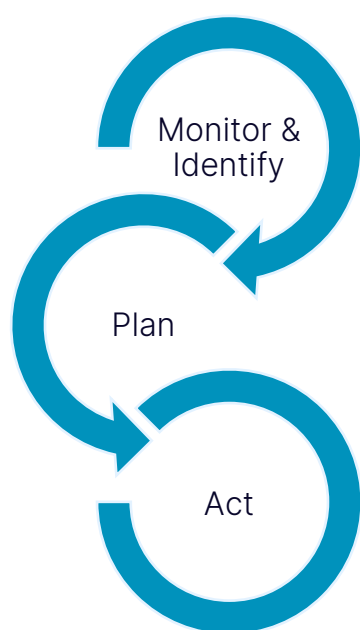


Shareholder Activism: 2022 Year-in-review



As we turn the page to 2023 with a dynamic economic, regulatory and governance environment Nasdaq have compiled the latest data and trends regarding activist investor activity.

Our work with thousands of global issuers across our IR Intelligence, ESG and listing services has provided firsthand experience with hundreds of activist situations in recent years.

Volatility and pressure on portfolio returns all while active managers posted a record year of outflows has created new, emerging themes, activist players and necessitates updated approaches. This report aims to address those along with a longer-term trend update.

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High Profile Campaigns in 2022

International
Flavors &
Fragrances

Carl C.
Icahn

Icahn Associates reported to own 4%. The two later agreed to increase the board and appoint Barry Bruno, formerly of consumer brands company Church & Dwight to fill the resulting vacancy.

FedEx
Corporation

D.E. Shaw

DE Shaw, an owner of <1%, entered into a cooperative agreement to notably increase the dividend and elect 2 new directors to the board. FedEx stock had its best single day performance in over 35yrs after the changes were made.

Western
Digital
Corporation

Elliott
Mgmt.

Elliott disclosed a \$1B investment and sent a letter to the board regarding its concerns with the company's underperformance. Elliott pushed for strategic alternatives, including potentially splitting the company into two, which the company agreed to consider.

Mercury
Systems, Inc.

Starboard
Value

Starboard disclosed ownership of 7%, sent a letter to the board raising concerns with and seeking elimination of a recently adopted shareholder rights plan. Later 2 new directors were appointed to the board, including a Starboard Appointee.

Mueller Water
Products, Inc.

Ancora
Advisors

Anocra, an owner of >2%, entered into a cooperation agreement, wherein they agreed to appoint 2 new directors – one from a private equity background and the other an executive at another Industrials services company.

Themes & Action Points

Board Size & Composition

Campaigns frequently seek board change despite fewer than one-third achieving this outcome.

1. Monitor & assess board composition, skills, expertise and diversity for alignment
2. Gauge institutional and retail sentiment and support through frequent engagement sessions
3. Develop contingency & communication plans

Beyond the Board: Performance

Investor willingness to engage in activism or side with an activist is rising. Market volatility and portfolio returns drive scrutiny and pressure while the initiation of activist campaigns frequently drives positive market reaction.

1. Monitor & Identify your strengths and weaknesses, ownership, disclosures and governance practices
2. Act – Engage stakeholders and proactively seek new shareholders aligned with the corporate vision

Beyond the Board: Macro Environment

Many companies are facing headwinds due to economic growth, inflation and industry or company-specific dynamics. Rapidly evolving sentiment can create opportunity for activists.

1. Ensure contingency & communication plans are in place
2. Monitor sentiment frequently to understand investor concerns, preferences and potential triggers

Changing Shareholder Expectations:

Not only is investor focus on E, S and G issues rising while many issuers face challenging markets but new threats have emerged in the form of social media, retail investor blogs and short campaigns. Activists of all types often use public forums to launch a campaign and monitoring, identifying, planning and acting proactively positions issuers to meet the, often public, activist threat.



