

Activist Environment Overview

March 2017

Shareholder Activism Continues to be Prevalent

Recent Market Trends

Companies with a solid history of value creation and no significant governance issues being targeted



Success is attracting new players



Activists are playing a much larger role in M&A

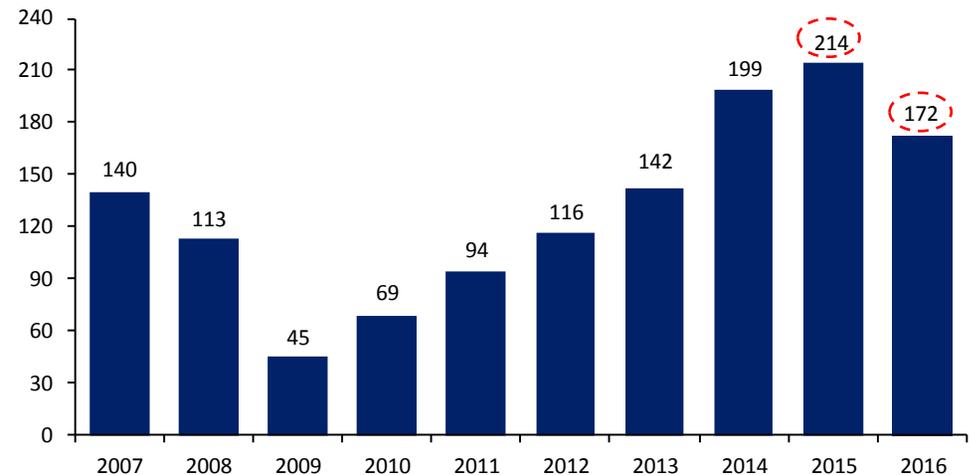


Institutional investors are increasingly supportive of activist agendas

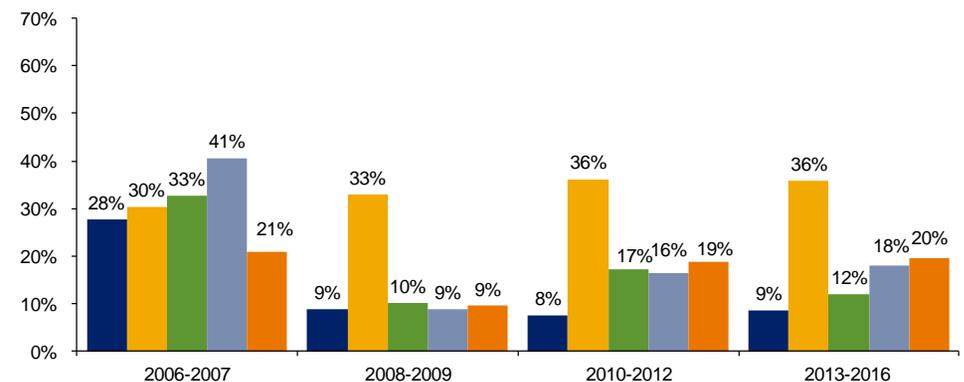


Many situations are resolved with private discussions or without agitation, often before an accumulation has even been made public

New Activist Campaigns by Year (1)



Activist Campaign Outcomes 2006–2016 (2)(3)



Source: SharkRepellent, company public filings, and press releases.

(1) Excludes recurring campaigns, campaigns at investment funds, campaigns by governance activists, merger-related campaigns and campaigns involving US companies with a market cap of less than \$100 million. As of December 31, 2016.

(2) Percentages represent the frequency of the corresponding outcome relative to the total year's campaigns. Reflects only campaigns that have been settled or resolved.

(3) Outcomes as of December 31, 2016.

Selected Recent Activist Investor Activity in Real Estate Over the Past Two Years

