

THE ACTIVIST REPORT

13D Monitor

Volume 9 Issue 7

July | 2019

THE NEXT BIG ACTIVIST IDEA

Activists make their living by identifying undervalued companies that underperform their peers for specific reasons that the activist can remedy. These reasons include inferior management, bad strategic planning, poor operational execution and financial mismanagement. 13D has identified a business that has not one, but all of these issues, and has had them for the entire 22-year tenure of its high-profile Chairman.

It has underperformed its peers in 17 of the 22 years under its new Chairman, despite outperforming its peers for the ten straight years immediately prior to the tenure of the new Chairman. More recently, it has underperformed its peers every year for the past six years, including coming in dead last among all of its peers in performance last year.

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Under the Threshold

AECOM (ACM): Starboard Value; **Axalta Coating (AXTA):** JANA Partners; **Occidental Petroleum (OXY):** Carl Icahn; **Owens Corning (OC):** HG Vora; **Brookdale Sr. Living (BKD):** Land & Buildings; **Mack Cali (CLI):** Bow Street; **Sony (SNE):** Third Point; **Taubman Centers (TCO):** Land & Buildings; **United Technologies (UTX):** Pershing Square; **United Technologies (UTX):** Third Point

NEW



On June 20, 2019, **Starboard Value** (~4%) sent a letter to **AECOM (ACM)** expressing its belief that the Company should conduct a strategic review of its assets and take the following actions (i) execute operational improvements within the

Design and Consulting Services (DCS) segment to close the EBITDA margin gap to peers, (ii) evaluate a sale of the Construction Services (CS) segment and (iii) develop a plan to improve profitability in the Management Services (MS) segment, and also evaluate a sale of the MS segment in addition to a spin. Starboard believes that the Company's recent operating performance is a result of poor execution rather than a result of uncontrollable external factors.

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Around the World



Bayer AG: Elliott Management; **BCA Marketplace:** Blue Harbour; **Ferguson PLC:** Trian Fund; **Allied Minds:** Crystal Amber; **De La Rue:** Crystal Amber; **FirstGroup:** Coast Capital; **Hudson's Bay:** Land & Buildings; **JR Kyushu:** Fir Tree; **Olympus Corp:** ValueAct

NEW



On June 27, 2019, **Bayer AG** announced plans to resolve multi-billion dollar lawsuits related to its glyphosate litigation issue, which was supported by **Elliott Management** (~2%). The Company also



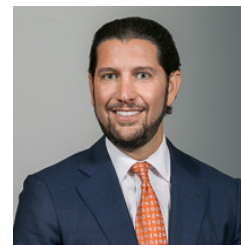
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10 Questions with Andrew Freedman

Andrew Freedman is a Partner and Co-Chair of Olshan Frome Wolosky LLP's Activist & Equity Investment Group. Andy advises some of the nation's most prolific activist



investors, including Starboard Value and Elliott. Andy's practice focuses on shareholder activism, mergers & acquisitions, hostile takeovers and hedge fund strategies such as merger arbitrage and distressed investments. Andy has represented activist investors in connection with hundreds of major shareholder activism campaigns that have led to the replacement of approximately 700 public company directors. Notably, Andy was an integral part of the team that led the representation of Starboard Value on its "historic" full board victory at Darden Restaurants; H. Partners on its successful, precedent setting withhold campaign at Tempur Sealy; Starboard Value in its successful settlement at Yahoo!; and Elliott Management in its successful campaign at Arconic. He also has experience advising on activist campaigns in Canada and has a strong understanding of

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THE NEXT BIG ACTIVIST IDEA (cont'd. from pg. 1)

It has consistently had the most inferior management in its industry and has gone through six CEOs in the past 10 years and four in the past four years.

Their financial mismanagement is legendary, squandering money every year while continuing to underperform. A prime example of this is hiring a senior manager in 2014, paying him \$40 million over four years while they suffer some of their worst underperformance ever, and firing him in 2017 while continuing to pay him \$20 million for the next two years for nothing.

Operationally, they cannot get out of their own way. The Chairman has consistently, publicly and vocally criticized and condemned many of their most loyal customers and even got into a public physical altercation with one of its previous employees who was still admired by virtually all of its customers.

Its strategic planning has been laughable, most recently divesting the most valuable asset it has developed in 20 years to raise enough money to acquire two new assets, only to get outbid for both of those assets by its fiercest competitor.

Despite all of these issues, the business has a brand that gets more valuable every year, huge consumer demand, tremendous pricing power and operates in an oligopoly. If any activists are listening, please engage immediately!!!

[CLICK HERE TO SEE TARGET](#)

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

the rules and regulations governing Canadian companies.

