MSWG
MINORITY SHAREHOLDERS WATCH GROUP

The Observer
Official Newsletter from MSWG

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# JUST TOO MANY HATS

*It is common to see board Chairman involved in committee meetings, but their presence may give rise to potential conflict of interest and undue influence during deliberations of committee matters.*

# WHY CHAIRMAN SHOULDN'T SIT ON BOARD COMMITTEES

The pivotal role of the Chairman cannot be understated in corporate governance. As the board's leader, a Chairman is responsible for fostering collaboration and overseeing boardroom conduct and practices that align with corporate governance standards. However, when the chairman becomes directly involved in committee meetings, it can blur the lines of responsibility and create governance concerns.

## *Existing requirements*

The Malaysian Code on Corporate Governance (MCCG) sets clear guidelines to mitigate such conflicts. Practice 1.4 of the MCCG stipulates that the chairman of the board should refrain from holding membership in the Audit Committee (AC), Nomination Committee (NC), or Remuneration Committee (RC). According to the regulator, attending these committee meetings by invitation is also viewed as a departure from this Practice, as it may compromise the independence and objectivity required for effective governance.

Whilst Practice 1.4 only explicitly restricts the board Chairman from chairing the AC, NC or RC, a "substance over form" approach would suggest that the same position should also extend to other board committees instituted by the company, e.g., Risk Committee, Investment Committee, and Tender Committee. This broader application helps prevent potential conflicts and governance issues.

Additionally, this Practice aligns with Paragraph 12.4 of Bank Negara Malaysia's (BNM) Policy Document on Corporate Governance, which clearly outlines that the board Chairman must not chair any board committees.

The board Chairman's involvement in any board committee may induce risks of self-review and compromise the objectivity required when deliberating the board committees' observations and recommendations. The Chairman should refrain from participating in these committees to uphold adequate checks and balances.

These guidelines complement the segregation of roles between Chairman and Chief Executive Officer (CEO), as outlined in Practice 1.3 of MCCG and Paragraph 11.3 of BNM's Corporate Governance Policy. The board's Chairman must not be an executive or have not served as the financial institution's CEO in the past five years.

This requirement is not unique to Malaysia but is practised globally. For example, the UK Corporate Governance Code, updated in January 2024, reinforces these principles. It advises that the board chairman should not be a member of AC and should not chair the NC when appointing his successor. Furthermore, the Chairman may only be a member of the RC if he is independent at the time of his appointment, but he cannot chair this committee either.

This consistent guidance across multiple governance frameworks highlights the importance of safeguarding independence and avoiding conflicts of interest in board leadership.

### *Why it matters?*

Ensuring the integrity and effectiveness of the boardroom is paramount for sound corporate governance. The separation of the Chairman from board committees is crucial to achieve this.

The importance of this approach lies in the factors below:

- **Risk of self-review:** When the same individual serves as both Chairman of the board and Chairman of key committees such as the Audit, Nomination, or Remuneration Committee, it creates a risk of self-review, potentially compromising the Chairman's objectivity and the board's decision-making process. To safeguard the integrity of board deliberations and maintain a robust system of checks and balances, the Chairman should not chair these committees. Instead, the Chairman should hear the committee's recommendations for the first time during board meetings, as this enhances objectivity, removes potential bias, and ensures an independent and impartial review.

- **Potential conflict of interest**: The Chairman may have vested interests in certain outcomes, which could bias the committee's decisions. This potential conflict of interest can undermine the committee's ability to make impartial and objective decisions that prioritise the company's best interests.

- **The presence of the dominant Chairman**: The Chairman's presence in committees may stifle open discussion and discourage the expression of diverse viewpoints. A domineering Chairman may suppress innovation and critical thinking, as committee members may feel intimidated or reluctant to voice differing opinions.

- **Time commitment**: Juggling attendance between multiple committees requires significant time and focus. If the Chairman is spread too thin, they may be unable to dedicate sufficient attention to each committee, which could impair the overall decision-making process.

- **Ineffectiveness**: Extending the Chairman's involvement across various roles may dilute his ability to juggle his primary duties and committee responsibilities.

### *It is challenging to adopt for some …*

Companies with a small board size often require the Chairman's involvement in board committees, as each committee typically requires at least three members. These companies may find it challenging to exclude the Chairman from these roles, mainly if the Chairman is an independent director.

