

What to do When the Activist Knocks

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Your Presenters


Christopher Drewry

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Christopher Drewry, Global Co-Chair of Latham's Shareholder Activism & Takeover Defense Practice, regularly represents multinational corporations across industries and jurisdictions in their highest-stakes shareholder activism and takeover defense matters. He has built a leading cross-border practice that spans the full spectrum of M&A, corporate governance, and shareholder activism and takeover defense matters, with a focus on board-level advice for leading global companies.

Christopher is recognized by The Legal 500 for 2025 in their top category of advisors to boards on shareholder activism - 1 of only 11 lawyers in the "strongest partners" category. He has also been recognized by Business Insider nationally as one of 13 lawyers on speed-dial when companies and activist investors fight for boardroom control.

His nearly 20 years of experience includes defending Boards against leading activists including Ichan Enterprises, Elliott, Third Point, JANA Partners, Starboard, Land and Buildings, Engine Capital, Ancora, and Eminence.

He regularly speaks and writes on new developments in the field, including presenting at Latham's annual Public M&A conference in Frankfurt, Germany, the Cornell Tech Board of Directors Forum, the NACD Directors' Summit, and editing the M&A chapters in the updated third edition of Investment Banking: Valuation, LBOs, M&A, and IPOs, on evolving shareholder rights plan (poison pill) technologies and proxy contest trends and developments.


Josh Dubofsky

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Josh Dubofsky, a leading M&A lawyer and Global Co-Chair of the firm's market-leading Shareholder Activism & Takeover Defense Practice, advises clients on a full spectrum of strategic transactions and corporate governance matters.

Josh draws on almost 25 years of experience representing companies and private equity firms in their most complex domestic and cross-border transactions. A trusted boardroom advisor, he helps boards of directors, management, and shareholders navigate:

- Mergers, acquisitions, and other strategic transactions
- Activism defense and takeover planning
- Growth investing
- Public and private equity and debt financing
- General corporate representation of both publicly traded and privately held companies

Josh regularly represents leading global companies across a range of industries, including technology, life sciences, retail, financial services, and transportation. A former software engineer, he also brings a sophisticated understanding of emerging technologies to a range of matters involving artificial intelligence, digital media, Web3, semiconductors, and other advanced systems.

A recognized thought leader, Josh frequently speaks to board and C-suite audiences on M&A, activism, and corporate governance matters.


Adam Tamzoke

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Adam Tamzoke is the senior shareholder engagement and activism associate in Latham's New York office. His practice focuses on guiding US and foreign public companies and their boards through the complex landscape of shareholder activism and hostile takeover bids, offering strategic counsel to safeguard their interests and uphold corporate stability.

Recognizing the unique challenges that boards and companies face during activist engagements, Adam collaborates closely with clients to develop comprehensive defense strategies. His expertise encompasses:

