Malaysian Code on Corporate Governance

Presentation by:
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Securities Commission Malaysia
26 April 2017
The Malaysian Code on Corporate Governance – key features & enhancements

Highlights of major departure from 2012 MCCG

Next Steps
Key features of the MCCG focusing on driving internalization of good corporate governance

01 Positioned as the Malaysian Code on Corporate Governance

02 Adopts the Comprehend, Apply and Report approach (CARE)

03 Intended Outcomes are placed up-front to provide users with line of sight

04 Practices are supported by Guidance to aid implementation and better disclosure

05 Differentiated approach identifying practices and reporting expectations for Large Companies

06 Step Up practices to encourage companies to achieve CG excellence
The Malaysian Code on Corporate Governance – key features & enhancements

Highlights of major departure from MCCG 2012

Next Steps
Practices were enhanced and new ones introduced to …

a) **Strengthen board composition, independence, accountability and transparency** through
   1. participation of independent directors
   2. carefully reviewing the tenure of independent directors
   3. gender diversity on boards
   4. greater transparency on remuneration
   5. rigorous board and director evaluations

b) **Support effective audit, risk management and internal control** by
   1. strengthening the independence and effectiveness of the audit committee
   2. facilitating objective oversight by the board of the audit committee
   3. having dedicated focus on risk management through a Risk Management Committee
   4. ensuring the internal audit function is effective and independent

c) **Maintain integrity in corporate reporting and meaningful relationship with stakeholders** through
   1. having regular and transparent communication with stakeholders
   2. adopting integrated reporting as a form of concise communication
   3. ensuring participation of all directors at shareholder meetings
   4. using technology to facilitate voting and shareholder participation at meetings
Highlights of 3 major departures from MCCG 2012

1. Explaining alternative practices and timelines

2. Proportionality approach – differentiating large companies from others
   • Composition of board – number of independent directors
   • Composition of board – gender diversity

3. Tenure of independent directors
## Alternatives and Timelines

<table>
<thead>
<tr>
<th></th>
<th>MCCG 2012</th>
<th>2017 onwards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Explaining alternatives</td>
<td>Comply or explain</td>
<td>Apply or explain an alternative</td>
</tr>
<tr>
<td>Alternative (if any)</td>
<td></td>
<td>Companies which depart from a practice are expected to have an alternative practice and explain how the application of the practice achieves the intended outcome</td>
</tr>
<tr>
<td>Actions and Timelines</td>
<td>N/A</td>
<td>When Large Companies depart from a practice, they are also required to disclose the actions they have taken or will take, and the timeframe required to apply the practice.</td>
</tr>
</tbody>
</table>
The differentiated approach  
Applying flexibility and proportionality

- The MCCG identifies practices and reporting expectations for **Large Companies**

- Large Companies are companies:
  - on the top FTSE Bursa Top 100 Index; or
  - with market capitalisation of RM2 billion and above

- Other listed companies may consider adopting the practices identified for Large Companies if they aspire to achieve greater excellence in corporate governance.
**Practice 4.1**

**ENHANCED**
To objectively safeguard the interest of shareholders, provide impartiality in decision making and effective oversight of management

<table>
<thead>
<tr>
<th>Challenges</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ 45 out of the top 100 companies do not have majority independent directors on their board.(^1)</td>
<td><strong>MCCG 2012:</strong> The board must comprise a majority of independent directors where the chairman of the board is not an independent director.</td>
</tr>
<tr>
<td></td>
<td><strong>New Code:</strong> At least half of the board comprises of independent directors. For Large Companies, the board comprises of majority independent directors.</td>
</tr>
</tbody>
</table>

