Tee Intl’ needs to step up corporate governance

Key figures during time of questionable transactions still hold key posts; issues of internal control and risk management remain. BY MM YUEN TEEN

On March 3, 2020, Tee International Limited (TIL) released a 13-page Executive Summary of the External Investigator’s Report on the questionable transactions involving its controlling shareholder and former group chief executive (GCE) and managing director (MD), Phua Chian Kiong (PCK). The investigation was undertaken by PricewaterhouseCoopers Risk Advisory Services (PwC).

The PwC investigation was commissioned following the company’s announcement on Sept 4, 2019 that it had identified unexplained ramifications of losses involving PKC, two key subsidiaries of TIL - Trans Equatorial Engineering (TEE) and Trans P&T Engineering (TPT) – and Oscar Investment, a British Virgin Islands incorporated company which is wholly and beneficially owned by PKC.

The transactions investigated by PwC occurred between July 19, 2018 and Aug 29, 2019. During that period, the board was chaired by 81-year-old independent director (ID) Betty Cheng Siao Shing, and comprised three other IDs and three executive directors (EDs – PCK, Neo brother Phua Boon Ho (PBH) who was deputy MD, and Mr See Chye Choo).

Mr Cheng was appointed to the board as an ID in March 2001, so had served for more than 17 years at the time of the questionable transactions. He retired at the company’s November 2019 AGM after deciding not to offer himself for re-election.

One of the other IDs, Asec Loh Seng Kee, who is a member of the audit committee (AC) and remuneration committee (RC), was a former audit partner of Deloitte & Touche. He was appointed in August 2014. Deloitte & Touche is the external auditor for TIL. The company’s corporate governance report states that Mr Loh ceased being an audit partner of Deloitte in 2013, and that this complies with the 2012 Singapore Code of Corporate Governance. The 2012 Code, however, recommended a one-year cooling-off period for a former partner or director of the audit firm to join a client’s AC. The 2018 Code recommends a two-year cooling-off period.

In early March 2020, it was announced that the Commercial Affairs Department (CAD) is looking into these transactions while Sgx Regco is also looking into potential breaches of the listing rules.

The first time TIL was in the news for alleged legal breaches was in April 2012, when Mr Chng and PKC were reported to be under investigation by the CAD for possible market rigging between July 2008 and March 2009, although nothing further has been heard about that investigation.

The 2018 annual report shows that TIL had the usual three committees – AC, RC and nominating committee (NC) – and also had an executive committee (Exco) which was chaired by PCK, with two other EDs as members, and the other two EDs attending by invitation.

The Practice Guidance issued with the 2018 Code states: “If the Board chooses to form an Executive Committee (Exco) and delegate certain matters for the Exco to decide, it is important for understanding the Exco’s discussions and endorsing the Exco’s decisions.” I would go further and urge companies to carefully consider the governance risks associated with an Exco. An Exco could result in over-delegation of board responsibilities or over-interference in operations, and boards ought to seriously consider whether it is needed.

While anecdotal, companies such as Singapore Post and SingTel which got into trouble had Excos in place. I have questioned some companies at AGMs about their Excos, such as SingTel at its 2015 AGM before it underwent a corporate governance scandal. Following the scandal, SingTel dissuaded its Exco.

Sometimes, companies create Excos because they have an unwieldy board but TIL has a seven-member board. In fact, a few years ago, I attended an AGM chaired by the same chairman as TIL, which also had a seven-member board, and asked why they needed to have an Exco. I was not convinced by the answer I received.

There were fundamental flaws in TIL’s internal control and risk management. The 2018 annual report states: “The Company has appointed Protosco Pte Ltd (the IA) to provide internal audit services within the Group for selected audits which are not audited internally by the Group’s Business Control and Risk Management (BCRM). The IA and BCRM have unrestricted access to all the company’s documents, including access to the AC. Their primary line of reporting is to the chairman of the AC.”

CASTING DOUBT

In TIL’s case, the BCR as a second line of defence lacks the functional independence to provide independent assurance, which forms part of the basis for the board’s and AC’s judgements about adequacy and effectiveness of the internal control and risk management system.

The PwC report cast doubt on the independence and sourcing of the IA function, and the accuracy of the company’s disclosures about it. It states: “We also note that prior to October 2018, the internal audit plan was prepared by the former Business Control & Risk Unit Manager and a Finance Business Manager, who functionally reported to the head of Infrastructure and the CHIEF respectively instead of directly reporting to the AC chairman. Given that the CHIEF was responsible for all Finance-related matters, this was perhaps inevitable, if it is not possible to have them step aside while the regulatory investigations are in progress. At such times, the AC may need to consider whether the IA needs to store up any evidence at all before being counted here.

In this regard, it is disappointing that the former chairman stated for far longer than he should have had an ID, thus left as quickly as he did when the questionable transactions came to light. Of course, directors remain accountable even if they have left.

It is also unclear that the company “gets it” in terms of improving its internal control and risk management. In its update on March 15, the company said that the Board has “engaged another separate team from the Internal Auditors to assist in developing enhancements to the Company’s policies and procedures” and that it has outsourced the group’s Enterprise Risk Management (ERM) function to the internal auditors. This may once again raise concerns about the independence of the IA.

Provisional, as the IA, is being intruded into the first line of defence responsibilities because the updating and ongoing enhancement of policies and procedures is actually the responsibility of the first line of defence management. The IA’s role is to review the adequacy of the internal controls (including policies and procedures) and test their effectiveness. If IA helps to develop or enhance those policies and procedures, it will end up self-auditing.

While IA service providers may provide both IA and ERM services, the ERM service should not go much beyond assisting the client in its risk assessment to derive the top risks in the company, from which IA then develops its annual audit plan which is aligned with these key risks. Smaller companies may rely on the IA service provider to do this due to the lack of resources and risk management expertise. However, risk management does not stop at risk identification or risk assessment. A risk management function is also responsible for the ongoing oversight of risks in the organisation which is a second line of defence. IA should not be involved in this role.

If TIL truly wants to regain investor confidence and improve its internal controls and corporate governance, it needs to do more than what it has proposed.

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