the measures taken or intended to be taken to achieve the adoption of the Practice. This disclosure requirement is a rule under the MMLR under Paragraph 3.2C (a) (b) of Practice Note 9. This too is not disclosed sometimes.

2. A Step Up Practice under MCCG is a strongly encouraged Practice.

Step Up Practice 4.3 refers to the board having a policy which limits the tenure of independent directors to nine years without any extension of tenure beyond the 9-year tenure (they can of course continue to sit as Non Independent Non-Executive Directors).

PLCs sometimes state that they have adopted Step Up Practice 4.3 and then go on to narrate that beyond 9 years the directors will be subject to election annually at their AGM.

Step Up Practice 4.3 is an ‘all-or-nothing’ clause in that after 9 years you can no longer sit as an independent director.

3. When it comes to gender diversity, there is an MCCG requirement to disclose the PLC’s policies on gender diversity.

Some companies fail to specifically disclose their policy on gender diversity.

4. The MMLR, under Chapter 9 Paragraph 9.21 (2)(b), requires disclosure of the summary of Key Matters Discussed at the AGM on the PLCs website. Quite a few companies have not done this. Since the selection of what is a ‘Key Matter Discussed’ is within the subjective purview of the PLC, there is a risk that actual “Key Matters Discussed” may not be disclosed on the website.

Going forward, it may be preferable for the minutes of the AGM to be disclosed thereby bringing the professional company secretaries into the picture as they are those who ensure their veracity and impartiality of minutes.

5. Overall, the standard and quality of reporting in the CG Report leaves much to be desired. Apart from the aforesaid shortcomings or lapses such as non-disclosure of Alternative Practices or Alternative Practices which do not achieve the Intended Outcomes and stipulations by PLCs of adoption/application of certain practices which in actual fact they did not, there were also instances where the explanations/narrations for either departures/applications were either irrelevant or requires much more improvement. PLCs should view this CG reporting seriously and put in more effort to produce a quality product.

Regards,

Devanesan

22 June 2018

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## **MSWG’S QUICK TAKE ON-ONGOING CORPORATE DEVELOPMENTS**

### ***MULTI-USAGE HOLDINGS BERHAD (“MUH”)***

The Board of Directors of MUH announced that the company’s Auditor, Messrs Baker Tilly Monteiro Heng (“Baker Tilly”) had, on 21 June 2018, given notice in writing to the Board of Directors of MUH of their resignation as Auditor of the company due to disagreement in fixing audit fees.

Save for the above, the Board of Directors wishes to inform that the company is not aware of any other matters that need to be brought to the attention of the shareholders of MUH.

Pursuant to Section 281 (2) of the Companies Act 2016, their resignation shall be effective with immediate effect.

Further announcement relating to appointment of new Auditor would be made by the company in due course.

[Source: MUH' announcement on Bursa Malaysia's website on 21 June 2018]

#### **MSWG'S COMMENTS:**

Messrs Baker Tilly Monteiro Heng was appointed by the company at the last AGM held on 29 December 2017, and now to be replaced by another auditors even before they have commenced the audit work for the financial year ending June 2018. This sudden change in auditors within 6 months of appointment definitely raises serious concerns even though the company has stated the reason for the resignation of the auditors as 'due to disagreement in fixing audit fees'. This comes as a surprise as surely the audit fees would have been agreed to when the auditors were appointed on 29 December 2017. Could there be some other reasons for the resignation? We urge the relevant regulators to meet up with the resigning auditors and seek explanation on the real reason for the resignation.

According to Section 9.23 (1) of Bursa Malaysia's Main Market Listing Requirements, the company must issue its Annual Report that includes annual audited financial statements within 4 months from the close of the financial year which in this case is by end of October 2018. We are also concerned whether the new auditors can be appointed expeditiously enough and whether the new auditors will be able to complete the audit of the company, given the short timeframe.

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#### **MSWG'S AGM WEEKLY WATCH 25 - 29 JUNE 2018**

For this week, the following are the AGMs/EGMs of companies which are 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](http://www.mswg.org.my).

