MANAGEMENTS PROPOSE, INSTITUTIONS DISPOSE

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For many decades, resolutions at Annual General Meetings (AGMs) went through without let or hindrance. Voting patterns at some recent AGMs have been rude wake-up calls. Has the tide turned?

Shareholder activism is good, provided it benefits retail shareholders. Thus spake the SEBI Chairman at a recent event.

With all the noise that has dominated conversations on Corporate Governance in the recent past, and with all the excitement and enthusiasm with which defeated resolutions have been commented on, it was left to the SEBI Chairman to focus on the real benefit of shareholder activism, namely the protection of the interests of shareholders. Given that SEBI's mandate, as set out in the preamble to the SEBI Act, is the protection of the interests of stakeholders, the SEBI Chairman's comment has not come a day too soon.

Most articles and discussions on shareholder activism have focused on the content of the resolutions that have been either defeated or seriously challenged. These included but were not limited to, resolutions on appointment and reappointment, executive and non-executive compensation, and stock options. What seems to have escaped analysis and comment is the fact that non-promoter shareholding is divided among institutional investors and retail shareholders, and their voting patterns in quite a few cases have not been similar.

Eicher Motors provides a good example of the disconnect between the voting behaviour of institutional shareholders and retail shareholders. The resolution seeking approval for the reappointment of Mr Siddhartha Lal as Managing Director (MD), and to pay him an enhanced compensation, met with the disapproval of 72.01% of the institutional shareholders, with 27.99% in favour. As against this, 99.96% of public non-institutions, namely retail investors, voted in support of the resolution, with only 0.04% voting against the resolution.

In the case of Vedanta, where Mr Upendra Kumar Sinha, a non-executive independent director, came up for reappointment, 70.70% of public institutions voted against the resolution, with only 29.30% supporting the proposal. As against this, 56.70% of retail investors supported the proposal, with 43.3% not in favour of the resolution. Even here, at least by a small minority, the non-institutional investors had signalled the absence of any serious reservation regarding his reappointment.

A few years earlier, an ordinary resolution proposing a revision in the compensation of the COO and Whole-time Director of Infosys came up before the shareholders. 75% of public institutions voted in support of the proposal, with 25% voting against it. Interestingly, especially given that institutions are believed to be more questioning of increases in compensation, 67% of the retail investors voted against the proposal, and only 33% were in support thereof.

Shareholder activism attracted significant interest in the Indian context when Mr Deepak Parekh came up for reappointment as a Director in HDFC. Given his contribution to the strengthening of the company, it would have been reasonable to expect across the board support. However, 24.86% of public institutions voted against the resolution, opposing his reappointment, and 75.14% were in support. Retail investor behaviour was completely different. 100% of the retail investors supported the resolution for his reappointment.

Three years ago, the shareholders of Apollo Tyres had to consider a proposal for reappointment of Mr Neeraj Kanwar as the MD. This proposal also contained an additional element, namely, the enhancement of his remuneration. A 75% majority was required to get this special resolution passed. In spite of the promoter group voting 100% in support of the resolution, it did not go through, with 27.28% of the total number of shareholders voting against the resolution. Interestingly, 43.48% of the institutions supported the proposal, with 56.52% voting against it. The retail investor vote was also split down the middle, with 51.18% in favour, and 48.82% opposed to the proposal.

The voting on the proposal of Allcargo Logistics for voluntary delisting of the equity shares of the company from the two major exchanges saw a near identical voting pattern on the part of institutions and individual shareholders. 95.32% of the institutions voted against the proposal. In the case of retail, the negative vote was 74.96%. Yet, the resolution got carried by 83.87% support, since the voting by the promoter and promoter group, with a very large shareholding, as compared to institutions and individuals, managed to carry the day.

In a very recent instance, the appointment of Mr Vivek Mehra as an independent director on the Board of Zee Entertainment went through, but not before public institutions voted to the extent of 34.31% against the proposal. In significant contrast, 99.6% of retail shareholders voted in support of the proposal.

