Ong Chong Tee: Corporate governance – a collaborative effort

Opening address by Mr Ong Chong Tee, Deputy Managing Director (Financial Supervision) of the Monetary Authority of Singapore, at the 7th Corporate Governance Week, Singapore, 26 September 2016

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Mr David Gerald, President and CEO of the Securities Investors Association Singapore (SIAS),

Distinguished guests, ladies and gentlemen

Thank you for inviting me to deliver this year's Opening Address. Subjects relating to corporate governance always attract lively debates and discussions, and I have no doubt that it will be the case over the course of this Conference.

The theme of "Change and Innovation in Governance" underscores the dynamic nature of corporate governance (or CG) issues. The direction of change will most certainly be towards greater accountability, transparency and responsibilities of directors. Many will agree that old standards are not enough; or not good enough. Boards' composition, for instance, will be subject to greater scrutiny with respect to independence, competence and diversity. I believe these are overall positive trends.

Allow me to share some thoughts on a few pertinent issues.

Role of the Financial Regulator

Our regulatory regime comprises four key elements: regulations, supervision, enforcement actions as well as cross-border supervisory co-operation. This four-pronged approach applies to the area of CG as well.

Many of you would have heard or read about enforcement actions taken by the MAS against various financial institutions or individuals for market misdemeanours such as spoofing and front running, as well as for regulatory breaches in money laundering rules or operational incident lapses. Whenever there are serious regulatory lapses or control failures, these often reflect shortcomings in the institution's governance as well.

The MAS will carry out enforcement actions to punish those who break our laws and regulations. We will protect the integrity and reputation of our financial sector. But enforcement actions are, by definition, ex-post and the proceedings can be lengthy. I would much prefer that we can rely on ex-ante actions to minimise the risk of wrongdoings. This is where our regulations and supervisory work come in.

But given the size and sophistication of our financial sector, it is neither possible nor realistic for the MAS to be able to detect and prevent all bad behaviours or criminal acts. Even assuming manpower and other resources are not constraints, the MAS will have to be so intrusive in our supervisory engagements and carry out long periods of on-site inspections that these would make it hard for boards and management to operate. It is also not ideal nor desirable for MAS to rely on overly prescriptive and conservative one-size-fits-all rules without inadvertently stifling legitimate business growth and innovation.

Impetus for Change

This is why good governance driven by boards must feature as an important frontline defence against bad policies, poor conduct and deficient risk management practices. A competent management must be complemented by a proactive board that places good corporate governance as a priority area of focus. This will also be an area of increased supervisory engagement by the MAS with our financial institutions.

The Singapore Institute of Directors (SID) has issued a series of CG Guidebooks since August last year and will be releasing its Board Guide in the coming months. This will be a very helpful document that highlights roles and responsibilities of the Board, and provides practical tips for directors to internalise CG best practices and discharge their fiduciary duties.

But the impetus for change will continue. One notable trend is that even as boards continue to engage shareholders actively for understandable reasons, the interests of other stakeholders increasingly matter as well. Customers, regulators and government entities, environmentalists, analysts, academia, financial journalists, the general public, and even employees and associates – all these stakeholders can and will matter. The repercussions when things go terribly wrong or even the negative publicity itself can easily destroy hard-won reputation and franchise values that ultimately erode shareholder returns.

Now, most if not all will readily agree with the concept of good corporate governance. But the conception of what is needed to be done is usually less obvious. To do that well requires the ”DNA” of a board to be capable of living to the mandate. In short, the composition of a board will matter to its effective functioning. This is why our CG framework operates on a tiered approach. The Companies Act sets out fundamental requirements for directors to act honestly at all times and use reasonable diligence in discharging their duties. The Code of Corporate Governance (or CG Code) for listed companies and MAS' requirements on board directorship in local financial institutions, prescribe requirements relating to independent directors, composition of board committees and so on.

One area that will need to be considered is in the area of board diversity. A more diverse board is required not only out of political correctness but from good business sense. A board that has a good mix of experiences, background and technical competencies will result in more robust and thorough discussions and in decision-making by minimising blind spots or information gaps. This will also reduce the risk of “management capture”.

These observations quite understandably can trigger questions on whether it is time to review our CG Code. It may indeed be timely to do so since the last review was back in 2012. Any review will need to carefully weigh the differing perspectives of different stakeholders. What is needed is a balanced and progressive Code that not only serves to enhance Singapore's CG standards, but is also pragmatic and workable in practice.

Corporate Disclosures

Good CG is also gaining priority in the minds of investors and other stakeholders. Companies increasingly have to be more transparent and accountable to their stakeholders.

In the past year, the MAS has worked with market participants, including industry associations, to improve the level of corporate disclosures in Singapore.

