MINORITY SHAREHOLDERS WATCH GROUP

BADAN PENGAWAS PEMEGANG SAHAM MINORITI BERHAD

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COMPANY DIRECTORS

CHOOSING THE RIGHT PEOPLE

IT is said that leadership is the subject about which the greatest number of books have been written. And rightly so, for they set the tone at the top from which all culture and behaviour, either good or bad, cascades.

Thus, it makes sense for shareholders to make sure that the right leaders get appointed, or reappointed, as directors of their companies.

What shareholders need to look for when appointing a director also applies in any situation where leaders are to be appointed.

When it comes to electing directors, there must be transparent and sufficient details of the qualifications and experience provided to enable shareholders to make informed decisions.

Vital among this information are qualifications, skill sets and experience. Reputation, whether real or perceived, will also matter.

The board should provide reasons to support the nomination of the board candidate. Shareholders should feel free to evaluate the reasons provided and question the board if they are unconvinced.

Sure, as a minority shareholder, you may not be able to defeat the resolution but at least your comments and reservations will be recorded for posterity in the minutes of the meeting. At least the company will know that shareholders are vigilant and prepared to question and that can act as checks and balances.

Things go wrong when there is no vigilant questioning or calls for accountability.

It will be good if the persons seeking appointment to the board can address shareholders at the annual general meeting and state how they can contribute to the company.

In evaluating the potential candidate for directorship, shareholders need to keep an eye out for associations, both current and past.

Of interest will be whether the candidate is involved with a competitor that may give rise to conflicts of interest. Also, it can be telling if the candidate is or has been connected to a failed or problematic company — some are better for the experience while some are none the wiser.

The ability to spend adequate time on company matters is an important consideration when electing candidates to the board. It must be remembered that directorship also means sitting in various board committees, which requires substantial time commitments.

Although Bursa Malaysia has capped the number of public-listed companies (PLCs) on which a director can sit to five, not all PLCs are created equal.

A director may find it easy to sit on five mid- or small-cap companies with straightforward business models. But this may not be the case with large companies with complex diversified business interests.

Three of such companies may burden the directors.

Although the listing requirements state a limit of five PLCs, shareholders must also look at the candidate's other commitments, e.g. sitting on boards of non-PLCs.

Another consideration is when an executive director candidate has a full-time executive position in another company or several other companies.

The basic premise is that an executive position is tantamount to a full-time job, and how one can have several full-time jobs without compromising on quality and time commitment is a pertinent question.

In such instances, shareholders are entitled to view that potential candidate as being "stretched" and unable to commit sufficient time to discharge his duties to the company.

The Malaysian Code on Corporate Governance advocates the use of independent sources, e.g. search firms and independent directors' registry, to source for director candidates. And if such sources are not used, reasons must be given. The idea here is to give a semblance of the candidate being "truly" independent.

Traditional sources of director candidates are from the shareholders, existing board members or management and it is obvious to see why such candidates may not be seen as being "truly" independent.

The idea is to cast a wide net which will include candidates from independent sources before deciding on the best candidate.

Reappointment of directors must be made amid critical evaluation of the companies' performance or more precisely, the non-performance. If things are going wrong with the company, shareholders need to consider whether the director-candidate should be reappointed or will the company be better off with new blood coming in.

Such new blood can look at things differently and objectively, with none of the emotional baggage that comes from being a former director who may very well have to re-examine his past decisions — the loss of objectivity is then obvious.

Long tenure has always been a pet peeve for regulators and is an important consideration for shareholders in the past. Why in the past? Because going forward, there will be a "hard stop" at 12 years for independent directors. There will be two-tier voting between nine and 12 years. The gold standard remains at nine years.

Getting the right person to the top is important for organisational success and shareholder and stakeholder enhancement. After all, an army is only as good as the generals who lead it.

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The writer is chief executive officer of Minority Shareholders Watch Group