THE ACTIVIST REPORT

13D Monitor

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AESG - The Goldilocks of Responsible ESG Investing

ESG has been an incredible movement. It has had a momentum and acceleration that was seemingly unstoppable, and for good reason – everyone wants to save the climate; everyone is for treating employees, customers and communities with respect and everyone is for good corporate governance. Yet, for several years, many people, particularly behind closed doors and in private conversations, have been skeptical about ESG investing, and this skepticism to ESG investing has come to a head lately.

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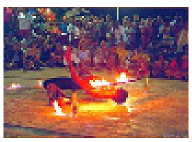

Under the Threshold

Barnes Group (B): Irenic Capital Management; Kohl's Corp (KSS): Ancora Advisors; Cardinal Health (CAH): Elliott Management; The Walt Disney Company (DIS): Third Point Management; Pinterest (PINS): Elliott.

NEW

On September 30, 2022, it was reported that **Irenic Capital Management**, a new fund launched by Adam Katz (former executive at Elliott Management) and Andy Dodge (formerly of Indaba Capital Management), took a stake in **Barnes Group (B)** and is pushing for board changes and a potential sale of the Company. Irenic reportedly believes that the Company could be worth as much as $60 per share in a sale (currently trading in the low $30's). They believe that the Company's aerospace unit alone is worth more than its current market value and has raised concerns about the Company's capital allocation, operating performance, executive compensation and failure to hit financial targets.

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Around the World

Kinross Gold Corp: Elliott Management; AGL Energy: Mike Cannon-Brookes; De La Rue plc: Crystal Amber; Mereo Biopharma Group plc: Rubric Capital Management; Richemont S.A.: Bluebell Capital Partners; Solvay S.A.: Bluebell Capital Partners.

NEW

On September 19, 2022, **Kinross Gold Corp.** announced an enhanced share buyback program following conversations with **Elliott Management**. The Company stated that it will buy back $300 million in shares over the remainder of the year and will allocate 75% of excess cash to repurchase its own stock in 2023 and 2024.

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10 Questions with Andrew Freedman

Andrew Freedman is a Partner and Co-Chair of the firm's Shareholder Activism Group. He is one of the leading attorneys in the nation practicing in the area of shareholder activism and advises some of the nation's most prolific activist investors, such as Starboard Value and Elliott. Andy's practice focuses on shareholder activism campaigns, proxy fights, hostile takeover strategies, corporate governance and investor engagements with public company boards of directors. His practice also includes expertise in advising on European and Canadian activist campaigns. His practice also includes expertise in advising on European and Canadian activist campaigns. Andy received his J.D. from Washington University School of Law, St. Louis and holds a B.S. from University of Michigan.

13DM: As of September 1, proxy fights in the United States will utilize a universal ballot. Can you briefly explain what that is and who benefits from it?

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AESG - GOLDILOCKS OF RESPONSIBLE ESG (cont'd. from pg. 1)

Why is this? It is because there is a tremendous disconnect between ESG as a philosophy and ESG as an investment product. ESG is a conceptual idea of new factors that market participants should consider in investing in and managing corporations. Many ESG investment funds took this idea and exploited it as a marketing tool to raise assets in strategies that relied on quantitative data and ratings that were easily manipulated, and that were way too passive to create any real ESG change. Moreover, there is a widespread perception, if not reality, that ESG investing means sacrificing returns.

Now, a bear market has exposed these weaknesses, and for the first time, the ESG investing movement has been losing some steam. Even worse, these exposed deficiencies in ESG investment funds have opened the door for funds that market themselves as the antithesis of ESG that advocate for the elimination of any social motivations to corporations and totally disregarding ethnicity and gender in hiring practices[1]. This drastic reaction to ESG funds does on the right exactly what it is criticizing on the left – it takes an extreme position that exploits the views of the far right to weaponize the opponents of ESG funds just as many ESG funds were created to exploit and weaponize the acolytes of ESG. Ideologically maximizing profits while ignoring social repercussions will lead to companies like Purdue Pharma or boards that rationalize potential oil spills through a cost benefit analysis of the potential fines and cleanup costs versus the costs to prevent such spills. How about worker safety? Should worker safety be sacrificed if the cost to keep employees safe exceeds the liability for and costs to replace injured employees? Anti-ESG funds focused solely on shareholder value would presumably forego the costs and pay the liability. Moreover, does anyone other than these anti-ESG funds really believe that a board or management team is not better when it has qualified members with a diversity of perspectives and life experiences than when it is all white and male?