No attempt to understand shareholder behaviour will be complete without looking at the voting pattern at the Extraordinary General Meeting of Tata Consultancy Services, where a proposal was brought to remove Mr Cyrus Mistry as a Director of the company. 93% of the votes were in favour of Mr Mistry's removal, while 7% were against the proposal. Interestingly, 44% of institutional investors abstained from voting on the proposal. Among those who voted, 57.5% backed Mr Mistry's removal, while 42.5% voted against the proposal. Interestingly, 82% of retail investors did not vote on this resolution. Of those who voted, 78% were in favour of his ouster, while 22% expressed a contrary view.

The latest high-profile instance of shareholder activism is the rejection of the proposal for the appointment of Mr Vinod Rai as a non-executive non-independent director on the Board of IDFC. There was a time, not so long ago, when the experience and track record of such a candidate would have made the approval of the resolution for reappointment a blink-and-you-will-miss non-event. Are shareholders now signalling that past performance is no guarantee of future returns?

The Yes Bank - Dish TV saga is still evolving. This seems to be a serial, and not a single episode.

Clearly, the tide has turned. No longer are shareholders remaining content with endorsing resolutions in a routine manner, without asking any questions, leave alone challenging the thrust of the resolutions. It is perhaps time for Boards to invest more effort and energy in seeking to ascertain which way the wind will blow before bringing up resolutions at General meetings. Clearly, communication needs to be stepped up, and likely challenges require to be anticipated.

Institutions too need to look at their voting track record. Nothing can satisfactorily explain as many as one-fourth of them abstaining from voting on resolutions in quite a few companies. The resolution to remove Mr Cyrus Mistry saw abstention by institutional investors reaching an alarmingly high level of 43.31%. The question needs to be asked – is abstention abdication?

As more and more cases of investor activism begin to emerge, there are whispers being heard on whether activism is, at least in a few cases, on the verge of becoming adventurism. Notwithstanding the time constraints in a busy Board season, nothing should prevent managements from reaching out to shareholders, and seeking to explain their positions. Equally, nothing should prevent shareholders from expressing their concerns to the management as soon as resolutions become available to them. Being guided entirely by the recommendations of proxy advisory firms, is not necessarily the best way to take decisions on matters that impact on the future of the company and the interest of all its stakeholders.

The next phase of shareholder activism, or, more properly, investor activism, is not far off. In the not-too-distant future, we could see cases of individuals and entities that have invested in institutional investors, seeking to know why the institutions have voted in a particular manner on one or more resolutions. *Picture abhi baaki hai.*

THE STORY SO FAR...

The way they voted

Proposal	Votes in favour		Votes against		Abstained		Voting results – For
	Public non-institutions	Public institutions	Public non-institutions	Public institutions	Public non-institutions	Public institutions	
Re-appointment of Mr. Siddhartha Lal – Eicher Motors (2021) – Special resolution	99.96%	27.99%	0.04%	72.01%	95.54%	22.53%	73.05%
Re-appointment of Mr. U K Sinha – Vedanta (2021) – Special resolution	56.70%	29.30%	43.30%	70.70%	70.42%	24.22%	84.65%
Compensation of Mr. U B Pravin Rao – Infosys (2017) – Ordinary resolution	33%	75%	67%	25%	54%	26%	67%
Re-appointment of Mr. Deepak S. Parekh – HDFC (2018) – Special resolution	100%	75.14%	0%	24.86%	55.91%	16.38%	77.36%
Re-appointment of Mr. Neeraj Kanwar – Apollo Tyres (2018) – Special resolution	51.18%	43.48%	48.82%	56.52%	87.01%	17.36%	72.72%
Delisting of the equity shares – Allcargo Logistics (2021) – Special resolution	25.04%	4.68%	74.96%	95.32%	70.30%	14.41%	83.87%
Appointment of Mr. Vivek Mehra – Zee Entertainment (2021) – Ordinary resolution	99.60%	65.69%	0.40%	34.31%	53.36%	16.19%	72.10%
Appointment of Mr. Vinod Rai – IDFC (2021) – Ordinary resolution	27.73%	41.82%	72.27%	58.18%	66.68%	18.02%	37.71%
Removal of Mr. Cyrus P Mistry – Tata Consultancy Services (2016) – Ordinary resolution	22%	57.64%	78%	43.36%	14.14%	43.31%	93.11%

Do let us know of any specific issues you would like to see addressed in subsequent issues.