



# The Observer

10.05.2024

## ❖ Navigating the role of chairman to safeguard corporate governance

In the intricate landscape of corporate governance (CG), a chairman is a beacon of leadership, guiding the board through the complexities of decision-making and oversight.

However, board chairmen may sometimes fall short of fulfilling their duties. They may be found dereliction of duties in the following forms:

**Communication lapses:** The primary role of a chairman is to preside over board and general meetings and ensure the smooth functioning of the board in the interest of good corporate governance.

However, instances have arisen where chairmen exhibit a lack of awareness regarding director attendance, as evidenced in a recently held extraordinary general meeting (EGM) where shareholders were left uninformed about absent directors, including an executive director (ED).

The chairman appeared clueless when queried by shareholders and could not explain their absence satisfactorily. Moreover, the attendance of board meetings by the ED was unsatisfactory at 60%. Directors are expected to devote sufficient time and attention to perform their fiduciary duties as directors of a company. A hectic schedule should not serve as a justification for their absence from board meetings, considering that meeting dates are usually scheduled well in advance at the outset of the year.

Such occurrences raise concerns about accountability and highlight the importance of clear and concise communication in fostering collaboration and alignment among board members.

**Suppression of shareholders' rights:** General meetings are crucial forums for shareholders to query the board of directors and hold them accountable for their decisions and policies. Therefore, it is important that shareholders are given the chance

### KEY HIGHLIGHTS

- A board chairman is the custodian of governance, plays a pivotal role in shaping the board's trajectory and upholding the principles of integrity, transparency, and accountability.
- However, board chairmen may sometimes fall short of fulfilling their duties in the forms of communication lapses, suppression of shareholders' rights and going overboard in performing their duties.

to speak out and discuss the decisions of the board which have direct bearing over the shares held by them.

Unfortunately, some PLCs were found curtailing minority shareholders' participation by prematurely ending the questions and answers (Q&A) session or bypassing shareholder inquiries altogether.

For instance, a PLC cited directors' hectic travelling schedules for cutting the Q&A session short. Later, the PLC was found to have squeezed multiple agendas, including investors' briefings, press conferences and the AGM within the same day.

In another AGM held by a local hard disk driver player, its board chairman bulldozed the meeting without allowing questions from shareholders. Although we received comprehensive responses for questions raised during sideline discussions, the inability to share these insights during the AGM undermines the essence of general meetings, which are intended as platforms for constructive dialogue and open discourse.

Addressing shareholder queries during AGMs is integral as it demonstrates transparency and accountability of a company. It is incumbent upon the chairman to facilitate a conducive environment that allows the expression of views and effective debate. The failure to effectively facilitate a general meeting deprives shareholders of valuable opportunities to engage with directors and voice concerns.

**Overboarding:** The issue of overboarding, wherein chairmen hold multiple committee positions, poses inherent risks to governance integrity. The Corporate Governance Monitor 2022 found that about half of the 869 companies it assessed have departed from Practice 1.4 of the Malaysian Code on Corporate Governance (MCCG), which states that a board chairman should refrain from being a member of the Audit Committee, Nomination Committee and Remuneration Committee.

One of the justifications for PLCs' departure from the said Practice is having a small board, and that the chairman does not chair the committee meeting should alleviate the concern of his independence. Such practice poses risks of self-review and erosion of objectivity in the discussions at the board level.

On the other hand, there are instances of board chairmen attending committee meetings as observers. While participation as an observer in committee meetings may seem benign, it can inadvertently stifle open discourse and hinder effective communication among committee members.

To maintain governance integrity and foster impartial decision-making, the board chairman should neither be a committee member nor join the meetings as an observer.

### **Impact on corporate governance**

A board chairman, as the custodian of governance, plays a pivotal role in shaping the board's trajectory and upholding the principles of integrity, transparency, and accountability that lie at the heart of effective governance.

