



MINORITY SHAREHOLDER WATCHDOG GROUP
Shareholder Activism and Protection of Minority Interest
BADAN PENGAWAS PEMEGANG SAHAM MINORITI BERHAD
(Incorporated in Malaysia • Company No : 524989-M)

”Corporate Governance & Business Ethics – How to Make Corporate Boards and External Auditors More Effective and Accountable”

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Presented by :

Rita Benoy Bushon

Chief Executive Officer

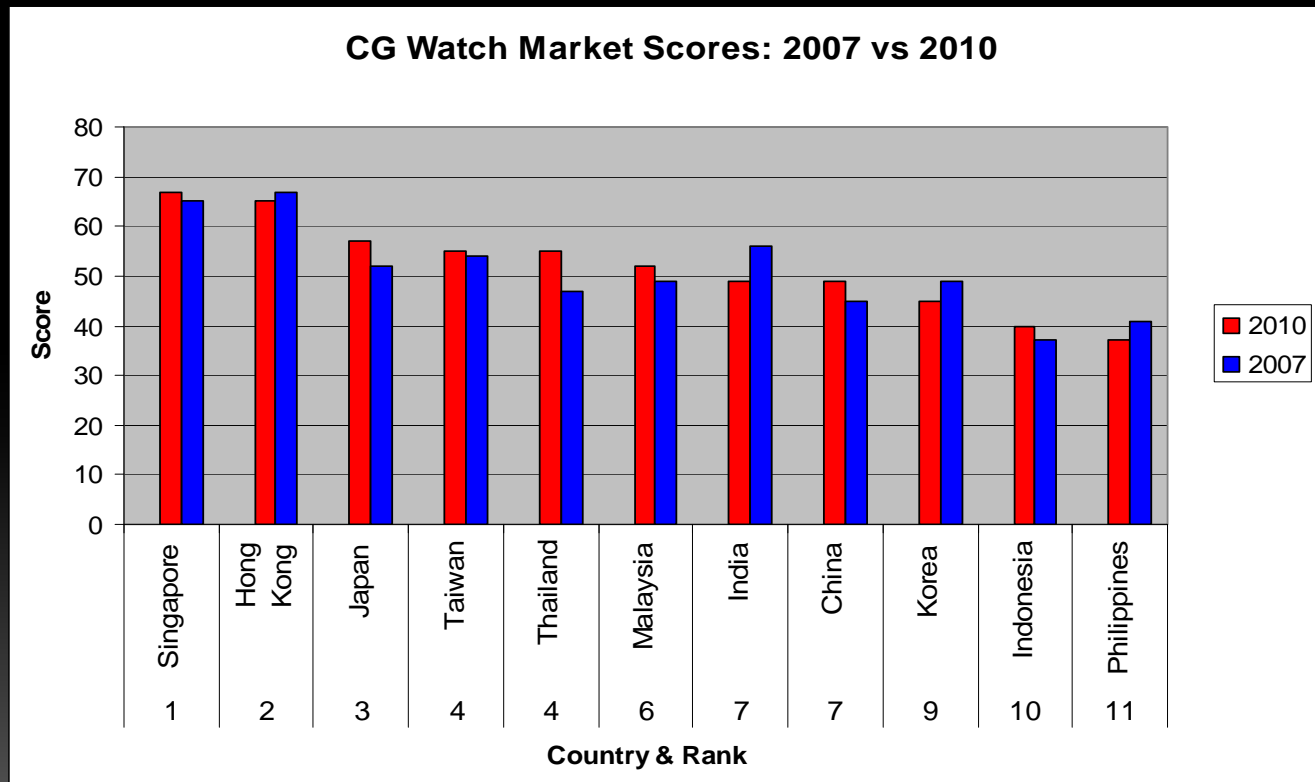
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Introduction

- ❑ Financial crisis and corporate failures often a result of poor corporate governance.
- ❑ Higher investor expectations that boards as well as auditors to play a more effective role to improve corporate governance standards in the capital market.
- ❑ Globally, policymakers are re-examining various corporate governance issues, triggered by the financial crisis.

CG Rankings: Malaysia

- Recent CG Watch 2010 released by CLSA-ACGA.
- Malaysia retained 6th spot, but with higher overall score of 52% compared to 49% in 2007.



Source: CG Watch 2010

CG Rankings: Malaysia

- ❑ Two categories which showed marked improvements were CG rules and practices, and political and regulatory environment.
- ❑ Enforcement has also improved but the study found that securities laws have not proved to be an effective deterrent against insider trading and market manipulation.
- ❑ Average CG score for Malaysian corporations at 55% is slightly higher than regional average at 53%.

How Effective is CG in Malaysia?