	Announcement Date	Activist(s)	Campaign Goals	Outcome
 FORESTCITY	1-30-2017	Land and Buildings	<ul style="list-style-type: none"> Evaluate strategic alternatives Board representation 	<ul style="list-style-type: none"> On-going
 BROOKDALE — SENIOR LIVING SOLUTIONS —	12-20-2016	Land and Buildings	<ul style="list-style-type: none"> Sale of the company Pursue strategic alternatives 	<ul style="list-style-type: none"> On-going
 FELCOR LODGING TRUST	10-27-2016	Snow Park Capital	<ul style="list-style-type: none"> Sale of the company Liquidation of assets Reduce management compensation 	<ul style="list-style-type: none"> On-going
 Taubman	10-19-2016	Land and Buildings	<ul style="list-style-type: none"> Improve corporate governance Reduce corporate G&A 	<ul style="list-style-type: none"> On-going
 CLUBCORP [®] THE WORLD LEADER IN PRIVATE CLUBS [®]	9-15-2016	FrontFour Capital	<ul style="list-style-type: none"> REIT conversion Sale of the company 	<ul style="list-style-type: none"> On-going
 FORESTCITY	8-10-2016	Scopia	<ul style="list-style-type: none"> Eliminate dual class structure 	<ul style="list-style-type: none"> Agreed to eliminate dual class structure Two members of founding family retired from board
 BOYD GAMING [®]	4-25-2016	Land and Buildings	<ul style="list-style-type: none"> Formation of a gaming REIT 	<ul style="list-style-type: none"> Ongoing
 MONOGRAM RESIDENTIAL TRUST	3-3-2016	Snow Park Capital	<ul style="list-style-type: none"> Strategic alternatives Board representation 	<ul style="list-style-type: none"> Monogram and Snow Park appointed a non-voting observer to the Board
 FELCOR LODGING TRUST	1-28-2016	Land and Buildings	<ul style="list-style-type: none"> Sale of properties Share repurchase Board representation 	<ul style="list-style-type: none"> Appointed two L&B approved representatives to the board
 NorthStar ASSET MANAGEMENT GROUP	1-11-2016	Land and Buildings	<ul style="list-style-type: none"> Board representation Enhance shareholder value Recombine NSAM and NRF 	<ul style="list-style-type: none"> Withdrew nomination of 6 candidates for director Voted in favor of merger agreement with NRF and Colony Capital, which it initially opposed
 ASHFORD HOSPITALITY TRUST	1-11-2016	Rambleside Holdings	<ul style="list-style-type: none"> Recombination of AHT, AHP, and AINC Board representation 	<ul style="list-style-type: none"> Rambleside nominee appointed to AHT Board
 ASHFORD HOSPITALITY PRIME	9-1-2015	Sessa Capital Snow Park Capital Weissman Group	<ul style="list-style-type: none"> Sale of the company Board Representation 	<ul style="list-style-type: none"> Courts rule that Sessa did not comply with bylaws and securities laws in soliciting proxies Company agrees to separate CEO and Chairman roles Ongoing process to review strategic alternatives
 NYRT NEW YORK REIT	9-30-2015	Ashner/Witkoff Rambleside Land and Buildings	<ul style="list-style-type: none"> Sale of the company Vote against JBG merger Enact plan for liquidation 	<ul style="list-style-type: none"> JBG merger terminated NYRT announced shareholders approved liquidation plan
 MACERICH [®]	4-3-2015	Land and Buildings Orange Capital	<ul style="list-style-type: none"> Board representation De-classify Board Eliminate poison pill 	<ul style="list-style-type: none"> Appointed two Macerich representatives (out of four) to the Board Declassified Board Terminated poison pill
 MGM RESORTS INTERNATIONAL [™]	3-7-2015	Land and Buildings	<ul style="list-style-type: none"> REIT conversion Sale of 50% of CityCenter Board representation (4 seats) 	<ul style="list-style-type: none"> L&B withdrew proxy due to lack of support MGM formed a majority controlled REIT L&B has continued to push for more change including CEO removal