13DM: You have a leading practice in activist representation. How has the composition of your clientele changed over the past five or ten years? Are you seeing a lot more clients doing “one-off” activism versus clients that are dedicated activist funds? What are the different challenges between representing experienced activists and novice activists?

AF: We have always taken an “equal opportunity” approach to taking on various types of clients interested in deploying all forms of activist strategies. For this reason, over the past 10 years the composition of our client base has been both robust and diverse. I can’t remember any point in time when we weren’t working on a high-profile proxy fight for a seasoned, top-tier activist while also working with a first-time activist on a relatively off-the-radar

situation. Because of the consistency in the breadth of our representation throughout the years, I can’t say that there has been any significant change to our clientele that particularly stands out. One continuing trend that we first told you about a few years ago is the steady increase in our “reluctant” clientele. Reluctant, or historically passive value investors who engage in an activist campaign to protect their investment as a last resort, continue to seek our advice for one-off situations. While I personally enjoy working with first-time activists and always share the excitement they feel when they get an ISS endorsement or win a board seat, the hand-holding that may be necessary to guide the client through the process, particularly the mechanics, can be challenging. Another trend we are seeing is the established, long-time activists casting wider nets, including in Europe and Asia, and doing far deeper dives into company financials and pub-

lic filings when it comes to identifying and analyzing potential targets. The challenges here relate to targets that are incorporated and trade outside the U.S. and/or subject to highly specialized industry regulation, such as banking, insurance or gaming laws. Fortunately, we have a growing global network of law firms and advisors that we can frequently tap into for assistance.

13DM: Years ago it was easy to spot poor corporate governance practices – staggered boards, plurality voting in uncontested elections, etc. Today, companies are much more subtle with practices like director questionnaires, consent to name dissident nominees in the proxy, etc. What are your views on these practices?

AF: There is certainly a new wave of egregious, entrenchment-driven governance practices that are being deployed by overzealous defense advisors in an

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ANDREW FREEDMAN (cont'd. from pg. 2)

attempt to thwart shareholder nominations and chill activist campaigns. One such problematic entrenchment device we've seen become an unfortunate trend over the past two proxy seasons is for companies to take what should otherwise be innocuous director nominee questionnaires and transform them into onerous and open-ended nomination traps. Some of these nominee questionnaires, once completed, can run upwards of 120 pages. But it gets worse. After delivering a 500 page nomination letter, which includes a completed questionnaire for each nominee, the company's outside counsel then spends countless hours (and shareholder capital) reviewing hundreds of pages of these completed questionnaires to concoct a list of purported "defects" that find their way into a 10+ page letter from such counsel questioning the validity of the shareholder's nominations.

What ensues is an expensively time-consuming, wasteful and unnecessary back-and-forth

exercise between defense counsel and activist counsel geared around silly and frivolous technicalities buried in a nominee questionnaire. You should also know that these director nominee questionnaires, which are becoming a household bylaw requirement, look nothing at all like the typical director and officer questionnaires that board members, themselves, are required to complete annually. If there weren't nefarious intentions behind these absurdly long-winded shareholder nominee questionnaires, then why would defense advisors require shareholder-nominated directors to fill out questionnaires that are any different from

those being required of board-nominated directors. We will soon be releasing a side-by-side of a typical director and officer questionnaire versus a director nominee questionnaire so everyone can clearly see just how egregious they are. These tactics are being perpetrated by defense advisors to frustrate shareholder democracy and make the nomination process as expensive as possible for the activist. A proxy contest should be waged on the merits and not upended on some silly technicality. We suspect public company boards are unwittingly giving their defense counsel carte blanche to go after activist investors without fully thinking through the ramifications for them in attempting to so blatantly thwart corporate democracy. Accountability for these activities starts and ends with the board members, not their advisors. We're also seeing nominee questionnaires being used to trick

appear on the company card, the advisory firm may also recommend that shareholders complete the company's card instead of the activist's card. Finally, if the company believes that recommending and soliciting proxies for the election of one of the dissident nominees could give it a strategic advantage in the contest, it would be able to do so by including the dissident nominee on its card. Shareholders should not submit questionnaires without first having them vetted for these traps by experienced counsel.

13DM: Are there any other egregious corporate governance practices today that are flying under the radar of the average shareholder?

