MINORITY SHAREHOLDERS WATCH GROUP
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STEWARDSHIP OF INVESTORS' CAPITAL

GOOD CORPORATE GOVERNANCE

PRIME Minister Datuk Seri Anwar Ibrahim, in his New Year message, said the government would boost foreign investor confidence by guaranteeing good governance and a corrupt-free Malaysia.

He affirmed this by adding that the government had received a list of investors from Europe, the United States, China, India and several other countries in Asia who would be monitoring developments in Malaysia themselves, especially from the economic aspects.

"We hope there is a new focus that can increase and drive economic growth more convincingly. This is necessary because Malaysia is a trading country that has all this while recorded an economic growth rate based on our efforts to secure domestic and foreign investment."

The eyes of the world are on Malaysia with the recent government change. The expectations are high. And the pressure to perform is even higher.

Foreign investments drive capital market performance. Foreign investors look at both public and private sector governance. They talk about sovereign risks. The world's best capital markets will not be attractive if the sovereign risks are high.

The prime minister alluded to many right things and has promised to push the right buttons. Now comes the pushing part.

> *So, minority shareholders must not only consider the financial metrics of their investee companies but also conduct their due diligence on the leadership of the company...*

CORPORATE GOVERNANCE

The prime minister has said his government will guarantee good governance. And within good governance lies corporate governance — the private sector governance as to how corporations can better govern themselves.

The Malaysian Code on Corporate Governance (MCCG) published by the Securities Commission has outlined good practices and guidance regarding good corporate governance.

Now, the thing about the practices in the code is that they will not guarantee business prosperity or that a company will not be plagued with wrongdoings.

By its very own definition, corporate governance is merely a set of structures and processes put in place to direct and manage the business and affairs of the company.

The MCCG adds that corporate governance provides a framework of control mechanisms that support the company in achieving its goals while preventing unwanted conflicts. The pillars of corporate governance such as ethical behaviour, accountability, transparency and sustainability are important to the governance of companies and stewardship of investors' capital.

Companies embracing these principles are more likely to produce long-term value than those lacking in one or all.

The key phrase is that it is "more likely to produce long-term value" — there is no guarantee of long-term value.

THINGS THAT MAY GO WRONG

So, what are the things that can go wrong despite having all the corporate governance structures and processes in place?

Firstly, there is the possibility of the board/management overriding the very controls that they have put in place. In such instances, there is a "short-cut" in the structures and processes.

Here, the independent directors, company secretaries and internal auditors are all empowered, and must be brave enough, to speak "truth to power".

That is a three-level opportunity to address corporate governance issues. Sometimes, all three levels are unable to speak "truth to power". The reason to override may seem noble enough, but the consequences can be punishing.

Secondly, there is always the risk of poor business acumen or business sense. Corporate governance is much about conformance. Business is all about performance. Corporate governance is a means to an end. So, despite having all the practices in the MCCG in place, companies may flounder. Business acumen, entrepreneurial ability and management capability are crucial to driving performance.

It should not be a case of having a first-world corporate governance framework with third-world business acumen.

Not all nice, good moral people of integrity are blessed with good business acumen. When a company continuously makes losses, all things being equal, it indicates poor business acumen.

Thirdly, the morality of the people who lead the company matters — the directors matter.

Unfortunately, corporate governance cannot measure the morality levels that are so opaque that it is only known to the individual until the lack of morality manifests itself in some outward actions or omissions.

How nice if we could measure the levels of morality like blood pressure or body temperature. In a world where the immoral wear a façade of morality and clothe themselves in the fibres of rightness, it is often too late before one realises their true colours. This makes moral due diligence difficult. And so, we have "know your customer" rules that talk about the need for continuing customer due diligence — the apparent angel that walks in to open an account may very well be a devil in disguise and, as such needs to be continuously monitored.

So, minority shareholders must not only consider the financial metrics of their investee companies but also conduct their due diligence on the leadership of the company — their moral compass, as difficult as that may be.

One may very well be left with making educated guesses. The company is referred to as a legal person, not a natural person, like human beings.

Companies operate at the will of the natural persons, the alter egos. As such, minority shareholders must exercise a heavy dose of due diligence on the people at the top.

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