2015

ACTIVIST INVESTING

An annual review of trends in shareholder activism

Activist Insight

In association with

Schulte Roth&Zabel

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Editor's foreword

Activist Insight's Josh Black on a busy year for activism

Activists capitalized on their growing prominence, popularity and firepower in 2014. How else to explain a year in which Darden Restaurants' entire board was removed, eBay agreed to spin-off PayPal and Allergan sold itself for $66 billion? The statistics contained within this report show those campaigns were not isolated incidents. More activists targeted more companies than ever before, particularly in the US, while finding that their demands were increasingly accepted. The healthy M&A market meant a greater range of outcomes became possible, and activists used this to their advantage.

Last year, I made the following hostage-to-fortune predictions: "A slow M&A environment in 2013 and record levels of corporate cash helped buybacks and dividends become a popular strategy. Next year could see shareholders more bullish about obtaining a premium from a third party takeover, while increasing confidence in the mood of institutional investors could lead to more majority slates in proxy contests."

In fact, balance-sheet campaigns fell back to 2010-12 levels as a proportion of all activism, majority slates were nominated at bigger companies and proved highly successful, and M&A became one of the themes of the year. In particular, there was a decisive shift from spoiler campaigns in 2013—where activists sought to derail unattractive takeovers—to one in which companies were encouraged to sell themselves or make acquisitions. While private equity continued to appear subdued, both PetSmart and Riverbed Technology fell to large leveraged buyouts.

> "More activists targeted more companies than ever before"

One arena in which activism had a quiet year was Europe. Major targets like Bwin and FirstGroup saw their stock fall after confrontations with US activists, while Sherborne Investors lost its proxy contest at Electra Private Equity (but won the strategic review it called for). This was not the year to prove that long-only activism can take root in Europe, and many companies have begun to worry instead about short-selling campaigns—on which we have added considerable data to Activist Insight Online.

This year has been a tremendous one for Activist Insight. We have completed a year's run of our print magazine, Activism Monthly Premium, which features interviews, key trends and conference reviews. Data added to our online product includes ownership for activist-targeted stocks and investors in activist funds, while we have also added PDF download functionality. We have spoken at conferences in London, Toronto and New York and continue to be an important resource for the mainstream media.

It is a delight to be partnering, once again, with Schulte Roth & Zabel for this Annual Review. Their insight into activism on two continents is highly valuable to our news team, and we are glad to bring you a selection of their observations from 2014 and predictions for the year ahead. Our other contributing advertisers, Innisfree M&A, Houlihan Lokey, Georgeson and APB Financial Group, also have many interesting insights in their editorials.

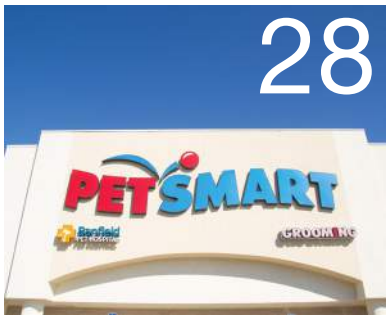
Great thanks are due to all subscribers and advertisers, across both products, contributors to this Annual Review and Activism Monthly Premium, and those who have invited us to address conferences, throughout 2014. In 2015, we will continue to expand our database and shine a light on under-appreciated facets of activism through our magazine, while you can expect to see us at more and more events.

I hope you find this resource of great use in your work within this exciting field. We certainly look forward to working with you again in 2015. ■

Activist Insight

Contents

The Activist Insight Activist Investing Review 2015, in association with Schulte Roth & Zabel



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Activist Insight wishes to thank all contributors and those who made themselves available to be interviewed for this report. We welcome contributions and insights from those working in the field of activism and are delighted to have such esteemed columnists. For more information, please email Josh Black at jblack@activistinsight.com.

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The era of activism

Schulte Roth & Zabel Partners Marc Weingarten and David E. Rosewater, Co-heads of the firm's global shareholder activism practice, on what to expect in 2015

With the number of players and available capital in the activism market reaching new heights, Schulte Roth & Zabel's global shareholder activism practice has found itself at the epicenter of an undeniable activism boom. In the continuation of a trend several years in the making, assets under activists' management topped $150 billion in 2014, sharply up on previous years.

Activism bulks up

Notably in 2014, the expansion of activists' capital allowed them to pursue iconic companies with multi-billion-dollar market capitalizations, including giants such as Apple ($654 billion), PepsiCo ($145 billion), Amgen ($120 billion), Walgreens ($72 billion), DuPont ($67 billion), Allergan ($65 billion), Yahoo! ($45 billion), Bank of New York Mellon ($43 billion) and Hertz Global Holdings ($10 billion). We see no signs of the flow of assets into activist funds abating; in a separate study we conducted earlier this year, more than half of activist fund managers surveyed expected the increase in activism through 2015 to be "substantial."

Majority slates hit the mainstream

We have pointed to the increasing trend by shareholder campaigns over the last several years to use slates consisting of enough candidates to elect at least a majority of the board. Prior to 2012, such campaigns were very rare. However, in the past two years, almost one-third of proxy contests have seen majority slates nominated, according to data gathered by Activist Insight. There has also been a notable increase in the number of full slates of board members put forward by activists in recent years.

> "There is no reason to expect activism to slow in the year ahead"

Some of the most highly publicized situations of the last year involved such contests, including companies such as Bob Evans Farms, Darden Restaurants, Equity Commonwealth and Cliffs Natural Resources. As a tactic, companies have attempted to battle this trend by leaving empty spots on their slates to be claimed by activist nominees—with the intention of encouraging unhappy shareholders to vote with the remainder of the company's nominees. However, this has proved largely ineffective.

European activism builds

As European economies lag in the ongoing eurozone crisis, a number of underperforming companies have been left in the wake. These opportunities have continued to fuel interest in activism by both European and US funds. US-based activists such as Carl Icahn, GAMCO Investors, Elliott Management, Sandell Asset Management and SpringOwl Asset Management have looked to European opportunities.

We expect that over time this trend will continue to build, and despite cultural variances, shareholders on both sides of the Atlantic share common objectives. A large appetite in the activism market should lead to continued growth, particularly in the United Kingdom.

What to expect for 2015

Thanks in part to the marked upswing in the number of activism campaigns in 2014, there is no reason to expect activism to slow in the year ahead. In fact, the area continues to grow and, bolstered by a steadily increasing flow of capital, is expected to intensify. Tactics used by companies and activists will continue to be adapted, and we may even see less of companies "combating" those activists who tactfully approach struggling companies with viable solutions. It seems likely that a large amount of interest will be paid to figuring out how activism techniques can be best utilized as the "era of activism" marches on. ■

A watershed year

An article by Arthur Crozier, Chairman, Innisfree M&A on how activism has impacted on corporate America

The past year was a watershed for shareholder activism as numerous developments came together to produce significant changes in corporate America, a process that will likely accelerate in 2015. Issuers of all sizes are more vulnerable to activism than ever before, particularly as they must confront increased skepticism by their fundamental institutional investors and a shifting corporate governance paradigm that is changing the rules of engagement.

2014 saw more than 250 US companies targeted by activists, in addition to numerous non-public engagements. Some of the largest corporations in America, previously thought invulnerable due to their size, were targets, such as Apple, Microsoft, and eBay. Notably, at Darden Restaurants, the activist fund Starboard Value removed the entire board of directors in a proxy fight following the sale of one of the company's largest subsidiaries, Red Lobster, which Starboard and other investors vehemently opposed. In another remarkable case, Allergan, an extremely successful pharma company, was eventually sold to a third-party after an unsolicited offer and the accompanying, successful solicitation of a special meeting led by the novel pairing of Valeant Pharmaceuticals and Pershing Square, an activist hedge fund.

These signal developments are traceable to numerous accretive changes in corporate governance over many years, usually led by non-activist investors and pension funds. These include the dismantling of classified boards

> "Corporate governance is now far more shareholder-centric, with less deference paid to boards"

at large companies, the increased frequency of shareholders' rights to call a special meeting, and the abandonment of long-term shareholder rights plans. In addition to the weakening of corporate defenses, activists have augmented their war chests, recently raising significant amounts of capital providing them with more resources to take on more and larger targets. Activist Insight suggests over $200 billion is now invested directly in activism.

Equally important, however, has been the increasing trend of fundamental institutional investors which not only support activism campaigns and invest in activist funds, but even help bring the activist into the investment in the first place. In particular, increased support from fundamental investors has enabled activists to leverage their comparatively small positions in mega-cap issuers to significantly impact corporate decision making.

More fundamentally, corporate governance is now more shareholder-centric as a result of the activist movement, with far less deference paid by shareholders and proxy voting advisors to boards of directors, even in areas traditionally within their exclusive purview, as occurred at Darden. As a result, board members themselves are increasingly drawn into direct engagement with shareholders, rather than relying only on management to communicate shareholder views. While shareholder outreach is and will remain largely a management-led function, board members need to be more pro-active in ensuring that they receive accurate assessments of shareholder sentiment on a broad array of topics. ■

Innisfree M&A together with its subsidiary, Lake Isle M&A, has assisted hundreds of companies with corporate governance and investor relations consultations, M&A situations and proxy solicitations in over 20 countries.

Taking care of business

A look at shareholder activism in 2014 and beyond

Activism reached new heights in 2014, surprising many who thought the records set in 2013 would be hard to break.

The popularity of this asset class is illustrated by a dazzling array of data. A total of 344 companies worldwide were subjected to activist demands in 2014, up 18% from the 291 recorded in 2013 (eagle-eyed readers will notice an increase from the 237 noted in last year's Annual Review—our universe of funds has expanded significantly). And while some of these supplement ongoing campaigns from previous years, the number of targeted companies with no prior run-ins with activists over the last five years also increased, from 210 to 249. What's more, this likely represents the tip of a very large iceberg. Activists routinely say less than a third of their campaigns become public knowledge. Activist Insight recorded 708 activist investments from regulatory filings last year, a 43% increase on the 494 seen in 2013.

There are now almost 500 activists profiled on the Activist Insight Online database, and while many of these launch one-off campaigns in very specific circumstances, the universe of funds which routinely practice activism is clearly growing. The number of activists running a public campaign, such as a demand for board representation or strategic alternatives, rose for its fifth consecutive year in 2014, to 203. In 2013, 160 activists ran a public campaign, up from 150 in 2012.

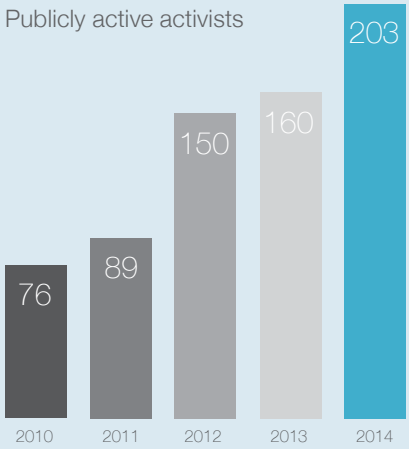
As Bruce Goldfarb, CEO of proxy solicitor Okapi Partners says, the growth in activism is in part due to their fundraising prowess. "Activists have raised a significant amount of capital recently and they will need to deploy it," he told Activist Insight. Indeed, Activist Insight data show that the 50 most focused activist funds manage an aggregated $159 billion, and that the total value of all activist positions on Activist Insight Online was $237 billion. At least five managers now have more than $10 billion at their disposal, and several have been known to put up to $4 billion on a single bet.

The amount of capital managed by activists and their ability to become large shareholders very quickly has added to their credibility. Jim Rossman, who heads the Corporate Preparedness team for investment bank Lazard, gives a number of other reasons for their success: activists have invested heavily in their own resources; have honed their abilities to convince institutional shareholders of the merits of their case; and have benefited from an enhanced M&A environment that creates more possible outcomes. Activists

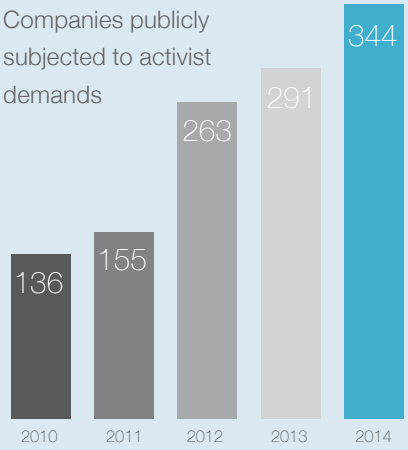
"IN 2014, 75% OF DEMANDS WERE AT LEAST PARTIALLY SATISFIED, UP FROM 67% IN 2013"

> "Activists have a tremendous amount of capital at their disposal and are able to be more strategic"

A record year—more activists & more targets



The above chart shows the number of activists subjecting a listed company to a public action in a given year. 2014 was another year when activism proved to be a popular strategy, with a big leap in funds using activist tactics.



344 companies worldwide were subject to a public action in 2014, a significant jump on 2013. Activists routinely say as many as two-thirds of their campaigns are conducted in private, suggesting the real figure is higher still.

"have a tremendous amount of capital at their disposal and are able to be more strategic and enter industries with a real point of view at the right time," he says.

The consequence of these factors has been ever higher levels of satisfaction for activists' objectives. In 2014, 74% of activist demands were at least partially successful, a significant increase from the 67% seen in 2013. Outright success and settlements both contributed to this development, increasing by three and four percentage points respectively over the year. The data points to a single conclusion—it is getting easier for activists to achieve their objectives and harder for companies to reject their demands point blank. The biggest campaigns of the year—Starboard Value's full board sweep at Darden Restaurants, Third Point Partner's settlements with Dow Chemicals and Sotheby's, and board seats for JANA Partners at Walgreens and Trian Partners at BNY Mellon—highlight this influence.

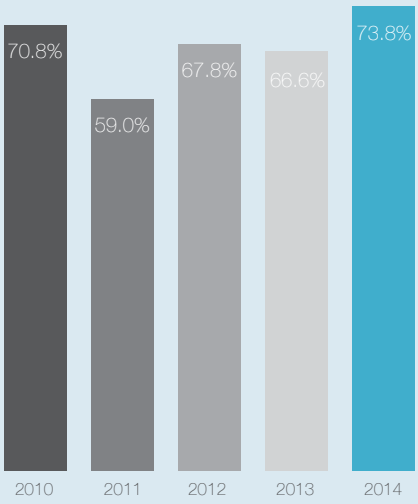
Goldfarb, who acted as Starboard's proxy solicitor in the Darden fight, says the climate as a whole is mellowing in the activists' favor. "Both companies and activist investors are coming to realize that proxy fights are expensive and take a lot of time and energy," he told Activist Insight for this report. "In addition, after talking to their shareholders, they may come to the conclusion that a proxy fight might reach the same outcome as a settlement. In this environment, we expect to see more dialogue between activists and companies in 2015."

