



The Observer

28.08.2020

❖ Are boardroom tussles necessarily a bad thing?

Creating harmony with the surrounding is the very essence to enhance one's happiness, health and prosperity, so dictates the Chinese ancient practice/philosophy of feng shui (geomancy).

Likewise, harmony is a desirable *zen* when it comes to businesses. But sometimes, there are tussles which involves the Board members or between the Board and shareholders. When tussles happen, the harmony vibe is disrupted.

Tussles often embody two or more groups of people who are trying to exercise their legitimate rights under the laws and rules, and the courts or the regulators will often decide which party has the legitimate right.

Tussles turn bad when cheating, fraud, threatening behavior and physical violence are involved at general meetings or for that matter anytime and anywhere. Subsequently, such behaviour would attract a slew of legal actions and again business operations of the companies will be severely impacted.

It is difficult for board members to concentrate on business prosperity when legal suits and threats are flying around left, right and centre.

Nevertheless, sometimes a tussle has a valid basis as when the shareholders feel that the board is not doing their part. A hostile takeover can also be considered a tussle but the party that has taken over the company may end up adding more value sometimes.

Shareholders may, in these instances, take the view that taking control of the company will be beneficial to the company, as they may be able to generate better shareholders' value and improve corporate performance. This can be perceived as a form of shareholder activism.

If the shareholders are trying to create more value for all shareholders, their initiatives should be welcomed by other investors and the Board. However,

often, the existing Board is unlikely to welcome such external meddling; relationships will then turn sour and disputes ensue.

A tussle between two sets of shareholders may not impact a professional board unless the shareholders involved are also members of the Board, resulting in the board members taking sides and drawing them into the power wrangling.

The danger with such tussles is that the Board takes its 'eye of the ball', which is to create prosperity and value for shareholders. The Board is not able to provide the desired oversight over management and as such management may be in disarray.

Boardroom tussle is not uncommon and often come at a cost. A global survey conducted by Centre for Effective Dispute resolution & International Finance Corporation in 2013 of 191 board members and directors showed about 30% of the respondents have experienced a boardroom dispute affecting the survival of an organization. Meanwhile, 43% of the respondents believe conflicts reduce the level of trust among board members.

PLCs with boardroom tussles

There are a handful of PLCs with tussles of some kind and some that come to mind are as follows:

- **The Inix, NWP and APFT quagmire:** Inix recently courted controversy when it was entangled in a feud involving two other loss-making listed entities, namely timber products manufacturer NWP Holdings Bhd and flight training academy operator APFT Bhd (The Edge Malaysia Weekly, issue 27 July - 2 August 2020). These companies are said to engage in legal claims and notices to remove directors, and civil suits have been filed.
- **Tiger Synergy Bhd:** The loss-making Main Market property counter is embroiled in a boardroom feud between its current board of directors and major shareholder Goh Ching Mun who is best known for co-founding the OldTown White Coffee restaurant chain.
- **Vortex Consolidated Bhd:** There are signs of boardroom tussle at the loss-making ACE Market-listed company with some directors and shareholders gradually raising their stake in the company (New Straits Times, 15 April 2020).
- **Seacera Group Bhd:** Main Market tile manufacturer Seacera Group Bhd confirmed that it had lodged a police report against certain attendees of its AGM on 29 November 2019 for causing a commotion. In a Bursa Malaysia filing dated 2 December 2019, the PN17 company said the police report was lodged immediately after the conclusion of its AGM against a

number of attendees who had intended to disrupt the event by causing a commotion.

- **Multi-Usage Holdings Bhd (MUH):** On 21 December 2016, chaos ensued at the AGM of the Penang-based property developer as minority shareholders decided to “take over” the chairing of the meeting as they were dissatisfied with the way it was conducted (The Edge Financial Daily, 22 December 2016).

The minority shareholders claimed that MUH's board members were trying to “bulldoze” through or hastily answer questions pertaining to the company's financial statements for the financial year ended 30 June 2016, in particular the qualified opinion issued by its auditors.

How minority shareholders should approach such tussles

Minority shareholders must be aware that during the duration of the tussle, it is very likely that the business of the company will suffer. If the company has been loss-making in the past, the outlook of the company is even dimmer.

Does that mean that minority shareholders should avoid such counters? This is when the risk-reward trade-off needs to be appreciated. The maxim is ‘the higher the risk, the higher the return’, and one cannot talk about this maxim without introducing the concept of risk appetite; we all have different appetites.

So, the starting point must necessarily be an examination of one's own risk appetite; can I stomach the risk of something going wrong? If you cannot, then it is best to avoid the risky counters and find solace and comfort in a low-risk counter.