The repercussions of these challenges extend beyond the boardroom, impacting crucial aspects of corporate governance. The instances of communication lapses and

suppression of shareholder rights can erode trust among stakeholders, leading to reputational damage and diminished confidence in the organisation's leadership.

Addressing these challenges requires concerted efforts. By acknowledging the issue, implementing proactive measures, and fostering a culture of communication and accountability, organisations can navigate these challenges and steer towards a future of strengthened governance and sustainable growth.

**By MSWG team**

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### MSWG AGM/EGM Weekly Watch 13 – 17 May 2024

For this week, the following are the AGMs/EGMs of companies in the Minority Shareholders Watch Group's (MSWG) watch list.

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](http://www.mswg.org.my).

Date & Time	Company	Quick-take
15.05.24 (Wed) 09.30 am	Apex Healthcare Berhad (AGM)	<p>AHEALTH achieved its 23rd consecutive year of growth, with revenue increased by 6.7% to a new record high of RM 936.2 million in FY2023 amidst the challenging backdrop of slowing economic growth and persistent inflation affecting operating costs.</p> <p>Its net profit increased by 294% to RM398.0 million compared to RM101.0 million in FY2022, mainly due to a non-recurring gain of RM 321.7 million from the effective divestment of 60% equity in Straits Apex Sdn Bhd.</p>
15.05.24 (Wed) 10.00 am	Tex Cycle Technology (M) Berhad (AGM)	<p>Tex Cycle's revenue increased by 8% y-o-y to RM35.09 million, driven by heightened demand in the Recycling and Recovery Division due to economic recovery.</p> <p>Its profit before taxation rose to RM19.31 million (FY2022: RM12.99 million), while net profit climbed to RM15.74 million (FY2022: RM9.74 million) mainly due to the gain on disposal of investment property of RM9.42 million.</p>
15.05.24 (Wed) 02.30 pm	Zhulian Corporation Berhad (AGM)	<p>In the face of recent challenges, the Group's revenue dropped by 2.8% from RM136.2 million in FY2022 to RM132.4 million in FY2023, of which 23% of the total revenue was generated from the local market and 76% was from export revenue.</p>

Date & Time	Company	Quick-take
		<p>Its net profit declined by 24% to RM29.2 million compared to the preceding year. Excluding a one-off gain on the disposal of Indonesian land in FY2022, the Group maintained a satisfactory performance in FY2023.</p>
<p>16.05.24 (Thur) 09.30 am</p>	<p>Heineken Malaysia Berhad (AGM)</p>	<p>The Group's revenue decreased by 8% to RM2.64 billion, mainly due to weak consumer sentiment. After posting a strong rebound in FY2022, the Group deemed the FY2023 performance as a form of market correction.</p> <p>The Group's profit before tax declined by 14% to RM510.88 million, primarily due to lower revenue. Comparatively, the Group's net profit for the year only decreased by 6% to RM386.80 million due to the absence of the one-off prosperity tax in FY2023.</p>
<p>16.05.24 (Thur) 10.00 am</p>	<p>Bank Islam Malaysia Berhad (AGM)</p>	<p>The Bank has performed well in FY2023 with a 12.5% increase in net profit to RM553.1 million (FY2022: RM497.1 million). Accordingly, EPS and net Return on Equity (ROE) for the Group have improved to 24.57 sen and 7.8%, respectively, for FY2023.</p> <p>The Bank managed to contain its cost well, which resulted in a slower-than-industry expansion in cost-to-income ratio (CIR) to 60.9% from 59.8% in FY2022.</p> <p>On the other hand, asset quality remains robust with improved gross impaired loan ratio and loan loss coverage ratio. It rewarded shareholders with higher dividend of 16.8 sen in FY2023 compared to 13.8 sen in FY2022.</p>
<p>16.05.24 (Thur) 02.30 pm</p>	<p>Maxis Berhad (AGM)</p>	<p>The Group's total revenue grew 4.0% to RM10.18 billion for FY2023, which was mainly driven by the growth of service revenue and device revenue.</p> <p>The Group's net profit in FY2023 was lower at RM992 million (FY2022: RM1.15 billion), due to one-off items such as the depreciation acceleration, write-offs of assets and one-off tax settlement.</p>