All of which explains why a disappointing court judgment from May 2014 might not have the chilling impact some feared at the time. Then, a Delaware judge rejected Third Point's complaint that Sotheby's poison pill was illegal and discriminatory by setting a 10% threshold for activists and 20% for passive shareholders. As David E. Rosewater, Co-head of Schulte Roth & Zabel's global shareholder activism practice, told Activist Insight for this report "Poison pills have never been that big of an obstacle; recent events have shown you don't need anything near a pill's threshold to be effective at pressing for change."

One of the biggest beneficiaries of activism in 2014 was Pershing Square Capital Management. Despite its failure to convince Allergan to merge with its preferred partner, Valeant Pharmaceuticals, Pershing Square will net gains of more than $2 billion from the botox-manufacturer's sale to Actavis. Its Euronext listed fund, which raised nearly $3 billion in its 2014 IPO,

> Recent events have shown you don't need anything near a pill's threshold to be effective at pushing for change"

Activists are more successful than ever



Almost three-quarters of activist demands were at least partially satisfied in 2014, according to Activist Insight data. That contrasts to an average of 68% in the period since 2010.

And while outright successful campaigns were slightly below their 2012 peak, the proportion of demands subjected to a settlement reached a record high of 12%. With more campaigns and new entrants to activism, that represents a serious shift in the corporate landscape.

was up 40% at the year's end. It seems many activists will seek to replicate Pershing Square's ultimate aim, if not its controversial tactics, over 2015.

Indeed, the current M&A climate (particularly in the US) has had a significant impact on the types of demand made by activists in 2014. If 2013 was typified by Carl Icahn's efforts to stop PC-maker Dell going private too cheaply, 2014 was all about activists looking for buyouts. Proactive M&A campaigns, where activists seek to push companies to acquire other firms or sell themselves, nearly doubled from 36 to 68 instances between 2013 and 2014. Reactive M&A, typified by opposition to deals or their terms, more than halved from 26 to 12 over the same period.

And Rossman suggests that the coming year will see increasingly innovative campaigns, "As the M&A market broadens, different themes will emerge, from spin-offs to value-creating sector consolidation," he says. Starboard's letter to Yahoo CEO Marissa Mayer, in which the activist called for the internet giant to buy AOL, is a sign that this is already happening, he adds.

At the same time, balance sheet activism has dropped off sharply, falling by 28% on last year. After 2013, when 92 such demands were recorded and balance sheet activism accounted for 16% of all activism, this form of campaign has returned to normal levels (11% of all demands in 2014, 10% in 2012), perhaps because so many companies are now hiking dividends and buying back shares preemptively.

In last year's Annual Review, we highlighted governance as the focus for new kinds of activists. Today it is fair to say activists are increasingly having a decisive influence on the basic strategies of corporations. Business strategy activism, which can incorporate cost cutting or growth strategies, accounted for just 3% of actions in 2010, and has risen steadily year-on-year to account for nearly 13% of actions in 2014.

Where in the world?

The US remains the most active jurisdiction for activism worldwide. Indeed, 75% of new companies subjected to public demands in 2014 were located there, compared to 69% in 2013. With strong support from institutional investors and few activists genuinely concerned about a lack of targets, predictions of a mass exodus are unlikely to be fulfilled. Indeed, while as many companies were subjected to activist demands in Canada in 2014 as in the year previously, the number of new targets fell slightly, from 23 to 20 companies.

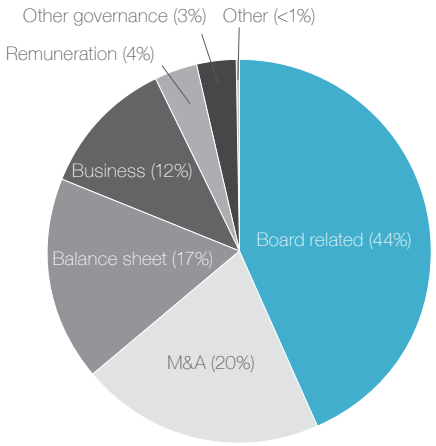
Ultimately, activism in Europe disappointed, despite a strong start to the year. The number of companies subjected to public demands was down 24% year-on-year, most likely reflecting the unstable economic climate affected by a number of political crises. Indeed, Steve Brown, the CEO of GO Investment Partners, a London-based outfit that runs European and Japanese-focused funds, says people are wary of the European environment, and slower growth makes for more difficult conversations with management. "It's easier to tell companies to focus on specific areas in a growth market," he says, "and harder for companies to make big strategic decisions when the world is so uncertain."

Despite the launch of activism practices in London by law firm Schulte Roth & Zabel and PR advisors Sard Verbinnen, there has been less work than expected, even though Bwin, FirstGroup and Electra Private Equity experienced campaigns. "We're not all that surprised about Europe,"

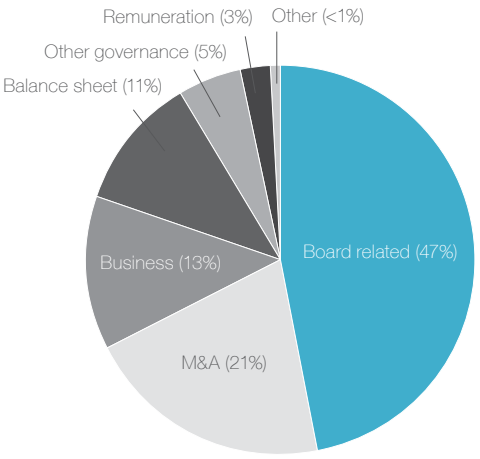
"THERE CONTINUES TO BE A LOT OF INTEREST BEHIND THE SCENES [IN EUROPE]"

Activist strategies

2013



2014



Demands for board change have long accounted for the lion's share of activist campaigns, with M&A-related activity a close second. But a spike in balance-sheet activism in 2013 had returned to normal in 2014, with activists diversifying their objectives to include other governance and more business strategy demands.

> "2014 saw a renaissance of activist campaigns in the sub-$2 billion market-cap arena"

says Rosewater. "There continues to be a lot of interest behind the scenes and we think it will continue to develop. Growth will be slow and steady, not explosive."

Jason Ader, whose SpringOwl Asset Management withdrew from a proxy fight at Bwin at the last minute and instead exercised an appointment right attached to its shares, said he would go through the experience again. "UK and European companies are very complacent," Ader says, pointing to a low return on capital rate. But he admits that the UK's system is not always shareholder friendly, citing the lack of transparency on incoming proxy votes as a disadvantage, compared to the US system administered by Broadridge. In the short-term, with the UK facing a general election in May 2015 and several unresolved crises holding back the eurozone, a sudden wave of activism is unlikely. But opportunities persist, and activists will continue exploring the possibilities in years to come.

Size matters

After 2013's focus on larger targets, 2014 saw a renaissance of activism in the sub-$2 billion market-cap arena. Almost three-quarters of companies subjected to activist demands fell into this bracket last year, up from 68% in 2013.

Both the number and proportion of new activist campaigns at companies greater than $10 billion in size fell in 2013, despite enhanced media coverage. Nonetheless, it remains a substantial part of the activism universe with 29 companies subjected to activist demands in 2014: around 8% of campaigns. Even with growth fastest in the $250 million—$2 billion category, activists have the firepower to make a number of large bets in 2015.

More services, less energy

2014 saw activists flocking to stocks in the services, consumer goods and industrial sectors, most likely lured by undervalued real estate or the opportunity to unlock conglomerate discounts. Indeed, in industrials over the last year, activists have pushed for de-mergers at the likes of Manitowoc, IHI and SNC-Lavalin, although the complexity of the demands has meant slower progress than in many other sectors and with other strategies.

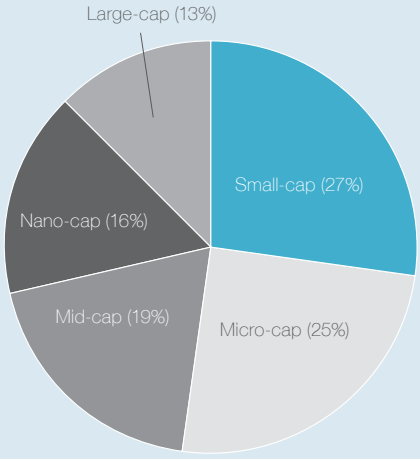
In the services sector, seven new restaurant chains came under attack in 2014 by activist investors, up from three new campaigns in 2013. Activists also found 15 new retail targets, including PetSmart, the biggest private equity deal of the year. And 2014 also saw the mega-merger of Men's Wearhouse and Jos. A. Bank, in which BeaconLight Capital and Eminence Capital played a significant role.

But with 13 new retail targets identified in 2013, there are signs that growth in this sector might be slowing. Clinton Group's campaign at The Wet Seal, which began with a management change in 2012 but has since become a bailout operation, serves as a reminder of the potential impact of a few bad quarters. Bill Ackman, who has recently admitted that he considered a campaign at UK grocer Tesco, is probably relieved he held back.

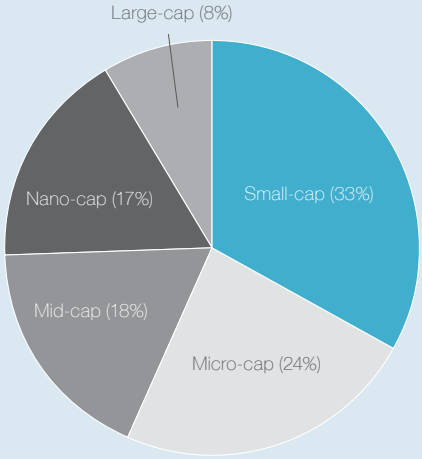
Growth in the basic materials sector, which saw consecutive growth from 2010 onwards, also slowed, with just one more new company subjected to public demands in 2013. The falling oil price, which has left a number of

Evolution of activist targets

2013

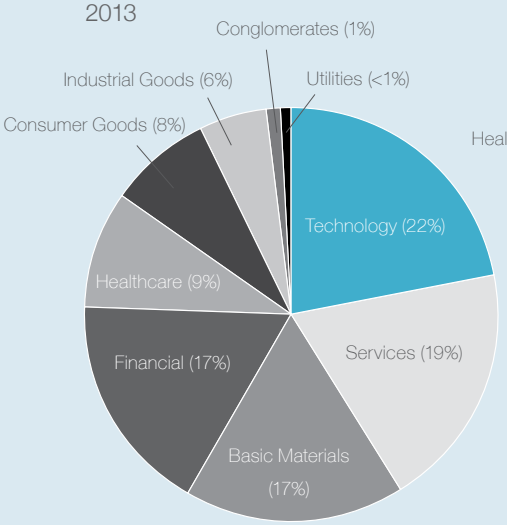


2014

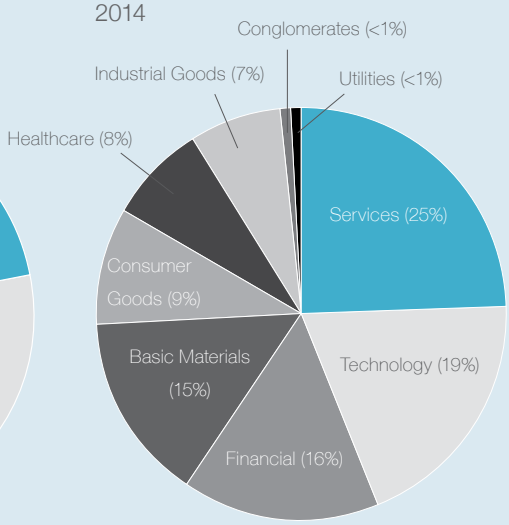


2014 saw fewer large-cap companies subjected to public activist actions than in either of the two preceding years. Instead, these funds flooded the small-cap arena in search of outsize returns, perhaps reflecting the growing number of smaller funds engaging in activism.

2013



2014



Growth in the number of companies subjected to activist demands in the basic materials sector slowed towards the end of 2014, thanks to falling commodity prices, while the proportion in the technology sector also fell, possibly thanks to high valuations.

Instead, activists threw themselves into services, consumer goods and industrials stocks in the hope of exploiting attractive spin-off opportunities.

investors under water in exposed stocks, may lead to a pause in activist campaigns in this sector in the short-term, while creating more opportunities in the next few years.

Similarly, one of the year's biggest proxy fight victories at Cliffs Natural Resources was followed by headwinds from a falling iron ore price. Donald Drapkin's Casablanca Capital, which won six seats on the board and installed a new CEO following its proxy contest, has said it is still hopeful that it can leave the stock in a better place than when it first targeted the company.

What to expect in 2015

With interest rates likely to increase at least in the US during 2015, some of the pressure for yield that made certain ploys attractive during 2014 will be lessened. Add this to a potential correction in equity prices, and playing the stock market may become trickier. But if that does happen, M&A and business strategies could become an even bigger focus for activists.

It also seems safe to suggest that activists will push harder for their demands, and pose tougher settlement terms, with issuers increasingly fearful of proxy contests. Solicitations around M&A may grow more contentious, with shareholders keen to have their say and the hint of a superior alternative enough to pressure boards into proving they have struck the best possible deal.

Short-selling campaigns may rise, thanks to the (sometimes belated) success of bets against Herbalife, Globalstar and Quindell. Anecdotal evidence suggests companies are increasingly coming to fear activist short-sellers, and the less transparent nature of the tactic adds controversy.

Outside of the US, activists seem to be increasing their bets on Japan and the Far East, with Australia also witnessing a growing activism scene. Europe will likely experience another slow year, although it clearly remains on the radar of several activists. Also, expect activists to be watching for a floor in commodities prices. All things considered, activism is likely to remain a powerful force, perhaps for years to come. ■

ACTIVIST SHAREHOLDER ADVISORY

Trimaven Capital Advisors is generally recognized as the go-to independent investment banking firm in Canada for special situations in real estate and other sectors. As part of Trimaven's core offering, we assist activist shareholders realize their vision in underperforming public companies. Ultimately, our core offering involves putting our client in the best position to effect change in under-managed and poorly performing organizations.