Of course, environmental, social and governance factors should be considered by management teams and investors, but they are factors that need to be weighed, not mandated. These decisions are more complex than either side acknowledges. They cannot be made quantitatively, with generalizations or by extremists. They need to be made qualitatively, by an active participant weighing the pros and cons and pragmatically advocating for a position that benefits all stakeholders, including shareholders. That is what AESG does.

AESG, or active ESG, investing is when an activist investor takes a position at a company and actively (usually from a board level) and qualitatively analyzes and improves not only financial, operational and strategic facets of the company, but also its ESG footprint. Funds like Inclusive Capital and Impactive Capital are the leaders in this area and look at every investment not only through a shareholder value lens, but an ESG lens as well. In many cases these funds advocate for ESG practices at their portfolio companies that actually advance shareholder value. Other activists, while more focused on operational, financial and strategic matters at their portfolio companies, are realizing that while they are actively involved at these companies, they are also in a unique position to improve ESG practices at the company. Accordingly, many of these funds, like Starboard, ValueAct and Third Point have dedicated ESG executives to help focus on such opportunities. And we are seeing many more of them starting to adopt such practices.

These AESG investors realize that you cannot accomplish ESG objectives by investing in the "best" ESG companies and excluding the worst. Nor can you expect management teams to blindly adhere to ESG pressures regardless of the effect they will have on shareholder value. Instead, AESG investors analyze both ESG issues and opportunities and the company's financials and operations to pragmatically develop company strategies and practices that either further both ESG and shareholder value or further one of them without hindering the other.

Accordingly, AESG solves the problems with ESG investing as (i) it is genuine, not a marketing ploy, (ii) it relies on qualitative analysis, not quantitative metrics and ratings, (iii) it uses engagement to actually effect ESG change without sacrificing shareholder value, and (iv) it has the alpha that has historically been associated with shareholder activism. Moreover, AESG investors are not only looking to change ESG practices at their portfolio companies during their engagement, but to change the long-term culture of the Company so that ESG is ingrained in management's thinking as something to weigh and consider in all future business decisions.

ESG Investing is a phrase that combines two concepts – ESG and Investing. However, most investment funds on either side of the debate tend to focus on only one of these concepts and ignore the other. Responsible ESG investing means not just being responsible to environmental, social and governance factors, but being a responsible investor to both ESG factors and the goal of attaining outsized capital appreciation. This is a main tenet of AESG Investing.

Because there is a limited number of investors who have the skillset, characteristics and inclination to actively engage with management of portfolio companies, AESG investment strategies will always be a small subset of aggregate ESG assets. But it will be an increasingly important subset, and those who engage in AESG Investing will add a much-needed active component to ESG Investing to effect real change and generate real alpha. ESG Investing is still a nascent strategy and will continue to develop and evolve. As we see more and more activist managers also start to focus their efforts on ESG improvements, AESG is becoming a significant part of this evolution.

1. Source: www.strivefunds.com as of Sept. 27, 2022.

ANDREW FREEDMAN (cont'd. from pg. 1)

AF: Adoption of the new Universal Proxy Card (UPC) rules has been a long time in the making, and we are excited to usher in this new era of corporate democracy. The core impact of the universal proxy will be that both companies and activists generally will be including all director nominees on their respective proxy cards, giving shareholders voting by proxy the ability to vote "for" the election of any director candidate regardless of which proxy card they use. Under the legacy two-card regime, separate proxy cards were disseminated by the company and the activist, each listing only their respective slate. This format made it impracticable for shareholders to mix and match their votes among all candidates. Any shareholder who desired to split votes generally needed to go through the expensive and often impractical exercise of attending the meeting in order to vote on a universal ballot. It's the shareholders who will benefit from having a more democratic voting system in place for corporate elections.

13DM: What are some of the repercussions we will see from Universal Ballots?

