THE ACTIVIST REPORT

13D Monitor

Volume 7 Issue 5 May | 2017

2017's OLD-SCHOOL PROXY FIGHTS

Contentious, old fashioned proxy fights are few and far between these days. The kind of fights where both sides bury their feet in the ground and the gloves come off that were routine ten years ago, like Forest Labs, Canadian Pacific and Agrium, now feel like you are watching an old movie. For many years there has been a trend towards settlements over fights and this trend culminated in 2013 with Trian's proxy fight at Dupont. With

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Under the Threshold

Etsy Inc. (ETSY): Black-and-White Capital; Honeywell (HON): Third Point; KKR & Co. (KKR): ValueAct; Urban Outfitters (URBN): CtW Investment; Avon Products (AVP): Barington; Citi Trends (CTRN): Macellum; Deckers (DECK): Red Mountain; General Motors (GM): Greenlight; Innoviva (INVA): Sarissa; Kate Spade (KATE): Caerus Investors; Tangoe (TNGO): Ancora/Engine; Taubman (TCO): Land & Buildings; Universal Health (UHS): CtW Investment

NEW

Etsy

On May 2, 2017, **Black-and-White Capital LP** (~2%) announced that it is urging **Etsy Inc. (ETSY)** to explore strategic alternatives, including a possible sale, as it undertakes an assortment of operational and governance improvements. Black-and-White believes that the Company could sell for at least $15.50 or be worth $30 after

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Around the World

BHP Billition: Elliott Management; Akzo Nobel: Elliott Management; Safran: TCI Fund; Samsung: Elliott Management; Stada Arzneimittel: Active Ownership

NEW

bhpbilliton

On April 10, 2017, **Elliott Management** (4.1%) sent a letter to **BHP Billiton Ltd.'s (BBL)** Board urging them to (i) spin off the Company's U.S. petroleum assets, (ii) unify its dual U.K.-Australia structure and (iii) de-merge and separately list the U.S. pe

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QUOTE OF THE MONTH

"[Activists] can act as an important 'check and balance' on management that has lost its way." - **Michelle Edkins**, Global Head of Corporate Governance at BlackRock

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10 Questions with Monika Driscoll

Monika joined Brunswick in 2007 and focuses on merger and acquisitions, shareholder activism, IPOs and investor relations and co-leads the firm's Global Capital Markets Advisory practice. She has worked on cross-border transactions such AB InBev's acquisition of SABMiller, InBev's acquisition of Anheuser-Busch and Kraft Foods' acquisition of Cadbury plc, and also represented Western Digital in its acquisition of SanDisk as well as the split of Kraft into two companies. In addition, she has provided counsel in activism defense situations such as GE/Trian, Kate Spade/Caerus, Comtech/MMI and CF Industries/Third Point. She has also advised on Etsy, King and Groupon's IPOs.

13DM: Tell us about Brunswick's practice as it relates to shareholder activism. What are some examples of your client representation?

MD: Brunswick helps companies navigate the complex shareholder activism environment, advising on all aspects of communications to

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MONIKA DRISCOLL (cont'd. from pg. 1)

all stakeholders and sharing in-depth knowledge of dissidents' tactics, history and alliances through experience and research.

We've worked on some of the most high-profile campaigns, such as eBay and AIG, and we are also engaged by companies of all sizes to prepare for an activist approach. We do this by putting ourselves in the shoes of activists – identifying potential points of attack and developing strong responses.

13DM: Whenever you ask any advisor on activism the main advice they have for boards, they answer "keep an open dialogue with your shareholders." Is board engagement with shareholders an antidote to activism or not?

MD: Yes, it's critical for select board members to play a direct role in investor engagement these days. This is a change from a few years ago when the expectation was that shareholder engagement was under the sole purview of management and IR. It's really about not only listening to shareholders but taking that feedback. Companies who do that can often uncover pain points felt by shareholders, address them as appropriate and help stave off an activist.

13DM: Over the past ten years, activist investors have become more accepted by institutional investors, experienced corporate advisors and the media. But it seems like acceptance has been lagging in the board room and C-Suite. How do you see corporate executives reacting to activists? Has that changed significantly over the past ten years?

MD: It depends on the company, but executives and boards do often see activists as outsiders acting in their own short-sighted interests to profit off the company, so it's unsurprising that company insiders are less accepting of activists. However, in recent years many activists have taken a more "constructive" approach and have made attempts to work alongside management rather than launch a contentious battle. It's also part of our job as advisors to ensure that companies have a rational reaction when an activist shows up, as opposed to an emotional one.

> ***"... in recent years many activists have taken a more 'constructive' approach and have made attempts to work alongside management rather than launch a contentious battle. "***

13DM: As activism has become more accepted in the marketplace, has the message management delivers to its shareholders changed when defending itself in a proxy fight?

MD: The message is still about shareholder value at the end of the day. One of the core messages that companies stress during a fight is that they're thinking about the long-term success of the company and acting in the best interest of all shareholders, not just the activist. Although activism may be more accepted these days, there is still the underlying notion that activists aim to make a quick profit and then exit the stock. So this core message of long-term thinking remains a cornerstone of activism defense.

13DM: Has the success of activism led to a backlash? Are boards less likely to adopt a plan that has been publicly suggested by an activist?

MD: Boards should execute on any ideas that create long-term value for their shareholders. That said, there are very few original ideas – in most cases the company has already thought of and evaluated what the activist is proposing, although we've certainly seen some wacky ones. We tell our clients to take action when possible so activists aren't able to take credit for an idea the company was already considering.

13DM: When advising corporate clients, how important is the track record, style and history of the activist? Does your advice change depending on who the activist is? Does management distinguish between activists?

MD: The "one size fits all" approach generally doesn't work for activism defense. Every activist has his / her own style and tactics, not to mention track record, which influences our advice and defense planning. At Brunswick, we stay prepared by tracking activist campaigns and use our experience, records and research to compile profiles on the major activists. This way, when an activist takes a stake in a company, we know if they tend to speak publicly vs. work behind the scenes, if they're known for calling for spinoffs or often attempt to gain board seats, etc. For example, when Carl Icahn launches a campaign, we know to keep an eye on his Twitter account, as he often uses the platform to spread his message.

13DM: When an activist engages a company, there is ultimately a decision

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MONIKA DRISCOLL (cont'd. from pg. 2)

by the company as to whether to fight or settle and end it quickly. What are the most important factors that go into making this decision and how quickly after activist engagement is a discussion like this had?

MD: We have to weigh the activist's demands as well as the strength of the company's defense – a chronically underperforming company is in a different position than an outperforming one. Sometimes a company has more pressing matters and a settlement allows it to focus on the core business. In other cases, the activist's demands are significant enough to warrant engaging in the fight to defend the company and its shareholders. Also, feedback from all shareholders is important in making the decision to settle or not, as sometimes what the activist is looking for is not aligned with the thinking of long-term shareholders.

13DM: There are many ways to win a proxy fight, but two of the main ways are to either have a better plan than the activist or a better relationship with shareholders than the activist. Which is more important?

MD: Both are equally important. This is where the best defense is a good offense. Companies need to have strong relationships with shareholders and ensure they understand the company's overall vision and strategy. Engaging with the corporate governance heads at institutional holders is a key part of evolving these relationships. Companies also need to have a reactive plan in place in terms of messaging, tactics, roles and responsibilities so that they can be nimble and prudent once approached.

13DM: There have been several activist situations of late where the company engaged is in need of some crisis control or a coordinated message to the public (i.e., Valeant, Chipotle). Does the presence of an activist make that job easier or more difficult?

