Activist Insight

Monthly

INTERMEDIARY AWARDS

RWC PARTNERS

STARBOARD AT MACY'S

Volume 5 Issue 11 | Decembe

NEW! VULNERABILITY REPORT

Activist Insight

www.activistinsight.com

Editor's letter

Josh Black, Editor-in-Chief at Activist Insight.

Welcome to our final Activist Insight Monthly of the year. That must be hard both for our longstanding subscribers and those who joined us recently to read, but there is lots to look forward to in the New Year, including our much-anticipated Annual Review.

Given that there will be few other opportunities for reflection, I thought it would be worth saying something about where activism stands at this juncture. For one thing, regulations governing board rooms around the world are poised to be shaken up – the U.K. is consulting on changes to its corporate governance rules, Japan continues to make progress on its code, and the U.S. Securities and Exchange Commission will have a largely new leadership when the new administration here in America fills vacancies left by retirements and resignations, including that of Chair Mary Jo White.

Then there is a crisis in the hedge fund world of outflows, pressure on fees and performance expectations. Much as activists like to differentiate themselves from other strategies, some will undoubtedly be affected. Indeed, several have already been badly affected by withdrawals, although the best continue to attract new money (including through coinvestment vehicles).

Finally, the rise of the not-so-reluctant activist means some of the specialism has worn off. Even index or mutual funds are trying to be activists behind-the-scenes these days, to the skepticism of long term practitioners.

None of this means activism is going away. In fact, it will more likely continue to proliferate far beyond the hundred or so names that claim to be full-time activists. Established players may find tougher competition for investment ideas, resources and support but management teams won't be much relieved – they are likely to find pressure coming at them from all angles in the next business cycle.

> "None of this means activism is going away. In fact, it will more likely continue to proliferate."

Those who perhaps care most about this are the intermediaries who work on activist campaigns. As is becoming traditional, our December feature is on their efforts over the past year – ably curated for this edition by Ben Shapiro and Kwaku Ankamah. Our criteria, which is a little different from others who follow this space, rank **Olshan Frome Wolosky** and **Okapi Partners** as the most prolific law firm and proxy solicitors respectively. Congratulations to them.

Below those two top places, competition is heating up. Readers can see for themselves how close are the number of commissions between firms, and how the world divides up between those who bat only for one side, and those who straddle the fence.

Elsewhere, we have our first Activist Insight Monthly vulnerability report, looking at a company that might soon find activists knocking on its door, an in-depth look at **Starboard Value's** campaign at **Macy's** by Claire Stovall, my take on **Spruce Point Capital Management's** latest short campaign at **Burlington Stores** and Paolo Frediani's interview with **RWC Partners** – a real global activist. As usual, you will also find news, new investments and new shorts galore.

Readers of my weekly newsletter, Activism this week, will already have seen my take on the Activist Investing in Canada conference. Nonetheless, we have collated a selection of the choicest quotes from the day itself for readers of Activist Insight Monthly. Eagle-eyed readers will also spot another conference advert. I'll be speaking at Skytop Strategies' New York event on January 26, so be sure to say hello.

Finally, a word of thanks to our subscribers for your continued backing. We are grateful for your support and suggestions, and look forward to earning your custom all over again next year.

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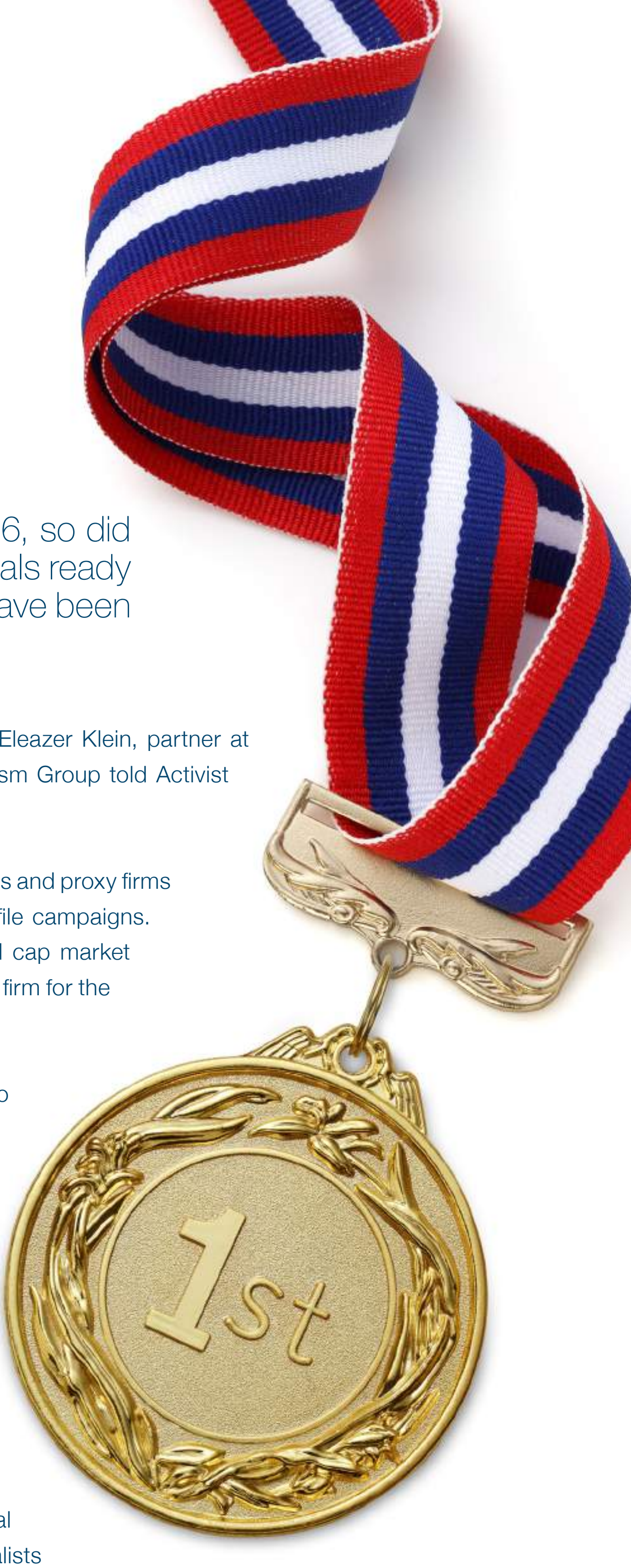
Intermediary awards 2016



As activists continued to play a prominent role in 2016, so did their advisers. With so many skilled firms and individuals ready to contribute, investors and companies alike would have been remiss to go at it alone.

"There's no offseason anymore, it's busy and busier in terms of activity," Eleazer Klein, partner at Schulte Roth & Zabel and co-chair of the firm's global Shareholder Activism Group told Activist Insight Monthly for this piece.

Despite the never-ending activity, the numerous representatives from law firms and proxy firms we spoke with all agreed that 2016 has lacked an abundance of high profile campaigns. Instead, activism has reverted back to its "sweet spot in the small to mid cap market space," according to Andrew Freedman, a partner at our highest ranking law firm for the second consecutive year, Olshan Frome Wolosky.

Whether companies are more willing to settle than in years past appears to depend on the activists and the issues at hand. Even the sentiment of shareholders has changed: when previously they would dread an issuer wasting time and valuable resources attempting to fend off an activist, now, for the first time "they have less of an appetite for companies to settle," noted Paul Schulman, executive vice president at Mackenzie Partners. In some instances, companies were eager to settle with the more seasoned activists, and to fight the less experienced ones.

Another change on the horizon may be that companies have become more willing to work with advisers with a penchant for supporting activists, as they value their industry experience and knowledge of the opponent. At the same time, the intermediaries, while making sure to avoid any potential conflicts of interest, have grown to the point where they can designate specialists for activist work while others represent issuers.

Methodology

This is the second consecutive year Activist Insight is publishing its listings of those who make their living from activism. The following records are derived from public announcements – proxy statements, regulatory filings and press releases – supplemented by the records of the firms themselves. To be included, a campaign must have seen the company in question subjected to a public demand by an activist during 2016, and the full listings made available on Activist Insight Online. Several firms listed operate internationally – the data included overleaf are global where possible.

We welcome submissions for next year's list. To arrange a call with a member of the team, email support@activistinsight.com.

Law firms (representing activists)

1
57 campaigns

Olshan Frome Wolosky

Once again, Olshan heads our law firm ranking with an impressive gap between it and the rest of the field. Not surprisingly, the New York-based firm was one of the few to tout a highly publicized campaign in 2016, as it helped **Starboard Value** gain representation at **Yahoo** and broker its $4.8 billion deal with Verizon.

Perhaps its most interesting and certainly brutal campaign, however, is an ongoing one alongside **Carol Farmer Waite** at **Farmer Brothers**. The fight is a prime example of an overriding theme of 2016, according to Freedman, where "we began to see founding families and former CEOs that tended to have been removed, for whatever reason, were looking to reassert themselves."

Schulte Roth & Zabel

2
21 campaigns

The top of the law firm rankings remains unchanged as Schulte Roth & Zabel once again comes in the second spot behind Olshan with 21 campaigns. Klein found that what have been referred to as occasional activists have become a much bigger factor, while new entrants into the industry also continued to emerge. Most notably the firm represented Starboard Value at its historic breakup of **Stewart Information Services**, as well as **SRS Investment Management** at **Avis**, and **Altimeter Capital Management** at **United Airlines**.

Klein admitted he is surprised to see the standard playbook still being employed by issuers, and criticized companies for playing games when it is clear an activist has a legitimate agenda. "It disappoints me that that's where we end up," said Klein. "Gamesmanship is not over, and companies are not looking for shareholders' interests."

3
11 campaigns

Thompson Hine

It was a busy year for Thompson Hine as the Cleveland-based firm jumped up a spot in our ranking from a year ago. Partner Derek Bork spoke to Activist Insight Monthly about its successful fight at **DataTrak** representing **Tabatabai Investment Management**. Referencing the campaign, he said, "Companies are taking what they learned and using [it] to engage in warfare as opposed to constructive dialogue," and added that they are "fighting back as much as they can get away with."

Kleinberg, Kaplan, Wolff & Cohen

4
8 campaigns

Kleinberg swapped spots with Thompson Hine in this year's edition despite being part of an equal amount of campaigns compared to a year ago. Most notably it helped Diane McKeever's **Ides Capital Management** earn three director spots on the board of **Boingo Wireless**. McKeever's success could be part of an emerging trend in 2017 according to Kleinberg's Christopher Davis, who said he thinks "people are going to be questioned more on the diversity of their candidate," and added that it may not be as simple as gender, but rather if there should be a greater mix of skill sets, race, and backgrounds so that corporate America better reflects its shareholders.

5
8 campaigns

Cadwalader

Cadwalader made it into the top five of our rankings after representing the investor side in eight campaigns. The firm also represented the issuer in four campaigns in the same year. "Having experience frequently advising companies responding to activists gives us both a unique perspective in advising investors and credibility in the marketplace and with advisors on the other side," said Richard Brand, partner at the firm.