AF: One of the most egregious, entrenchment practices that we suspect companies and their advisors may be

"... since January 1, 2018, our activist clients have nominated over 75 female director candidates."

perpetrating, but have not yet been able to prove, is in meddling with the process for shareholders to move shares into record name via the company's transfer

agent. In what is an archaic, outmoded requirement under most companies' bylaws, a shareholder must be a "holder of record" in order to nominate director candidates. While not an issue for veteran activist investors, certain newcomers may be unaware of this requirement and find themselves scrambling to move shares into record name just days before a nomination deadline. In the past, it has taken an average of 2-3 business days to get shares placed into record name, which entails the activist's broker giving the appropriate instructions to the company's transfer agent. However, during the current proxy season, we have become aware of situ-

agent. In what is an archaic, outmoded requirement under most companies' bylaws, a shareholder must be a "holder of record" in order to nominate director candidates. While not an issue for veteran activist investors, certain newcomers may be unaware of this requirement and find themselves scrambling to move shares into record name just days before a nomination deadline. In the past, it has taken an average of 2-3 business days to get shares placed into record name, which entails the activist's broker giving the appropriate instructions to the company's transfer agent. However, during the current proxy season, we have become aware of situ-

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

ations where such requests initiated well in advance of a nomination deadline were rejected by the transfer agent with no clear explanation, resulting in a shareholder missing a nomination deadline. Moving shares into record name has always been a relatively routine and seamless process, and we can't imagine how these recent requests were bounced by the transfer agent without some outside intervention. Transfer agents are employed by companies and take direction from company employees. There are times during the fiscal year where companies may instruct the

transfer agent to close the books of the company for a period of time, thereby restricting book-entry movement of securities. Companies should be aware that any attempts to interfere with the process by which a shareholder seeks to place shares in record name, whether directly or through their advisors, for the purpose of frustrating a shareholder nomination constitutes a blatant abuse of their corporate machinery that we believe any court would view as an illegal entrenchment scheme.

13DM: What are you seeing with respect to board diversity? Are activists making an effort to include diverse candidates in their board slates?

AF: In a December 2017 client alert, we began advising our activist clients to include diversity as a key criterion in selecting their slates of nominees and, in the case of short-slate contests, identifying the incumbent directors they will seek to replace. In the client alert, we stated the following, which still rings true today: "An activist's likelihood of

success in an election contest is inextricably tied to the qualifications and expertise of the activist's director slate. Based on the un-ebbing wave of board diversity awareness and volume of research extolling the strengths of diverse boards, highly-qualified dissident nominees with diverse backgrounds not

"I think people have realized that it's critical to expand the pool of public company directors and you can't get there by making board experience a prerequisite."

only improve the quality of the overall dissident slate — and are therefore more likely to be viewed favorably by shareholders — but are also more likely to be better positioned to advance the activist's platform once elected to the board." Since then, our activist clients have been extremely receptive to this advice and have made terrific progress nominating diverse candidates. We are proud to report that since January 1, 2018, our activist clients have nominated over 75 female director candidates. The days of the 'old boys' club' in corporate America are now largely gone. But it's about more than just numbers, and I suspect the next big push will be qualitative in terms of cementing the substantive leadership roles of women in the boardroom and ensuring they have equally powerful voices as their male counterparts.

13DM: There are many directors who are overboarded partly because activists and companies look for board experience to fill their slates. This issue is exacerbated for female directors. Is board

experience integral for a candidate in a proxy fight? Isn't industry experience more important?

AF: It's undoubtedly important for there to be board experience across an activist slate. You really can't afford to nominate a slate of director candidates where none of the nominees have any public company board experience. Yet, at the level of the individual nominee, board experience has taken a back seat to diversity over the past few years. I think people have realized that it's critical to expand the pool of public company directors and you can't get there

by making board experience a prerequisite. Especially among women, we're seeing more and more highly-qualified executives with relevant skillsets being nominated on slates irrespective of their lack of board experience. You have to start somewhere. Having one or two first-time directors on a board diversifies the matrix of the overall board's composition. First-time directors tend to be younger, more engaged and better informed as board members and also more attuned to current industry trends than veteran directors. As in any good team there should be a mix of styles and strengths on boards. There is an overwhelming momentum now in favor of greater gender and ethnic diversity, which, in turn, is introducing to the boardroom a variety of experiences, perspectives, interests and expertise.

13DM: There is a lot of talk about universal ballots lately. What is your position on them? What are the pros and cons of universal ballots.

AF: We have seen an increase in the pro-

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

posed use of universal ballots, not just by management but also by our activist clients. The obvious virtue of a universal ballot is to give shareholders the opportunity to vote for a full slate of directors and mix and match their votes among all candidates up for election. Without a universal ballot, shareholders can only achieve this result with certainty if they attend the annual meeting in person and take out a legal proxy to split their votes. However, without agreement between both sides on the use of a universal ballot and its presentation, a universal ballot remains ripe for manipulation. We've

seen some companies push for a universal ballot to convince institutional investors and index funds that they are stewards of best corporate governance, only then to turn around and try to impose requirements on the presentation of the universal ballot that would make it confusing for shareholders to understand the voting recommendations of the activist investor. Since the SEC has not adopted rules on how a universal proxy card must appear, companies and activists must negotiate the presentations of their respective cards, which has resulted in different presentations in the fights we've seen use or attempt to use a universal card. It should be interesting to see how best practices evolve over time.