Several Prominent Activist Funds Have a History Investing in Real Estate

Activist	BlueMountain	Corvex	HG Vora	Highfields	Land & Buildings	Marcato Capital	Sandell	Snow Park Capital
Key Principals	 Andrew Feldstein	 Keith Meister	 Parag Vora	 Jonathon Jacobson	 Jonathan Litt	 Mick McGuire	 Thomas Sandell	 Jeffrey Pierce
Est. AUM ⁽¹⁾	\$3.4bn	\$5.3bn	\$2.8bn	\$13.2bn	~\$400mm	\$1.1bn	~\$300mm	N / A
History of Public Agitation / Seeking Board Seats								
Selected Recent Campaigns	<p><u>Chatham Lodging</u> Date: 2013 Goal: Unsolicited Bid</p> <p><u>RadNet</u> Date: 2013 Goal: Explore Strategic Alternatives</p>	<p><u>American Realty Capital Properties</u> Date: 2014 Goal: Board Representation</p> <p><u>CommonWealth REIT</u> ⁽²⁾ Date: 2014 Goal: Board Control</p> <p><u>Crown Castle</u> Date: 2014 Goal: Return of Capital</p> <p><u>CCA</u> ⁽³⁾ Date: 2012 Goal: REIT Conversion</p>	<p><u>General Motors</u> ⁽⁴⁾ Date: 2015 Goal: Return of Capital / Board Representation</p> <p><u>Town Sports</u> ⁽⁵⁾ Date: 2015 Goal: Return of Capital / Board Control</p> <p><u>Chatham Lodging</u> Date: 2014 Goal: Return of Capital / Board Representation</p> <p><u>Great Wolf Resorts</u> Date: 2012 Goal: Vote Against Merger</p> <p><u>Morgans Hotel Group</u> Date: 2010 Goal: Maximize Shareholder Value</p>	<p><u>Digital Realty Trust</u> Date: 2014 Goal: Short Position</p> <p><u>Tim Hortons</u> Date: 2013 Goal: Asset Separation / Return of Capital</p>	<p><u>Forest City</u> Date: 2017 Goal: Maximize Shareholder Value</p> <p><u>Brookdale</u> Date: 2016 Goal: Maximize Shareholder Value</p> <p><u>Taubmann Centers</u> Date: 2016 Goal: Maximize Shareholder Value</p> <p><u>Boyd Gaming Corp.</u> Date: 2016 Goal: Maximize Shareholder Value</p> <p><u>FelCor Lodging Trust</u> Date: 2016 Goal: Sale of company / Reduce Management Comp.</p>	<p><u>Sotheby's</u> Date: 2015 Goal: Return of Capital / Remove Officer</p> <p><u>American Realty Capital Properties</u> Date: 2014 Goal: Return of Capital</p> <p><u>Sotheby's</u> Date: 2014 Goal: Monetize Real Estate / Return of Capital</p> <p><u>CommonWealth REIT</u> Date: 2013 Goal: Board Control</p> <p><u>Life Time Fitness</u> Date: 2014 Goal: Conversion to a REIT Structure</p>	<p><u>Bob Evans Farm</u> Date: 2015 Goal: Maximize Shareholder Value</p> <p><u>Brookdale</u> Date: 2015 Goal: Board Representation / Spin-off of Company</p> <p><u>ARCT</u> Date: 2013 Goal: Vote Against Merger</p> <p><u>Bob Evans Farms</u> Date: 2013 Goal: Sale / Spin-off of Company</p>	<p><u>FelCor</u> Date: 2016 Goal: Maximize Shareholder Value / Enhance Corporate Governance</p> <p><u>Monogram</u> Date: 2016 Goal: Maximize Shareholder Value</p> <p><u>Ashford Hospitality Prime</u> Date: 2016 Goal: Maximize Shareholder Value</p>

Source: Company filings and SharkRepellent.

(1) AUM based on reported public equity assets under management as of the latest filings.

(2) Partnered with Related Fund Management in campaign.

(3) Partnered with Marcato Capital Management in campaign.

(4) Partnered with Appaloosa Management, Taconic Capital Advisors, and Hayman Capital Management in campaign.

(5) Partnered with PW Partners Capital Management in campaign.

Institutional Investors and Activism

Institutional Investors are Willing to Support and Even Participate in Campaigns ...

Company	Institutional Investor	Activist
 ALLERGAN	 T. Rowe Price	Pershing Square
 CSX <small>How tomorrow moves</small>	NEUBERGER BERMAN	Mantle Ridge
 DARDEN	 Capital Group Companies	Starboard
 PEPSI	 CALSTRS	Trian
 DELL	 T. Rowe Price	Icahn
 IR Ingersoll Rand	 CALSTRS	Trian
 The McGraw-Hill Companies	 TEACHERS' PENSION PLAN	JANA
 TNT	 AIMCo	JANA
PERRY ELLIS	 CALSTRS	Legion Partners
 TIMKEN	 CALSTRS	Relational Investors
 URS	 Fidelity INVESTMENTS	JANA

... However, Index Funds are Taking a More Balanced View

*"Our main goal as a near-permanent source of capital for companies listed in the indices is to **maximize the probability of long-term value creation** on behalf of our clients...we recognize there are different ways for activists to engage with companies and that some activists can drive positive change. But **we are wary of activist situations that favor short-term gains at the expense of long-term investor interests.**"*

– Ronald P. O’Hanley, President & CEO of State Street Global Advisors, October 10, 2016