Law firms (representing issuers only)

1

17 campaigns

Vinson & Elkins

The activist defense firm nearly tripled its activity from 6 in 2015 to 17 in 2016 to lead our corporate ranking. The firm is involved in an ongoing fight alongside Fiesta Restaurant Group against JCP Investment Management, where in October it rejected the activist's request for two seats on its board and the declassification of its director elections.

Morgan, Lewis & Bockius

2

11 campaigns

Another firm that saw much more work in 2016, Morgan Lewis & Bockius represented the second most issuers in 2016. After a proxy fight that lasted all summer, Morgan's client Covisint settled with Dialectic Capital and agreed to add three directors and reduce the size of its board to seven by the next annual meeting.

Proxy firms

Okapi Partners

1

48 campaigns

The Bruce Goldfarb-led firm surged up our rankings in 2016 to the number one spot after finishing fifth a year ago. Okapi's CEO and president spoke about its campaign defending soda maker Reed's, and the challenges activists have at small and mid cap companies where retail investors make up a large portion of the shareholder base. The problem was exacerbated during the election cycle where people had less patience for solicitors, said Goldfarb, who is "hopeful that with the election cycle over investors will be able to be better focused on ownership."

Innisfree M&A

2

32 campaigns

Innisfree M&A moved up one spot in 2016, as the proxy firm represented a greater proportion of issuers to activists compared to last year. One campaign of note was defending Arlington Investment Group against Clinton Group, where it quashed the activist's attempt to gain control of the board. "This was a very poorly picked target, and there never should have been a proxy fight," said Managing Director Scott Winter. "The story was bad, you had an activist with a $140,000 stake in a $300 million market cap company which owned no stock and was going for a control slate."

3

29 campaigns

Georgeson

Georgeson had an active year on both the corporate and activist side in 2016 and continued to exhibit its strong presence in Europe where campaigns can take years as opposed to months in the U.S. This has been on full display at Stock Spirits where its client has been fending off Western Gate Private Investments since the beginning of the year. "In Europe, activists go into campaigns understanding that this is not a short-term opportunity… they may ask for change in year one, but the real ask comes in year two to demonstrate to management and other shareholders that it's a considered approach and not a knee jerk reaction," explained Georgeson's CEO of Corporate Advisory, Cas Sydorowitz.

Proxy firms (continued)

D.F. King

4

27 campaigns

D.F. King dropped down a couple positions despite increasing its campaign load by a third from a year prior. Defending German drugmaker **Stada,** it conceded a seat to **Active Ownership Capital** and while working for **Peter Kross** at **Telkonet**, it helped the activist join the internet company's board along with a pair of nominees.

5

25 campaigns

Mackenzie Partners

Similar to last year, Mackenzie Partners remained more issuer-heavy by choice in 2016. Still, with a slew of activist campaigns in the past two years, the firm is cognizant to segregate its teams so its employees "aren't working for an activist and then the next moment an issuer," said Managing Director Bob Marese.

Marese also highlighted the significance of having a strong investment relations team in place prior to an activist's arrival. Mackenzie's client **Medivation's** preparation paid off in its fight against **Sanofi**, where it was able to receive a more than 55% higher offer than its French counterpart had bid for it earlier in the year. "The IR team and CEO and new CFO did an incredible job of leveraging those relationships, explaining why the price undervalued the company, and clearly in the end with Pfizer the offer was proven true and made shareholders a lot of extra money."

Morrow Sodali

6

14 campaigns

Morrow continued its strong proxy work as part of the newly created Morrow Sodali following Sodali's acquisition of Morrow & Co. in May. The firm has been one of the many intermediaries caught up in the fight at **Farmer Brothers**, where it is defending the coffee manufacturer and in the first decisive blow of the proxy fight earned a victory this week when the incumbent was awarded support from all three major proxy advisory firms.

7

8 campaigns

Kingsdale

Making its way into our rankings for the first time is Kingsdale, which represented a fairly even mix of activists and issuers. In September, it was part of a successful defense of **Hemostemix** from a group of **concerned shareholders** as the dissident's slate was rejected. At **Trez Capital Mortgage Investment** it helped **FrontFour Capital Group** pressure the Canadian mortgage lender to award it a board nominee and submit an orderly wind up plan.

InvestorCom

8

7 campaigns

Despite only representing activists in 2016, InvestorCom remained among the top of our proxy firm ranking, handling seven campaigns. CEO John Grau found that companies are going to extreme measures to avoid losing board seats, as best represented by its fight alongside **Bulldog Investors** at **Hill International**. "My client Phil Goldstein went to the meeting with more than 50% of the outstanding shares represented by proxy in his hand, and management at the last moment, while we were in transit to the meeting that morning, cancelled it."

Full results

Law firm	Number of times representing activist	Number of times representing issuer
Olshan Frome Wolosky	57	-
Schulte Roth & Zabel	21	-
Vinson & Elkins	-	17
Cadwalader, Wickersham & Taft	8	4
Thompson Hine	11	-
Morgan, Lewis & Bockius	-	11
Kleinberg, Kaplan, Wolff & Cohen	8	-
Latham & Watkins	-	7
Skadden, Arps, Slate, Meagher & Flom	3	4
Akin Gump Strauss Hauer & Feld	5	-
Foley & Lardner	4	-
Cravath Swaine & Moore	-	4
Gibson, Dunn & Crutcher	1	3
Willkie Farr & Gallagher	3	-
Jones Day	1	2
Morrison & Foerster	3	-
Sullivan & Cromwell	2	1
Kirkland & Ellis	3	-
Norton Rose Fulbright	2	1
Dechert	2	-
Kane Kessler	1	-
Freshfields Bruckhaus Deringer	-	1
Crowell & Moring	1	-
Boies, Schiller & Flexner	1	-
Bryan Cave	1	-
Paul, Weiss, Rifkind, Wharton & Garrison	1	-
Katsky Korins	1	-
Chadbourne & Parke	1	-
Wachtell, Lipton, Rosen & Katz	-	1
Shartsis Friese	1	-
Davis Polk & Wardwell	1	-
Greenberg Traurig	1	-
Sidley Austin	1	-
Munger Tolles & Olson	1	-
Foley Hoag	1	-

Proxy firm	Number of times representing activist	Number of times representing issuer
Okapi Partners	38	10
Innisfree	-	32
Georgeson	8	21
D.F. King	6	21
Mackenzie Partners	4	21
Morrow Sodali	6	8
Kingsdale Shareholder Services	3	5
InvestorCom	7	-
Alliance Advisors	3	3
Laurel Hill	3	2
The Proxy Advisor Group	-	1
Shorecrest	-	1

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In depth: Investors are cool on U.K. governance changes

Shareholders and advisory groups took a conservative stance on mooted reforms to U.K. corporate governance in submissions to a parliamentary inquiry celebrating ten years of the Companies Act. Now, the government seems poised to water down its suggested reforms still further.

In the wake of a financial crisis, growing concerns about executive compensation, and more active engagement culminating in two "shareholder springs", governance is back on the political agenda and is being given extra impetus by Prime Minister Theresa May's apparent interest in reform.

> "If shareholders are perceived not to care, regulation will just create compliance activity rather than meaningful change."

As part of her campaign for the leadership of the Conservative Party this summer, May backed placing worker representatives on company boards and giving shareholders additional binding votes over executive compensation on an annual basis. "There is an irrational, unhealthy and growing gap between what these companies pay their workers and what they pay their bosses," May said in July. A parliamentary committee responsible for business issues heard evidence from a range of sources just a few months later.

Now the government has published its consultation document, it looks set to drop the employee board representatives, potentially in favor of a "stakeholder liaison committee," and make only minor changes to executive remuneration mechanisms.

That may have something to do with the response to the inquiry from industry groups.

Workers' rights

May's desire to place workers on company boards – seen at the time as a challenge to her rival Labour Party – was widely regarded as undesirable and unworkable, the submissions suggest. "The unintended consequence of mandating stakeholder representation on boards is the creation of separate classes of directors, thereby creating special interest groups as, realistically, the representatives may only act in the interests of their particular stakeholder group," BlackRock said in its submission. "In extreme circumstances the danger is the board, which is supposed to act in the best interests of the company as a whole, will be paralyzed by conflicting interests of stakeholders."

Other shareholders offered more muted criticisms, with industry body The Investment Association saying the change would require a "dramatic overhaul of existing U.K. corporate governance practice." The CBI and Institute of Directors, professional bodies for business and directors respectively, both support making the change voluntary – at least at first – with the latter suggesting worker representation on compensation committees could tackle the underlying problem of runaway pay.

“The binding vote on triennial pay policy does not go far enough.”

Two-strikes

Executive compensation seems to be more fertile ground, given widespread anger over rising CEO pay. Investors currently have triennial binding votes on remuneration policy, but only advisory votes on actual compensation.

However, the largest investors appear split on whether a binding annual vote on executive compensation would be advantageous. Hermes Investment Management and Newton Asset Management’s Chairman Helena Morrissey backed the suggestion in submissions to the committee, the latter saying, “The binding vote on triennial pay policy does not go far enough, in my opinion.”

However, changes to reporting requirements may take higher priority. LGIM argued at length for greater transparency – including the publication of pay ratios for CEOs and their median employee – and a reduced focus on short term bonuses, rather than structural reform.

Royal London Asset Management, which was vocal at several companies during annual meeting season this year, said believed pay ratios were easily manipulated and investors should be incentivized to apply pressure to issuers behind closed doors.

One reform that could have found a groundswell of support is a replica of Australia’s two-strikes system, whereby two consecutive rejections of a company’s executive remuneration package gives investors an opportunity to escalate their involvement – including by voting to remove directors. After five years of having the law in place, Australia is yet to see a company face a “board spill” – though several companies have adjusted their pay policies to avoid repeated sanctions.

> “There is an irrational, unhealthy and growing gap between what these companies pay their workers and what they pay their bosses.”

In the U.K., lobby groups the Confederation of British Industry (CBI) and The Investment Association support the adoption of a similar system, and on November 25, a taskforce comprised of academics and consultants looking for ways to make management more “purposeful” added its voice to the clamor (while offering alternative options for escalation).

The government appears less convinced, however, including only modest options for escalating remuneration votes. Losing an advisory vote on actual pay could bring forward a binding or supermajority vote on policy, the consultation suggested, while an upper threshold on pay and extended long term incentive plans (LTIPs) may also hem CEOs in.

The way ahead

With no new governance bill firmly on the legislative agenda and an early election still a possibility, it may be some time before Britain’s politicians move forwards with changes. In the meantime, shareholders seem committed to pursuing greater engagement with companies as a means of improving governance. “Shareholders should more consistently hold directors to account for their decisions through engagement and the voting process,” as BlackRock says.

That may include more prescriptive voting behavior – BlackRock wants executive pay tied to the wider employee base and inflation, as well as synchronized pension policies for executives and workers – and more public consultations on contentious issues. If the latter, efforts by institutional shareholders operating under the cover of the Investor Forum at Sports Direct International may be more common in the future. Committees of senior shareholders and efforts to reform remuneration committees may be further steps taken in the near future.

With a largely principle-based corporate governance code, the U.K. has taken a less prescriptive approach to managing its big companies than other countries, something that seems likely to continue.

“We do not believe that shareholders require any more rights than they already have,” says the submission of proxy voting adviser and research firm Manifest. “More, and higher quality, feedback from investors is the best way to promote improvement in performance. If shareholders are perceived not to care, regulation will just create compliance activity rather than meaningful change.”

