

THE LAST 11 YEARS IN THE PUBLIC MARKETS have witnessed the equivalent of a high tide at full moon reminiscent of the famous first scene of “Jaws.” Buoyed by high equity valuations and access to a low-interest-rate environment, it seemed perfectly safe to go in the water. Companies and investors have been enjoying themselves, less than mindful of lurking threats posed by wild market fluctuations and the activists who exploit them.

Over the last several weeks however, global markets have witnessed unprecedented drops in valuation with no real sense of where and when calm will return. The combination of the abrupt end of a bull market that many had viewed as overdue for a correction along with the overwhelming fear and uncertainty that has come with the global pandemic of Covid-19 has brought about the most turbulent market conditions since the 1930s.

Many shareholder activists have been just as negatively impacted by the recent downturns as the wider market, if not more so. Some have been



ILLUSTRATION: ROBERT NEUBECKER

Emerging from the **COVID-19** crisis, companies may find they have more to worry about, says Brunswick Partner **CHARLIE KOONS**.

forced to retreat from previously planned campaigns due to the uncertainties of the market as well as capital redemptions within their own funds, while others have struck settlements with their targeted companies. The path to alpha is not as clearly defined as it was even a few weeks ago. In cases of M&A activism, the ability to value a transaction has become much more difficult.

However, some established activist funds have ready access to liquidity and the ability to take a longer-term view. Taking advantage of the recent selloff, these funds can establish significant equity positions in targeted companies and, at some point, use that leverage to bring about changes in corporate strategy. In the wake of the 2008 financial crisis, activists launched a record 130 proxy contests in the US in 2009. Markets in the US and around the globe will likely see an onslaught of shareholder activism over the next six to 24 months.

Once the recent turbulence subsides, investors will have a clearer picture of which companies are underperforming and opportunities will arise for an experienced activist to put forward a credible case for change. Just like 2009, companies should be prepared to push back on an activist that comes forward with unrealistic suggestions. An activist whose fund has seen a challenging period may be looking for a big win to satisfy their own restless investor base. Companies faced with this pressure must be able to articulate their long-term vision for building sustainable shareholder as well as stakeholder value and why that strategy will ultimately provide greater value.

For companies seeking to be best prepared for this oncoming wave of activism and M&A, keeping a clear line of communication with their shareholders is more important than ever. Maintaining a deep well of trust with all stakeholders, particularly shareholders, will be key to maintaining control if and when an activist challenge appears. ♦

There are **THREE** main elements of **Activism Preparedness**:

1 KNOW YOUR OWNERS. Having a clear understanding of the varying investment and governance perspectives of your shifting shareholder base is imperative to effective communication. Even the largest corporations have seen major upheavals in their ownership as a result of recent market volatility. Keeping a close watch on all trading and settlement activity is more critical than ever.

2 KNOW YOUR COMPANY. Boards of Directors need to be able to articulate to investors the long-term, sustainable vision for the company that they oversee. The Board and Management must provide an honest and objective sense of how the company is measuring up to this vision compared to its peers. This ongoing self-assessment should be done as though looking at the company through the eyes of an activist.

3 KNOW YOUR TEAM. Having a collaborative team of outside advisors that knows your company intimately will help you in your year-round engagement and evaluation process, thus positioning you to minimize the threat of activism and maximize your chances of being successful should such a challenge become unavoidable. Having a team with deep experience in times of peace as well as conflict is critical and forming a relationship of trust and confidence with this team will make it much easier to respond effectively to any demands of a shareholder activist.

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