\(^1\) MSWG Malaysia-ASEAN CG Scorecard Assessment 2016
### Practice 4.2

<table>
<thead>
<tr>
<th>Challenges</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>• 810 independent directors have served more than 9 years.(^2)</td>
<td><strong>MCCG 2012:</strong> Tenure of independent directors should not exceed nine years. After which annual shareholders’ approval is required.</td>
</tr>
<tr>
<td>• Longest tenure of an independent director – 37 years.(^3)</td>
<td><strong>New Code:</strong> Tenure of independent directors should not exceed nine years, but annual shareholders’ approval applicable from year 9-12 only, thereafter the annual two tier voting process should be adopted.</td>
</tr>
<tr>
<td>• Templated justifications for reappointments</td>
<td></td>
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<tr>
<td>• 52 companies did not table specific resolutions for reappointment of independent directors.(^4)</td>
<td></td>
</tr>
</tbody>
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\(^2\) MSWG Malaysia-ASEAN CG Scorecard Report 2015  
\(^3\) Focus Malaysia - May 23-29 2015 edition  
\(^4\) MSWG Malaysia-ASEAN CG Scorecard Assessment 2016
Appointment of an Independent Director

Appointment and re-appointment of Independent Directors as provided in Bursa Malaysia’s Listing Requirements

Year 1
Year 3
Year 6
Year 9
Year 10
Year 11
Year 12
Year 13
and beyond …

Annual Shareholders’ approval

After a cumulative term of 9 years, an independent director may continue to serve on the board as a non-independent director.

However, if the board intends to retain an independent director beyond 9 years, it should provide justification and seek annual shareholders’ approval.

Annual Shareholders’ approval through a two-tier voting process

If the board continues to retain the independent director after year-12, the board should provide justification and seek annual shareholders’ approval through a two-tier voting process.
Two-tier Voting Structure

Under the two-tier voting process, shareholders’ votes will be cast in the following manner at the same shareholders meeting:

- Tier 1: Only the Large Shareholder(s) of the company votes; and
- Tier 2: Shareholders other than Large Shareholders votes.

Example

<table>
<thead>
<tr>
<th>Tier 1</th>
<th>✔️</th>
<th>Successful</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier 2</td>
<td>✔️</td>
<td></td>
</tr>
<tr>
<td>Tier 1</td>
<td></td>
<td>Abstain</td>
</tr>
<tr>
<td>Tier 2</td>
<td>✔️</td>
<td>Not successful</td>
</tr>
</tbody>
</table>

For the purposes of Practice 4.2, Large Shareholder means a person who—

- is entitled to exercise, or control the exercise of, not less than 33% of the voting shares in the company;
- is the largest shareholder of voting shares in the company;
- has the power to appoint or cause to be appointed a majority of the directors of the company; or
- has the power to make or cause to be made, decisions in respect of the business or administration of the company, and to give effect to such decisions or cause them to be given effect to.
## Practice 4.5

### ENHANCED

- To bring different perspectives, freshness of ideas and contribute to stronger performance
- Promote greater women participation on boards

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<tbody>
<tr>
<td>Top 100 PLCs – women makes up 16.8% of boards (855 out of 6938 board seats) and 25.6% of top</td>
<td><strong>MCCG 2012:</strong> Commentary of the Code recommended companies to</td>
</tr>
<tr>
<td>management.</td>
<td>establish a policy on boardroom diversity.</td>
</tr>
<tr>
<td>Only 7.2% of CEOs are women (out of 972 CEOs).</td>
<td><strong>New Code:</strong> The board to disclose the company’s policies to</td>
</tr>
<tr>
<td>Lack of structural support e.g. mentoring, sponsoring of women with potential; social and</td>
<td>appoint women to the board, its targets and measures to meet those</td>
</tr>
<tr>
<td>cultural barriers.</td>
<td>targets. For Large Companies, the board comprise of at least 30%</td>
</tr>
<tr>
<td></td>
<td>women directors.</td>
</tr>
</tbody>
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5  Bursa Malaysia – as at 31 December 2016  
6  Bursa Malaysia – as at 31 December 2016
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Select practices – in detail

Next Steps
Roadshows
- In major cities; further information will be made available on SC’s website

Guide
- Update of the Bursa Malaysia Corporate Governance Guide

Translation
- MCCG will be translated to Bahasa Malaysia and Mandarin

Leverage technology
- SC will leverage technology for reporting and monitoring of corporate governance practices
Thank you