The constructivists

RWC Partners' Corinna Arnold, Maarten Wildschut and Petteri Soininen discuss their soft-touch approach to activism and the challenges of investing abroad.

RWC Partners is not famous for hitting the headlines with bold statements on the management and directors of its portfolio companies. On the contrary, the U.K. hedge fund group is typically media shy. However, more than $1 billion of its $10.7 billion of assets is managed by three teams of activist investors based in London.

RWC's activist funds started under the umbrella of Hermes Investment Management, which manages BT's pension scheme. In 2012, they moved to RWC after Hermes decided to reduce its risk profile.

Today, Paul Harrison runs a portfolio focusing on small and mid cap U.K. companies, Maarten Wildschut and Petteri Soininen co-head a team working with companies both in the U.K. and in Continental Europe, and Corinna Arnold wages activist campaigns in Japan as part of a joint venture with Tokyo-based Nissay Asset Management, a giant investment firm managing $96 billion worth of assets.

Constructive Engagement

Speaking with Activist Insight Monthly, Arnold, Soininen and Wildschut shared their belief that going public with concerns over their portfolio companies does not help to build positive relationships with managers and board members – and constructive engagement is the trademark of RWC.

While Arnold recently described herself as a "disappointing interview" for journalists, since she does not disclose any details of her investments, the European focus team is more open. Soininen currently serves on the boards of Netherlands' Advanced Metallurgical Group and Norway's Electromagnetic Geoservices, although he is quick to point out that board changes are not the result of proxy contests or threats, and follow "an active dialogue behind the scenes" to improve the quality of the board. Most times, they do not join the board directly, but instead propose the appointment of experienced C-suite level executives.

> "In Japan, things are pretty different: 'You can't simply replace the CEO or the board. You can only think about doing that at very small companies.'"

In Japan, things are pretty different: "You can't simply replace the CEO or the board. You can only think about doing that at very small companies," Arnold says. "We spend a lot of time identifying who takes which decision, and then engage with them."

A long-term approach

There are many parallels between the strategy of the European and the Japanese funds. To start with, their portfolios are very concentrated – 18-21 companies in Arnold's case, and 13 in Soininen and Wildschut's cases. Both have a long-term approach, investing in stocks for a three to five-year period, and target undervalued quality companies which in most cases they believe should review their strategic approach and consider options for business lines and units that are not delivering satisfying returns.

"We invest in companies that are good companies, with good management… We are not looking for cheap undervalued stocks that have major problems. [In Japan] this has often been a value trap, not a value opportunity," Arnold says.

Know the local rules

A specific feature of RWC's Japan-focused activist portfolio is that every company has excessive cash reserves – as often happens in the country. But large cash piles are only one of the many distinctive traits of Japanese firms. That is why RWC's activist team operates as a joint venture.

"We wanted to find a partner that was very much inside the system because foreign investors had spent decades trying to find the ways to push for shareholder value [in Japan] and had failed," Arnold says. However, governance in the country has improved dramatically over the last few years, and she points out that even though cultural issues may

“In some European countries, like France, Italy and Spain, there are many controlled companies, which makes it more difficult to act as a catalyst for value-creating change.”

arise in Japan, the same applies when British firms work in Italy, France, and to a certain extent, even in the U.S.

Soininen and Wildschut agree with her: “European countries have distinct cultures, languages and rules and regulations. There are differences between stakeholder-oriented versus shareholder-oriented governance systems,” Wildschut says.

Among other things, the European focus fund must deal with the risks derived from Brexit and the political uncertainty in Europe, but Soininen says that the referendum in the U.K. has not impacted their performance in a meaningful way as they invest in firms with “company-specific value creation opportunities.”

“After Brexit, we have been able to take a meaningful position in Brammer… as the company had a profit warning that was induced by the Brexit and the declining British pound,” he says.

In November, Advent International made a bid to acquire the industrial parts supplier for a 69% premium.

“Constructive engagement is the trademark of RWC.”

RWC Partners at a glance

Website:	www.rwcpartners.com
Headquarters:	London, U.K.
Founded:	2000
Level of activism focus:	Partial
Companies subjected to public demands since 2013:	5

Key funds


European Active Ownership


Japan Active Engagement


U.K. Active Engagement

Country focus of RWC Partners’ public activist demands.

For more information on RWC Partners and over 1,400 other activists, please visit www.activistinsight.com.

Case study 1: Grontmij

The most recent investment exited by Maarten Wildschut and Petteri Soininen’s Europe-focused activist team at RWC is Grontmij, a Dutch-based engineering and consulting company which was sold to Sweden’s Sweco in 2015 in a cash-and-stock transaction valuing it at 354 million euros.

RWC bought a 10% stake in the company in 2012, and Wildschut says they sold the shares after achieving an internal rate of return of well over 20%.

The activists say that they helped improve margins through a series of divestments and assisted in assessing opportunities arising from a wave of consolidations in the engineering consulting sector.

In the years before the deal with Sweco, Grontmij sold French and British businesses, and non-core assets in the Netherlands.

Case study 2: Unnamed

Corinna Arnold shared with Activist Insight Monthly some insights on how her Japan-focused team had approached an investment in a theme park manager in the consumer discretionary sector – on condition that we would not name the company. “We really liked them. [One day], one of our analysts said, ‘I think they are starting to be open to engaging with shareholders,’” Arnold recounts.

A meeting confirmed the impression. “An important competitor was doing better in terms of shareholder value, and we thought that we could use the peer pressure to push for changes,” she added.

RWC invested in the firm in June 2008 and sold the shares in August 2013. The company’s stock price increased 150% over the investment period thanks to three large share repurchase plans and the sales of underperforming businesses.

Starboard Value at Macy's

Spinning off a company's real estate into an investment trust has been a popular strategy with activists in recent years, but the approach was not as simple at Macy's. Starboard Value is growing impatient with its investment, but the company's changes could soon take hold.

In July of 2015, Jeffrey Smith of hedge fund **Starboard Value** discussed struggling retailer **Macy's** at the Delivering Alpha Conference in New York. Smith said that the department store chain should spin off its real estate holdings into a separate company, in the belief that its real estate was worth in excess of $21 billion, or almost three times the $7.8 billion book value. Smith also said the company's stock could be worth $125, nearly double where shares were trading at the time. About two weeks prior to the conference, the fund had disclosed a 0.9% holding.

> "Macy's is doing a good job setting itself up for a comeback."

Smith also said at the conference that he believed Macy's was receptive to Starboard's suggestions. The activist had recently had success with the strategy at **Darden Restaurants**, which had announced plans to create a separately-listed real estate investment trust (REIT) in June 2015 – seven months after Starboard had swept all 12 board seats in a proxy contest.

However, following a subsequent review of its real estate portfolio, Macy's board concluded that a REIT did not offer "sufficient upside potential for value creation."

Macy's, Inc.

Industry	*Department Stores*
Sector	*Services*
HQ	*Cincinnati, OH*
Market cap	$12.90 *b**
Exchange	*NYSE*
Ticker	*M*

** as of November 30, 2016*

Create joint ventures

Starboard was not deterred, and increased its stake to 2.1% by December 2015. Nor did Macy's shy away – in January of this year, CEO Terry Lundgren announced that the company had been onto unlocking real estate value well before Starboard came into the stock and was taking aggressive action.

Lundgren also said that Macy's had shifted its thought process to possible joint ventures, and Starboard published an extensive presentation on the idea soon after. In the presentation, the activist asserted it was time for Macy's to split its real estate assets into two (or more) JVs, a strategy that Starboard believed would attract the appropriate partners who would pay the most for different types of assets.

A new activist enters the fray

Greenlight Capital, the hedge fund headed by David Einhorn, echoed many of Starboard's comments in its fourth quarter investor letter, saying that the company's stock was cheap and that it would be a good takeover target for a private equity firm teaming up with a REIT. Greenlight had revealed a 4.3% stake at the end of December.

Macy's considers the activists' requests

Thus began an almost eight month string of signs that Macy's was attempting to satisfy its activists. In February, Macy's announced that it had started contacting potential partners for real estate JVs. The company also announced actions to enhance shareholder returns, including raising its July dividend by 5% and a $1.5 billion increase in its share repurchase authorization, as well as adopting a proxy access bylaw amendment. In March, the company appointed to its board the president and CEO of Four Corners Property Trust, the REIT spun off from Darden, and the next month, the company hired an executive vice president to oversee its real estate function.

“Macy’s creative pursuit of methodologies to maximize real estate should yield a combination of return of capital and a fleet of ultimately healthier and brand appropriate stores.”

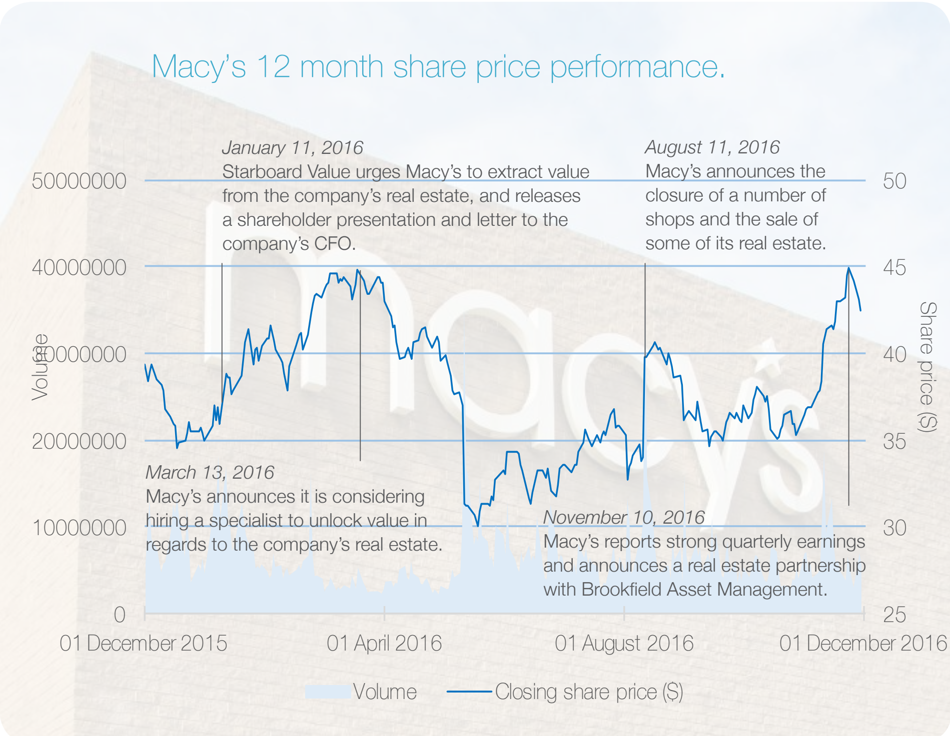
Yet when Macy’s reported worse-than-expected sales in the first quarter of 2016 – the company’s fifth straight quarter of decline - its share price fell to lows not seen since the end of 2011. This summer, Macy’s announced CEO succession plans and revealed a new strategy that it said would see the closure of up to 100 stores.

