Finding amicable solutions to market disputes

Securities Industry Dispute Resolution Centre offers free services to investors with claims of under RM250,000

by Cheah Chor Sooi

PROBABLY driven by an urge to maximise returns amid market volatility, there is a growing tendency for investors to relax their guard. They at times even ignore the need to seek sufficient information or thoroughly understand their investment products.

This has inevitably resulted in more cases related to disclosure and mis-selling of late as observed by the Securities Industry Dispute Resolution Centre (Sidrec).

Issues consistently raised include inadequate level of explanation of products, risks and sales charges, and clients being persuaded under these circumstances to move monies from their savings or fixed deposit accounts to investment products such as unit trusts and structured products.

"On the other hand, there had also been instances of pretty reckless behaviour on the part of investors in signing off forms and entering into investments without any regard to what they were investing in or what the risks were because of the promise of a high return," Sidrec CEO Sujatha Sekhar Naik tells ***FocusM***.

Sidrec offers free services to investors whose claims do not exceed RM250,000. It was set up in December 2010 by the Securities Commission (SC) pursuant to the Capital Markets and Services Act (CMSA) 2007 to provide a specialist alternative dispute resolution channel for investors seeking redress for disputes relating to capital market products or services provided by capital market intermediaries through whom they have invested.

Sidrec has 192 members comprising investment banks, commercial banks, Islamic banks, stockbrokers, derivatives brokers, fund management companies, unit trust management companies, institutional unit trust advisers, corporate unit trust advisers as well as private retirement scheme providers and distributors.

Tackling frauds

Sujatha also highlights a continuing issue since 2014 with regard to payment and acceptance of cash for transactions, notwithstanding the warning to clients in prospectuses and application forms not to pay cash to agents, and also warnings to agents not to accept cash.

"Where a fraudster is intent on perpetrating a fraud, these warnings will not help," she reckons. "However convenient it may be or persuasive the agent is, do not pass cash to anyone for your investment, even your long-time agent or dealer representative/remisier."

Instead, she urges investors to pay by cheque, bank draft or online transfer directly to the bank, broker or fund management company, and to include personal details like investment accounts and names to ensure payments are tagged to their investment accounts.

> **"However convenient it may be or persuasive the agent is, do not pass cash to anyone for your investment, even your long-time agent or dealer representative/remisier."**
>
> – Sujatha

Additionally, Sujatha opines that the market with its wide distributorship channels faces the challenge of ensuring the necessary oversight over their representatives and agents.

On this note, she stresses that the principal is responsible for the conduct of its agents as long as the act or omission falls within the actual or apparent authority given to its agents. The SC has reiterated the clear accountability that comes with the relationship with the inclusion of Section 59A in the CMSA.

"This principal-agent relationship is an important component of investor protection and market accountability as we have a market where so much operates through representatives and agents, whether they are remisiers, unit trust consultants or private retirement scheme agents," she points out. "So, having good internal controls and oversight of representatives and agents makes business sense."

While claims have been incrementally increasing the past five years, Sujatha believes they are still at relatively low levels and do not reflect the real need out there.

"This is where our current awareness campaign funded by the Capital Market Development Fund comes in," she enthuses. "The objective is simple – to ensure that those who need our help know we exist and how to find us, if and when they need our help."

Since its inception in 2011, Sidrec has handled 1,141 claims and enquiries. Of the 226 claims, 54% relate to dealings in securities followed by dealings in unit trusts (33%).

Fraud and defalcation

The nature of claims can be divided into three categories – market conduct, service standards, and member's practice/policies. As of Sept 30, market conduct relating to allegations of fraud and defalcation as well as mis-selling or misrepresentation led with 30% each.

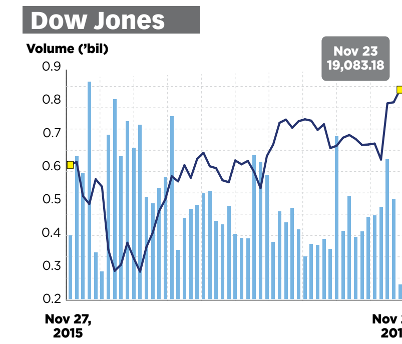
"It is noteworthy that 80% of the 91 cases decided/resolved by Sidrec were accomplished via case management and mediation," asserts Sujatha. "This is exactly what Sidrec has been championing, that is, to encourage parties to resolve matters amicably."

