HK gadfly David Webb on governance

Personal Finance

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IN early 2009, with markets reeling at the height of the global financial crisis, Hong Kong's main telco PCCW was being privatised by its listed Singapore holding firm Pacific Century Regional Development. Most analysts had written off the actual vote for the firm — controlled by Richard Li, the younger son of billionaire Li Ka-shing — as a mere formality. Enter Hong Kong's corporate governance campaigner and gadfly David Webb.

The former British corporate finance executive, who runs the popular Webb-site.com, which uncovers corporate shenanigans in Hong Kong, had been campaigning to derail PCCW' privatisation effort but initially had not attracted much attention. In mid-January 2009, Webb had received an anonymous tip-off that there was a ballot rigging plot to influence the privatisation vote. He complained to the Hong Kong Securities and Futures Commission and kept up the pressure via his website.

Eventually, SFC intervened, taking PCCW to court, but losing the initial case and only to succeed in blocking the privatisation on appeal. While the move won him few friends in Hong Kong, it did reaffirm his role as Hong Kong's most feared corporate governance campaigner who would not spare even the city's richest clan.

Started in 1998, Webb-site.com has become the go-to portal for retail investors in Hong Kong and global hedge funds following the shenanigans of companies in the greater China region. Webb arrived in Hong Kong in 1992 as a rookie corporate finance executive with BZW Securities, the then investment banking arm of London-based financial services giant Barclays. He later worked for Wharf Holdings as an in-house corporate finance executive until the tail end of the Asian financial crisis, when he found himself out of job. Instead of returning home to the UK and looking for another investment banking job, the shy, soft-spoken Webb decided to retire early in Hong Kong to manage his own portfolio and start a website in a city long known for opaque business practices and tame disclosure laws.

Although Hong Kong's business elite as well as its securities regulators may not like him, Webb knows they read almost everything he posts and pay attention to what he is saying. Just recently, the regulators abruptly reversed gears on the handcount rule on privatisations in Hong Kong after Webb forcefully made his point in the wake of the PCCW privatisation in 2009. Hong Kong law currently says companies need three-quarters of the vote in favour of the privatisation move in addition to the majority of the people through a handcount.

"The problem has always been that you can manipulate the handcount by adding extra hands [just as PCCW was trying to do]," Webb, 46, tells The Edge Singapore in an interview on June 7.

In late May, Hong Kong's Law Reform Commission, first set up three years ago, took up another major cause that Webb has campaigned for years: class action suits. The

commission recommended the introduction of class action suits in Hong Kong. For now, there is a small caveat.

"The commission says class action suits will be allowed in Hong Kong, but not for investors, only for consumers of goods and services," says Webb. "What's been proposed is far too little and far too late, but if there is a positive, it is that Hong Kong now permits class action suits." At some point, perhaps investors will be allowed to file class action suits as well.

As the full impact of the European crisis is felt across the world, China starts to slow and other Asian economies slow, Webb says investors should watch for more financial scandals. "In boom times, when profits are growing fast, things get covered up easily. But, in more challenging economic times, shenanigans come to light," he says.

In the 14 years that he has been campaigning for better corporate governance, Webb says, a lot has changed in Hong Kong and elsewhere across Asia, including Singapore, but the region still has a long way to go. "Clearly, the biggest change in Hong Kong has been in market composition," says Webb.

Mainland Chinese companies with their listed H-shares, including top banks such as ICBC, big oil companies such as Petrochina and giant telcos such as China Mobile, now dominate the Hong Kong bourse, making up for more than half of the market capitalisation.

Tightening of rules

To be sure, regulations in Hong Kong have improved. Take, for instance, the takeover threshold, which has come down to 30%, from 35%; and disclosure agreement for shareholders, which now triggers at 5% instead of 10% previously. Moreover, insider trading has been a criminal offence in Hong Kong since 2003, along with being a civil offence.

"The frequency of financial reporting has improved," notes Webb. "When I first started in Hong Kong, it used to take up to five months for companies to publish their annual results. Now, that's down to three months."

Still, he says there are things that Hong Kong can learn from Singapore. "Hong Kong needs to catch up with Singapore and the rest of Asia in terms of quarterly financial reporting," he says. "There are those who say it will only force companies to push for short-term results but, as long as most Hong Kong companies are controlled by people who have large portions of their net worth in their listed vehicles, they are not going to be cavalier and just try to make quarterly earnings targets."

