MSWG
MINORITY SHAREHOLDERS WATCH GROUP

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NO ONE GETS IT ALL

Two recent corporate developments highlighted the critical roles of company directors and how their personal dealings may pose conflict of interest concern.

NO, YOU CAN'T HAVE IT ALL

Recent developments in corporate governance have underscored the vital role of fiduciary duties and the potential for conflicts of interest among company directors.

Two recent cases illustrate these challenges.

The first involves Hartalega Holdings Berhad, which recently won a legal battle in its suit against its former Executive Director (ED), Dr Danaraj Nadarajah, over allegations of breaching fiduciary duties.

Second case centres on Dato' Shahriman Shamsudin, the Managing Director (MD) of Sapura Resources Berhad, who has faced scrutiny due to potential conflicts from his business dealings.

Breach of fiduciary duties by executive director

In the Hartalega case, the glovemaker successfully won a lawsuit against Dr Danaraj for breach of fiduciary duties and breach of the contract of employment.

In its bourse filing dated 29 August 2024, Hartalega announced that the High Court ruled that Dr Danaraj had committed a breach of his fiduciary duties and his contract of employment by setting up a competing business using resources of one of Hartalega's subsidiaries while he was still an ED of the company, an employee, and a director of a subsidiary.

The Court ruling determined that Dr Danaraj had violated Section 317A of the Capital Markets and Services Act, which prohibits directors of a listed corporation from causing wrongful loss to the company. He was also found in breach of Sections 213 and 218 of the Companies Act 2016, which outline the duties and responsibilities of directors and the prohibition against improper use of company properties for self-gain.

To recap, on 6 January 2021, Hartalega announced that it had commenced litigation against Dr Danaraj. According to the Bursa filing, Hartalega and its subsidiaries, Hartalega Sdn Bhd and Mun Health Product (India) Pvt Ltd, filed a civil suit against Dr. Danaraj on 30 December 2020. They were seeking a declaration for breach of fiduciary duty, breach of duty of fidelity, breach of contract, and a claim for damages against Dr Danaraj.

Then, Dr Danaraj was accused of taking steps to set up a competing business using the resources of Mun Health Product (India) Pvt Ltd. At the same time, Dr Danaraj was still the Company's ED, an employee of Hartalega Sdn Bhd and a director of Mun Health Product (India) Pvt Ltd.

Dr Danaraj was a long-serving ED of Hartalega since July 2011 before he resigned from the post in July 2020 due to personal commitments. During his tenure at Hartalega, he oversaw the businesses and operations of Hartalega's subsidiaries in China and India, where he was also an equity partner.

The Court's ruling underscores the critical role of fiduciary duties in protecting shareholders' interests and maintaining the integrity of corporate governance. Hartalega's determination to pursue legal action reflects a strong commitment to upholding these standards, ensuring that directors act in the best interests of the company and its shareholders.

Potential conflicts of interest

In contrast, the situation involving Shahriman highlights the complexities of navigating potential conflicts of interest in corporate roles.

During Sapura Resources' annual general meeting on 17 July 2024, MSWG raised concerns over a Memorandum of Understanding (MoU) signed on 5 December 2023 between Explorer Group Sdn Bhd and Royal Jet LLC to explore potential collaboration on private flight operations at Sultan Abdul Aziz Shah Airport.

What sparked our concerns is that Shahriman, in addition to his role as the MD of Sapura Resources, is a shareholder and executive director of Explorer Group. Given that Sapura Resources' aviation business engages in hangarage, ground handling, and aircraft management activities, Shahriman's involvement in Explorer Group has led to questions about his interests and fiduciary duties at Sapura Resources.

The scenario presents a potential conflict of interest concern, as both Sapura Resources and Explorer Group operate in closely related aviation sectors, which could influence corporate decisions and ultimately impact shareholder value.

Further, the discussion on potential conflict of interest intensified when disgruntled minority shareholders voiced their displeasure at the AGM.

In response to MSWG's concerns, Sapura Resources acknowledges that potential conflicts may arise if Explorer Group and Royal Jet venture into hangarage, ground handling, and aircraft management services, posing competition to Sapura Resources' private aviation business.

