
Understanding the mindset of shareholder activists

Presented by
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5 July 2017

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Setting the scene: traditional vs. activist investors

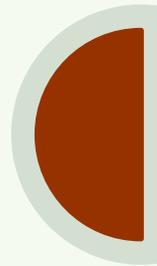


Invest in companies whose strategy they believe in and do not seek change (“passive”)

Traditional

Typically highly supportive of management and direction of the company

Although traditionally content with the status quo, increased willingness in listening to and supporting activists’ ideas



Invest in public companies where they think change is needed

Activist

Desire to disrupt the status quo / current path

Their investors pay them to be an “agent for change” or “catalyst”

Think they can set the company on a perceived better path

Setting the scene: some of the key U.S. players

Activists	AUM	2013	2014	2015	2016	2017
Elliott Management (Paul Singer)	\$56.0b	celesio JUNIPER NETWORKS riverbed TESCO	abbvie EMC ² FAMILY DOLLAR IFG	Airgas Cabela's CITRIX Perrigo	MARATHON NXP SAB MILLER Symantec.	AkzoNobel athenahealth bhpbilliton nrg
Icahn Associates (Carl Icahn)	\$34.2b	Apple CVR Energy DELL HERBALIFE Transocean	ebay FAMILY DOLLAR Freddie Mac Hertz.	AIG FREEPORT-McMoRAN PayPal XEROX	Allergan. Manitowoc	Bristol-Myers Squibb CONDUENT
Southeastern (Mason Hawkins)	\$19.5b	DELL News Corp	EXOR vivendi	adidas CONSOL ENERGY	Applus ⁺	DELTIC
Third Point (Daniel Loeb)	\$19.4b	CF HERBALIFE. SONY.	AMGEN Dow DSM Sotheby's	Baxter DANAHER Nomad Foods	Kadmon SIGNET JEWELERS SHERWIN-WILLIAMS. TRANSDIGM GROUP INC.	Alcoa HALCÓN RESOURCES QUALCOMM
ValueAct (Jeffrey Ubben)	\$17.6b	CF MSCI Microsoft	Armstrong BAKER HUGHES Symantec.	AMERICAN EXPRESS ROLLS ROYCE 21ST CENTURY FOX	Morgan Stanley TRINITY INDUSTRIES	Bioverativ KKR
Pershing Square (Bill Ackman)	\$13.8b	AIR PRODUCTS Freddie Mac FannieMae HERBALIFE.	Actavis zoetis	Allergan.	CHIPOTLE MEXICAN GRILL	
Trian (Nelson Peltz)	\$12.5b	DU PONT GNC Sotheby's	ALLEGION BNY MELLON	GE Pentair Sysco		P&G
Jana Partners (Barry Rosenstein)	\$8.5b	ASHLAND Outerwall SAFEMAY	Apache CORPORATION PETSMART QUALCOMM Walgreens.	CONAGRA CSC	HARRIS HD SUPPLY. Stericycle	TIFFANY & CO. WHOLE FOODS MARKET
Starboard	\$6.3b	DARDEN NVIDIA. Smithfield	AVON MICREL STAPLES YAHOO!	Advance! Auto Parts Inspirity BRINKS macy's	DEPOMED MARVELL Perrigo stewart	PAREXEL. Tribune Media

Setting the scene: the activist's typical "playbook"

Acquire stake in public company

- Where possible, use derivatives and block trades to conceal trading activity and allow for significant increases in ownership positions
- Accumulate positions in between reporting periods so as to further mask trading activity
- Use structures to avoid antitrust (e.g. HSR) reporting thresholds

