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The Governance Realities Of Keeping Chairpersons Off Board Committees

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For more information, please contact:

Michele Kythe Lim (Practice Leader)
michele@rdslawpartners.com

Bahari Yeow Tien Hong
bahari@rdslawpartners.com

David Lee Lai Huat
david.lee@rdslawpartners.com

Tan Sri Datuk Harmindar Singh Dhaliwal
harmindar@rdslawpartners.com

Kamilah Kasim
kamilah@rdslawpartners.com

Rajeswari Karupiah
rajeswari@rdslawpartners.com

S. Saravana Kumar
sara@rdslawpartners.com

The Chairperson of a board occupies a unique position within the corporate governance framework. Unlike other directors, the chairperson is entrusted with leading the board and in many respects, the effectiveness of the board depends as much on the chairperson's ability to foster independent judgment and constructive challenge as it does on the technical expertise of individual directors.[1]

At first glance, there appears to be little reason why a chairperson should be excluded from board committees. After all, the chairperson is often among the most knowledgeable directors and possesses a comprehensive understanding of the company's strategy, risks and governance framework. However, modern corporate governance has increasingly recognised that committee composition is not simply about expertise. It is equally about preserving independence, avoiding undue concentration of influence and ensuring that the board's oversight mechanisms remain capable of providing objective and impartial scrutiny.

The Role Of A Chairperson

Although every director owes the same fiduciary duties to the company, the chairperson performs a fundamentally different governance function. Rather than participating solely as another member of the board, the chairperson is responsible for leading the board itself by setting meeting agendas, facilitating balanced discussions, encouraging constructive challenge and ensuring that directors receive sufficient information to discharge their duties effectively.

[1] Guidance 1.2, Malaysian Code on Corporate Governance

The chairperson's duties have been recognised by Malaysian corporate governance frameworks as a significant one. Considering this, regulatory expectations are increasingly emphasising the chairperson's role in preserving the independence of the board and board committees. This is outlined in:

- *Practice 1.4, read together with Guidance 1.4, of the Malaysian Code on Corporate Governance (MCCG)*

  The Chairman of the board should not be a member of the Audit Committee, Nomination Committee, or Remuneration Committee. Guidance 1.4 explains that having the same person chair the board and these committees gives rise to self-review and may impair objectivity on the board's deliberations.

- *Guidance 1.2 of the MCCG*

  The key responsibilities of the Chairman include leading the board in the adoption and implementation of good corporate governance practices in the company.

- *Guidance 1.6 of the MCCG*

  Chairpersons should ensure that board committee meetings are not combined with the main board meeting in order to enable objective and independent discussion.

The MCCG further recognises that the chairperson plays an important role in safeguarding the quality of board decision-making. Beyond presiding over meetings, the chairperson is expected to foster an environment in which directors are able to express differing views openly, challenge management where appropriate and engage in robust yet constructive debate.

In short, the effectiveness of the board therefore depends not only on the chairperson's leadership, but also on their ability to maintain the integrity and independence of the board's decision-making process.

Committees As A Check-And-Balance

Board committees are often misunderstood as smaller or subdelegated versions of the board. In reality, board committees exist because certain governance responsibilities require a greater degree of focus, expertise and independence than can realistically be achieved during full board meetings. For example:

- Audit committees oversee financial reporting and internal controls.
- Nomination committees evaluate board composition and succession planning.
- Remuneration committees assess executive compensation and incentive structures.

These committees perform detailed oversight before making recommendations to the full board for consideration. For instance, the Nomination Committee examines matters that concern not only management but also the conduct, effectiveness and leadership of the board itself. For this reason, committee independence is fundamental to their legitimacy. Their purpose is to provide an additional layer of objective scrutiny, particularly in areas where conflicts of interest or management influence may arise.

All things considered, the chairperson's absence from these discussions should not be viewed as an exclusion from governance, but as a structural feature that strengthens the quality of governance. By allowing committees to develop their recommendations independently, the board benefits from a more robust and objective decision-making process when those recommendations are eventually presented for approval.

Chairpersons In Committees: A Risk Or A Benefit?

Despite strict regulations on their participation, there is little doubt that an experienced chairperson can make valuable contributions to the work of board committees. The chairperson often possesses the broadest and most insightful understanding of the company's strategic direction, governance framework and risk profile. With this, the chairperson can provide useful context during committee deliberations and facilitate coordination across different areas of oversight.