<b>Date &amp; Time</b>	<b>Company</b>	<b>Venue</b>
25.06.18 (Mon) 10.00 am	Malaysia Building Society Bhd (AGM)	Connexion @ Nexus, No. 7, Jalan Kerinchi, Bangsar South City, KL
25.06.18 (Mon) 11.00 am	Three-A Resources Bhd (AGM)	Tropicana Golf & Country Resort, Jalan Kelab Tropicana, PJ
26.06.18 (Tue) 10.00 am	Suria Capital Holdings Bhd (AGM)	1st Floor, Wisma SabahPorts, Sapangar Bay Container Port, Sapangar Bay, KK, Sabah
26.06.18 (Tue) 10.00 am	GFM Services Bhd (AGM)	Seri Pacific Hotel, Jalan Putra, P.O.Box 11468, 50746 KL
26.06.18 (Tue) 10.00 am	WTK Holdings Bhd (AGM)	Tanahmas Hotel, Lot 277, Block 5, Jalan Kampong Nyabor, Sibul, Sarawak
26.06.18 (Tue) 11.00 am	MSM Malaysia Holdings Bhd (AGM)	Menara FELDA, Platinum Park, Persiaran KLCC
26.06.18 (Tue)	Vivocom Intl Holdings Bhd	M Hotels, Hock Lee Centre, Jalan Datuk

02.30 pm	(AGM)	Abang Abdul Rahim, Kuching, Sarawak
26.06.18 (Tue) 03.00 pm	Muhibbah Engineering (M) Bhd (AGM)	Concorde Hotel Shah Alam, No. 3, Jalan Tengku Ampuan Zabedah C9/C, Shah Alam
27.06.18 (Wed) 09.30 am	Barakah Offshore Petroleum Bhd (AGM/EGM)	Seri Selangor Golf Club, Persiaran Damansara Indah, Jalan PJU 31/9, PJ
27.06.18 (Wed) 10.00 am	KNM Group Bhd (AGM)	Philea Mines Beach Resort, Jalan Dulang, MINES Resort City, Seri Kembangan
27.06.18 (Wed) 10.00 am	Perak Corporation Bhd (AGM)	Amanjaya Convention Centre Casuarina @ Meru Hotel Bandar Meru Raya, Ipoh, Perak
27.06.18 (Wed) 10.00 am	Alam Maritim Resources Bhd (AGM)	Technology Park Malaysia Corporation Sdn Bhd, Bukit Jalil, KL
27.06.18 (Wed) 10.00 am	Sarawak Oil Palms Bhd (AGM)	The Conference Room Of Imperial Hotel, Jalan Pos, Miri, Sarawak
27.06.18 (Wed) 11.00 am	Amalgamated Industrial Steel Bhd (AGM)	Menara LGB, No. 1, Jalan Wan Kadir, Taman Tun Dr. Ismail, KL
27.06.18 (Wed) 11.30 am	TA Enterprise Bhd (AGM)	Menara TA One, 22, Jalan P. Ramlee, KL
28.06.18 (Thur) 10.00 am	KUB Malaysia Bhd (AGM)	Shah Alam Convention Centre, No. 4, Jalan Perbadanan 14/9, Shah Alam
28.06.18 (Thur) 10.00 am	PBA Holdings Bhd (AGM)	Hotel Jen, Magazine Road, Georgetown, Penang
28.06.18 (Thur) 11.00 am	Felda Global Ventures Bhd (AGM/EGM)	Menara Felda, Platinum Park, No. 11, Persiaran KLCC, KL
28.06.18 (Thur) 02.30 pm	Mah Sing Group Bhd (AGM)	Wisma Mah Sing, No. 163, Jalan Sungai Besi, KL
29.06.18 (Fri) 10.00 am	Per maju Industries Bhd (AGM/EGM)	Qliq Damansara Empire Damansara, No. 2, Jalan PJU 8/8A, Damansara Perdana, PJ
29.06.18 (Fri) 11.45 am	YNH Property Bhd (AGM)	Hotel Sfera, 2479, Jalan Dato' Yu Neh Huat, Taman Samudera, Sri Manjung, Perak