Before approaching Sidrec, an investor must try to resolve his issue with the capital market intermediary. This will provide a member the opportunity to resolve the issue via its internal complaint handling process.

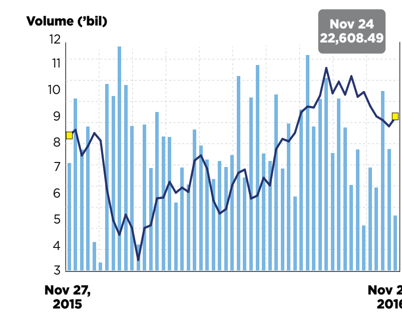
"However, if that fails because a member did not provide a satisfactory answer or did not reply within 90 days, then the investor can come to us," she says.

Sujatha also reminds claimants of the importance of maintaining records of their investments together with any important instructions or communications, including SMS or WhatsApp messages. Apart from being self-discipline in managing their investments, such information is also useful to support their positions in the event of disputes. FocusM

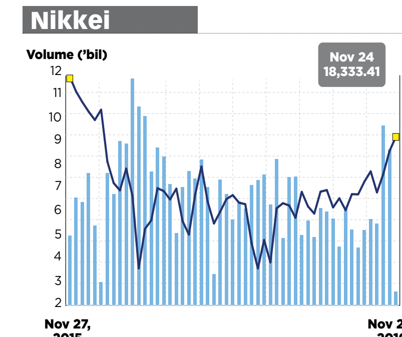
Dow Jones



Hang Seng



Nikkei



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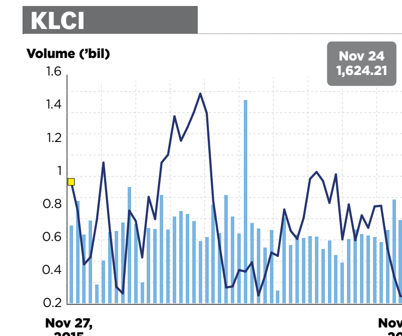

Weak yen nudges Nikkei forward

JAPANESE stocks emerged Asia's top gainers on Nov 24 as a weaker yen buoyed exporter stocks. Reflecting this trend, the Nikkei 225 firmed 0.94% or 170.47 points to 18,333.41.

Both China's Shanghai Composite Index and Australia's S&P/ASX 200 Index closed on a flattish note at 3,241.74 (up 0.02% or 0.6 of a point) and 5,485.08 (up 0.01% or 0.72 points), respectively.

South Korea's Kospi Index was the region's biggest loser, slipping 0.84% or 16.69 points to 1,971.26. Elsewhere, Hong Kong's Hang Seng Index inched down 0.3% or 68.2 points to 22,608.49.

Over at Wall Street, the Dow Jones Industrial Average gained 59.31 points to 19,083.18 during Nov 23's overnight trading while the S&P500 was marginally higher by 0.08% or 1.78 points to 2,204.72.

At the currency market, the ringgit weakened further against the greenback, declining 0.35% to 4.4602 per US dollar from the previous day's 4.4445/US$.

Brent crude hovered in the US$49 (RM218.54) per barrel region during Asian hours trading after retreating 17 cents or 0.4% to settle at US$48.95/barrel during Nov 23's overnight trading.

Back home, the FBM KLCI fell 0.38% or 6.17 points to end at 1,624.21 during Nov 24 trading. Market breadth was negative with losers thumping gainers by 452 to 302. FocusM

BLOOMBERG

Customers dine in a restaurant in Seoul. South Korea and India have seen their services potential deteriorate the most in recent years

How to escape the productivity slump

Services sector fast becoming the key driver of GDP and jobs everywhere

Guest writer

BY MADHUR JHA

WITH manufacturing productivity in the doldrums, services are fast becoming the key driver of GDP and jobs just about everywhere. But which countries have what it takes to make the most of this trend?

We've looked at the figures, and find Hong Kong, Singapore, the United States and the United Kingdom out in front among the developed markets when it comes to the ability to drive productivity in services.