As part of our service offering we provide our activists clients with (i) independent verification of their value thesis, (ii) communication strategy support, (iii) marketing/investor materials, and (iv) detailed tactical advice based on strong local market and domain knowledge. We partner with best-in-class special situations deal teams, including highly-experienced legal advisors, reputable communications firms and proven proxy solicitation firms to expeditiously and effectively effect the required change.

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Activist top ten

For the second time, Activist Insight has ranked activists by the impact they made in the past year. Each activist on our database was given a ranking to determine which launched the most public campaigns, took on the biggest targets and made the largest number of new investments (given that not all activism is public). Finally, we used our unique 'Follower Returns' feature to estimate an aggregate annualized return (including dividends) for a portfolio tracking each activist based on public information. These returns should be treated as a guide only—actual performance figures are likely to vary based on entry points, weighting and fees.

1 Starboard Value

Public campaigns	11
Average market cap of targets	$6,495 mn
Activist investments	18
Average annualized total follower return	39.9%

Starboard has called for a merger of Yahoo! and AOL, cost-reductions and tax-free spin-offs of Yahoo!'s stakes in Alibaba and Yahoo Japan.

There's likely to be little surprise about our number one. Starboard excelled itself in 2014, thrashing Darden Restaurants in a proxy contest that saw it appoint an entirely new board. Now, it faces the not insignificant challenge of supporting those directors run a $7.4 billion market-cap restaurant operator and finding a world class CEO. At least it has its 294-page guide to breadstick conservation and pasta-salting to guide it.

> "Starboard excelled itself in 2014, thrashing Darden Restaurants in a proxy contest that replaced an entire board"

By one measure, public campaigns, Starboard was no busier in 2014 than in the previous year, when it placed fifth overall in our top ten. But the activist also deployed its capital more widely last year, regulatory filings suggesting it had made 18 new investments. Larger companies also came under its watch. This, together with consistently strong performance by stocks in its portfolio, helped it claim the number one spot.

Starboard has given the impression that it is business as usual following the Darden battle, but some of its behavior suggests that this is an activist that has set its sights even higher in the years to come. It usually prefers smaller companies, but the next stock it went after was Yahoo!, an ambitious target for a $2.5 billion fund, with its $45 billion market-cap. In addition to agitating for a merger of Yahoo and AOL, Starboard has taken positions in stationery rivals Office Depot and Staples and threatened leadership change at the latter if it doesn't attempt to buy its rival. Its many investments in US semiconductors could still prove lucrative, however, if the M&A market in tech holds up.

Last year, Fortune Magazine called Starboard's Jeff Smith "the investor CEOs fear most" in a long profile following the Darden battle. He hasn't always got his way in the past, but 2014 has given Starboard the affirmation to be bolder still in years to come.

2 Third Point Partners

Public campaigns	5
Average market cap of targets	$46,449 mn
Activist investments	48
Average annualized total follower return	15.8%

Edging up from third to second place in this year's Top Ten is Dan Loeb's Third Point Partners. Buoyed by a broad portfolio, strong follower returns and the apparently ever-increasing size of his targets, it has been another extraordinary year for Loeb.

The activist chose to exit Sony at an auspicious time, claiming a 20% return, and also became the first to challenge American poison pills that discriminated between active and passive holdings in court. While a Delaware judge ruled that the pill was valid, few activists even have the resources to make such a stand.

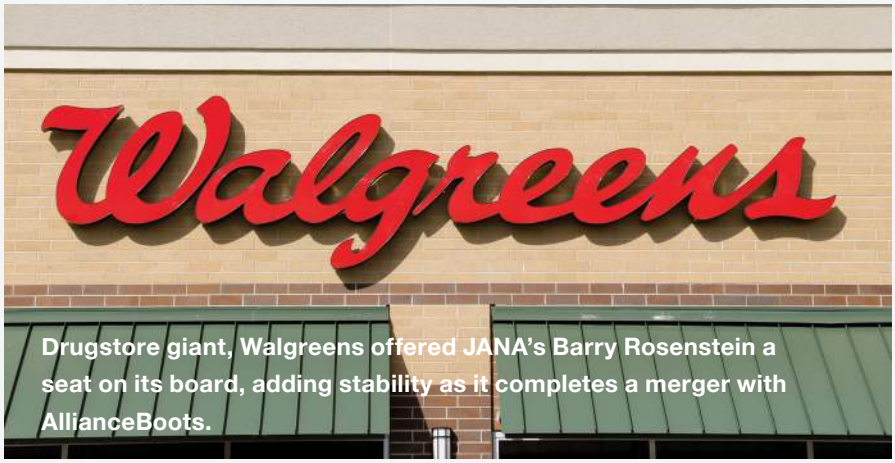
When they see Loeb coming, CEOs face a dilemma. Stay and fight at the risk of permanent damage to their career, like Sotheby's Bill Ruprecht, who announced his retirement six months after a bruising proxy contest, or offer a settlement and keep the fight within the boardroom,

Dow bottled it, awarding Third Point two seats on its board.

like Dow Chemical's Andrew Liveris? Both fights ended with Loeb getting much of what he wanted in the first place. But spin-off demands at Amgen, IHI and Royal DSM have been less effective to date.

3 JANA Partners

Public campaigns	8
Average market cap of targets	$8,908 mn
Activist investments	11
Average annualized total follower return	45.0%



Drugstore giant, Walgreens offered JANA's Barry Rosenstein a seat on its board, adding stability as it completes a merger with AllianceBoots.

Barry Rosenstein's JANA Partners seemed to be able to join boards at will in 2014, picking up seats at URS, Walgreens, Civeo and QEP Resources. That made it a memorable year for the activist, which is generally averse to proxy fights. Media reports had JANA's returns lower than our stock-tracking tool, reflecting the large bets the activist has made in energy over the past year, but it's undeniable that the firm has found some winners, whether in Safeway (bought out in March), PetSmart (the year's largest leveraged-buyout) or Rackspace Hosting. The event-driven fund shuffled its positions fairly frequently over the course of the year, and found itself divesting energy stocks in a hurry towards the end of 2014.

Going into 2015, JANA will be hoping for growth at Hertz and may start to trim its stake in Ashland, but it seems probable that Rosenstein will have some spare capital to deploy.

4 Carl Icahn

Public campaigns	9
Average market cap of targets	$84,487 mn
Activist investments	7
Average annualized total follower return	-4.15%

Icahn forced eBay to reconsider spinning off its payments unit, PayPal.

Icahn may have been our activist of the year in last year's Annual Review, and while the veteran activist was almost as prolific as ever in 2014, he was another to get caught in a falling energy market. So far, Icahn has made no attempts to shed those stocks, other than through Repsol's takeover of Talisman Energy, despite publicly saying that oil prices are unlikely to recover in the short-term.

Icahn launched public campaigns at nine companies last year, slightly down on the 14 we tracked in 2013, but significant nonetheless. Among those were Hertz, Apple and eBay, where Icahn ended up with board representation and, belatedly, a spin-off of PayPal—his ultimate goal.

That campaign was remarkable, but a piece of financial analysis released by Icahn that suggested Apple could be worth $203 per share, nearly double where it is at the time of print, also sets Icahn up for an exciting 2015.

5 GAMCO Investors

Public campaigns	11
Average market cap of targets	$1,122 mn
Activist investments	13
Average annualized total follower return	4.22%


Mario Gabelli has asked Dover Motorsports to kart away its poison pill at its annual meeting, expected to be held in April 2015.

GAMCO Investors is agnostic about calling itself an activist, but its experience runs the full gamut of shareholder interventions from proxy contests to anti-poison pill proposals.

Last year saw it take on 11 companies publicly, including by nominating directors at Tredegar, Superior Industries and Griffin Land & Nurseries, and making shareholder proposals at Dover Motorsports and Wausau Paper.

Mario Gabelli's famous stock picking ability may have drawn him to some of the smallest stocks in the Top Ten list, but those positions still eked out gains overall in 2014. In particular, Materion, SL Industries and TransLux performed well against the S&P 500 Index. GAMCO also owns a stake in BNY Mellon, where Trian Partners has joined the board.

This year, Gabelli is reportedly betting on a play in the media sector. Twenty-First Century Fox seemed like a great idea amid speculation over a restructuring of the Murdoch empire and a merger with Time Warner, but now that deal looks unlikely it remains to be seen whether the stock can conjure up growth in 2015.

6 Elliott Management

Public campaigns	11
Average market cap of targets	$14,101 mn
Activist investments	9
Average annualized total follower return	-0.48%

Elliott's arbitrage litigation at Vodafone will continue into 2015.

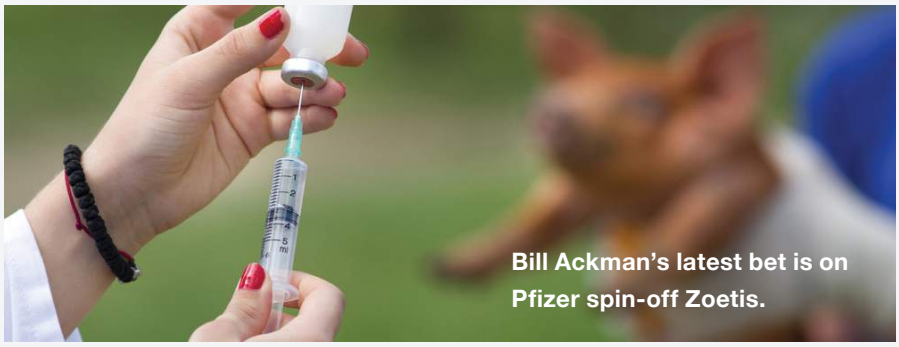
Paul Singer's Elliott Management upped its number of public campaigns to 11 this year, but remained sixth in our rankings. The activist, which has been almost as busy in its European-based arbitrage as it has in Jesse Cohn's US technology activism in recent years, had notable successes through private equity buyouts of Compuware and Riverbed Technology. Just weeks into 2015, it also settled with EMC to add new board members, though it remains unclear whether it will achieve its goal of splitting the company in two.

Heading into 2015, Elliott will be keen for Juniper Networks' stock to start rising, while also continuing its battle for what it determines is fair value in the sale of Kabel Deutschland to Vodafone.

Beyond that, the firm's strategy is more clouded. With huge resources at the ready, Elliott could just as easily push into alternative assets if equities suffer a downturn.

7 Pershing Square Capital Management

Public campaigns	7
Average market cap of targets	$21,625 mn
Activist investments	4
Average annualized total follower return	23.4%


Bill Ackman's latest bet is on Pfizer spin-off Zoetis.

If our Top Ten were decided on returns alone, it seems Pershing Square would be number one after a storming 2014 in which its concentrated portfolio was up 40%. Almost everything went right for Bill Ackman's fund, whether it be a downturn in Herbalife stock, the sale of Allergan to Actavis for an welcome premium or the surge in Canadian Pacific stock (before oil prices began to hit forward earnings expectations). That made it a great year to launch a permanent capital vehicle, the Euronext-listed Pershing Square Holdings, which duly raised nearly $3 billion in capital.

It's said that part of the Pershing Square investment process is a criterion called "return on invested brain damage." By picking just a few stocks to launch public campaigns at each year, Pershing Square keeps that lower than it might otherwise be, which is just as well given the huge sums involved in its pursuit of Herbalife and Allergan. The experience of the former has reportedly put Ackman off public short campaigns, although it's likely we can expect another two or three large investments of an unconventional nature alongside developments at Zoetis in 2015.

8 Trian Partners

Public campaigns	6
Average market cap of targets	$55,236 mn
Activist investments	3
Average annualized total follower return	12.4%

Trian has already taken a bold step into 2015, launching a proxy contest for four board seats at DuPont, and winning a seat for former Heinz CEO Bill Johnson on the board of PepsiCo. Last year began a similar way, with Nelson Peltz joining the board of Mondelez in return for abandoning plans to force a merger with Pepsi.

Indeed, the activist is now held in such high regard for its long-term focus on improving the profit margins of consumer giants that Peltz was sought out as a board member by Madison Square Gardens in 2014, despite not being an investor in the company at the time.

Strong performance from PepsiCo, Legg Mason and Tiffany & Co contributed to gains in the activist's portfolio through 2014. Expect similar strategies in the New Year.

9 ValueAct Capital

Public campaigns	3
Average market cap of targets	$19,071 mn
Activist investments	5
Average annualized total follower return	17.5%

ValueAct Capital had a quiet 2014 by many measures, standing on the sidelines of the Allergan battle as a shareholder in Valeant Pharmaceuticals. Yet a new stake in Canada's Agrium (a former target of JANA Partners), and a rash of new board seats in Armstrong World Industries and Allison Transmission Holdings towards the end of the year made up for its lack of activity since joining the board of Microsoft in 2013.

Established portfolio companies, including Adobe and CBRE, continued to perform, justifying the reputation of Messrs Ubben and Morfit as stock-pickers and long-term investors.

Going into 2015, the activist has already indicated that it may contest a rare proxy fight for board seats at MSCI, where it is hoping to refocus management on the core business.

10 Corvex Management

Public campaigns	3
Average market cap of targets	$14,228 mn
Activist investments	3
Average annualized total follower return	38.7%

Keith Meister's Corvex Management has quickly established itself as a powerful force among the activist community, and 2014 saw the investor complete its victory over CommonWealth REIT (now known as Equity Commonwealth) and win board seats at Williams Companies. Meanwhile, a big victory came from the merger between Signet Jewelers and Zale, just months after Corvex took a stake in the former.

One of the biggest disappointments was at drugstore chain Walgreens, which refused to structure its merger with AllianceBoots as a tax inversion and gave board seats to JANA Partners. Corvex is currently focused on pressing American Realty Capital Properties for a board seat, and is half-way towards boosting the stock of Crown Castle International towards its prediction of $100 per share. ■

Activism Monthly Premium

Market leading analysis, interviews with key players and the critical developments in activist investing

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> Great articles on shareholder activism"
>
> *Carl Icahn*

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HOULIHAN LOKEY

Activism: the real estate angle

The Houlihan Lokey Activism Team on how activists have focused on real estate

A fresh wave of activist investors asked companies to "unlock" or monetize real estate assets in 2014, including at many traditional operating companies. Numerous restaurant operators, retailers, casinos, health clubs, and even a media company experienced activism on this front, including calls for the formation of real estate investment trusts (REITs), sale-leaseback transactions, or a real estate-backed financing to fund share repurchases or special dividends.

