

ARTICLE 2

REGULATORY EVALUATION OF RELATED-PARTY TRANSACTIONS

The SC conducted a thematic assessment to holistically examine the regulatory regime and practices of related-party transactions (RPTs) by PLCs. Findings from the assessment and insights on the practices, market impact, and governance arrangements of RPTs may guide the SC's future regulatory policies on RPTs. Some aspects of this evaluation were performed in collaboration with academicians from Monash University Malaysia School of Business³.

Generally, an RPT refers to a transaction entered into by a PLC which involves the interest of a director, major shareholder, or person connected with such director or major shareholder⁴. Previous reports by the Organisation for Economic Co-operation and Development (OECD) and CFA Institute highlighted that RPTs were not uncommon in the Asia region, and while not all RPTs were abusive, occurrences of detrimental RPTs did pose harm to investors⁵.

Regulatory Evaluation Findings

Based on the analysis of 5,500 transaction announcements between 2016 and 2020, the SC's findings were:

494 PLCs
(around 50% of PLCs)
made at least one
RPT announcement
during that period. This
indicates that RPTs are
considerably prevalent
among Malaysian PLCs

206 PLCs
made only RPT
announcements

148 PLCs
made both RPT
announcements
and recurrent RPT
announcements

140 PLCs
made only recurrent
RPT announcements

Note: The size of RPTs also varied significantly, ranging from tens of millions of Ringgit Malaysia (RM) to several billions.

³ The SC would like to express its deepest gratitude to Professor Keshab Shrestha from Monash University Malaysia for his contributions to this study.

⁴ While there are several definitions of RPTs, this article refers to the definition in Bursa Malaysia Listing Requirement.

⁵ Refer to *Guide on Fighting Abusive Related Party Transactions in Asia* (2009) by Organisation for Economic Co-operation and Development (OECD) and *Related-Party Transactions: Cautionary Tales for Investors in Asia* (2009) by CFA Institute.

One of the desired outcomes of this assessment is to measure the price impact of RPT announcements. The analysis revealed there was a significant effect on share price movement on the day after RPT announcements were made. The SC also observed above-average price movements on the day leading up to the RPT announcements indicating that there could be some leakages of price-sensitive information.

The SC's assessment on several large RPTs (ranging from RM250 million to more than RM3 billion) suggested that RPTs involving PLCs within family groups and those with long-serving independent directors⁶ may require closer monitoring to ensure that the transactions are not detrimental to minority shareholders. There were also instances where RPT issues and concerns were uncovered by auditors of financially distressed PLCs.

Investors should also pay particular attention to general announcement in relation to transaction between related parties who are only connected by common directorships, and memorandum of understanding or heads of agreement between related parties. This is because such transaction or dealing may still carry the risk of erosion of minority shareholders protection.

Given the prevalence of RPTs among Malaysian PLCs, boards of PLCs, particularly the Independent Directors and Audit Committee, must establish effective processes and controls to prevent detrimental RPTs, and ensure that decisions made on RPTs are in the best interest of the PLCs and its shareholders. Furthermore, PLCs should ensure that RPT disclosures and disclosures of other dealings between related parties are timely, complete, and accurate. Given the potential price impact of RPT announcements, PLCs' internal policies on the handling and safeguarding of material non-public information should cover RPTs that are likely to have a material price impact. As part of the SC's ongoing regulatory work, it vigilantly monitors emerging and potential harms to investors, and shall take the necessary steps to protect investors.

⁶ Long-serving independent directors refer to Independent Directors who have served more than nine years.