MD: The presence of an activist can add complications to any corporate issue. It depends on the activist and the ideas that he / she is bringing to the table. An activist can be a distraction for management teams, but can sometimes add value.

13DM: Do you see the level of shareholder activism increasing or decreasing over the next five to ten years?

MD: It depends on two factors: First, it depends on corporations and the actions they are taking to add value to all stakeholders, including shareholders. Second, it depends on the shareholder landscape – the changing dynamics in the investment community, as institutional investors and other non-traditional activists start to become active. The trend has been moving toward the entire shareholder base being more active in their voting decisions.

Additionally, our 2017 Global M&A Survey found that only 6% of financial elites believe activism will decrease this year, while 42% think it will increase and 51% think it will stay at the same level.

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2017's CONTENTIOUS PROXY FIGHTS (cont'd. from pg. 1)

only owning 0.62% of the common stock, Trian launched a proxy fight against a mega-cap company that was not underperforming and got within 2% of getting a board seat. After this, when a company was engaged by an activist it was an easy decision by management and their advisors to settle, reasoning that if Trian almost got a board seat at Dupont, an activist with significantly larger ownership would likely get a board seat through a proxy fight, particularly in a company that was underperforming. This dynamic along with the growing acceptance of shareholder activism has made long, drawn-out proxy fights, such as the one at Forest Labs, a thing of the past. But we have two big ones heating up this proxy season – Buffalo Wild Wings and Arconic.

Buffalo Wild Wings is a proxy fight that did not have to happen. Sometimes the activist and the company have completely different views on what needs to be done and a proxy fight is inevitable. In this case, the parties had much more that united them than divided them but for some reason could not get it done at the settlement table. Marcato's key recommendations to the Company were: (i) transitioning to a 90%+ franchised model, (ii) improving "4-wall" profitability and returns and (iii) optimizing capital structure. Marcato engaged The Cypress Group, who determined that a refranchising process to 90% could take as few as 18-24 months and the stock price could rise by more than 2-3 times.

After Marcato's recommendations were made, the Company elected three new directors, without consulting with its shareholders. Marcato believes this was intended to create a false impression of meaningful change. Whether or not it was, it is a mistake to appoint new directors to the Board in the midst of a proxy fight without consulting shareholders. If the Company was interested in settling with Marcato, three directors would have been great negotiating chips. Appointing them without using it as a settlement opportunity is an opportunity squandered. Moreover, large institutional shareholders often prefer an amicable settlement when an activist engages a company, and if management is trying to create a false impression of change, they see right through such ploys.

On February 6, 2017, Marcato nominated the following individuals for election to the Board at the 2017 Annual Meeting: (i) Scott O. Bergren, former CEO of YUM! Brands' Pizza Hut brand and business, (ii) Richard T. McGuire III, Founder and Managing Partner of Marcato, (iii) Sam Rovit, President and CEO of CTI Foods, a provider of custom food solutions to major chain restaurants and manufacturers in North America, and former President of the Refrigerated Meals Business Unit at Kraft Foods, and (iv) Emil Lee Sanders, Managing General Partner at Rocket Chicks LP, directing development and operation of Golden Chick restaurants, and previously served as SVP – Development and Franchising for Buffalo Wild Wings.

In response to Marcato's engagement, the Company has taken the following steps: (i) nominated Sam Rovit (one of Marcato's nominees) and Janice Fields for election to the Board, (ii) retained The Cypress Group (previously retained by Marcato) to assist in its portfolio optimization process, (iii) announced that it plans to reduce spending by as much as $50 million over the next two years, including $20 million this year, (iv) approved a new share repurchase program authorizing the repurchase of up to $775 million shares of its outstanding common stock and (v) announced it would sell 13% of its 634 company-owned restaurants to franchisees.

So, Marcato had three recommendations that the Company has been fighting tooth and nail – (i) improve store profitability, yet the Company announced a plan to streamline costs, (ii) optimize capital structure – the Company is buying back $775 million of its common stock, and (iii) refranchise 90% of its stores – after using the same advisor that Marcato retained, the Company announced it is refranchising 13% of its stores, bringing it to a total of approximately 56% franchised stores. Moreover, Marcato nominated four directors and the Company has named five new directors, including one of Marcato's nominees.

So, how is it possible that there was not enough give and take between 56% and 90% franchised stores and one and four Marcato directors to get a settlement negotiated? Sometimes, emotions take over, especially on management's side as they are not used to being involved in proxy fights and they get so embroiled in the fight that winning the fight becomes more important than what they are fighting for. And sometimes it is just poor communication. In this case it is probably both.

In the Arconic proxy fight, Elliott initially entered into an agreement with the Company, pursuant to which the Company appointed the following directors to the Board: John C. Plant, Ulrich (Rick) Schmidt and Sean O. Mahoney, none of whom presently serve on the Board, although Schmidt is on the Company's slate for the 2017 annual meeting. Elliott agreed to standstill provisions that expired on January 7, 2017. After several meetings with management, Elliott determined that the measures proposed by the directors failed to properly address the Company's performance issues and Elliott's concerns, and Elliott nominated the following four director candidates for election to the Board

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2017's CONTENTIOUS PROXY FIGHTS (cont'd. from pg. 4)

at the Company's 2017 Annual Meeting: (i) Christopher L. Ayers, President and CEO, WireCo WorldGroup, Inc.; (ii) Elmer L. Doty, Former President and CEO, Accudyne Industries; (iii) Bernd F. Kessler, Former CEO, SRTechnics; and (iv) Patrice E. Merrin, Former President and CEO, Luscar Ltd. In the Nomination Letter, Elliott reiterated its belief that fundamental change is needed at the Company, and the election of the Nominees to the Board is necessary to catalyze such a change. In the letter, Elliott also discussed its engagement of former Spirit AeroSystems, Inc. CEO Larry Lawson as a consultant Elliott eventually requested that the Board form a search committee to conduct a search for a new CEO and also suggested they consider Larry Lawson as CEO.

The Company announced the appointment of David P. Hess to the Board to fill a vacancy and reaffirmed its support for the continued leadership of CEO Klaus Kleinfeld. But then on April 11, 2017, Kleinfeld sent an unauthorized letter to Elliott which read as a threat of extortion towards Elliott CEO Paul Singer. Six days later, the Board accepted Kleinfeld's resignation reasoning that Kleinfeld exhibited poor judgment by sending that letter. What many in the activist world have learned from the Yahoo!/Third Point proxy fight and that Kleinfeld had apparently not learned is that in the throes of a proxy fight, particularly one calling for the ouster of the CEO, the CEO cannot give the Board any reason to fire him. Moreover, it might not be fair, but while activists have historically sent much worse letters to CEOs without ramifications, unlike an activist, a CEO does not work for himself, but for the Board, and cannot send letters to shareholders, particularly during a proxy fight, without the approval of the Board. In fact, one of the biggest issues activists have with certain CEOs is that they think the directors work for them rather than the other way around and Kleinfeld just substantiated that characterization through his actions.

Arconic made use of another old school tactic by threatening that if Elliott's slate is elected it would trigger a change of control that would result in Arconic having to fund a $500 million corporate trust. The problem with this tactic is that since the Amylin/Icahn proxy fight in 2009, large institutional shareholders have seen through this knowing that the Company could at least request, and probably receive, a waiver of the provision. Moreover, in this case, Elliott alleged that the Company retained the right to amend the provision at any time it wanted and that it was using it as an entrenchment device.