Devanesan Evanson
Chief Executive Officer

MSWG AGM/EGM Weekly Watch 1 September – 4 September 2020

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.

Date & Time	Company	Quick-take
02.09.20 (Wed) 10.00 AM	SAM Engineering & Equipment Bhd (AGM)	<p>FY20 revenue of RM938.7 million is 24.3% higher than the previous year. Net profit grew 1.7% y-o-y to RM79.8 million.</p> <p>Performance of SAM will be driven by industry shifts of storage media to from Hard Disk Drive (HDD) Solid-State Drive (SSD), as well as expected higher spending by semiconductor industry players in 2021.</p> <p>Meanwhile, prospect of its Aerospace division remains uncertain largely due to COVID-19 pandemic and the grounding of Boeing 737max since March 2019 by the Federal Aviation Administration.</p>
02.09.20 (Wed) 11.30 am	Sunway Bhd (AGM)	<p>The Group recorded a slight decline in revenue from RM5.4 billion of last year to RM4.8 billion this year. Despite lower revenue, net profit attributable to shareholders grew by 18.9% to RM767.3 million in FY19 (FY18: RM645.6 million) with strong performance in the Healthcare and Quarry divisions as well as new venture into the renewable (RE) sector.</p> <p>However, the Hospitality and Leisure divisions were badly hit by the Covid-19 pandemic.</p>
03.09.20 (Thur) 10.00 am	ELK-Desa Resources Bhd (AGM)	<p>ELK-Desa achieved strong performance in FY20 with a 20% and 6% y-o-y growth in revenue and net profit, respectively.</p> <p>However, its performance in FY21 is expected to be sluggish due to disruptions to operation caused by</p>

		<p>MCO and the risk of slower repayment from hirers.</p> <p>It had recorded significantly higher impairment allowances in Q1FY21 in anticipation of changes in hirers' payment behaviour due to the pandemic crisis.</p>
03.09.20 (Thur) 10.00 am	Xidelang Holdings Ltd (SGM)	<p>The Company has proposed an ESOS scheme for its eligible employees and directors. MSWG is of the view that the scheme should not include an award of options to independent directors as they play a monitoring role in the navigation of the Company.</p> <p>The granting of such options to independent directors could prejudice the objectivity and impartiality of directors. The contribution of independent directors to the company could instead be rewarded by a competitive remuneration package.</p>
04.09.20 (Fri) 09.00 am	MAG Holdings Bhd (AGM)	<p>The Company had in December 2019 ventured into prawn farming with the acquisition of a prawn aquaculture farm in Tawau, Sabah.</p> <p>As of 31 December 2019, the business had only 1 customer. What will be the Company's plans to expand its customer base and how many distributors has the company targeted to widen its business operations?</p>
04.09.20 (Fri) 11.00 am	Inix Technologies Holdings Bhd (AGM)	<p>In line with the Consent Order dated 28 July 2020, details of which is as set out in the Company's announcement dated 28 July 2020, the adjourned 15th AGM is to re-elect two Directors namely Mr. Lee Yueh Shien and Mr. Edwin Silvester Das, who retire pursuant to Article 92 of the Company's Articles of Association.</p> <p>It also seeks to appoint Mr. Yeoh Eng Kong and Dato' Sri Kee Soon Ling as Directors of the Company.</p>

One of the points of interest to be raised:

Company	Points/Issues to Be Raised
SAM Engineering & Equipment Bhd (AGM)	<p>Demand for aerospace products was relatively strong in FY2020, except for products being used on the Boeing 737Max aircraft. This aircraft family was grounded by the Federal Aviation Administration in March 2019 following two air crashes in October 2018 and March 2019. (Page 22 of AR)</p> <p>Will the strong demand from other aircraft models be able to offset the setback suffered by the Boeing 737Max aircraft? To what extent can this setback be mitigated? What is the outlook for FY2021 for the Aerospace business?</p>
Sunway Bhd (AGM)	<p>The Construction division closed the year with an order book replenishment to-date of RM1.8 billion and an outstanding order book of RM5.2 billion. (Page 70 of AR). In terms of order book replenishment for 2020, SunCon's new order target is RM2.0 billion, 11.1% higher than RM1.8 billion achieved in 2019. The division will also focus on niche projects such as hospitals, aerospace and RE related construction jobs. (Page 97 of AR)</p> <p>a) How long will it take for the outstanding order book of RM5.2 bil to be run down? What is the current unbilled amount?</p> <p>b) Of the new order target of RM2.0 billion, how much has been secured to date? Will the target be achieved by year end?</p> <p>c) How much of the new order book secured are in niche projects such as hospitals, aerospace and RE related construction jobs?</p>
ELK-Desa Resources Bhd (AGM)	<p>ELK-Desa saw a 40% sharp increase in impairment allowance in FY20 to RM23.65 million, as compared to RM16.95 million in FY19, after incorporated the uncertain economic effects arising from the COVID-19 pandemic.</p> <p>For the quarter ended 30 June 2020, its impairment allowance rose 200% year-on-year to RM14.14 million, from RM4.69 million in last corresponding period.</p> <p>a) Considering the sharp contraction in Malaysian second quarter GDP growth and worsening economic outlook, will the situation of increased impairment allowance persist for the rest of FY21?</p>

