Corporate Governance n Emerging markets – the Malaysian Perspective

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Chairman, Malaysian Institute of Corporate Governance (MICG)

Virtual Industry Forum: Professionalism & Ethics
Malaysian Financial Planning Council, 28 Nov 2024

What we will cover today …

A. An Overview of Corporate Governance

B. The Malaysian Code on Corporate Governance (MCCG)

C. Latest MCCG Updates on Sustainability

D. CG Monitor 2024 - Findings

D. Building and Operationalizing a Good Corporate Culture

Part A
Overview of Corporate Governance

CG regulatory framework – A combination of hard and soft law, permeating every aspect of business

Mandatory Requirements

Best Practices (soft laws)

Encompassing Public & Private Sectors

CG regulatory framework – A combination of hard and soft law

Mandatory Requirements (hard laws)

Companies Act 2016
Subdivision 2 Directors – Directors' appointment, retirement, removal, and resignation

Subdivision 3 Directors' Duties and Responsibilities – Functions of board, duties and responsibilities of directors

New Division 8, Part II – Beneficial Ownership Reporting Framework

Malaysian Anti-Corruption Act 2009 & MACC (Amendment) Act 2018
Section 17A – introduced the Corporate Liability concept for the act of giving or offering gratification

Capital Market Services Act 2007
Section 317A – Prohibited conduct of directors or officers in causing wrongful loss to the company

Guidelines on Conduct of Directors of Listed Corporations and their Subsidiaries
Conduct of directors, maintaining proper records and accounts and group governance

Guidelines on Corporate Governance for Capital Market Intermediaries
Expectations and roles of board and senior management, risk management, compliance and internal audit

Bursa Malaysia Listing Requirements
Governance structure, transactions, sustainability and reporting requirements

Bursa Malaysia CG Guidance(4th Edition) & Sustainability Reporting Guide

BNM Corporate Governance Guidelines

SSM – Code Of Ethics for Company Directors & Company Secretaries

Best Practices (soft laws)

Malaysian Code on Corporate Governance
Best practices of CG on board leadership & effectiveness, effective audit and risk management and relationship with stakeholders

Listed companies are required to report the adoption of MCCG using a prescribed format.

MICG 2024 | 4

RANCANGAN MALAYSIA KEDUA BELAS 2021-2025

DKN 2030 Dasar Keusahawanan Nasional

PRINCIPLES ON GOOD GOVERNANCE FOR GOVERNMENT LINKED INVESTMENT COMPANIES

KERAJAAN MALAYSIA
ARAHAN YAB PERDANA MENTERI NO. 1 TAHUN 2023
SIRI 1 NO. 1 TAHUN 2024
GERAKAN PEMANTAPAN TATAKELOLA NASIONAL:
TATAKELOLA SYARIKAT BERKEPENTINGAN KERAJAAN (SBK) DAN SYARIKAT BERHAD MENURUT JAMINAN (CLBG)
JABATAN PERDANA MENTERI MALAYSIA

NATIONAL SUSTAINABILITY REPORTING FRAMEWORK

MALAYSIAN CODE ON CORPORATE GOVERNANCE (AS AT 28 APRIL 2021)

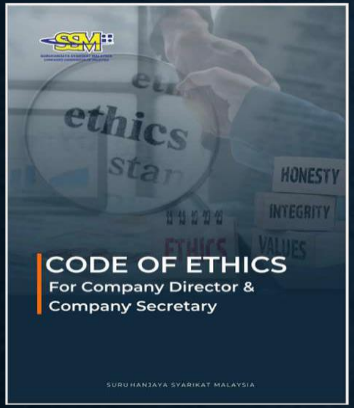
Malaysian Code on Corporate Governance
Best practices of CG on board leadership & effectiveness, effective audit and risk management and relationship with stakeholders

Listed companies are required to report the adoption of MCCG using a prescribed format.

Issued in 2022 ***Issued May 2024*** ***Launched Sept 2024***

CG regulatory framework – A combination of hard and soft law, permeating every aspect of business

New Guidelines related to governance & ethics



SSM – Code Of Ethics – A guideline for Company Directors & Company Secretaries to use as a benchmark :

- To establish standards of ethical conduct for company directors based on acceptable belief and values one upholds;
- To uphold the spirit of accountability and transparency in line with the legislations, regulations and guidelines governing a company; and
- To promote the sustainability of a company by pursuing “Environmental, Social, and Governance” (ESG) strategies in its business.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JABATAN PERDANA MENTERI
MALAYSIA

Guidance to Supervising Ministries on implementing regulations and procedures related to the management and governance of Government-Linked Companies (GLCs) and Companies Limited by Guarantee (CLBGs) established by the Federal Government

Best Practices

Malaysian Code on Corporate Governance
Best practices of CG on board leadership & effectiveness, effective audit and risk management and relationship with stakeholders

Listed companies are required to report the adoption of MCCG using a prescribed format.

Coming up: The Governance Code for Malaysian MSMEs

- The Code has been developed to guide MSMEs in enhancing their internal governance framework and practices.
- Adoption of the Code by MSMEs will be voluntary.

Status: Public consultation complete, Code being finalised for Launch

The Code was developed by the SME Governance Working Group

Suruhanjaya Sekuriti Securities Comission Malaysia | KEMENTERIAN PEMBANGUNAN USAHAWAN DAN KOPERASI | SME CORP MALAYSIA | MICG MALAYSIAN INSTITUTE OF CORPORATE GOVERNANCE

MICG as custodian of the Code will be responsible for its implementation and oversight

The 5 Key Guiding Principles

These principles serve as a compass to navigate the complex challenges of modern business and address the expectations of stakeholders and society.

- **P1** Decision making & Strategic Oversight
- **P2** Integrity, Culture & Anti-Corruption
- **P3** Risk Governance and Internal Control
- **P4** Sustainability
- **P5** Disclosure, Transparency and Data Protection

How has corporate governance evolved?

Traditional approach	*Current approach*
Shareholders' primacy	**Stakeholder value**

Directors are agent of shareholders (agency theory) and therefore maybe skewed to shareholders' interest

Outcome

Internal
- Company's performance - bottom line
- Shareholder's return – e.g. dividend

Disadvantages –
- Company focuses on short-term goals
- Focus on dividends paid out instead strategic re-investment

Companies must consider wider business strategy that takes into account broader stakeholders interest

Outcome

Internal
- Company's performance - bottom line
- Shareholder's return – e.g. dividend

External
- Guided by consideration for the *4Ps-*
  - *Principles of governance*
  - *People*
  - *Planet*
  - *Prosperity*

Business case for good corporate governance

Investors will pay for good governance

In McKinsey survey, institutional investors said they would pay premiums to own well-governed companies. Premiums averaged:

- 30% in Eastern Europe and Africa
- 22% in Asia and Latin America

Contributes to firm's performance

Survey conducted on ASEAN companies shows that companies with good governance practices reflect better financial performance.

Better control over business operations

A Harvard and Wharton research found that companies with better governance have better control over its business processes and practices.

Greater benefits beyond the company

Good governance encourages companies to consider other stakeholders. This include business impact to economic, environment and social.

Benefits

Company
Investors

Company
Shareholder

Company
Employees

Nation
Society
Environment

OECD
BETTER POLICIES FOR BETTER LIVES

Good **corporate governance** practices can **contribute** to investor confidence and further enhance the credibility of national **capital markets**, leading to lower **capital** costs and increased foreign direct investment (FDI).

Governance shapes corporate responsibilities by setting standards and guiding ethical decision-making

"Corporate governance is defined as the ***process and structure*** *used to* ***direct and manage*** *the business and affairs of the company towards* ***promoting business prosperity and corporate accountability*** *with the ultimate objective of realising* ***long-term shareholder*** *value while taking into account the* ***interest of other stakeholders****"*

Corporate governance as defined in the High Level Finance Committee Report (1999)

Pillars of good corporate governance

Board leadership

Directors are expected to exercise greater vigilance and professional skepticism in leading the company

Audit and risk management

Proper audit and risk management framework to enable companies to identify financial anomalies and level of risk

