

Board Engagement in the Age of Activism

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Welcome



Jerry Carlson

Moderator

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Today's Panel



Steve Wallace, General Counsel, Secretary, and Director of Board Advisory Services

National Association of Corporate Directors

Cynthia Glassman, Board Member

Discover Financial and Navigant Consulting

Joe Gilligan, Head of the Corporate Practice

Hogan Lovells

Glenn Davis, Director of Research

Council of Institutional Investors

Survey Question #1



In what capacity are you here today?

- Audit committee chair
- Audit committee member (not the chair)
- Director (not on the audit committee)
- C-suite executive
- Investor/asset manager
- Other



Who are Activist Investors Today? What is Their Agenda?

Activist Investors Include...



- Activist hedge funds (\$100 billion+ in assets)
- Large pension/institutional funds and asset managers, who
 - ✓ Allocate capital to activist hedge funds
 - ✓ Publicly team with the funds
 - ✓ Conduct their own activist agendas
- Socially responsible investment funds
- Individual investors with strong personal beliefs

What Do Activists Care About?



- Strategic/operational improvements
 - ✓ Changes to strategy
 - ✓ M&A
 - ✓ Capital structure
 - ✓ Dividends and buybacks
 - ✓ Management changes
- Governance
 - ✓ Board election & composition
 - ✓ Shareholder rights
 - ✓ Compensation
- Environmental, social, and political agendas

Survey Question #2



Has your company faced an activist investor campaign? (Select all that apply)

- Yes – governance reforms
- Yes – strategic/operational improvements
- Yes – social, environmental, or political agenda
- Yes – other
- No

Survey Question #3



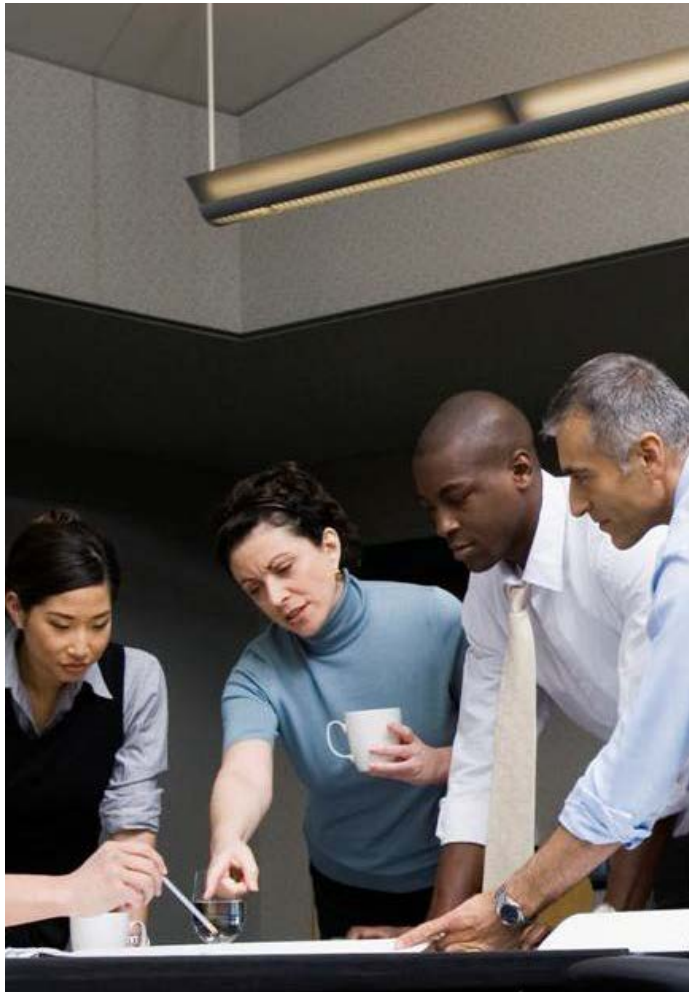
In your opinion, have shareholders generally benefitted by the activist hedge fund campaigns of recent years?

- Yes – generally
- No – generally
- Results have been mixed



Preparing for and Dealing with Activists

Preparing for Activism



- “Think like an activist.”
- Understand and assess vulnerabilities – Are we a potential activist target?
 - ✓ Stock price
 - ✓ Board
 - ✓ Management
 - ✓ Balance sheet
 - ✓ Operations and strategy
- Address performance gaps
- Know and engage with your largest shareholders
 - ✓ Understand their perspectives
 - ✓ Communicate the company’s position
- Assemble a team to develop a game plan for dealing with activists

Survey Question #4



Has your company conducted an activist vulnerability assessment?

- Yes
- No
- Not sure

Survey Question #5



Has management at your company developed a game plan for responding to activists?

- Yes
- No
- Not sure

Responding to and Dealing with Activists



- “It’s an art, not a science.”
- Considerations:
 - ✓ What does the activist want?
 - ✓ Do they have a point?
 - ✓ What are their tactics?
 - ✓ Role of management versus board
 - ✓ Views of company’s other investors and proxy advisory firms
- Communications strategy – including social media
- Be prepared for a fight – and what that entails

Survey Question #6



As a result of the activist environment, has your company increased its level of engagement with its largest shareholders?

- Yes
- No



When and How Should the Board Engage?

Survey Question #7



Regarding what topics has your board – or one or more directors – communicated with shareholders directly (Aside from the annual meeting)?

(Select all that apply)

- Board leadership, composition and governance policies
- Executive compensation
- Succession planning
- Strategy/Operations
- Capital structure
- Management
- Board does not communicate directly with shareholders

Board/Shareholder Communications: Key Considerations



- When should directors get involved?
 - ✓ Which directors?
- How should directors engage?
 - ✓ With which shareholders?
 - ✓ One-on-one or with multiple shareholders?
 - ✓ Proactively or reactively?
- What issues should be discussed?
- What executives should participate?
- What preparation do directors require?
- Do we need an engagement protocol to share with shareholders?



Final Thoughts