	<p>b) Non-performing loan (NPL) ratio of the Group increased to 1.4% in FY20 (FY19: 0.8%). Considering current economic performance and outlook, will NPL ratio remain elevated in FY21, notwithstanding the Management's target to bring it down to pre-MCO levels?</p> <p>c) As of 31 March 2020, RM19.19 million of the hire-purchase receivables were written off but they are still subject to credit recovery activity (page 89 of AR2020).</p> <p>How much of the written-off receivables been successfully recovered to-date? What are the collection efforts been carried out to recover these written-off receivables?</p>
<p>Xidelang Holdings Ltd (SGM)</p>	<p>The Company is proposing for an establishment of an ESOS scheme for its eligible employees and directors. According to Section 3.2, Page 11 of the Circular it is stated that the allocation of options to directors is to recognise the contributions and efforts made by them to the growth and performance of the Company.</p> <p>MSWG does not encourage the award of options to independent directors as they play a monitoring role in the navigation of the Company. The granting of such options could prejudice the objectivity of independent directors and affect their impartiality. We are of the view that the recognition of the independent directors' contribution to the Company could be rewarded by a competitive remuneration package, conducive work environment, good governance and board culture.</p>
<p>MAG Holdings Bhd (AGM)</p>	<p><u>Unsecured Loan of RM235 million to Henan XingHe Oil and Fat Co., Ltd (HXOF)</u></p> <p>A loan was granted to HXOF on 1 October 2019. The carrying amount of the loan as at 31 December 2019 was RM235 million, representing 43.5% of the Company's total assets as at 31 December 2019. The loan was interest-free for the period from 1 October 2019 to 31 March 2020 and bears interest at 1.75% per annum with effect from 1 April 2020. An undertaking arrangement was made by the two (2) shareholders to ensure the settlement of the loan upon maturity. (Pages, 107 & 126 Annual Report)</p> <p>a) Why did the Company lend such a significant amount to HXOF in October 2019, given the impending sale of HXOF in December 2019?</p>

	<p>b) Are there provisions for the terms of the loan to be reviewed given that the relatively low interest rate was granted when HXOF was a subsidiary? If no, why?</p> <p>c) What was the purpose of the loan granted to HXOF?</p>
--	---

MSWG TEAM

Devanesan Evanson, Chief Executive Officer, (devanesan@mswg.org.my)
Linnert Hoo, Head, Research & Development, (linnert.hoo@mswg.org.my)
Norhisam Sidek, Manager, Corporate Monitoring, (norhisam@mswg.org.my)
Lee Chee Meng, Manager, Corporate Monitoring, (chee.meng@mswg.org.my)
Elaine Choo Yi Ling, Manager, Corporate Monitoring, (elaine.choo@mswg.org.my)
Lim Cian Yai, Manager, Corporate Monitoring, (cianyai@mswg.org.my)
Ranjit Singh, Manager, Corporate Monitoring, (ranjit.singh@mswg.org.my)
Nor Khalidah Mohd Khalil, Executive, Corporate Monitoring, (khalidah@mswg.org.my)

DISCLOSURE OF INTERESTS

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

DISCLAIMER

This newsletter and the contents thereof and all rights relating thereto including all copyright is owned by the Badan Pengawas Pemegang Saham Minoriti Berhad, also known as the Minority Shareholders Watch Group (MSWG).

The contents and the opinions expressed in this newsletter are based on information in the public domain and are intended to provide the user with general information and for reference only. Best efforts have been made to ensure that the information contained in this newsletter is accurate and current as at the date of publication. However, MSWG makes no express or implied warranty as to the accuracy or completeness of any such information and opinions contained in this newsletter. No information in this newsletter is intended to be or should be construed as a recommendation to buy or sell or an invitation to subscribe for any, of the subject securities, related investments or other financial instruments thereof.

MSWG must be acknowledged for any part of this newsletter which is reproduced.

MSWG bears no responsibility or liability for any reliance on any information or comments appearing herein or for reproduction of the same by third parties. All readers or investors are advised to obtain legal or other professional advice before taking any action based on this newsletter.