The four have a number of favourable conditions in common, including strong education systems, a high degree of innovation, advanced technologies and well-functioning markets.

Among emerging markets, Malaysia, Turkey, Kenya and the Philippines top our index of countries with potential to increase services productivity.

We've also looked at who has made the most progress in improving services potential since the global financial crisis.

The Philippines has improved the most in overall rankings with notable landmarks in foreign direct investment (FDI), technology transfer, financial market development and innovation. China has also moved up quickly, deepening and strengthening its financial markets as well as improving government efficiency.

Why does this matter?

Until recently, few economists pay much attention to services productivity. One reason is that it's hard to measure. Whether one hairdresser or doctor is more productive than another depends on the quality of the service, not just the number of people served.

Another reason is the general assumption that manufacturing productivity will always outstrip services productivity as it's easier to automate. It is hard to conceive a hairdresser being able to style two people's hair at the same time, for example.

Slumping productivity

But times are changing, and there are many reasons why governments and academics are now looking again at squeezing more growth out of services.

Slumping productivity – output per person – has become a major concern for policymakers and markets around the world. Over time, productivity growth is the main driver of improvements in living standards and underpins returns in asset markets.

The recent bout of weakness is pervasive across most developed and emerging countries and a key reason why incomes have stagnated. This, in turn, has likely contributed to the polarisation of politics we see in some countries.

Meanwhile, services have grown to account for nearly 70% of global output, and fewer than 7% of jobs in the US are now in manufacturing.

Emerging markets are also seeing a rising share of services as traditional manufacturing-led economies such as China re-orient towards services. Some emerging economies in Sub-Saharan Africa and Asia even face "premature de-industrialisation" – meaning they are becoming predominantly services economies without ever developing a strong industrial sector.

And now, economists are beginning to question whether productivity growth in services must inevitably be slow. Growing tradability and new digital technologies are helping to elevate services productivity in many services sectors.

According to the Organisation for Economic Co-operation and Development, while overall services productivity growth still lags manufacturing, labour productivity growth in frontier firms in modern services averaged 5% a year in recent years, much higher than that of frontier firms in the manufacturing sector which averaged only 3.5% per annum over the same period.

Increasingly, sectors such as retail and wholesale trade, finance, and information technology can rival or even exceed the productivity performance traditionally associated with the manufacturing sector.

Higher productivity in the new services sectors such as telecommunications and IT can help to raise productivity in more traditional service sectors like health and education as well. All of these in turn help boost productivity in the wider economy including manufacturing and agriculture.

Where we stand

KEY highlights on Malaysia from the recent Standard Chartered's (StanChart) *Escaping the Productivity Slump* report:

- Malaysia is ranked 10th among 26 countries in the StanChart index on services potential but is the top-ranked emerging market on this index.
- Malaysia is ranked among the top three overall – out of 26 countries – on measures of government efficiency and the ratio of services productivity to manufacturing productivity.

  The latter shows that Malaysia already enjoys high levels of productivity in the services sector compared to some of its peers.
- Malaysia is ranked the fifth-best performer on indicators of business innovation (a key requirement for measuring services sector potential).
- Malaysia is ranked fifth on indicators of just how important the "modern" services sector is in the economy.

  Modern services such as information technology are more easily tradable and so tend to yield higher productivity than other more traditional services.
- Malaysia is ranked fifth on both the ratio of marketable services to GDP as well as the share of services exports to total exports.
- If Malaysia is able to encourage a higher share of services (overall) in GDP and also improve labour market efficiency – the two indicators in which it lags on – then it can see an even bigger boost to services productivity in the coming years.

Thriving service-oriented productivity

Services productivity growth will also become particularly important for countries with older populations. Older people spend more on healthcare and financial planning than manufactured goods. As populations age, the services sector will become an even larger share of the economy. And manufacturing itself is increasingly being unbundled into a series of processes – from design to production to marketing and sales – most of which fall in the services sector.

Fulfilling the productivity potential in services will require the rapid adoption of new technology, processes and business models. But regulatory barriers and human capital limitations – including skills, business sophistication and an innovation culture – may be a constraint.

According to our research, South Korea and India have seen their services potential deteriorate the most in recent years – a particular worry for India, which, unlike South Korea, has no manufacturing base to fall back on. FocusM

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