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**SEASONAL
ANALYSIS**

13F ROUNDUP

**ACTIVISM IN
NUMBERS**

ACTIVISM MONTHLY

Lite



Activist Insight

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Editor's letter

Josh Black, Activist Insight

Welcome back to the first issue of Activist Monthly Premium proper in 2015. If you subscribed on the back of our New Year double issue, The Activist Investing Annual Review 2015, we hope you will enjoy this format just as much. We certainly haven't heard of a more comprehensive source for activist situations, save perhaps for Activist Insight Online!

This month's feature is a topical one. A host of activists have started not just to argue for spin-offs, as they have been doing for some time, but to design and enforce their preferred corporate governance model at the SpinCo. As Carl Icahn has demonstrated at Gannett, he is willing to go to a proxy fight to ensure his standards are adopted. Sandell Asset Management may try to remove the entire board of JDS Uniphase on this basis. And at DuPont, where Trian has a host of arguments and has the backing of pension fund CalSTRS, the issue is large enough to be included in the activist's latest presentation.

The days when SpinCos tried to make themselves immune to takeovers or activism, as when Abbott loaded AbbVie with leverage and bestowed on it a staggered board, appear to be drawing to a close. All told, anti-takeover defenses in a SpinCo may add fuel

to the fire, rather than serving to deny activist campaigns oxygen.

At the end of February, I attended the launch of a new academic paper on activist hedge funds by the Alternative Investment Management Association (AIMA).

“The days when SpinCos tried to make themselves immune to takeovers or activism appear to be drawing to a close”

A pretty pro-activist paper, it nonetheless contains some impressive data: a 50% compounded return between 2012 and 2014, a six-fold increase in assets under management over ten years, and, critics take note, an average 25% appreciation in activist-targeted stocks after the activist exited.

Deeper within the report are some even more surprising findings. Despite assets under management growing quickly, the last few years have seen relatively few new activist funds launched, suggesting that the existing players are reaping the rewards of the sectors' new popularity. Moreover, as a professional hack, I was surprised by AIMA's claim that only 21% of activist actions were hostile (defined

as proxy contests, lawsuits, etc.). While many CEOs would consider a public letter pretty hostile, fewer and fewer shareholder groups see it that way. Indeed, it's an important reminder that for all the rhetoric around activism, it remains more chess than boxing.

Our activist interview this month is an example of activists reproducing themselves. Eric Singer was at Potomac Capital for a number of years before striking out on his own with Vertex Capital, which has already made seven Schedule 13D-worthy investments. We also hear from New Mexico's Public Employees Retirement System on why concentrated portfolios are the big draw for activist funds, and summarize the various movements in last quarter's 13F filings. Our campaign in focus is Associated Estates, drawing attention to another hot topic in the activism world—real estate and REITs.

In the coming months Activist Insight will be at several conferences. You can catch us at the Tulane Corporate Law M&A conference next month, and at Activist Investing in Europe in London on May 19, where we are delighted to have again partnered with ArrowCon Events. We hope to see you there. ■

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Activist Insight

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Greg Taxin, Spotlight Advisors

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Activist Insight

We're not going on a summer holiday

Activist Insight looks into seasonal trends in activist investing

Activist investors have never been renowned for their sense of timing. As a group, their predecessors used to be known for “Saturday night specials”—a regulatory filing close to five o'clock on a Friday afternoon that left management teams at their targets panicking over the weekend.

Nor is that stereotype necessarily relegated to the past. One banker told the Activist Investing In Europe conference last June that he had been called in to deal with a developing situation soon after the CEO had taken a “courtesy call” from an activist, letting him know that the Wall Street Journal had somehow got wind of a letter

they were preparing to send to the board and was preparing to run the story on Monday morning.

Instead of being clustered around proxy season, as it was in previous years, activism is

“Activism doesn't just revolve around annual meetings these days”