Arconic also made use of a newer, but questionable, tactic in this proxy fight. In August of 2016 the Company locked up the vote of approximately 8.7 million shares of the Company's common stock in exchange for the resolution of potential claims against the former owner of Firth Rixson, an aerospace jet engine components business purchased by Arconic (then Alcoa) from Oak Hill Capital Partners. Elliott believes this constitutes a breach of fiduciary duties owed to the Company by the officers and the Board, to the extent they were involved or aware of the transaction. According to Elliott, the original 2014 purchase agreement did not include a voting agreement. If this was added in the wake of the Elliott proxy fight, this is a serious issue and one has to ask what shareholder value was given up to help the present directors keep their positions.

It is comforting that there are fewer and fewer proxy fights like these. I credit that to more experienced advisors on both sides of the transactions, more engaged shareholders, a growing acceptance of activism and the educating of both activists and directors on the activist-director relationship. The evolution and mainstreaming of shareholder activism and the trend towards settlements is certainly a positive for the markets and we hope this trend continues. However, we do not expect contentious proxy fights to go away completely, nor should they. To paraphrase Peter Clemenza from The Godfather, these things gotta happen every so often. It helps to get rid of the bad blood.

New Filings for April

Company Name	Investor	Mkt. Cap.	Filing Date	%	Cost	Item 4 Action
Roadrunner Transportation (RRTS)	Elliott	$270.34M	4/3/17	8.60%	$9.20	potential financing
Whole Foods Market (WFM)	JANA	$10.85B	4/10/17	8.75%	$29.35	opearating/strategic reviews, board changes
EnerNOC Inc. (ENOC)	Periam Ltd.	$164.33M	4/17/17	5.50%	$6.04	nominated directors
New York & Company (NWY)	Kanen Wealth	$110.43M	4/26/17	5.09%	$2.02	board changes, enhance capital allocation

One to Watch

Company

Whole Foods Market Inc. (WFM)
Market Cap.: $10.85B
Enterprise Value: $11.05B
Cash: $849M
Debt: $1.05B
EBITDA: $1.37B

Investor

JANA Partners, LLC
13F Holdings: $5.70B
# of 13F Positions: 41
Largest Position: $940.75M
Avg. Return on 13Ds: 28.86%
Versus S&P500 avg: 10.44%

Investment

Date of 13D: 4/10/2017
Beneficial Ownership: 8.75%
Average Cost: $29.35
Amount Invested: $818.34M
Highest price paid: $31.80
# of larger shareholders: 1

JANA intends to have discussions with the Company's Board and management regarding topics including: (i) addressing the Company's chronic underperformance, (ii) changing the Company's Board and senior management composition, (iii) optimizing the Company's real estate and capital allocation strategies, including the Company's "365" small store format, (iv) pursuing opportunities to improve performance by advancing its brand development and by addressing core operating deficiencies, (v) improving in-store execution, (vi) evaluating opportunities to re-engineer the Company's suboptimal and cost-disadvantaged grocery procurement and distribution strategy, such as by internalizing distribution or pursuing other hybrid strategies, in order to diversify away from its existing primary wholesale distribution partner and (vii) initiating a review of strategic alternatives particularly in light of the Company's apparent unwillingness to engage in discussions with third parties regarding such alternatives. JANA states that it is also prepared, if necessary, to nominate individuals for election to the Company's Board and has signed Nomination Agreements with Glenn Murphy, Thomas ("Tad") Dickson and Meredith Adler. JANA has extensive experience in this industry, with past investments in Safeway and SuperValu, among others. Moreover, they are working with an all-star team that has even more experience than they and this team could turn into a "slate" depending on how talks go with the Company. Glenn Murphy is the former Chairman and CEO of both the Gap and Shoppers Drug Mart, where he tripled the Company's market capitalization during his six year tenure following its IPO. Diane Dietz is the former EVP and CMO of Safeway and was involved in JANA's ConAgra investment. Tad Dickson was the CEO of Harris Teeter when it was acquired by Kroger in 2013. Meredith Adler for 14 years was Institutional Investor's top ranked analyst in the food and drug sector. Mark Bittman is one of the foremost experts on health and wellness. The present Board includes Founder/CEO John Mackey, his college roommate who founded the Container Store, the former Co-CEO of the Company, two executives from Leonard Green that used to have, but no longer has, a significant investment in the Company and the former president of Fresh and Wild, an acquisitionof Whole Foods that did not work out so well. Whole Foods has never been a well-run company, which is evident in its stock price. Despite having an amazing brand, loyal consumers and significant runway for growth, prior to JANA's involvement, over the past five years the Company's stock had declined by 28% versus an increase of 87% for the S&P500. The opportunity here is to bring in an experienced team to convert the Company from a great concept being run like a private company to a professional business being run for its shareholders. A new Board and management team could improve operations by, among other things, revisiting the distribution agreement with UNFI and internalizing that function and reconsidering the "365" small store format. The other opportunity here is to sell the Company. JANA was instrumental in getting Safeway and PetSmart sold, two companies that, like Whole Foods, had tremendous short interests and were unlikely to be sold. Whole Foods has a much stronger brand than both of those companies and would be a tremendous asset for many strategic players.

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UNDER THE THRESHOLD

NEW

Etsy

operational improvements. Black-and-White further believes that the Company needs to: (i) re-accelerate revenue growth, (ii) lower operating costs, (iii) separate the roles of chairman and CEO, (iv) declassify the Board and (v) enable shareholders to call special meetings.

Honeywell

On April 27, 2017, **Third Point LLC** announced that it is calling on **Honeywell International Inc. (HON)** to spin off its aerospace division, the Company's largest operation, stating its belief that the division has been a drag on the Company's performance and that spinning it off would result in a $20+ billion increase in shareholder value. The Company responded to Third Point, stating that it is open to shareholder ideas and that it would devote the time necessary to ensure a review of the potential separation of the aerospace business.

KKR

On April 27, 2017, at 13D Monitor's Active-Passive Investor Summit, **ValueAct Capital Management** President Mason Morfit announced a near 5% stake in **KKR & Co. (KKR)**. There is speculation that ValueAct has engaged in friendly talks with the Company on the possibility of converting from a partnership to a corporation and Morfit stated that the Company could be worth as much as $37 a share once investors fairly assess its assets raised, its recurring management fees and tremendous operating leverage.

URBAN OUTFITTERS

On May 1, 2017, **CtW Investment Group** sent a letter to the shareholders of **Urban Outfitters Inc. (URBN)** urging them to vote against the Company's two longest-serving members of its nominating and governance committee, Robert Strouse and Harry Cherken Jr., at the 2017 Annual Meeting. CtW highlighted the Company's poor performance and criticized the Board composition and recruitment process, noting its belief that the Board is highly insular and long-tenured. CtW further stated its belief that the Company is run as a family business, citing the appointment of CEO Richard Hayne's wife, Margaret Hayne, as a Board member and his son, David Hayne, as the Company's first Chief Digital Officer.

UPDATES

AVON

On May 5, 2017, **Barington Capital Group LP** announced that it is calling for the removal of **Avon Products Inc. (AVP)** CEO Sheri McCoy and expressed its belief that the Company's turnaround needs to proceed faster with a new CEO at the helm.

CITI TRENDS

On April 10, 2017, **Citi Trends, Inc. (CTRN)** announcing that the Company's Board authorized an expanded capital return program, which includes the repurchase of up to $25 million of its common stock, a 33.3% increase in the Company's quarterly dividend and a commitment to

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UNDER THE THRESHOLD

return excess cash to the Company's stockholders through additional dividends and buybacks.