Date & Time	Company	Quick-take
		Excluding the one-off items, its adjusted net profit in FY2023 was RM1.35 billion.
17.05.24 (Fri) 09.00 am	P.I.E. Industrial Berhad (AGM)	For FY2023, the Group's revenue increased 4.4% to a new all-time high of RM1.2 billion. The increase was mainly due to higher orders received from new and existing customers in the EMS segment. Meanwhile, profit before tax increased 9% to RM89.5 million in FY2023, mainly due to an increase in revenue (RM51.6 million) and higher gain on foreign exchange (RM23.4 million). The Group is optimistic of achieving even higher revenue in FY2024.
17.05.24 (Fri) 10.00 am	PPB Group Berhad (AGM)	PPB achieved total revenue of RM5.72 billion, 9% lower than FY2022. This was mainly attributable to the lower revenue contribution from the divested Indonesia flour operations. Meanwhile, its pre-tax profit decreased by 34% to RM1.49 billion, mainly due to the lower contribution from Wilmar by 38% at RM1.30 billion.

Points of interest:	
Company	Points/Issues to Be Raised
Apex Healthcare Berhad (AGM)	<p>1. Practice 1.3 of the Malaysian Code on Corporate Governance 2021 advocates a separation of the positions of the chairman and Chief Executive Officer (CEO) in order to promote accountability and facilitate the division of responsibilities between them. A chairman leads the board in overseeing the management team, including deciding on the appointment, compensation and replacement of CEO, while the CEO focuses on the business and day-to-day management of the company. As such, a separation of the roles of the chairman and the CEO increases the board's independence from management and thus leads to better monitoring and oversight.</p> <p>On page 7 of the Corporate Governance Report 2023, the Company states that it has departed from Practice 1.3 and the functions of Chairman and CEO are currently combined. What measures have been put in place to ensure the independence of the board in overseeing the management team especially since the chairman who leads the board is also the CEO of the Company?</p> <p>2. In the Sustainability Statement, actual data are provided for each sustainability pillar (i.e., economic, environment, social, and governance), but specific key performance indicators (KPIs) and targets for sustainability matters are not included. The inclusion of KPIs, and targets will</p>

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	<p>enhance the message and facilitate a better understanding of the Group's approach in sustainability matters.</p> <p>What are the key targets and the performance indicators for each sustainability matter?</p>
<p>Tex Cycle Technology (M) Berhad (AGM)</p>	<ol style="list-style-type: none"> <li>1. Tex Cycle Sdn. Bhd. ("TCSB"), the subsidiary of Tex Cycle has entered into a joint venture agreement with Culzean Generation Ltd. and formed a joint venture company, named Culzean W2E Ltd. ("Culzean"). TCSB has 50% control over Culzean, a UK incorporated company with the principal activity of electricity production. However, Culzean has yet to commence its operation at the end of the financial year. (page 88 of AR2023) <ol style="list-style-type: none"> <li>a) Why in 2023, Culzean disposed of two of its subsidiaries, Barbican Power Ltd. and Holborn Energy Ltd., to a third party (page 88 of AR2023)? How will it affect TCSB's joint venture investment in Culzean going forward?</li> <li>b) Please update shareholders on the status of Culzean's commencement of operations.</li> </ol> </li> <li>2. The Company's investment in quoted shares, unit trusts and Perpetual Medium-Term Notes issued by Chin Hin Group Berhad totals approximately RM60 million, which is 34% of Tex Cycle's total assets. Why is the Company using 34% of its cash for non-core business?</li> <li>3. Mr. Lee, the Executive Director of Tex Cycle is also the non-independent non-executive director of Solarvest Holdings Berhad. While Datuk Low Chin Koon, the Independent Non-Executive Director of Tex Cycle ("Datuk Low") is also the independent non-executive director of Mestron Holdings Berhad. (pages 4 &amp; 5 of AR2024) <p>Another venture by the Group would be to diversify its renewable energy portfolio by targeting the Solar Energy sector, of which the Group had established a joint venture company named EFS MYSolar Sdn. Bhd., 70% owned by Tex Cycle and 30% held by its joint venture partner (page 21 of AR2023). Further, the Group's latest venture is to construct and operate a biogas-to-energy plant. (page 22 of AR2023)</p> <p>Given that Solarvest Holdings Berhad is in the solar energy industry and Mestron Holdings Berhad has a renewable energy segment that is involved in solar and biogas renewable energy projects, please comment on the perceived conflict of interest for Mr. Lee and Datuk Low,</p> </li> </ol>