Additionally, companies with an Executive Chairman who also plays the role of the company's Managing Director or Chief Executive Officer will find it hard not to participate in the meeting as he or she will be representing the management to table the board papers.

We also noted a situation where the board Chairman attended the board committee meetings to facilitate leadership transition. For instance, the Executive Chairman of Hexza Corporation Berhad was invited to participate in NC and RC meetings to ensure a smooth transition for the newly appointed Group CEO.

### *MSWG's observations*

Our data shows that 179 (38%) of the 470 companies in 2023 did not adopt Practice 1.4 of MCCG, compared to 375 (42%) out of 883 companies in 2022[1].

The common justification for their departure from this Practice is the perceived value of the Chairman's contributions. Many companies argue that their Chairmen have provided valuable insights and contributions during board and committee meetings, thus retaining the chairman's involvement at the committee level.

## What did they say ….

*(excerpt from the PLCs CG reports)*

*"The Chairman's participation at the committee level should be determined by his ability to contribute and participate, as much as the need for objectivity. The Board also believes that the objectivity in receiving or assessing committee reports has not been diminished."*

*"The Chairman is the most isolated person among board members and without the benefit of attending committee meetings, the chairman has limited access to information and the benefits of the detailed deliberations and discussions at the Committee stage, the Chairman's presence at committee meetings therefore allows him the opportunity to certify and validate certain matters of the company to fulfil his fiduciary duties."*

*"… for efficiency purposes to enable the Chair of the Board to have the benefit of hearing the deliberations held to understand the rationale of recommendations made by these Board Committees, without having the same discussion points repeated at Board meetings. This approach makes effective use of all of our Directors' valuable time to facilitate quicker Board discussions."*

[1] *PLCs with FYE 31 January 2023 to FYE 31 December 2023 that announced their Corporate Governance Report by 31 March 2024, were included in our review for the 2023 data. PLCs with a fiscal year ending on 31 December 2023, that announced their CGR from 1 April 2024 onwards were not included in the data collection.*

Additionally, these companies believe their Chairmen have consistently demonstrated objectivity and professionalism in deliberating board matters, ensuring their recommendations and observations are well-founded and impartial.

Some companies also argue that sufficient safeguards are in place to maintain checks and balances when the board chairman participates in committee meetings, either as a member or an invitee. A common justification is that the Chairman abstains from deliberations and voting on matters where they have an interest, thus mitigating potential conflicts of interest.

### *MSWG's questions to PLCs*

During a recent virtual AGM, we raised concerns with Company H about their departure from Practice 1.4 of the MCCG. Although the Company's Independent Non-Executive Chairman was not a member of AC, NRC and Risk Management Committee, he regularly attended these meetings by invitation.

In its Corporate Governance Report, the Company explained that this practice was intended to streamline decision-making by eliminating the need for briefings during board meetings, leading to more efficient, informed, and balanced outcomes.

While the Board acknowledges our comments and the requirements of the Practice, it justified that the Chairman has limited access to information without the benefit of attending committee meetings. His presence at committee meetings, they argued, allows him to better certify and validate board matters, enabling him to fulfil his fiduciary duties more effectively.

During the AGM, MSWG questioned the Board committee's decision to invite the Chairman, a former regulator, to join the committee meetings. This was particularly notable given that the Chairman himself had previously established the guideline that the Chairman of the board should not sit on the board committees, and his current presence at these committee meetings appeared to contradict the standards he had once enforced. The Company responded, *"... while guidelines suggesting that a Chairman should not serve on these committees may be appropriate in situations where the Chairman is also a major shareholder, reconsideration is needed in cases where the Chairman is non-executive and independent."*

### *Time to make a change*

We strongly urge PLCs to adopt Practice 1.4 as a critical measure to safeguard the independence of board committees, minimise conflicts of interest, and ensure a clear distinction between governance and oversight roles. When the same individual serves as both Chairman of the board and Chairman of key committees such as the Audit, Nomination, or Remuneration Committees, it poses a significant risk of self-review. This dual role may diminish the Chairman's objectivity, creating the potential for bias and impairing the quality of the board’s deliberations on matters crucial to the company’s governance. The involvement of the Chairman in these committee processes may lead to an undue concentration of power, undermining the checks and balances essential for effective corporate governance. To preserve the integrity of the board’s oversight, the Chairman must remain independent from these committees, thereby ensuring more impartial and robust decision-making.