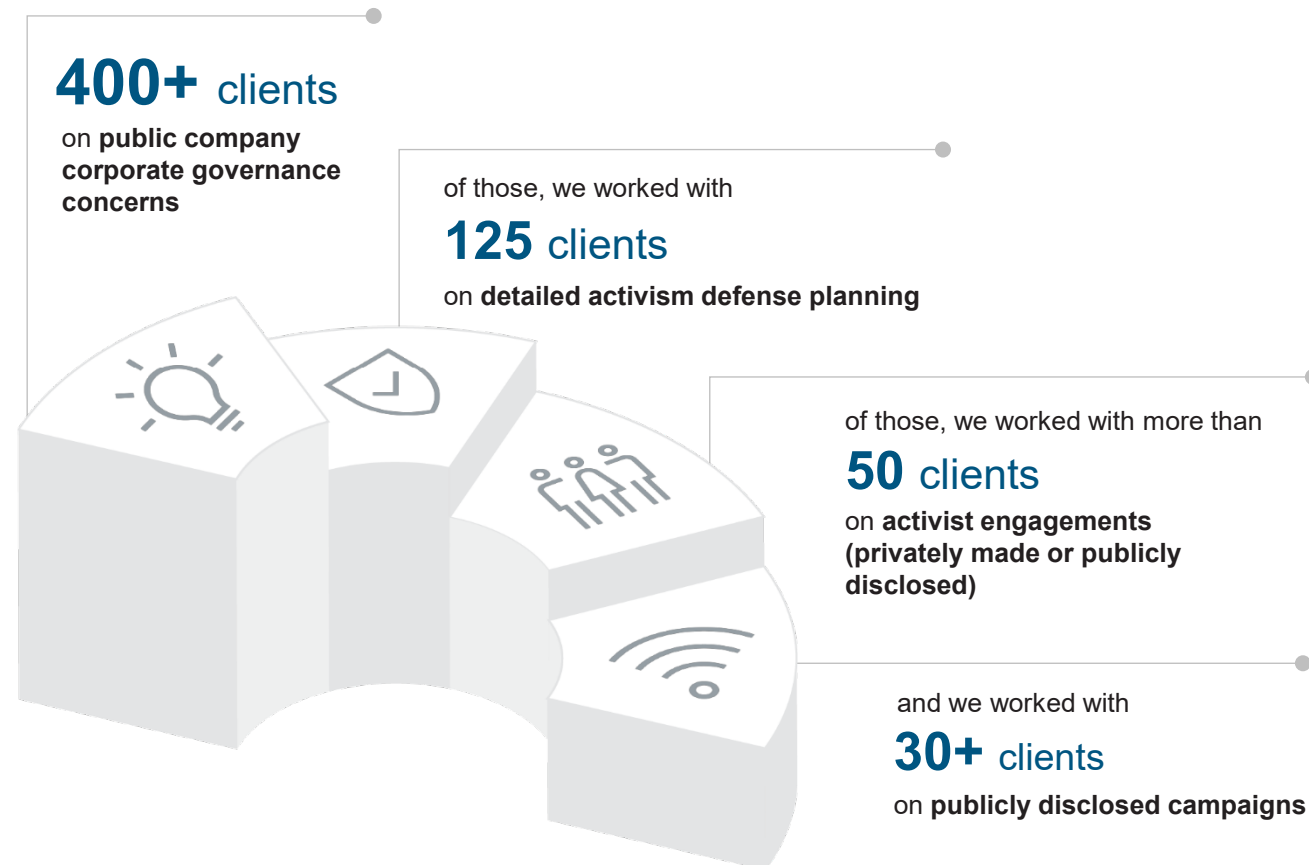
- Activism and Takeover Defense: Crafting tailored responses to activist approaches, including high-stakes proxy contests and unsolicited takeover bids, to protect corporate vision and stakeholder value.
- Crisis Management: Providing guidance during high-pressure situations, ensuring that boards navigate challenges effectively while maintaining stakeholder trust.
- Corporate Governance: Advising on best practices to fortify governance structures, aligning with evolving regulatory standards and investor expectations.

Prior to joining Latham, Adam was a member of the corporate and shareholder activism practice at a leading global law firm. Adam earned his JD from Indiana University Maurer School of Law, his MPA from Indiana University O'Neill School, and his BA from Rutgers University.

Top Ranked Shareholder Activism & Takeover Defense Practice

Our Shareholder Activism and Takeover Defense Practice has extensive experience supporting public companies globally at every stage of activism planning, proxy contest defense, and activism campaigns as they increase in intensity. We are experienced, strong, and unyielding advocates for our clients' viewpoints and objectives. Supported by our careful planning, cutting-edge strategy and experienced counseling, management and directors are able to minimize the disruption of activist shareholders while attaining successful outcomes.

In 2024, Latham worked with more than:



Clients praise Latham's team as "both technically proficient and pragmatic," adding: "The team is strong in the boardroom" and "display[s] an ability to anticipate the tactics of the activists."

Legal 500 US 2022

RANKED

#1

Global and US Activism Defense Adviser by Target Engagement*

Bloomberg YE 2024

RANKED

#1

US Activism Defense by Campaign Count*

FactSet YE 2024

TIER

#1

Top Ranked US Shareholder Activism Practice – Advice to Boards

Legal 500 US 2025

*Companies with market capitalizations between US\$2-10B at the time of the campaign announcement



Shareholder Activism

Shareholder Activism is a Prevalent Threat

Activist investors purchase shares and/or derivatives in public companies and attempt to force changes to drive short term economic gain. Activist campaigns can distract from executing corporate strategy, shift the focus to short-term benefits at the expense of long-term value creation, attract negative media and investor attention, create uncertainty and volatility in the company’s leadership and strategic direction, impact business operations and relationships and generally be costly and disruptive.