On April 25, 2017, **Deckers Outdoor Corp. (DECK)** agreed to consider a sale of the company or other strategic alternatives, following **Red Mountain Capital Partners LLC's** call for such an action.

On May 4, 2017, **Greenlight Capital** (3.6%) launched UnlockGMValue.com, a website that encourages **General Motors (GM)** shareholders to vote for its proposal to split the Company's common stock into two classes. Greenlight believes that its proposal will unlock tens of billions of dollars of shareholder value and that it was designed not to change the Company's business strategy, capital allocation priorities, or financial policy.

On April 13, 2017, **Innoviva Inc. (INVA)** agreed to review executive pay and other costs, following **Sarissa Capital Management's** (2.72%) demand for a pay cut for the Company's CEO and directors. The Company said the review will be performed by a special committee of independent directors and should be published by the third quarter.

On April 19, 2017, Sarissa Capital Management LP (2.72%) announced that the Company backed out of a proxy settlement deal in which the Company agreed to appoint two Sarissa-nominated directors to the Board. Sarissa claims that after it signed and returned the settlement contract, the Company continued to lobby shareholders to vote for its own nominees without disclosing its agreement.

On April 20, 2017, at the Company's 2017 Annual Meeting, none of Sarissa's three nominees were elected as directors to the Board.

On May 8, 2017, Coach Inc. (COH) agreed to acquire **Kate Spade & Co. (KATE)** for $2.4 billion, following **Caerus Investors** call for a sale of the Company. Coach's CFO, Kevin Wills, said the complementary nature of the businesses should bring $50 million in cost savings in three years after the deal closes and that the idea is to improve scale and inventory management, as well as streamline Kate Spade's supply chain.

On April 28, 2017, **Tangoe, Inc. (TNGO)** entered into a merger agreement with Marlin Equity Partners, pursuant to which Marlin will buy the Company for $6.50 per share, following **Engine Capital** and **Ancora Advisors'** call for a sale of the Company.

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UNDER THE THRESHOLD

Taubman

On April 19, 2017, **Land & Buildings Investment Management, LLC** sent a letter to the shareholders of **Taubman Centers, Inc. (TCO)** seeking support to elect its two director nominees, Charles Elson and Jonathan Litt, at the 2017 Annual Meeting and expressing its belief that there is the potential of ~60% upside to net asset value at the Company. Land & Buildings believes that the Taubman family's influence over the Company has contributed to the Company's poor corporate governance practices, including: (i) the classified board, (ii) over-tenured Board at 15 years on average, (iii) combined Chairman/CEO, (iv) ability of the Taubman family to block an acquisition, (v) dual class voting, (vi) limited investment among independent directors, (vii) onerous anti-takeover provisions and (viii) a 90 year-old director with 25-year Board tenure.

On May 1, 2017, Land & Buildings issued a presentation urging shareholders to vote in favor of its two director nominees at the 2017 Annual Meeting and outlining the Company's laws and the following reasons that Land & Buildings believes the Company's shareholders deserve a Board refreshment: (i) 57% stock price underperformance compared to Class A Mall Peers over the last five years, (ii) the Taubman Family's use of "Killer B" dual class share structure to gain near absolute control of the Company, (iii) poor corporate governance with a classified and over-tenured Board, (iv) the questionable independence of Board members, (v) the loss of $1.7 billion in value creation opportunity due to glaring operational deficiencies and prioritizing grand developments over low hanging fruit within the Company's existing portfolio and (vi) destruction of value due to undisciplined capital allocation. Land and Buildings stated its belief that the Company has the potential of 65% upside to net asset value and that a refreshed Board can drive strong shareholder value creation through modernized corporate governance, enhanced operations and disciplined capital allocation.

UHS

On May 3, 2017, **CtW Investment Group** announced that it is urging shareholders to withhold their support for the re-election of Lawrence S. Gibbs to **Universal Health Services Inc.'s (UHS)** Board and accused the Company of having an entrenched governance structure. CtW Investment Group also cited a series of federal investigations related to the Company, including a criminal probe disclosed in 2015 and its own examination of the Company's admissions and billing practices. CtW also noted that it has unsuccessfully pushed the Company to create a Board committee to oversee regulatory compliance and quality of patient care.

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AROUND THE WORLD

NEW

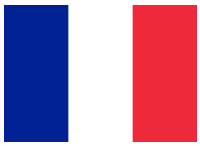
troleum business and combine into a single Australia-headquartered and listed firm. Elliott also detailed its plan, which includes the adoption of a consistent capital-return policy that would seek share buybacks instead of using cash for "value-destructive" large-scale acquisitions. On April 12, 2017, the Company publically rejected Elliott's plan.

On May 2, 2017, Elliott sent representatives to Australia to push its plan at the Company. In late April, the Company announced that its Fayetteville shale gas field in Arkansas were back up for sale, a move some local investors say could be giving Elliott part of what it wants, while others say a trade sale would be likely to reduce the value of the field compared to a spin-off.

UPDATES

On April 10, 2017, **Elliott Management** sent a letter to **Akzo Nobel** formally requesting an extraordinary general meeting of shareholders, proposing the ouster of supervisory-board Chairman Antony Burgmans. On April 12, 2017, Akzo acknowledged that it had received the request but indicated that it will reject the move, however, as per Dutch company law, the Board will consider the proposal to hold an extraordinary meeting and respond within the mandatory 14 days.

On May 9, 2017, Elliott announced that it has launched legal action to try to oust the Company's Chairman, Antony Burgmans, arguing that he failed to discharge his fiduciary and corporate governance duties after the Company rebuffed PPG's third takeover offer of €24.6 billion ($27.1 billion) on May 8, 2017.



On May 3, 2017, **The Children's Investment (TCI) Fund** (4.1%) reiterated its call for **Safran SA** to abandon its plans to acquire Zodiac Aerospace and announced that it has updated its valuation of Zodiac's shares at €7 - €10 each (Safran's bid was initially €29 per share) after Zodiac posted a first-half loss on April 28, 2017 and as such, TCI warned that an offer above €10 per share would result in value destruction.

On April 28, 2017, **Samsung Electronics** rejected **Elliott Management's** call to convert into a holding company structure but did announce a plan to cancel treasury shares, an action that Elliott publically supported. Samsung expressed its belief that setting up a holding company would not strengthen its competitiveness and could burden longer-term operations.

On April 10, 2017, **Stada Arzneimittel AG** agreed to sell itself to Bain Capital and Cinven for 5.3 billion euros ($5.6 billion), following **Active Ownership Fund SCS's** call for a sale of the Company in May 2016.

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AROUND THE WORLD - ONGOING SITUATIONS

On March 22, 2017, **Elliott Management** (~3%) announced that it is pushing **Akzo Nobel NV** to engage with PPG Industries Inc. (PPG) regarding PPG's bid to acquire Akzo, initially for €83-a-share and most recently €88.72 a share, an action that Causeway Capital Management LLC (6.8%) supports. Akzo rejected both offers, stating that both offers undervalue the Company and do not merit discussions. Elliott agreed that the new offer was too low, but stated its belief that the combination of Akzo Nobel and PPG has the potential to create a stronger company which could devote more resources to R&D, innovative product development and sustainable business practices. Elliott further stated that investors totaling at least a 10% stake in Akzo can request a shareholder vote to oust members of the Company's management and supervisory board members, if a majority of shareholders back the move.

On March 28, 2017, Akzo announced that it will reveal specific plans next month for the separation of its specialty chemicals business from the paints business.