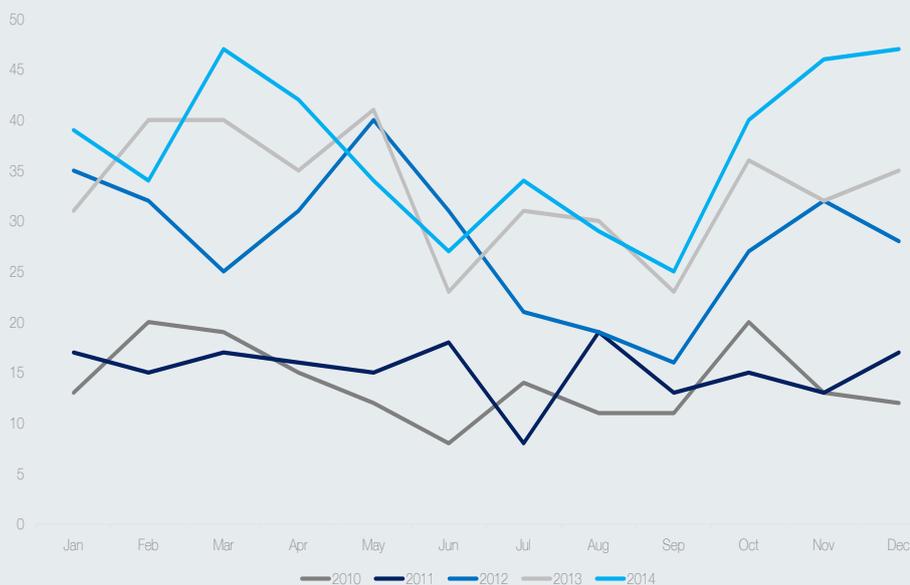
increasingly becoming a year-round phenomenon. According to Activist Insight data going back to 2010, activists on average make new demands at more than 20 companies every month save September. And with the tide of shareholder activism

continuing to rise, September 2013 and September 2014 comfortably topped that threshold.

Keith Gottfried, who heads the shareholder activism department at law firm Morgan Lewis, says activism doesn't just revolve around annual meetings these days, noting that they are “just one pressure point” activists can leverage. They can, and often do, send letters calling for a strategic review or the head of a CEO at any time of the year. Carl Icahn famously launched his Apple campaign with a tweet in August 2013.

Last year, Activist Insight tracked as many calls for spin-offs in July as in the whole of the first quarter, for example. Andy Freedman, a

Companies subjected to activist demands per month



Even with activism currently at elevated levels, there remains something of a seasonal element to their activities. Activist Insight data shows the number of new demands being made by investors surging in the final quarter, when many companies have nomination deadlines, and staying high until the end of annual meeting season in June. Some activists may take summer vacations, but four of the past five years have witnessed a surge in either July or August. Building sandcastles just doesn't cut it for these guys.

Source: Activist Insight Online

“WITH THE LEVEL OF ACTIVIST ACTIVITY EXPECTED TO BE STEADY IN 2015, IR TEAMS WOULD BE WISE NOT TO TAKE TOO LONG A SUMMER HOLIDAY”

“There remains something of a seasonal element to activists’ activities”

Partner at New York law firm Olshan Frome Wolosky, says at least ten months out of twelve in each of the past two years have seen a heavy workload. “The last two years have demonstrated that activists don’t attach any seasonality to their work,” he says. Last year his client Starboard Value nominated a full slate of directors for a proxy contest that ended up being deferred until mid-October.

Activists often go public with demands for board representation in the fourth or first quarter because nomination deadlines are fast approaching, and the time of year adds urgency to negotiations, according to Freedman. Indeed, these six months remain the busiest period for activists and their advisers, with an average of more than 42 companies a month receiving new demands, according to Activist Insight data.

But companies also face increasing numbers of demands from activists in the summer months. One reason for this is that companies on the defensive can kick the can along the road by delaying their meetings, getting their houses in order and negotiating a compromise with the activists, Gottfried says. Freedman agrees,

pointing to delays because of deals in the current M&A climate, and the need for more negotiating time on both sides. However, there are limits. Delaware companies have to host their annual meetings within 13 months of the last one, and NASDAQ-listed stocks must hold one within 12 months of the end of their fiscal year.

Another reason for the spurt in activity after the traditional proxy season is that activists sometimes want a long run-up to generate additional momentum, according to Freedman. That may mean more time to build their case, by publishing white papers and the like, or it might be an attempt to change the underlying shareholder base by attracting event-driven funds. These can often follow an activist into stocks and are often more sympathetic to calls for change. Trian Partners seems to have made a specialism of campaigns lasting two years or more, leaving suggestions for the likes of PepsiCo or DuPont hanging for long periods of time before trying to draw matters to a head.

With the level of activist activity expected to be steady in 2015, IR teams would be wise not to take too long a summer holiday this year. They might find an activist white paper on the doorstep when they return. ■

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Understanding the Strategies Behind Activist Campaigns

Shareholder activist campaigns continue to increase in the U.S. markets, and not a week goes by without seeing a new campaign waged against a prominent corporation. As hedge fund activists continue to explore new jurisdictions and show strong interest in targeting European corporations, it is out of necessity that the management, boards and advisors of these companies have had to gain an understanding of the objectives, strategies and approaches of U.S. activist investors. Activist Investing in Europe taking place May 19 in London explores what may attract an activist to target a company, and what to expect if one becomes the object of an activist campaign.