Following a thorough deliberation by the Board and the Board Audit and Risk Committee (BARC), the Company decided that Shahriman would be relieved from all matters related to Royal Jet. Legal advice was also sought on the matter.

Additionally, Sapura Resources committed to strengthening its internal safeguards by implementing a Conflict of Interest Policy and providing comprehensive training for directors on managing such situations.

In August 2024, the potential conflict of interest involving Shahriman gained further attention when the media highlighted it. To address these concerns, the Board emphasised that Shahriman had been formally instructed to abstain from any involvement in the aviation business. Besides, the Company established a Board Aviation Management Committee (BAMC) to oversee aviation-related matters. Under this new structure, the Chief Operating Officer of Aviation and all relevant department heads now report directly to the BAMC.

On 9 September 2024, Sapura Resources announced that the conflict of interest involving Shahriman had been resolved. Explorer Group and Royal Jet agreed to terminate their contractual relationship, eliminating potential competition with Sapura Resources' aviation business.

The two case studies illustrate the delicate balance directors must maintain between their duties to their companies and their interests.

The Hartalega lawsuit is a stark reminder that breaches of fiduciary duties can lead to significant legal consequences. At the same time, the situation at Sapura Resources emphasises the importance of transparency and accountability in corporate governance. It reveals how conflicts of interest can undermine shareholders' trust and the necessity for clear policies that guide directors' conduct.

To sum it up, directors must be aware of their fiduciary duties and ensure they act in the best interests of their companies. This includes ensuring that they are acting in good faith, not using company resources for personal gain, and not engaging in any conflicts of interest. Directors should also be aware that their actions can be subject to legal scrutiny and may be held accountable for any breaches of their fiduciary duties.

[END]

MSWG HIGHLIGHTS

NATIONAL CLIMATE GOVERNANCE SUMMIT 2024

Dr Ismet Yusoff, CEO of MSWG, delivered the keynote address titled "Climate Concerns of Minority Shareholders" at the National Climate Governance Summit 2024, held on 11 September 2024 at Sasana Kijang, Bank Negara Malaysia. The event was organised by Climate Governance Malaysia (CGM). During his presentation, Dr Ismet highlighted MSWG's role in representing the voice and interests of minority shareholders, particularly regarding the impact of climate change on businesses in Malaysia. He shared examples of climate-related issues raised by MSWG at PLCs' general meetings and the responses received from them. MSWG thanks CGM for the invitation, marking it as a successful and insightful summit.

MSWG WELCOMES THE NATIONAL SUSTAINABILITY REPORTING STANDARDS

Launched on 24 September 2024, the National Sustainability Reporting Framework (NSRF) outlines Malaysia's approach to sustainability reporting. It incorporates the disclosure standards issued by the International Sustainability Standards Board (ISSB) and provides a framework for sustainability assurance. The Advisory Committee on Sustainability Reporting, chaired by the Securities Commission Malaysia, developed NSRF.

Dr Ismet Yusoff said by utilising the ISSB Standards, IFRS S1 and S2, as the baseline, NSRF aims to improve the availability of reliable, comparable, and decision-useful information on material sustainability risks and opportunities.

Pelancaran NSRF langkah positif untuk syarikat senaraian awam - MSWG

Oleh Mahanum Abdul Aziz - September 24, 2024 @ 5:56pm
mahanum_aziz@bh.com.my

Ibu pejabat Bursa Malaysia, di Bukit Kewangan, Kuala Lumpur. - NSTP/ASWADI ALIAS

KUALA LUMPUR: Pelancaran Rangka Kerja Pelaporan Kemampanan Kebangsaan (NSRF) dijangka mempertingkatkan kebolehbandingan usaha kemampanan dan pendedahan syarikat tersenarai, kata Ketua Pegawai Eksekutif Kumpulan Pemantau Pemegang Saham Minoriti (MSWG), Dr Ismet Yusoff.

Beliau berkata, menggunakan Piawaian Lembaga Piawaian Kemampanan Antarabangsa (ISSB) iaitu IFRS S1 dan S2 sebagai piawaian asas, NSRF bertujuan untuk meningkatkan ketersediaan maklumat yang boleh dipercayai, setanding dan berguna untuk keputusan mengenai risiko dan peluang kemampanan material.