AF: Ever since the SEC first proposed the UPC rule amendment in 2016, there has been much debate about its potential repercussions, particularly the effect the new rules may have on shareholder voting behavior and election outcomes. There has been no shortage of commentators making bold predictions on the transformational impact they believe the new system will have, including one defense lawyer's recent hyperbolic assertion that "activists were popping champagne when the rule was adopted." Truth be told, we believe the impact of the new UPC rules on these behaviors and outcomes will depend on the dynamics of each particular election contest and blanket statements that the rules will universally (so to speak) tip the scales in favor of the company or the activist are premature and unfounded.

If you are asking about potential repercussions to the shareholder activism landscape in general, we are already seeing repercussions in the form of defense firms advising companies to amend their bylaws to make their advance notice nomination procedures even more restrictive in preparation for the new UPC regime. Companies advised by these defense firms are already beginning to stealthily roll out these bylaw amendments under the pretense that they are merely intended to update their existing advance notice bylaw provisions to account for the new UPC rules. It is clear, however, the intention is to make it even more burdensome for activists to run a slate. Some of the recent bylaw amendments we have seen go so far as to require proprietary and confidential information of the activist that the defense advisors know the activist will not be willing to provide. These provisions are an affront to shareholder democracy and will likely be litigated soon.

13DM: Will there be more of a focus on director qualifications than the respective business plans of the two sides?

AF: This is a great question that ISS recently addressed in an important research note to its clients. Notwithstanding the new UPC rules, ISS stated that its two-prong framework for election contests – "Is there a case for change? If so, how much change?" – will remain "largely unchanged." ISS has indicated that presenting nominees with strong backgrounds will not, alone, be enough to win ISS support. Rather, in order to be successful the activist still must lead with a detailed and compelling argument as to why a company may not be achieving its potential and ISS "will continue to support campaigns where the patient truly needs intervention, and dismiss campaigns that amount to plastic surgery." While a strong nominee will not on its own garner a positive ISS recommendation, because shareholders will be able to more easily and precisely drill down on their desired board composition under the UPC system, the second prong of "How much change?" will likely invite more engagement by ISS on the qualifications of individual nominees than in the past.

13DM: Does it make nominating a majority of directors less drastic?

AF: Seemingly, yes, since with a universal proxy, shareholders can vote in a more individualized manner rather than in an all-or-none fashion around a platform for control. Also, with a universal proxy, the nomination of a majority or more can be pitched as conferring more choice to shareholders rather than as a fight for "control", especially where all of the nominees are independent of the activist. But a control fight is a far riskier proposition for an activist with a universal proxy given all of the permutations for voting across so many individuals and the potential for votes to be spread out among many candidates rather than concentrated in fewer nominees. So for an activist to nominate a control slate in the new UPC regime, they would have to be pretty darn confident in there being broad support for that level of change across the shareholder base. Add to that, the heightened threshold for convincing institutional shareholders that wresting control from an incumbent board is necessary to turn a company around

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ANDREW FREEDMAN (cont'd. from pg. 3)

makes winning a control fight that much harder. The day and age of nominating for control at the outset while reserving the ability to pare back the slate later on may be drawing near an end. I don't think the UPC rules will inspire activists to take on the elevated risk of going for control in your base case election contest. In fact, under the UPC regime, it seems like control slates may be viewed as more drastic from a proxy advisory firm standpoint than previous. In the same research note referenced earlier, ISS stated that particularly in control campaigns, it may require more engagement with each side than had been necessary prior to the UPC era and warned that activists who may have in the past "overreached" with respect to the size of their slates "will now have to carefully consider whether padding the number of nominees will backfire by diluting the overall quality of their slates."

13DM: The SEC is proposing to change the reporting period for 13D filings from 10 calendar days after exceeding 5% ownership to 5 calendar days. Is this really a material change for activists?

