

# Non-confrontational shareholder activism is workable

- Both minority and institutional shareholders must join forces to raise issues of common interest
- Boards which respect shareholder activism will be better prepared to respond to investors' concerns



by  
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**A** SUCCESSFUL shareholder activism approach need not be one that adopts confrontational manoeuvres as is often practised in the United States or Europe, but rather one which suits the specific country's culture, operating environment and circumstances.

In the Asian context, a non-confrontational style which displays professional engagement with company boards and management can be as effective compared to hostile takeover bids that are often spearheaded by hedge funds or private equity funds.

Closer to home, the Minority Shareholder Watchdog Group (MSWG) – dubbed the principal shareholder activist in recent times – considers proactive engagement with companies through AGMs and company visits as an effective modus operandi to influence certain behaviour or action.

"Nevertheless, should professional engagement fail, shareholders may choose to take legal action against the company, although this is very rarely done in Malaysia," MSWG general manager Lya Rahman tells *FocusM*.

### Securities laws

Currently, most matters pertaining to corporate governance transgressions are dealt with by market/industry regulators under the various securities laws to ensure investors' rights are protected.

Although MSWG's key focus is centred on minority shareholders, Lya says institutional shareholders who have greater resources at their disposal should also make their concerns known by writing or meeting with the board, jointly engaging with other institutions on common issues, submitting resolutions during AGMs or requesting an EGM to remove poorly performing directors.

"Moving forward, we are of the view that shareholder activism should also be about the minority



**Lya says proactive engagement with companies through AGMs and company visits are effective shareholder activism strategies**

and institutional shareholders joining forces in the open when raising issues of common interest," she envisages.

"We would like to see more institutional shareholders be transparent in raising questions at the AGM for the benefit of all shareholders, instead of just raising the issues behind closed doors."

### Acting in unison

Among noteworthy shareholder activism successes championed by MSWG were the pursuit of privatisation exercises whereby the offer price was deemed low or unattractive to minority shareholders. In some cases, this had resulted in minority shareholders not accepting the takeover offer, for example, in the case of MISC Bhd where the offer price was lower than the valuation.

In the case of MBF Holdings Bhd's privatisation, MSWG organised a forum for company's minority shareholders as well as writing to the MBF board to request for a higher offer price. The joint offerings for the privatisation eventually revised the offer price from RM1.50 per share to RM1.70.

MSWG monitors about 250 companies that are listed on Bursa Malaysia. Last year alone, its analysts attended 320 AGMs (by virtue of MSWG holding minimal stakes in the listed entities).

Malaysian Investors' Association (MIA) president Datin Ho Choy Meng feels that shareholder



**Investors and companies should champion shareholder activism, says Ho**

activism should be championed by both the investors and companies alike.

"To me, shareholder activism does not entail any movement dependent on placard-carrying crowd or unreasonably vocal shareholders making demands during company AGMs," she says. "I do not believe in any confrontational approach. Rather, both sides should aim positively towards enhancing the company's share value."

Ho points to apathy as the malaise that ails the growth of shareholder activism. According to her, minority shareholders should not underestimate the strength that they will possess once they make their presence felt through a certain organised approach.

"They may not be able to defeat some resolutions deemed detrimental to minority interest," she observes. "But they could convey their message to the board through the results of their ballots or by getting the media's attention to report their concerns against the management's decisions."

True to the adage that prevention is better than cure, Ho urges investors to first conduct due diligence on both the fundamentals as well as economic sectors of the companies that they wish to invest in.

"Global economic trends are another very important factor to consider while making investment decisions," she cautions. "On their part, companies must make



**Boards that scrutinise their company the same way activist investors do will be better prepared to respond to investors' concerns, says Chan**



**Shareholder activism should be proactive, consistent, and persistent rather than occasional, says Tan**

timely disclosures and comply with the regulation to publish their quarterly reports promptly to avoid incidences of insider manipulation by unscrupulous market operators."

### Think like a shareholder activist

From the perspectives of progressive boards, constructive shareholder activism has significant influence in redefining the dynamics of board governance, according to the Malaysian Alliance of Corporate Directors president Paul W Chan.

"Boards that scrutinise their company the same way activist investors do will be better prepared to respond to investors' concerns," he points out. "Directors who think more like activist investors will enhance their readiness to help protect their reputation, and better represent the interests of their shareholders."

In Chan's opinion, activists may focus on a wide variety of issues and factors, the most prominent of which is value.

"Valuation is the most fundamental component for identifying a target," he asserts. "Is a company trading at a price less than the company's intrinsic value? Activists look at tried-and-true valuation metrics to identify companies that appear to be undervalued."

In particular, activists tend to screen for:

- **Trading multiples:** Companies with trading multiples

are outliers on an absolute and relative basis.

- **Share price performance:** If a company's total shareholder's return is below applicable market indices or that of its industry peers, this is a clear sign of vulnerability to an activist.

- **Liquidity:** Activists target companies not only with large balances of unrestricted cash but also with debt capacity. A company with limited cash may still be an attractive target if that company can support additional debt.

- **Operating metrics:** Cash flow profile is perhaps the most popular operating metric that activists analyse. Companies that generate strong cash flows but are undervalued by the market represent attractive opportunities as they provide downside protection for activists.

- **Hidden assets:** The market often does not value certain company assets unless the asset is specifically highlighted. These "hidden assets" include material levels of owned real estate and non-core investments.

- **Board and management:** Activists spend a great deal of time reviewing the composition and competency of boards and management teams. Activists will use any perceived weaknesses in boards and management teams to increase pressure on companies for change.

- **Governance:** Activists focus on reviewing the governance structures of companies; however, governance alone rarely makes a company a target.

"By raising the right issues to the board, constructive shareholder activism could significantly elevate boards' sensitivity to their fiduciary responsibilities and governance, which in turn will spur them to action, thus enhancing the healthy growth and vibrancy of the stock market," adds Chan.

### Constructive opinions

Echoing a similar sentiment, Malaysian Investor Relations Association chairman Steven Tan Chek Hye also maintains that opinions should be expressed in a constructive manner.

"Shareholder activism involves active involvement in development of corporates and taking a constructive, and sometimes critical, view on corporate activities," he stresses. "It should be proactive and consistent, as well as persistent, rather than occasional."

Tan argues that investor relation is deemed a critical component in managing market expectations. Nevertheless, this should be conducted with the strictest standards of disclosure.

"Activist play a critical role as an external check and balance to ensure management maintains highest levels of corporate governance," he rationalises. "This should be embraced by corporates." *FocusM*