<b>Some of the points of interest to be raised:</b>	
<b>Company</b>	<b>Points/Issues to Be Raised</b>
Malaysia Building Society Bhd (AGM)	Note 12(b), "Financing to Subsidiaries", page 210 of the AR, refers to the impairment made amounting to RM181.1 million for financing to subsidiaries. What measures have been taken to address and recover the financing given to these subsidiaries?
Three-A Resources Bhd (AGM)	As disclosed in Note 22 on page 87 of the Annual Report, the Group recorded realised and unrealised foreign exchange loss of RM1.5 million and RM2.4 million respectively in FYE 2017 (FYE 2016: Nil).  Please explain the reasons for the realised and unrealised foreign exchange losses for FYE 2017. How will the Group manage the foreign exchange risk going forward?
Suria Capital Holdings Bhd (AGM)	The development of Jesselton Quay project has taken off with the commencement of ground works for the 4-acre Jesselton Quay Central at the end of 2016 as the first phase of the whole development as disclosed on page 6 of the Annual Report.  (a) What is the current status of the development of Jesselton Quay project?  (b) What is the current take-up rate for Jesselton Quay Central Development consisting of two 25-storey commercial suite towers?

<b>Some of the points of interest to be raised:</b>	
	(c) What is the timeframe for completion of Phase 1?
WTK Holdings Bhd (AGM)	<p>As shown in the Statements of Profit or Loss and Comprehensive Income on page 60 of the Annual Report, the Group recognised a loss of RM196.651 million from discontinued operations in FY2017. The analysis of the result of the discontinued operations on page 107 of the Annual Report shows Administrative and other expenses amounting to RM135.038 million.</p> <p>Please provide the details of the expense.</p>
MSM Malaysia Holdings Bhd (AGM)	<p>For FY2017, the Group recorded a loss of RM32.574 million compared to a profit of RM120.722 million for FY2016. This is despite the ceiling price of refined sugar having increased by 11 sen/kg effective 1 March 2017 and the Group achieving an operational cost savings of RM15 million as reported in the Chairman's Statement on page 13 of the Annual Report.</p> <p>What are the measures taken to strengthen the bottom line of the Company?</p>
Muhibbah Engineering (M) Bhd (AGM)	<p>On 28 March 2018, the Group's Crane subsidiary, Favelle Favco Berhad entered into a conditional share purchase agreement to acquire 70% controlling stake in each of Exact Automation Sdn Bhd, Sedia Teguh Sdn Bhd, Exact Analytical Sdn Bhd and Exact Oil &amp; Gas Sdn Bhd (collectively to be known as the "Exact Group") for a total indicative initial cash purchase consideration of approximately RM90.7 million ("Proposed Acquisition") (page 10 of the Annual Report 2017).</p> <p>This Proposed Acquisition is expected to enhance and widen the earnings base of the Group.</p> <p>a) How will the Proposed Acquisition add value to the Group? Please enlighten shareholders.</p> <p>b) What is the targeted return on investment of the acquisition of Exact Group's 70% equity interest?</p>
Perak Corporation Bhd (AGM)	<p>1. On page 11 of the Directors' Report and Audited Financial Statements, Ernst &amp; Young has disclosed material uncertainty in relation to going concern in its Independent Auditors' report. The Group recorded a net loss of RM340.6 million in 2017 and the Group's current liabilities exceed its current assets by RM158.5 million (a working capital ratio of 3:4 - current assets:current liabilities).</p> <p>Is there sufficient working capital to meet the Group's expenses and finance cost for the next 12 months?</p> <p>2. Under Note 2.1 on page 28 of the Directors' Report and Audited Financial Statements, we note there was a reclassification of a syndicated term loan of a subsidiary of RM238.7 million to current liability due to covenant breaches. As such, it was stated on page 106 of the Directors' Report and Audited Financial Statements under Note 26 that the outstanding amount may become immediately due and payable. We also note that on page 140 of the Directors' Report and Audited Financial Statements that Management is in the process of renegotiating the terms with the lenders to provide a two year payment holiday up to 2019 on principal repayments.</p> <p>(a) What is the current status of the said syndicated term loan?</p>