On March 29, 2017, Elliott announced that it commissioned Boudicca Proxy to survey 300 institutional investors (roughly half of Akzo's total shareholder base) on whether they thought Akzo should talk with PPG, half of them responded and nearly all of them were in favor of the Company engaging PPG.

On August 21, 2016, **Smoothwater Capital Corporation** (16.6%) announced that it will not support the proposed merger between **Alberta Oilsands Inc. ("AOS")** and Marquee Energy Ltd and that it is demanding a shareholder vote on the proposed merger. Smoothwater sees the deal as a bailout of a distressed junior energy company with little prospects of success unless energy prices increase dramatically and believes that the Company should issue a cash dividend instead.

On August 29, 2016, Smoothwater responded to a press release issued by AOS which Smoothwater believes purported to deny Smoothwater the right to nominate director candidates at the 2016 Annual Meeting. Smoothwater stated that it filed a notice of intent to nominate board members just before learning that AOS secretly applied to reschedule the 2016 Annual Meeting from September to November, which Smoothwater believes is an attempt by AOS to avoid shareholders and throw out director nominations.

On November 29, 2016, Smoothwater Capital Corporation (17.1%), Alberta Oilsands Inc. ("AOS") and Marquee Energy Ltd. entered into a settlement agreement, pursuant to which AOS and Marquee will merge to create "New Marquee"; Smoothwater is expected to be the second largest shareholder with approximately 8.7%. Pursuant to the agreement: (i) "New Marquee" will appoint one Smoothwater nominee, Stephen Griggs, to a new seven person Board, (ii) Smoothwater is entitled to continue to appoint a board nominee and to its committee positions until the earlier of the close of the 2018 Annual Meeting or June 30, 2018 and (iii) Smoothwater has agreed to support the management nominees to the board during this time period.

On April 28, 2015, **Alliance Trust** agreed to appoint two of the three directors put forth by **Elliott Associates**. Elliott agreed to suspend its plans to agitate against the Board or management publicly until after the 2016 Annual General Meeting. Elliott had previously rejected the Company's defense of its performance, costs and dividend policy and called for the election of three new directors.

On October 1, 2015, it was reported that Katherine Garrett-Cox, CEO of Alliance Trust, is to step down from the Board but will continue as CEO. The Company said that it plans to sell non-core investments, cut costs and make its board fully independent, consisting solely of non-executive directors.

On January 27, 2017, Alliance Trust announced that it entered into an agreement with Elliott Management pursuant to which the Company will buy back ~95.5 million shares (19.75%) from Elliott at a 4.75% discount to net asset value.

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AROUND THE WORLD - ONGOING SITUATIONS

On December 1, 2016, **SpringOwl Asset Management LLC** (>1%) sent a letter to **Amaya Inc.** expressing its opposition to the $4.1 billion takeover bid by Amaya's former CEO, David Baazov (who recently stepped down after being charged with insider trading), stating that the offer undervalues the Company and should not be taken seriously. SpringOwl believes that the Company can grow its business and improve governance by taking the following steps: (i) cease paying the salary and unentitled litigation expenses of David Baazov, (ii) form a committee of the Board to evaluate placing Baazov's shares in a divesture trust or similar arrangement and rehabilitate Amaya's reputation, which SpringOwl believes has been tainted by the Baazov association, (iii) increase the Board size and add three new directors who will represent shareholders, (iv) optimize operations and prioritize growth and geographic expansion, (v) ensure sufficient capital resources are deployed towards poker and (vi) improve the future strategic alternatives process. SpringOwl believes that Mr. Baazov is attempting to regain control of the Company and that the Board has made questionable governance decisions that have allowed Baazov to continue to influence the Company's direction.

On December 20, 2016, Amaya Inc.'s former CEO, David Baazov, withdrew his $24 per share offer to acquire Amaya, following SpringOwl Asset Management LLC's opposition to the takeover. Baazov stated that the share price premium demanded by certain of the Company's shareholders exceeded the price at which he and his investors were willing to pay.

On November 30, 2016, **Elliott Management** submitted to the Board of **Ansalado STS** a report requesting the verification of certain corporate governance issues, including the following: (i) the independence of Board member Alberto de Benedectis, (ii) the establishment of the bid committee, (iii) the termination of Roberto Carassais' employment and (iv) the resignation of the Company's auditing firm.

On January 19, 2017, Elliott Management (30%) announced that it is suing Hitachi, Ltd. (40%) over its purchase of a majority stake in Ansaldo STS. Elliott claims that Hitachi underpaid for its 40% stake by colluding with the seller, Finmeccanica. Hitachi has denied the claim and ejected an Elliott-appointed director from Ansaldo's board for "excess of diligence."

On September 29, 2016, it was announced that **Elliott Management** is pushing for a sale or strategic partnership at **Avianca S.A.** It was reported that Elliott provided loans to Avianca's largest shareholder Germán Efromovich, more than a year ago, and the loans are secured against the value of Efromovich's 51% stake in the Company and are linked to its share price — meaning Elliott stands to gain if the airline is sold.

Elliott Management has launched legal action against Hong Kong's **Bank of East Asia**. Elliott is seeking to compel the Company's directors to hand over internal documents covering their decision to sell 222 million new shares last September to Sumitomo Mitsui Financial Group. Elliott presently holds approximately a $230 million (2.5%) position.

On February 4, 2016, Elliott sent a letter to the shareholders of Bank of East Asia Limited stating that the only responsible way for the Board to deliver proper value to shareholders is through an auction process to explore the scope for a sale of the Company at an appropriate premium. Elliott cited the Company's underperformance and attributed it to the long-term mismanagement of the Company, combined with the entrenched management team. Elliott highlighted that historic Hong Kong bank sales have been priced at an average of 2x book value, which in the Company's case could equate to approximately HK$60 per share (185% more than the current share price).

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AROUND THE WORLD - ONGOING SITUATIONS

On February 4, 2016, Elliott sent a letter to shareholders of Bank of East Asia stating that the Board should focus on delivering value for shareholders by conducting an auction process to explore the scope for a sale of the Company at a premium.

On February 15, 2016, Bank of East Asia rejected Elliott's suggestion to sell the Company, stating that the challenging economic and business environment would bode poorly for such a process. Instead, the Company intends to focus on improving and executing on what it already has.

On July 18, 2016, Elliott Management announced that it commenced legal proceedings against Bank of East Asia (BEA), the majority of its directors, and its CEO and Chairman, David Li, in the Hong Kong courts and cited "allegations of unfairly prejudicial conduct" and "alleged serious corporate governance failings" relating to last year's issuance of new shares to Sumitomo Mitsui Banking Corp.

On January 5, 2017, Elliott Management met with Bank of East Asia (BEA) for a case management conference before the High Court, related to Elliott's efforts to get a court order declaring that BEA's placement of new shares to the Japanese Sumitomo Mitsui Banking Corporation and Spanish Caixa Bank were passed for an improper purpose. At the conference, the court heard talks of procedures around whether Elliott could release certain court documents from BEA and its directors online, and whether parts of Elliott's petition should be stricken, which matters will come to court in either May or July 2017. There is a case management hearing slated for April 2017.

bowleven oil & gas

On February 8, 2017, **Bowleven PLC** requested that the Company's shareholders turn down the proposals made by **Crown Ocean Capital (COC)** (15.56%) in January 2017, which call to overhaul the board, reduce administrative costs, terminate spending on the Bomono project, and return excess cash holdings to investors. The Company claims COC aims to take control of the Company without paying fair value and that it has no legitimate strategy to maximize value from the key Etinde and Bomono assets.