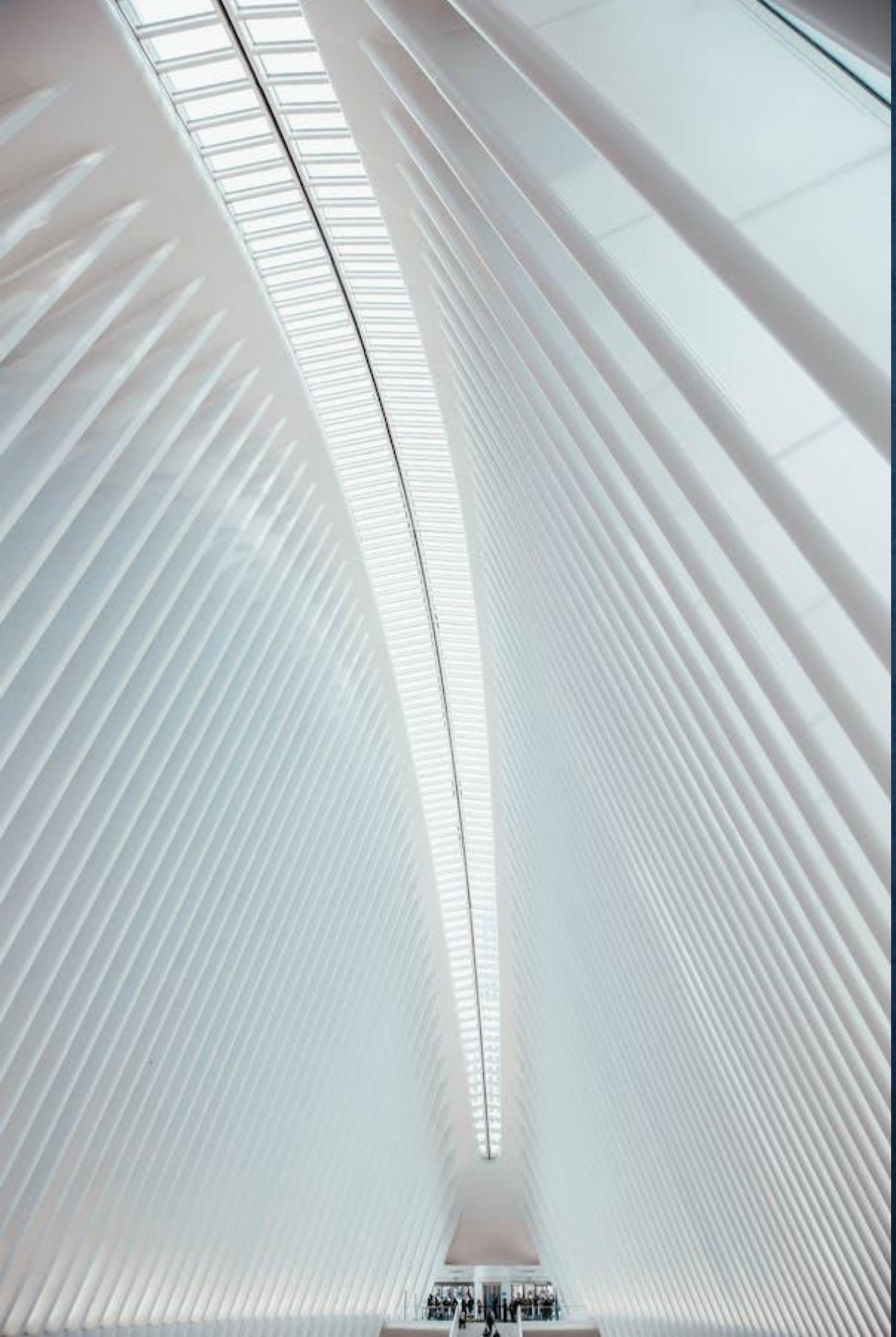
Managing shareholders & stakeholders

Ongoing engagements builds trust and understanding between the company and shareholders and stakeholders

Disclosure & Transparency

Transparency in disclosure enables stakeholders to make an informed decision on company's performance

Technology as a key enabler & facilitator



Part B

Introduction to the Malaysian Code on Corporate Governance

Malaysian Code on Corporate Governance (MCCG)

- The MCCG first introduced in 2000. Revised in 2007, 2012, 2017 and 2021.

- Underpinned by 3 main principles -
  - ✓ Board leadership and effectiveness;
  - ✓ Effective audit and risk management;
  - ✓ Integrity in corporate reporting and meaningful relationship with stakeholders.

Key features

Encouraging shift from a box-ticking mindset to mindful adoption through the Comprehend, Apply and Report (CARE) approach.

Shift from comply or explain to apply or explain an alternative. Also adopts flexibility and proportionality in application of certain best practices e.g. practices identified for Large Companies.

International recognition – '*The Malaysian CG code is more aligned than most on sustainability—and is getting stronger' (CG Watch 2020).*

Monitoring adoption and disclosures

The Securities Commission Malaysia (SC) leverages advanced analytics to monitor adoption and quality of CG disclosures in CG Reports of listed companies.

SC's Corporate Governance Monitor 2024

2021 updates

Principle A – Board leadership and effectiveness

Board composition

1. At least **half of the board comprises independent directors**. For Large Companies, the board comprises a **majority independent directors**.

2. The tenure of an independent director does **not exceed a term limit of nine years**. If the board intends to retain an independent director beyond nine years, it should provide justification and seek annual shareholders' approval through a **two-tier voting process**.

3. Appointment of board and senior management are based on objective criteria, merit and with due regard for **diversity in skills, experience, age, cultural background and gender.**

4. The board comprises **at least 30% women directors**. The board discloses in its annual report the company's policy on gender diversity for the board and senior management.

All Public Listed Companies (PLCs) were required to appoint at least 1 woman director on its board by 1 June 2023.

2021 updates

Principle A – Board leadership and effectiveness

Board Responsibilities

1. The board should **set the company's strategic aims** and ensure that the **necessary resources** are in place for the company **to meet its objectives**. The board should **set the company's values and standards**, and ensure that its **obligations to its shareholders and other stakeholders are understood and met**.

2. Company addresses sustainability risks & opportunities in **integrated & strategic manner to support long-term strategy & success**. – including a designated person for ESG matters.

> Directors, regardless whether an independent director or otherwise, and management play the role of **stewards and guardians** of the company and are key to raising corporate governance standards.
>
> **PP v Chin Keem Feung and Shukri Abdul Tawab [2014] 4 CLJ 62**
> Per Dato; Jagjit Singh a/l Bant Singh
>
> *"An independent non executive director of a company or an audit committee is not a decorative piece of a company. They are **vital organs of a company, in particular when it comes to corporate governance**. They are there to protect the shareholders of the company and other investing public. They are appointed for their specific roles and they must carry out their duties, functions and responsibilities independently and responsibly."*

3. There should be a separation between the role of Chairman and CEO and the **Chairman of the board should not be a member** of the Audit Committee, Nomination Committee or Remuneration Committee.

4. The board establishes a **Code of Conduct and Ethics** for the company, and together with management implements its policies and procedures, which **include managing conflicts of interest, preventing the abuse of power, corruption, insider trading and money laundering**.

2021 updates

Principle A – Board leadership and effectiveness

Board assessment

1. The board should undertake a **formal and objective annual evaluation to determine the effectiveness of the board**, **its committees and each individual director.** The board should disclose how the assessment was carried out its outcome, actions taken and how it has or will influence board composition.

   For Large Companies, the board engages independent experts at least every three years, to facilitate objective and candid board evaluations.

Remuneration of directors and Senior Management

2. The board has remuneration policies and procedures to determine the remuneration of directors and senior management, which takes into account the demands, complexities and performance of the company as well as skills and experience required.

3. There is detailed disclosure on named basis of the remuneration of individual directors. The remuneration breakdown of individual directors includes fees, salary, bonus, benefits in-kind and other emoluments. Transparency on remuneration will facilitate shareholders in evaluating whether management's compensation aligns with company performance, which increasingly includes how material sustainability risks and opportunities are managed

4. **Step Up** - disclosing the detailed remuneration of all members of senior management - the board discloses on a named basis the top five senior management's remuneration component including salary, bonus, benefits in-kind and other emoluments in bands of RM50,000.

PLCs are mandated to disclose detailed remuneration of individual directors annually in its corporate governance report.

2021 updates

Principle B – Effective Audit and Risk Management

PP v. Mok Chin Fan & Ors
"The crime of misleading the public cannot be measured in dollar and cents as the damage that would ensure is indeed immeasurable. It has wider ramifications and repercussions on market confidence than offences against a person, which by large is limited in consequences."

Audit Committee

1. The Chairman of the Audit Committee is **not the Chairman of the board**.
2. The Audit Committee has a policy that requires a **former partner of the external audit firm of the listed company to observe a cooling-off period of at least three years** before being appointed as a member of the Audit Committee.
3. The Audit Committee has **policies and procedures to assess the suitability, objectivity and independence** of the external auditor to safeguard the quality and reliability of audited financial statements.
4. [Step Up] The Audit Committee should comprise **solely of independent directors**.

Risk management and internal control

5. The board should establish an effective risk management and internal control framework.
6. The board should disclose details of the internal audit function including any conflicts of interest, number of resources in the internal audit department and whether the internal audit function is carried out in accordance with a recognised framework.

★ 2021 updates

Principle C – Integrity in corporate reporting and meaningful relationship with stakeholders

Conduct of general meeting

1. **Notice for an Annual General Meeting** should be given to the shareholders at least **28 days** prior to the meeting.

★ 2. Listed companies should **leverage technology** to facilitate
   - voting including voting in absentia; and
   - remote shareholders' participation at general meetings.

★ 3. The Chairman of the board should ensure that **general meetings support meaningful engagement** between the board, senior management and shareholders.

★ 4. The board must ensure that the **conduct of a general meeting** (including **the virtual component** where the meeting is hybrid) supports meaningful engagement between the board, senior management and shareholders.