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	<p>who are also directors of Tex Cycle. How does the Board manage such perceived conflict of interest?</p>
Zhulian Corporation Berhad (AGM)	<p>1. Over the last five financial years, there has been a declining trend in both gross revenue and profit after taxation from continuing operations. (Page 2 of Annual Report "AR 2023")</p> <p>What were the reasons for the deteriorating financial performance? What measures has the Management taken to address the declining trend? What is the outlook for FY 2024?</p> <p>2. ZHULIAN's operations in the Cambodia market, overseen by its Thai associate, made a significant contribution of 6% to the Group's overall revenue in 2023. Notably, the distributors in Cambodia exhibited continued enthusiasm for its business model, as evidenced by the astonishing turnout of nearly 2,000 participants at the Zhulian Global International Convention held during the year. (Page 25 of AR 2023)</p> <p>Will ZHULIAN's operations in the Cambodia market be a very significant contributor similar to the Thai market in the near future? What is the outlook for the Cambodian market in FY 2024?</p>
Heineken Malaysia Berhad (AGM)	<p>1. The Group recorded a profit after tax ("PAT") of RM386.80 million in FY 2023, representing a decrease of 6.30% compared to a PAT of RM412.82 million in FY 2022 with dividend payout ratio for the year of approximately 100%.</p> <p>Capital expenditure for FY2023 decreased by 28% to RM143 million, mainly due to lower spending incurred.</p> <p>(Page 21 of Annual Report 2023 "AR2023") \</p> <p>With a decline in net profit recorded for FY2023, how does the Company plan to balance dividend payouts with the need for capital expenditure to support future growth, especially considering the decreased capital expenditure in FY 2023?</p> <p>2. The remuneration of the Managing Director, Roland Bala, has increased from RM6.06 million in FY 2022 to RM6.93 million in FY 2023.</p> <p>What performance metrics or achievements justified the increase in the Managing Director's remuneration from RM6.06 million in FY 2022 to RM6.93 million in the financial year 2023?</p>



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Bank Islam Malaysia Berhad (AGM)	<p><u>Operational &amp; Financial Matters</u></p> <p>1. Under the five-year LEAP25 (2021 – 2025) strategic blueprint, BIMB sets its eyes on several profitability targets such as:</p> <ul style="list-style-type: none"> <li>- Sustain superior industry ROE &gt;15%</li> <li>- Increase non-fund-based income (NFBI) contribution</li> <li>- Reduce cost-to-income ratio (CIR) to &lt;50%</li> </ul> <p>a) The targets above seem stretched based on BIMB's FY2023 ROE and CIR of 7.8% and 60.9%, respectively. Is the Group on track to achieve these targets?</p> <p>Please explain the basis of setting these targets then and how the operating environment has evolved since then.</p> <p>b) In FY2023, the Group's net income rose 7.2% to RM2.5 billion, up from RM2.3 billion the previous year. This increase was significantly propelled by a 76% (or RM175.5 million) surge in non-fund-based income (NFBI) to RM406.6 million (FY2022: RM231.1 million) (page 62 of IAR2023).</p> <ul style="list-style-type: none"> <li>i. However, NFBI is inherently volatile as it is mainly driven by fees and commissions, gains and losses from trading activities and foreign exchange transactions. How does BIMB plan to grow the NFBI?</li> <li>ii. BIMB's NFBI ratio of 9% as of FY2023 was lower than the low double digits recorded by industry peers of similar size. What is the optimal contribution ratio BIMB is looking at?</li> </ul> <p>c) After posting two consecutive years of decline in NIM, are we going to see a recovery in margin this year? What are the factors that will drive margin growth?</p> <p>d) The combination of lower NIM and higher operating costs in FY2023 has led to a slight deterioration in CIR to 60.9% (FY2022: 59.8%). What will it take to achieve the 50% CIR target?</p> <p>e) The Bank has outlined a three-year cost management initiative, CORE, to further manage costs and expenses. What does the initiative entail? Which areas will likely face cost rationalisation?</p> <p><u>Sustainability Matters</u></p>



