

# A guide to managing shareholder activism

**Activists' campaigns can be conducted loudly in the press or quietly behind closed doors. Regardless of the method used, companies should be prepared to deal with activist shareholders – especially as they are becoming more prevalent. A record 226 companies were targeted globally in 2018, compared with 188 companies in 2017<sup>1</sup>.**



Whilst it is not new, LGIM finds that shareholder activism has evolved, and this can therefore appear disruptive for companies:

- It is no longer only practised by a select number of US hedge funds; various other types of activist funds have developed globally.
- It is also no longer an issue limited to US companies, as activism is developing globally and particularly in Europe and Asia.
- Activists are aligning their demands with those of long-term institutional investors to a greater extent and are therefore increasingly supported by the traditional shareholder base.
- Lastly, some traditional institutional investors have started to adopt an activist type of approach to managing their investments (e.g. by submitting shareholder meeting proposals for their own nominees to be appointed to the board).

As shareholder activism is **now established in the governance landscape**, this guide aims to provide companies with an overview on how to help manage a challenging activist situation.

## **Fight activism before you have to deal with it**

We find that shareholder activists target companies' underperformance and vulnerabilities. Their focus is not necessarily limited to the company's financials (i.e. returns, M&A, business organisation); activists are increasingly paying attention to Environmental, Social, and especially Governance (ESG) considerations too.

This is why it is essential that the board remains proactive in its approach before an activist enters the company's share capital. We therefore encourage all boards to **identify their weaknesses** beforehand, **act on them** and also **publicly communicate the steps they are taking**.

In order to do so, the board should not underestimate the **role of the board effectiveness review** as a tool to reflect on the current functioning of the board. These reviews are also an opportunity to question whether the board remains able to navigate the various evolutions and threats the company is facing.

It is **fundamentally important that the board clearly communicates to investors how it is seeking improvement** in the company's strategy, performance and/or governance. Transparency to investors will help demonstrate the board remains proactive in addressing any weaknesses.

<sup>1</sup>Source: Lazard, 2018 Review of Shareholder Activism

Regular and open dialogue with the investor base is essential because **knowing your investors** – and having investors who know you – will prove vital when an activist situation arises, especially when activists rely on their voting power. An open conversation also means that the **board should take investors' comments into account**. Long-term investors who have not been listened to in the past are more likely to support activists who are making similar demands.

#### **In an activist situation: set a robust strategy and be open to dialogue**

Some activists sometimes adopt a quiet approach and do not necessarily make immediate demands to the board. Others can adopt a more aggressive approach with clear requests, which they often make public.

Regardless of the approach used, boards will want to put in place a **robust defence strategy**. They may involve the help of advisers. To ensure and to be able to demonstrate to investors that these advisers are independent, **they should be remunerated on a flat-fee basis and not connected to a transaction**.

**In the context of an activist situation, and especially in the case of a vocal activist, good communication around the company's defence strategy is as important as having a robust strategy in place**. Clear public commitments from the board are vital in reassuring investors that the board has a good grip on the situation. The board should speak with one voice to ensure messaging is consistent.

Having a strong communication strategy in place necessarily involves an open discussion between the board and the company's top shareholders, including the activists. **The board chair should proactively reach out to the company's shareholders to defend the strategy**. The lead independent director should also be ready to step up as more voices help show the board is working well. They are also expected to have a role in cases where the board chair is being challenged.

It should be a two-way discussion and be used by the board chair as an opportunity for the board to consider – and potentially integrate – investors' views. **A board that shows willingness to integrate feedback and work alongside all investors is more likely to be perceived as prepared to evolve**. Some boards may even find it appropriate to take action on activist requests – for instance, by appointing activist representatives on their boards without being pushed into doing so by a shareholder vote. Closing the door to discussion is only likely to trigger hostility.

#### **LGIM's approach to shareholder activism:**

When an activist situation occurs, LGIM generally engages directly with both sides to get a better understanding of the requests of the activists and the positioning of the company. We also take into account other investors' views to help our decision-making. LGIM might agree or disagree with activist proposals. Our approach is to support activists on occasions when we think their proposals can unlock value over the long term for the company and ultimately for our clients' investments.

## **Contact us**

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Legal & General Investment Management Ltd, One Coleman Street, London, EC2R 5AA

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