

The Star, Starbiz - Wednesday, 17 July, 2019

A better deal

MSWG: SGX move on delisting of companies worth considering

By **DAI JIT DHESI**
daljit@thestar.com.my

PETALING JAYA: The move by the Singapore Exchange (SGX) to allow independent shareholders, including minority ones, a better exit value is worth considering in the context of Malaysian delisting rules, according to the Minority Shareholders Watch Group (MSWG).

Analysts agree that minority shareholders, among others, would secure a better deal in the form of higher premium payments from bidders when taking a listed firm private if the delisting rules were to be amended in line with the city-state.

Some recent notable privatisation deals in the country include the 51% acquisition and subsequent mandatory general offer by YTL Cement Bhd of Lafarge Malaysia Bhd, the ongoing move by the Hong Leong Group to buy out minority shareholders in Tasek Corp Bhd and the failed privatisation of Yee Lee Corp Bhd.

The regulatory arm of the Singapore

Exchange on July 11 announced changes to two aspects of the voluntary delisting rules for listed firms, with immediate effect.

The first change requires voluntary delisting offers to be both "reasonable" and "fair" in the opinion of the appointed independent financial adviser (IFA).

The second change requires offerers and parties acting in concert to abstain from voting on the voluntary delisting resolution, in line with jurisdictions in Hong Kong and Australia, where minority investors ultimately determine the voting outcome.

The approval threshold has been maintained by SGX at 75% of the total number of shares held by independent shareholders present and voting.

However, the 10% vote that would allow independent shareholders to collectively reject the takeover would be removed, which would result in offerers moving from having a strong influence in the exit vote to zero influence.

MSWG CEO Devanesan Evanson told *StarBiz* that allowing minorities a better exit

value in the context of the Malaysian delisting rules, for example, on the whole would benefit the shareholders, the exchange and the capital market.

Commenting on the current delisting rules of listed firms in the country, he said the offerers undertaking a compulsory acquisition would need to have valid acceptance of at least 90% of the shares held by non-interested or independent shareholders.

Should the offerers receive valid acceptance in an aggregate of more than 75% but less than 90% of the share capital, they may request the company to make the necessary application to withdraw its listing status, he said.

To do that, Devanesan added that there is a need to call for an EGM to seek the minority shareholders' approval.

To get a pass, no more than 10% of shareholders (non-interested including minorities), should vote against it.

> TURN TO PAGE 2

Minority shareholders, non-interested shareholders will benefit

> FROM PAGE 1

Devanesan said: "The Singapore proposals are worth considering, as the offerer should now offer a higher price of at least equal to the fair (intrinsic) value as opposed to the current regime where the independent advisers recommend that the offer be accepted although the offer is 30% to 40% below the fair value, on the basis that the share has never traded above the offer price over the last 12 months."

The SGX's proposal would ensure that an offer can only be made if the offer is at least equal to the fair value – otherwise, it would be a 'no-go', he noted.

Going forward, Devanesan said independent advisers (in the case of Singapore) could only recommend acceptance if it is both 'fair and reasonable'.

This, he said would definitely provide better (higher) exit values for minority shareholders if these rules were to apply in the context of the Malaysian delisting rules.

Citing an example in Malaysia which involves a delisting, he said: "The recent attempt to privatise Yee Lee Corp involved an offer price of RM2.33 when the ascertained fair value by the independent adviser was between RM3.42 and RM3.93 and the independent advisers recommended that the offer be accepted although it was deemed as 'not fair'.

"If the Singapore delisting rules were to apply, the offerer would have had to offer a price of between RM3.42 and RM3.93 – more by RM1.09 to RM1.60," he said.

Devanesan said both minority shareholders and non-interested shareholders would benefit as offerers would have to offer higher prices when making an offer, or when taking the listed company private.

So, in a way, he said it benefits both the shareholders and the exchange and the capital market as a whole.

Meanwhile, the current framework to safeguard shareholder interest during a privatisation exercise is balanced and appropriate,

according to Bursa Malaysia.

A spokesperson from the exchange said, nevertheless, it would continue to keep abreast of developments and review this area from time to time.

He said in the case of a privatisation, the listing requirements (LR) have in place a balanced and proportionate framework for the voluntary withdrawal of a listing that safeguards shareholder interest and empowers them to make an informed decision on the proposal.

The framework consists of stringent three-tier shareholder approval requirements, where the withdrawal of listing must fulfill the specific criteria.

"Under the three-tier shareholder approval requirement, we believe minority shareholder 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 as being favourable to them," the spokesperson noted.

As for the fairness and reasonableness of a privatisation, he said to assist shareholders in making an informed decision, the LR also mandates the appointment of an independent adviser.

"Through the issuance of an independent advice circular, the independent adviser will advise on the fairness and reasonableness of both the withdrawal of listing and exit offer, clearly stating out the reasons, key assumptions and factors that have

been taken into consideration in forming their opinion. This is followed by a recommendation as to whether shareholders should vote in favour of the proposal," he said.

Additionally, the exchange also reviews the independent advice circular to ensure that adequate and quality information has been disclosed to shareholders that can assist shareholders towards making an informed decision.

As such, shareholders will decide on the fairness and reasonableness of an offer, the spokesperson stressed.