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	<p>1. The Group's sustainability strategy and roadmap outlined a commitment to mitigate exposure to high sustainability risk sectors by FY2030 (page 100 of IAR2023).</p> <p>a) Has the Bank formalised a framework to perform sustainability and climate-related due diligence during clients' onboarding process? If yes, what criteria does the framework entail?</p> <p>b) What are the sectors with high sustainability risk identified by the Bank? What is the concentration of financing exposure to these sectors?</p> <p>c) How is the pipeline and progress of reducing the financing exposure to these high sustainability sectors?</p> <p>Moving forward, please consider disclosing more about your efforts to mitigate the exposure to high sustainability risks sectors to allow stakeholders to better assess your sustainability efforts.</p>
Maxis Berhad (AGM)	<p>1. "We had to navigate the fast-changing telecommunications sector landscape, which included regulatory changes to the 5G network model and service pricing, a mobile market that is near saturation, shifts in consumers' needs, as well as the consolidation of key players." (Page 4 of the Integrated Annual Report 2023 "IAR2023")</p> <p>"In 2023, we embarked on a three-year cost optimisation programme focused on rightsizing the organisation. It is critical for us to rebase our costs so that we are well-positioned for future opportunities." (Page 7 of the IAR2023)</p> <p>"The implementation of a new Mandatory Standard of Access Pricing (MSAP) with lower broadband prices." (Page 17 of the IAR2023)</p> <p>a) With the three-year cost optimisation program underway, please provide an update on the progress made so far and how it is expected to improve the Company's competitive position in the long term.</p> <p>b) Given the fast-changing telecommunications landscape and the challenges highlighted in the IAR2023, please elaborate on specific strategies to maintain and/or grow market share in a saturated mobile market and ensure long-term sustainability.</p> <p>2. In reply to MSWG for the Company's 14th AGM, Maxis stated that it is currently focused on establishing a</p>

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	<p>baseline, which will serve as a solid platform to identify concrete environmental goals, KPIs, and targets moving forward.</p> <p>What progress has been made regarding environmental initiatives? When is the projected completion date for establishing a baseline?</p>
P.I.E. Industrial Berhad (AGM)	<p>On April 19, PIE announced that its wholly-owned subsidiary, Pan-International Electronics (Malaysia) Sdn Bhd (PIESB), had, on 31 March 2024, secured an overseas manufacturer specialising in servers and switches. The PIESB plant, with a build-up area of 280,000 sq ft, will be allocated entirely to the manufacturer. Pilot production is scheduled to commence by the end of 2024, while mass production is slated to begin in 2025.</p> <p>Then, on April 23, PIE further announced that the expected revenue from this customer is RM1 billion for FY2025 and RM1.5 billion for FY2026.</p> <ol style="list-style-type: none"> <li>1. From March 31 to April 18, the share price of PIE increased by a whopping 56%, from RM3.56 to RM5.57. The most significant increase was few days prior to the announcement to Bursa – from April 16 and April 18 – up 47% from RM3.80 to RM5.57. The Group secured this customer on March 31. Why does it take the Group such a long time (more than two weeks) to announce this material information to the public?</li> <li>2. Why does the Group make a further announcement on April 23 regarding the expected sales from the same customer? Is the Group not aware of the expected sales prior to the first announcement on April 19?</li> </ol> <p>Under Chapter 9.03 (2) of the Main Market Listing Requirements, information is considered material, if it is reasonably expected to have a material effect on - (a) the price, value or market activity of any of the listed issuer's securities; or (b) the decision of a holder of securities of the listed issuer or an investor in determining his choice of action. Hence, material information must be announced immediately to prevent issues like insider trading and front running. Such information will also help minority shareholders make informed investment decisions.</p>
PPB Group Berhad (AGM)	<p>Under Practice 5.3 of the Malaysia Code on Corporate Governance ("MCCG"), it is stated that if the board intends to retain an independent director beyond 9 years, it should provide justification and seek annual shareholders' approval through a two-tier voting process.</p>