Biggest Players Involved in Activism

Firm	Equity Assets (\$B)	Achieved Board Changes	Themes
T. Rowe Price	\$687	✘	Merger concerns
California Public Employees Retirement	\$123	✘	ESG & Climate
Legal & General	\$80	✘	Independent leadership
NY State Common Retirement	\$77	✘	ESG: Social & Climate
D.E. Shaw	\$59	✔	Board & Operational change
Elon Musk	\$51	✔	Board Control, Privatization
M&G Investment Management	\$43	✘	Strategy
TCI Fund Management	\$38	✘	Headcount
Pacific Investment Management	\$26	✔	Board representation
Hermes Investment Management	\$21	✘	ESG & Climate

In the US, although less than 10% of activist campaigns changed boards in 2022, it is worth investigating why the sheer quantity of campaigns emerged in 2022.

Firstly, it is worth noting the market backdrop; the S&P 500 experienced its worst annual return since the Global Financial Crisis and monetary policy shifted from quantitative easing to tightening. This meant many investors were likely sitting on (sometimes sharp) losses for the first time. As a result, many **first-time activists emerged, as frustrated investors opted to attempt to steer their investments** instead of just buy-and-hold them.

Secondly, social media and blog posts have become a frequent and occasionally effective tool for lower-tier activism. About 10% of US campaigns in 2022 (many of which were short reports) were reported on website Seeking Alpha and although unsurprisingly none of these resulted in any board changes, some did move stock prices significantly following their release. In short, **retail participation** spiked during the pandemic and remains elevated, and some **use this phenomenon to their advantage by publishing sensationalized research** online.

With that said, the most effective activists in 2022 – those with the most board shakeups – were familiar names. **Carl Ichan, DE Shaw, Elliott Management, Starboard Value and Ancora Advisors** were the biggest threats to boards over the year and have been top players for much of the past decade. When **these names pursue board changes, they have been historically successful at a rate of over 80%.***

**Based on 10yr trend*

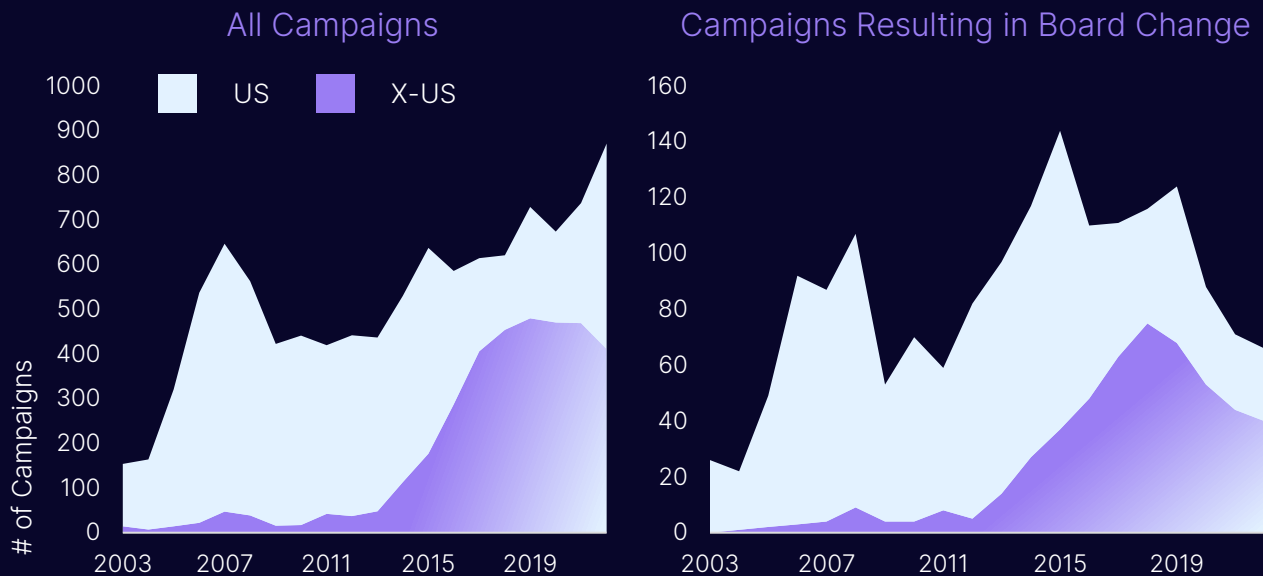
Most Effective Players Involved in Activism

Single Activist Campaigns resulting in Board Seat Changes

Icahn				
D.E. Shaw				
Elliott Management				
Starboard Value				
Ancora Advisors				
Indaba Capital				