Going into 2015, investors will be watching closely to see if some of the recently reconstituted boards (e.g. Bob Evans and Darden Restaurants) will succeed in creating meaningful value for shareholders by utilizing their real estate assets.

The popularity of this tactic in 2014 was no accident and can be attributed to a number of key causes. A prolonged environment of low interest rates, historically low capitalization rates, lofty FFO (Funds From Operations) multiples, and the rebound in valuation of basic real estate to historical highs in many markets has fueled an incredible market demand for yield. Houlihan Lokey reviewed activist campaigns over the last ten years and found that the annual number of campaigns with a real estate thesis materially correlates to a decline in cap rates and an increase in real estate transaction volume. We also found that despite the popularity of this ask over this period, the answer by companies is more often than not, "No."

> "Houlihan Lokey has found that if real estate transactions are properly structured, friction costs can be minimized by several techniques"

Operating companies, when faced with the real estate "ask," often initially object to monetization strategies due to what is commonly referred to as "friction costs," which include tax, debt breakage, and other potential transaction costs. In general though, Houlihan Lokey has found that if real estate transactions are properly structured, friction costs can be minimized by several techniques, including selective portfolio composition and tax deferred exchanges.

Another common protest for operating companies is to compare their potential lease expense to their cost of debt. Activists in turn counter these arguments by comparing lease expenses to companies' weighted average cost of capital.

Operating companies also contend that owning corporate real estate provides greater operating flexibility in a declining environment, while activists contend that too many companies use owned real estate holdings as a safety net in lieu of a disciplined operating business plan.

While recognizing that the Federal Reserve policy is a wild card for the remainder of this year, we have three key reasons for predicting a slight decline in the number of real estate themed campaigns for 2015. First, interest and cap rates are overdue to increase and thus ease some of the demand for yield. Second, activists are learning that the real estate "ask" often requires considerable time to implement. And, third, corporate boards are often putting up a considerable defense to prevent their "low hanging fruit" from being harvested. ■

Houlihan Lokey is an international investment bank with expertise in mergers and acquisitions, capital markets, financial restructuring, and valuation. It acts as a financial adviser to both activists and issuers, predominantly in the sub-$2 billion market cap arena.

HOULIHAN LOKEY

ACTIVIST SHAREHOLDER SERVICES

As a leading independent financial advisory firm, Houlihan Lokey is uniquely positioned to advise activist investors in their campaigns to unlock shareholder value in underperforming companies and defeat proposed transactions that might be suboptimal for shareholders. Once activists obtain board representation, we advise boards in reviewing alternatives and engaging in sale processes.

Our team of experienced professionals assists activist investors in effectively executing their campaigns by providing valuation support, communication support and overall strategic advice. We are highly sensitive not only to creating shareholder value and our clients' objectives, but to the intangible and perception factors that invariably arise in highly public activist campaigns.

*No. 1 M&A Advisor for U.S. Transactions Under $3 Billion**

Selected Recent Transactions

Pending

MARCATO CAPITAL MANAGEMENT

is conducting a campaign seeking to enhance shareholder value at Intercontinental Hotels Group

Financial Advisor

SANDELL CASTLERIGG INVESTMENTS

successfully completed a campaign to reconstitute a majority of the Board of Directors of Bob Evans Farms, Inc.

Financial Advisor

BARINGTON BARINGTON CAPITAL GROUP

conducted a campaign seeking to enhance shareholder value at Darden Restaurants

Financial Advisor

PSAM®

has successfully completed a campaign to amend the terms of MetroPCS Communications combination with T-Mobile USA

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2014 in numbers

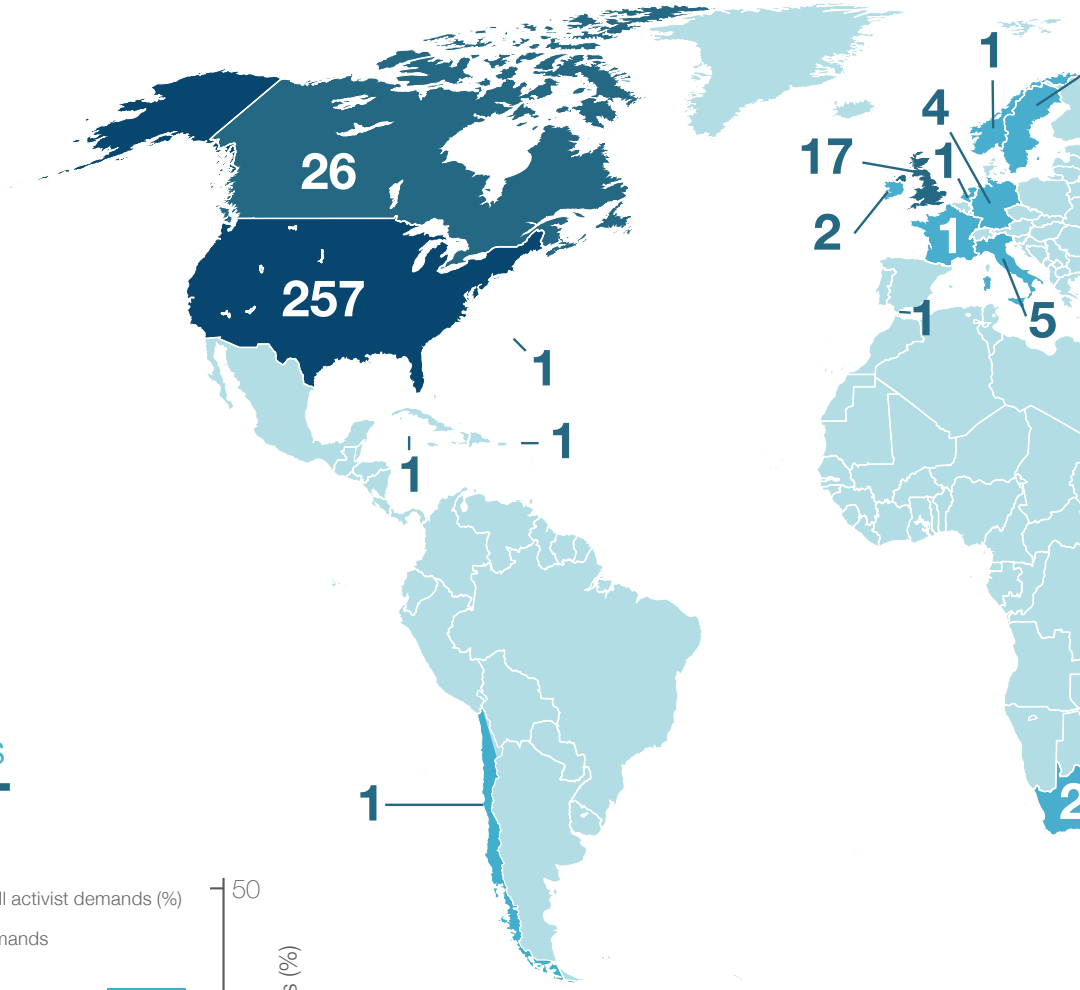
A global phenomenon

Activists ran public campaigns on almost every continent in 2014 (center image), but the US is still the dominant market with little sign that opportunities are running thin. Campaigns were down in Europe in 2014, but Australia now has a number of home-grown activist funds taking the fight to management [Data: companies subjected to public demands in 2014].

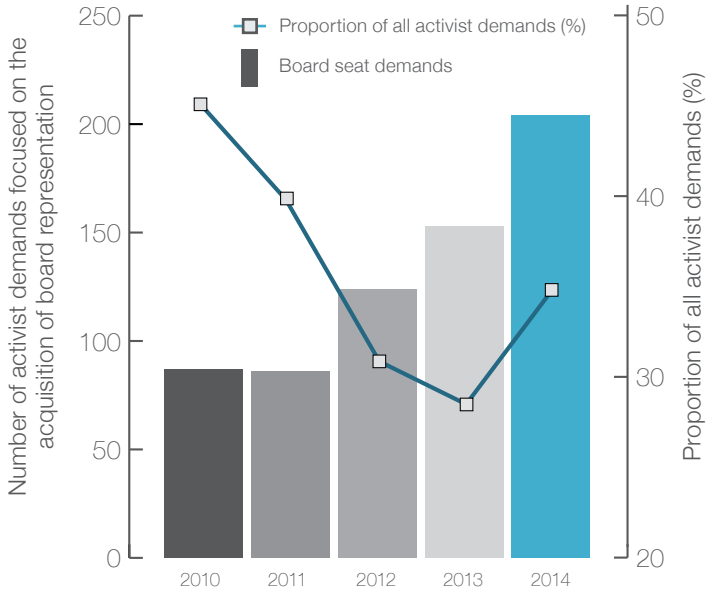
Activist investments

$237

Aggregate holdings in worldwide stocks by activists, in billions



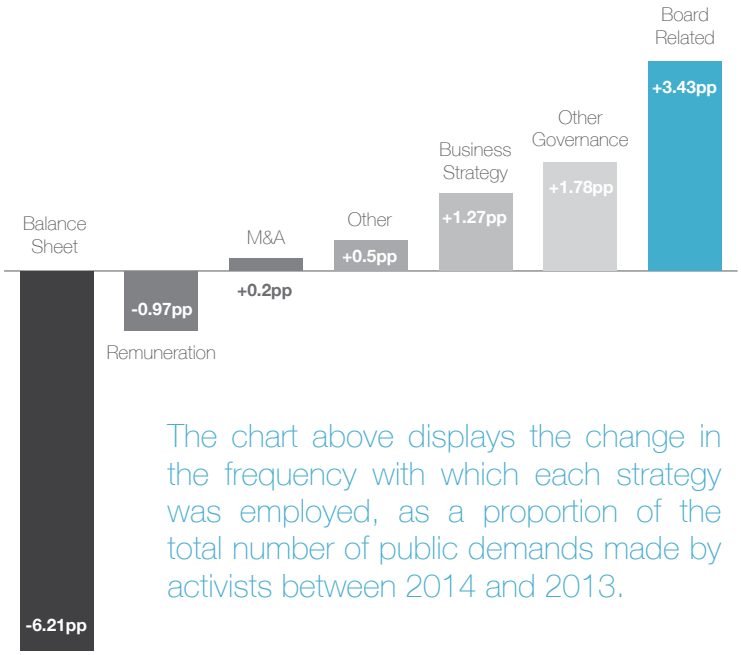
Focus on board seats



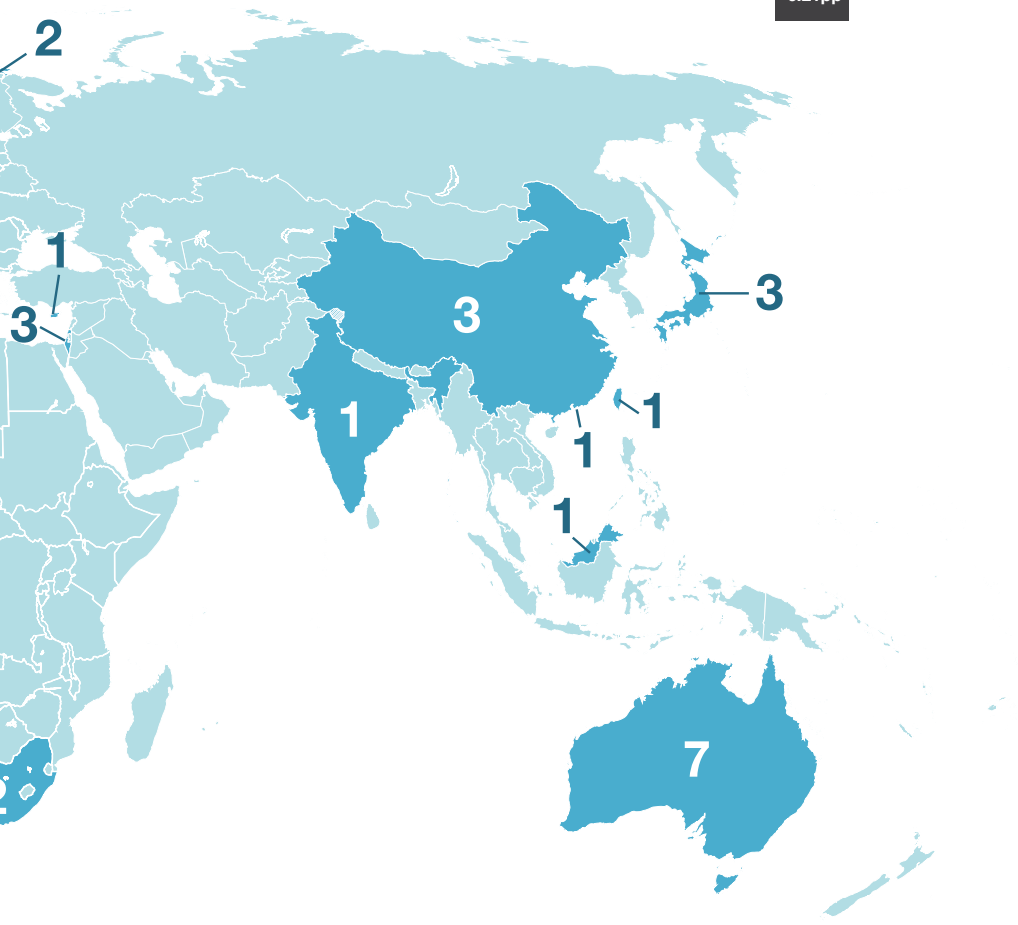
The number of activists seeking board representation has risen every year since 2011, but 2013 represented a low-point for its relative importance in the toolbox. 2014 not only saw a big jump in the number of campaigns, but also a rise in the proportion of all activist demands focused in this area. Proxy contests and negotiated settlements are included within the data.

It's governance, stupid

Balance sheet activism played a less important role in 2014, with the proportion of campaigns in this category returning to normal levels. Instead, activists focused their attentions more than ever on boards, governance and strategy.