On February 15, 2017, Crown Ocean Capital (COC) (15.56%) announced that it is calling for a meeting of Bowleven PLC's shareholder on March 14, 2017 to: (i) oust six of Bowleven's directors from the Board, including CEO Kevin Hart, (ii) appoint two directors of its choosing and (iii) cease the Company's investment in the Bomono license, onshore Cameroon, contending that it has failed to show any convincing economic prospects. Bowleven officials believe that COC is attempting to turn the firm into a holding company with the intention of stripping cash from its balance sheet and it is pleading with shareholders to vote against COC's proposals.

On March 14, 2017, following Bowleven PLC's shareholder meeting called by Crown Ocean Capital (COC) (23%): (i) Kevin Hart, Chief Executive, Kerry Crawford, Finance Director, and three non-executives John Martin, Tim Sullivan and Philip Tracy all ceased to be directors on the Company's Board and (ii) two of Crown Ocean's director nominees, Christopher Ashworth and Eli Chahin, were appointed as directors.

On March 27, 2017, Bowleven announced that as part of its strategic review, it is considering all options including transforming Bowleven into a holding company, as proposed by COC.

On March 30, 2017, Bowleven announced that Chairman Billy Allan resigned from the Company and he will be replaced by current non-executive director Christopher Ashworth, who is endorsed by COC.

FRENCH CONNECTION

On March 14, 2017, **Gatemore Capital** announced that it is pushing **French Connection Group Plc** to split itself or spin off its Toast brand and stated its belief that the Company should consider separating its retail and licensing businesses among other options. In January of 2017, Gatemore called for the Company to split the role of Chairman and CEO and called for an outright sale.

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AROUND THE WORLD - ONGOING SITUATIONS

On February 27, 2017, **RBR Capital Advisors** (2.1%) announced that it is proposing a dissident slate of directors for election to **GAM's** Board at the Company's 2017 Annual Meeting. RBS is seeking to place three candidates on the Board, including its founder and CIO Rudolf Bohli, with one of them to replace GAM's current Chairman. GAM announced that its Board would consider RBR's candidates, and communicate its proposals and recommendations regarding the composition of the Board in due course.

On March 29, 2017, RBR Capital Advisors (3.3%) announced that it is recommending that GAM Holdings eliminate one-third of its workforce to help reduce costs by 100 million Swiss francs a year. RBR also wants to oust GAM head Alexander Friedman and install new Board members at the Company's April 27, 2017 Annual Meeting. RBR stated that it will back away from its efforts to overhaul GAM if it does not secure sufficient investor backing at the Annual Meeting. On April 5, 2017, GAM called on its shareholders to reject the RBR proposals at the Annual Meeting.

On January 12, 2017, **Crystal Amber** announced that it increased its stake in **Johnston Press** from 6.7% to 18.6%. In September 2016, when Crystal Amber increased its Johnston Press stake to 6.7%, its chief executive, Richard Bernstein, announced that he hoped to help the management avoid a poor debt restructuring deal. On February 6, 2017, it was announced that Johnston Press CEO, Ashley Highfield, is preparing to meet with Crystal Amber in the near future.

On February 11, 2017, Richard Bernstein, head of Crystal Amber (21.36%), announced his continued opposition to Johnston Press' management, stating his belief that the Company is headed for a confrontation with its bondholders and arguing that because CEO Ashley Highfield and CFO David King led the company's deeply discounted rights issue in 2014, they should not lead the business in negotiations with debt investors.

On March 29, 2017, Crystal Amber (21%) announced that it has initiated discussions with Johnston Press' lenders about a possible debt-for-equity swap in an effort to avoid greater financial difficulty and potentially strike a deal to reduce the Company's debts. Crystal Amber has initiated talks with major holders of £220 million in bonds that are set to mature in two years and is believed to have approached GoldenTree, the Company's biggest creditor. Crystal Amber believes that although Johnston Press's stock market value has dwindled to less than £21 million, bondholders may be willing to accept equity in exchange for cancelling a significant portion of its debts.

On July 4, 2016, **John Menzies PLC** announced that it is open to dialog with **Shareholder Value Management AG ("SVM")** (7%) after SVM called on the Company to split its aviation and distribution businesses and to hire a new independent chairman. SVM also called on interim chairman Dermot Jenkinson, who replaced Iain Napier as chairman in May, to step down, claiming he has ties to the Menzies family via his wife.

On July 19, 2016, John Menzies PLC announced that it appointed Irish paper and packaging industry tycoon, Dermot Smurfit, as its new independent chairman to replace interim chairman Dermot Jenkinson, following Shareholder Value Management AG's ("SVM") call for more independence on the Board.

On August 16, 2016, the Chairman of John Menzies PLC, Dermot Smurfit, announced that he is considering splitting the Company's distribution and aviation businesses following Shareholder Value Management's push for such a breakup.

On March 31, 2017, John Menzies announced its intention to sell its print media distribution branch to DX Group in a reverse takeover deal, following Shareholder Value Management's (SVM) call for a split of the Company. Pursuant to the proposal: (i) DX would be run by Menzies directors, (ii) Greg Michael, managing director of Menzies' distribution unit, would become CEO and (iii) Paul McCourt, the unit's finance director, would step in as CFO. DX Group announced that it intends to pay ~60 million pounds ($75 million) in cash as well as issue new shares to Menzies, which would represent 80% of DX's issued share capital after the deal closes.

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AROUND THE WORLD - ONGOING SITUATIONS

On March 1, 2017, **Premier Foods PLC** appointed Daniel Wosner, Managing Director of **Oasis Management** (8.3%), to its Board as a non-executive director. Oasis agreed to acquire 10% of the Company's shares by the end of June 2018 and to be bound by a minimum stake of 7% and a maximum of 15%.

On July 31, 2015, **ValueAct Capital** revealed that it has built up a 5.44% stake in **Rolls-Royce**. On August 3, 2015, it was reported that Chairman, Ian Davis, and Chief Executive, Warren East, spoke with ValueAct. A Company spokesman said: "We have engaged in constructive discussions with ValueAct over recent days and welcome them as an investor who recognizes the long-term value of our business."

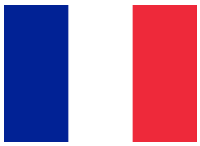
In a regulatory announcement by Rolls-Royce, it was announced that ValueAct crossed the 10% reporting threshold on November 18, 2015.

On March 2, 2016, Rolls-Royce appointed Bradley Singer, of ValueAct, as a non-executive director. He will join the Board immediately and will become a member of the Science and Technology Committee.

During the period of the agreement, ValueAct will be prevented from acquiring in excess of 12.5% and will abide by certain standstill provisions, which, among other things, prevents ValueAct from soliciting proxies, calling shareholder meetings, proposing mergers or other change of control transactions, proposing changes to the Company's strategy or management, or publicly criticizing or disparaging the Company. The standstill period will expire on the day after the 2018 Annual Meeting, or if earlier, 90 days after Singer stops being a board member.

On July 21, 2016, **Elliott Management** (1.46%) sent a letter to the Board of **SABMiller** expressing its concerns about the structure of the Company's proposed £71B takeover by larger US rival Anheuser-Busch InBev. A drop in the value of sterling following Brexit heightened the difference between AB InBev's £44 a share cash offer for 59% of the Company and a mostly stock alternative for the remainder. On July 18, 2016, The Children's Investment Fund Management (TCI) announced that it has taken a stake in the Company and on July 23, 2016, it was announced that Sandell Asset Management has also taken a stake in the Company.

