The Evolving Landscape of Shareholder Activism

Shifting goals, new players and advanced tools are reshaping activist strategies and board responses.

BY DOUG RAYMOND

Generally speaking, shareholder activism has meant the efforts of shareholders to influence decisions by public company boards through leveraging their rights as shareholders. These efforts traditionally focused on board elections, where an activist would nominate one or more directors who had not been approved by the incumbent board, as well as strategic transactions, such as a sale of the entire company or a significant piece of it, or a recapitalization or other transaction that would send cash out to shareholders, including the activist. The number of activist campaigns has increased significantly over the last few years and, at the same time, the types of shareholders who are willing to engage in these campaigns has broadened from a relatively few well-known players to a broad group of investors, including traditionally quiescent institutional investors. In 2024, 243 activist campaigns were reported globally — up from approximately 185 in 2021 — almost 20% of which were brought by first-time players.

Moreover, the objectives of activists also have shifted. Historically, campaigns had focused on M&A-related demands, with activists arguing that they were pressuring boards to maximize shareholder value by selling undervalued assets, up to and including the entire company. Similarly, they frequently focused on capital allocation and returns, seeking the return of capital to shareholders through share buybacks or dividends. Although these remain common objectives, activists are increasingly looking to influence the board's strategic decisions and drive operational efficiencies. In 2024, according to data reported by Barclays Bank, 26% of campaigns brought by major hedge fund activists focused on operational and strategic improvements and 11% related to senior management changes, whereas only 22% of campaigns called for M&A actions and 9% of campaigns focused on capital returns (28% requested board changes and the balance related to other governance issues). By identifying companies that might be underperforming compared to their peers and focusing on changing senior management or increasing operational performance, activists appear to be prioritizing long-term growth strategies over quick returns. Consistent with this broader focus, many recent campaigns have included governance-based arguments for change, particularly where they identify and are able to exploit a specific strategic mistake — for example, if they can point to failures in either succession planning or proper integration of a significant acquisition.

There has also been a change in the resources accessible to activist investors and the dynamics surrounding them. The SEC's universal proxy rules enable shareholders to vote for their preferred combination of directors, including by mixing-and-matching among the company and activist nominees — regardless of which side solicited their vote — and no longer allow companies to force shareholders to choose between management's and the activist's slate of directors.

Activists have also increasingly used social media, including Reddit, TikTok and X, to amplify their messaging. Also, many activists are building stronger ties to traditional institutional investors, including those advocating for strategic and operational changes that promote ESG initiatives or long-term growth, given the institutional investors' significant shareholdings and long-term interest. And activists are increasingly sophisticated in their approach to analyzing or identifying potential weaknesses in corporate operations. They are also making significant investments in generative AI resources to enhance their ability to evaluate and select strategic operational targets, such as corporations with underperforming business units or areas of misalignment with shareholder expectations.

To navigate this evolving landscape, boards should be prepared to reevaluate their responses to a campaign, as their defensive toolkit designed to ward off an M&A-focused strategy may no longer be relevant. Boards should make sure that their governance documents give them adequate advance notice of any potential proposals by activists, and should be reviewed by counsel with experience in these matters. Preemptively considering and addressing vulnerabilities in strategy, operations or governance practices is necessary to stay ahead of activist demands. Boards should do this with the assistance of generative AI and other analytical and predictive tools to identify potential areas of exposure and anticipate the specific targets of potential campaigns directed at operational and strategic improvements. Boards may wish to incorporate this ongoing review as part of their routine oversight responsibilities.

By engaging actively with shareholders and addressing vulnerabilities head-on, boards can not only mitigate the risks of becoming the target of activist campaigns but also continue to position their companies for long-term success.

Board members should focus on maintaining strong relationships with key shareholders, particularly those investors that might be inclined to join an activist effort. Consistently engaging with shareholders should also help boards anticipate activist campaigns and avoid surprises. In the short-term, boards should make sure they are aware of and understand recent campaigns, especially campaigns that targeted their peers. This will allow them to develop strategies or rebuttal arguments in advance. Being proactive rather than reactive will be critical. By engaging actively with shareholders and addressing vulnerabilities head-on, boards can not only mitigate the risks of becoming the target of activist campaigns but also continue to position their companies for long-term success. ■

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