★ 1. **Minutes of the general meeting** should be circulated to shareholders no later than **30 business days** after the general meeting.

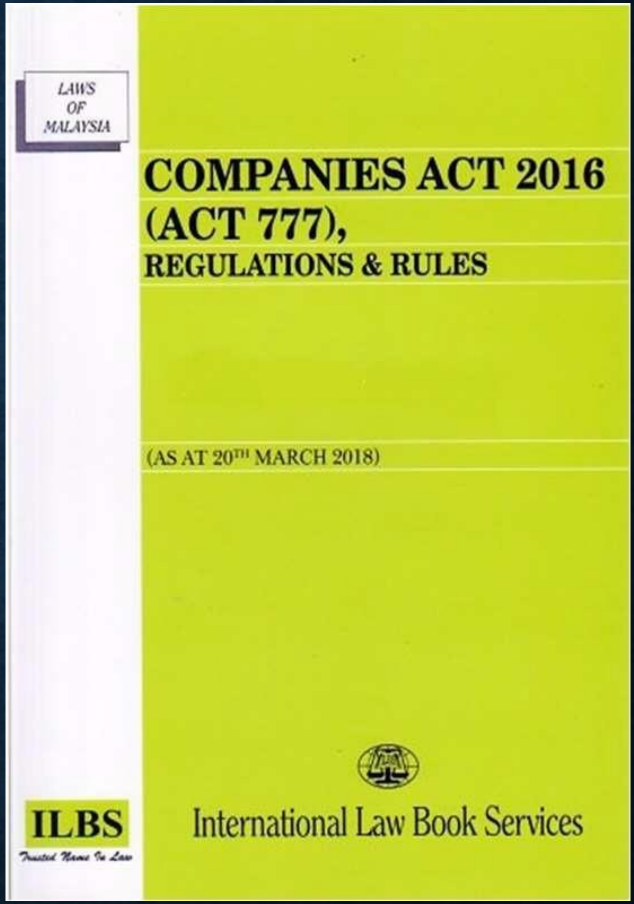
Many provisions in the CA 2016 impose Corporate governance practices – E.G. Powers & Duties of the Board

S211(1) & (2)

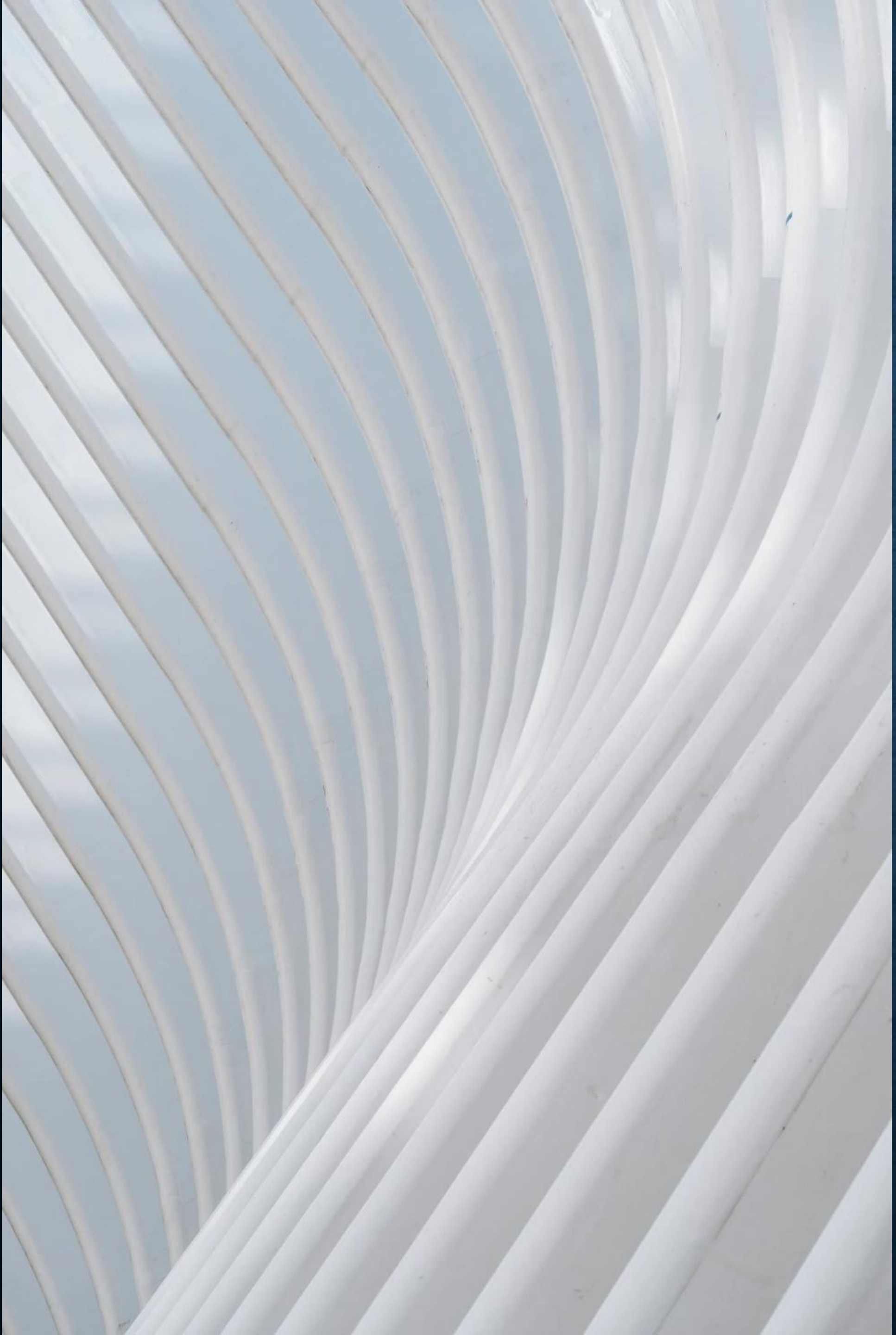
- Company's business affairs are **managed** by, or **under Board's direction**
- **Board has powers** to:
  - manage, direct & supervise the management of **the Company's business & affairs**
  - Subject to modification, exception or limitation contained in the Act or **Company's Constitution**

S213 Codification of Director's fiduciary duties

- Director shall exercise power for **proper purpose** & in **good faith** in Company's **best interest**
- Exercise **reasonable care, skill & diligence** expected of Director who has same responsibilities & any **additional knowledge, skill & experience** which the Director has



Penalties: On conviction, **jail not less 5 years** or **fine not more than RM3 million** or **both**