*"It is critical... to understand that corporate leaders’ duty of care and loyalty is not to every investor or trader who owns their companies’ shares at any moment in time, but to the company and its long-term owners. Successfully fulfilling that duty requires that corporate leaders engage with a company’s long-term providers of capital; that they **resist the pressure of short-term shareholders to extract value from the company if it would compromise value creation for long-term owners.**"*

– Laurence D. Fink, Chairman & CEO of BlackRock, April 14, 2015

Non-activist Activism on the Rise

Selected First Time Activist Campaigns (1)

Angie's list

Activist: TCS
Theme: Sale of Company / Board Seats
Outcome: Settlement / 2 board seats
1 Fund, 1 Independent



Activist: Villere
Theme: Board Seats
Outcome: 2 board seats
2 Independents
Company sold



Activist: Harvest
Theme: Board and Management Change
Outcome: Won 2 seats in vote
2 Independents



Activist: Artisan
Theme: Asset Separation
Outcome: Ongoing

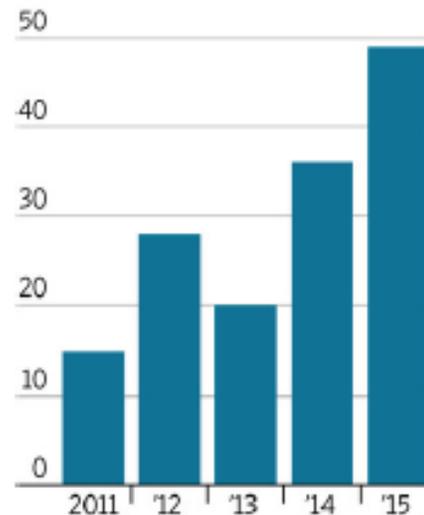


Activist: Neuberger Berman
Theme: Board Seats
Outcome: 2 board seats
2 Independents

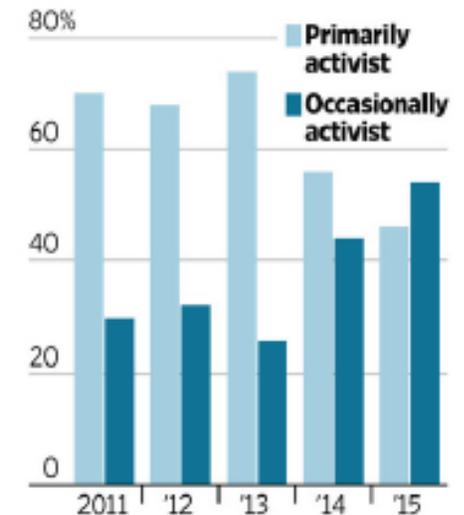


Activist: Altimeter & PAR Capital
Theme: Board Seats
Outcome: Settled / 2 board seats
1 Fund, 1 Independent

Campaigns Launched by First-Time Activists (2)



Activist Campaigns by Investor Type (2)



Recent Trends

- In addition to established funds, increased activity from new entrants and first time activist funds
 - These investors are generally not “professional activists” but are rather being vocal in a specific situation
- Other new entrants include funds trying to establish an activist reputation to drive fundraising
- Settlements remain the most frequent resolution, both for campaigns launched by new and established activist funds

“The rise of these ‘reluctavists’ or ‘suggestivists’ as they are sometimes called, reflects the success of vocal shareholders in forcing corporate change, as well as broader shifts in the investing world.”

“First-time activists ran 49 campaigns against U.S. companies last year, up from 36 in 2014 and 15 in 2011, according to Activist Insight. Some 54% of all campaigns were launched by what the researcher deems ‘occasional’ activists, up from 30% in 2011.”

– *Don't Make Me Do This: Rise of the Reluctant Activist*, *The Wall Street Journal*, 18 February 2016

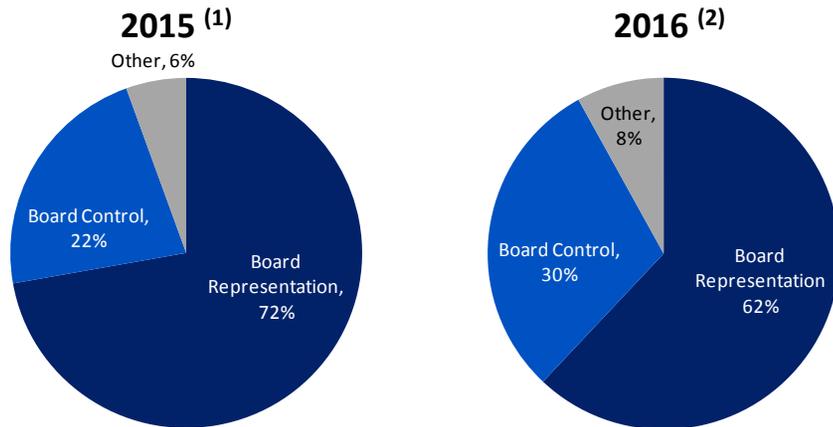
Source: SharkRepellent, public company filings, and press releases.