13DM: How do you think passive index funds and the rise of passive investing has fundamentally reshaped the activist playbook?

AF: The impact of passive index funds

on shareholder activism, particularly BlackRock, Vanguard and State Street – often referred to as the “Big Three” – cannot be ignored. For mid-cap to mega-cap companies, there is a very good chance that the Big Three will be significant shareholders. By putting boards of these companies on notice on how they will vote or not vote on director elections and other proposals based on internal comprehensive proxy voting guidelines, the large index funds are promoting good corporate gov-

ernance and holding boards accountable for poor performance without any direct intervention. As a result, the Big Three have garnered much praise for essentially throwing their voting weight around to cause companies to address corporate governance and operational concerns that shareholder activists have traditionally raised. A major challenge for dissidents in a proxy contest, however, can be garnering the attention of these index funds in certain proxy fights. Ultimately, we do not believe for a minute that the index fund industry will lead to the demise of traditional shareholder activism. Instead, the two strategies will continue to co-exist as activists have already accepted the reality that they will need to adjust their strategies based on the presence of a large index fund in any portfolio company targeted by the activist. The likelihood of one or more index funds voting with management or the dissident in any particular situation will drive key strategic decisions such as

whether to nominate a slate or conduct a withhold campaign, the size and composition of the slate and how quickly the activist should be willing to settle. The art of accurately handicapping how an index fund will vote in contested situations will be how advisors, particularly proxy solicitation firms, will show their worth.

13DM: Are there any new developments in shareholder activism that have caught your attention of late?

promising for shareholder activism at publicly traded banks. Historically, activist investors have shied away from investing in banks due to subjective regulations in the banking world that limit the level of “control” or influence that outside investors can wield. In April, the Federal Reserve Board (FRB) invited public comment on a proposal to revise the FRB’s rules for determining whether an investor “controls” a bank for purposes of the Bank Holding Company Act of 1956 (BHCA). The proposal is intended to clarify how the FRB decides whether an investor exercises a “controlling influence” over a bank. If an investor has a controlling influence, and thus control, over a bank, the investor generally becomes subject to regulation as a bank holding company under the BHC Act. The FRB’s current framework for making control determinations is complex and difficult to understand. As a result of the uncertainty surrounding whether an investment in a bank would constitute control under

“The art of accurately handicapping how an index fund will vote in contested situations will be how advisors, particularly proxy solicitation firms, will show their worth.”

AF: Yes, in fact one recent development that we are following is quite

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

the current control framework and the consequences of becoming subject to bank holding company regulation, we have always advised our activist clients to proceed with caution when it comes to bank-related activist campaigns. The proposal would simplify the FRB's control framework and establish a broad set of rules that specifically cover areas that are highly relevant to shareholder activists, such as ownership thresholds, board representation and election contests. The level of predictability to the control analysis that the proposed rules would bring, as well as more permissive director representation and election contest standards, could quickly attract shareholder activists to the banking sector.

13DM: Many people make a lot out of activist defense measures like staggered boards and bylaws rules that make it hard for shareholder to affect change. Yet, you represented H Partners when they achieved substantial board changes at Tempur Sealy simply through a withhold vote campaign. Has it gotten to a point that an activist could win a campaign purely through social pressure?

AF: It's entirely possible to mount external pressure on a board through non-traditional means when all else fails, but that doesn't excuse the entrenchment actions we have been seeing lately aimed at thwarting shareholder nominations. As discussed earlier, defense advisors are making it much more time consuming to nominate directors today as many companies are adopting enhanced nomination procedures in their bylaws requiring lengthy and unnecessary disclosure regarding the nominating shareholder, its beneficial ownership, its nominees through related questionnaires and, in some cases, irrelevant internal fund offering