The chart above displays the change in the frequency with which each strategy was employed, as a proportion of the total number of public demands made by activists between 2014 and 2013.



More new investments

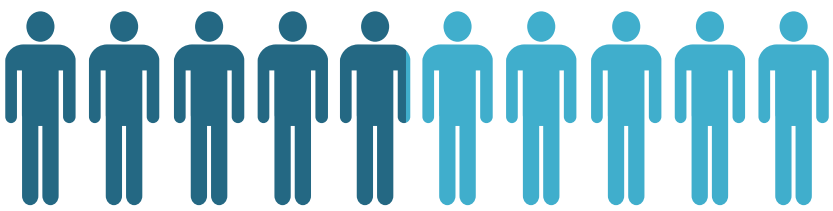
245

Number of 13Ds filed by activists in 2014, up from 188 in 2013

1003

Number of 13D/As filed in 2014, up from 983 in 2013

M&A: "Mergers and activism"



49% of activists who launched campaigns in 2014 made public demands related to M&A outcomes. Pleas related to spin-offs were included.

Schulte Roth & Zabel

WWW.SRZ.COM

Leading the pack

An interview with Marc Weingarten and David E. Rosewater of Schulte Roth & Zabel

If 2013 was the year that campaigns by activist investors became the "new normal," 2014 was the year they broke the mold. Over the last 12 months, activist investors swept in with special meeting requisitions, elected dozens of new board members, and packed court schedules. Few firms have been as close to that action as Schulte Roth & Zabel ("SRZ"), whose robust activism practice continues to dominate the market and in 2014 worked on more than 80 public and non-public situations.

"It's been a very busy year," says Marc Weingarten, who along with David E. Rosewater was named one of the "Dealmakers of the Year 2014" by *The American Lawyer* magazine, which highlighted their work on the "fiercest shareholder activism campaigns and proxy contests in the market."

"The volume of contested campaigns has risen again, and that's because activism has proven to be a very profitable strategy. There are more activists, there's more money flowing into their funds, and as a strategy, it's uncorrelated to the market. Their track record is outstanding," Weingarten said.

Indeed, anticipating an increasingly crowded US market, SRZ expanded its shareholder activism practice into the United Kingdom, where the firm has had an office since 2002. As a longstanding provider of advice on fund management, distressed investing and regulation, SRZ is betting it can capitalize on growing interest in activism overseas. The SRZ UK shareholder activism team includes Corporate and Funds Partner Jim McNally in the London office, which is led by Investment Management Partner Christopher Hilditch.

> "The volume of contested campaigns has risen again, and that's because activism has proven to be a very profitable strategy"

Standing in the way of control

In both 2013 and 2014, nearly a third of proxy fights saw majority slates nominated, along with an increase in the number of full states of board members put forward by activists, according to Activist Insight data.

In this capacity, activists have been more successful than ever; at Darden Restaurants and CommonWealth REIT (now, Equity Commonwealth), activist campaigns replaced entire boards. As Rosewater and Weingarten wrote in last year's Activist Insight Annual Review, the old argument that activists were seeking control of companies without paying a premium no longer holds with passive shareholders.

Many of SRZ's clients won big in 2014. Clinton Group and Casablanca Capital won a majority of the seats on the boards of ValueVision Media (now EVINE Live) and Cliffs Natural Resources respectively, both of which subsequently replaced their CEOs. Sandell Asset Management, also an SRZ client, appeared to be on course for a similar sweeping victory at Bob Evans Farms, and ended up with four board seats—just shy of a majority. The next big majority slate campaign for SRZ—Land and Buildings at Associated Estates—is already on the horizon.

"Majority slate contests will never be easy," says Rosewater. "They probably shouldn't be, either. Shareholders won't often turn a company over to a new board, but if you've got the better plan, and the people to execute it, shareholders are not going to vote blindly for the existing directors," he explained. Companies that attempt to silence or constrain shareholders, of which there have been a few examples over the past year, face an even steeper battle. Darden and CommonWealth had poor corporate governance practices and treated shareholders "shabbily," says Weingarten.

The new private equity?

Pershing Square's 2014 campaign to push Allergan into the arms of Canada's Valeant Pharmaceuticals

"THESE ARE LONG-TERM, OPERATIONAL ACTIVISTS, AND THEIR INPUT CAN BENEFIT A COMPANY"

Marc Weingarten, Partner, Co-head of Schulte Roth & Zabel's global shareholder activism practice

David E. Rosewater, Partner, Co-head of Schulte Roth & Zabel's global shareholder activism practice

showcased the confidence of activist investors. While the activist ultimately failed to achieve its primary objective, the resulting acquisition of Allergan by Actavis, instead of Valeant, is still likely to net Pershing Square a return in the billions of dollars. Yet it remains ambiguous whether the tactic of an activist teaming up with a strategic buyer, even before acquiring a stake, will be repeated. "The court's decisions to this point leave a significant amount of uncertainty," says Rosewater of the verdict of a California judge in an insider trading case against Pershing Square. "Activists will approach these situations with caution, although there might be other versions of the deal that remove the uncertainty."

More crucial, Weingarten suggests, is whether there is enough of an advantage for the acquirer in the deal. Valeant refused to bid against itself and eventually was unable to match Actavis's bid. Despite a profit-sharing agreement with Pershing Square, it was ultimately the activist that enjoyed much of the return on its investment, rather than Valeant.

Weingarten and Rosewater predict that co-investment may be an area that thrives in 2015, after a number of years gaining ground. Several activists now offer dedicated funds to clients that like to consider an idea before a campaign is launched. "The process has been popular for several years," says Rosewater, "and opportunities abound."

The new dark knight?

For all the fighting in 2014, it would be easy to ignore the invitation of activists with very small stakes to serve as directors of large companies. Where ValueAct Capital at Microsoft may have started the trend at the end of 2013, SRZ clients Trian Partners and JANA Partners have continued it at Bank of New York Mellon and Walgreens, respectively. In perhaps the most striking example of how beneficial activists have come to be seen, The Madison Square Garden Company (parent company of the famous arena) reached out to Trian's Nelson Peltz to serve as a board member, despite the activist not being a shareholder at the time. "Companies have thought it worthwhile to bring in highly respected activists to protect against a potentially destabilizing row with another shareholder," Weingarten says. "These are long-term, operational activists, and their input can benefit a company."

Not long after this interview, Trian was offered a board seat at PepsiCo, marking a new phase in the development of a two-year campaign. "Onlookers argued that the company's performance over 2014 had made it invulnerable to activism, but Trian doesn't give up," Weingarten noted. Trian's thesis revolves around PepsiCo splitting its snacks and fizzy drinks segments, but the company's management has made no suggestion that it agrees.

Whichever situations become the most highly publicized in 2015, the SRZ shareholder activism team predicts that a continued boom in the number of campaigns in the US, along with a steadily increasing number in the UK and Europe, will make headlines. Emboldened by some of the success stories of 2014, majority slate campaigns may gain in popularity, while the small-to-mid-cap sector seems particularly likely to dominate. ■

Collaborative activism

APB Financial Group discusses how engaging the buy-side increases activists' success rate

APB Financial Group has been in business since 1996, and is one of the few US brokerage firms dedicated to supporting shareholder activism. It is owned and managed by former buy-siders, and remains dedicated to helping traditional fund managers integrate activism into their investment process. While the firm typically stays out of the limelight helping activists and traditional buy-side investors quietly build and liquidate positions with complete confidentiality, its Principals, Steven Abernathy and Brian Luster, gave this interview to Activist Insight in late November.

With such a unique view of both the buy-side's needs, as well as those of the activist community, what have been the most important changes you have observed since our last interview a year ago?

BL: We have seen the infrastructure supporting activists develop at an encouraging rate. Professional service firms and their offerings continue to evolve and dramatically improve. But the most important changes have come from the collaboration of these professionals.

Historically, the industry surrounding the investment process supported the sell-side and the corporate client. Today, there are brilliant and dedicated experts supporting the activist community and the buy-side who really understand the process of activism. They collaborate to ensure actions are legal, have a high probability of creating shareholder value, and that communication between the activists and the shareholders is clear and effective.

> "Today, there are brilliant and dedicated experts supporting the activist community and the buy-side"

Can you give me an example which demonstrates your claim for our readers?

BL: Yes of course. One vivid example of collaboration is the "Town Hall" meeting. It can be over the phone or in-person. The Town Hall allows the lead shareholder to communicate with current shareholders and prospective investors, the same way corporate management speaks to shareholders in quarterly conference calls and non-deal road shows, and without the risk of creating a "Group."

The goal of the Town Hall meeting is to ensure the current and prospective shareholder base knows the lead shareholder's intentions regarding value creation, so they can make well-informed decisions regarding their investments.

SA: Historically, a campaign involved the ownership of 10% or more of a company's stock, and frequently the ownership was north of 20% to effect change. Collaboration and communication have diminished the amount of stock needed to effect change in many campaigns. One example we were directly involved in was Stillwater Mining, led by Greg Taxin while working for Clinton Group. Greg enjoined, and clearly won a campaign against a New York Stock Exchange-listed company with a mere 1.2% of the outstanding stock. This is objective proof that campaigns today are being waged and won, based on shareholder communication and value-creating change, not based on the amount of stock owned.

Greg Taxin is a brilliant strategist and one of the most effective activists in the country. He combines the talents of a financial analyst and a legal expert, to create value for all investors. He also takes great pride in assembling world-class experts, who help him communicate with the investment public legally.

As a case in point, during the Stillwater campaign, Greg asked APB Financial Group to help put together an online Town Hall meeting for all current shareholders and many billions of

dollars of prospective shareholder capital, well in advance of the record date. The goal was to ensure all current and prospective shareholders understood the challenges plaguing Stillwater, and how he planned to solve them. He clearly outlined the challenges confronting Stillwater, he listed the missteps management continued to repeat, and he offered intelligent solutions to those missteps.

How did the campaign turn out?

BL: On April 3, 2013 Stillwater Mining closed at $11.85/share. Greg Taxin and Clinton Group owned a mere 1.2% of the outstanding shares. Despite the incredibly small ownership stake, the collaborative effort of APB Financial Group, Okapi Partners, Hedge Fund Solutions and the outstanding legal team at Schulte Roth & Zabel, Taxin pulled off a complete victory.

He and his team were able to change four of the eight directors, replace the Chairman of the board with an activist nominee, and remove the current CEO with a replacement from the newly reconstituted board. In less than a year, several of the changes initiated by the activist were implemented, and Stillwater's price had risen to more than $18 per share, nearly a 60% gain.

This demonstrates to us that when activists can communicate effectively with current and prospective shareholders, positive changes follow.

Is this collaboration likely to continue? How does your firm add value to this process?

SA: The collaboration between the legal, campaign management, proxy solicitation, and shareholder communication teams will continue to become more integrated. The best activists in the country are in it for the long haul. They understand that they need the buy-side to know exactly what motivates them. They are taking the time to build relationships and trust with the buy-side because they know there will be future campaigns, and the trust built during the last campaign will often be transferred into the next.

> "Our goal is to offer both the buy-side and the activist community a secure and confidential trading desk"

The best activists today are brilliant investors and operational experts. Their interests are directly aligned with the other investors' interests.

The best activists start communicating with investors early in their campaigns. They host multiple Town Hall meetings—whether in person, or telephonically. They build and distribute thorough PowerPoint presentations and white papers outlining the reasons the target company is under-performing. They show the investing public how to fix the company's problems, how long it will take to fix them, and what the company is likely to be worth once it's fixed.

Our firm's place in this process is to offer a bridge of communication between the activist community and the shareholder community. Our buy-side clients represent hundreds of billions of dollars of shareholder capital that has explicitly requested to hear about undervalued investments, whereby an activist is acting as the catalyst for change, to unlock value for shareholders.

We publish completely independent research on the best 25 out of 250 plus activist campaigns each year specifically for this audience. We put together Town Hall meetings as well as one-on-one meetings between the activist community and both current and prospective shareholders.

BL: Our goal is to offer both the buy-side and the activist community a secure and confidential trading desk to build and liquidate positions, and to enable communication between activists and the shareholder community without the risk of unintentionally forming a group.

We understand our clients' investment criteria, and ensure they are aware of the campaigns taking place whose investment profile fits their demand. As long as the buy-side community is well-informed regarding both the risks and rewards, their capacity for making intelligent decisions will often benefit the activist community. ■

Founded in 1996, APB Financial Group LLC offers a full array of independent and custom research along with confidential trade execution services, at competitive rates. Steven Abernathy and Brian Luster are Principals of APB Financial Group LLC.

APB FINANCIAL GROUP

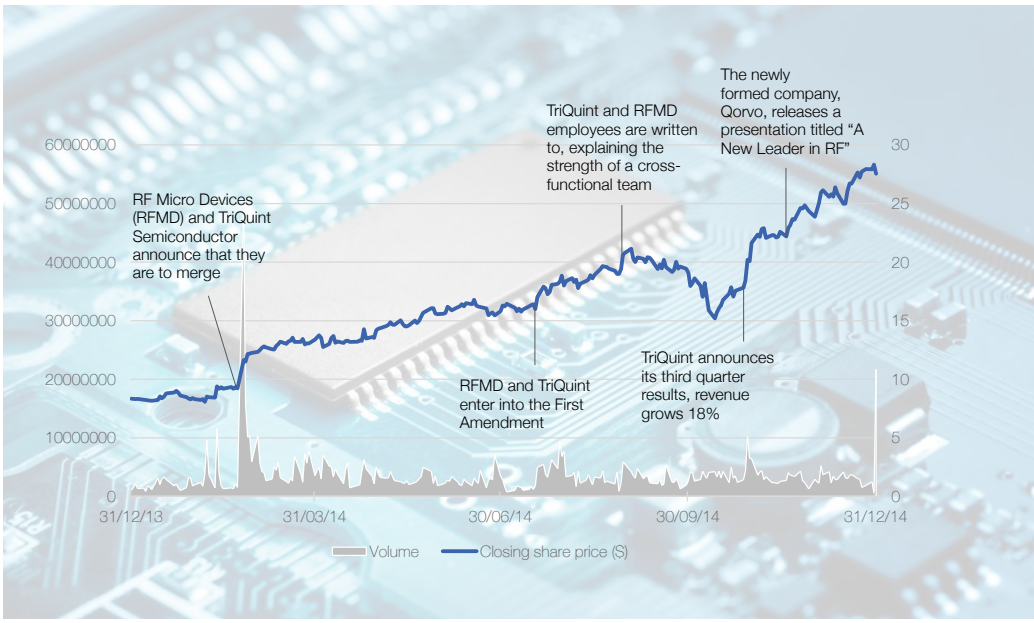
Campaigns of 2014

High-profile activist campaigns continued to make front page news for much of 2014, with special attention paid to the novel ways in which activists are applying pressure. This section relives nine of the most notable campaigns, based on three criteria. The first section highlights some of the best performing stocks by share price appreciation, while the second and third sections respectively highlight the most newsworthy, and revisit some of the campaigns featured in our monthly magazine, Activism Monthly Premium.