At the same time, despite its many claims regarding plans to monetize its real estate, Macy’s noted in August correspondence with the U.S. Securities and Exchange Commission that the frequency and magnitude of its transactions had not yet been sufficient to justify a specific item in its annual and quarterly reports.

Impatient for value

With shares down 36% since Starboard first discussed the company publicly, the activist is understandably becoming impatient. In an October 31 interview with Bloomberg, Smith admitted that Starboard had invested in Macy’s too early and said that the company was still largely exploring Starboard’s requests. Regulatory filings show Starboard’s stake dropping back below 1% at the end of September. And with an average holding period of 1.2 years according to Activist Insight data, Macy’s is becoming one of the activist’s longer term investments.

The wait has already proved too much for Greenlight, which exited its position at a loss in the second quarter of 2016, according to Activist Insight data. Greenlight has indicated that it sold its shares after Macy’s announced a significant reduction in its full-year guidance in May, which the shareholder said invalidated its thesis that Macy’s 2016 earnings would benefit from easy comparisons later in the year.



Cowen sees a comeback

Conversely, in a November 10 note reviewed by Activist Insight, Cowen analyst Oliver Chen said that “Macy’s is doing a good job setting itself up for a comeback.” Chen was encouraged by Macy’s prospects heading into the holidays.

Rating the stock as market perform, Chen highlighted the significance of accelerating retail traffic to Macy’s and the importance of bringing “excitement back into stores” to avoid losing share and ultimately consumer relevance. He added that Macy’s “creative pursuit of methodologies to maximize real estate should yield a combination of return of capital and a fleet of ultimately healthier and brand appropriate stores.”

In fact, Starboard may not have to wait much longer for its suggestions to take hold. At the start of November, Macy’s announced that it had sold five stores, and its shares rose on November 10 following strong earnings and the announcement of a strategic alliance with **Brookfield Asset Management** for up to two years, aimed at creating increased value in its real estate portfolio.

Perhaps a turnaround is also in store for the retailer’s share price as well. Macy’s is currently trading around Cowen’s price target of $44, and its stock is up 22% since Starboard’s October 31 comments, reaching a high not seen since March.

Yet that is still well short of Starboard’s price target, and probably its entry point. The activist has a reputation for tenacity. “There is value there. How and when it gets unlocked is still open,” said Smith.

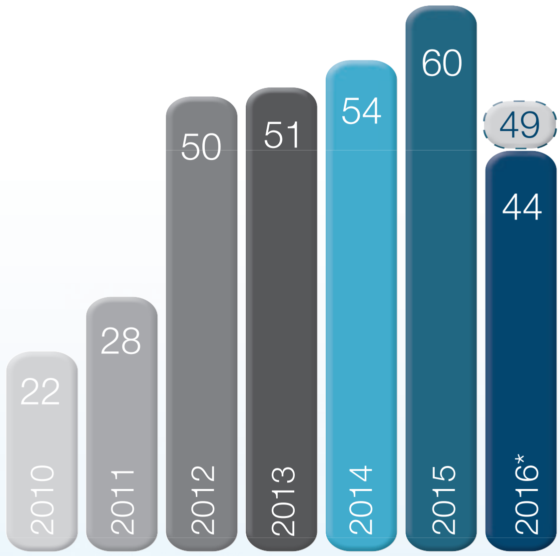
Activist investing in Canada

Activist Insight Monthly was at the third annual ArrowCon Partners event in Toronto. Here we present a selection of quotes and data from the event.

> We don't have the same aggressive activism in Canada. If you're getting into the situation where it's us-and-them, you need a self-introspective look at your board, because there's no smoke without fire.

Birks Bovaird
Chairman, Energy Fuels

Number of Canadian companies publicly subjected to activist demands



*YTD as of November 30, 2016
Projected 2016 full year figure: 49

> Shareholders never lie to you, but you need to be sure you're asking the right questions.

Riyaz Lalani
Bayfield Strategy

> Issuers have a significant advantage in proxy fights.

Paul Davis
McMillan

> U.S. activists will continue to look at Canadian companies the same way they do at mismanaged, undervalued U.S. companies.

Steven Seiden
Seiden Krieger Recruiters

“Many public campaigns are born out of exceptional circumstances”

I am constantly astounded at how frequently companies will selectively provide us with information and at the inability of the provincial governments to deal with this.

Zachary George
FrontFour Capital

I don’t want to be too pessimistic, but I don’t think too many boards ask their shareholders to suggest director nominations.”

George Hebard
Barington Capital

1.39

Average number of directors elected to boards in successful activist situations at Canadian companies in 2016.

Number of Canadian companies publicly subjected to activist demands from U.S.-based investors.

*YTD as of November 30, 2016

You ought not to hire a legal counsel unless you’re prepared to push.” (On why his client held a shareholder meeting without the company’s authorization after the original meeting was delayed)

Orestes Pasparakis
Norton Rose Fulbright

Going nowhere fast

Whatever else is going on in activism, retailers are still at the forefront. Could the 20-30 age group be next?

This year has seen no evidence of a slowdown when it comes to activists hoping to shake up retail. Earlier, **Barington Capital Group** took a run at **Chico's FAS**, only pulling out of a proxy contest when the company made major changes to its board of directors. Meanwhile, **Starboard Value** continues to pile pressure on **Macy's** to utilize its real estate to maximum effect, and last month **Kate Spade & Co** became the latest retail-based target for an activist investor.

> "David Kornberg replaced Michael Weiss as CEO in 2014, mere weeks after private equity firm Sycamore Partners made entreaties about a takeover public."

Could **Express** be next? Activist Insight Vulnerability, a new tool for predicting shareholder activist campaigns, suggests the Columbus, Ohio-based company is in the top 3% of U.S. issuers by likelihood of being targeted in the near-future, based on the characteristics of companies that have been targeted over the past three years.

One analyst interviewed by Activist Insight Monthly said an activist taking a position was plausible, given the company's undervaluation relative to its peers and recent missteps. Calls for an operational turnaround, management change or a sale of the company could be on an activist's agenda, the analyst, who preferred not to be named, said. Activist Insight Vulnerability gives Express a price-to-earnings ratio of 8.2, compared to a peer average of 17.2.

Express, Inc.

Industry	*Apparel Stores*
Sector	*Services*
HQ	*Columbus, OH*
Market cap	$1.02 b*
Exchange	*NYSE*
Ticker	*EXPR*

** as of November 30, 2016*

A 35-year old retailer focused on women and men in the 20-30 age range, Express is showing signs of outgrowing its demographic, with management admitting on its second quarter analyst call that older shoppers were starting to lose interest in its denim and casual wear. Earnings per share, $1.60 in 2012, have only recovered to $1.30 over the last trailing 12-month period, from a low of $0.81 in 2014. At least one activist has been put off by the company's lack of online presence and surfeit of competition, Activist Insight Monthly understands.

On the other hand, Express has responded quickly to adversity in recent years. David Kornberg replaced Michael Weiss – a two-time leader of the company – as CEO in 2014, mere weeks after private equity firm Sycamore Partners made entreaties about a takeover public. This year, the board approved the early termination of a poison pill put in place after the Sycamore approach and has added two directors in the past three months. A new $100 million share repurchase was announced last December, more than doubling a previous authorization. Investors have yet to start showing serious signs of dissatisfaction – last year's "Say on Pay" vote sailed through.

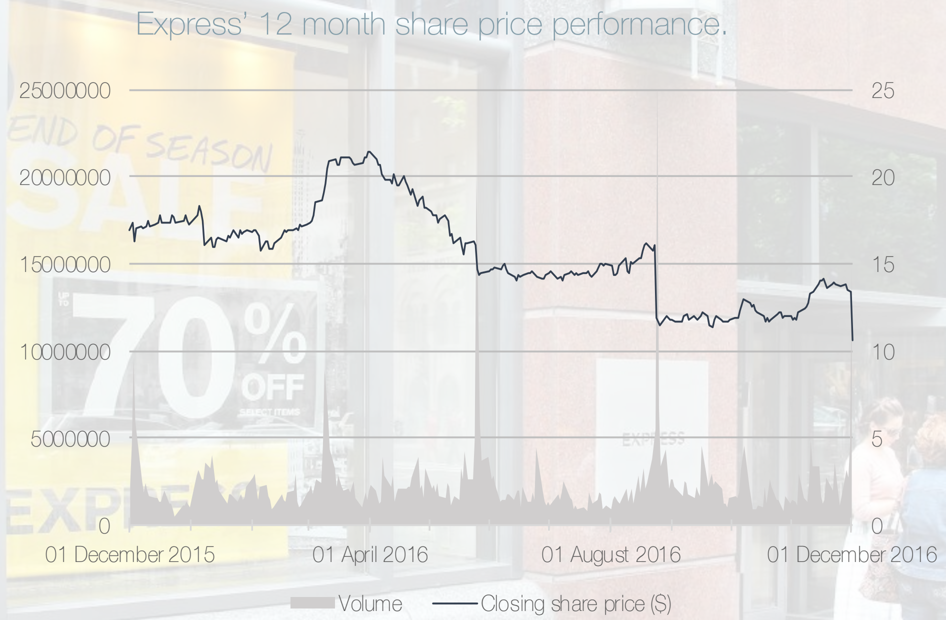
Yet what little recovery had been built into the share price last year evaporated in 2016. Despite a brief rally over the past month, the stock is now down 38.8% over the past 12 months. That compares poorly with its peer group median, which is up 5.9%, and the S&P 500 Index. Factoring in the dividends paid by many other mature retailers, albeit not by Express, the deficit increases by almost two percentage points.

While the company is sitting on excess cash, management has been committed to infrastructure projects, including an I.T. upgrade, that could make a push for dividends unlikely to succeed. As a result, an activist might be more inclined to call for a strategic review or sale of

> “Calls for an operational turnaround, management change or a sale of the company could be on an activist’s agenda.”

the company – especially given past private equity interest.

Sycamore Partners is no longer a shareholder, but other investors may be prepared to support an activist campaign. The third largest holder, Dimensional Fund Advisors, has voted for activists in 61 out of 121 proxy contests over the last four years. Indeed, **Stadium Capital Management**, **Marshall Wace** and **Clinton Group** – all of which have been known to make their own demands heard – have toe-hold positions in the stock, and Steve Cohen’s **Point72 Asset Management** owns more than 2%. A staggered board means only two directors out of eight are likely to be vulnerable next year, but if third quarter earnings disappoint, management will be under pressure to perform – with or without a public campaign.



Fundamentals

52 week high	$21.57 *
52 week low	$10.37 *
Share price	$10.64 *
Total shareholder return (12 months)	-38.8% *

** accurate as of December 01, 2016*

Source: Xignite, CSI data

About Activist Insight Vulnerability

Activist Insight Vulnerability (AiV) provides a unique tool to get ahead of the curve on possible activist campaigns. Using fundamental, ownership and voting data in a way that has never been brought to market, AiV provides a statistically rigorous framework for predicting future activist investments. Key features include:

Four years of fundamental data on thousands of U.S.-listed issuers.

Unique data from Activist Insight and Proxy Insight – leading providers of information on shareholder activism, institutional investor voting behavior and corporate governance.

Relative probability of a company being targeted by activists in the near future, based on extensive back-testing.

Weekly reports by our in-house journalists looking at potential targets.