Will Singapore benefit from the tightening of rules in Hong Kong and snare a bigger share of quality China listings instead of being satisfied with second- and third-tier Chinese companies? The way he sees it, luring companies through some sort of competitive regulatory arbitrage just will not work.

"In the end, if investors believe a certain market was attracting lower quality companies, they will pay much less for stocks in that market," he says. "Ultimately, good companies will go where they see investors are willing to pay a premium and, often, that's an exchange with the most stringent of rules."

Trying to lure big IPOs by offering a slightly more lax regulatory environment, he says, is a short-term strategy that Hong Kong or Singapore should not fall for.

To attract the best listings from Asia and around the world, Singapore and Hong Kong need to develop their own niche. He cites how Singapore has done well by attracting shipping companies, shipyards, and offshore and marine players because it has long had an expertise in the area. Another area in which Singapore has done well is in real estate investment trusts and business trusts, while Hong Kong has done well attracting global resources companies such as Glencore or luxury global brands such as Prada and Coach.

He cites how Singapore has successfully attracted IPOs such as Formula One and Manchester United, while Chinese Internet companies have avoided both Hong Kong and Singapore, listing directly on Nasdaq because analyst coverage there is better. So, the likes of Baidu, Netease, Sina are all listed in the US.

"In the long run, policymakers and regulators need to build a top quality framework and attract the best companies in the world and say they don't care about a few bad ones that can't come in," he says. "Hong Kong and Singapore need to be in a virtuous cycle of listings, not a vicious cycle," says Webb.

Fighting for transparency

Webb has for years campaigned for better disclosure and stringent rules against related party transactions that are common across Asia. "At least in Hong Kong and Singapore, there is a system for approving such transactions," he notes. "Minority shareholders do have the opportunity to stop them, provided the company admits that they are related party transactions," he says.

Often, in emerging markets, it is years after a transaction that investors realise a company was sold or bought from a relative of the chairman or CEO, who was acting through some nominee companies, Webb says.

"In many jurisdictions, including Singapore and Malaysia, often they don't name the counterparty or the people behind the buyer or vendor," he notes.

"In Hong Kong, even if it is a [British Virgin Island] company, you can get the names behind the buyer or seller. In corporate transactions, it is absolutely crucial to know who is actually behind it — the name of the beneficial owner, not just the name of a nominee company registered in some offshore island. If somebody is actually lying and is just a puppet for someone, you can go after them and find out who exactly benefits from the sale or who is forking out money for the purchase."

Another key issue in Asia is the lack of truly independent directors. "You have tycoons appointing their cronies and golf buddies as ‘independent directors'," notes Webb.

"There are very few really independent directors in Asia who are not tied to management or owners and who are willing to ask difficult questions," he says. "It is important that independent directors be elected by minority shareholders, with controlling shareholders forced to abstain from voting."

He adds that independent directors should be answerable to minority shareholders; so, if they fail to do a decent job, they can be quickly replaced.

Webb also wants regulators with more teeth. "One thing you have to recognise about regulations globally is that they are limited by jurisdiction, and there is a lack of cooperation between governments," he says.

As investors in the beleaguered Sino-Forest Corp found out last year, it is hard to keep tabs on a company based in Hong Kong, with main operations in China and a dual listing in the US and Canada.

"The US doesn't have an extradition treaty with China, nor does Canada or Hong Kong, so even the threat of prosecution isn't much of a deterrent," he says. "The thing to remember is that China is still an emerging market, one without a clear rule of law and one without a respectable enough court system that it can have extradition treaties with the US, the UK, Canada or Australia."

After 20 years in Asia following companies and corporate shenanigans in the region, Webb still says a lot of things never cease to amaze him. He chuckles when he talks about the long-running saga of pump-and-dump Chinese reverse takeover companies in North America.

"Why does a Chinese herbal medicine company want to list through the backdoor by taking over a small Maryland company and giving it a Chinese name?" he asks. If the company had good fundamentals, it could have always listed in Hong Kong, Singapore or China, he says. "You have to ask yourself, did they ever want to make a profit or was it always just all financial engineering and shenanigans?"

Webb is now as much a part of the Hong Kong establishment as he is a gadfly. He is on the Security and Futures Commission's takeover panel — as its longest-serving member — and previously served as a director of the Hong Kong Stock Exchange. Yet, he is not expecting to be invited to Li Ka-shing's or son Richard's home for tea any day soon. — *The Edge Singapore*

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