By excluding the Chairman from chairing these committees, PLCs can strengthen internal governance mechanisms, preventing individuals from wielding excessive influence over crucial decisions that impact the company’s strategic direction and performance. This separation allows the Chairman to encounter the committee’s recommendations for the first time during board meetings, which not only enhances objectivity but also removes the risk of pre-emptive bias or perceived conflicts of interest. This fresh perspective contributes to more transparent and balanced discussions at the board level, as the Chairman can evaluate matters with an independent viewpoint that has not been influenced by prior involvement in committee deliberations. In turn, this promotes a culture of fairness, where governance is led by a broader range of voices and not overly dominated by any single individual.

Furthermore, excluding the Chairman from committee meetings fosters a diversity of perspectives within the committees themselves. Including various viewpoints is critical for ensuring that discussions are well-rounded, unbiased, and reflective of different expertise and insights. The independence of these committees allows them to operate without undue pressure, leading to more thorough and balanced evaluations of issues related to audit, nominations, and remuneration. When committee members are free to express their viewpoints without the presence of the Chairman, it cultivates a governance environment where decisions are made based on merit and collective wisdom rather than being influenced by hierarchical dynamics.

Ultimately, embracing these governance practices will contribute to the establishment of a more effective and independent board structure. By reinforcing the separation of roles, PLCs can enhance transparency and accountability, ensuring that governance decisions are made in the company's and its shareholders' best interest. This strengthens investor confidence and aligns with global corporate governance best practices, positioning PLCs to achieve sustainable growth and long-term success in an increasingly complex business landscape.

**[END]**

# MSWG HIGHLIGHTS

## MSWG ENGAGES WITH CLIMATE GOVERNANCE MALAYSIA ON CLIMATE CRISIS

MSWG recently engaged in a critical dialogue with Climate Governance Malaysia (CGM). CGM presented the latest developments on the escalating climate crisis and highlighted key concerns that shareholders should be aware of. CGM was represented by Datin Seri Sunita Rajakumar, Chairperson CGM, and was joined by Council members Ar. (Dr.) Serina Hijjas and Rizal Ishak. CGM also shared their perspective on how companies and their shareholders can address the pressing issue of climate governance.


CGM, the Malaysian chapter of the World Economic Forum's Climate Governance Initiative, is a network of non-executive directors dedicated to acquiring the practical skills necessary to serve as long-term stewards of businesses. The aim is to help steer companies through effective climate transition strategies that account for financial stability, increased resilience, and sustainability.

During the meeting, MSWG analysts shared their observations, particularly regarding how companies responded to climate-related issues at general meetings. This exchange of insights is part of MSWG's ongoing efforts to hold companies accountable for their climate-related actions.

As part of MSWG’s commitment to this agenda, we identified the climate crisis as a key thematic question in 2024, posing specific queries to all 450 listed companies under its analysis on how they are mitigating climate risks.

This dialogue marked an important step in MSWG’s broader climate governance strategy. MSWG remains committed to championing the climate agenda, ensuring that companies prioritise the climate crisis in their decision-making processes.

## MSWG CEO ATTENDS THE EDGE'S "*BEHIND THE STORIES*" BOOK LAUNCH

MSWG's CEO Dr Ismet Yusoff was honoured to be invited to the launch of the book "*Behind the Stories*". The book was jointly launched by the Sultan of Selangor, DYMM Sultan Sharafuddin Idris Shah Al-Haj Ibni Almarhum Sultan Salahuddin Abdul Aziz Shah Al-Haj, and the Sultan of Perak, DYMM Sultan Nazrin Muizzuddin Shah ibni Almarhum Sultan Azlan Muhibbuddin Shah Al-Maghfur-Lah. The gathering also attracted corporate leaders, underscoring the book's importance in fostering meaningful dialogue within Malaysia.

*Behind the Stories* serves as a catalyst for discussions on the pressing need for inclusive political and economic reforms in Malaysia, reflecting aspirations for unity and progress within the nation.