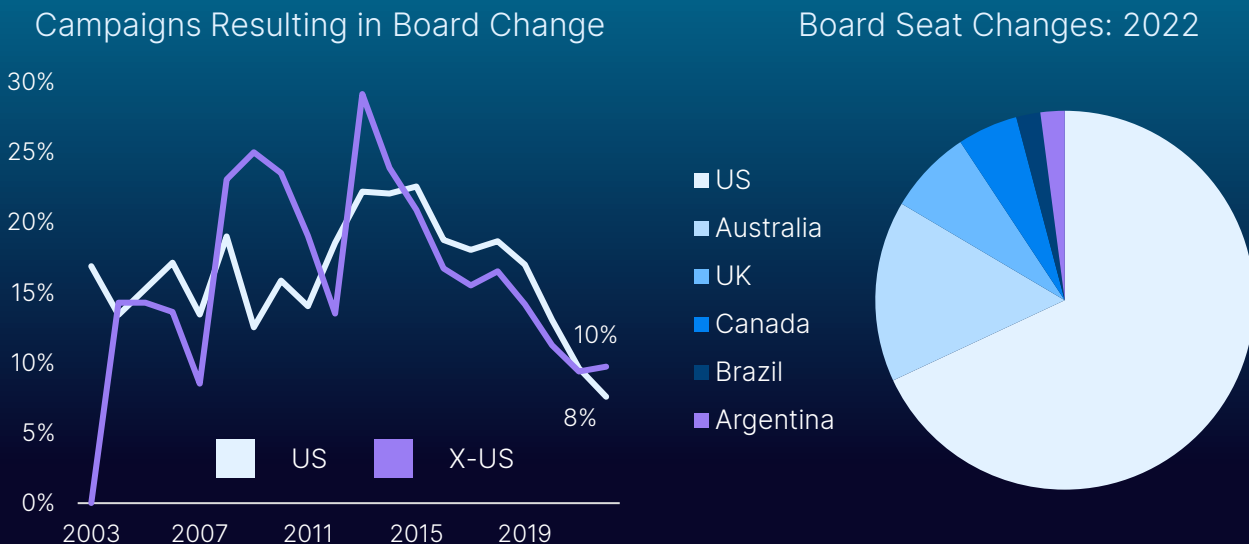
A Record Year for Activism?

Although the total number of campaigns set a record in the US in 2022, much of this was noise with first time activists, bloggers and short attacks bloating the figures. Material campaigns that resulted in board seat changes were just 8% of the total. The spectrum of what qualifies as activism has expanded, as smaller investors and even individuals attempted to change corporate trajectories in 2022. It should also be noted that the SEC's new Universal Proxy Rule, which fully took effect in September, made it easier for activists as all shareholders could now vote for their preferred mix of board and dissident directors.



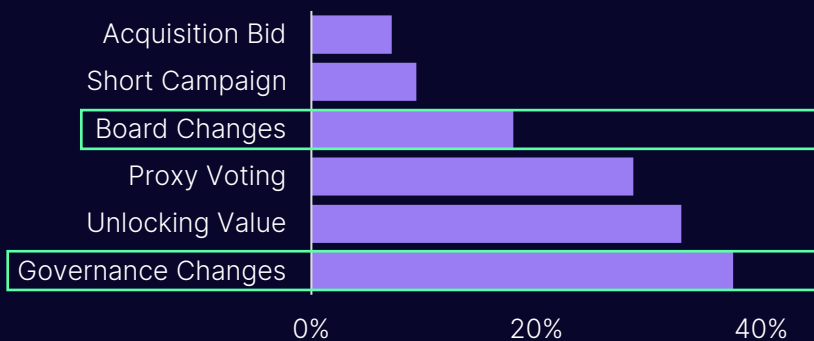
Board Changes are Trending Lower; US still top target

In both the US and ROW, we can see the percentage of campaigns that result in board seat changes has steadily trended lower in both absolute and relative terms. Globally, 2013 – 2015 was the peak of board-affected activism. Although US-based may have a lower rate of board changes, in absolute terms they are still the most susceptible to these changes globally.