Three noteworthy performers

A look at three of the most successful activist investments in 2014

TriQuint Semiconductor



Starboard Value's investment in TriQuint Semiconductor was almost too successful too soon for the activist, which had to sell as chunk of shares in August 2013 after they rocketed upwards 45% in three months. Even so, in December of that year it said it continued to have "serious concerns" over the company's underperformance, and launched a proxy contest to turn over three-quarters of the board.

Semiconductors have quickly become familiar territory for Starboard. According to Activist Insight, it has now built positions in 14 firms directly involved with their manufacture or supply, although not all of those have involved public activist campaigns.

That means good contacts across the industry, making successive campaigns easier and more effective for the activist. Indeed the Chairman of Tessera Technologies—who faced Starboard in a proxy fight the previous year—duly appeared on Starboard's slate at TriQuint.

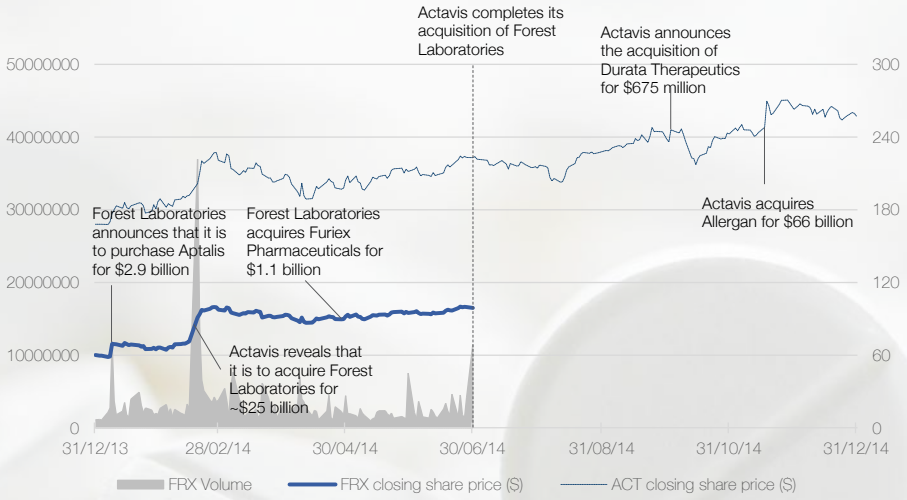
> "Starboard publicly backed the deal, saying it believed the synergies could be more than double the official estimates"

Ultimately, however, going all the way to a vote proved unnecessary after TriQuint announced a $1.6 billion merger with peer group company RF Micro Devices in what TriQuint's CEO, Ralph Quinsey, described as "an industry shaping event." Starboard publicly backed the deal, saying it believed synergies could be more than double the official estimates. The merger completed on January 2, 2015, with President and CEO Bob Bruggeworth saying, "Our goal is to build the most valuable company in our space." The new company is known as Qorvo, and trades under the ticker QRVO. Regulatory filings suggest Starboard exited the position in the third quarter of 2014, most likely at the completion of the merger in September. By then, the stock had risen 272% since Starboard filed its first Schedule 13D.

With 2015 on the horizon, Starboard began targeting internet companies Yahoo! and AOL, but it still retains a reasonable exposure to the semiconductor industry. Indeed, the activist will likely be hoping for similar outcomes in Tessera Technologies and Integrated Silicon Solutions, where it has teamed up with Oliver Press Partners, later this year.

Forest Laboratories

Actavis' acquisition of Forest Laboratories was somewhat overshadowed by its $66 billion deal for botox-manufacturer Allergan. But while Bill Ackman produced a stunning return on the latter, Carl Icahn made similar profits from a much smaller investment in Forest Laboratories (indeed, regulatory filings suggest Icahn's shares cost just under $900 million), with some media estimating the windfall at $1.7 billion.



Having first targeted the company in 2011, Icahn fought a proxy contest the following year and saw one of his four candidates elected to the board, arguing that the result showed the "proxy system is set up in such a way that the deck is stacked heavily in favor of incumbent management in proxy contests."

Nonetheless, a second director was added in 2013 by mutual agreement, and Icahn was happy to see CEO Howard Solomon replaced by Brent Saunders in September of that year, five months before Actavis swooped.

Saunders had little time to make his mark, though he did bring in a new revenue stream through the acquisition of Aptalis. Yet Icahn remained convinced that more shareholder value could be created, and so it proved. In a statement on his website, Icahn called the takeover "a huge win for all shareholders of Forest Labs and yet another validation of the activist investment philosophy," which he has so vocally espoused.

The Pantry

Like most companies facing a proxy fight, The Pantry's share price dipped after the nomination of an alternative slate by activist investors Lone Star Value Management and James Pappas, the eponymous founder of JCP Investment Management.

But when all three proxy voting advisers backed the activists in their arguments for change at the operator of Kangaroo Express gas stations, the prospect of a shake-up started to look more appealing. It may have helped that the activists promised a less debt-laden company, lower board pay and a new range of corporate governance measures to increase the company's accountability to shareholders.

While the activists expected the improvement in the stock price to be led by EBITDA improvements, new stores and the creation of a REIT for the company's real estate (later dropped), the stock surged on M&A rumors instead, leading up to the announcement that the company had reached agreement to be acquired by gas station and convenience store operator Alimentation Couche-Tard for $36.75 per share in cash.

Dennis Hatchell, The Pantry's CEO at the time, was clear where praise was due. "The company's current performance is a direct result of the employees' hard work and effort," he said.

Three that dominated the news

A look at the three activist campaigns that amassed the most column inches

Allergan

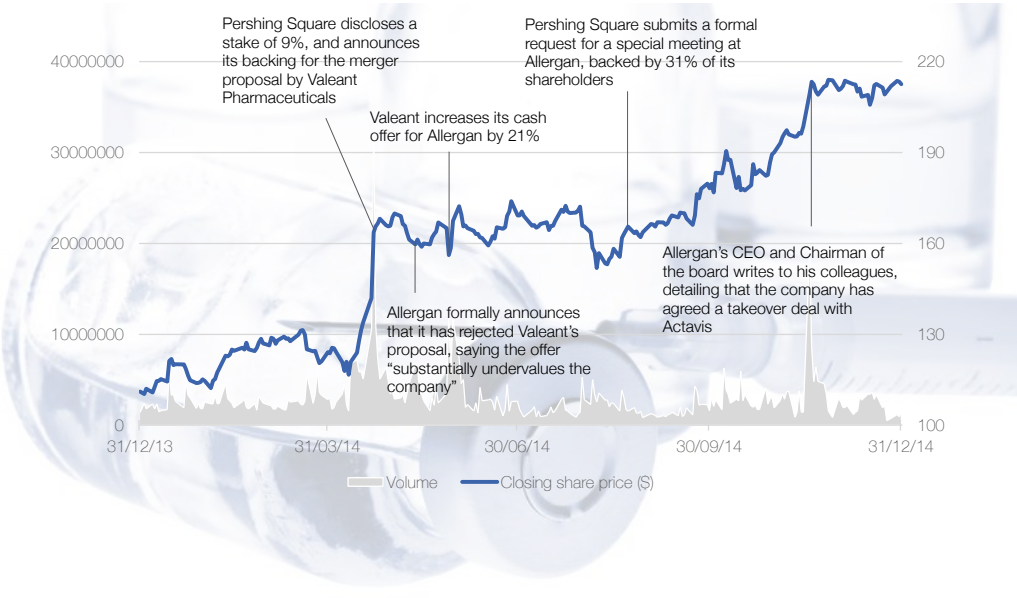
At a count in late December, Activist Insight Online's journalists had written 80 stories on Allergan over the course of 2014, dwarfing the 59 stories on Darden Restaurants and the 48 on Cliffs Natural Resources.

What made Allergan the most newsworthy campaign of the year? For a start, its novelty. Few if any activists have teamed up with a bidder in a hostile takeover before building a significant stake in the target, yet this is precisely what Pershing Square Capital Management did when it took a $4 billion position in Allergan and agitated for the company to sell itself to Valeant Pharmaceuticals International.

Then there was the company's response, which was to go on the offensive and fight Pershing Square and Valeant at every turn. This entailed a wealth of litigation on three key fronts.

Pershing Square wanted to call a special meeting of shareholders (initially for a non-binding referendum on the deal, but ultimately in order to replace a majority of the board), and the activist had to take the company to court to get a date set for the meeting. A lively debate surrounded this element of the activist's campaign, with Pershing Square making a presentation to ISS in July attacking Allergan's "unduly onerous and anti-shareholder" bylaws.

> "Few if any activists have teamed up with a bidder in a hostile takeover before building a significant stake in the target"



Moreover, in order to ensure its efforts to solicit the approval of investors did not infringe the company's poison pill, it had to issue a second suit. These first two lawsuits were ultimately dealt with by an agreement between Allergan and Pershing Square in mid-September, but the company's bylaws had bought it valuable time, allowing it to postpone the meeting until December 18.

Allergan, meanwhile, fired back with accusations of insider trading. This came to hinge on the question of whether Valeant had planned its tender offer before Pershing Square disclosed its stake in Allergan. Documents produced in court could not prove that they had (the tender began in June after a revised offer was rejected), and the judge ruled that Pershing Square could vote its shares at a special meeting if it made additional disclosures.

That may not be the end of the story, however. The judge also admitted to "serious concerns" over the structure of the deal, which could in future be banned by legislation or a higher court.

And Pershing Square still faces a case from a private investor sore at selling before the activist announced its stake.

But by far the most incredible development was the speculation and late arrival of white knight Actavis, whose $66 billion offer knocked Valeant out of the race. The deal will net Pershing Square a profit of more than $2 billion, depending on when the firm sells out. According to a recent investor letter, it is currently evaluating rolling some of its stock into the merged company.

Observers will likely find their own prejudices reinforced by the campaign. For shareholder rights campaigners, Pershing Square's campaign put the company in play, and the specter of a company putting off a meeting requested by 37% of its shareholder base was frustrating. But there is little doubt that Allergan's decision to fight the solicitation bought it valuable time to reach the best possible deal for shareholders, even against a reported spending rate of $10 million per month on defense services.

Darden Restaurants

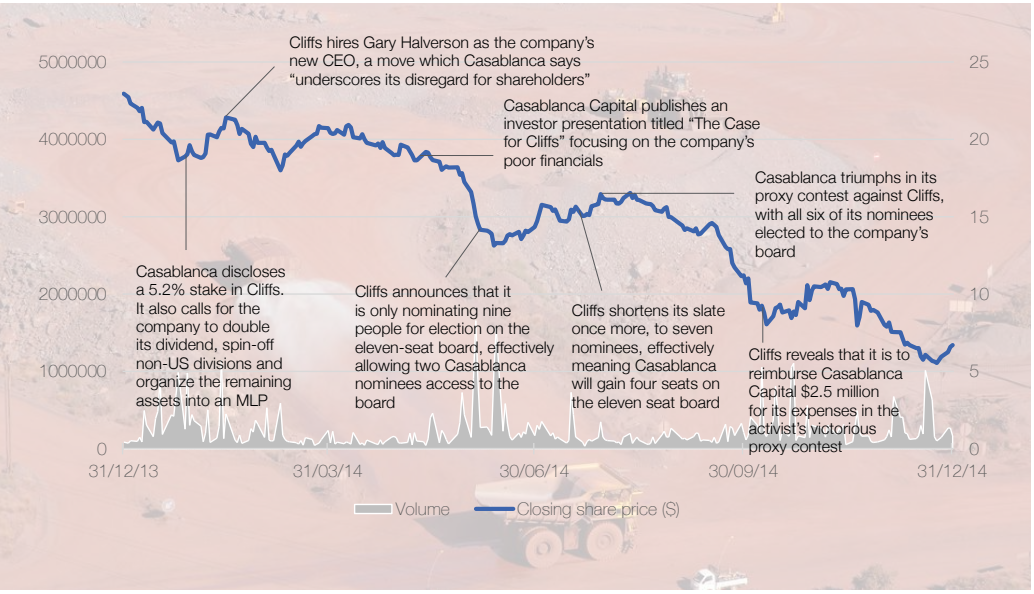
The fight between Darden Restaurants and Starboard Value was one of the defining episodes of the year. Despite 57% of shareholders supporting calls for a special meeting to stop the sale of Darden's Red Lobster chain to private equity firm Golden Gate, the company did the deal anyway, arguing that a turnaround would be more risky. Not helping its case, however, was Golden Gate's decision to execute a sale-leaseback of real estate, giving credence to one of Starboard's demands.

Following a proxy solicitation by Starboard and pointed interjections by Barington Capital, Darden saw all 12 of its directors replaced by nominees from the activist's slate. CEO Clarence Otis resigned, and the company's private planes are being sold off. Existing executives and some of Starboard's nominees are likely to be among those considered for Otis' replacement, as well as external candidates.

As for clues as to how the company will transform itself, Starboard left few stones unturned with a 294-page presentation and a 100-day plan to improve turnover.

The stock's momentum has been positive since the annual meeting, and in the company's first meaningful earnings release since the election, EPS has more than doubled (although share repurchases over the past year have had an impact). As an example of what's at stake from running a company contrary to shareholder expectations, Darden will resonate for some time.

Cliffs Natural Resources



Cliffs Natural Resources was our third most written-about story of the year. Donald Drapkin's Casablanca Capital won six seats on the eleven-person board, who only had themselves to blame, according to Drapkin. "They were totally ineffectual," he told Activism Monthly Premium in September.