Extensive and customizable vulnerability screens.

Short news in brief

A round-up of November's developments in activist short investments.

In a follow up to an earlier report, **Jay Yoon** said that **Celadon's** response letter contained numerous red flags, which he said had only increased his concerns over the company's financial reporting practices.

GeoInvesting responded to an earlier rebuttal from **Sino Grandness**. GeoInvesting said that the company's response did little to address concerns about the its operations or doubts about the integrity of the company and its management.

Citron Research's Andrew Left said of his ongoing short **Wayfair** that the "only thing" the company had going for it was sales and that the stock should be "cut in half." Whitney Tilson told The Robin Hood Investors Conference that he had covered his bet against the stock.

Tilson also said he was still short **Exact Sciences** but had covered a in **Lumber Liquidators**.

Left also commented on his earlier short position in **Cyberdyne**, saying that the company's stock was going much lower and that he planned on updating his research as appropriate.

Hayman Capital's Kyle Bass said that to date, the Patent Trial and Appeal Board had reached a final decision in eight of Hayman's instituted inter partes review (IPR) challenges. Bass said that the outcomes were favorable in seven of the eight IPRs, which he claimed continued to validate his view that, in many cases, the pharmaceutical industry had abused the U.S. patent system.

At the Evidence-Based Investing Conference, **Kynikos Associates'** Jim Chanos said **Valeant Pharmaceuticals International** epitomized everything that was wrong with the marketplace. Chanos noted that Valeant represented "the largest single security loss hedge funds have incurred, greater than **Lehman**, Enron, **AIG**."

Andy Davenport, former CEO of Valeant's specialty pharmacy Philidor and ex-Valeant employee Gary Tanner were charged with engaging in a multi-million dollar fraud and kickback scheme. Valeant commented that the parties had engaged in actions to defraud Valeant as a company. Valeant also said Tanner had ceased to be a Valeant employee on September 13, 2015 and that Davenport had never been an employee.

That same day, **Bronte Capital** said that Valeant board members had toured Philidor before Valeant agreed to buy an option to purchase Philidor. Bronte said that as criminal charges had been levied, those board members should consider their positions.

Citron Research published a report alleging that **Mallinckrodt's** CEO had committed securities fraud. Citron added that Medicare/Medicaid was spending $640 million a year on Mallinckrodt's Acthar, which Citron said had no real clinical data.

In its sixth report on **BofI**, **The Friendly Bear** said that the company would not benefit from higher rates and that regulatory interest into fraud allegations would not disappear due to Donald Trump's election as president.

Hua Han Health announced that its independent board committee had engaged Grant Thornton to perform an independent investigation following earlier reports from **Emerson Analytics** and letters from EY, the company's auditor, pertaining to inconsistencies and/or irregularities.

The Street Sweeper published a follow up report on **Fenix Parts**, saying that the company faced multiple issues including auditor troubles, accounting issues, dwindling cash, loan covenant deficiencies, late filings, Nasdaq delisting threats and an SEC investigation.

HoldCo Asset Management published its fourth public letter to **First NBC Bank**. In the letter, HoldCo responded to an earlier letter from FNBC's law firm Kasowitz Benson Torres & Friedman, which HoldCo said implied legal action against the short seller. **Clinton Group** is long the bank.

In its Q3 2016 letter to investors, **Cable Car Capital** said that it was still short **World Acceptance**, as it believed that early market predictions of the Consumer Financial Protection Bureau's demise were greatly exaggerated. Cable Car also said that it had covered its position in **Cadiz**.

Spruce Point at Burlington Stores

Winter is coming, and a short seller thinks the company formerly known as Burlington Coat Factory is looking threadbare.

In a 63-page presentation, short seller **Spruce Point Capital Management** suggested shareholders had failed to adequately discount **Burlington Stores'** stock on account of its high leverage, packed inventory and competitive market. Yet with shares up nearly 200% since the company went public again three years ago, few want to believe the growth story is over.

Spruce Point's founder Ben Axler, a New Jersey native like Burlington, says the stock's recent all-time high had piqued his interest, but management was in for a rude awakening. "The company is at a meaningful disadvantage to its peers and that should be discounted into the stock price," Axler said in an interview with Activist Insight Monthly. "The Burlingtons of the world have been doing well but basic economics dictate that when there's excess profits, those get competed away."

> "Burlington is an old-school retailer now being spun as a sexy new growth story amidst an intensifying and ultra competitive retailing environment."
>
> *Spruce Point Capital Management presentation*

Spruce Point, an investor with some past successes, including at gaming company **Intertain** and quartz surface manufacturer **Caeserstone**, has a mixed record of late. And with a fund in the works – Spruce Point Research & Activism Partners – Axler could do with a hit.

Activist Shorts Research – an Activist Insight company – suggests Spruce Point's average campaign return is 15.7%, and on Twitter Axler has claimed credit for the departure of five CEOs of companies with enterprise values over $1 billion following Spruce Point reports. Of the seven targets it has gone public with in the last 12 months, however, only three are still trading below their price on announcement.

The initial reaction suggested he could be onto one. Shares dipped 6% on November 3 in the immediate aftermath of the report's release but investors have since rallied, making up losses and then some. Burlington has made only a brief comment on the report, but a forceful one nonetheless, saying it "emphatically denies" Spruce Point's claims. "The report, which is filled with innuendo and baseless allegations, is based on flawed, inaccurate and misleading analysis," it continued.

Sell-side analysts have come to Burlington's defense. John Kernan of Cowen Group, wrote in a report to clients that the activist was "long on innuendo and short on quantitative substance." Goldman Sachs estimated earnings at the top end of analysts' consensus; on November 22, Burlington beat even that prediction.

> "The Burlingtons of the world have been doing well but basic economics dictate that when there's excess profits, those get competed away."

Earnings per share for the third quarter increased 114% year-on-year to $0.45, the company said and profits for the first nine months of 2016 stood at $106 million. Shares closed at a new all-time high of $89.73. "None of our short theses are based on the outcome of a single quarter's results," Axler says.

Spruce Point still thinks Burlington's growth story is grinding to a halt. The core of its thesis is that the market has valued the stock as a differentiated retailer, when it is actually pretty unspectacular. "The company doesn't have much edge, it's fairly undiversified – it's not a business that can necessarily support a lot of debt," Axler told Activist Insight Monthly.

On a conference call following the earnings release, CEO and Chairman Tom Kingsbury stressed that home, beauty and even Baby Depot departments – which sells furniture and clothes for young children – outperformed the company average.

“The company doesn’t have much edge, it’s fairly undiversified – it’s not a business that can necessarily support a lot of debt.”

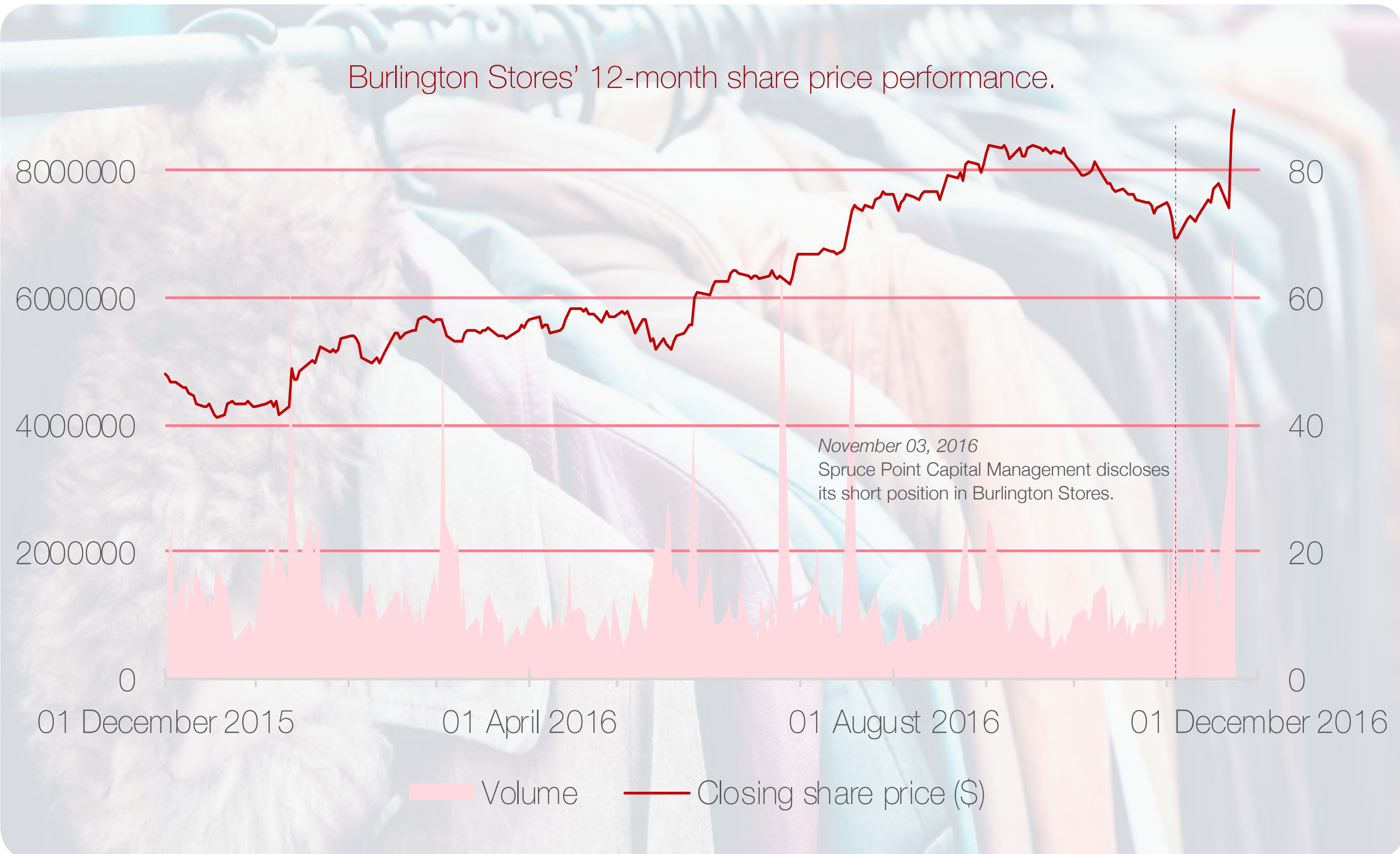
Another contention is that Burlington is overleveraged. Kernan is skeptical, however. In a recent interview with Activist Insight Monthly, he argued there will be plenty of people lining up to refinance the company’s debt when the time comes (August’s quarterly report showed total debt of $1.4 billion, with over $1.1 billion due in 2021).

Even Axler admits that debt is unlikely to blow up Burlington in the near-term. He does, however, argue that Burlington’s shine will be dimmed by its move to smaller stores, an imperative driven by its dash for growth. Spruce Point’s presentation argues that new stores may be 17-45% more expensive than previous locations, based on the cost per square foot. New competition from Primark, Macy’s and Amazon, in addition to industry leaders T.J. Maxx, complicates the picture.

