

Legislation Introduced to Increase Activist Hedge Fund Disclosure

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U.S. Senators Tammy Baldwin (D-WI) and Jeff Merkley (D-OR) have introduced [The Brokow Act](#) designed to increase oversight of activist hedge funds. Senators Bernie Sanders (I-VT) and Elizabeth Warren (D-MA) are co-sponsors.

The Act is named for a small Wisconsin town that, according to the press release issued by Senator Baldwin's office, went bankrupt after an "out-of-state hedge fund closed a paper mill that had provided good jobs to the town for over 100 years." The release stated that the fund bought up the Wausau Paper Company, "forced out its executives and demanded short-term returns like buybacks at the expense of the company's long-term future."

The release includes a quote from the senator that the reforms "will help ensure that no other small towns in America will fall victim to activist hedge funds on Wall Street." The hedge fund that targeted the paper mill is not named, but reports indicate that it refers to Starboard Value LP's attack on Wausau Paper in 2011.

The Act would require the SEC, not later than one year after enactment, to amend Section 13(d) so that reporting is required in two business days instead of 10 days. Derivatives, short positions and other similar holdings would have to be made public. The notion of beneficial ownership would include pecuniary or indirect interest in a company's shares.

Finally, as widely reported by reports covering the Act, the Act targets "wolfpacks" by expanding the definition of "person" to include those acting together for the purpose of acquiring, holding, or disposing of an issuer's securities, seeking control or even "influenc[ing]" the board, management or "policies of an issuer."

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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