On February 14, 2017, **The Children's Investment (TCI) Fund** (4.1%), announced that it wants to block **Safran SA's** €8.5bn takeover Zodiac Aerospace and it has written to the French regulator AMF asking that shareholders be given the chance to vote on the deal. TCI also wrote to the chairman of Safran demanding a vote and making clear its opposition to the deal, which it believes has no strategic rationale.



On March 15, 2017, The Children's Investment (TCI) Fund sent a letter to Safran SA's Chairman, Ross McInnes, calling for McInnes' removal unless he terminates Safran's planned $9 billion takeover of Zodiac Aerospace and threatening legal action against every director if shareholders' interests are damaged by the deal. TCI reiterated its call to cancel the deal following Zodiac's announcement of a profit warning.

On April 3, 2017, TCI called on Safran to establish an ad-hoc independent directors' committee to review its valuation of Zodiac Aerospace and to appoint a major international financial institution to perform an independent fairness opinion on Zodiac shares. TCI stated that the establishment of the committee is required by French law and under the recommendations of the local regulator.

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AROUND THE WORLD - ONGOING SITUATIONS

On June 4, 2015, **Elliott Associates LP** announced that it acquired a 7.1% position in **Samsung C&T**, a construction and industrial investment business that owns a stake in Samsung Electronics. Elliott stated its opposition to Cheil Industries bid to acquire Samsung C&T. The Samsung heir apparent, Jay Y. Lee, is vice chairman of Samsung Electronics and has a 23% stake in Cheil Industries, the main holding company for the Lee family's interests across the Samsung Group. Elliott opposes Cheil's bid, worth at least $8 billion, because it undervalues Samsung C&T. In a regulatory filing, Elliott disclosed that it bought its shares of Samsung C&T "for the purpose of participating in management." Samsung C&T rejected Elliott's assertion that Cheil's bid undervalues the Company. On June 9, 2015, Elliott filed an injunction with the Seoul Central District Court to block the vote on Cheil Industries offer. On June 11, 2015, Elliott filed a second injunction with the court to stop Samsung C&T Corp from selling treasury shares to KCC Corp., in an effort to gain KCC's support for the proposed Cheil Industries takeover.

On July 1, 2015, the Seoul court sided with Samsung, stating that the merger offer followed a domestic law under which merger ratios are calculated through a predetermined formula based on recent stock prices. Elliott stated its intention to continue to seek to prevent the proposed merger from being consummated and encouraged all of the Company's shareholders to do the same. On July 3, 2015, Elliott said it filed an appeal seeking to overturn the court's decision against its request for an injunction. On July 6, 2015, the court ruled against Elliott on its request to stop KCC from using treasury shares bought from the Company to vote on the proposed takeover by Cheil Industries.

On July 17, 2015, Samsung shareholders approved the takeover of Samsung C&T by Cheil Industries. On August 6, 2015, Elliott said it will exercise its right to sell back shares to Samsung C&T. Under Korean law, shareholders who oppose a merger have the option to sell shares to the Company at a fixed price, determined by a formula based on where the shares traded before a deal. Elliott did not specify how much of its stake it is selling, but the option can be exercised only on shares held prior to a deal being announced.

On October, 29, 2015, Samsung announced a $10 billion share buyback plan which will be completed in 3-4 phases over time. Samsung said it will return 30% to 50% of free cash flow over the next three years to shareholders, through dividends and buybacks.

On October 5, 2016, Elliott Management sent a letter to the Board of Samsung Electronics Co Ltd stating that the Company should streamline by splitting into a listed holding company and a listed operating company and that the new holding company should look at a possible all-stock merger with Samsung C&T Corp - the subsidiary that Elliott targeted in a shareholder battle last year. In the letter, Elliott stated its belief that Samsung is undervalued by as much as 70% due to the company's "unnecessarily complex" structure, "bottom-tier" shareholder returns, and "subpar" governance. Elliott also called for a more independent board, with greater gender diversity and global business experience, and proposed a special cash dividend of $27 billion to shareholders.

On November 29, 2016, Samsung Electronics Co Ltd announced that it will consider creating a holding Company and initiating a plan to raise dividends (pledging to return 50% of free cash flow to shareholders for 2016 and 2017), following Elliott Management's (0.62%) call for such an action. Samsung did, however, reject another Elliott proposal by saying that even if it adopts a holding company, it has no plans at present to merge that with Samsung C&T Corp. Samsung stated that it hired external advisors for a review that is expected to take six months.

On March 24, 2017, Samsung C&T announced that it will not adopt a holding company structure for now, despite Elliott Management's call for such an action.

On September 9, 2016, **Seagate Technology** reached out to **ValueAct Capital** (4%) to invest in the Company through a secondary block trade and offered ValueAct an "observer board" position that will give ValueAct access to directors and the Company's deliberations, but not voting power.

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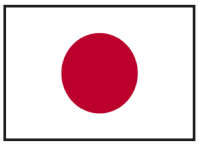
AROUND THE WORLD - ONGOING SITUATIONS



In **Third Point's** investor letter issued on October 30, 2015, Third Point highlighted that it has continued to add to its investment in Japan's **Seven & I Holdings Co.** (the parent company for the "Seven Eleven" franchise). Third Point noted that despite being the most valuable Japanese retailer by market cap, the Company is undervalued and under-levered, trading at 7.2x forward EBITDA versus global peers such as Couche-Tard and Walgreens, which trade at 10x-12x EBITDA. Third Point believes the valuation gap comes from the Company's divergence between its convenience store businesses and its other retail operations. Third Point is encouraged by the Company's CEO's recent announcement that 20% of the superstores that are underperforming will be closed and 30% of its office staff will be streamlined. Third Point believes the CEO should take it a step further and the superstores should leave the group and restructure as a standalone company, allowing the Company to evolve into a global pure-play convenience store company. Third Point believes as the Company's growth capex spend in Japan comes to an end, free cash flow generation will accelerate which will allow for substantial dividend increases and buybacks in the future. Management has also told Third Point that it has considered a partial listing of Seven Eleven U.S., which would serve as an additional lever of value creation.

On April 7, 2016, Suzuki stepped down as CEO of the Company following a boardroom clash with Third Point's Dan Loeb who criticized Suzuki's succession plans and corporate strategy. Loeb accused Suzuki of attempting to remove the Company's President, Ryuichi Isaka, in order to appoint his own son to the position, a plan that was rejected by the Company's Board on April 7, 2016. Loeb also publicly voiced concerns regarding Suzuki's health issues which he said could raise serious questions about his competence and judgement in making decisions for the Company.

On March 28, 2016, Third Point sent another letter to the Company urging it to choose new leadership based on capability rather than nepotism. Third Point believes that the new CEO should be chosen by the Board rather than appointed by the current CEO, Toshifumi Suzuki. Third Point stated that it may submit a shareholder proposal on the succession issue for the Company's 2016 Annual Meeting, scheduled for May.

On April 19, 2016, Seven & i Holdings Co. made the following appointments: (i) Ryuichi Isaka as President of the parent company, (ii) Katsuhiro Goto as Vice President of the parent company and (iii) Kazuki Furuya as President of Seven-Eleven Japan, replacing Isaka. This was decided by all 15 directors in a board meeting.

On October 6, 2016, Seven & i Holdings Co. announced that it would accelerate expansion in North America and seek acquisition opportunities, following the Company's engagement with Third Point. Seven & i stated its intention to increase its store count in North America from nearly 8,900 stores at the end of June to 10,000 by fiscal 2019, seek acquisition opportunities in the United States and Canada, and shed some money-losing businesses in Japan, including department stores.