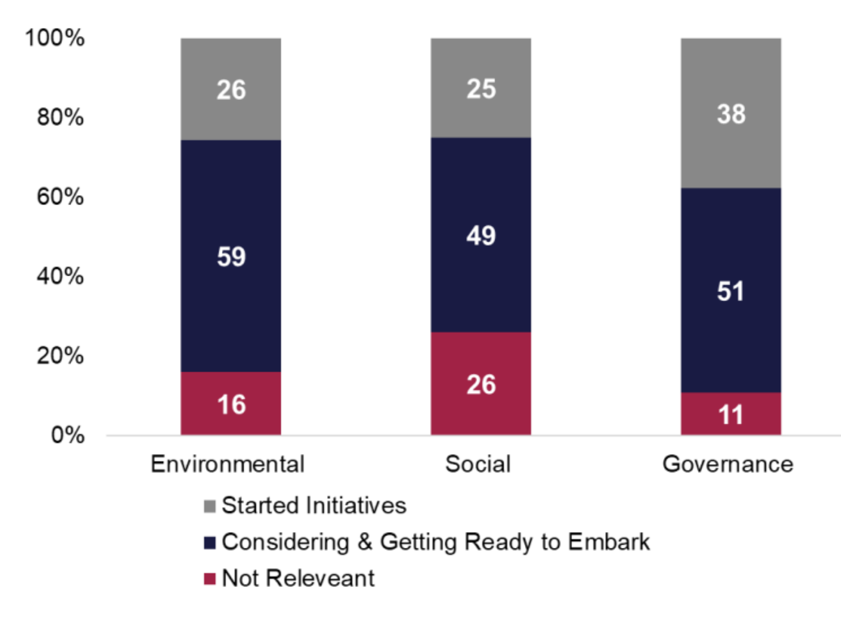


Part C

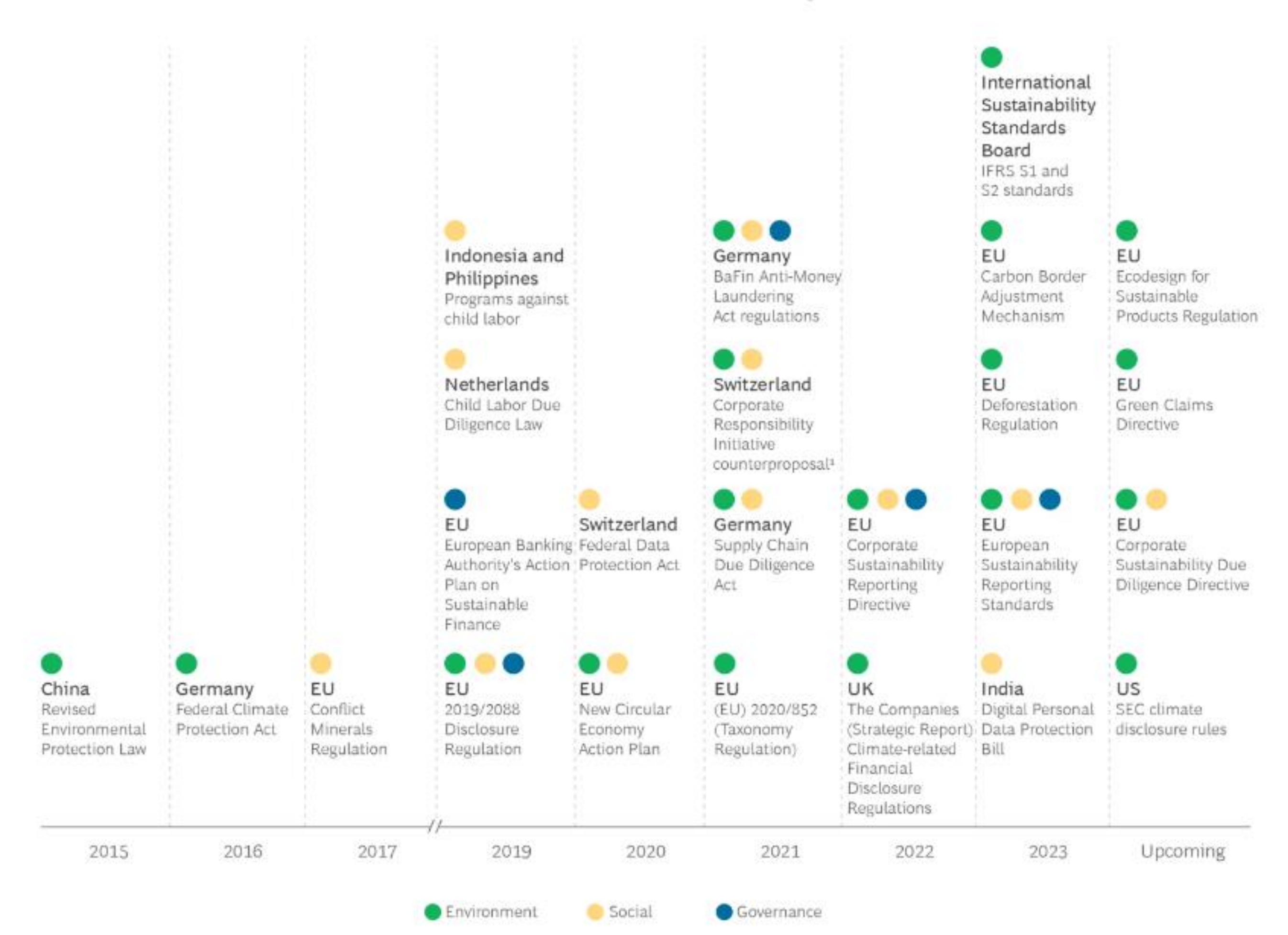
MCCG 2021 focus on sustainability

Companies in emerging markets are under increasing pressure from trade partners to meet ESG requirements

- Malaysia exports amount to RM129.7B, primarily to SG, China, USA and EU.
- Despite growing demands on ESG requirements, only 1/3 of Malaysian companies started with the initiative.



Source: The Malaysian Sustainability Pulse Report, 2022



Source: BCG research.

¹Switzerland's Ordinance on Reporting on Non-Financial Matters went into effect Jan. 1, 2023. The EU is considering whether to adopt the Swiss measure.

Sustainability practices continue to be the driving force for change, with expanding global interest

Why is sustainability important for Malaysian companies?

Greater demand for businesses to do better in ESG

- Investors are increasingly calling for enhanced ESG practices–
  - Younger investors prioritise ESG principles and values in investing[1].
  - Institutional investors incorporated sustainability considerations, including climate-related matters in investment decision making[2].
- Financial institutions embed ESG due diligence process when onboarding clients in order to operationalise CCPT[3].

Heightened expectation for exporters on ESG practices

- Malaysia exports amounts RM129.7B; mostly to SG, China, USA and EU.
- Timber industry registered export figures of RM22.02bil to rank third after palm oil and rubber in the primary sector.

Alignment of ESG reporting with the international standards

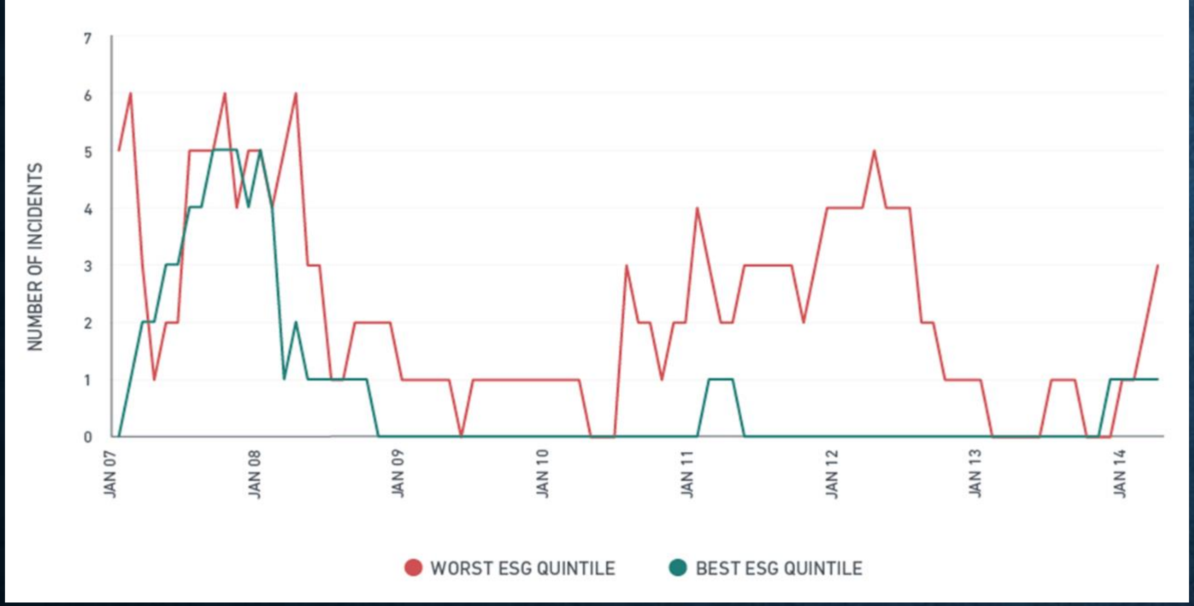
- Stakeholders will expect companies to adopt internationally recognized ESG frameworks to provide clearer insights into their performance and impact on the planet and society.

Note: The National Sustainability Reporting Framework (NSRF) - developed by the Advisory Committee on Sustainability Reporting (ACSR) was launched 24 Sept 2024

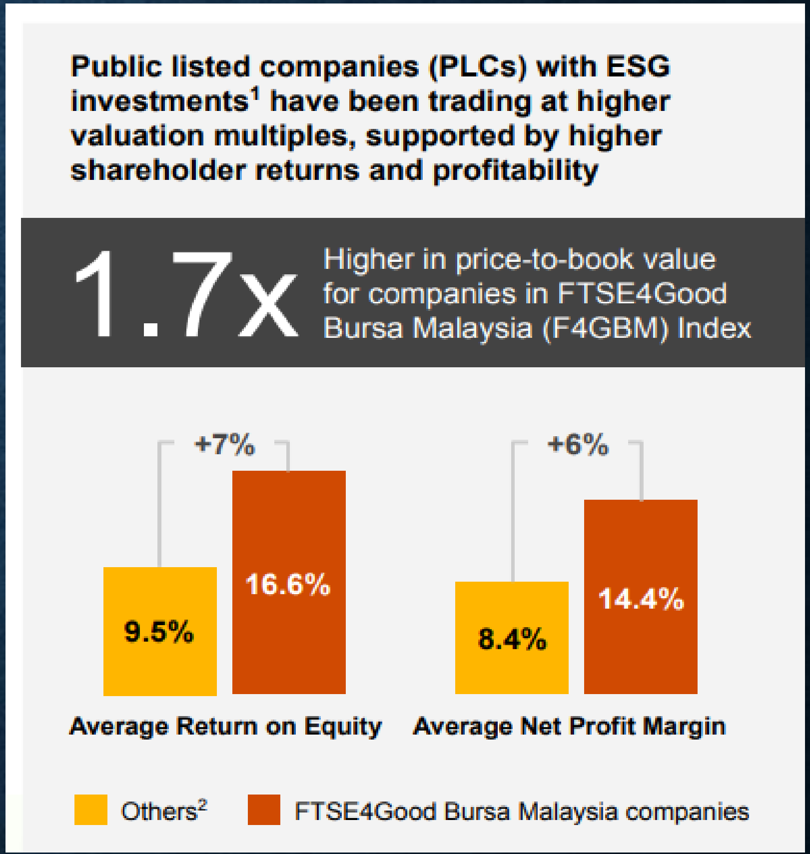
[1] Schroders Global Investor Study 2022
[2] Malaysian Code for Institutional
[3] Climate Change and Principle-based Taxonomy (CCPT) issued by Bank Negara Malaysia

Companies benefit from higher long-term valuations and returns due to enhanced transparency and responsible governance

High ESG-rated companies experienced a **lower frequency of risk incidents,** such as significant drawdowns. Conversely, companies with low ESG ratings were more likely to experience significant incidents.