FEATURED SPEAKERS



Doug Snyder
Managing Director
Starboard Value



Julien Balkany
Co-Founder & Managing Partner
Nanes Balkany Partners

CONFERENCE TOPICS

- Exploring the Strategies, Preparation and Tactics Activist Investors Use to Organize a Campaign
- Managing Risk with Corporate Preparedness: Board Dynamics, Building Shareholder Support, Corporate Governance, Compliance and Communications Planning
- Settle or Fight: What is Causing More Companies to Settle with the Activist Investor?
- How do Activists Determine if a Company is an Attractive Target?
- Examining Strategies that have Resulted in Successful Corporate Defenses
- Tales from the Boardroom: What Happens After an Activist Joins the Board?
- Legal and Regulatory Issues: Dealing with Multiple Jurisdictions, Operating Environments and Shareholder Structures in Europe
- How are U.S. Activists having to Adjust to Operate in the European Market?
- Executive Compensation: Attracting Quality Talent vs. Investor Concerns
- Activist Partnerships: Do Activist Investors have more Success when Joining Forces?
- The Golden Leash: Do Incentives Offered to Directors Compromise their Independence rather than Serve in the Best Interests of all Shareholders?
- Do's and Don'ts for Companies Facing an Activist Campaign
- Shadowing Activist Investors: Examining a Unique Investment Discipline in the Activist World

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Activist Insight



New investments in Q4

Activist	Issuer	Shares	Stake
Atlantic Investment Management	Lear Corp	240,000	0.3%
Discovery Group	Kofax	370,469	0.4%
Starboard Value	Clean Harbors	4.1 million	6.7%
Stilwell Value LLC	Simplicity Bancorp	170,000	2.3%
Stonerise Capital Management	UTi Worldwide	1.3 million	1.2%
Third Point Partners	Phillips 66	5 million	0.9%
Engaged Capital	Procera Networks	194,620	1.0%
PL Capital	LaPorte Bancorp	20,800	0.4%
SpringOwl	OM Group	65,000	0.2%

Several activists exited Dollar General around the time it failed to acquire Dollar Tree in the last quarter, while Sachem Head also sold its Allergan shares following Actavis' successful bid. Meanwhile, the deadwood of previous campaigns was shifted, ending involvement with the likes of Hewlett Packard, Alere and PHH. Elliott Management also sold Emulex before a merger agreement with Avago was struck last month, and JANA further cut its oil exposure by selling Apache stock.

A striking feature of the new investments disclosed on 13F filings for the fourth quarter is how many stocks already have an ongoing campaign. Atlantic Investment Management appear to be piggybacking Marcato at Lear Corp, Starboard Value following Blue Harbour Group at Clear Harbors, and SpringOwl joining FrontFour at OM Group. Third Point made an intriguing energy bet with Phillips 66, and Stonerise Capital were lured into UTi Worldwide, presumably by rumors of a takeover there.

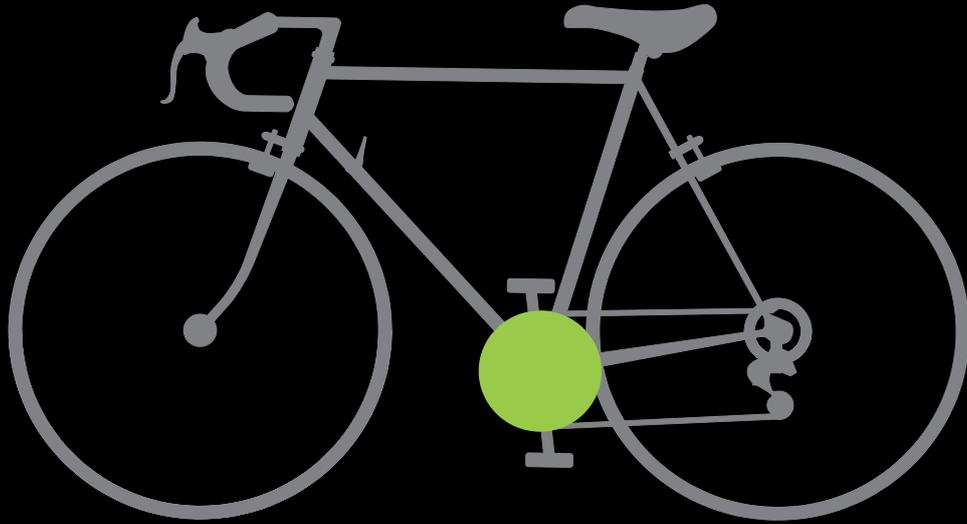
Exited investments in Q4

Activist	Issuer
Relational Investors	Hewlett Packard
Elliott Management	Emulex Corporation
Coppersmith Capital	Alere
Stonerise Capital Management	Dollar General Corporation
Orange Capital	PHH Corporation
JANA Partners	Apache Corp
Marcato Capital Management	American Realty Capital Properties
Sachem Head Capital Management	Allergan
Third Point Partners	Bed Bath & Beyond