Trends to watch in 2023

Largest Growth by Objective

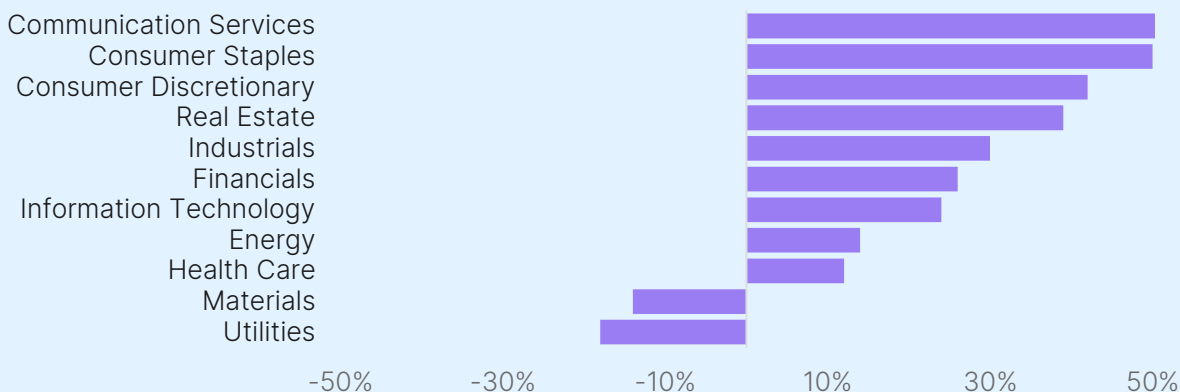


* Excludes CEO Removal objective, which was up 400%, but with only 5 campaigns in 2022 vs. 1 in 2021

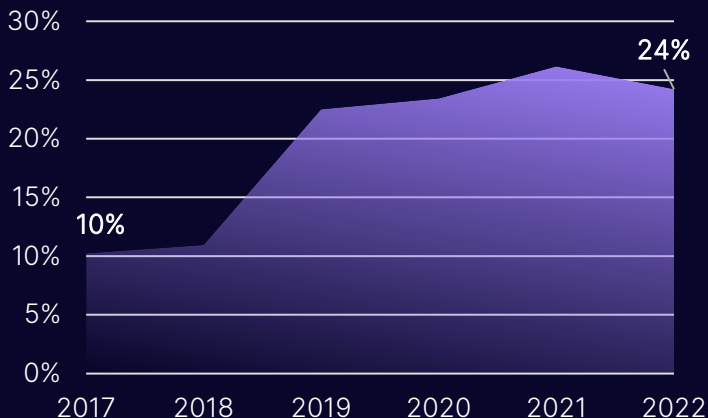
2022 saw an uptick in U.S. campaigns that looked to outright change boards and those that targeted specific corporate governance issues: board tenure, executive severance, shareholder rights and ESG among some of the reoccurring subjects.

Activism among sectors varies, often **related to performance which translates to frustration and ultimately activism.** Communications Services was the worst performing sector and saw the largest increase in activism, while Utilities saw the largest decrease in activism and finished 2022 near flat.

Growth by Sector



Short Campaigns (% of total)



Short attacks, short research and actively disclosed short positions are all strategies aimed at moving a stock price lower and benefitting from the underperformance. A steady increase in this trend has been seen over the past 5 years **and in the U.S. now nearly 1 in 4 campaigns are short.**

Although none of these resulted in board changes in 2022, many moved stock prices significantly, and to calm market reactions, **companies should consider a reaction plan that may include public letters/responses and active outreach to major buy and sell side contacts.**



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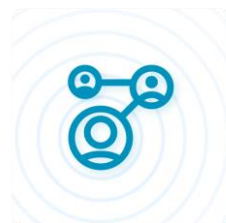
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Methodology

Activist Campaign: any publicly made demand by a shareholder seeking to influence change at a company. Sources from company filings (e.g., proxy statements) and press releases, dissident filings (e.g., 13Ds, proxy statements) and press releases, financial news, company websites and financial trade publications.

High Profile Campaigns: list is comprised by taking the most effective activists of 2022 (US) (i.e. those solely changing the most boards) and profiling the largest company (based on market cap at date of campaign) they targeted.

Data sourced from Factset and Nasdaq

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