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JTrust should bring its promises for LCD to pass

THOSE familiar with mergers and acquisitions here would know that the magic number has been 30 over the past decade – because any stake acquisition below 30 per cent will not trigger a mandatory takeover.

But the recent stake sale of LCD Global Investments by the Lum brothers at a shade below 30 per cent – to a Japanese finance conglomerate that is starting to wield management control at LCD – has again cast a spotlight on this 30 per cent threshold.

Under Singapore's Takeover Code, unless exempted, a shareholder and its concert parties have to make a general offer when their holdings in a company cross the 30 per cent mark. But in most cases, the largest shareholder in a company can already gain levers of control with a smaller stake than that. It is hence hardly surprising that many married deals have been cobbled at below the 30 per cent mark.

The rationale is obvious. Why go through the hassle of launching a general offer and run the risk of the deal falling through when a stake of, say, 25 per cent can achieve the same result? For the target company, it saves having to appoint an independent financial adviser or convene a meeting to seek shareholders' approval – both of which cost money.

But the flip side, of course, comes to bear on the minority shareholders who would have missed the chance of cashing out with the controlling shareholder.

Last month, the Lum family surprised the market when it sold a 29.5 per cent stake in LCD to a wholly owned unit of Tokyo-listed JTrust Co Ltd at 30 Singapore cents a share, keeping just 2.25 per cent.

Though narrowly skirting a mandatory takeover, JTrust has emerged as the new controlling shareholder of LCD and will soon hold the reins of the company.

LCD executive chairman David Lum has stepped down as a senior executive director while his son Kelvin Lum, who is LCD managing director, will resign within six months.

As part of the deal, JTrust has appointed its president and CEO, Nobuyoshi Fujisawa, and general manager Shigeyoshi Asano to the board of LCD as executive directors. By sending directors to LCD, JTrust said that it was establishing a "strategic operational alliance with LCD regarding its business expansion".

But concern has since been raised by Hong Kong institutional shareholder Pyrrho Management about whether the new executive directors have the relevant expertise in hospitality and real estate.

One could also question the manner in which the stake was divested by the controlling Lum family, which had just in April attempted to take LCD private at 17 cents a share. Why a sudden change of "strategy" by the Lum family members who were running the show in the company?

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The married deal certainly made monetary sense for the controlling shareholder. JTrust's offer price was more than double LCD's share price at which any shareholder would have bought before April this year.

While the Lum family made a fat profit from the stake sale, the only thing other shareholders could do was watch the deal pass by because the requirement for a mandatory takeover was not triggered under the Code. These other shareholders include Aspial Corporation CEO Koh Wee Seng with his deemed 18 per cent stake.

To be clear, such a situation is not unprecedented. In 2006, OCBC Bank drew flak for selling a 29.9 per cent stake in Robinson & Co to the Indonesian Lippo group, though it had put its entire 36 per cent stake on the block. This was similarly shy of the magic 30 per cent that would have allowed shareholders to cash out.

Regardless of where the threshold is (be it 25, 30 or 35 per cent), the same issues can persist.

Malaysia's Sime Darby got into a fix in April when it acquired a 30.2 per cent stake in property developer Eastern & Oriental Bhd, as minority shareholders saw red over the 60 per cent premium in the offer price that they never got.

The trigger point for mandatory takeover in Malaysia is 33 per cent. However, a general offer can be triggered if a new party buys less than 33 per cent, but secures management control of the target company. Still, Malaysia's Securities Commission ruled that Sime Darby was not required to extend a general offer to all shareholders.

In any jurisdiction, a takeover code essentially seeks to ensure that all shareholders have the opportunity to participate in a change of control, and that all parties to the transaction enjoy a level playing field. One reason the code exists is that controlling shareholders have no legal obligation to ensure a level playing field for other shareholders of the company.

Singapore's Takeover Code sets out its goal as ensuring that takeovers and mergers are conducted with "good business practice for the fair and equal treatment of all shareholders".

Arguably, in cases where the new controlling shareholder will introduce significant changes to the operations and business of a company, a general offer could provide a chance for other shareholders to vote with their feet on whether to stick with the company.

In the absence of a general offer for other LCD shareholders, fairness demands that they be provided greater clarity by JTrust, given the perceived lack of synergy between JTrust's business and LCD's.

It is understandable that shareholders are curious to know exactly what JTrust intends to do with the hospitality assets of LCD and its other investments, including a deemed 44 per cent interest in Knight Frank Singapore.

No doubt, JTrust has painted broad strokes of its plans for LCD, saying that it aims to expand LCD's real estate and amusement business, and to promote the property fund management business at LCD. The proof of the pudding is in the eating. Hopefully, JTrust will indeed harness the expertise of its various businesses to bring its promises for LCD to pass.