- ❑ MSWG's MCG Index 2009 which surveyed 899 PLCs found that the average Corporate Governance Score had improved.
- ❑ Good CG needs to begin from the boardroom – PLCs need to have the right people on Boards.
- ❑ Recent trends in CG showed changes made in the UK and Australia focused on board issues.



□ So how do we make Boards more effective?

- Enhancing Board Balance
- Enhancing Board Diversity
- Board Assessment
- Board Integrity and Ethics

How to make Boards more Effective?

□ *Enhancing Board Balance*

- Independent directors often looked at by minority shareholders as guardians of their interest
- Must have the right set of independent directors - personal attributes of integrity, common sense and an enquiring, probing mind are of paramount importance.
- Would long-serving independent directors be effective? In Malaysia the tenure for independent directors is neither legislated nor stated as a recommendation under the Code.
- Singapore: The Monetary Authority of Singapore (MAS) has proposed that for banks and insurers, a director will be considered non-independent after serving for a continuous period of 9 years, and that the number of independent directors be raised from one-third to a majority.

How to make Boards more Effective?

- Greater expectation for independent directors to take greater initiative in understanding and assessing their company's performance.
- Hence while board independence is importance, so is expertise.
- UK: The UK Code appears to move away from the importance of mere independence, but also give more emphasis to balance and diversity, requiring the board having 'an appropriate balance of skills, experience, independence and knowledge'.
- Independent directors must have the necessary expertise to be able to provide constructive challenge and enquiry during board deliberations when issues are being presented for decision.

How to make Boards more Effective?

□ *Enhancing Board Diversity*

- Board diversity helps to strengthen the quality of board deliberations and deliver the real value of companies.
- Improving gender diversity is an area that should be looked into by Malaysian PLCs, which is also in line with recent global trends in CG.
- Only 7.5% directors in Malaysian PLCs are female (Source: MCG Index 2009).
- UK Code now explicitly provides that the benefits of greater diversity (including gender diversity) should be taken into consideration in Board appointments. However it stops short of setting any specific quotas.
- Australia: Changes introduced by the ASX to take effect in 2011 require a company to adopt and disclose a diversity policy which should include requirements for the board to establish measurable objectives for achieving gender diversity.

How to make Boards more Effective?

□ *Board Assessment*

- There needs to be a comprehensive Board Assessment process carried out on a regular basis to achieve high performing Boards.
- Only 155 companies or 17.24% of the 899 companies surveyed in MCG Index 2009 disclosed that performance evaluation was conducted.
- Appears that very few PLCs appraised their Boards!
- UK Code now requires that, in addition to the Board's own internal evaluation of its performance and that of individual directors, the evaluation of the boards of FTSE 350 companies should be externally facilitated at least once in every 3 years.

How to make Boards more Effective?

□ *Board Integrity and Ethics*

- The Board itself must cultivate the right culture in the boardroom, to raise the bar on governance.
- Directors are expected to conduct themselves with integrity and act in an honest and ethical manner in the conduct of the company's affairs.
- Rules and regulations only imposes the minimum standards of conduct and behaviour - directors must make the effort to move beyond just attaining the bare minimum.

How to make Boards more Effective?

□ Other areas

- Strengthening risk management practices
- Improving information access and flow
- Regular engagement with shareholders – improving transparency

Role of Auditors

- ❑ Auditors as gatekeepers have to play their role more effectively.
- ❑ The European Commission has issued a consultation paper entitled “Audit policy: lessons from the crisis’ that seeks to open debate on among others, the role of the auditor, the governance and independence of audit firms.
- ❑ Expectation gap exists – but the role to be played by auditors cannot fall far too short from what is expected by investors and general public.
- ❑ Investors expect a more robust approach from auditors in challenging management’s judgements and disclosures.
- ❑ External auditors need to exercise sufficient professional scepticism in their auditing approach.

Role of Auditors

- ❑ Effective communication between auditors and Audit Committee important to ensure credibility and reliability of financial statements.
- ❑ Higher expectation from investors that external auditors would be able to raise red flags or recognise the warning signals.
- ❑ Auditors are obligated by law to whistle blow.
- ❑ The establishment of the AOB to provide independent audit oversight over public interest entities including PLCs is a move in the right direction.

Conclusion

- ❑ There is greater scrutiny on the conduct of Boards to be transparent and accountable to the shareholders.
- ❑ The effective interaction between auditors and Boards is also crucial for the oversight of PLCs and maintaining investors' confidence in the capital market.
- ❑ An effective Board that is transparent, engages constructively with its various stakeholders and upholds the spirit good governance will go a long way for the sustainability of the company.



THANK YOU



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**Level 11, Bangunan KWSP,
No. 3, Changkat Raja Chulan
Off Jalan Raja Chulan, 50200 Kuala Lumpur
Tel No: 603-2070 9090, Fax No: 603-2070 9107
Website: www.mswg.org.my
Email: rita@mswg.org.my; watchdog@mswg.org.my**