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# GETTING PERSONAL CANADA: Shareholders Increasingly Activist

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By Monica Gutschel  
OF DOW JONES NEWSWIRES

TORONTO (Dow Jones)--Shareholders of all kinds are becoming increasingly activist, as institutional investors push for improved corporate governance, and lagging share prices at some of Canada's emerging companies are sparking heated proxy battles.

Meanwhile, mutual funds have also jumped into the fray, with firms that focus on socially-responsible investment leading the charge on executive compensation.

Such activism can lead to some sharp moves in share prices, especially in the case of proxy battles. It also means that smaller shareholders can be wooed by advocates by both sides, and provided with significant additional disclosure. And it can also bring some potentially large changes in management, which could affect performance.

All of that makes it all the more important for shareholders to know who else is purchasing the company's securities, and what are the issues that could provoke an event-based hedge fund, for example, to flex its muscles.

"Part of ensuring that your shares perform well is that you understand what is being done (at the company)," says Laura O'Neill, director of law and policy for the Shareholder Association for Research and Education, or Share. Between when an investor purchases the shares and when they sell them "there's a lot of activity," she notes.

In the case of mutual funds, especially those with a socially responsible bent, potential investors should closely review the disclosure provided as that will indicate "not just the stocks the fund picks but also how they curate those investments," she says. "Between buy and sell, there are often a few votes to be cast."

Indeed, a recent survey by Vancouver-based Share found that support for shareholder proposals has grown in each of the past three years among all shareholders, including mutual funds, with some of the biggest changes related to executive compensation. Mutual funds rejected a "significant" 20-30% of compensation resolutions each year, the study found, and there has also been a "slow, steady" decline in mutual fund support for management's board nominees. Indeed, even shareholders at Canada's big banks approved "Say on Pay" resolutions put forth by SRI fund activists last year.

Meanwhile, a study by the Goodmans law firm has found that dissident shareholders are increasingly winning proxy battles, especially if the dissidents hold more than a 10% stake. In 2009, the study found, dissidents owning 10% of more of the target won or partially won proxy contests they launched 80% of the time.

Share's O'Neill believes the global credit crisis in 2007-08 has galvanized shareholders into becoming more vigilant. Given the large losses sustained by many institutional investors, she says many of them determined they needed "to take a harder look at how these companies are run and by whom."

The same factors appear to have played a role in the dramatic increase in proxy battles. "Whereas 20 years ago, most institutional investors sat on the sidelines and voted by selling their stock, they're taking a more responsible position now," says Craig Ferris, a litigator with Lawson Lundell LLP, who notes that proxy battles in the junior mining sector have increased five-fold this year from a year earlier. "They're saying that if something is wrong here, they will actually fight it."

Moreover, he notes the recent decline in capital-markets activity, including a slump in initial public offerings, means large investors are more likely to push for greater control in their existing holdings. The drop in share prices in the mining sector as commodity prices slumped in the past two years have galvanized many to propose management changes.

Smaller investors especially should be aware of where institutional investors might flex their muscles, Ferris says, pointing to the battle between Magna International Inc.'s founder Frank Stronach and dissident shareholders opposed to his plan to collapse the company's dual-class share structure, which valued his shareholdings at a premium.

"Where there are proposals not met favorably by institutional investors, it does depress values," Ferris notes.

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