Source: MSCI World Index



What should companies do to address sustainability challenges?

Focus 1 — Establish an integrated governance structure

Focus 2 — Conduct a comprehensive materiality assessment

Focus 3 — Ensure continuous monitoring and transparent disclosure

Focus 1: Establish an integrated governance structure

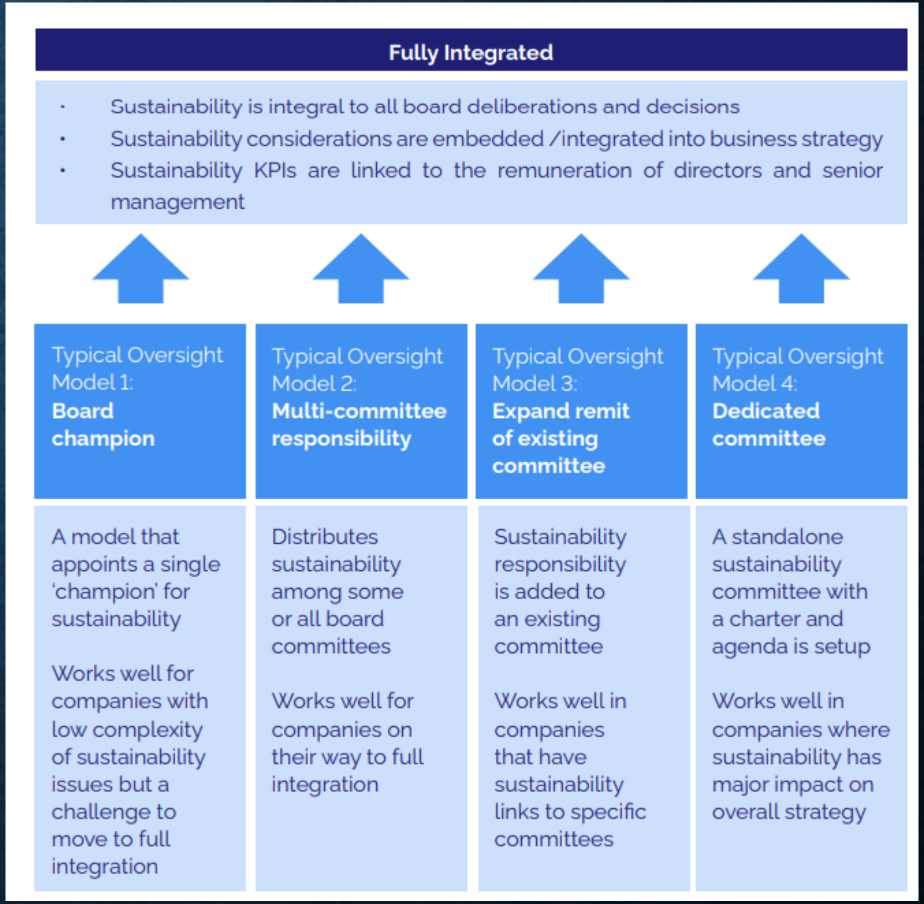
Latest enhancement to MCCG focuses on the role of the board and senior management in addressing sustainability risks and opportunities of the company

1. The board together with management takes responsibility for the **governance of sustainability** in the company including setting the company's **sustainability strategies, priorities and targets**.

2. The board ensures that the company's sustainability strategies, priorities and targets as well as performance against these targets are **communicated to its internal and external stakeholders**.

3. The board takes appropriate action to ensure they **stay abreast with and understand the sustainability issues** relevant to the company and its business, including climate-related risks and opportunities.

4. Performance evaluations of the board and senior management include a review of the **performance** of the board and senior management in **addressing the company's material sustainability risks and opportunities**.



Source: Designing Sustainability Governance: Board structures and practices for better ESG performance, INSEAD, March 2022

Focus 2: Conduct comprehensive materiality assessment

Materiality is not only limited to those matters that have a significant financial impact on the company but also includes consideration of wider EES impacts

Phase 1 : Identification of sustainability matters	Phase 2 : Prioritisation of material sustainability matters	Phase 3 : Review & validation of process and outcome
• Understand company's distinctive operating context • Identify key stakeholders and understand their needs and expectations pertaining to sustainability-related impacts • Derive preliminary list of sustainability matters	• Apply materiality concept and undertake stakeholder engagement in prioritisation • Disclose prioritised material sustainability matters in a manner which illustrates the relative importance of each material sustainability matter	• Subject the outcome of materiality assessment for validation and approval • Establish a review process for the materiality assessment process • Determine the frequency of undertaking the materiality assessment

Source: Bursa Malaysia

Focus 3: Ensure continuous monitoring and transparent disclosure

Bursa's sustainability framework is a good benchmark for sustainability disclosure – *subject to amendments to align listing requirements to the recently launched NSRF*

No	New disclosure items
1.	**Sustainability Statement** must include information on– a) Governance; b) Scope of Sustainability Statement; c) Materiality; and d) Management of material sustainability matters
2.	Common **material sustainability matters** that include 11 themes[1] and indicators deemed material across all sectors: a) 9 themes except emission and waste b) Emission and waste
3.	**Data and performance target** (if any) of at least 3 financial years' data for each reported indicator in a prescribed format
4.	**Statement on assurance**, specifically whether the Sustainability Statement has been subjected to internal review by its the listed issuer's internal auditors or independent assurance
5.	▪ Main Market: Climate-related disclosure aligned with the recommendations of the **TCFD (TCFD has been embedded in the ISSB standards)**; ▪ ACE Market: **Basic plan to transition** towards a low-carbon economy

[1]The themes include anti-corruption, community/society, diversity, energy management, health and safety, labour practices and standards, supply chain management, data privacy and security, water, emissions and waste management.

To facilitate disclosure of standardised common ESG data in line with global standards, Busa Malaysia has developed and launched a **Central Sustainability Intelligence Solution to:**

- Enable companies (listed and SMEs) to reinforce sustainability disclosures and accelerate swift adoption of their supply chain's carbon emissions. - by providing tools to assess carbon emissions across companies' value chains and streamlining companies' sustainability reporting.
- Access to sustainable funding: Facilitate banks develop green financing products and services, that will incentivise and encourage decarbonisation of the corporate sector and their supply chain.

Early adopters in the earlier proof of concept stage include Maybank, Mah Sing and UMW.

Update: The National Sustainability Reporting Framework (NSRF[1])

- launched 24 Sept 2024

- **Alignment with IFRS® Sustainability Disclosure Standards :**
  The NSRF addresses the use of the IFRS® Sustainability Disclosure Standards issued by the International Sustainability Standards Board (ISSB) as the baseline for companies in Malaysia. i.e.:
  - IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information, and
  - IFRS S2 Climate-related Disclosures

- **Aim:**
  - enhance transparency and accountability of how businesses manage sustainability risks and opportunities,
  - improve business resilience and contribute to the nation's broader sustainability agenda
  - address the needs of stakeholders especially investors for consistent, comparable and reliable disclosures

- **Impact on Listed Companies**
  Listed issuers on Bursa Malaysia's Main and ACE Markets, as well as large non-listed companies (NLCos) with annual revenue of RM2 billion and above will have to comply with the new reporting requirements in a phased approach:

  - Large-listed issuers on the Main Market with market capitalisation of RM2 billion and above will begin using the ISSB Standards in 2025 (Group 1)
  - Extends to other Main Market listed issuers in 2026 (Group 2), followed by;
  - Listed issuers on the ACE Market as well as large NLCos in 2027 (Group 3);
  - ACSR aims to mandate reasonable assurance of sustainability information commencing in 2027 – subject to further consultation and stakeholder engagement

- **PACE (Policy, Assumptions, Calculators and Education) :**
  - The PACE[2] initiative is intended to support companies by ensuring they have the resources needed to meet their sustainability reporting requirements.
  - PACE provides tools and guidance to help to help preparers, including those which are focused on addressing the needs of medium and smaller companies.
  - This includes access to policy guidance, emissions calculators, and capacity-building programs.

