

■ BY NAZATUL IZMA

Spearheading **PUBLIC-PRIVATE GOVERNANCE**

COLLABORATION BETWEEN THE PUBLIC AND PRIVATE SECTOR WILL BE A CORNERSTONE FOR SUCCESS IN IMPROVING THE OVERALL STATE OF GOVERNANCE.

BOTH the public sector and the private sector must be on the same page if governance is to thrive and create a conducive climate for business and growth.

“A robust public-private collaboration is imperative given the crucial roles that these two sectors play in the economic well-being of the country,” said MIA President Dato’ Mohammad Faiz Azmi.

“Good governance is required in both sectors as they are closely linked and can have significant impact on each other’s performance. Good governance will result in greater transparency and accountability and less scope for corruption and bribery. This will inevitably result in less leakages and wastage of public and private resources and also more efficient and higher quality services for the public,” said MICG President, Dato’ Yusli Mohamed Yusoff.

Both the MIA and MICG thought

leaders were delivering their remarks at the Governance Symposium 2016, jointly organised by the Malaysian Institute of Accountants (MIA) and the Malaysian Institute of Corporate Governance (MICG) to accelerate good governance in Malaysia.

GOOD GOVERNANCE BEGINS AT HOME

Senator Datuk Paul Low Seng Kuan, Minister in the Prime Minister’s Department said that good governance begins with the individual and must be reinforced from an early age. “The

culture of integrity can be reinforced firstly via ethical leadership coming from our parents and family members, from our schools and education, and from leaders in our society who can be proper role models. Every person has a role to play to uphold integrity, so that

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integrity itself becomes a cultural norm of behaviour in our society.”

Further, this strong culture of governance which starts with individuals and society must be supported by a robust institutional framework. Malaysia can strengthen the fabric of governance by building strong institutions that are independent and professional, and implementing adequate laws and enforcing these laws in a just and fair manner. It is also critical to improve the efficiency and integrity of the delivery processes of services by emphasising transparency, accountability and check-and-balance mechanisms, and to put in place a trusted channel for reporting complaints or abuses.

CORPORATE LIABILITY PROVISIONS

Corruption is a tremendous hurdle and barrier to governance in both the public and private sectors. Since a corrupt transaction can only take place if there is a giver and a receiver, it is necessary to tackle both sides of the equation.

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SPEARHEADING PUBLIC-PRIVATE GOVERNANCE

“The number of convictions for bribery cases especially in the last three years indicates that it involves both the private and public sector in equal proportions,” said Datuk Low. In the public sector, there is an active and continuous effort to improve governance under the Governance and Integrity (or JITU) initiative at the operational level.

At the same time, the government is taking steps to beef up anti-corruption measures in the private sector. “The government has for some time been working on a set of corporate liability provisions with the Attorney-General’s Chambers to compel the private sector to step up and implement robust anti-corruption measures. This provision will be benchmarked against the UK Bribery Act 2010 which addresses the failure of commercial organisations to

Datuk Low.

However, organisations can protect themselves by putting adequate anti-corruption and risk controls in place. “The burden of proof is placed on the organisations to prove that they have implemented adequate measures to prevent persons associated with them from undertaking such conduct.”

The newly defined ISO 37001 Anti-Bribery Management Systems may be used as an acceptable guide to determine the type of adequate measures as defined under the provisions. Malaysia played an important role in contributing to the drafting of this standard.

“The government assures the private sector that an adequate grace period will be given before such provisions are put into effect, so as to allow the management of

organisations across both the public and private sectors.

“With the growing decline in public trust after the financial crisis, boards of directors are increasingly under pressure to step up in their role as corporate governance stewards. The board of directors holds the ultimate responsibility for their firm’s success or failure, as well as for ethics of their actions. The ethical tone of an organisation is set at the top, and the actions and attitudes of the board greatly influence the ethical climate of an organisation,” said Dato’ Yusli.

To strengthen board governance, Datuk Low recommended that business enterprises establish a Board Committee for governance and ethics. “This committee will be responsible for the achievement of sustainable objectives relating to anti-corruption, human rights, social responsibility and other ethical compliances,” he said. Board training and education must also be stepped up, and attention should be paid to board composition and the appointment of high-calibre and qualified directors. “Train board members sufficiently in the area of Governance, Integrity and Ethical practices, and have a majority of independent directors on boards.”

Datuk Low also recommended that organisations appoint a compliance or chief integrity officer and establish an effective whistleblower system with a highly trusted channel to support the governance process.

To facilitate the promotion of good governance in the private sector, Datuk Low said that his office would work closely with MICG in providing training to equip commercial enterprises in areas concerning governance, ethics, integrity, anti-corruption and human rights.



prevent bribery.”

“The main thrust of this legal provision in the MACC (Malaysian Anti-Corruption Commission) Act will make it a serious liability for commercial organisations if a person associated with them is involved in corrupt practices. Companies or organisations that commit such offences upon conviction shall be liable for penalties which are multiples of the sums or value of the gratification,” explained

enterprises that are affected to prepare and strengthen their anti-bribery management system,” he continued.

BOARDS AND GOVERNANCE

Unsurprisingly, boards of directors are coming under greater scrutiny as they are expected to improve how they discharge their oversight roles to ensure good governance in