One of Casablanca's nominees, Lourenco Goncalves, became the CEO immediately after the annual meeting, and his position was bolstered by the resignation of four directors appointed by the previous management within months, amidst claims of bullying and short-shrift for dissenting views.

Like Darden, Cliffs opted to shorten its slate ahead of the meeting, encouraging investors to vote on its own proxy card by effectively promising Casablanca's slate at least four seats on the new board. As Darden also found, the tactic proved a total failure.

Disappointingly for the activist, commodity prices turned out not to have hit rock bottom when it joined the board. The stock has lost two-thirds of its value since Casablanca began agitating for change, but Drapkin is stoical, saying it still has good prospects.

Three to revisit

A look at three campaigns covered during the inaugural year of Activism Monthly Premium

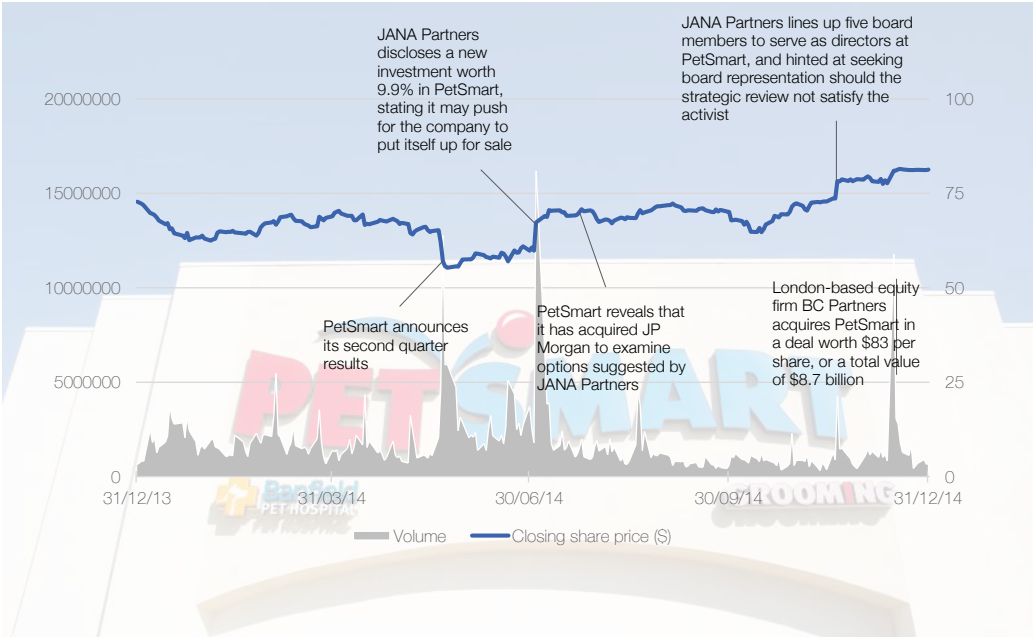
PetSmart

JANA Partners hoped to emulate the success of other investors in the pet supplies arena by attracting a private equity buyer. After accusing PetSmart of losing market share to PetCo and Pets at Home, both of which have returned to public markets after time on the sidelines with Leonard Green and KKR respectively, JANA threatened to run a proxy contest if the company didn't make good on its strategic review.

It proved to be a canny bet, netting the activist a healthy return when BC Capital Partners bought the company for $8.7 billion in December (2014's largest leveraged buyout, as it happens). That worked out at $83 per share; not bad, considering JANA began buying the stock at below $60 and was still adding to its haul when shares dipped to $56.36.

Avoiding a proxy fight will also have pleased JANA, which has still only gone all the way to a vote once. Although the activist had nominated a slate of directors, it quickly withdrew these when PetSmart's directors accepted the takeover, suggesting the move was more an insurance policy than a show of strength.

> "A few timely letters and support from a fellow shareholder were all it took to convince PetSmart to consider strategic alternatives"



With PetSmart it found both the right target and the right thesis. PetSmart had the seventh-highest short interest in the S&P 500, JANA said in a July 29 letter, and a rumored leveraged-recapitalization would "be roundly condemned by shareholders," as would not dealing with the underlying causes of its underperformance if management pursued one.

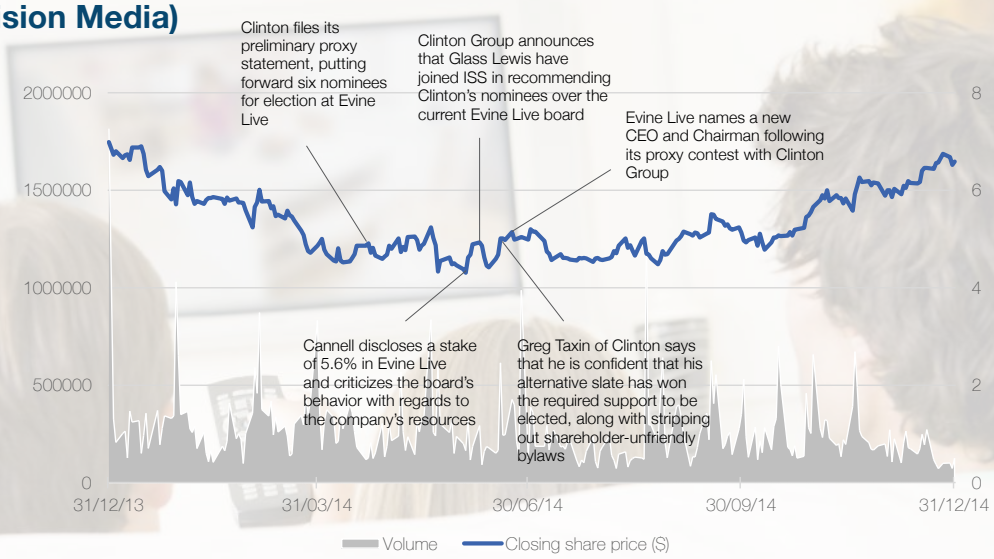
A few timely letters and support from fellow 10% shareholder Longview Asset Management were all it took to convince PetSmart to consider strategic alternatives, although an element of intrigue was briefly introduced when a mysterious presentation on the company's underlying performance was sent to JANA's offices in New York.

At least publicly, PetSmart brooked no argument with JANA's logic. In August, it announced that it had hired JP Morgan to review its options, following "constructive" conversations with shareholders. In the second round of bidding, BC Partners emerged as the winning party.

Commenting on the deal, PetSmart's President and CEO, David Lenhardt said the transaction was "a testament to the strength of the PetSmart brand and franchise" and would allow the company to implement a "strategic plan to capitalize on [its] opportunities for growth and meet the needs of pet parents."

Some shareholders took umbrage with one element of the deal, however. Longview was the only investor entitled to roll its equity into the deal, allowing it to enjoy potential upside beyond the premium paid by BC Partners. According to the Wall Street Journal's Ronald Barusch, this sort of deal is only allowed in certain states, and not in federally-regulated tender offers.

Evine Live (formerly ValueVision Media)



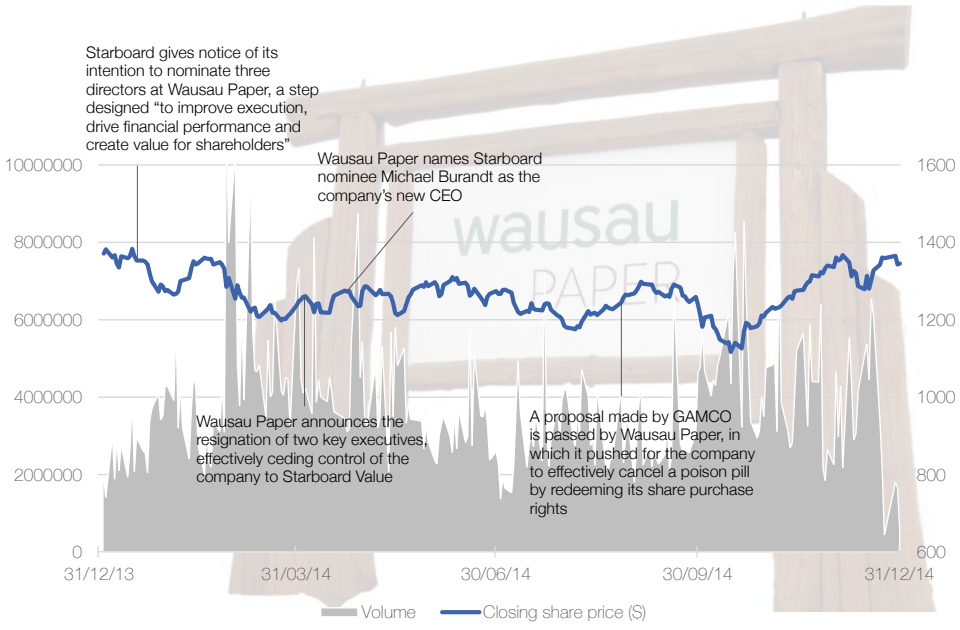
When the recently-elected board of ValueVision Media met in June to appoint a new CEO after the company's annual meeting, six of the eight directors were new to the firm. Half the board had been elected from the alternative slate nominated by Clinton Group, while two directors were appointed just before the vote as part of a desperate attempt to maintain control.

A big row arose over Clinton's first attempt to overhaul the company through a special meeting requisition, with the activist complaining that additional information requests were mere spoiler tactics. The fight also had the effect of driving the stock down from $6.88 to $4.20.

But things have been looking up for the TV shopping portal ever since its annual meeting.

Now renamed Evine Live, and with more studio time in New York attracting a more high profile batch of celebrity presenters, its stock is up 28%. More importantly, sales are rising and once the costs of fighting Clinton Group and paying off former-CEO Howard Levine are stripped out, the company's cost base also appears to be under scrutiny.

Wausau Paper



Back in February, we wrote about Starboard Value's third battle with Wisconsin-based paper company Wausau Paper, citing it as an example of activists refusing to exit a company until their recommendations had been implemented in full. Starboard has already taken credit for turning Wausau into a pure-play tissue company, but since the stock may be the only one Starboard didn't make money on in 2014, it will likely remain put for the time being. As in the two previous years it has nominated directors at the company, Starboard settled this fight, gaining its fifth seat on the nine-person board and also seeing off CEO Hank Newell, who had described Starboard's demands as "disproportionate." Investors have been less impressed—although the stock has picked up since October, the share price was down 18% in 2014. Later in the year a successful shareholder proposal from GAMCO Investors removed the company's poison pill.

Losses per share narrowed from $1.77 to $0.36 in the first nine months of the financial year, largely due to shuttering underperforming divisions. But debt appears to have risen and there is no sign of the cost reductions urged by Starboard. The activist still has a 15% stake, but with less than $80 million at stake, can afford to be patient. ■

Britain: Where are the activists?

Cas Sydorowitz on the advantages of the UK market

The UK has seen a steady number of campaigns over the last year, despite an increasing focus on several sectors well-represented in the UK market, particularly oil and gas, listed private equity and natural resources. Many of 2014's campaigns were led by UK-based activists, with a few notable exceptions: Sherborne Investors launched a campaign at Electra Private Equity after having built a stake in 3i last year; Pope Asset Management and SpringOwl launched proxy fights at Tethys Petroleum and Bwin.party Digital Entertainment respectively, representing new forays for both investors outside of the US; Sandell Asset management tried to split up FirstGroup, where it owns a 2.9% stake; and Marcato has a 4% stake in Intercontinental Hotels Group, which it has called on to merge with a rival hotelier. But the question remains: why haven't more US activists gone after UK companies?

Transparency

The UK market is one of the most transparent in Europe; companies and shareholders have a high degree of visibility into the shareholder base. This is far more extensive than in the US, where activists can get a copy of the share register and a NOBO list (Non Objecting Beneficial Owners). In the UK, companies can expect to have visibility on 90-95% of the underlying shareholders who hold their stock. Any activist can inspect the register and the 808 register, giving them an equal footing and allowing them to present their candidates and thesis directly to the decision-makers.

> "Why haven't more US activists gone after UK companies?"

Cost Savings

Unlike the US, where a dissident's proxy material is distributed to all the underlying beneficial owners through Broadridge Financial Solutions, only registered shareholders receive the notice of meeting in the UK. Beneficial owners who sit behind discount brokers and wealth managers do not usually receive any proxy material, and as a result do not regularly participate in general meetings or proxy fights. However, the single set of materials for management and dissident proposals, which the company sends out, is an advantage. If retail investors behind brokers are excluded from the process, because they never receive the material, it becomes the priority to persuade the institutional investors. There are far fewer of them, and they can be communicated with directly without the need for expensive print and mailing costs to be incurred.

Foreign ownership

Control by UK institutional investors has declined steadily over the last five years and now stands at less than 50%. US institutional investors have shown themselves willing to listen to activists trying to unlock value and support their campaigns in the US, but many corporate governance contacts dealing with UK and European meetings sit in the UK even if the parent investor may be deemed to be US. BlackRock, for instance, makes the voting decisions for UK meetings from London.

The approach for UK activist campaigns needs to be more discreet and less confrontational than in the US. Yet shareholder rights are more extensive, providing a very good opportunity to run a campaign in the UK. With the level of transparency and the significantly lower cost base for running a campaign, the large successful activists in the US would find the UK a more shareholder friendly environment to run campaigns. Perhaps we will see an increase in activism at this year's UK annual meeting season. ■

Cas Sydorowitz is CEO of Georgeson Corporate Advisory, a provider of proxy, analytics and transaction support for companies around the world.

Would you make the right moves?

When protecting against activism, your preparation is crucial:

- Profiling the activist
- Assessing the voting risk of the institutions and proxy advisors' influence
- Weighing up the influence of the retail holders
- Crafting and delivering the message to activate the right investors and drive votes

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Voting intelligence

Proxy Insight's Nick Dawson on how to maximize investor outreach and minimize failed transactions

The corporate governance revolution of the past few years has ensured that all significant investors now have clear proxy voting policies. But as our feature on the following pages highlights, what the big investors say isn't always easy to parse. Of the big asset managers, few are as critical of the growth of activist investors as BlackRock CEO Larry Fink. Yet by virtue of being one of the largest investors in US equities and having strict corporate governance requirements, BlackRock emerges as one of the largest supporters of activist investors in the 2013/2014 proxy season.