(1) Selected activist campaigns from Q4 2015 to current.

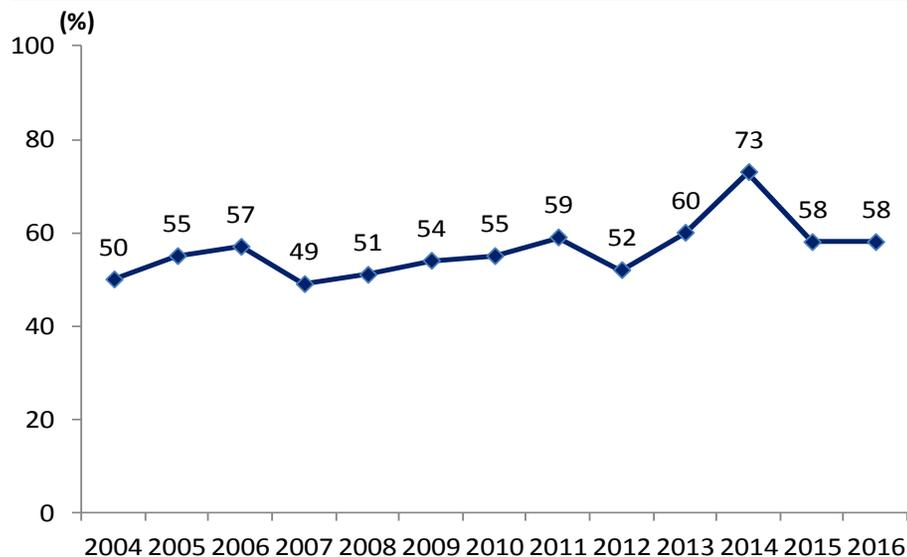
(2) Source: “Don't Make Me Do This, Rise of the Reluctant Activist”, *The Wall Street Journal*, 2/18/2016.

Recent Lessons Out of the 2016 Proxy Season

Primary Campaign Type 2015 & 2016 Proxy Fights



Dissident Success Rate in Proxy Fights (3)



Source: SharkRepellent.

(1) In 2015, a total of 87 proxy fights launched with U.S. companies (20 determined by a vote). As related to the data in the pie chart, in 2015, a total of 59 proxy fights launched (15 determined by a vote) at companies with market capitalizations greater than \$100mm.

(2) In 2016, a total of 73 proxy fights launched with U.S. companies (18 determined by a vote). As related to the data in the pie chart, in 2016, a total of 47 proxy fights launched (11 determined by a vote) at companies with market capitalizations greater than \$100mm.

(3) Success rate calculated as number of outright victories, partial victories or settlements by the dissident as a percentage of all proxy fights where an outcome has been reached.

Key Observations and Recent Trends

- The trend of most situations being resolved through settlements has continued with few activist challenges going all the way to a proxy fight
 - For 2016, only three \$1bn+ market cap companies went all the way to a proxy vote
 - Green Dot/Harvest: Activist won 2 seats
 - Benchmark Electronics/Engaged Capital: Activist won 2 seats
 - iRobot/Red Mountain Capital: Management's 2 nominees re-elected
 - In 2015 12 \$1bn+ market cap companies had an activist challenge that went all the way to a proxy vote or an ISS recommendation

- Activists continue to achieve success in public challenges with approximately 71% resolved challenges in 2016, resulting in an activist "win" either through a settlement or shareholder vote
 - First time activists playing a role - these investors are generally not "professional activists" but are rather being vocal in a specific situation
 - Examples include:
 - United Airlines / Altimeter
 - Johnson & Johnson / Artisan
 - EPIQ Systems / Villere
 - Ultratech / Neuberger Berman

Derivatives as an Activist Accumulation Tactic

The increasing use of derivatives as an accumulation tactic by activist hedge funds presents specific challenges for public companies

