

Activism returns with softly-softly approach

Activist investors are starting to find their voice again but this time their claws are not out, writes Harriet Agnew

Activist hedge funds, which once instilled fear in corporate boardrooms across the globe, are baring their teeth again after a few quiet years. But the aggressive stances of yesteryear are in many cases being replaced with a more softly-softly approach.

In November, Chris Hohn's activist hedge fund The Children's Investment Fund ousted the chairman of Australia's Infigen Energy, marking the return to activism for the firm after being quiet for over a year.

Last Wednesday, Barington Capital, an activist hedge fund, called for the ousting of Ameron International chief executive James Marlen.

The last time Barington publicly pushed for a chief executive to be replaced was in 2007, when the firm was working on a turnaround at plastics company A Schulman. Also last week, fund manager F&C Asset Management urged shareholders to reject a campaign by activist investor Sherborne Investors to oust the firm's chairman.

New activist funds are hitting the market. In December, Carl Icahn's longtime right-hand man, Keith Meister, announced he was launching a new event-driven hedge fund, seeded by George Soros's firm Soros Fund Management.

Activist funds, which tend to be concentrated, value-style investors using little leverage, typically build up a large stake in a company in order to agitate for change. Due to their long bias, they are often very correlated to equity markets, and many of them took a battering in 2008.

However as markets have recovered and confidence has returned, the stage is set for the return of activist hedge funds.

Many of them performed strongly last year, when the average hedge fund failed to keep pace with the markets. Work done behind the scenes during the downturn paid off, according to Harlan Zimmerman, senior partner at Europe's largest activist hedge fund Cevian Capital, which manages €3.5bn and whose fund was up more than 40% in 2010.

Investors are starting to believe activism can add value. Capital markets have thawed, aiding financing for leveraged buyouts



Tamer, but still has teeth: the activists' fierce approach has been softened, although not by everyone

and mergers and acquisitions. More M&A is a boon for activists, who typically look to exit their investments by selling a company. The corporates that are sitting on record levels of cash are prime targets for agitators, who will argue for the return of some of this to shareholders.

Moreover, as a greater proportion of the market is passively managed by exchange-traded and passive funds, the voice of active shareholders carries more weight.

Long-term view

While activity is picking up, the activist approach is changing. Even hard-nosed agitators seem to be softening. Julian Treger, founder of Audley Capital, known for playing hardball with management, said he has renounced his hostile approach.

Treger said: "The reputational baggage of being a hostile person made engaging with companies more difficult. Getting informational was more complicated and expensive and took longer."

Zimmerman said: "Aggressive, negative activism was discredited during the downturn, because it relied on short-term focused tools such as hunting in packs to put pressure on companies to lever up and pay jumbo dividends, or to put those companies in play for takeovers. These were of no use in the downturn when capital was scarce and there was no M&A."

Event-driven funds were often behind this kind of activism. During 2008, many of them ended up

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Julian Treger,
Audley Capital

having to gate, suspend redemptions and impose side pockets because they were unable to sell positions fast enough to meet redemptions from investors.

The crisis caused many of the so-called "part-time activists" – namely event-driven hedge funds that had strayed into the area – to pull back. For the pure activists that remained, the cheap valuations of many companies suited their deep-value research and longer-term approach. Typically these funds had a stable capital base from investors.

Franck Berlamont, chief execu-

tive of Geneva Partners, which manages the Global Activist Fund, said: "Operational activism is now dominating the approach as opposed to financial engineering. These managers invite themselves to the board and think the way a top consultant might do."

Much of the work takes place behind the scenes. Berlamont said: "The fights are a lot less public. Successful activists don't need to be as aggressive as they already have the credibility."

The emphasis on a longer-term approach has led some managers to restructure their investments.

Veteran activist investor Guy Wyser-Pratte, president and chief executive officer of Wyser-Pratte Management, used to take between 10 and 15 positions in a single fund. Now the firm focuses on one or two activist investments at a time, and each of these is structured in a separate special-purpose vehicle.

Wyser-Pratte said: "Investors can be awfully mercurial and capricious. If you get them to commit to one project with a specific duration you have a much easier time of accomplishing your goal."

The diplomatic approach is paying off and finding favour with pension funds, which were often put off in the past by the perceived headline risk that came with activism.

Marc Weingarten, a partner at US law firm Schulte Roth & Zabel, said: "Activism has become more accepted. Institutional investors are more sympathetic to it and to shareholder rights."

Following the financial crisis, there's less sympathy with corporate management and remuneration has come under the spotlight. Several years of poor returns in equity markets and underfunded pension plans are encouraging investors to look for ways to unlock value.

Investor responsibility

A veteran event-driven investor said: "What many activists are doing is what all global trade bodies are telling institutional shareholders they should be doing: being a responsible investor."

US regulation is putting the power back into the hands of shareholders. Institutional support for both activist funds and activism is increasing. Sherborne's campaign against F&C is backed by Aviva Investors.

Swedish firm Cevian, whose co-founder Christer Gardell earned the epithet "the butcher" in the local media, now counts AP1, the largest government pension fund in Sweden, as one of its investors.

In March last year the Florida State Board of Administration, which manages \$148bn, hired four activist hedge fund managers – Cevian, Monaco-based Knight Vinke, P2 Capital and Ramius Capital.

While many activists seem to have pulled in their horns, for Wyser-Pratte at least, old habits die hard. He said: "I don't believe in this non-aggressive approach. It only works after you've gone in with an iron fist."

Performance of activist hedge funds

Manager	Returns in 2010, %
Audley Capital	99.0
Cevian Capital	40.0
Third Point	34.0
ValueAct Capital	33.6
Wyser-Pratte & Co	25.0
Pershing Square Capital	21.7
Triaran Partners	17.5
Geneva Partners (fund of funds)	16.1
Icahn Management	11.8
Jana Partners (concentrated fund)	10.9
Knight Vinke (to December 2010)	1.0

Source: Investors in the firms