Katanya, penggunaannya juga akan memupuk kepercayaan dan keyakinan dalam kalangan pemegang taruh kerana ia akan membantu membuat keputusan pelaburan termaklum dan mewujudkan nilai yang mampan untuk semua pemegang taruh.

"Memandangkan Piawaian ISSB mendapat momentum, syarikat tidak tersenarai digalakkan untuk mengguna pakai piawaian itu dengan mempertimbangkan rantaian bekalan yang saling berkaitan, ekonomi berorientasikan eksport Malaysia dan pergantungan kepada pelaburan langsung asing (FDI).

DISYORKAN UNTUK ANDA

- Syarikat disenarai di Bursa Malaysia, firma besar kena patuh NSRF
- NSRF komitmen Malaysia sepadu kemampanan dalam teras pembangunan ekonomi
- Pelabur dunia tunjuk minat terhadap naratif pembaharuan Malaysia
- Pematuhan amalan ESG penentu jangka hayat perusahaan kecil
- Sime Darby Property sasar sifar bersih menjelang 2050
- MSWG kenal pasti calon pengganti CEO bersara

TERKINI

- 4m Thailand tangguh kemasukan automatik untuk pelancong asing
- 6m Adik Jong Un kritik AS sebagai meningkatkan ancaman dengan kapal selam nuklear
- 26m Pasukan F1 teruja untuk 'kembali' ke Sepang
- 42m Malaysia Airlines terbang kali pertama ke Da Nang, Vietnam
- 51m MyNews catat keuntungan empat suku berturut-turut
- 53m Nigeria rampas dadah AS$3 juta di lapangan terbang Lagos
- 55m Malaysia-Indonesia bincang kerjasama dalam pembangunan koperasi, PMKS
- 58m Odegaard masih perlu masa pulih sepenuhnya

TRENDING

- NASIONAL 3 jam yang lepas — 'Dakwaan itu tidak berasas sama sekali, berniat jahat'
- NASIONAL 5 jam yang lepas — Himpunan ' Tangkap Azam Baki': Mahkamah tolak semakan kehakiman Siti Kasim
- NASIONAL 6 jam yang lepas — 'Saya lega dimaklumkan perkembangan terbaharu kes kehilangan ayah...'
- NASIONAL 11 jam yang lepas — Syor kongsi pentas ceramah dengan Dr Akmal, ini reaksi Teresa Kok

He added that its adoption would foster trust and confidence among stakeholders, as it aids in making informed investment decisions and creates sustainable value for all stakeholders.

"As the ISSB Standards gain momentum, unlisted companies are encouraged to adopt these standards, considering Malaysia's interconnected supply chain, export-oriented economy, and reliance on foreign direct investment (FDI). To meet the expectations of major business partners, local businesses are encouraged to adopt the framework, transitioning towards more sustainable and responsible business practices," he said, commenting on the benefits of the NSRF.

In addition to enhancing transparency in sustainability disclosures, the adoption of the NSRF will also attract a broader range of investors, aligning with the increasing global focus on sustainability.

Main Market and ACE Market-listed companies on Bursa Malaysia and large unlisted firms generating annual revenue of RM2 billion or more must comply with the new reporting standards under the NSRF.

MSWG AGM/EGM Weekly Watch 30 September – 4 October 2024

The following are the AGMs/EGMs of companies on the MSWG watch list for this week.

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.

QUICK-TAKE

Date & Time	Company	Quick-take
30.09.24 (Mon) 10.00 am	Jadi Imaging Holdings Berhad (AGM)	Jadi saw its revenue decline by 9.2% to RM26.4 million in FY2024. Sales in China experienced a significant decline, primarily due to ongoing price competition amid slower global demand for commodity black toners. Meanwhile, it recorded a higher loss before taxation (LBT) of RM35.3 million compared to RM9.0 million a year ago. The substantial losses are attributable to several factors, namely the disposal of a loss-making foreign subsidiary, impairment of underutilized plant and machinery, and provisions for obsolete stock.
30.09.24 (Mon) 11.00 am	Jadi Imaging Holdings Berhad (new) (EGM)	Jadi has proposed to diversify into the distribution and trading of consumer products with a focus on consumer electronics such as computers and peripherals, mobile phones and accessories, headphones as well as consumer wearables. The move came due to challenges in growing its existing businesses. The proposed diversification will allow the Group to capitalise on the positive outlook of Malaysia's consumer electronics industry.
30.09.24 (Mon) 11.00 am	Xin Hwa Holdings Berhad (AGM)	Xin Hwa's revenue increased to RM120.536 million in FY2024 from RM118.282 million in FY2023 mainly contributed by its manufacturing division. However, the Group reported a higher net loss of RM21.3 million in FY 2024 (FY 2023:

Date & Time	Company	Quick-take
		net loss of RM16.1 million) mainly due to elevated input costs in the land transportation division, increased depreciation, and impairment loss on trade receivables.
01.10.24 (Tue) 10.00 am	Saudee Group Berhad (EGM)	The Company proposed to change its name from "Saudee Group Berhad" to "SaudiGold Group Berhad". The Proposed Change of Name enables the Company to better reflect its corporate identity and core business, in order to enhance the brand image of the Company.
02.10.24 (Wed) 10.30 am	Magni-Tech Industries Berhad (AGM)	Magni-Tech's revenue increased by 10.6% y-o-y to a new high of RM1.341 billion (FY2023: RM1.212 billion). The higher turnover was made possible by various ongoing strategies to drive sales and production during FY2024. Its net profit also increased by 34.6% to RM128.4 million compared to RM95.4 million in FY2023 due to primarily improved gross profit ratio, higher interest income, higher dividend income, and higher forex gain from the Garment Segment. The Garment Segment remains the main revenue stream which contributed 94% to the Group's total revenue (FY2023: 92%).

POINTS OF INTEREST

Company	Points/Issues to Be Raised
Jadi Imaging Holdings Berhad (AGM)	The Group recorded a 9.2% decline in revenue to RM26.4 million in FY2024. Meanwhile, the cost of sales increased by 11.8% to RM30.8 million. (page 78 of Annual Report (AR) 2024) a) What were the reasons for the significant increase in the cost of sales despite a decline in revenue? b) Please provide the breakdown of the Group's cost of sales for FY2024 and FY2023. c) What are the measures that the Group has taken or plans to take to improve its cost structure? d) What is the outlook for the remainder of FY2025?
Xin Hwa Holdings Berhad (AGM)	1. At Xin Hwa, the Group reported a net loss of RM21.4 million for the financial year ended 31 March 2024 ("FY2024"), primarily due to elevated operating costs in the land transportation division, that was further affected by impairment on trade receivables (page 14 of AR 2024). a) How will the Company manage its elevated operating costs in the land transportation division going forward? What is the outlook for operating costs in FY 2025? b) Is the Company expected to turn profitable in FY 2025? 2. Allowance for impairment losses on trade receivables increased to RM18.094 million in FY 2024 from RM12.985 million in FY 2023. The allowance also constituted a significant 42.7% of total trade receivables of RM42.321 million as at end of FY 2024. (page 105 of AR 2024) a) How did the allowance for impairment losses rise to such a significant amount which warrants a review of the Company's credit risk management policy? b) How much of the allowance has been recovered since the end of FY 2024? What is the probability of fully recovering the whole impaired amount?

Company	Points/Issues to Be Raised
Magni-Tech Industries Berhad (AGM)	1. Garment segment delivered an organic growth in revenue by 13.1% to RM1.259 billion from RM1.113 billion in FY2023 mainly due to higher sales orders received which was made possible by various ongoing strategies to drive sales and production during FY2024 (Page 15 of AR2024). a) Please provide insights into the Group's strategies and competitive advantages that enabled it to secure higher sales orders from its major customers. Does the Group anticipate continued growth in sales orders for the coming year? b) What were the annual installed capacities and utilisation rates of the factories in Malaysia and Vietnam in FY2024? Additionally, does the Group have sufficient excess production capacity to accommodate further increases in sales orders from its major customers? c) What percentage of the Group's garment production was subcontracted out in FY2024? 2. The Group has acknowledged the customer concentration risk within its Garment segment and has indicated ongoing efforts to mitigate this risk through potential mergers and acquisitions of businesses with diversified brands (Page 17 of AR2024). Please provide an update on the progress made to mitigate the customer concentration risk, particularly in relation to the pursuit of potential mergers and acquisitions.