documents and fund-related compensation arrangements. We have even seen recent bylaws adopted that have purported to require the nominating shareholder and each of its affiliates to complete and submit director questionnaires, themselves, even where there is no direct fund representative being nominated. Such nomination procedures are designed to make activists spend more money to exercise their right to nominate directors. Even where an activist has missed a nomination deadline or a company goes so far as attempting to reject nominations on some frivolous grounds, there are other ways to skin the cat. Depending on the governing documents of the company and applicable state law, shareholders may have the ability to seek to remove and replace directors by calling a special meeting or taking action by written consent in lieu of a meeting. If an activist still desires to take some form of action at the annual meeting, an alternative strategy outside the traditional nomination process for effectuating change on the board is the withhold campaign. In the H Partners situation, our client decided to run a withhold campaign against Tempur Sealy after the nomination deadline had already passed. It was novel because the withhold campaign H Partners ran was conducted just like an actual proxy contest with a proxy card, fight deck, and mailings. The whole nine yards. The three incumbent directors targeted in the withhold campaign were the Chairman, CEO and Chair of the Nominating and Governance Committee. H Partners devoted the same time and resources to the withhold campaign that it would have otherwise devoted to a traditional election contest and was successful preventing the three incumbents from receiving a majority vote by a significant margin. As a result, under the company's director resignation policy,

the three incumbent directors were required to tender their resignations that the board could either accept or disregard at its discretion. Rather than ignoring the clear will of shareholders and allowing these incumbents to continue to serve, the company agreed to a settlement resulting in significant leadership changes, including the immediate termination of the CEO, the resignation of the three targeted incumbent directors and board representation for H Partners. This is a great example of how an alternative strategy was used to influence a board outside the ordinary nomination process and a company doing the right thing by listening to its shareholders.

13DM: What do you think is the biggest myth about activism or activist investors?

AF: The biggest myth about activists is that they are myopic, short-term investors looking to make a quick buck at the expense of the company and the other shareholders. This simply is not the case and we already discussed above the empirical evidence showing that activism is not detrimental to companies or the economy. Based on our own experience, investment holding periods of activists are on average higher than those of traditional institutional investors. We have clients that have been in the same stock for over 15 years. Shareholder activism would not have become a mainstream form of investing if activists sold their stock immediately after a fleeting bump in the stock price after winning an election contest or entering into a settlement agreement or after one of its value enhancing proposals is adopted by the company. This type of short-sighted activity could actually harm an activist's franchise and prevent it from being taken seriously by the investment community in future situations.

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New 13D Filings for June

Company Name	Investor	Mkt. Cap.	Filing Date	%	Cost	Item 4 Action
Immersion Corp (IMMR)	VIEX Capital	\$239.81M	6/4/19	10.29%	\$8.95	replace incumbent directors
GCP Applied Technologies (GCP)	Starboard Value	\$1.92B	6/6/19	6.41%	\$25.59	settled for board seats
Red Robin Gourmet Burgers (RRGB)	Vintage Capital	\$330.12M	6/13/19	11.57%	\$30.62	sell company/replace CEO
Callaway Golf Co (ELY)	JANA Partners	\$1.50B	6/13/19	9.50%	\$15.71	discuss strategic alternatives with co.

New UTT Filings for June

Company Name	Investor	Mkt. Cap.	Action Date	%	Cost	Action
AECOM (ACM)	Starboard Value	\$5.75B	6/20/19	~4.0%	n/a	conduct strategic review, evaluate asset sales
Owens Corning Inc (OC)	HG Vora Capital	\$5.93B	6/27/19	n/a	n/a	urging company to explore strategic options

One to Watch

Company	Investor	Investment
Callaway Golf Co (ELY) Market Cap.: \$1.50B Enterprise Value: \$1.88B Cash: \$78.94M Debt: \$466.48M EBITDA: \$135.28M	JANA Partners, LLC 13F Holdings: \$1.05B # of 13F Positions: 9 Largest Position: \$415.04M Avg. Return on 13Ds: 25.54% Versus S&P500 avg: 9.41%	Date of 13D: 6/13/2019 Beneficial Ownership: 9.50% Average Cost: \$15.71 Amount Invested: \$140.37M Highest price paid: \$16.09 # of larger shareholders: 1