That concern may be why Burlington announced a new appointment to its board of directors, just two weeks after the short report was published. Ted English, formerly a CEO of The TJX Companies (owner of T.J. Maxx and Marshalls), and a current director of Rue La La and Chairman of Bob’s Discount Furniture, was chosen to boost Burlington’s diversification away from coats and into all kinds of discounted goods, Kingsbury said in a statement.

Given the length of Spruce Point’s presentation, Axler is frustrated that Burlington has not felt the need to respond in depth. “It’s hard for us to understand why they say our report is wrong – show us,” he says. Many of Spruce Point’s allegations – accounting and operational issues where key managers have worked in the past, aggressive accounting and inventory management – have received only indirect responses from the company, although they have also failed to gain much currency from analysts either.

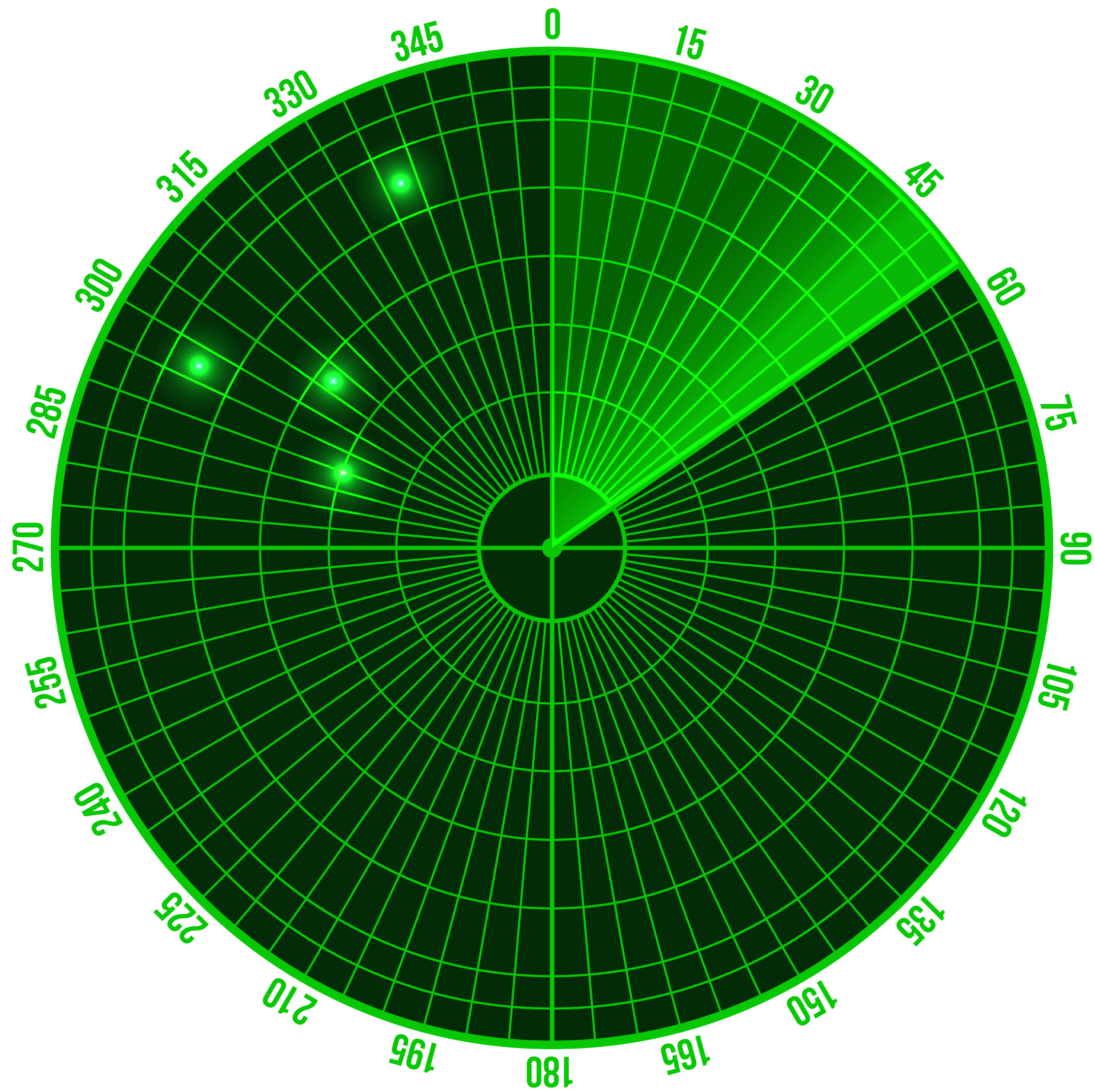
However, the lack of engagement doesn’t shake Axler in his belief that Burlington could be set for a shock. “It’s like AECOM,” he told Activist Insight Monthly, referring to another recent Spruce Point short. “They issued a boilerplate response, and a few weeks later they reduced guidance.” So far, however, Burlington isn’t playing out that way.



New short investments

A selection of the latest activist short investments from around the world in November.

Activist	Company	Date Announced	Primary Allegation
The Friendly Bear	Criteo	Nov 30, 2016	Major business fraud
The Friendly Bear claimed that a significant number of clicks on advertisements placed by Criteo's algorithm were from fraudulent sources.			
Cliffside Research	Clearside Biomedical	Nov 29, 2016	Medical effectiveness
Cliffside said that aggressive revenue assumptions on Clearside's initial product CLS-1001 would disappoint.			
Whitney Tilson	Wingstop	Nov 29, 2016	Competitive pressures
Tilson said that Wingstop's valuation was too high and that it faced tough competition in a crowded industry.			
Lakewood Capital	TherapeuticsMD	Nov 29, 2016	Stock promotion
Lakewood claimed that TherapeuticsMD was a stock promotion and that its products would not sell well.			
Glaucus Research Group	CT Environmental Group	Nov 23, 2016	Accounting fraud
Glaucus said that CT was materially misrepresenting its reported financial performance and the company was "simply uninvestable."			
Hongqiao Exposed	China Hongqiao Group	Nov 22, 2016	Accounting fraud
Hongqiao Exposed questioned whether Hongqiao was a fraud, noting that it had failed to generate FCF despite extraordinary margins.			
Aurelius	Kingold Jewelry	Nov 21, 2016	Major business fraud
Aurelius alleged that Kingold had fabricated its SEC filings and was a dramatically smaller company than it claimed to be.			
Mako Research	AveXis	Nov 16, 2016	Medical effectiveness
Mako claimed that the potential efficacy of AveXis' only drug was nonexistant.			
Iceberg Research	Tutor Perini	Nov 16, 2016	Over-levered, Misleading accounting
Iceberg Research said that Tutor Perini had an "impressive" number of structural problems that the market had strongly underestimated.			
SkyTides	Insulet Corporation	Nov 15, 2016	Medical effectiveness
SkyTides said that Insulet's sole product had defects and was involved in a large number of patient deaths.			
The Street Sweeper	Teladoc	Nov 14, 2016	Industry issues
The Street Sweeper said that Teladoc would face difficulties due to possible changes in the Affordable Care Act.			
Copperfield Research	Chegg	Nov 14, 2016	Misleading accounting
Copperfield said that Chegg's business "pivot" was built on financial shenanigans and a broken business model, among other issues.			
Real Talk Investments	Amber Road	Nov 10, 2016	Competitive pressures
Real Talk said that Amber was a no-moat business, significantly disadvantaged to its peers, within a highly competitive space.			
Cannell Capital	Osiris Therapeutics	Nov 09, 2016	Misleading accounting
Cannell commented on various aspects of Osiris' financial reporting.			
The Street Sweeper	Skyline Medical	Nov 08, 2016	Stock promotion
The Street Sweeper said that Skyline Medical was the subject of a stock promotion campaign.			
Spruce Point Capital	Burlington Stores	Nov 03, 2016	Misleading accounting
Spruce Point noted multiple financial presentation, accounting and business issues that it said could be signaling a slowdown for Burlington.			



Locate the targets

Activist Insight Vulnerability

Coming soon

Register your interest here

Activist Insight

www.activistinsight.com

News in brief

A round-up of November's developments in activist investing.

North America

Gamco Investors became the first activist to make a director nomination through proxy access, at **National Fuel Gas**. After the company declared the nomination invalid on the grounds Gamco had previously held the intention of influencing management, the activist's nominee withdrew his offer to stand for election.

Hudson Executive Capital co-founder Jim Woolery quit the firm for "personal and family reasons." His partner, Doug Braunstein will continue managing the fund and bought back Woolery's stake.

Elliott Management disclosed two mammoth stakes in as many weeks, targeting diversified oil giant **Marathon Petroleum** with a $1 billion investment and unveiling a $1.5 billion position in IT services company **Cognizant**.

Farmer Brothers issued a preliminary proxy statement ahead of its proxy fight with a shareholder group led by a member of the coffee distributor's founding family, **Carol Farmer Waite**. Both sides nominated three person slates for the California-based company's board. Waite's brother, Richard Farmer, pledged support for the incumbent directors.

Reed's appointed a new director as part of its initiative to add four new independent board members. In response, a shareholder group led by **Edwin Lozano** withdrew its five-person slate.

American International Group (AIG) announced it would sell businesses in Latin America and central and eastern Europe to Canada's Fairfax Financial Holdings for a total of $240 million. The insurer continues to sell assets amid pressure from **Carl Icahn**, who received a board seat in September and has called on the company to slim down.

JCP Investment Management reduced its stake in **Fiesta Restaurant Group** below the reporting threshold after the Texas-based company rejected its settlement offer for a pair of board seats and to declassify the restaurant operator's director election. **Bandera Partners** and **Bradley Radoff** are also part of JCP's campaign at Fiesta, which has reportedly considered selling itself.

Stewart Information Services agreed to remove Malcolm and Stewart Morris from its board of directors as part of a settlement agreement with **Starboard Value** and **Foundation Asset Management**. The activists had argued that the company's performance suffered because of those directors' family ties to CEO Matthew Morris, who was also named a director, as part of a plan to ensure eight of the nine directors were independent.

WW Investors reached a settlement agreement with **New York REIT** and nominated three new directors to the trust's expanded nine-person board, which will oversee a liquidation process. Earlier in the month, **Bulldog Investors** disclosed a stake in the real estate trust and called on NYRT to reach an amicable accord with the dissident.

MSD Capital gave its support for the tri-party merger between **NorthStar Asset Management**, **North Star Realty Finance** and Colony Capital after the three companies amended the governance and financial details of the transaction. The new company, Colony NorthStar, will add two independent directors to its reduced board of 10 directors, while NSAM agreed to pay an additional $100 million cash dividend to its shareholders, which also includes Land and Buildings. Jonathan Litt's firm has criticized the deal in the past and has not made public whether it supports the amended merger.

Starboard Value settled for three seats on **Depomed's** board after the courts awarded the drugmaker exclusivity on a patent. The Jeff Smith-led hedge fund had been critical of the company's ability to oversee a strategic review and sale process.

MediaNews Group launched a proxy contest at **Monster Group** following the recruitment company's planned merger with rival Randstad North America. The 10.5% shareholder, which had a tender offer rejected for an additional 10% stake in Monster, nominated a seven-person slate with the intention of appointing Daniel Dienst as CEO if successful.