[1] https://www.sc.com.my/api/documentms/download.ashx?id=e98c3900-7b35-4cf5-a07d-fd17acf8734e - developed by the Advisory Committee on Sustainability Reporting (ACSR)
[2] https://www.sc.com.my/nsrf

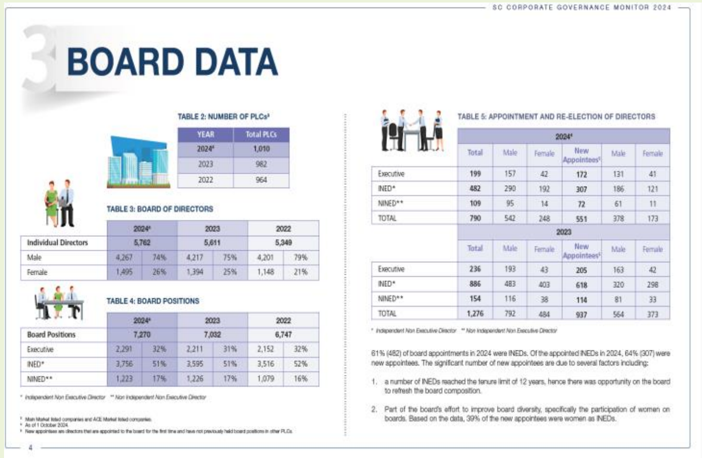
SUSTAINABILITY REPORTING – IN A NUTSHELL

Integrity of disclosures is crucial, requires:

- Accuracy
- Comparability
- Completeness
- Verifiability
- Clarity
- Timeliness
- Balance

Part D
Corporate Governance Monitor 2024 - Summary of Findings

SC's Corporate Governance Monitor 2024 : Findings



SC CORPORATE GOVERNANCE MONITOR 2024

3 BOARD DATA

TABLE 2: NUMBER OF PLCs[1]

YEAR	Total PLCs
2024[2]	1,010
2023	982
2022	964

TABLE 3: BOARD OF DIRECTORS

	2024[2]		2023		2022	
Individual Directors	5,762		5,611		5,349	
Male	4,267	74%	4,217	75%	4,201	79%
Female	1,495	26%	1,394	25%	1,148	21%

TABLE 4: BOARD POSITIONS

	2024[2]		2023		2022	
Board Positions	7,270		7,032		6,747	
Executive	2,291	32%	2,211	31%	2,152	32%
INED*	3,756	51%	3,595	51%	3,516	52%
NINED**	1,223	17%	1,226	17%	1,079	16%

* Independent Non Executive Director ** Non Independent Non Executive Director

[1] Main Market listed companies and ACE Market listed companies.
[2] As of 1 October 2024.
[3] New appointees are directors that are appointed to the board for the first time and have not previously held board positions in other PLCs.

4

TABLE 5: APPOINTMENT AND RE-ELECTION OF DIRECTORS

	2024[2]					
	Total	Male	Female	New Appointees[3]	Male	Female
Executive	199	157	42	172	131	41
INED*	482	290	192	307	186	121
NINED**	109	95	14	72	61	11
TOTAL	790	542	248	551	378	173
	2023					
	Total	Male	Female	New Appointees[3]	Male	Female
Executive	236	193	43	205	163	42
INED*	886	483	403	618	320	298
NINED**	154	116	38	114	81	33
TOTAL	1,276	792	484	937	564	373

* Independent Non Executive Director ** Non Independent Non Executive Director

61% (482) of board appointments in 2024 were INEDs. Of the appointed INEDs in 2024, 64% (307) were new appointees. The significant number of new appointees are due to several factors including:

1. a number of INEDs reached the tenure limit of 12 years, hence there was opportunity on the board to refresh the board composition.
2. Part of the board's effort to improve board diversity, specifically the participation of women on boards. Based on the data, 39% of the new appointees were women as INEDs.

Content Outline

1) Introduction - *overview of the report*

2) Board data – *infographics*

29

3) Adoption of the MCCG

- ➢ Principle A: Board Leadership and Effectiveness
  Feature Article: Improving Disclosure of Board and Senior Management Remuneration
- ➢ Principle B: Effective Audit and Risk Management
- ➢ Principle C: Integrity in Corporate Reporting and Meaningful Relationship with Stakeholders

See also: Stewardship Asia - boards-as-stewards-of-sustainability- 2024 (ICDM Website)

SC’s Annual Corporate Governance Monitor : Findings

Principle A : Observations

BOARD LEADERSHIP AND EFFECTIVENESS

Overall, practices related to Board Responsibilities show high adoption levels.
In contrast, for Board Composition practices, particularly low adoption levels for practices concerning the tenure limit of INEDs, women on boards, and gender diversity disclosures. Similarly, practices under Remuneration exhibit low adoption levels, especially those related to the transparency and disclosure of senior management remuneration.

- Room for improvement on Chairman’s Role and board committee membership
- The percentage of female directors is improving, but all PLCs. But adoption levels remain relatively low at 37% of all PLCs
- **Board** disclosure, on a named basis, the top five senior management’s remuneration components, including salary, bonus, benefits in-kind, and other emoluments, in bands of RM50,000. - **Some marginal increase in adoption, but conversely some back peddling seen in this disclosure practice**
- There has been a **significant increase in the adoption of sustainability-related best practices. More than 96% of companies have adopted the first three practices in 2023**, focussed on the responsibility of the board and management in the oversight of sustainability, communication on sustainability strategies and targets with stakeholders, and ensuring that the board remains informed about relevant sustainability developments.

However,

- the recommended **practice re performance evaluations of both the board and senior management** (to include a review of their performance in addressing the company’s material sustainability risks and opportunities), **whilst improved, remains low.**
- Step up of a designated person for sustainability matters – whilst has pick up with 452 companies adopting the practice, - often the Chief Sustainability Officer or the member of senior management. SC reports that there appears to be some **confusion that this Step Up practice only applies to Large Companies**, as some companies have stated this as a reason for departing from the practice. **This is not the case.**

SC’s Annual Corporate Governance Monitor : Findings

Principle A : Observations

PRACTICE 1.4 -: CHAIRMAN’S ROLE AND COMMITTEE MEMBERSHIP
While 63% of companies have ensured that the Chairman is not a member of the specified committee, 37% have not done so. **There is a risk of self-review when the Chairman of the board is a member of the board committee or chairs the committee**

Principle B : Observations

EFFECTIVE AUDIT AND RISK MANAGEMENT

In general, practices related to the Audit Committee exhibit high adoption levels. A similar pattern is seen for the Risk Management and Internal Control Framework practices, **except for the Step Up practice concerning the independence of the Risk Management Committee and the need for it to stand alone and not as part of the Audit Committee**

Principle C : Observations

INTEGRITY IN CORPORATE REPORTING AND MEANINGFUL RELATIONSHIP WITH STAKEHOLDERS
This principle includes two elements: **Communication with Stakeholders** and **Conduct of General Meetings.**

- **Overall, practices under this principle have high adoption levels**. However, the practice of adopting integrated reporting by ‘Large companies’ shows a lower adoption rate, this may be due to the developments in relation to sustainability reporting standards. The ISSB in developing the ISSB Standards consolidated the Value Reporting Foundation (VRF), which includes the Integrated Reporting Framework.

- New mandate proposed for listing requirements, to conduct general meeting in person or hybrid

Part E

Building and Operationalizing a Good Corporate Culture

Who plays a role in shaping corporate culture?

