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Shareholder, know your rights

If you do not turn up for the AGM or simply dump the postal ballot forms, key decisions will pass without your consent.

If you are not satisfied with the results of the voting by a show of hands, you can demand a poll.

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Do you think the shareholder interest was overlooked by a power behemoth in its recent merger deal? Or do you feel wronged after buying a pharma company that sold a key business?

Well, if you had expressed your reservations by replying to those ballot letters that came to your mailbox, you could have at least registered a protest about some of these developments.

All major corporate decisions, including mergers, de-mergers, and new acquisitions, go through only after they are passed by a majority of shareholders present at the time of poll of a resolution.

Yes, 'majority' is the operative word. But did you know that even if 100 shareholders got together they could appeal to the Company Law Board (CLB), citing cases of oppression of minority shareholder interest or mismanagement of business?

Corporate law has conferred certain rights on every shareholder — right to seek information, to voice opinion, to vote in a resolution among the select few.

We discuss here the rights of an equity shareholder of a listed company.

Know your rights

Of all the rights conferred by law on shareholders, the foremost is the right to vote on the decisions of the board of directors.

Yet, if you are not present at the company's AGM (annual general body meeting), key decisions may be passed without your consent. Moreover, if most retail shareholders do not turn up for the AGM or simply dump the postal ballot forms, there may be no minority representation.

While routine decisions such as declaration of dividends, consideration of annual accounts can go with a simple majority, certain key decisions such as commencement of new business, merger with another entity, decision on swap ratio following a merger require a special resolution to be passed. These require at least a 75 per cent majority.

This means, you would do well to keep tabs on company announcements and notices. An investor, Satya Brata Das, appealing to the civil court before the Bank of Rajasthan EGM that was to decide on the merger with ICICI Bank, is a case in point.

Right to vote

All major resolutions of the board are put before the shareholders to receive their consent. Shareholders have the right to express their assent/dissent to the resolutions by casting their vote. Sometimes, when shareholders are not satisfied with the results of the voting done by a show of hands, they can demand a poll before the declaration of results.

For this, however, in case of public company, shareholders with one-tenth of the total voting power need to appeal, says Mr Vyapak Desai, Head- Capital Markets Practice Group at Nishith Desai Associates, an international law firm.

For certain resolutions that include sale of an undertaking of the business and buy-back of shares, a company's board can have resolutions passed through postal ballot. Voting rights of a shareholder are proportionate to the shares held by him (to the extent of paid-up capital of the shares held).

On receiving the ballot form, shareholders need to mark their opinion in it and mail it to the 'scrutiniser' (person appointed to conduct the postal ballot process by the board) in the attached self-addressed envelope. If the scrutiniser doesn't get your reply before the deadline fixed for it , your vote will not be counted.

Right to plea to CLB

If as a shareholder you think the company's affairs are conducted in a manner that is prejudicial to shareholder interest, you can appeal to the Company Law Board, asking for an investigation into the affairs of the company.

If 100 shareholders get together (or one-tenth of the members of the company) they can make a petition to the CLB for relief in cases of oppression of minority shareholder interest.

If 200 shareholders join (or shareholders with one-tenth of the total voting power), they can even request the Central government for an investigation of the company's affairs.

But here, the shareholders making the appeal should have sufficient evidence to show there is a reason for investigation.

Basic rights

Apart from these, you as a shareholder also have a basic right to receive the company's mailers as well as periodic dividend payouts and rights offers. When listed companies want to raise additional capital, they make what is called a 'rights offer'. This is an offer for the existing shareholders to take additional shares of the company. While this comes at a cost, such offers are generally at a discount to the market price.

If you don't get an offer for the rights issue despite having held the stock on the record date, you have an option of approaching the company directly through the investor relations department.

Your stockbroker can also see what went wrong. Right to dividend, right to receive information on the company's annual performance through profit & loss statements and balance sheet, right to share in the proceeds of sale of assets when a company is wound up are other key rights of a shareholder.

The ambit is only set to get wider with the likely implementation of the Companies Bill 2009 (replacing Companies Act 1956). Expected to come into action soon, the Bill has many provisions (including provisions for class action suits) that would translate into better days for minority shareholders.

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