JANA has had extensive and unique activist success in the consumer retail space and their involvement has led to sales of PetSmart, Safeway and Whole Foods. Like in many of its past activist situations, JANA has teamed up with an all-star group of operators to assist in developing its thesis, consult with and, if need be, potentially be board nominees. Cindy Davis was the president of Nike Golf, Roger Farah was the President and Executive Vice Chairman of Ralph Lauren and James Lillie was CEO of Jarden, a business that also comprised both soft and hard good products. CEO Oliver Brewer has done an excellent job operating the Company's core golf business but has had less success in capital allocation and monetizing assets on the balance sheet. The Company owns apparel brand Travis Matthew which it has been growing, and on January 4, 2019, acquired Jack Wolfskin, an outdoor apparel, footwear and equipment brand, for \$476 million. This business has virtually no relation to the core business and has performed poorly since the acquisition leading to the Company taking down its guidance after just the first quarter and a steep decline in the Company's stock price. The Company also has a hidden asset in Topgolf, the golf party venue, sports bar and restaurant chain. This is a private company that has been raising money at valuations implying a \$5 per share value for Callaway's stake, yet attributes no value to Callaway's current stock price. There are opportunities to create value here by divesting the clothing businesses, monetizing Topgolf and optimizing capital allocation, but just like JANA did with Whole Foods, Petsmart and Safeway (which also had double digit short interests at the time), the main opportunity here is to sell the Company. Callaway is one of three strong brands in the golf equipment industry, an oligopoly that Nike could not even break into. Moreover, it is a trophy asset that could get interest from private equity, sovereign wealth funds or wealthy individuals. Private equity owns TaylorMade and a Korean group associated with Fila Korea, Ltd. and Mirae Asset Private Equity own Titleist. If a sale does not happen, JANA will likely talk with the Company about putting some of its consultants on the Board. However, this is unlikely to get contentious as the Company has cumulative voting so JANA would be guaranteed at least one board seat and it is hard to deny the board could use some refreshing with four of its ten directors older than 72 and serving for more than 15 years, including its 80 year old Chairman.

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NOMINATION/STANDSTILL CALENDAR UPDATES

July 2019						
■ Nomination Deadline (Window Open) ■ Nomination Deadline (Window Closed) ■ Standstill Expiration Date						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
30	1 Symantec Corp (SYMC); Starboard Value	2	3 Unifi Inc. (UFI); ValueAct Capital Window Closes Aug 02, 2019	4 Ascena Retail Group Inc (ASNA); Stadium Capital Management, LLC Window Closes Aug 03, 2019	5	6 Brookdale Senior Living Inc. (BKD); Land and Buildings Investment Management; Macquarie Investment Management RPM International Inc (RPM); Elliott Associates, LP
7	8 Innerworkings Inc (INWK); Engine Capital, L.P.	9 Zayo Group Holdings Inc. (ZAYO); Sachem Head Capital Management; Starboard Value Window Closes Aug 08, 2019	10	11	12	13 A10 Networks Inc. (ATEN); VIEX Capital Advisors, LLC Window Closes Aug 12, 2019
14	15 Twin Disc Inc. (TWIN); GAMCO Investors, Inc.	16	17 Cadiz Inc (CDZI); Water Asset Management LLC Window Closes Aug 16, 2019	18 Cracker Barrel Old Country Store Inc (CBRL); Biglari Holdings Inc. Window Closes Aug 17, 2019 Altaba Inc (AABA); Starboard Value	19	20 Telenav Inc. (TNAV); Nokomis Capital, LLC Window Closes Aug 19, 2019
21	22 Roadrunner Transportation Systems Inc. (RRTS); Elliott Associates, LP Window Closes Aug 21, 2019	23	24	25	26 MidSouth Bancorp Inc (MSL); Jacobs Asset Management, LLC The Standstill Period will terminate on the earliest of (a) following the nine month anniversary on the date of this Agreement, the Board Observer's delivery of written notice to the Company that he has terminated the Agreement, (b) following the second anniversary of the date of this Agreement, the Company's delivery of written notice to the Board Observer that it has terminated the Agreement and (c) following Jacobs owning less than 5% of the Company's stock.	27
28 A10 Networks Inc. (ATEN); VIEX Capital Advisors, LLC The Standstill Period is from the date of the agreement until 11:59 p.m., Pacific time, on the day that is fifteen business days prior to the deadline for the submission of stockholder nominations of directors and business proposals for the 2019 Annual Meeting.	29	30	31 Landec Corp. (LNDG); Wynnefield Capital	1 Tuesday Morning Corp. (TUES); Jeereddi Partners, LLC The Standstill Period shall mean the period from the date of execution of this Agreement until the later of (x) the date that is the first day to submit stockholder nominations for the 2019 annual meeting of stockholders pursuant to the Company's Bylaws and (y) the date that the New Director no longer serves on the Board; provided, however, that if the New Director is not re-nominated by the Board for election at the 2018 Annual Meeting, the Standstill Period shall end thirty days following the conclusion of the 2018 Annual Meeting; and provided, further, that if the New Director resigns	2 Unifi Inc. (UFI); ValueAct Capital	3 Ascena Retail Group Inc (ASNA); Stadium Capital Management, LLC

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NOMINATION/STANDSTILL CALENDAR UPDATES

August 2019

■ Nomination Deadline (Window Open)
 ■ Nomination Deadline (Window Closed)
 ■ Standstill Expiration Date