But high quality corporate disclosures continue to be a recurring concern for investors as seen in some recent allegations of accounting irregularities against a few commodity-related or energy resources firms. The bugbear is that investors looking to analyse financial information put out by companies may feel hampered in doing so.

In a study[1] commissioned by the Accounting and Corporate Regulatory Authority (ACRA) and the Institute of Singapore Chartered Accountants (ISCA), most investors found that the usefulness of a company's financial statements is often limited by over-aggregation of information, insufficient disclosures and disclosures that are difficult to understand.

These findings suggest that companies can do more in providing simple and succinct financial disclosures. In this regard, audit committees and directors also have a role in ensuring that financial disclosures of their companies are sufficient, timely and meaningful.

The CG Code sets out the principles along four areas on: (1) board matters; (2) remuneration matters; (3) accountability and audit; and (4) shareholder rights and responsibilities; where companies should provide meaningful disclosures, and not merely adopt a box-ticking mentality.

Two months ago, SGX issued a report that examined the presence and quality of disclosures in relation to the CG Code. The findings indicate that disclosures, while generally adequate, have room for improvement. One area, in my view, is for companies to provide better disclosures on remuneration, as well as the link between remuneration and performance. Another area is on more clarity with regard to diversity policies and the company's plans on them.

The SGX has also announced that all listed companies will have to publish a sustainability report from the financial year ending on or after 31 Dec 2017. Companies should disclose material environmental, social and governance (ESG) factors, their policies, practices, performance and targets. Overall, this marks progress from the voluntary reporting that has been in place since 2011, in keeping with growing international interest in sustainability information.

Market Discipline: A Collaborative Effort by All Stakeholders

Next, let me touch on market discipline and its important place in good CG practices.

There is a trend towards greater involvement and engagement by different stakeholders – internationally and in Singapore. Take for example the recent debates on whether to allow dual-class shares for SGX-listed companies. Stakeholders are understandably divided over the implications of such a move and the potential impact on market discipline – and some have advocated for the MAS to weigh in on the matter. That in my view, will prevent a thorough debate and may prematurely stifle the broader collective wisdom of different stakeholders. The SGX is still considering the possible safeguards so as to satisfy itself that it can meet any regulatory concerns; and should it proceed, will issue a public consultation document on the details.

For market discipline to work, directors should embrace a culture of quality disclosure and to be forthcoming in engaging investors in a timely fashion. Responsible investors, on the other hand, should also practise active stewardship – to question and to provide feedback. Active involvement by all relevant stakeholders can contribute towards the vibrancy and confidence in Singapore's capital markets.

But market discipline also requires a discipline in the market. Whenever we see allegations and counter-allegations against companies in the marketplace, we should distinguish the ones that reflect different stakeholder opinions to shape better or desirable outcomes from the ones out to create mischief and corporate havoc without basis. The former should be embraced as a positive manifestation of market discipline at work while the latter should see the culprits taken to task via enforcement or supervisory actions.

Exercising Market Discipline through Investor Stewardship

This brings me to the related area of good stewardship which I briefly mentioned earlier.

Internationally, there is growing recognition that shareholders, particularly institutional investors, should exercise a stewardship role, by engaging their investee company's board and management towards long-term sustainability goals. On this note, MAS is pleased to support an ongoing effort by the investment community to collaborate on developing a set of best practices to promote active stewardship by institutional investors.

The MAS has also been supporting other stakeholders such as SIAS. One example is SIAS' recent initiative to issue reports relating to company annual reports and to publish issues notes to guide retail investors in their participation at company AGMs. SIAS has issued 25 such reports thus far and I note that some companies have taken efforts to provide written responses to the questions raised.

Another worthwhile recent initiative by SIAS is the garnering of companies' affirmation through the Statement of Support on their commitment to uphold and advance excellence in CG standards to enhance shareholder value. I am told that already, 112 companies have participated in support of the initiative – a very positive start.

Conclusion

In conclusion, the CG landscape is an evolving one but its fundamental tenet remains unchanged – which is the accountability of the board of directors to their shareholders specifically and also to other stakeholders at large. Board of directors should set the tone from the top, and to walk the talk so that there is resonance from the tone in the middle and tone at the front business units. Good governance must be guided by both doing "right" and doing "good" – and thereby doing well for the companies over the long term. The MAS being a financial regulator, and as one part of the CG eco-system, will continue to support a collaborative effort in shaping our corporate governance landscape.

May I wish all of you fruitful discussions in the week ahead.

[1] *"Into the Minds of Investors: Investors' Views of Financial Reporting, Audit and Corporate Governance" by ACRA, ISCA and National University of Singapore Business School.*