It's not just ISS

Certainly, many small managers simply follow recommendations of ISS or Glass Lewis without exception. However, most larger managers will typically use them to help interpret their own policy. Indeed, almost all of the corporate governance teams we've interviewed in our newsletter, Proxy Monthly, suggest they regularly override their proxy voting platforms to suit their own policies. The good news is that proxy voting disclosure requirements mean you can know an investors' past history. Between an asset manager's public statements, corporate governance policies and past voting behavior, there is no reason not to know who to prioritize reaching out to.

None of this will be news to activists, who already use voting intelligence as a key part of their screening process. Voting results from previous shareholder meetings, and significant levels of opposition on director elections in particular, are often used as the first screen. The next step is to review the shareholder base of the target and how each investor has previously voted, typically votes in such situations and critically if they have collaborated before.

> "We can tell you how an institution has voted in the past, what policies they follow, and who makes the final decision"

Counting (proxy) cards

That process perfectly encapsulates why we set up Proxy Insight. For the first time, you can see a clear breakdown of past votes and therefore make quantifiable predictions on how successful any type of shareholder resolution is likely to be.

We have collected over 40 million votes dating back to January 2012 from 1,000 investment managers/owners covering over 10,000 funds. Disclosure is improving all the time—Vanguard and BlackRock have both recently announced enhancements, while Norges is now disclosing votes before the meetings have happened. Further regulatory changes in Australia, India and most recently Switzerland are leading to greater disclosure, while in Japan the voluntary stewardship code is starting to demonstrate improvements in a market with historically disappointing corporate governance practices.

The Proxy Insight database has voting data on over 24,000 global issuers. While director elections, auditor ratification and compensation resolution types dominate, we do cover 288 resolution types, meaning users can see how similar resolutions have been voted on previously, no matter how obscure they may seem. Moreover, we can tell you who actually votes an investor's shares, whether it be their corporate governance team, proxy voting adviser, or an external manager, so you know where to look for the key information on the decision. ■

Proxy Insight is a data service supplying information on proxy voting. To learn more, or to request a trial, visit proxyinsight.com. Readers of the Activist Investing Annual Review 2015 can receive a 10% discount on subscriptions by quoting this offer before the end of March 2015.

Don't leave it to chance

Proxy Insight has all the intelligence you need for a successful shareholder vote. Understanding who votes, how and why puts you in control—so don't leave it to chance.

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Who backed activists in 2014?

Proxy Insight highlights the institutional investors who most frequently backed dissident slates over the past year

Few forces are as feared on Wall Street as activist investors, although with many owning less than 10% of their targets, these funds often rely on the support of institutional investors to get what they want. This is truer still in proxy contests, where activists typically need at least a majority of shareholders to back their nominees in order to win board seats. Using data from voting records database Proxy Insight, we looked at which institutions backed the most activist slates in 2014, and present to you the investors who provided the bedrock for their continuing success.

Florida State Board of Administration ($177 billion in assets under management)

Proxy contests where investor supported activist		
Bob Evans Farms	Evine Live	Spark Networks
Darden Restaurants	Griffin Land & Nurseries	The Pantry
Equity Commonwealth	Sensient Technologies	
Endeavour International	Sotheby's	

Proxy voting policy

When analyzing proxy contests, the policy focuses on two central questions: (1) Have the dissidents demonstrated that change is warranted at the company, and if so, (2) will the dissidents be better able to effect such change versus the incumbent board? When dissidents seek board control, the dissidents must provide a well-reasoned and detailed business plan, including the dissidents' strategic initiatives, a transition plan that describes how the dissidents will effect change in control, and the identification of a qualified and credible new management team.

TIAA-CREF Asset Management ($840 billion)

Proxy contests where investor supported activist		
Bob Evans Farms	Evine Live	Spark Networks
Cliffs Natural Resources	Griffin Land & Nurseries	The Pantry
Darden Restaurants	Sensient Technologies	XenoPort

Proxy voting policy

Will generally vote for the candidates they believe will best represent the interests of long-term shareholders. TIAA-CREF's engagement program involves many different activities and initiatives. Engagement may include supporting an election contest or change of control transaction.

BlackRock ($4.53 trillion)

Proxy contests where investor supported activist		
Bob Evans Farms	Evine Live	Sotheby's
Conmed	Griffin Land & Nurseries	The Pantry
Equity Commonwealth	Hudson Global	

Proxy voting policy

BlackRock evaluates a number of factors including: the qualifications of the dissident and management candidates; the validity of the concerns identified by the dissident; the viability of both the dissident's and management's plans; the likelihood that the dissident's solutions will produce the desired change; and whether the dissident represents the best option for enhancing long term shareholder value.

AllianceBernstein ($473 billion)

Proxy contests where investor supported activist		
Bob Evans Farms	Evine Live	The Pantry
Cliffs Natural Resources	GrafTech International	XenoPort
Equity Commonwealth	Sotheby's	

Proxy voting policy

Votes in a contested election of directors are evaluated on a case-by-case basis with the goal of maximizing shareholder value.

Dimensional Fund Advisors ($372 billion)

Proxy contests where investor supported activist		
Equity Commonwealth	Griffin Land & Nurseries	Sotheby's
Evine Live	Hudson Global	The Pantry
GrafTech International	Sensient Technologies	

Proxy voting policy

Considers the following factors: long-term financial performance of the target company relative to its industry; management's track record; background to the proxy contest; nominee qualifications and any compensatory arrangements; strategic plan of dissident slate and quality of critique against management; likelihood that the proposed goals and objectives can be achieved (both slates); and stock ownership positions.

Illinois State Board of Investment ($15 billion)

Proxy contests where investor supported activist		
Bob Evans Farms	Evine Live	Spark Networks
Darden Restaurants	Griffin Land & Nurseries	The Pantry
Equity Commonwealth	Sotheby's	

Proxy voting policy

The trustees believe that competing slates should be evaluated based upon the personal qualifications of the candidates, the quality of the strategic corporate plan they advance to enhance long-term corporate value, and their expressed and demonstrated commitment to the interests of shareholders and other key constituents (e.g. employees, customers and the communities in which a company resides).

Activists' performance starts to slip

Activist Insight's unique index of primary focus funds suffered a turgid third quarter, bringing its gains for the first nine months of 2014 below those of the MSCI World and S&P 500 indices over a comparable period. The Activist Index, which comprises 28 funds with a range of geographical centers, lost 3.2% in the third quarter, but was up 2.4% for the nine months to the end of September. The S&P 500 Index was up 8.4% over the same period and the MSCI World Index up 4.3%.

Activists appear to have experienced more than their fair share of turbulence in 2014, as favored sectors faced tailwinds and various crises weighed down on the eurozone. Yet the year was not a particularly good one for hedge funds of all stripes. A hedge fund index by Barclay Hedge was up just 3.2% in 2014 as a whole. An analysis of activist-targeted equities from Activist Insight's stock-tracking tool Follower Returns suggests that figure might still be beaten. A trimmed mean of all activist-owned stocks (which does not account for weighting, dividends or fees) over the course of the year returned just under 7%.

Unfortunately for traders, the bad news was very bad indeed. Oil stocks suffered a torrid 2014, especially recent spin-offs like Civeo and Seventy Seven Energy. Chapter 11 filings also claimed a few notable victims, including Endeavour International, ALCO Stores, The Wet Seal and Corinthian Colleges. The index's worst performing fund, a European-focused activist, lost 20%. Many of the more event-driven portfolios rose and fell on whether deals were

"ACTIVISTS APPEAR TO HAVE EXPERIENCED MORE THAN THEIR FAIR SHARE OF TURBULENCE IN 2014"

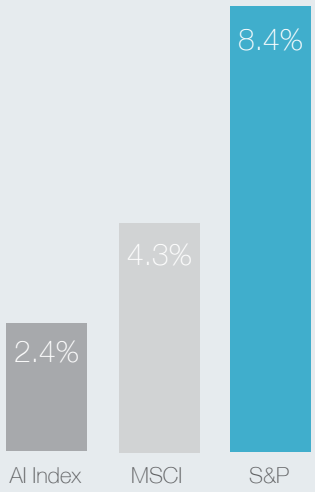
6.9%

trimmed mean* of annualized change in share price of activist-held stocks in 2014**

* excludes extreme 10% at each end of the distribution to account for apparent anomalies

** between Jan 2, 2014 and December 31, 2014

2014 Activist Insight Activist Index Q1-Q3



The Activist Index takes net returns from 28 hedge funds with a primary focus on activism and benchmarks them against the S&P 500 and MSCI World Indices.

The S&P 500 Index just surpassed the Activist Index at the end of 2013, and continued to outperform in 2014. Indeed, even the more appropriate MSCI World Index was able to best the Activist Index over the first nine months of 2014, after a difficult third quarter for activists.

Share price performance of notable activist holdings in 2014*

Activist	Issuer	Share Price Change
Sarissa Capital	Idenix Pharma	330%
Red Mountain	Radnet	172%
Starboard Value	TriQuint	145%
JCP Investment	The Pantry	128%
North Tide	Amedisys	91%
Ronald Chez	Repligen	86%
Corvex Management	Signet Jewelers	73%
Steel Partners	Handy & Harman	66%
Blue Harbour Group	Rackspace Hosting	47%
Carl Icahn	Family Dollar Stores	32%

* Refers to change in share price over the time in which the position was held in 2014 and excludes dividends.

completed or collapsed, as several did over the course of the year.

Even so, there were still gains to be had. Acquiring companies were generous, especially in healthcare. Idenix Pharmaceuticals, which had a market-capitalization of around $860 million when Sarissa Capital Management began building a stake in the second quarter, sold itself to Merck in August for $3.85 billion. Retail and technology continued to consolidate, with the likes of Family Dollar Stores, Safeway and TriQuint Semiconductor producing good returns from takeover premiums.

The index's best performer, Pershing Square Capital Management, was up 31% in the third quarter of 2014 and finished the year higher still at 40% net of fees on the back of successful investments in Allergan, Burger King and Herbalife (short). Performance like that means few will want to write off activists just yet, although the industry will draw more scrutiny as the number of funds professing to be activist increases.

The Activist Index still leads the S&P 500 on a compounded basis, even though the gap is the narrowest since it was first compiled in 2009. And if its performance is maintained through the end of 2014, it will notch its fourth outperformance of the MSCI World Index in six years.

The bull market in the S&P 500 means many US-based activist investors have stayed put over the last two years. A minor stock correction, as several investors have predicted, seems unlikely to put the US behind other markets. A major one, on the other hand, could see activists accelerate their exploration of opportunities in other jurisdictions, such as Canada, Japan and Europe. Quantitative easing in the eurozone, if it has a similar effect as in the US and political risks dissipate, could send equity prices considerably higher, and may prove an attractive draw. ■

Activist Insight

Shareholder proposals

A look at the latest research by Activist Insight

In 2014, Activist Insight began collecting data on shareholder proposals, which we list on our online database. During proxy season, we also pick a selection of the most interesting for a feature in Activism Monthly Premium.

Statistics from the US alone show how daunting this is. A total of 356 companies were subjected to shareholder proposals last year, down in absolute terms on the 360 proposals included on ballots in 2013, but a higher rate once the declining number of meetings is taken into account.

John Chevedden is again the most prolific proponent. Yet not all his proposals get on the ballot in the first place. "Many companies vigorously petition the SEC in order to skip a non-binding vote on shareholder proposals and they succeed some of the time," he told Activist Insight in an interview.

In 2015 Chevedden's crown may fall to another (a development he welcomes). The NYC Comptroller Scott Stringer, who controls $160 billion in pension fund assets, has vowed to file proxy access proposals at 75 companies. Justifying the move, which will make it easier for shareholders to nominate their own directors if the proposals are passed, the Comptroller pointed out that "Of 41 directors who failed to receive majority votes in 2014, 40 remain on the board as 'zombie directors,' unelected but still serving."

Many themes emerge time and again from the data, but one surprisingly dominant objective is to get companies to disclose political contributions or lobbying efforts, a campaign that has long riled the US Chamber of Commerce in particular. Charles Nathan, a Partner at RLM Finsbury, has pinned this rising trend directly to the judicial decisions that lifted restrictions on campaign spending in the US. In an article for the Harvard Corporate Governance blog at the end of the 2014 proxy season, Nathan wrote "It is possible, many would say probable, that political and lobbying disclosure will become the corporate norm, at least among larger public companies, within the next few years." ■

Most frequent proponents of shareholder proposals

Proponent	2013	% of total	2014	% of total
John Chevedden	53	6.33%	63	7.72%
New York State Comptroller	20	2.39%	44	5.39%
Kenneth Steiner	21	2.51%	29	3.55%
James McRitchie &/or Myra K. Young	17	2.03%	25	3.06%
Clinton Group	9	1.08%	23	2.82%
Comptroller of the City of New York	23	2.75%	23	2.82%
Pershing Square/Valeant Pharmaceuticals	0	0.00%	18	2.21%
United Brotherhood of Carpenters Pension Fund	10	1.19%	15	1.84%
Milwaukee Private Wealth Management/ Concerned ALCO Shareholders	0	0.00%	14	1.72%
Osmium Partners	0	0.00%	14	1.72%

Shareholder Proposals 2014

Proposal Type	No.
Political contributions (inc. lobbying)	85
Independent Chairman	69
Majority voting (inc. reduce supermajority)	42
Written consent	27
Declassify board	16
Proxy access	16
Special meetings	12

"Schulte Roth & Zabel ... [has] come to dominate the activism market."
— Reuters

"... Schulte Roth & Zabel partners Marc Weingarten and David Rosewater ... have established themselves as go-to lawyers for activist investors across the United States. In 2013 the pair acted on some of the fiercest shareholder activism campaigns and proxy contests in the market ..."
— The American Lawyer

"SRZ's clients in the U.S. include several of the highest-profile activist managers ..."
— Financial Times

"Dissident investors are increasingly looking to deploy deep capital reserves outside their bread-and-butter U.S. market, driving Schulte Roth & Zabel LLP to bring its renowned shareholder activism practice to the U.K. — a jurisdiction experts say is on the brink of an activist boom."
— Law360

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Are you prepared?

Activist Insight Online brings you the most extensive coverage of activist investors worldwide to ensure you know what to expect from their engagement. Stand out from the crowd with market leading knowledge of activist situations across the globe, whilst saving valuable time in your research efforts.

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