

Activism at Public Companies Leads to Less Diverse Boards

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Shareholder activism decreases the number of women and minority directors on target company boards, an impact seen even after activism ends, according to [a new ISS study](#) commissioned by the Investor Responsibility Research Center Institute (IRRCi).

The study examined 380 board seats filled at S&P 1500 companies as a result of activist campaigns from 2011 through the end of 2015, including directors nominated by dissidents, directors who joined boards as a result of company settlements with activists and those added by corporate boards themselves immediately before or during activism. The changes to board composition resulted in younger, more independent and less diverse directors who tended to have financial backgrounds and no prior board experience about half the time.

No female directors were nominated by dissidents in 2011, two women were nominated in 2012 and three in 2013. Companies also did not appoint women directors in response to activism, with none added to boards in 2012 and 2013. In 2014 and 2015, 14% and 13%, respectively, of the director pool due to activism were comprised of women candidates, but three activists – Starboard Value, Engaged Capital and the Clinton Group – were responsible for nominating 76% of the women on dissident ballots. By comparison, 17% of the S&P 1500 directors were female in 2015.

The number of women directors fell by 4% in the companies that the ISS study examined, when comparing the board composition of those companies in the year prior to, and the year after, being targeted by activists. The number of minority directors decreased by 1% during those same periods. Less than 5% of the directors nominated or appointed to boards as a result of activism were ethnically or racially diverse, compared to 10% of directors in the S&P 1500 generally. Only six activists picked the ten minority dissident nominees during the period analyzed in the study, and only Starboard and Icahn Group selected minority candidates in more than one proxy contests.

Activism decreased the average age of directors, as both dissidents and companies tended to prefer directors in their mid-50s, even though the average age of S&P 1500 directors was 63 during the same time periods. The impact of having a younger board lasted after activism, as the average age declined by two years when comparing the year prior to activism and the year after activism ended. Not surprisingly, adding new directors as a result of activism lowered the average board tenure – by about three years. Average tenure at targeted companies was six years compared to nine years at S&P 1500 companies.

Activism led to election of directors who were viewed by ISS as more independent from management. More than 60% of targeted companies increased their percentage of independent directors and averaged 83% board independence, compared to 81% for the S&P 1500. Directors nominated by dissidents or appointed as a result of settlements were three times more likely to be financial services or investment professionals, leading to an increase in the number of financial experts at targeted companies.

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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