MSWG extends its heartfelt congratulations to The Edge Malaysia on the successful launch of the book and its momentous 30th anniversary. The publication's unwavering commitment to quality journalism and its role in delivering truthful and fair reporting is vital for cultivating an informed society. This celebration not only marks a significant milestone for The Edge Malaysia but also highlights the crucial role of journalism in promoting transparency and accountability across the nation.

*Extract from Options, The Edge Malaysia Weekly (7 October 2024)*

# MSWG WEEKLY WATCH 14 – 18 OCTOBER 2024

The following are the AGMs/EGMs of companies on the Minority Shareholders Watch Group's (MSWG) watch list for this week.

The summary of points of interest is highlighted here, while the details of the questions to the companies can be obtained via MSWG's website at www.mswg.org.my.

### QUICK-TAKE

| Date & Time | Company | Quick-take |
|---|---|---|
| 14.10.24 (Mon)<br>10.00 am | Capital A Berhad<br>(EGM) | The Company proposed to undertake the disposal of 100% equity interest in AirAsia Aviation Group Limited (AAAGL) and AirAisa Berhad (AAB) to AirAsia X Berhad, for a consideration of RM3,000 million and RM3,800 million, respectively ("Proposed Disposal").<br><br>Pursuant to the proposed disposal of AAAGL, a total of approximately 1.69 billion AAX shares will be distributed to the entitled shareholders of the Company. |
| 16.10.24 (Wed)<br>10.00 am | Kein Hing International Berhad<br>(AGM) | The Group's revenue decreased by 11% y-o-y to RM298.6 million (FY2023: RM334.9 million), mainly attributed to weak customer demand for parts used in TV and printer products.<br><br>In tandem with the lower revenue, the Group achieved a lower net profit of RM16.0 million compared to RM24.9 million in the previous year.<br><br>Nevertheless, the Group has observed steady growth in part sales to automotive customers, increasing from RM53.5 million to RM81.3 million in the past 2 years. Sales to the segment now represents 27% of total revenue in FY2024. |

| Date & Time | Company | Quick-take |
|---|---|---|
| 17.10.24 (Thur)<br>10.00 am | Syarikat Takaful Malaysia Keluarga Berhad<br>(EGM) | Syarikat Takaful Malaysia seeks shareholders' approval in this EGM for a proposal to establish a dividend reinvestment plan that will provide its shareholders an option to reinvest their cash dividend into shares of the Company. |
| 18.10.24 (Fri)<br>10.00 am | BM Greentech Berhad<br>(EGM) | BM GreenTech (BMG) has proposed to acquire a 100% equity interest in Plus Xnergy Holding Sdn Bhd (PXH) for RM110 million. The acquisition will be fully funded by the issuance of 81.48 million new shares at an issue price of RM1.35 per share. It also proposed the issuance of 90.31 million new shares to QL Resources Berhad (QL) at RM1.35 per share to ensure that BMG remains a subsidiary of QL after the proposed acquisition of PXH. Lastly, the Company has proposed a bonus issue of 1 warrant for every 4 existing shares held by shareholders. |

## POINTS OF INTEREST

| Company | Points/Issues to Be Raised |
|---|---|
| Capital A Berhad (EGM) | *"Our Board intends to maintain the listing status of our Company on the Main Market of Bursa Securities and will endeavour to take the necessary steps to maintain an adequate level of operations through our aviation services, logistics, digital and brand management businesses ("Retained Segments")."* (Page 19 of the Circular)<br><br>AAAGL Group and AAB Group recorded RM1.14 billion and RM3.62 billion of PATAMI for the FYE 2023 respectively. (Pages 25 and 26 of the Circular)<br><br>*"Further, we noted that the Retained Segments of the Group in aggregate generated PAT of RM91.40 million for the FYE 31 December 2023"* (Page 85 of the Circular)<br><br>*"After the completion of the Proposed Disposals, our Company will cease to consolidate the earnings or losses of AAAGL Group and AAB Group."* (Page 49 of the Circular) |

| Company | Points/Issues to Be Raised |
|---|---|
| | (a) Please elaborate on how the RM91.40 million PAT from the Retained Segments will be sufficient to replace the profitability gap left by the disposal of AAAGL and AAB?<br><br>(b) Will additional capital investments be necessary to enhance the performance of the Retained Segments? If so, what is the expected amount of such investments?<br><br>How soon are the Retained Segments expected to generate sufficient cash flow to repay the remaining debts? |
| Kein Hing International Berhad (AGM) | The Group reported a revenue of RM298.6 million for FY2024 as compared with RM334.9 million achieved last year, representing a decline of RM36.3 million which is largely contributed by decrease in sales of parts used in components & devices and home appliances (Page 21 of AR2024).<br><br>Does the Board anticipate the demand for parts used in components & devices and home appliances to remain sluggish for the coming year? |

