Malaysia can become a leader in corporate governance in Asia

The country's strategic approach, setting of rules and codes as well as enforcing their implementation have helped to create a promising ecosystem. BY MAK YUEN TEEN

AT THE recent OECD-Asia Roundtable on Corporate Governance hosted by Securities Commission Malaysia, I was on a panel discussing corporate governance developments in Malaysia. I shared my reflections on how corporate governance in the country has evolved, and recent developments. I have followed developments in Malaysia since it started its corporate governance journey around 2000.

Some participants were surprised about my largely positive views, given my often critical comments about corporate governance in Singapore and elsewhere in my published articles, posts on my website, and comments on social media.

There is no doubt that Malaysia has significant issues in public governance. This makes the progress it has made in corporate governance even more remarkable as public governance and corporate governance are often described as two wings of a plane – one cannot function without the other. For Malaysia, one wing was impaired but the plane has still flown pretty well.

Malaysia has been prepared to introduce rules that would undoubtedly face pushback in other markets. It was one of the first countries, if not the first, to introduce a limit on the number of listed company directorships. PHOTO: PIXABAY

Strategic priorities

First, Malaysia has a strategic approach to corporate governance. Over the years, it has set multi-year blueprints and strategic priorities, with action plans. Many other countries, including Singapore, are more ad hoc in their approaches to raising corporate governance standards. Of course, it is one thing to have strategies and plans, it is another thing to execute.

Corporate governance rules

This leads me to the setting of corporate governance rules and codes in Malaysia. Malaysia has been prepared to introduce rules that would undoubtedly face pushback in other markets. It was one of the first countries, if not the first, to introduce a limit on the number of listed company directorships. The first iteration of the rule was not quite good enough as it set a limit of 10 listed company directorships, but not long after, it was reduced to five. This is in the listing rules, not based on "comply or explain" in the code. Malaysia is also a leader in this region in addressing issues of gender diversity and the long tenure of independent directors.

For financial institutions like banks and insurance companies, Bank Negara rules do not allow a board chairman (including an independent chairman) to chair other board committees. Try introducing this in Singapore, where it is not uncommon for board chairmen to chair multiple board committees. The 2021 Malaysian Code of Corporate Governance (MCCG) even states that board chairmen should not serve on any board committees – this is based on "comply or explain", or what Malaysia calls its "comprehend, apply and report" approach to the code. While this may create a problem for smaller companies with small boards, it is clear that the regulators are responding to problems of overdominance of chairmen. This may be an issue that is particularly important in Asia where power distance is often very high – and particularly in Malaysia, where power distance was once assessed to be the highest of all countries in the world.

The point is that Malaysia does not just "copy and paste" rules from other countries – it tries to address issues that apply in its context, which is very important.

About 20 years ago, I spoke at a conference in Malaysia on the topic of remuneration. After my presentation, a company secretary of one company told me that in her company, her chief executive officer did not want his remuneration to be disclosed in the annual report because he did not want his wife to know how much he was paid. This became the subject of one of my cartoons as I imagined the CEO giving his pay to a mistress. Joking aside, Malaysia has mandated the disclosure of the exact remuneration of directors and the CEO in its listing rules for some years now. In Singapore, we accepted excuses for so many years until eventually making such disclosures mandatory for annual reports for financial years ending on or after the end of next year.

The MCCG 2021 is also one of the first codes of corporate governance in the world to integrate sustainability considerations in a comprehensive manner, with enhancements to principles, intended outcomes, practices and guidance.

Implementation, monitoring and enforcement

There is often a perception that Malaysia introduces rules but they are not implemented or enforced. While this may be true in some areas in Malaysia, it is not really true when it comes to corporate governance for listed companies.

Malaysia has worked hard to improve capacity to support implementation. It was one of the first countries to mandate training for first-time directors of listed companies. One of the early jokes about this was that some directors were sending their drivers for such training. There was probably an element of truth in that, as many years ago, I attended a major conference in Malaysia and overheard one director asking another why he did not send his driver for the conference.

However, this is no longer true. I taught the mandatory accreditation programme (MAP) for such first-time directors for several years when it was run by Iclif (now ASB-Iclif). They do not exempt anybody. I have had a former chairman and senior management of the Securities Commission Malaysia attend the MAP I taught when they joined a listed board, and many foreign directors who have served on listed companies in other countries also attended.

When it was conducted via Zoom during Covid lockdowns, we asked all directors to turn on their camera so that we would know they were actually attending. The programme was a solid one-and-a-half days, with a half-day taught by an officer from the regulatory division of Bursa. While I have opted out from teaching the MAP after it moved to the Institute of Corporate Directors Malaysia, I still run many programmes under ASB-Iclif and many experienced directors attend them. Their openness to learning, including from fellow directors who attend the programmes, augurs well for boards in Malaysia.

In June this year, Securities Commission Malaysia and Bursa Malaysia announced the roll out of a new mandatory onboarding programme on sustainability for directors of companies listed on its Main Market and ACE Market. This is an extension of the MAP – another indication that new rules are followed by initiatives to support implementation.

The regulators also monitor the implementation of rules and recommended practices. Every year, the Securities Commission Malaysia publishes a report that looks into this, which also helps in informing future rule changes.

Finally, when it comes to enforcement, Bursa Malaysia, Securities Commission Malaysia and the Audit Oversight Board have taken public enforcement actions against companies, directors, auditors and others. I have in the past praised Bursa Malaysia for its enforcement actions. Over the years, it has fined companies and directors, and increasingly focused on taking actions against directors rather than companies, including non-executive and independent directors. It has certainly done much more in this area than the Singapore Exchange Regulation, even though it is only now that it is about to formally have a separate regulatory subsidiary.

Other impediments

One particular challenge I pointed out about Malaysia is board culture and dynamics. High power distance is a problem in many countries, especially Asian countries. For Malaysia, the particularly high power distance may adversely affect constructive boardroom debate even more than in other countries.

That being said, rules that it has introduced such as limiting dominance of board chairs in committees, improving diversity, promoting renewal and restricting number of directorships, can help.

Like all countries, Malaysia faces corporate governance challenges. Questions have been asked about the nature or lack of enforcement actions in certain companies. However, critics should note that the same can be said about Singapore when it comes to the nature or lack of enforcement actions in certain companies.

I just feel that Malaysia works harder than many other countries to improve corporate governance, despite significant challenges that it faces.

I would encourage Malaysia to continue on its path and focus on improving its capacity and ecosystem. The country could one day become a leader of corporate governance in Asia.

The writer is Professor (Practice) of Accounting at NUS Business School, where he specialises in corporate governance. The original version of this article was first published on his blog, Governance For Stakeholders