- The Malaysian Code on Corporate Governance states that –

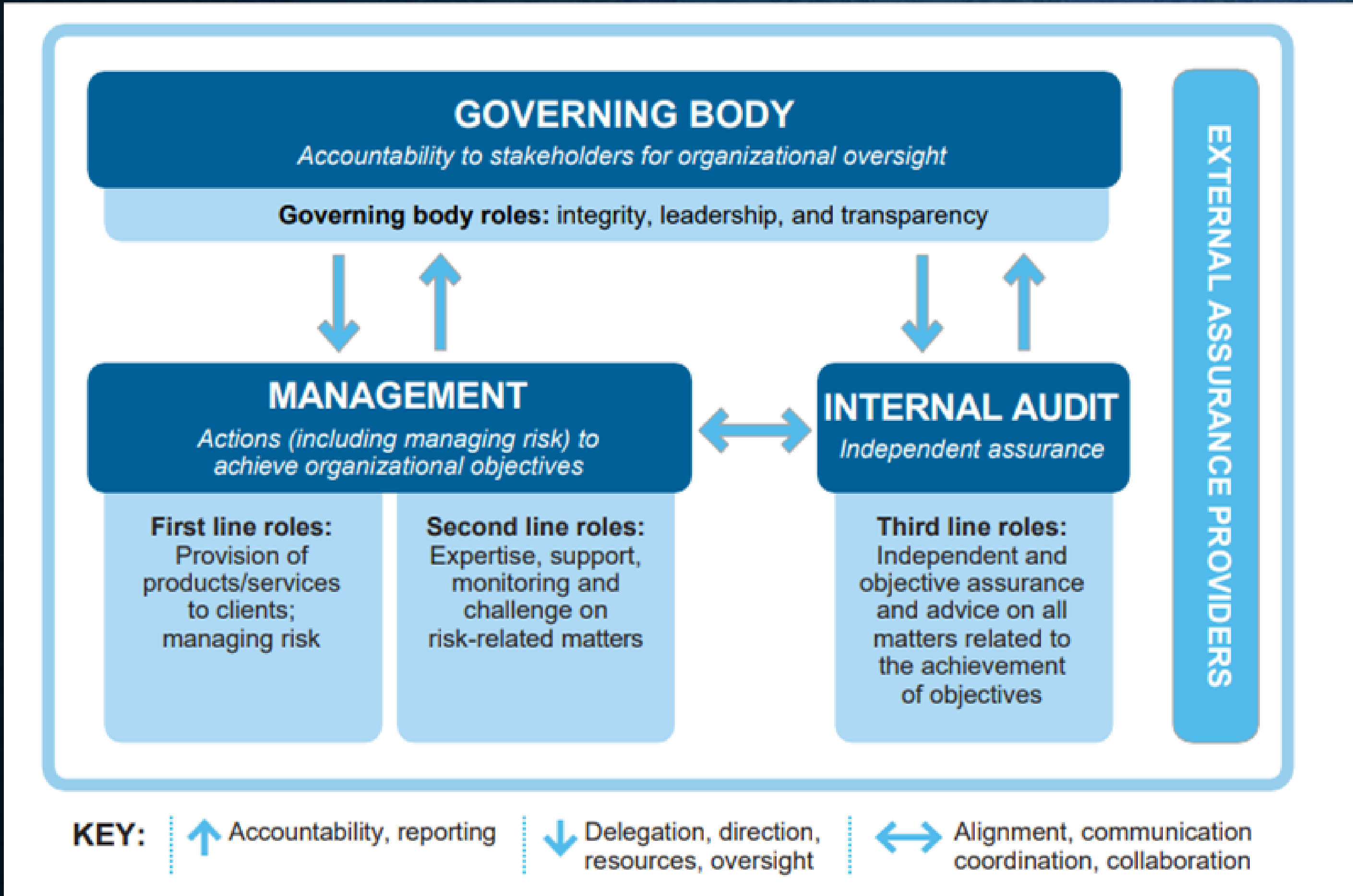
  "To enable the board to discharge its responsibilities in meeting the goals and objectives of the company, the board should, together with senior management, promote a good corporate governance culture within the company which reinforces ethical, prudent and professional behaviour" **(Reference G1.1)**

- The company plays a crucial role in shaping corporate culture by developing and enforcing policies and practices and fostering a positive work environment through addressing employee concerns, promoting diversity and inclusion, and implementing cultural initiatives.

- The above is supported by the collective actions and attitudes of employees, supported by the company's policies and practices, which play a crucial role in shaping the overall work environment.

Strengthening governance and oversight through effective internal control

The Three Lines Model (previously known as the Three Lines of Defense)



Principle 1 and 2: Governance and governing body

- Governance involves accountability, actions, and assurance.
- The governing body ensures effective governance and alignment with stakeholder interests.

Principle 3: Management Roles

- First line delivers products/services, and second line assists with risk.

Principle 4 and 5: Internal Audit and third line independence

- Internal audit provides independent assurance and reports for improvement.
- Independence achieved through accountability, access, and freedom from bias.

Principle 6: Value Creation

- All roles create and protect value through alignment, communication, and cooperation.
- Ensures reliable information for decision-making.

RISK MANAGEMENT: APPLYING THE THREE LINES OF DEFENSE PRINCIPLE

A company's risk governance structure underlays its **Enterprise Risk Management framework**- It is based on the principles of the 'three lines of defence' model: risk taking and management, risk control and oversight and independent assurance.

The risk management cycle starts with and feeds back to business strategy, making risk management and assessment part of the Company's strategic decision-making process.

Executive Group

1st Line of Defence
Risk Taking & Management
- Designated risk owners
- Line management

- Risk management embedded in the business
- Management ownership of internal controls
- Robust risk and control assessment

Audit Comm & Compliance & Risk Comm

2nd Line of Defence
Risk Control and Oversight
- Risk & Compliance functions

- Risk management function
- Compliance function
- Operational Oversight function

Board

3rd Line of Defence
Independent Assurance
- Internal Audit
- External Audit
- Assurance

- Group wide Internal Audit
- External Audit
- Assuarance

In addition to business objectives, risk management also captures issues relating to regulatory compliance and corporate behaviour.

- **Risk appetite statement, proposed by the executive group, approved by the Board annually, determined during its annual corporate planning exercise and aligned with the company's risk objectives.**
- **Executive group, through its members, cascades down the Company's risk appetite to each function.**
- **Regular reporting at both the corporate and functional levels use risk appetite as a benchmark that can then be incorporated into the corporate risk register.**
- **Risks that are not covered by the approved risk appetite are escalated to executive group members and to the Compliance & Risk Committee or relevant board committee for deliberation and inclusion.**

OPERATIONALISING THE LINES OF DEFENSE:

Robust Board oversight - drives Governance - sets tone & culture of compliance

Governance

- **Reports to Board** & NRC/ AC & Risk/Sustainability/other Board Comms
- **No power distancing –** encourage open and robust communication channels
- Independent assurance

Policies, Procedures. Controls

- **Policies, Procedures & SOPs – Group wide**
- **Compliance points & Internal controls**
- **Escalate exception/incident reports & periodic reports**

Compliance Monitoring

- **Map laws & regs & Comp policies to line functions**
- Alignment of risk assessment **and internal audit findings into compliance program**
- Identify and prioritise high-risk compliance areas
  - Periodic monitoring and testing
  - Measure and monitor corrective action or remediation
  - **AML risk assessment & monitoring**
  - **ABC & Conflicts oversight & Audit**
  - **Social Compliance – ILO Indicators, HSE – OSHA/Employment Act**
- BCP & DR oversight

Leverage Technology

- **Data warehouse & system support :**
- Capture data/monitor/track
- Surveillance & AML risk assessment - escalation, testing, reporting, incident management
- Anomaly detection for fraud and AML
- Risk scoring
- Procurement: Transparency, Traceability. Auditability

Reporting

- **Ongoing and periodic reporting**
- Dashboards, key risk indicators
- Communication plan & protocols for escalation of issues
- Management of whistleblower platform and complaints

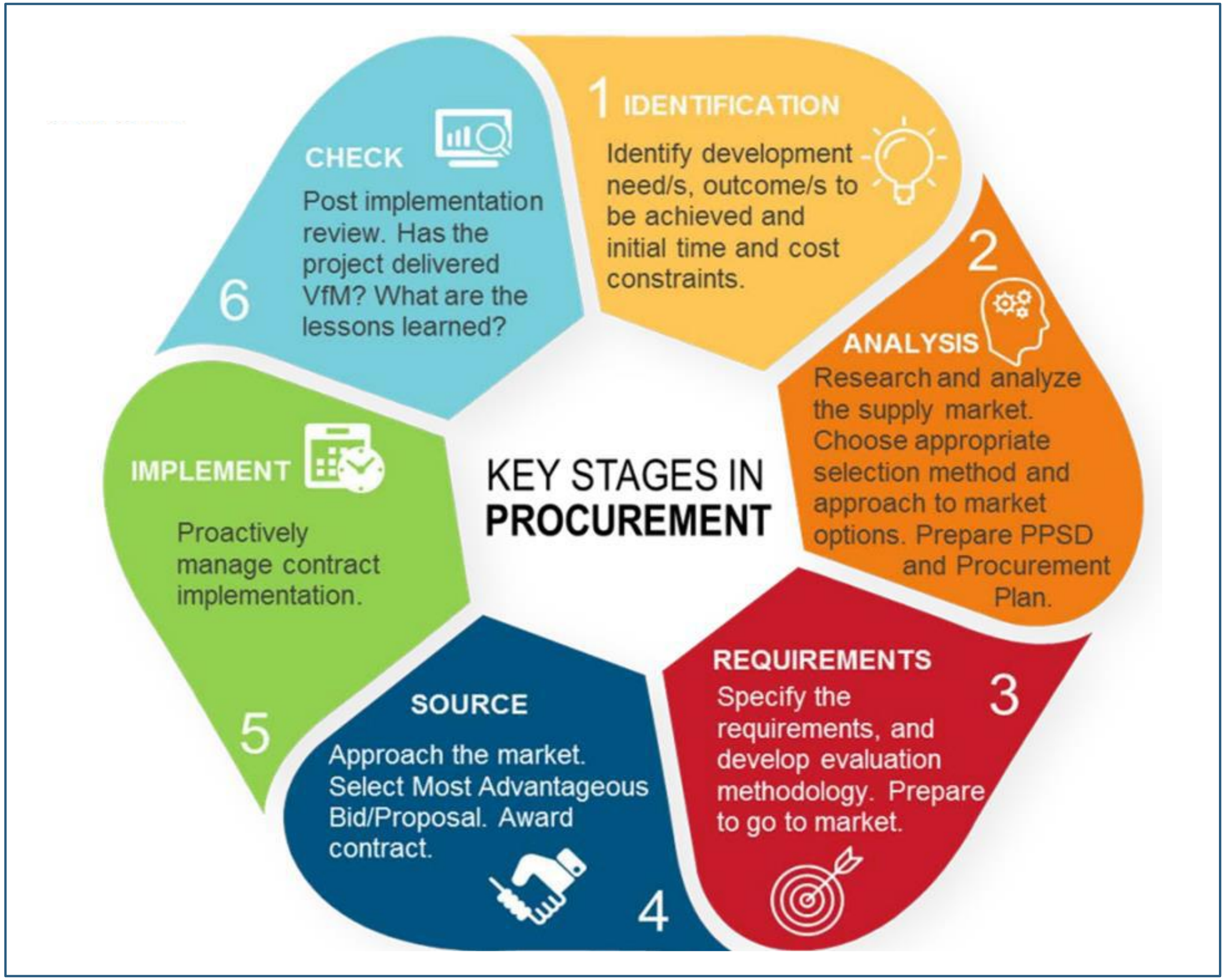
Compliance Training

- **Risk based compliance training - at enterprise and line function/ shared service levels**
- Maintain updated relevant training content anchored by regulations
- Competent Risk & ESG Compliance resource
- Competent IP resource/ support