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MINORITY SHAREHOLDERS WATCH GROUP

**18 NOVEMBER 2024 | MONDAY**

**9.00 AM - 5.00 PM**

**AVANTÉ HOTEL, PETALING JAYA**

1 DAY COURSE

HRD CORP CLAIMABLE

| Registration Fee | Early Bird (Before 16 August 2024) |
| --- | --- |
| **RM1800** | **RM1600** |
| | Group of 2 or more |
| | **RM1600** |

All prices are subject to any applicable government tax.

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**NSRF MANDATORY BEGINING 2025**

## Undertanding the new
# National Sustainability Reporting Framework

*Learn how the new requirements of IFRS S1 and IFRS S2 impact your corporate reporting obligations*

### Programme Overview

On 24 September 2024, the Securities Commission Malaysia announced implementation of the National Sustainability Reporting Framework (NSRF) It mandates IFRS Sustainability Disclosure Standards for listed and large non-listed companies. The framework aims to enhance transparency, accountability, and business resilience, aligning with the nation's sustainability goals. Compliance will be phased, starting in 2025 for large Main Market issuers, extending to others by 2027. Climate disclosures, aligned with TCFD recommendations are fully integrated into the ISSB standards.

**Part 1 | 9:00 am – 10:30 am**

**Developments in the International Sustainability Reporting Landscape**

- Commonly Adopted Sustainability Reporting Frameworks
- How the ISSB was Formed and Global Adoption Trends
- Adoption of the ISSB Standards in a Phased Manner for Malaysia
- Design and Applicability of the Standards:
  - IFRS S1 - General Requirements for Disclosure of Sustainability-Related Financial Information
  - IFRS S2 - Climate-Related Disclosures
- Future Developments in the Pipeline

**Part 2 | 11:00 am – 12:30 pm**

**IFRS S1 - General Requirements for Disclosure of Sustainability-Related Financial Information**

- Objective & Scope
- Conceptual Foundations
  - Materiality
  - Reporting Entity
- Sources of Guidance
  - SASB Standards
  - GRI
  - ESRS
- Statement of Compliance
- Treatment of Errors

**Part 3 | 2:00 pm – 3:30 pm**

**IFRS S2 - Climate-Related Disclosures**

- TCFD 101 as a Foundational Base for ISSB S2
  - Climate Risks: Physical and Transition Risks
  - Governance, Strategy, Risk Management, Metrics and Targets
- IFRS S2
  - Objective, Scope, Core Content, Application Guidance

**Part 4 | 3:45 pm – 5:00 pm**

**Reliefs - Proportionality and Scalability Mechanism, Transitioning to an ISSB Report and Other Developments**

- Without Undue Cost or Effort
- Consideration of Skills, Capabilities and Resources
- What Would an ISSB Report Look Like Versus the Current Sustainability Report Format(s)
- Assurance of Sustainability Report

### Trainer's Profile

**San Mei Kim**

Mei Kim is a sustainability trainer. Prior to this, she was the former Sustainability Lead, Corporate Governance and Sustainability with the Regulation function at Bursa Malaysia. She co-led the development of key sustainability-related initiatives for the Malaysian capital market. This includes putting in place enhancements to Bursa Malaysia's Sustainability Reporting Framework (consisting of the listing requirements, sustainability reporting guides and related toolkits) as well as capacity building initiatives for public listed companies.

She is a GRI Certified Sustainability Professional and holds a Master in Sustainable Development Management from the Jeffrey Sachs Centre (Sunway University). She is also a member of the Association of Chartered Certified Accountants (ACCA), Association of Certified Fraud Examiners (ACFE) and the Malaysian Institute of Accountants (MIA).