Selected Activist Derivative Accumulations ⁽¹⁾

Company	Mentor Graphics	Xerox	Pentair	Zoetis	Conn's	Allergan	Navistar	Forest Laboratories, Inc.	JCPenney
Activist	ELLIOTT	ICAHN	TRIAN PARTNERS	PERSHING SQUARE	LUXOR	PERSHING SQUARE	MHR Fund Mgmt / ICAHN	ICAHN	PERSHING SQUARE
Stake Acquired ⁽²⁾	8.1% ⁽³⁾	7.1% ⁽⁴⁾	7.2%	9.2% ⁽⁵⁾	31.0%	9.7%	14.9% / 14.9%	7.0%	16.5% ⁽⁶⁾ / 26.4% ⁽⁷⁾

Total Return Swaps

- An equity swap is a contract between two counterparties where they agree to pay cash flows to each other based upon the notional amount of a single security, stock basket or index
 - One pays the total return on the underlying asset (price change plus dividends)
 - The other receives the total return of the underlying asset while usually paying a financing rate
- Provides the economics of ownership without holding the physical position
- Swap counterparties do not receive voting rights
- Traditional "trip-wires" may not provide notice of accumulations

Put / Call Options

- Activists have used call options to rapidly acquire large stakes in a company
- Typically over-the-counter arrangements, as opposed to listed options
- Enables activists to acquire shares quickly and with stealth

Potential Reporting Requirements

- An activist will generally file a 13D within 10 days after crossing a 5% ownership threshold, inclusive of derivatives
- Swaps and some other accumulation tactics may delay reporting
- Derivatives often used to delay an HSR notification to the target company

(1) Defined as situations where an activist employed derivative accumulation techniques for some significant portion of their stake in a company.

(2) Includes both derivative and physical ownership.

(3) Includes derivatives employed for approximately 3.7%.

(4) As of Xerox 13D filing on November 11, 2015. Approximately 89% of the initial accumulation was through forward contracts.

(5) Includes both the 8.3% beneficial ownership held by Pershing Square and the 0.9% beneficial ownership of Sachem Head Capital Management, as disclosed in the respective funds' 13Ds, each dated November 12, 2014.

(6) Includes derivatives employed for approximately 2.0%.

7 (7) Vornado has also reported a 9.9% stake, also employing derivatives for approximately 8.6%.

Where Companies Can Go Wrong

- 1 The Board and Management need to speak with one voice – important for an activist to know that there is “no daylight” between Management and Board**
 - Directors should avoid “one-off” discussions and inform the Management team promptly of any approach
- 2 Dismissive posture or bunker mentality can create perception of defensiveness and unwillingness to consider what could be legitimate proposals**
- 3 “Scorched earth” defense can backfire with other shareholders**
 - Resorting to litigation or governance tactics for the sole purpose of blunting an activist’s approach can be counterproductive
- 4 Making it personal / taking it personally – must avoid emotion and focus on substance of activist arguments**
- 5 Failing to realize that private communications will inevitably become public**
- 6 Disparaging hedge fund holders and portraying activists as “fast money” and therefore unimportant**
- 7 Failing to engage shareholders and communicate investment thesis prior to activist campaign**
 - Best overall defense is an informed and satisfied shareholder base

Activist Communications Considerations

CEO / CFO / Executive Management

- Maintain openness to shareholder concerns and discussions
- Small list (ideally one) of company representatives authorized to respond in any fashion – typically CEO
- General response that Company is comfortable with current strategy and plans, but always open to shareholder input
- Assemble full team to confer regarding proper response

Directors

- Directors should avoid “one-off” discussions and be mindful of obligations
- No response or commentary other than “will call you back” – no immediate response is required
- Inform management team promptly about any approach
- Important for activist or raider to know that there is “no daylight” between management board
 - Part of early passes is to understand (i) if any exploitable gaps exist between management and board (ii) what is the appetite for a fight

Guiding Principles

- Activism tends to be as much a political campaign as debate on merits of current team and strategy
 - Expect that “anything you say can and will be used against you” in a contest
 - Avoid saying “open” to any specific transaction / proposed action; comments on expected / hoped-for stock price movements
 - Avoid “our company is not for sale” / “timing isn’t right”
 - If you do respond, statements must be true and cannot omit a material fact necessary to make the statement not misleading

Management and the Board of Directors should speak with one voice as any separation between Management and the Board can be exploited by activists

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