AF: While it would be disappointing to see the SEC shorten the filing deadline from 10 to 5 calendar days we do not believe it would materially alter the shareholder activism landscape. The SEC rules have always given companies a strategic advantage over dissident shareholders seeking to effect change – the new UPC rules is just the latest example, by requiring the activist to give the company a first look at its dissident slate at least 10 days before management needs to identify its slate to the activist. As they have done in the past, we would expect to see activists quickly adapt to this structural inequity and take whatever procedural measures are necessary to meet the 5 day deadline. My guess is that if the 5 day deadline is adopted, we will see many activists plan to cross the 5% threshold on a Monday and file right before the deadline at the end of the day of the following Monday in order to maximize the number of trading days during which they can complete their acquisition programs during the filing window.

13DM: The SEC is proposing to change the rule about what constitutes a group to include anyone who buys shares prior to a 13D filing if they had notice of the 13D filing. What are some of the unintended consequences and ramifications of this change? Could this rule possibly be adopted?

AF: This SEC rule proposal would greatly expand the 13D "group" concept and unnecessarily chill otherwise legitimate and typical sharing of perspectives between investors. It appears to be driven more by insider trading-like concerns than group concerns through the introduction of a new "tipper-tippee" provision. Under this proposed concept, a group may be formed where, in advance of filing a Schedule 13D, an investor shares with another person nonpublic information that a Schedule 13D filing will be made and the other person acquires shares on the basis of this information. While it may seem to make sense on its face, in the real world of investor-to-investor communications, the proposed rule will likely lead investment firms to refuse communications with any known 13D filers to avoid any implications or optics of group formation. The proposed rule may very well be adopted, but I think there's a less restrictive alternative for the SEC to curb such tipping than seeking to do so through the 13D rules.

13DM: The SEC is proposing a rule relating to position reporting of security-based swap positions over a certain size. How would this affect activists?

AF: Shareholder activism plays a critical role as a check and balance on un-

"… with a universal proxy, the nomination of a majority or more can be pitched as conferring more choice to shareholders rather than as a fight for 'control', especially where all of the nominees are independent of the activist."

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ANDREW FREEDMAN (cont'd. from pg. 4)

derperforming public companies. I've always maintained that any steps the SEC may take to disincentivize activist investors from serving this crucial function would be a grave disservice to all investors and help pave the way for entrenchment of poorly performing boards and management. It's disappointing to see the SEC take aim at activist investors by seeking to reduce the tools at their disposal to hold corporate leadership accountable. This rule would trigger disclosure of a cash-settled swap position within one day once such position exceeds $300 million, 5 percent of a company or, in certain cases, $150 million. Cash-settled swap positions allow an activist investor to build an economic stake in a company while continuing their diligence and thesis formation without premature disclosure of their position or involvement. Forcing disclosure of a cash-settled swap position at an unreasonably low threshold will freeze activist positions at an economically unattractive level. Premature disclosure would harm the activist in any number of ways, not the least of which would be the share price spike that accompanies the surfacing of any reputable activist at a company and the resulting inability of the activist to build their position at prices reflective of management's underperformance. The SEC's proposed rules have been driven by a misguided perception that somehow because activist stake-building moves the market upon disclosure that other shareholders have a right to early disclosure of activist stake-building. This misses the mark. Information asymmetry is a hallmark of a functioning market. The SEC should leave cash-settled swaps alone and instead align their rule proposals in a manner that is supportive of the important checks-and-balances role that activism plays in the market.

13DM: How do you see ESG considerations affecting activism?

AF: ESG demands on companies have generally been on the rise, especially environmental demands. In the Rule 14a-8 arena, we have seen record numbers of ESG proposals in the first half of 2022, not just due to burgeoning diversity, social and environmental activism and awareness across the globe but also softer SEC policies on their willingness to exclude these proposals. While we think we will break new records in the number of ESG-related Rule 14a-8 proposal submitted in the upcoming proxy season, it is important to note that the success rate for these proposals have recently been on the decline and may continue to drop. In fact, BlackRock announced in May that it intends to support fewer ESG proposals as they are seeing more of them "call for changes to a company's strategy or business model, or address matters that are not material to how a company delivers long-term shareholder value." Self-proclaimed "anti-ESG" activists are even beginning to come out of the woodwork.

