



Activism Monthly

...your monthly digest of activist investment

Welcome to January's edition of **Activism Monthly**. This month we review activist investing in 2012, examine shareholder activism in India and take a closer look at Carl Icahn's involvement at Netflix.

Feature: A Review of Shareholder Activism in 2012

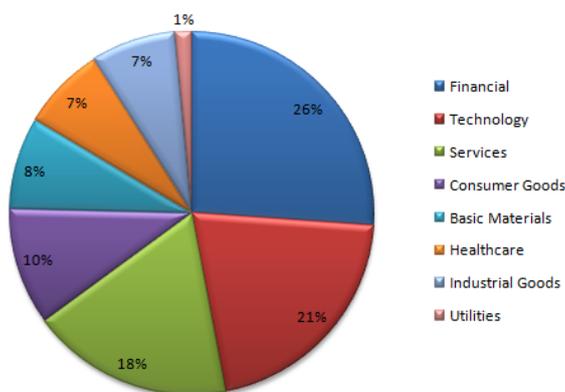


Fig 1. Activist Targets by Industry in 2012

2012 was yet another eventful year for shareholder activism, with 146 new activist investments made by the top 130 activist investors worldwide, a figure which included a slight rise in the number of activist investments in North America but which was slightly down on the 156 new activist investments seen overall in 2011.

2012 saw two new activist funds enter the market in Engaged Capital and Tensile Capital Management. Engaged Capital was founded at the beginning of 2012 by Glenn Welling, who previously worked at activist firm Relational Investors, while Tensile was formed in July 2012 by two former Blum Capital employees, Douglas Dossey and Arthur Young.

Of the top 130 activists tracked globally by Activist Insight, New York-based Starboard Value undertook activist actions in four new companies in 2012, including successfully gaining board representation at Integrated Device Technology Inc. Carl Icahn was another prominent activist investor, becoming a dissident shareholder in three companies over the course of the year including the campaign at Greenbrier Companies Inc., where he pushed for the merger of the company with a third party.

The most popular industry targeted by activist investors in 2012 was financial services, with over a quarter of activist situations occurring in this type of company (Fig 1). Notable activist campaigns in this industry included Bulldog Investor's involvement at Imperial Holdings, the Boca Raton, Florida-based provider of Life Insurance, which prompted the resignation of two directors and company chairman Anthony Mitchell. The activist won three seats on the board of directors, while Bulldog chief Philip Goldstein was appointed Chairman. Companies in the technology and services industries were also popular among activists, who targeted them 21% and 18% of the time respectively.

A popular tactic among activists in 2012 was pushing a company to sell itself to a third party, something which occurred 26 times. Whilst 16 of these situations have yet to be resolved, activists have succeeded in implementing a successful sale in five of these cases. Notable examples include Carl Icahn's involvement at Amylin Pharmaceuticals, which was purchased on August 7th by Bristol Myers Squibb for \$5.3 billion.

Activism goes global... India

Shareholders in India have recently been granted more rights after the passing of the Companies Bill in 2012 which permits the filing of class-action suits by investors if they are of the opinion that the affairs of the company are being conducted in a manner prejudicial to the interest of the company and its shareholders.

Proxy battles have become commonplace in India since 2003 when the Securities and Exchange Board of India (SEBI) effectively introduced requirements similar to Form N-PX in the US meaning that all mutual funds must submit records of voting in company resolutions each year. Institutional Investor Advisory Services and InGov-ern Research Services are the two leading Indian proxy advisory firms.

The Children's Investment Fund has been at the forefront of activist investing in India since it launched a lawsuit against 90% government-owned Coal India. In a landmark case which will be heard this month, TCI has taken the directors of Coal India to task over not acting in the best interests of its shareholders.

Global Activism Spectrum:



News in brief: our monthly round-up

New Investments in December:

Activist	Company	Stake
Cannell Capital	Multiband Corp.	11.38%
Clinton Group	Community Financial Shares Inc.	53.06%
Crystal Amber	Thorntons	3.37%

In the News:

New York-based investment firm TPG-AXON Capital has launched a website in order to garner support from shareholders in its efforts to bring significant change at SandRidge Energy Inc. TPG, which owns a 6.7% stake in the Oklahoma City-based oil company, wants to change bylaws at the company which would make it easier to replace its board of directors and also remove the poison pill which was implemented last month.

CBRE has appointed ValueAct Partner Brandon Booze to its board following a Nomination and Standstill Agreement with the activist investor. ValueAct has agreed not to make, participate in or encourage any solicitation of proxies or consents, own in excess of 13.75% of CBRE's stock or engage in any dissident activity including the attempted removal of board members. ValueAct now holds a 9.7% stake in the real estate services company after the recent acquisition of an additional 376,714 shares.

Campaign to watch...

Carl Icahn - *Netflix*

Carl Icahn announced his position in Netflix with a Schedule 13D filing with the US Securities and Exchange Commission on October 31 2012. The activist investor paid approximately \$168.9 million for 5,541,066 shares in the streaming-media company giving him a 9.98% stake. In the filing, Icahn revealed that he thought Netflix's shares were undervalued with respect to its dominant market position and international growth prospects. In light of the news of Icahn's new position, Netflix's shares rose dramatically, closing up 13.88% at \$79.24-a-share.

In response, Netflix immediately implemented a poison pill which would prevent Icahn from owning more than 10% of the company's outstanding shares. Icahn replied almost immediately, explaining that "any poison pill without a shareholder vote is an example of poor corporate governance" and criticised what he saw as a "remarkably low and discriminatory 10% threshold."

Icahn then stoked the fire further by going on to say that Netflix would "make a great acquisition candidate because of their subscription base." Amazon.com is a likely buyer but Netflix CEO Reed Hastings questioned whether a sale would be "the right thing in the long term". Later in November, he also expressed his belief that it is "probable" that Carl Icahn will initiate a proxy contest with Netflix.

2013 has already seen Hastings' annual pay doubled to around \$4 million while Netflix's shares began trading this year at \$94.86-a-share.

The prominence of both Netflix and Icahn certainly make this 2013's first campaign to watch!

13D Digest December

Activist 13D's	2	↓
Activist 13D/A's	59	↑
New Activist Funding	\$420,691,517	↓

Activist Insight...

Activist Insight aims to provide the most comprehensive global information source on activist investment including news, profiles of activist firms, performance benchmarks and more.



Activist Insight