Regulatory engagement

- **Maintain record of compliance activities & findings**
- Point of communication on regulatory and legal matters
- Engage stakeholders within 1st and 2nd line of defence for input

WORLD BANK PROCUREMENT FRAMEWORK



Source: World Bank Procurement Regulations for IPF Borrowers (Procurement Regulations) and should be read in conjunction with other Bank guidance such as: Project Procurement Strategy for Development (PPSD), VfM (Value for Money), and Evaluation Criteria.

What is sustainable procurement?

- The concept of sustainability is based on three pillars, namely: economic, environmental and social.
- Effective sustainable procurement supports sustainable development.
- Sustainable development has been defined as:

"Development that meets the needs of the present without compromising the ability of future generations to meet their own needs." - 1987 Brundtland Commission Report

LEVERAGE ON TECHNOLOGY!
Aids and facilitates Transparency, Traceability & Auditability – Mitigates and prevents manipulation

The SAFETY CUTURE LADDER - BUILDING GOOD CORPORATE CULTURE

Examining Leadership in the context of Safety Culture
Hudson's Safety Culture Ladder – Equally applicable to building a good Corporate Culture*

The Safety Culture Ladder

Generative	This *is how we do things around here*. Business culture = safety culture. Transformation from "*I*" to "*We*"
Proactive	Safety leadership and values drive continuous improvement across organisation. Feedback and constructive criticism encouraged.
Bureaucratic	We have systems and protocols in place to manage l crisis & hazards. Lessons learned enable local improvements.
Reactive	Safety is important, we respond well to problems/accidents. Feedback not encouraged.
Pathological	*Who cares as long as we are not caught*. Conceal problems if possible. If caught, blame others and don't look back

Optimum

23

* Source: Dr. Patrick Hudson,Centre for Safety Science, Universiteit Leiden, the Netherlands https://www.youtube.com/watch?v=4x98hwtvbBU;

Directors should work with senior management to:

- Promote CG culture, reinforce ethical, prudent & professional behaviour
- Understand principal risks faced in Group's business
- Ensure Senior Management and work force has necessary skills & experience, & there are measures for orderly succession of Board & Senior Management
- Ensure the integrity of Company's financial & non-financial reporting
- Understand financial statements & form a view on the information presented
- Set risk appetite and require management to operate within it - ensure a sound framework for internal controls & risk management - risk management framework identifies, analyses, evaluates, manages & monitors significant financial & non-financial risks

To discharge responsibilities in company’s best interests, directors:

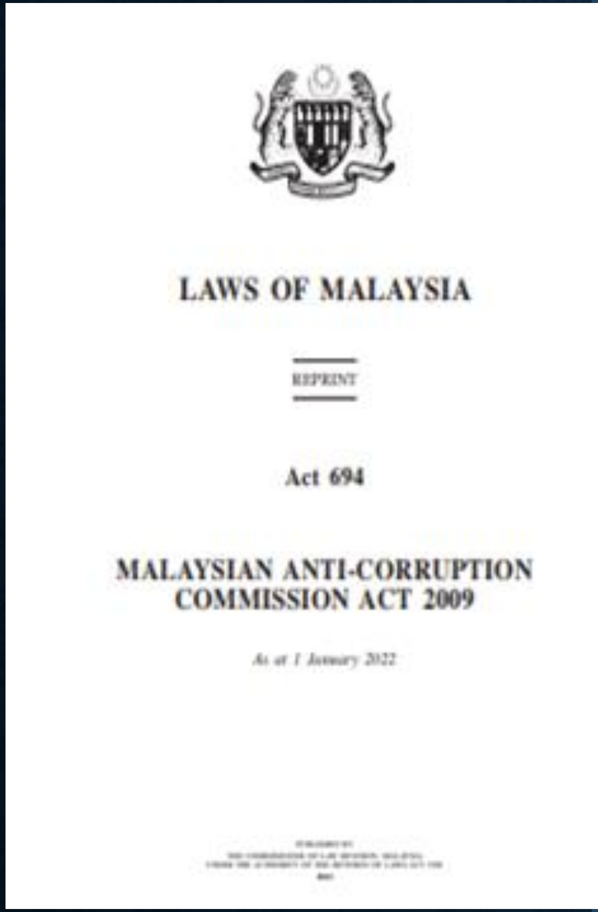
- Set the tone – act with integrity and lead by example
- Remain conscious and alert to their responsibilities as directors, ensuring their conduct is in tandem
- Keep a finger on the pulse and development of the Company’s business activities
- Ensure they prepare for Board meeting, read all board papers and ask robust and informed questions – of management, of professional advisors, of each other
- Maintain professional scepticism and require explanations, without micromanaging
- Ensure risk triggers are regularly updated and Internal & external audit function provides in-depth updates, with corrective measures where applicable

To discharge responsibilities in company’s best interests, directors:

- Review, challenge & decide on Management’s proposals & monitor implementation by Management
- Ensure strategic plan supports long-term value creation & includes strategies and effective monitoring of ESG elements underpinning sustainability
- Supervise & assess Management’s performance is the business being properly managed?
- Ensure Company has procedures to enable effective communication with internal & external stakeholders

Stay alert and monitor proposals and processes for robust governance practices, specifically for fraud & corrupt practices, RPT and Conflict of interest – formulate and implement policies and SOPs, leveraging on technology to support effective oversight

Corporate Culture Can Make or Break a Company's Corporate Governance



S.17A Malaysian Anti-Corruption Commission (MACC) Act

- introduces corporate liability for bribery, making commercial organizations liable for corruption offenses committed by their employees or associates.
- Companies can be held accountable if a person associated with the organization is found to have given or accepted bribes for the benefit of the company, even without the company's direct involvement.

Impact:

1. **Strict Liability**: Companies are automatically presumed liable unless they can demonstrate that they had "adequate procedures" in place to prevent corrupt practices.
2. **Significant Penalties**: Organizations convicted under Section 17A face severe penalties, including a fine of at least 10 times the value of the bribe or RM1 million (whichever is higher), or imprisonment of up to 20 years for individuals involved.
3. **Only Defence** – Company is able to prove that it has implemented 'Adequate Procedures' in its organisation's operations*

Boards must ensure robust internal compliance programs and anti-bribery measures to avoid liability. This law aligns Malaysian corporate governance with global standards and promotes a zero-tolerance policy toward corruption.

** T.R.U.S.T. (MACCA) & Guideline on Adequate Procedures issued by the National Centre for Governance, Integrity and Anti-Corruption (GIACC), Prime Minister's Department -2018*

Corporate Culture Can Make or Break a Company's Corporate Governance

Despite all the laws we have in place, the evidence of the last several years, and that continue to occur, clearly reflects the **governance failures at *all* levels in both the public and private sectors**. The board collectively and individually play a critical role in preventing bad conduct from becoming endemic, and in building a good governance culture. Top down, bottom up - As a board member or senior management, your talk and walk reflect the ethics of the company, sets the tone and example, to its employees.

- Integrity is the quality and practice of being honest and demonstrating consistent and uncompromising adherence to strong moral and ethical principles and values.

- So, integrity combines, an understanding and intent of honesty underlaid by strong defined ethical values, with, conduct that demonstrate an uncompromising commitment to it.

- It does not just mean understanding and believing in honesty and ethical values:
  - It's actioning them in your daily conduct
  - And that means behaving ethically and doing the right thing, *even behind closed doors.*

For a culture of integrity, you need to have an infrastructure, an organisational fabric, to support it through:
- the policies and processes – strong SOPS, leveraging on technology to implement and monitor (build good habits, hopefully with perseverance, it becomes part of the DNA.)
- an open and transparent environment that encourages input, and
- constructive challenge, that cuts through any problems of power distance

Do this and you have the most effective risk management tool - *your own people*

Thank you