As far as shareholder activists that we are accustomed to representing that generally operate outside the Rule 14a-8 process, ESG considerations are not supplanting the traditional operational and strategic changes they are seeking at their portfolio companies. One or two ESG demands may round out or appear on the margins of these activists' overall campaigns for change but pure-play ESG situations are still rare. I don't expect this to change, especially given ISS' recent warning that ESG-centered contests "would appear to be better suited for proxy access, rather than proxy fights."

13DM: As activism has been a very useful strategy to effect operational and

"[The SEC proposal to change the rule regarding what constitutes a group] would greatly expand the 13D 'group' concept and unnecessarily chill otherwise legitimate and typical sharing of perspectives between investors."

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ANDREW FREEDMAN (cont'd. from pg. 5)

strategic change at companies, do you see it becoming an increasingly valuable strategy to effect ESG change at public companies?

AF: While success rates for ESG proposals have trended down of late, they have proven to be extremely effective in prompting change at public companies, especially in the racial equity / civil rights category. Proponents of ESG initiatives have been able to proposal submissions as a platform to kick off a dialogue with management on desired changes. I think boards have been more receptive to dialogue, not necessarily because they have found ESG religion, but due to a combination of being faced with a record number of such proposals and a decreasing SEC no-action success rate seeking to exclude them. These discussions have frequently resulted in the proponent withdrawing the proposal in exchange for the company's agreement to implement or give serious consideration to the desired initiative. If a management team refuses to engage and the proposal goes to a vote, even if the proposal fails to receive the requisite majority vote, a strong showing by the shareholders could still force management to think hard about voluntarily implementing the initiative or risk facing the same proposal the following year.

13DM: For the first time in many years we are experiencing what looks like it could be a prolonged flat/down market. How does activism do in markets like this?

AF: Shareholder activism has shown itself to be remarkably resilient in down markets, and even tends to be busier as more opportunities involving underperforming companies present themselves. Those activist funds with capital to deploy will be able to pinpoint the poorest of performers among peers, build their positions and undertake their engagement with management from a position of strength and leverage. We're seeing so many companies trading below cash these days, which serves as a beacon for activists. Activist funds, themselves, learned a lesson from the financial crisis of 2008 and are now better positioned vis-à-vis their own investors to withstand downturns. This downturn will be markedly different than the one that briefly followed the onset of the pandemic in March 2020, and I don't expect boards of poorly performing companies to enjoy the same leeway they were granted as they were navigating through COVID-19. We are already seeing early signs that point to a vibrant 2023 proxy season.

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New 13D Filings for September

Company Name	Investor	Mkt. Cap.	Filing Date	%	Cost	Item 4 Action
Wix.Com Ltd (WIX)	Starboard Value	$4.22B	9/16/22	9.00%	$66.79	n/a
Farmer Bros (FARM)	JCP Investment Mgt	$97.89M	9/19/22	6.73%	$9.88	nominated directors
Freshpet Inc (FRPT)	JANA Partners	$2.17B	9/22/22	9.89%	$42.76	considering director nominations

One to Watch

Company

Wix.com Ltd (WIX)
Market Cap.: $4.22B
Enterprise Value: $4.19B
Cash: $1.16B
Debt: $1.14B
EBITDA: -$307.41M

Investor

Starboard Value
13F Holdings: $5.50B
# of 13F Positions: 183
Largest Position: $582.69M
Avg. Return on 13Ds: 27.24%
Versus S&P500 avg: 11.59%

Investment

Date of 13D: 9/16/2022
Beneficial Ownership: 9.00%
Average Cost: $66.79
Amount Invested: $345.39M
Highest price paid: $78.43
# of larger shareholders: 1

