

Public Company Breakfast Briefing

Presented by the Public Company Advisory Practice



SHAREHOLDER ACTIVISM & ENGAGEMENT





Shareholder Activism - Overview

- ▼ What is shareholder activism?
- ▼ Current trends in activism
- ▼ Recent Experience
- ▼ Recommendations

What is Shareholder Activism?

- ▼ Takes many forms and covers a wide spectrum of activities
- ▼ Situations where activism arises:
 - ▼ M&A activism
 - ▼ Balance sheet activism
 - ▼ Operational activism
 - ▼ Governance activism
- ▼ Activism often correlates to poor stock price performance (but not always)

Current Trends in Activism

- ▼ 2018 was a “record year” for activism (in terms of number of campaigns, capital deployed, number of activists involved, first-time activists, and board seats obtained)
- ▼ Growth of “part-time” activists
- ▼ Most common non-M&A requests by activists – Board composition, ESG, return capital to stockholders
- ▼ Concentration of activity among a small number of activists
- ▼ Expectations for 2019 – Activism to expand and intensify, more aggressive M&A activism, increasing ESG activism

Recent Experience – Material Terms of Settlement

- ▼ Appoint 1 investor-nominated director to the Board and a standing committee (director to resign if investor group breaches agreement or falls below ownership threshold)
- ▼ Appoint an independent chair of the Board
- ▼ Appoint another independent director before 2020 Annual Meeting (and 1 legacy director to resign)
- ▼ Customary voting provisions
- ▼ “Standstill” restrictions imposed on investor until 2021 Annual Meeting (potential early termination)
- ▼ Issuer to file Form 8-K (with agreement) and issue a press release

Recommendations

- ▼ Regularly monitor your investor base
- ▼ Know your investors
- ▼ Enhance your investor engagement programs, PR strategy and messaging
- ▼ Review Bylaws and governance documents annually
- ▼ Assemble the right team
- ▼ Involve your Board early
- ▼ Change in mindset in the executive suite / Board room