<b>Some of the points of interest to be raised:</b>	
	<p>(b) How much is the monthly payment?</p> <p>(c) How will the Company service these payments given that the current liabilities exceed the current assets by RM158.5 million?</p>
TA Enterprise Bhd (AGM)	Note 34.4 on “Financial receivables”, on page 201 of the AR, it is stated that an amount of RM107.0 million is past due for more than 5 years. What is the prospect of recovery for this amount? What actions have been taken to address this?
Felda Global Ventures Bhd (AGM/EGM)	<p>As shown in Note 25 on page 255 of the Annual Report, the provision for impairment of receivables as at 31 December 2017 has increased significantly from RM44.563 million as at 31 December 2016 to RM134.007 million, of which RM17.985 million is in respect of deposits.</p> <p>(a) Please provide the details of the deposits in respect of which the impairment was provided and what was the reason for the impairment provision?</p> <p>(b) Please share the credit control policies of the Group in minimising the bad or doubtful debts.</p> <p>(c) What measures have been taken to recover the impaired amount and what is the amount recovered to-date?</p>

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## **MSWG’S WATCHLIST**

### ***MALAYSIA PACIFIC CORPORATION BERHAD (“MPCORP”)***

The Board of Directors of MPCORP wishes to announce that the company had on 20 February 2018 received a winding-up petition pursuant to Section 465 of the companies Act 2016 (Act 777) dated 06 February 2018 from Messrs Gibb & Co.

On 13 June 2018, the Court allowed RHB’S winding-up petition and dismissed MPCORP application to stay the winding-up petition and application for Notice of Motion to strike out the winding-up petition. MPCORP is appealing against the decision.

The Board of Directors of MPCORP wishes to announce that the company had on 14 June 2018 filed an appeal to the Court of Appeal against the winding-up order and also application for a stay of winding-up order pending the appeal. Furthermore, another winding up application court no. W-02(IM)(NCC)-1811-10/2016 and W02(IM)(NCC)-1812-10/2016 is to be heard on 10 August 2018 at the Federal Court.

The Board of Directors of MPCORP also announced that pursuant to Paragraph 16.02 (1)(j) of the Main Market Listing Requirements, trading in MPCORP will be suspended with effect from 9.00 a.m, Monday, 25 June 2018.

*[Source: MPC’s announcements on Bursa Malaysia’s website on 14 & 19 June 2018]*

### ***KRETAM HOLDINGS BERHAD (“KHB”) / HAP SENG PLANTATIONS HOLDIGNS BERHAD (“HSPHB”)***

The Board of KHB announced that KHB has been informed by its Executive Director/Chief Executive Officer and the controlling shareholder, Datuk Lim Nyuk Sang @ Freddy Lim that HSPHB had decided to terminate the respective conditional share sale agreements with him and Santraprise Sdn Bhd. Accordingly, the offer will not materialise.

*[Source: KHB's announcements on Bursa Malaysia's website on 14 June 2018]*

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## LOCAL NEWS AND DEVELOPMENTS

Malaysia's economy more diversified than thought

<https://www.thestar.com.my/business/business-news/2018/06/19/malaysias-economy-more-diversified-than-thought/>

Malaysia's proposed yen credit gets positive response from Japanese banks

<http://www.theedgemarkets.com/article/malaysias-proposed-yen-credit-gets-positive-response-japanese-banks>

Zeti hopes retailers will pass on benefits to consumers

<https://www.nst.com.my/business/2018/06/381176/zeti-hopes-retailers-will-pass-benefits-consumers>

Malaysia's current account and growth are positively correlated with oil prices: SC

<https://www.nst.com.my/business/2018/06/380018/malaysias-current-account-and-growth-are-positively-correlated-oil-prices-sc>