Starboard has an extensive track record in IT companies, having filed 45 of their total 106 prior 13D's on IT companies. They have also filed on similar companies to Wix such as Register.Com Inc, Web.com (both of which were acquired) and GoDaddy. Wix is a market leader in web development tools that operates in an attractive space with long-term growth tailwinds. They have a sticky business that is not typically impacted in bad economies. Prior to COVID, the Company was growing in the high teens but growth increased to approximately 30% per year during COVID. During this time, the Company increased their cost structure and hired new employees. However, this high growth rate was not a new, perpetual level of growth as much as it was an accelerant of growth and since COVID the Company's growth rate has declined to approximately 10%. As a result, the Company's free cash flow margins declined from 15% to 0%. These margins should not only return to 15% but could exceed 20%. The Company initially targeted 20% FCF margins but that assumed a 20% growth rate. They have since committed to 20% FCF margins by 2025 that is not dependent on 20% growth by implementing a $150 million cost savings program. If the Company is committing to 20%, it is very likely that more than that can be done and we have seen companies significantly exceed their estimates before with Starboard involved. As they have done many times in the past, Starboard will work with the Company to help generate a better balance of growth and profitability. While the Rule of 40 (growth rate plus profit margin) for software companies does not squarely apply here, it is certainly analogous and Starboard could work with the Company to help it achieve double digit growth rates and double digit free cash flow margins. In addition to the cost savings plan, the Company recently announced a plan to buy back $500 million of stock. Sounds like things companies do when they know there is an activist at the door. Whatever the motivation, it is good for shareholders that it appears that the Company and Starboard are on the same page, and it looks like they can work together to increase shareholder value. Starboard has extensive experience in helping companies optimize growth and margins, typically from a board level. We think this would be best done with Starboard getting one or two seats on the Board. While Starboard's primary objective here is operational, when an activist engages with a company, it often puts that company in pseudo-play getting the attention of strategic investors and private equity. While Starboard is not advocating for any strategic transaction, if an offer came in at the right price, they would consider it and do what is best for shareholders. If someone showed an interest in acquiring the Company and the Company decided to sell, Starboard would recommend that the Company sell to the best offer after an arms-length sales process. There is one other similarity between Wix and many other Starboard activist positions. It is run by the founder, who often is not the best person to operate a public company. Moreover, in this case, the Company's co-founder, CEO and director, Avishai Abrahami, co-founder and VP of Client Development, Nadav Abrahami, and Chief Architect of Research and Development, Yoav Abrahami, are all brothers. Also, the President and COO, Nir Zohar, is married to the VP Design & Brand, Hagit Zohar. While this could look like a classic case of nepotism and a founder-led company being run like a private Company, this is not necessarily the case here and not likely a focus of Starboard. This management team developed great products resulting in a best-of-breed, market leader. Moreover, they are already taking steps to focus on operations. This is not about selling the Company or replacing management, but purely working with the Company to focus on free cash flow and shareholder value as opposed to solely focusing on growth.

NOMINATION/STANDSTILL CALENDAR UPDATES

October 2022

Nomination Deadline (Window Open) | Nomination Deadline (Window Closed) | Standstill Expiration Date | Universal Proxy Deadline

Sun	Mon	Tue	Wed	Thu	Fri	Sat
25	26	27	28	29	30	1
2	3 **MEDNAX Inc (MD); Starboard Value**	4 **Aramark (ARMK); Mantle Ridge LP**	5 **Geospace Technologies Corp (GEOS); Sansone Capital Management, LLC** **Oaktree Specialty Lending Corp (OCSL); RiverNorth Capital Management, LLC**	6	7	8
9	10 **Emerson Electric Co (EMR); DE Shaw & Co, LP**	11	12 **HCA Healthcare Inc (HCA); SOC Investment Group**	13	14	15 **Phenixfin Corporation (PFX); FrontFour Capital Group**
16 **Forestar Group Inc (FOR); Cove Street Capital, LLC**	17 **JOHNSON & JOHNSON (JNJ); Trillium Asset Management**	18 **General Electric Co. (GE); Trian Fund Management, LP; SOC Investment Group**	19 **American Homes 4 Rent (AMH); Land and Buildings Investment Management** **Berry Global Group Inc (BERY); Ancora Advisors, LLC**	20 **Griffon Corp. (GFF); Voss Capital LLC**	21	22
23 **NCR Corp (NCR); Engaged Capital LLC**	24	25 **Diebold Nixdorf Inc. (DBD); GAMCO Investors, Inc.**	26	27	28	29
30	31	1 **AECOM (ACM); Starboard Value**	2 **Digitalbridge Group Inc (DBRG); Blackwells Capital LLC**	3 **Aramark (ARMK); Mantle Ridge LP**	4 **Apple Inc (AAPL); California State Teachers' Retirement System** **Geospace Technologies Corp (GEOS); Sansone Capital Management, LLC** **Oaktree Specialty Lending Corp (OCSL); RiverNorth Capital Management, LLC**	5