Sun	Mon	Tue	Wed	Thu	Fri	Sat
28 A10 Networks Inc. (ATEN); VIEX Capital Advisors, LLC The Standstill Period is from the date of the agreement until 11:59 p.m., Pacific time, on the day that is fifteen business days prior to the deadline for the submission of stockholder nominations of directors and business proposals for the 2019 Annual Meeting.	29	30	31 Landec Corp. (LNDC); Wynnefield Capital	1 Tuesday Morning Corp. (TUES); Jeereddi Partners, LLC The Standstill Period shall mean the period from the date of execution of this Agreement until the later of (x) the date that is the first day to submit stockholder nominations for the 2019 annual meeting of stockholders pursuant to the Company's Bylaws and (y) the date that the New Director no longer serves on the Board; provided , however , that if the New Director is not re-nominated by the Board for election at the 2018 Annual Meeting, the Standstill Period shall end thirty days following the conclusion of the 2018 Annual Meeting; and provided , further , that if the New Director resigns for any reason prior to the 2019 Advance Notice Date, the Standstill Period shall continue until the 2019 Advance Notice Date.	2 Unifi Inc. (UFJ); ValueAct Capital	3 Ascena Retail Group Inc (ASNA); Stadium Capital Management, LLC
4 Telenav Inc. (TNAV); Nokomis Capital, LLC The Standstill Period is from the date of the Agreement until 11:59 PM, Pacific Time, on the day that is 15 days prior to the deadline for stockholder nominations of directors for election at the 2018 Annual Meeting. However, if the Company agrees to nominate the newly appointed director at the 2018 Annual Meeting, the Standstill Period will be extended until 11:59 PM Pacific Time on the day that is 15 days prior to the deadline for stockholder nominations of directors for election at the 2019 Annual Meeting and (b) if at any time Nokomis ceases to own at least 5% of the Company's outstanding shares, then the Standstill Period will immediately terminate.	5	6 Cars.com Inc (CARS); Starboard Value	7	8 Hill International Inc (HIL); Engine Capital, L.P. Window Closes Sep 06, 2019 Zayo Group Holdings Inc. (ZAYO); Sachem Head Capital Management; Starboard Value	9	10
11	12 A10 Networks Inc. (ATEN); VIEX Capital Advisors, LLC	13	14	15	16 Cadiz Inc (CDZI); Water Asset Management LLC	17 Cracker Barrel Old Country Store Inc (CBRL); Biglari Holdings Inc.

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NOMINATION/STANDSTILL CALENDAR UPDATES

August 2019 cont.

Sun	Mon	Tue	Wed	Thu	Fri	Sat
18	19 Telenav Inc. (TNAV); Nokomis Capital, LLC	20	21 Roadrunner Transportation Systems Inc. (RRTS); Elliott Associates, LP	22	23	24
25 Actuant Corp (ATU); Southeastern Asset Management, Inc. Window Closes Sep 24, 2019	26	27	28	29	30	31 Campbell Soup Co. (CPB); Third Point, LLC Window Closes Sep 30, 2019

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UNDER THE THRESHOLD

NEW



On June 21, 2019, it was reported that **JANA Partners** has built a stake in **Axalta Coating Systems Ltd (AXTA)**. The Company recently announced that it has initiated a review of strategic alternatives.



On June 26, 2019, **Carl Icahn** filed a preliminary proxy statement with respect to his investment in **Occidental Petroleum Corporation (OXY)** calling for the election of four new directors and the formation of a new Strategic Review Committee. Icahn believes that the Company's current directors have made a number of mistakes in how they pursued the acquisition of Anadarko Petroleum Corporation. Icahn also believes that changes to the Company's by-laws are needed in order to remove provisions that impede the rights of stockholders to call a special meeting or to act by written consent.



On June 27, 2019, it was reported that **HG Vora Capital Management** is building a stake in **Owens Corning Inc (OC)** and urging management to explore strategic options.

UPDATES



On July 3, 2019, **Land & Buildings Investment Management, LLC** delivered notice to **Brookdale Senior Living Inc. (BKD)** of its nomination of James F. Flaherty III and Jonathan Litt for election to the Company's Board at the Company's 2019 Annual Meeting.



On June 18, 2019, at **Mack-Cali Realty Corporation's (CLI)** 2019 Annual Meeting, shareholders elected all four of **Bow Street LLC's** (4.5%) director nominees: Alan R. Batkin, Frederic Cumenal, MaryAnne Gilmartin, and Nori Gerardo Lietz.



On June 13, 2019, **Third Point LLC** (2.29%) sent a letter to its investors expressing its belief that **Sony Corporation (SNE)** should: (i) consider a spin-off of its semiconductors division into a standalone public stock, renamed Sony Technologies, to be listed in Japan, (ii) position "New Sony" as a leading global entertainment company, (iii) consider the divestiture of its public equity stakes in Sony Financial, M3 Inc, Olympus, and Spotify and (iv) optimize its capital structure. Third Point believes that the Company's portfolio needs to be less complicated.