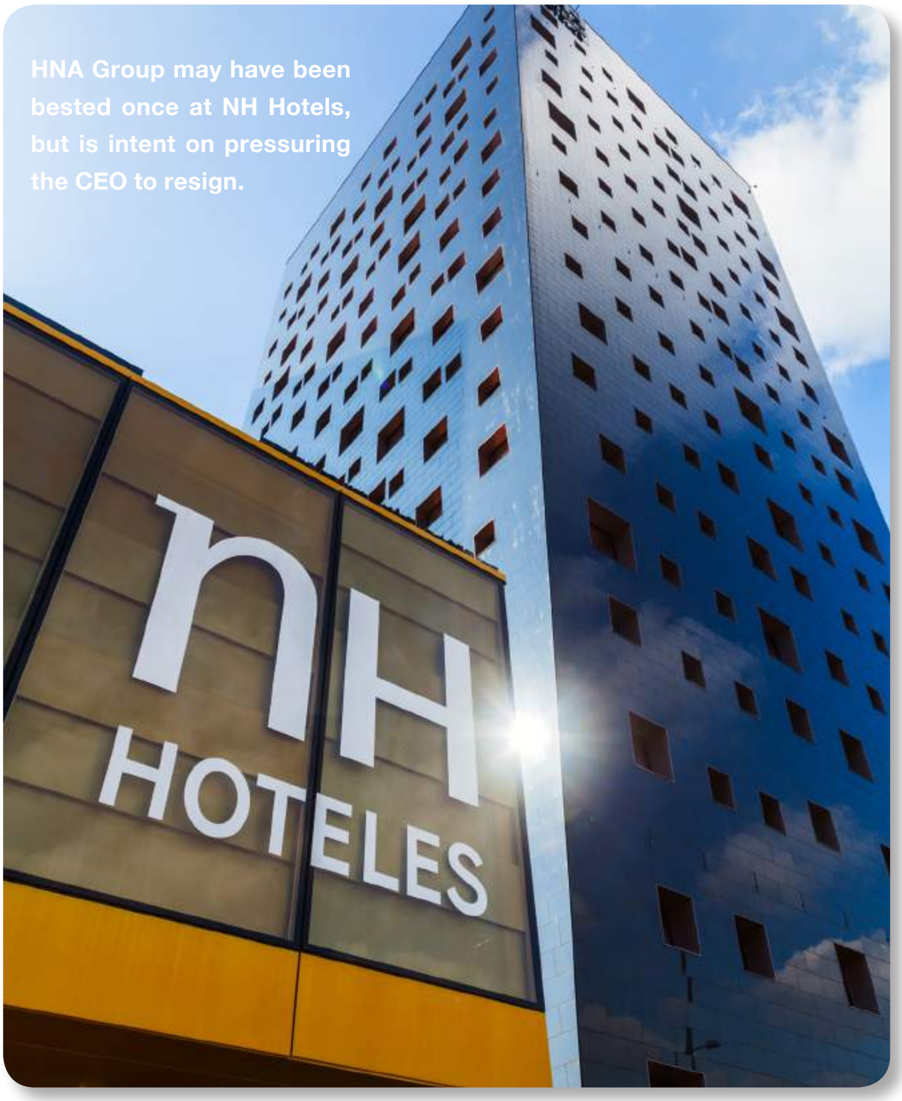
Three more directors resigned from the board of **Williams** after the energy company reached a settlement agreement with **Corvex Management**. Keith Meister's firm dropped its unusual proxy fight after Williams agreed to add two new independent directors, with a commitment to an additional two further appointments.

Europe

Elliott Management said it intended to push for changes to the board of German 3-D printing company **SLM Solutions**, and wanted the company to review its capital structure. In October, a proposed merger between **General Electric** and SLM collapsed after Elliott acquired a 20% stake in the German company and opposed the U.S. giant's bid.

Volkswagen announced plans to cut 30,000 jobs by 2020 – 23,000 of which will be in Germany. The announcement came six months after U.K. activist investor **The Children's Investment Fund** criticized the company's executive pay and called on the carmaker to reduce labor costs.

Dublin-based Botox manufacturer **Allergan** appointed a new independent board member, expanded a share buyback program by $10 billion and initiated its first ever dividend. Earlier this year, **Carl Icahn** disclosed a large position in Allergan, and said that he was supportive of its CEO.



HNA Group may have been bested once at NH Hotels, but is intent on pressuring the CEO to resign.

Chinese conglomerate HNA Group, a large shareholder in Spanish hotel chain **NH Hotel Group**, put pressure on the company to initiate the search for a new CEO. NH's former CEO was fired in June after **Oceanwood Capital** won a proxy contest at the company and ousted the board representatives of HNA.

An Italian court rejected **Elliott Management's** request for a precautionary suspension of the board of Italian railway signaling company **Ansaldo STS**. The activist recently elected three directors at the company, and is fighting a legal battle for the ousting of the other board members.

Amber Capital called for Italian communication infrastructure company **Ei Towers** to take extra steps to return cash to its shareholders and increase its leverage ratio. Earlier in November, the company announced a 3.60 euro per shares special dividend, but the move fell short of Amber's expectations.

Paulson & Co, **Monarch Alternative Capital** and **Amber Capital**, which collectively own 37% of the debt of troubled French marketing services company **SoLocal Group**, found themselves at odds with a group of individual shareholders opposing a proposed debt restructuring plan. A first restructuring proposal was rejected by SoLocal's investors in October.

U.K. company **Local Shopping REIT** set December 8 as the date to vote on a proxy contest waged by dissident shareholder **Thalassa Holdings**. London-listed investment firm **Industrial Multi Property Trust** is also facing a proxy contest after **Alpha Real Capital** nominated a slate and called on the company to accept a debt-refinancing proposal.

New World Oil and Gas, a former energy company now reduced to a shell owning cash reserves, was delisted from London's AIM market. The company defeated two investors in a proxy contest days before the delisting.

Electra Private Equity announced plans to return up to 200 million pounds to shareholders. **Sherborne Investors'** Ed Bramson won a proxy contest at the company in 2015, and currently serves as its interim-CEO.

Western Gate Private Investments continued to rail against **Stock Spirits**.

Australia's Woolworths faced pressure for its excessive executive compensation.

Rest of World

India's giant conglomerate **Tata Group** is facing an inner battle between the controlling family and former chairman **Cyrus Mistry**. **Tata** requisitioned special meetings at several group companies where Mistry also served as chairman to vote on his ousting – but he has the support of independent directors at several of them.

Samsung Electronics, the South Korean giant under pressure from **Elliott Management**, said it would review a restructuring proposal and add a new director to its board after the activist went public with a series of demands. Samsung also recalled 2.8 million washing machines in the U.S. due to safety issues, had its headquarters raided by South Korean prosecutors and announced a plan to acquire U.S. smart car technology maker Harman International Industries for $8 billion.

South Korean investment firm Lime Asset Management launched a hedge fund named Lime Democracy, which is expected to adopt activist strategies in the country.

Activist investor **Teleios Capital Partners** was awarded a seat on the board of Israel's **SodaStream**, shortly after disclosing a stake in the home carbonation systems company and saying that it wanted to engage in discussions.

In China, a group of individual shareholders in menswear manufacturer **Fuguiniao** nominated a two-person dissident slate for election to the company's board, and several top executives of architectural glass manufacturer CSG Holding resigned after the company's largest shareholder, Baoneng Group, accused them of misconduct.

Hong Kong-listed cashmere apparel manufacturer **L&A International Holdings** defeated a group of individual investors in a proxy contest.

Dissident shareholders called for a meeting to remove several directors at Singapore-based steel manufacturer **Oriental Group** after withdrawing a similar request in June.

Taiwanese manufacturer **Asia Pacific Wire & Cable Corporation** announced a special dividend months after dissident shareholder **Lonsin Capital** threatened a proxy contest and asked the company to return capital to its shareholders.

In Australia, a **group** of investors in **Jervois Mining** won a proxy contest at the company, ousting the entire board and taking control of the firm, while logistics provider **McAleese** settled a dispute by appointing two nominees suggested by activist shareholder **Havenfresh**. A director of **IOT Group** resigned after **dissidents** requisitioned a meeting to vote on his ousting.

Investment firm **Harris Associates** called on the CEO of Australian financial services company **AMP** to resign, and **Wilson Asset Management** requisitioned a special meeting at **Hastings High Yield Fund** for the second time this year, seeking the ousting of Aurora Funds Management as the investment manager of the Sydney-listed company.

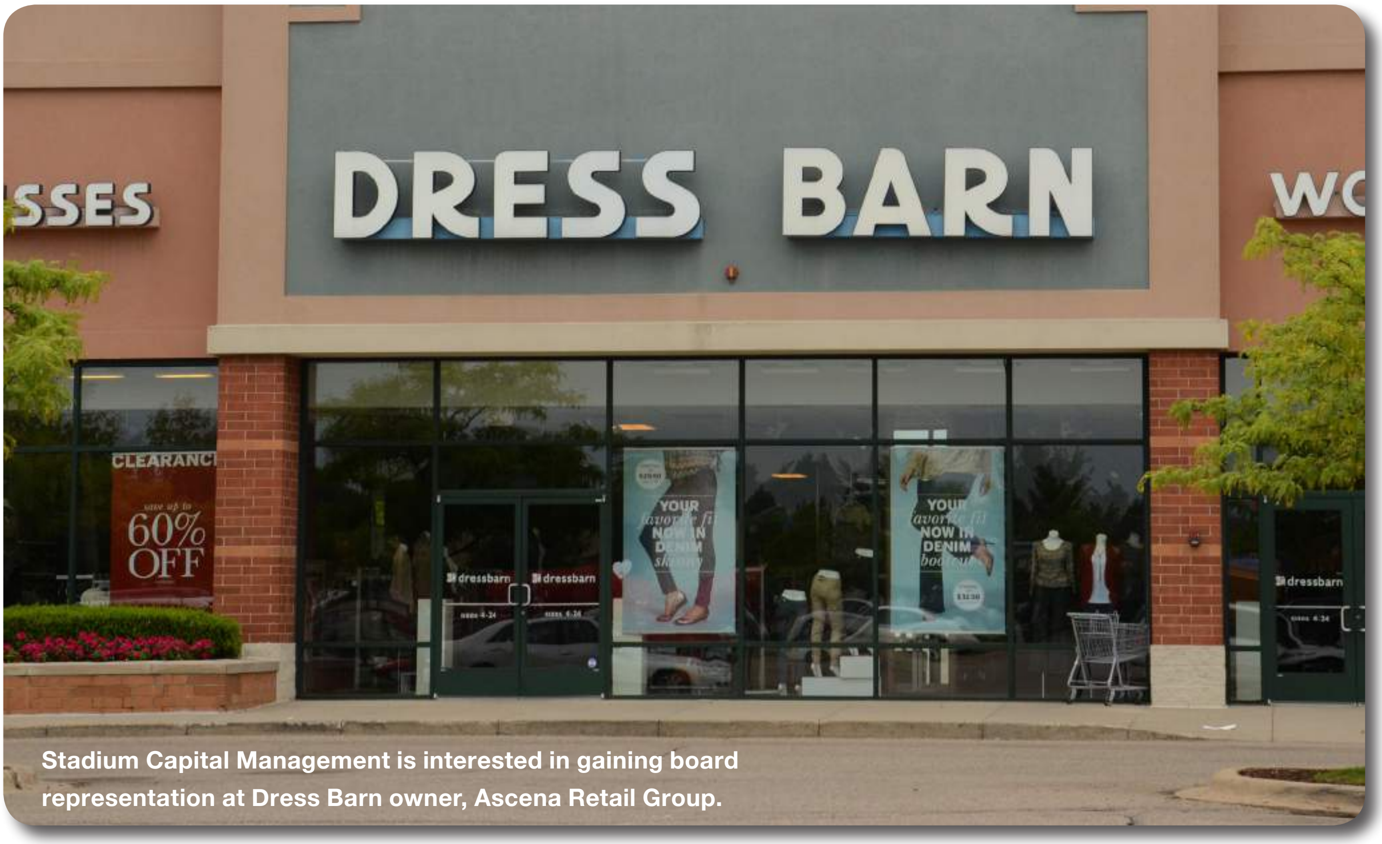
Institutional Shareholder Services urged shareholders in Australian supermarket chain **Woolworths** to claw back millions of dollars in executive bonuses if the company faces an adverse sentence in a misconduct case. Separately, the **Australian Shareholders' Association** called for the resignation of Harvey Norman's chairman after he claimed increased scrutiny on the retailer's financials was due to a conspiracy between a short seller and proxy advisers.