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NOMINATION/STANDSTILL CALENDAR UPDATES

November 2022

Nomination Deadline (Window Open) | Nomination Deadline (Window Closed) | Standstill Expiration Date | Universal Proxy Deadline

Sun	Mon	Tue	Wed	Thu	Fri	Sat
30	31	1 AECOM (ACM); Starboard Value	2 Digitalbridge Group Inc (DBRG); Blackwells Capital LLC	3 Aramark (ARMK); Mantle Ridge LP	4 Apple Inc (AAPL); California State Teachers' Retirement System Geospace Technologies Corp (GEOS); Sansone Capital Management, LLC Oaktree Specialty Lending Corp (OCSL); RiverNorth Capital Management, LLC	5
6	7 Alerislife Inc (ALR); Senior Star Management Company Xerox Holdings Corp (XRX); Carl Icahn	8	9 New York City REIT Inc (NYC); Comrit Investments 1, LP Walt Disney Co (DIS); Third Point, LLC Yum! Brands Inc (YUM); SOC Investment Group Emerson Electric Co (EMR); DE Shaw & Co, LP	10 CapStar Financial Holdings Inc (CSTR); Gaylon M. Lawrence, Jr. Forestar Group Inc (FOR); Cove Street Capital, LLC	11 HCA Healthcare Inc (HCA); SOC Investment Group	12 Centene Corp (CNC); Politan Capital Management LP
13 Duke Energy Corp (DUK); Elliott Associates, LP Conduent Inc (CNDT); Carl Icahn	14 Big Lots Inc (BIG); Mill Road Capital Management LLC Marathon Petroleum Corp. (MPC); Elliott Associates, LP Strategic Education Inc (STRA); Inclusive Capital Partners LP	15	16 Western Digital Corp (WDC); Elliott Associates, LP JOHNSON & JOHNSON (JNJ); Trillium Asset Management	17 General Electric Co. (GE); Trian Fund Management, LP; SOC Investment Group	18 Corteva Inc (CTVA); Starboard Value Public Storage (PSA); Land and Buildings Investment Management American Homes 4 Rent (AMH); Land and Buildings Investment Management Berry Global Group Inc (BERY); Ancora Advisors, LLC	19 Lumen Technologies, Inc (LUMN); Southeastern Asset Management, Inc. Griffon Corp. (GFF); Voss Capital LLC
20	21	22 NCR Corp (NCR); Engaged Capital LLC	23	24 Diebold Nixdorf Inc. (DBD); GAMCO Investors, Inc. Southwest Gas Holdings, Inc. (SWX); Carl Icahn	25	26
27 Centene Corp (CNC); Politan Capital Management LP	28 Indus Realty Trust Inc (INDT); GAMCO Investors, Inc. Ventas Inc (VTR); Land and Buildings Investment Management	29 Willis Towers Watson PLC (WLTW); Starboard Value ; Elliott Associates, LP	30 Ashford Hospitality Trust Inc (AHT); Cygnus Capital, Inc.	1 AECOM (ACM); Starboard Value Bunge Ltd (BG); DE Shaw & Co, LP	2 Digitalbridge Group Inc (DBRG); Blackwells Capital LLC MEDNAX Inc (MD); Starboard Value	3 Medallion Financial Corp (MFIN); KORR Acquisitions Group, Inc.

UNDER THE THRESHOLD

NEW

On September 22, 2022, **Ancora Advisors** (2.55%) sent a letter to **Kohl's Corp (KSS)** calling for the replacement of CEO Michelle Gass and Board Chairman Peter Boneparth. Ancora stated that if the Company intends to stick to its preferred standalone path, it believes that they need new leadership with demonstrated experience in cost containment, margin expansion, product catalog optimization and turnarounds. Further, Ancora expressed its disappointment in the Company's failed review of strategic alternatives, pointing out the Board's decision to reject several offers to sell in the $64 - 65 per share range. Finally, Ancora highlighted the Company's significant c-suite turnover, declining sales, underperformance to peers and high executive compensation. Previously, in April 2021, Ancora (along with Macellum Capital and Legion Partners) settled for three board seats for Margaret Jenkins, Thomas Kingsbury and Christine Day, all of whom currently serve as directors at the Company.