On May 3, 2016, **Active Ownership Fund SCS ("SCS")** reported its 5% stake (and 2% via stock options) in **Stada Arzneimittel AG**, with a view to potentially push for a sale of the generic drug maker. It was reported that SCS has approached large hedge funds in London and New York with the goal of gathering support for its plan. On May 9th, SCS proposed replacing the Company's chairman along with four other supervisory board members in an effort to give the company more international industry experience.

On May 13, 2016, Active Ownership Fund SCS ("SCS") announced that it now only seeks to replace three of Stada Arzneimittel AG's nine current board members, and it is no longer asking for the removal of board Chairman Martin Abend. SCS stated that it seeks to add international healthcare expertise on the Board and seeks the election of the following three director candidates to the supervisory board: (i) Klaus-Joachim Krauth, the former finance chief of Hexal and Athos; (ii) Ulrich Wandschneider, former- Chief Executive of hospitals chain Asklepios Kliniken; and (iii) Klaus Roehrig, SCS founding partner, all to replace current Board members, Eckhard Brueggemann, Arnold Hertzsch and Constantin Meyer.

On May 25, 2016, it was announced that the Company has been holding informal talks with private-equity firm CVC Capital Partners over a potential buyout that could value the Company at roughly €3.7 billion ($4.1 billion). Stada decided to withdraw from a compromise agreement with SCS that would have put three of the fund's five nominees on Stada's supervisory

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AROUND THE WORLD - ONGOING SITUATIONS

board and now Stada will instead delay its Annual Meeting to conduct its own search for three new supervisory board members.

On July 1, 2016, Active Ownership Fund SCS ("SCS") announced that it launched a proxy fight against Stada Arzneimittel AG over the nomination of new supervisory board members and called on the Company's largest shareholders to participate in the process to select the independent candidates. On June 27, 2016, Guy Wyser-Pratte disclosed a position (>3%) in Stada Arzneimittel AG, stated that the Company had missed opportunities in the past and that it should team up with an international rival.

On July 20, 2016, Stada Arzneimittel AG announced that it will allow shareholders to vote to remove restrictions on trading its shares which pose a barrier to any potential takeover and also proposed four new supervisory board members for election at the 2016 Annual Meeting. Active Ownership Fund SCS stated that it welcomes the proposed changes to the type of share but added it would push for wider changes to the supervisory board and that it will prepare to add motions to the Company's agenda in the next few days.

On July 25, 2016, Active Ownership Fund SCS announced that it wants to replace Stada Chairman Martin Abend with Eric Cornut, formerly chief of ethics and compliance at Novartis AG and also suggested three other board candidates for election at the 2016 Annual Meeting.

On August 15, 2016, Stada Arzneimittel AG's CEO, Hartmut Retzlaff, resigned and informed the supervisory board that differing views on the Company's strategy contributed to his resignation decision, leaving interim CEO Matthias Wiedenfels to continue as CEO until August 26, 2016 at the Company's Annual Meeting. Active Ownership Fund SCS ("SCS") (7%) has stated that Wiedenfels lacks experience and suggested that management should be overhauled if Retzlaff did not return.

On August 27, 2016, following a fourteen hour shareholder meeting, Chairman Martin Abend was ousted by shareholders and replaced by Carl Ferdinand Oetker. In addition, five new members were appointed to the Company's supervisory board, including former Novartis AG manager Eric Cornut.

On February 13, 2017, Stada Arzneimittel AG (7%) announced that it received two takeover bids for the entire Company, including a €3.5 billion offer from private equity group Cinven and another from an unnamed company. Cinven's offer of €56 per share (15% premium to Stada's closing price of €49.69 on February 10, 2017) would mark a near doubling of Stada's value in just twelve months.

In February 2016, **Sandon Capital** published an in-depth analysis on **Tatts Group**, a gaming conglomerate headquartered in Australia. Sandon's investment thesis is: (i) the sum of the Company is worth more than the current market price; (ii) the wagering businesses has strategic corporate appeal and should be separated; (iii) the lotteries business has attributes that are similar to the infrastructure assets and should be valued accordingly; (iv) a free standing lotteries business required a refreshed board and management to focus on growth opportunities; (v) the balance sheet provides scope for capital management; and (vi) the company is worth >A$50.50 per share if separated and if growth opportunities in lotteries are pursued and value creative capital management options are undertaken, it could be worth more.

On October 20, 2016, Sandon Capital stated its belief that the $11.3 billion merger of Tatts Group and Tabcorp is a terrible deal for shareholders and does not properly value the Company's lotteries business. Sandon stated its intention to speak with the Company's shareholders who could be convinced to buy into the company and push for a better deal, although such large Tatts shareholders as AustralianSuper and Perpetual have already backed the deal.

On January 29, 2016, **Cevian Capital** announced that **TeliaSonera AB** is overpriced, following the announcement that the Company lost almost a

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AROUND THE WORLD - ONGOING SITUATIONS

third of its market value ($8 billion) because of bribe allegations in Asia and a failed merger in Denmark with its Norwegian rival, Telenor. Cevian, who owned shares in the Company from 2006 to 2010, believes that the Company's core operations are trading at a ratio of about 20x earnings, compared to about 12x for other carriers.

On May 6, 2016, **TCI Fund Management Ltd.** sent a letter to **Volkswagen AG** attacking the Company's corporate excess and calling for wide-ranging changes to management pay. TCI expressed its view that the Company has a major corporate governance problem that has abused shareholders and that over the past five years it has been held back by underperforming and overpaid management. TCI highlighted the following concerns with the Company: (i) the core business has gone "significantly backwards" over the past six years, yet the Company's nine board members have been paid around €400 million over that time; (ii) workers' pay has increased, including a 50% increase in the wage bill since 2011, despite low productivity relative to its peers; and (iii) the Company's executive pay structure has encouraged aggressive management behavior, contributing to the diesel emission scandal.

On May 13, 2016, TCI Fund Management Ltd. announced that it wants Volkswagen AG shareholder Lower Saxony (20%) to step back from its two seats on the Company's supervisory board to allow new management to introduce productivity and efficiency measures.

On September 22, 2016, TCI Fund Management Ltd. sent a letter to Volkswagen AG proposing a new target-based bonus system whereby the Company would pay its managers no bonuses at all if its earnings per share are below €20. In the letter, TCI called for specific targets based on earnings per share, EBIT per share, free cash flow per share, return on invested capital and total shareholder return, which it believes will discourage expensive acquisitions, share issuance and excessive capital expenditure.

On November 18, 2016 Volkswagen AG announced that it agreed with its labor unions to cut 30,000 jobs at the core of the Company's brand in exchange for a commitment to avoid forced redundancies in Germany until 2025. The plan is expected to lead to 3.7 billion euros ($3.9 billion) in annual savings by 2020 and lift the Volkswagen brand's operating margin to 4% that year, from an expected 2% in 2016. TCI Fund Management expressed its support of the deal and stated that Volkswagen must now deliver and execute.

On February 7, 2017, Volkswagen AG announced, following TCI Fund Management Ltd.'s letter calling for a new target-based bonus system, that it plans to cap the pay packages for its top executives. Under the new plan, bosses will have a higher fixed salary but lower variable bonuses, with the additional payments tied to dividends and the Company's stock price. A twenty-member supervisory Board of the Company is scheduled to discuss and approve the new pay rules at a meeting on February 24, 2017.

On February 12, 2017, it was announced that **Parvus Asset Management** (14%) (an affiliate The Children's Investment Fund) is pursuing a sale of **William Hill**. Last fall, Parvus resisted the Company's efforts to merge with Amaya Inc., claiming the deal would wipe out shareholder value.

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