New short positions in Q4

Activist	Issuer
Muddy Waters Research	Superb Summit International Group
Richard Pearson	Regulus Therapeutics
Spruce Point Capital Management	Ametek
Citron Research	GoPro
Bronte Capital	Globalstar
Alpha Exposure	SFX Entertainment
The Street Sweeper	Glu Mobile
Kerrisdale Capital Management	Globalstar
GeolInvesting	China Green Agriculture

Did you know that Activist Insight Online also tracked short positions? Among the many shorts disclosed in the fourth quarter, these were some of the most interesting. Kerrisdale's attempt to take down Globalstar was the most high profile, while we broke the news of Muddy Waters shorting Superb Summit International from the London Sohn Conference. Reports of the demise of Kim Kardashian's popularity proved premature, with the businesswoman's star power continuing to propel game-maker Glu Mobile to new heights.



Be well-tuned to set the pace

Divestitures are increasingly considered an important part of business strategy — a tactical method to build shareholder value, address underperforming segments, and emphasize core competencies.

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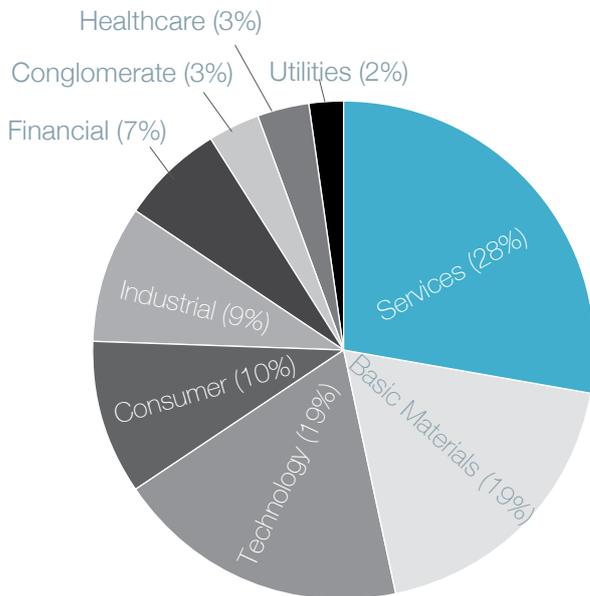
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Activism in numbers

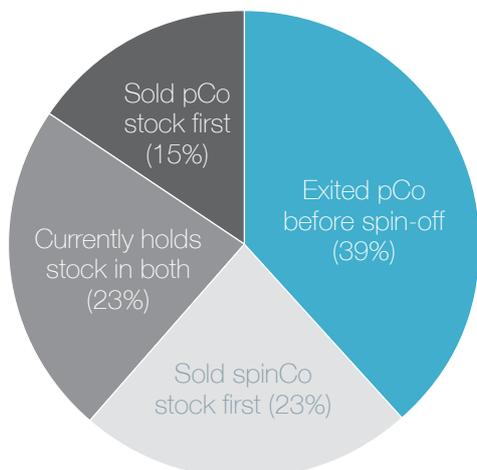
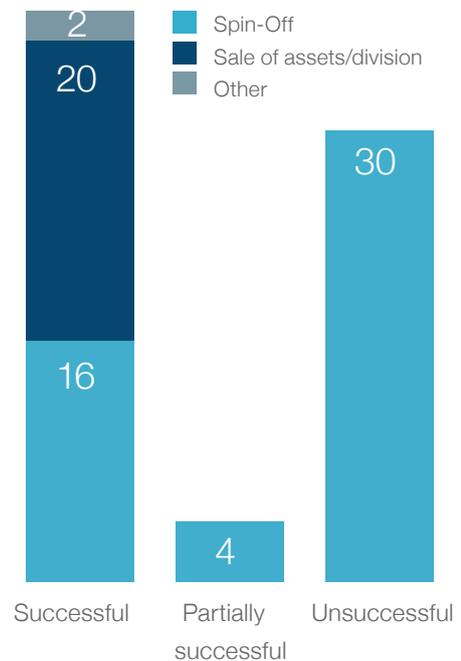
Where are the activists looking?



The services sector is by far the most afflicted with activists calling for the spin-off or sale of business divisions since 2010, with one potential reason being the favorable tax status of REITs. Basic materials, where many companies can create REITs or MLPs, is in joint second alongside tech firms.

More successful asset sales than spin-offs

The last five years have seen more successful activist attempts to force companies to sell assets or divisions, than to spin them off.



What's the value strategy?

Up until now, activists have been more likely to hold onto the ParentCo (pCo) stock than the SpinCo, suggesting that most activist campaigns in this region are about letting go of anchor divisions holding back the main business.

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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