UPDATES

On September 8, 2022, **Cardinal Health, Inc. (CAH)** announced that Debbie Weitzman will become CEO of the Company's pharmaceutical segment, replacing Victor Crawford. **Elliott Management** previously settled for four Board seats, including one for Steven K. Barg, Global Head of Engagement at Elliott.

Click here to see UTT history

On September 9, 2022, **Third Point** (0.05%) announced that they are no longer pushing **The Walt Disney Company (DIS)** to spin off ESPN. Third Point noted that it changed its mind following CEO Bob Chapek's interview where he stated that he has plans for ESPN to be a big growth engine and a large part of the Company's entertainment offerings. Third Point previously urged the Company to spin off ESPN and accelerate the timetable for purchasing the remaining stake in Hulu, among other strategic suggestions.

On September 30, 2022, Third Point and the Company entered into a Support Agreement, in connection with the Company's announced appointment of Carolyn Everson (former President of Instacart and former VP of the Global Business Group at Facebook, now known as Meta) to the Board, who will be appointed prior to the Company's November meeting which will be held no later than November 30, 2022. Third Point agreed to abide by certain voting and standstill restrictions.

Click here to see UTT history

On September 22, 2022, it was reported that **Elliott Management** (~9.0% economic exposure) is calling on **Pinterest (PINS)** to better monetize its user base or put itself up for sale.

Click here to see UTT history

AROUND THE WORLD

UPDATES

On September 28, 2022, **Mike Cannon-Brookes** (through his private investment arm Grok Ventures) nominated four directors for election to **AGL Energy's (AGL)** Board. Cannon-Brookes has been pushing the Company to speed up the closure of its coal-fired plants and to overhaul its strategy to focus on decarbonization and renewable energy. Previously, Cannon-Brookes blocked the Company's plan to split its coal-fired generation unit from their energy retail business and questioned the promotion of Board member McKenzie to Chair of the Board. On the same date, the Company announced that it would exit coal power by 2035, a decade earlier than previously planned. The Company will shut down Australia's dirtiest power plant by 2035 and the second-most polluting plant between 2030 and 2033.

On September 29, 2022, it was reported that **Crystal Amber** (10%) is seeking board representation at **De La Rue plc.** Crystal Amber has previously criticized the Company's executive pay practices and called for a strategic review that could lead to a sale or break-up.

On September 14, 2022, **Rubric Capital Management LP** sent a letter to **Mereo Biopharma Group plc's** shareholders highlighting the Company's poor corporate governance and performance, and addressing the Company's misleading public statements regarding their attempts to engage with the Board. Additionally, Rubric sent a revised request for a general meeting of shareholders to vote on Rubric's proposals, including their director nominations.

On October 3, 2022, Rubric announced that it has expanded its director slate from four to the following five nominees: Annalisa Jenkins, Daniel Shames, Marc Yoskowitz, Justin Roberts, and David Rosen.

On September 7, 2022, **Richemont S.A.** announced that a majority of shareholders rejected **Bluebell Capital Partners'** director candidate, Francesco Trapani, at the 2022 Annual Meeting and instead voted in favor of incumbent Board member Wendy Luhabe, who will represent A shareholders. Bluebell stated that while this was not an ideal outcome, it is still a victory to have an A shareholder representative on the Board. Additionally, shareholders voted against Bluebell's proposals to double the minimum number of board members and have equal numbers of A and B shareholder representatives on the Board.

On September 16, 2022, **Solvay S.A.** entered into a settlement with **Bluebell Capital Partners** pursuant to which the Company agreed to cut its release of waste into the sea off of Italy and improve production processes. Additionally, the Company will reduce limestone discharge and invest in new technology. Previously, Bluebell and the World Wildlife Fund challenged the Company in court regarding the permit that allowed the Company to pump 250,000 tons of waste into the beach each year.

Click here for more information and
to read about the ongoing situations Around the World

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