New investments

A selection of the activist investments disclosed from around the world in November.

Israel-based SodaStream granted Teleios Capital Partners a spot on its board.

Activist	Company	Date Notified	Stake
Invesco	Motif Bio	Nov 29, 2016	33.5%
Invesco revealed it may engage in communications with the board of directors, management and other shareholders of the company.			
Noble Investments/Leadenhall Australia	Cape Lambert Resources	Nov 29, 2016	5.4%
The Australian activists requisitioned a meeting at the mineral exploration company to consider the removal of Tony Sage as director.			
Wyser-Pratte Management	Euro Disney	Nov 25, 2016	0.6%
The company was accused of using tricky accounting to allow majority owner Walt Disney to takeover the firm cheaply.			
Gilead Capital	Landauer	Nov 22, 2016	5.0%
The first-time activist called on the company to replace Michael Leatherman as CEO and director on the company's board.			
Simcoe Capital Management	Exar	Nov 22, 2016	5.2%
The investor hinted it would push for board representation and said it had already initiated discussions with the semiconductor company.			
Concerned Shareholders	Fuguniao	Nov 22, 2016	3.2%
Five dissident shareholders submitted a proposal to replace two directors and the shoe retailer's auditor.			
Privet Fund Management	Great Lakes Dredge & Dock	Nov 21, 2016	5.2%
Joining Wynnefield Capital on the company's shareholder base, Privet said the company would benefit from new independent directors.			
Teleios Capital Partners	SodaStream	Nov 18, 2016	5.7%
Teleios became the first activist to go long the Israeli company, currently a short target of Andrew Left's Citron Research.			
Concerned Shareholders	Jervois Mining Limited	Nov 18, 2016	Unknown
The dissidents won a proxy contest at the Australian mining firm, ousting the entire board and replacing it with a three-person slate.			
VenBio Select Advisor	Immunomedics	Nov 16, 2016	9.0%
The first-time activist named a four-person slate for election, criticizing the company for not developing its breast cancer drug.			
Eriksen Capital Management	Sitestar	Nov 15, 2016	5.3%
The disclosure came months after the company told investors it was under investigation by the Securities and Exchange Commission.			
PointNorth Capital	Liquor Stores	Nov 15, 2016	10.0%
The Canadian activist, formerly Oxford Park Group, filed an early warning report at the liquor distributor.			
Karpus Investment Management	First Trust/Aberdeen Global Opp.	Nov 14, 2016	19.6%
The George Karpus-led firm called on the closed-end fund to authorize a self-tender for all its outstanding shares.			
Caerus Investors	Kate Spade	Nov 14, 2016	Unknown
The activist wrote to the clothing designer's board of directors touting a sale of the company.			



Stadium Capital Management is interested in gaining board representation at Dress Barn owner, Ascena Retail Group.

Activist	Company	Date notified	Stake
PrimeStone Capital	Kcom Group	Nov 11, 2016	5.1%
PrimeStone disclosed a stake in one of England's oldest communication firms after it recently named a new chief financial officer.			
Clinton Group	First NBC Bank Holding	Nov 10, 2016	Unknown
Clinton called on First NBC to replace its CEO, to which the bank said it was seeking a constructive dialogue.			
Farnam Street Partners	Air T	Nov 08, 2016	10.5%
The Minnesota-based investor purchased a stake in the air delivery company more than a month after it removed its poison pill.			
Red Mountain Capital Partners	Yuma Energy	Nov 07, 2016	30.6%
The Los Angeles-based activist was awarded a board seat following a reverse merger with Davis Petroleum Acquisition.			
Stadium Capital Management	Ascena Retail Group	Nov 07, 2016	7.6%
Stadium disclosed a stake in Ascena and said it was interested in gaining board representation.			
Harbert Management Corporation	iCad	Nov 07, 2016	5.0%
The Alabama-based activist demanded the medical device manufacturer repurchase shares and hire a chief financial officer.			
J. Chevedden/J. McRitchie/M. Young	United Natural Foods	Nov 04, 2016	Unknown
The trio disclosed a stake in the Rhode Island-based food retailer.			
Amalgamated Bank	Chipotle Mexican Grill	Nov 01, 2016	<0.1%
With CtW, Amalgamated called on the company to remove founder and co-CEO Steve Ells from his role as chairman.			
Livermore Partners	BNK Petroleum	Nov 01, 2016	Unknown
Livermore's founder, David Neuhauser, was immediately named a director at the California-based company.			
PrimeStone Capital	Mears Group	Nov 01, 2016	7.3%
The London-based activist disclosed a stake in the homecare assistance company three months after it raised its interim dividend.			

Activism in numbers

Activist Insight

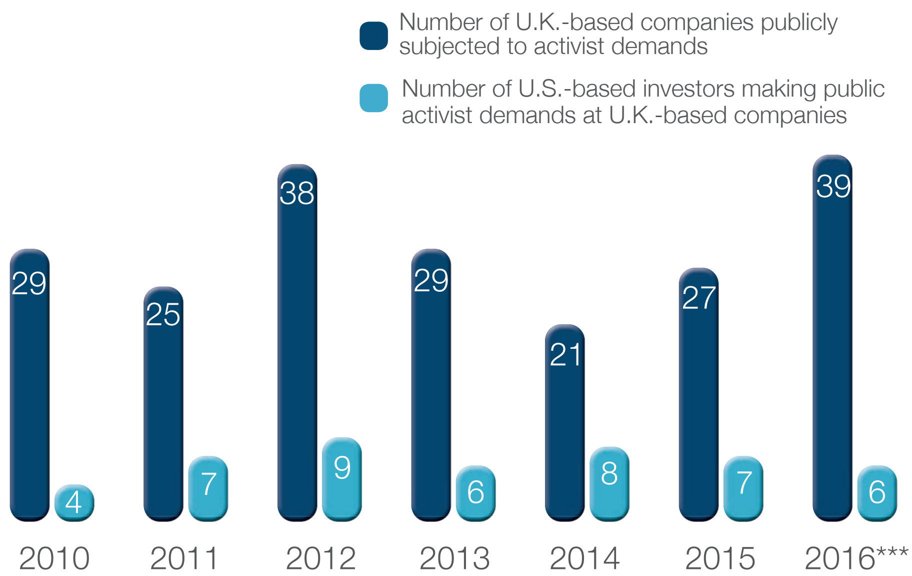
Source: Activist Insight Online

Shorts on the rise in Canada.

A smaller number of activist short sellers bet against Canadian companies this year, but those that did doubled down, targeting a record number of issuers.

UK growing its own activists.

Activist campaigns may have peaked in the U.K. this year, but the rise is not due to a U.S. influx. American activist campaigns are broadly flat over recent years.



Source: Activist Insight Online

Earlier every year.

No longer a holiday period, December has seen more activist campaigns launched every year from 2010 to 2015.

Source: Activist Insight Online

* All data exclude activist short positions unless otherwise specified
** All percentages are given to one decimal place, and may cause rounding errors
*** YTD figures as of 30/11/2016 unless otherwise specified

Monthly summary

Activist Insight
Monthly

Activist targets by geography

Issuer HQ location	Nov 2016	Nov 2015	2016 YTD
U.S.	29	37	426
Canada	2	12	44
U.K.	3	3	39
Australia	9	7	56
Europe (excluding UK)	5	6	51
Asia	11	6	74
Other	0	1	18
TOTAL	**59**	**72**	**708**

Companies publicly subjected to activist demands by company HQ location

Activist targets by sector

Sector	Nov 2016	Nov 2015	2016 YTD
Basic Materials	23.7%	22.2%	15.4%
Conglomerates	0.0%	0.0%	0.6%
Consumer Goods	10.2%	4.1%	8.9%
Financial	22.0%	13.9%	20.8%
Healthcare	3.4%	11.1%	7.3%
Industrial Goods	6.8%	4.2%	6.5%
Services	20.3%	23.6%	23.3%
Technology	10.2%	19.4%	15.1%
Utilities	3,4%	1.4%	2.1%

Proportion of companies publicly subjected to activist demands by sector

Activist targets by market capitalization

Market Capitalization	Nov 2016	Nov 2015	2016 YTD
Nano cap (Less than $50m)	20.3%	23.6%	22.5%
Micro cap ($50m - $250m)	23.7%	16.7%	20.3%
Small cap ($250m - $2b)	37.3%	29.2%	25.6%
Mid cap ($2bn - $10b)	8.5%	15.3%	14.7%
Large cap (More than $10b)	10.2%	15.3%	17.0%

Proportion of companies publicly subjected to activist demands by market-capitalization

Activist demands by type

Demand type	Nov 2016	Nov 2015	2016 YTD
Board-related	53.5%	55.4%	49.4%
Balance Sheet	11.6%	10.9%	10.3%
Business Strategy	7.0%	7.9%	5.6%
M&A	16.3%	23.8%	15.1%
Remuneration	5.8%	1.0%	3.3%
Other Governance	5.8%	0.0%	15.0%
Other	0.0%	1.0%	1.3%

Proportion of public activist demands by demand type

Success of resolved demands

Outcome	Nov 2016	Nov 2015	2016 YTD
Activist at least partially successful	51.7%	59.4%	55.9%
Activist unsuccessful	41.7%	26.1%	32.6%
Withdrawn demands	6.7%	14.5%	11.5%

Outcomes of resolved activist demands

Number of active activists

	Nov 2016	Nov 2015	2016 YTD
Active activists	64	71	581

Number of investors making a public demand of a company

Performance

6.38%*

Stock price performance of activist-held U.S. stocks in November 2016 (S&P 500 Index: 4.41%*)

New investments

35

Number of activist investments disclosed in November 2016

N.B. 1. All data exclude activist short positions
N.B. 2. All percentages (excluding performance) are given to one decimal place, and may cause rounding errors
N.B. 3. YTD figures as of 30/11/2016 unless otherwise specified
*Trimmed mean (10%)