

FTI Consulting Activism and M&A Solutions



In 2018, activists deployed record amounts of capital in campaigns against some of the largest and most prominent companies globally.

Elliott, for example, deployed over \$2B at BHP and over \$1B at each of ten other companies. Trian concentrated its fund and doubled down on P&G with an investment of almost \$3.5B. These established activists are not alone in making massive investments, which proved to be successful as many were rewarded with board seats, in most cases, through settlements. According to Activist Insight, there were 142 settlements as compared to 119 in 2017. In some cases, management teams and incumbent boards agreed to meaningful reimbursement checks to cover some costs of the activists. Of the settlement agreements publicly disclosed, US companies disbursed an average over \$400K¹.

Elliott Management disclosed more than **\$ 1 Billion** investments

 in BHP and ten other companies

Management won only **20%** of **103** proxy fights

107 board seats ² won by activists

¹ Activist Insight Online, IN-DEPTH: Giving Back, January 8th, 2019

² Including settlement scenarios due to activists seeking double the number of seats as in 2017. ~30 board seats were won by Starboard Value

ESG INVESTING

A result of the ballooning in shareholder activism campaigns over the past few years is that shareholders of all sizes and agendas have become emboldened to publicly air their grievances via shareholder proposals. This method of activism is typically less invasive than those that require changes in management, boards or divestitures, but is indicative of the lengths some shareholders are willing to go to make a point.

Shareholder proposals for environmental and social concerns made up half of all shareholder proposals in the 2018 proxy season, according to ISS. Accordingly, boards of directors are taking notice and engaging on this issue in greater and more meaningful ways. The prevalence of this type of activism is gaining traction and includes ESG topics such as:

- Board Refreshment & Succession
- Climate Change Disclosure & 2 Degrees Scenario Planning
- Disclosure of Lobbying and Political Contributions
- Diversity & Inclusion

ESG-related funds are also gathering assets faster than most other asset classes. BlackRock, Vanguard, and Goldman Sachs have all jumped on board as well. According to Bloomberg, 6,000 separate ESG indexes were created in the 12-month period ended June 2018. These funds commonly charge higher costs and fees than other indexes while it remains unclear what criteria qualifies companies for inclusion in certain indexes. It will be interesting to see how these funds perform in terms of ROI and TSR in 2019 and beyond.

HIGH PROFILE PROXY FIGHTS / ACTIVIST CAMPAIGNS OF 2018

Campaign	Announcement Date	Summary
Broadcom / Qualcomm	November 6, 2017	Broadcom undertook the largest hostile takeover attempt by dollar value in US history in early 2018. Ultimately, Broadcom revised down its hostile acquisition offer from \$82/share to \$79/share and reduced its nominees for election to the board from 11 to six. Broadcom later withdrew its offer entirely when President Trump blocked the deal in an unprecedented executive order based on CFIUS's grounds.
Dell / Icahn	October 15, 2018	Carl Icahn adamantly opposed Dell's Class V merger and filed litigation in Delaware in addition to commencing a proxy contest against Dell, which was later withdrawn when satisfactory merger terms were mutually agreed upon.
Telecom Italia / Elliott	March 6, 2018	Elliott requested Telecom Italia include a resolution to remove and replace six directors on its board at the 2018 AGM. Shareholders supported Elliott's independent slate replacing the incumbent board members.
Newell / Starboard Value	February 9, 2018	After Starboard nominated 12 candidates for election to the board, the Company granted Carl Icahn four board seats. Starboard then reduced its proposed slate to four nominees and both parties entered into a settlement agreement.
Campbell's / Third Point & George Strawbridge	August 9, 2018	Third Point partnered with George Strawbridge, an insider and family member of Campbell's Soup's founder. Third Point overcame the significant insider influence (40% of Campbell's) with dramatic communications and ultimately won two board seats in a settlement agreement that increased the board size from 12 to 14.
Detour Gold Corporation / Paulson & Co.	June 22, 2018	Paulson requisitioned a meeting to replace the entire board with eight director nominees committed to explore strategic options, including a sale. Detour's shareholders later replaced five current directors with Paulson's nominees.

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