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UNDER THE THRESHOLD

UPDATES

Taubman On June 11, 2019, **Land & Buildings Investment Management, LLC** sent a letter to **Taubman Centers, Inc.'s (TCO)** shareholders expressing its belief that the Company should take the following actions: (i) exit Asia, which it believes would increase annual earnings, materially reduce debt and eliminate future capital commitments, (ii) sell or spin-off the "jewel box" assets and (iii) reverse a nearly decade long trend of meaningfully lowering forward consensus estimates. Land & Buildings noted that at the Company's 2020 Annual Meeting, the Board will be fully de-staggered and that all directors will be up for re-election, including Chairman, President and CEO Bobby Taubman. Land & Buildings intends to take any action that it deems necessary to hold the Board and Taubman accountable at the 2020 Annual Meeting, including through the nomination of directors.



On June 9, 2019, **Pershing Square Capital Management (0.7%)** sent a letter to **United Technologies Corp's (UTX)** CEO, Greg Hayes, urging him to call off the Company's planned merger with Raytheon Co. (RTN). Pershing Square noted that if the Company follows through with the merger, Pershing Square will oppose it, publicly if needed, as would a substantial majority of other shareholders.



On June 28, 2019, **Third Point, LLC (0.75%)** sent a letter to **United Technologies Corp's (UTX)** Board calling on them to reevaluate the Company's proposed merger with Raytheon Co. Third Point stated that it would vote against the deal in its current form, questioned the strategic and financial rationale of the deal and warned that the complicated combination could distract senior executives.



AROUND THE WORLD



NEW



hired an external lawyer to advise its supervisory board and set up a committee to help resolve the litigation issue, in which the Company's glyphosate weedkiller was accused of causing cancer.



On June 26, 2019, following the announcement of **BCA Marketplace Plc's** agreement to be acquired by TDR Capital for £243 pence per share, **Blue Harbour Group, LP (~5%)** issued a press release stating that the Company is an attractive candidate for private equity and that it commends the Company on pursuing the process that led to this agreement.



On June 13, 2019, **Triam Fund Management LP** announced that it has built a 6% stake in **Ferguson Plc (FERGY)**.



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AROUND THE WORLD



UPDATES

ALLIED MINDS



On June 12, 2019, **Crystal Amber** announced that following **Allied Minds Plc's** rejection of its attempt to discuss the Company's strategy with them, Crystal Amber is considering calling a shareholder meeting to replace the Company's current directors.



On June 20, 2019, Peter Dolan, the Chairman of Allied Minds plc and Kevin Sharer, a director of the Company, stepped down from the Company. The departures follow Jill Smith's announcement that she will step down as CEO. Crystal Amber previously demanded a breakup of the Company and an overhaul of its pay policy.



DeLaRue

On June 24, 2019, after **Crystal Amber** (5%) advocated for his departure, Philip Rogerson, the current Chairman of **De La Rue plc**, announced that he plans to retire. CEO Martin Sutherland also announced his planned departure in May 2019.



On June 25, 2019, at **Coast Capital's** (9.7%) special shareholder meeting at **First-Group**, shareholders voted overwhelmingly against Coast Capital's proposals to oust six board members and replace them with its own candidates, with only around 25% of shareholders siding against the incumbents. However, following the vote, chairman Wolfhart Hauser announced that he would step down from the Company at its next



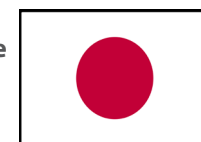
annual shareholder meeting in July.



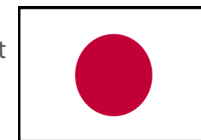
On June 18, 2019, **Land & Buildings Investment Management, LLC** expressed its belief that a C\$1.74 billion (\$1.30 billion) go-private proposal from **Hudson's Bay Co's** chairman and other shareholders is inadequate. Land & Buildings believes that the Company should consider strategic alternatives and hire an independent investment bank to examine the value of its real estate and retail banners.



On June 21, 2019, at **JR Kyushu's** Annual Meeting, shareholders voted against **Fir Tree Partners'** three director nominees and shareholder proposal related to a share buyback.



On June 25, 2019, **Olympus Corp** announced that it approved a proposal to appoint Robert Hale, a partner at **ValueAct Capital**, as a director on the Company's Board.



[Click here for more information and to read about the ongoing situations Around the World](#)

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(for Activist and Defense Board Nominees)

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