Globally In 2024:

739

Activist campaigns

242

Proxy fights

39%

Involved First Time Activist

140

Activist campaigns resulting in a board seat

272

New directors from activist engagement

First Half of 2025:

451

Activist campaigns

135

Proxy fights

35%

Involved First Time Activist

78

Activist campaigns resulting in a board seat

145

New directors from activist engagement

\$1.2 Trillion

Equity Assets Under Management

Recent themes in activism campaigns:

Operational Improvements

Break-Ups

Capital Return

M&A Activism

Board Seats

CEO Change

Source: FactSet
Note: Data for Campaigns launched in 2024 with the objective of Board Control, Board Representation, Hostile/Unsolicited Acquisition, Maximize Shareholder Value, Remove Director(s), Remove Officer(s), Vote/Activism Against a Merger. Equity assets for holders with an activism threat level of high or very high, excluding pension funds.

Potential Activist Actions

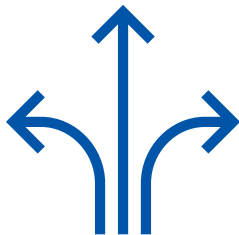
Increasing Level of Hostility ↓	Activist Action	Details
	Accumulate ownership position	<ul style="list-style-type: none"> ▪ Use of derivatives or purchases through broker-dealers to accumulate sizeable position without reporting ▪ Potential to approach a significant stockholder to purchase a large block of shares
	Influence stockholder base	<ul style="list-style-type: none"> ▪ Create “wolfpack” – informally or formally coordinate with other funds and encourage entry by like-minded investors ▪ “Test drive” campaign with institutional investors
	Engage with Company privately	<ul style="list-style-type: none"> ▪ Private letter or other outreach to management or Board to request meetings to make demands / push agenda, threaten to increase public pressure and / or nominate directors
	File Hart-Scott-Rodino (HSR) or File 13D or 13F	<ul style="list-style-type: none"> ▪ HSR antitrust filing that may be required before an investor or acquiror purchases in excess of US\$126.4 million (as of early 2025) of stock ▪ A Schedule 13D is required if an activist crosses 5% ownership in voting securities, and may include “vanilla” disclosure or more aggressive language disclosing plans and proposals to “enhance value” ▪ A Form 13F is filed quarterly, 45 days in arrears, for institutional investment managers with over \$100M in assets under management and is often the first public disclosure of an ownership stake
	Initiate public campaign	<ul style="list-style-type: none"> ▪ Issue public press releases, letters to Board and management, fight decks, etc. ▪ Make presentation / statement at investing conference ▪ Attack the Company's performance, strategy and leadership ▪ Make demands or reiterate demands in private letter (if applicable) ▪ Threaten stockholder proposals and / or proxy contests ▪ Direct stockholders to a website with campaign thesis
	Lobby key constituencies	<ul style="list-style-type: none"> ▪ Appeal to proxy advisory firms (ISS, Glass Lewis) ▪ Otherwise rally third party support, including index and actively managed funds, other activist hedge funds and institutional investors
	Initiate proxy contest	<ul style="list-style-type: none"> ▪ Nominate directors for the Annual Meeting ▪ Solicit votes from stockholders
	Support potential hostile bid by a strategic acquirer or financial party	<ul style="list-style-type: none"> ▪ Activists increasingly partner with private equity firms to “put companies in play”
	Litigation	<ul style="list-style-type: none"> ▪ File litigation against the company and/or directors, including for breach of fiduciary duties

Activism Best Practices for Directors

Confidentiality



**Inquiries/No One-Off
Conversations**



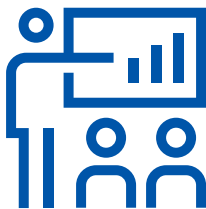
**Emails, Text Messages
& Written
Communications**



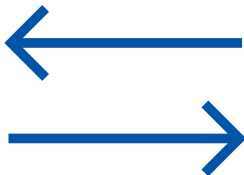
Note Keeping



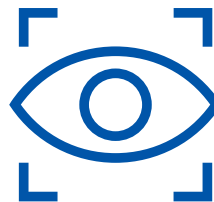
Board Meetings



No Trading



Intelligence



Participation



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