From a practical perspective, these are legitimate reasons why boards may wish to include the chairperson on certain committees. Their familiarity with the company's affairs may enhance the quality of discussions, particularly where complex strategic, financial or governance issues are involved. Moreover, in smaller organisations with limited board composition, the chairperson’s participation may even be viewed as a practical necessity.

In particular, a compelling case can be made in relation to the Nomination and Remuneration Committee (NRC). They are responsible for matters that shape the effectiveness of the board itself including, among others, board succession planning, board composition, board evaluations and director remuneration. Given the chairperson's overarching responsibility for leading the board and driving its effectiveness, it is unsurprising that many experienced chairpersons consider these initiatives to be most effectively championed by the chairperson. From this perspective, the chairperson's involvement is not intended to influence committee decisions, but to provide strategic leadership in matters that are fundamental to the board's composition, capability and future direction.

Nevertheless, the need for strong leadership should not come at the expense of committee independence. One suggestion is that board committees like the NRC allow a chairperson, perhaps only an independent one, to be invited to participate on an ad hoc basis for specific initiatives such as board evaluations, succession planning or board nominations where their leadership and institutional knowledge would be especially valuable.

Such participation should be carefully defined, with the chairperson participating by invitation and only to the extent necessary for the relevant initiative. This allows the board to benefit from the chairperson's strategic leadership without undermining the committee's independence or creating the perception that its deliberations are subject to undue influence.

The Governance Risk Of Having Chairpersons On Committees

Nonetheless, good corporate governance practices extend beyond assessing the outcomes of decisions. Questions such as whether a chairperson's contribution comes at the expense of the committee's independence come into view when board committees are intended to operate as independent forums. As highlighted by the Securities Commission through the MCCG, committee members may become less willing to challenge emerging views given the authority naturally associated with the chairperson and thus can give rise to a serious risk of self-review.

Despite safeguards such as Practices 5.8 and 9.4, and Guidance 7.2 of the MCCG**,** which require the Audit, Nomination and Renumeration Committees to be chaired by, or comprise solely or predominantly of independent directors, it must be noted that a chairperson's influence within the committees is derived not merely from their voting rights, but from their position as the leader of the board. In other words, even when the chairperson abstains from discussions involving their own interests, their presence can still shape the direction of discussions, influence the issues prioritised for consideration or affect the willingness of other committee members to express views that differ from the chairperson's position.

Considering this, the prohibition on the chairperson's participation in committees recognises that the effectiveness of a committee depends not just on the technical competence of its members, but also on their ability to deliberate independently and challenge assumptions without undue influence from other centres of authority within the board. Committee members must be able to debate competing viewpoints and reconsider preliminary conclusions without feeling constrained by broader board dynamics. That way, discussions on the committees' recommendations in the board are objective.

Ultimately, good governance recognises that expertise and independence are not always perfectly aligned. While the chairperson's experience may undoubtedly strengthen committee deliberations, preserving the committee's institutional independence may, in many cases, better serve the board's overall effectiveness. The objective is not to exclude expertise from the governance process, but to allocate responsibilities in a manner that safeguards objective oversight, encourages constructive challenge and maintains confidence in the integrity of board decision-making.

Conclusion

The question of whether Chairpersons should sit on board committees is not about capability, experience or trust. It is about governance architecture.

While chairpersons can undoubtedly contribute significant expertise to committee deliberations, good governance demands institutional independence over individual capability. Committee structures are intended to provide an additional layer of objective scrutiny, free from unnecessary influence and capable of challenging both management and the board itself before matters are brought for collective decision.

Malaysia's evolving governance framework, including the MCCG, reflects this philosophy. The focus is not on whether individuals can be trusted to exercise independent judgment, but on whether governance structures are designed to preserve that independence in practice.

Ultimately, effective governance is measured not by how many responsibilities are entrusted to the chairperson, but by whether the board's governance mechanisms remain sufficiently independent to hold one another to account.

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KUALA LUMPUR
Level 16, Menara 1 Dutamas No. 1, Jalan Dutamas 1, Solaris Dutamas, 50480 Kuala Lumpur
T: +603 6209 5400
F: +603 6209 5411
enquiry@rdslawpartners.com

PENANG
Suite S-21E & F21st Floor, Menara Northam, No. 55, Jalan Sultan Ahmad Shah, 10050 Penang
T: +604 370 1122
F: +604 370 5678
generalpg@rdslawpartners.com

JOHOR BAHRU
8-35, Menara Delima Satu, Jalan Forest City 1, Pulau Satu, 81550 Gelang Patah, Johor Bahru
T: +607 585 6414
F: +607 509 7614
generaljb@rdslawpartners.com