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UEM's waiver reinstated: Anwar

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THE Government yesterday confirmed that the Foreign Investment Committee (FIC) has reinstated the waiver granted to United Engineers Malaysia Bhd (UEM) from having to make a general offer for Renong Bhd shares.

Deputy Prime Minister and Finance Minister Datuk Seri Anwar Ibrahim who confirmed this, said there will be no further investigation on the issue.

"Unless there are new issues ... right now we are quite settled (on the decision to reinstate the waiver to UEM)," he told reporters after meeting former US secretary of state Dr Henry Kissinger in Kuala Lumpur. Kissinger is in Kuala Lumpur to attend a two-day Pacific Dialogue which will be officially opened today by Prime Minister Datuk Seri Dr Mahathir Mohamad.

Anwar was also asked whether the waiver was reinstated to UEM following a thorough investigation into the controversial UEM's plan to buy back shares belonging to Renong, its parent company.

"Yes, the decision was made as a result of the investigation. The Securities Commission and the Kuala Lumpur Stock Exchange (KLSE) have submitted their respective reports to the Economic Planning Unit, the agency handling the FIC.

"Then, they (EPU) make this decision," he said, when asked to comment on news reports yesterday that the FIC had reinstated the waiver granted to UEM.

Asked whether the decision will be against the interest of minority shareholders, Anwar said: "This has been taken into consideration ... that is why there have been a lot of conditions imposed on this approval (to grant the waiver)."

In a separate report, Commerce International Merchant Bankers Bhd (CIMB) has also disclosed over the weekend on behalf of UEM that the FIC has reinstated the waiver granted to United Engineers (Malaysia) Bhd (UEM) and parties acting in concert with it from having to make a general offer for Renong Bhd shares they do not already own.

It said that FIC re-instated the waiver on December 31 1997, in response to UEM's appeal to the FIC on December 13 1997.

Therefore, UEM is not obliged to extend a general offer for Renong shares, CIMB added.

It also announced that to reassure UEM shareholders and to ensure that UEM does not suffer any loss, Tan Sri Halim Saad, Renong executive chairman and a director of UEM, has agreed to grant a "put option to UEM" to UEM whereby UEM can ask Halim to acquire all its 722.9 million shares representing 32.6 per cent interest in Renong bought by UEM.

CIMB added that having complied with the requirements of Practice Note 14 (PN14) of the Malaysian Code on Takeovers and Mergers 1987, Halim has been granted a waiver by the Securities Commission (SC) on January 9 1998, from the obligation to extend a mandatory general offer upon exercise of the put option, subject to two other conditions.

The first is that there should be no change in the existing structure and members of the group controlling Renong at the time when the put option is exercised by UEM.

The second is that upon exercise of the put option, Halim's aggregate voting rights in Renong, inclusive of the option shares, must not exceed 50 per cent.

The SC had earlier required that UEM convene an extraordinary general meeting by January 10 1998, to consider the acquisition of the Renong

shares.

However, CIMB said that the SC has approved UEM's application to extend the deadline to February 14 1998.

It was first announced on November 17 1998, that UEM had acquired 722.9 million 50-sen shares or 32.6 per cent of Renong's paid-up capital as at November 5 1997, for a total of RM2.339 billion cash or at an average of RM3.24 per share.

The FIC had on October 24 1997, granted a waiver to UEM and concert parties from making a general offer for Renong shares on the grounds of national interest.

On November 24 1997, CIMB said it was reported in the press that the Government had withdrawn the waiver given to UEM in view of non-compliance with one of the conditions for the waiver.

In granting the waiver given under Rule 34.2 of the Takeover Code, the FIC imposed three conditions for the waiver, one of which was stated in paragraph 2.3 of its letter dated October 24 1997 (in Bahasa Malaysia): "Perolehan ini dihadkan kepada tidak lebih daripada 50 per cent hak mengundi dalam Renong."

CIMB said that UEM understood the condition to mean that it and the parties acting in concert with it were entitled to acquire a further 50 per cent of the shares in Renong and the then existing shareholdings of the parties were not to be taken into account.

However, according to CIMB, the FIC took the view that the 50 per cent should include the then existing shareholding of concert parties, namely Time Engineering Bhd and Halim.

"Having acted in good faith in effecting the 32.6 per cent acquisition on the basis of its (UEM's) interpretation of the said condition and being of the opinion that the condition applied only to the shareholding of UEM, UEM sought clarification from the authorities on the matter," CIMB added.

Halim currently has a 23.2 per cent equity interest in Renong and upon exercise of the put option and assuming that none of the existing Renong shares held by Halim have been disposed of, Halim's equity interest in Renong would increase to 55.8 per cent.

Accordingly, under Rule 34.1 of the Takeover Code, Halim would then be obliged to undertake a mandatory general offer for the remaining Renong shares that he does not own.

In view of the waiver granted by the FIC and based on discussions with the SC, Halim had applied to the SC under PN14 of the Takeover Code for a waiver from the general offer.

Under PN14, in its consideration whether or not to grant a waiver to a person from a general offer, the SC will take into account the following:

- \* Whether the leader of the group acting in concert or the largest individual shareholding had changed and whether the balance between the shareholdings in the group acting in concert has changed significantly.

- \* The price paid for the voting rights acquired.

- \* The relationship between the persons acting in concert and how long they had been acting in concert.

With the acquisition of the Renong shares, Halim, UEM and Time would hold 23.2 per cent, 32.6 per cent and 21 per cent, respectively in Renong. Time and UEM are associated companies of Renong and therefore are parties acting in concert with Halim, who is considered the leader of the group acting in concert.

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