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	<p>Resolution 6 is to approve the continuation of Mr. Soh Chin Teck as an independent director until 8 October 2024 and Resolution 7 is to approve the continuation of Encik Ahmad Riza bin Basir as an independent Director until the conclusion of the next annual general meeting (AGM) of the Company. The notice of the 55th AGM states that shareholders' approval for Resolutions 6 and 7 will be sought through a single-tier voting process.</p> <p>Mr. Soh Chin Teck and Encik Ahmad Riza bin Basir have each served as independent directors for cumulative terms of more than 9 years. While the Board asserts its confidence in the independent directors' ability to exercise independent judgement and act in the best interest of the Company, adopting a two-tier voting process would provide greater transparency and allow for a more comprehensive assessment of the directors' continued independence by the shareholders, particularly non-large shareholders.</p> <p>PPB has the option to retain the long-serving directors as non-independent directors. This would still allow the Company to benefit from their experience and knowledge to discharge their duties and responsibilities while addressing concerns about its independence.</p> <p>Please provide details on its succession planning process for long-serving independent directors. Specifically, how does the Board plan to identify and appoint suitable independent directors to ensure continuity and effectiveness in its board composition as the two abovementioned independent directors approach the end of their tenure?</p> <p>How many candidates for the position of independent directors have been interviewed to date?</p>

#### MSWG TEAM

Dr Ismet Yusoff, Chief Executive Officer ([ismet@mswg.org.my](mailto:ismet@mswg.org.my))  
Rita Foo, Head, Corporate Monitoring ([rita.foo@mswg.org.my](mailto:rita.foo@mswg.org.my))  
Norhisam Sidek, Manager, Corporate Monitoring ([norhisam@mswg.org.my](mailto:norhisam@mswg.org.my))  
Lee Chee Meng, Manager, Corporate Monitoring ([chee.meng@mswg.org.my](mailto:chee.meng@mswg.org.my))  
Elaine Choo Yi Ling, Manager, Corporate Monitoring ([elaine.choo@mswg.org.my](mailto:elaine.choo@mswg.org.my))  
Lim Cian Yai, Manager, Corporate Monitoring ([cianyai@mswg.org.my](mailto:cianyai@mswg.org.my))  
Jackson Tan, Manager, Corporate Monitoring ([jackson@mswg.org.my](mailto:jackson@mswg.org.my))  
Nur Amirah Amirudin, Manager, Corporate Monitoring ([nuramirah@mswg.org.my](mailto:nuramirah@mswg.org.my))  
Yan Lai Kuan, Manager, Corporate Monitoring ([yan.laikuan@mswg.org.my](mailto:yan.laikuan@mswg.org.my))  
Lam Jun Ket, Manager, Corporate Monitoring ([lam.junket@mswg.org.my](mailto:lam.junket@mswg.org.my))

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#### DISCLOSURE OF INTERESTS

•With regard to the companies mentioned, MSWG holds a minimum number of shares in all the companies covered in this newsletter.

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