Malaysia power shift hits China infrastructure drive

<http://www.thesundaily.my/news/2018/06/17/malaysia-power-shift-hits-china-infrastructure-drive>

RM20b alternative to HSR mooted, say sources

<http://www.theedgemarkets.com/article/rm20b-alternative-hsr-mooted-say-sources>

Bilateral trade between Malaysia, China to exceed US\$100b

<https://www.malaymail.com/s/1643011/bilateral-trade-between-malaysia-china-to-exceed-us100b>

Takeover offer for GSB fair and reasonable: Adviser

<http://www.thesundaily.my/news/2018/06/18/takeover-offer-gsb-fair-and-reasonable-adviser>

Natural gas tariff for non-power sector to go up from July 1

<http://www.thesundaily.my/news/2018/06/13/natural-gas-tariff-non-power-sector-go-july-1>

IRB appeals dismissal of RM26m tax bill against Mega First unit

<http://www.theedgemarkets.com/article/irb-appeals-dismissal-rm26m-tax-bill-against-mega-first-unit>

Plantation stocks head south on weaker CPO price outlook

<http://www.theedgemarkets.com/article/plantation-stocks-headed-south-weaker-cpo-price-outlook>

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## GLOBAL NEWS AND DEVELOPMENTS

Fed raises rates amid stronger inflation, drops crisis-era guidance

<http://www.thesundaily.my/news/2018/06/14/fed-raises-rates-amid-stronger-inflation-drops-crisis-era-guidance>

China holds fire on rates, posts 'shockingly weak' activity growth

<http://www.theedgemarkets.com/article/china-holds-fire-rates-posts-shockingly-weak-activity-growth>

China's economy dials back a notch as output, investment slow

<https://www.malaymail.com/s/1641865/chinas-economy-dials-back-a-notch-as-output-investment-slow>

Abenomics' impact fading at sensitive moment for Japanese economy



<http://www.theedgemarkets.com/article/abenomics-impact-fading-sensitive-moment-japanese-economy>

ECB gets ready to pull the plug on stimulus scheme

<https://www.thestar.com.my/business/business-news/2018/06/15/ecb-gets-ready-to-pull-the-plug-on-stimulus-scheme/#AMgbOSUwQfYYxw56.99>

UK housing market stuck in the doldrums as prices stagnate

<http://www.theedgemarkets.com/article/uk-housing-market-stuck-doldrums-prices-stagnate>

Oil slumps below US\$65 as Opec clash looms, trade war escalates

<https://www.malaymail.com/s/1642928/oil-slumps-below-us65-as-opec-clash-looms-trade-war-escalates>

As trade war with China looms, US readies second wave of duties

<https://www.malaymail.com/s/1642317/as-trade-war-with-china-looms-us-readies-second-wave-of-duties>

China's tariffs on US oil would disrupt US\$1b monthly business

<https://www.malaymail.com/s/1642989/chinas-tariffs-on-us-oil-would-disrupt-us1b-monthly-business>

Singapore Exchange to continue SGX Nifty trade despite India dispute

<https://www.malaymail.com/s/1642606/singapore-exchange-to-continue-sgx-nifty-trade-despite-india-dispute>

Singapore's May exports surge past expectations but trade tensions cloud outlook

<https://www.malaymail.com/s/1642870/singapores-may-exports-surge-past-expectations-but-trade-tensions-cloud-out>

US top court mulls Apple's App Store commissions in antitrust case

<https://www.thestar.com.my/business/business-news/2018/06/19/us-top-court-mulls-apples-app-store-commissions-in-antitrust-case/#RfOPYucWi1pkwAM1.99>

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## **DISCLOSURE OF INTERESTS**

- *With regard to the companies mentioned, MSWG holds a minimum number of shares in all these companies covered in this newsletter.*
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## **Feedback**

We welcome your feedback on our newsletter and our work. Email us at [corporateservices@mswg.org.my](mailto:corporateservices@mswg.org.my) with your comments and suggestions.

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