Investors: Asking for change they believe in

Given the overwhelming support the shareholder proposed resolution at Fortis received for changes to its board and that we have entered a new financial year, the time is right for investors to decide about their engagement with companies. While event-based issues will dominate the conversation, these need not always be company specific: these can be matters that concern them, both as investors and as citizens, regarding the market and the economy - though channelled through the company.

Take the case of Exxon Mobil. Among the various resolutions that were proposed by shareholders - some of the resolutions are proposed by shareholders who own less than 500 shares - is one by a large institutional investor. In 2016, the fund with ownership of close to 11 million shares (- at about US$ 75 per pop, not a financial light weight), proposed the company report on climate change policies.

> "RESOLVED: Shareholders request that by 2017 ExxonMobil publish an annual assessment of long term portfolio impacts of public climate change policies, at reasonable cost and omitting proprietary information. The assessment can be incorporated into existing reporting and should analyze the impacts on ExxonMobil's oil and gas reserves and resources under a scenario in which reduction in demand results from carbon restrictions and related rules or commitments adopted by governments consistent with the globally agreed upon two-degree target. The reporting should assess the resilience of the company's full portfolio of reserves and resources through 2040 and beyond and address the financial risks associated with such a scenario."

The company management advised voting against this resolution ("*we agree with the investor, but what we are doing and reporting is sufficient*"), and it was defeated with 61.9% of the shareholders polling against this disclosure.

By 2017 the fund had upped its position in the stock and again came back with the same resolution. It is difficult to know what changed in one year. Had climate change moved swiftly up on fund agendas or were investors anticipating that the Trump government will be pulling out of the Paris accord and used this ballot to voice their disagreement with White House policies. But whatever the reason, the fund was able to canvas support with a wider set of investors: 62.1% of all shareholders supported the resolution this time around.

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Other proposals too merit mention ‘Report on compensation to women,’ report on ‘methane emissions,’ and report on ‘hydraulic fracturing.’ And if you believe that investors are all bleeding hearts, there are proposals that shareholders vote on ‘increase capital distribution in lieu of investments’ or just ‘increase capital distribution’ and my personal favourite ‘hire an investment banker,’ where the investor wants to company to explore its own sale, including the feasibility of dividing the company into major pieces to facilitate such a sale!

In this Exxon Mobil is not alone: increasingly investors are proposing resolutions on issues that matter to them. To list just a few: Lat year Amazon had a proposal to appoint an independent board chair, Netflix to adopt a claw-back policy to seek recoupment of incentive compensation paid, granted or awarded to senior executives, JP Morgan to appoint an independent board chair and prevent vesting of shares to senior executives who resign to serve the government.

Three things stand-out regarding these proposals: One how wide-spread the practice of shareholders proposing resolutions is, two how diverse these resolutions are and three that shareholders with less than 50 shares can ask for change.

Seventy plus resolutions have been defeated[1] since the new Companies Act was legislated. These and the steady increase in ‘against’ votes is a sign that investors have started to offer companies push-back on their decisions.

But the investor focus has remained on operations. It’s cannot be that they don’t have a view on other matters - it’s just that they are more comfortable voicing these in one-one-one conversations. The coming AGM season is an opportunity for investors to signal how they view a broader set of developments, not merely through their reactions i.e. voting, but through shareholder resolutions they propose - change they will like to see.

Such issues do not always have to be confrontational- though they can be. For example, they can begin by asking State Bank of India to take shareholder approval before merging its subsidiaries with itself (- it is not clear if the SBI Act will even permit such a proposal to be tabled, but investors can raise this issue with the banks chairman). Or, they may simply ask Tata Motors to identify passenger cars and commercial vehicles as separate segments and publish segmental profitability metrics. They can propose to each PSU that it will seek shareholder approval regarding a transaction, rather than consummate a transaction

[1] At the time of publishing 66 resolutions had been defeated in the 500 large companies. This number has crossed 75 by 31 March 2018

and merely ask for it to be ratified – as happened recently with the ONGC-HPCL merger. Investors can propose that companies must disclose a pay-out ratio in their dividend policy. They can ask for a cap on the median pay to that of the CEO or the promoter. Its clear investors will have their work cut out once they go down this path and go they must. And companies will have be compelled to convince shareholders of their actions (or inaction, as the case may be) beyond the realm of regulatory compliances.

The last few years have seen regulations pushing for the rights of investors and the balance of power shift away from companies. But these changes also burden investors with more responsibility - not just to play the hand they have been dealt, but to push for change that they have always wanted to see.

A modified version of this article by Amit Tandon under the title 'Don't just play the hand you've been dealt' appeared in Business Standard on 28 May 2018. The article is behind a paid firewall.

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