Apply private and public pressure on the board

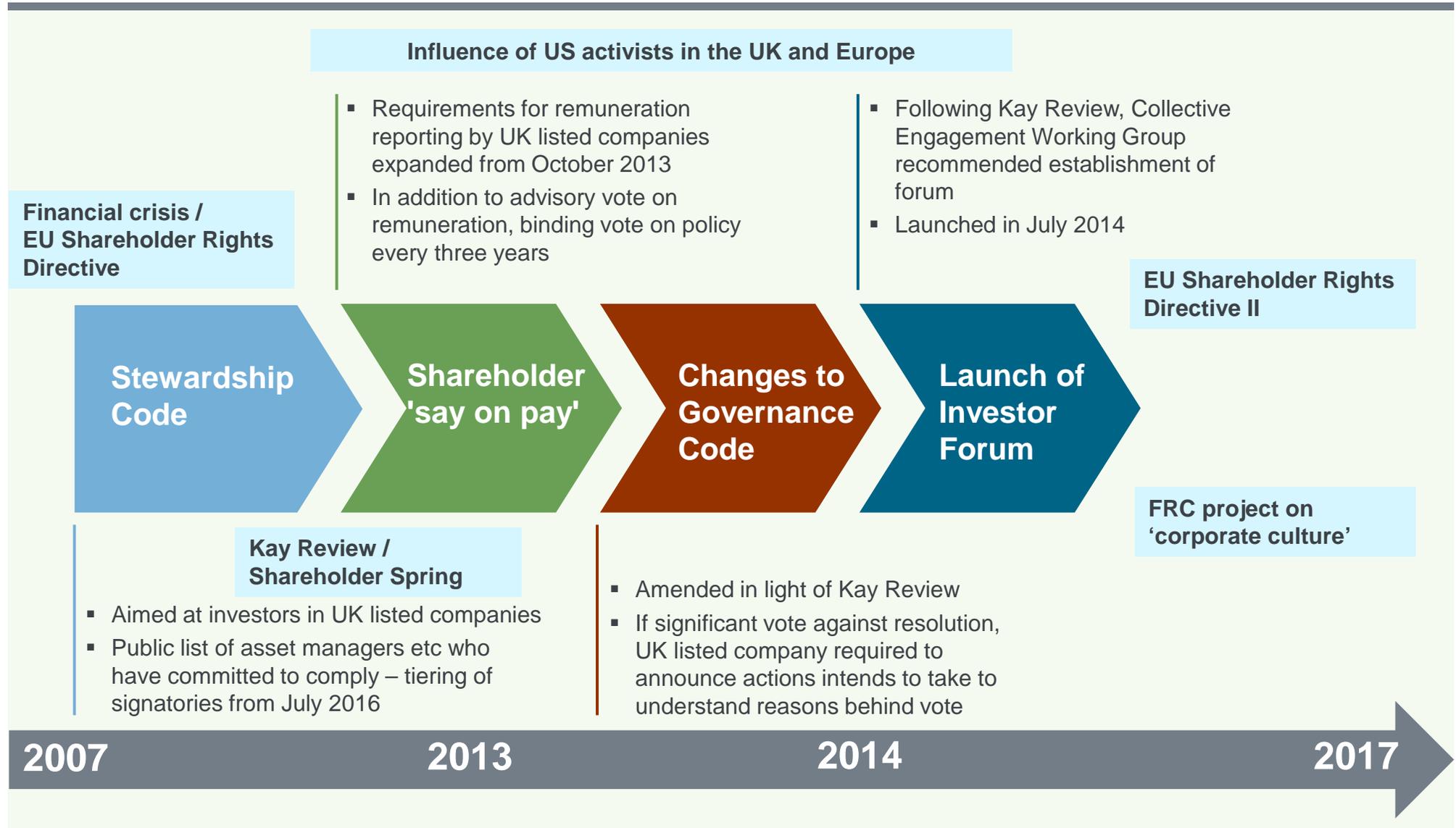
- Request meetings with directors
- Indirect banker-to-banker (or other intermediary) approach
- Send private/public letters
- Apply pressure through the media, investor communications and "white papers" – attempt to generate third-party interest
- Become aggressive with management on analyst calls
- Demand list of shareholders and threaten "vote no" campaign and proxy contest

More formal, aggressive action using shareholder rights

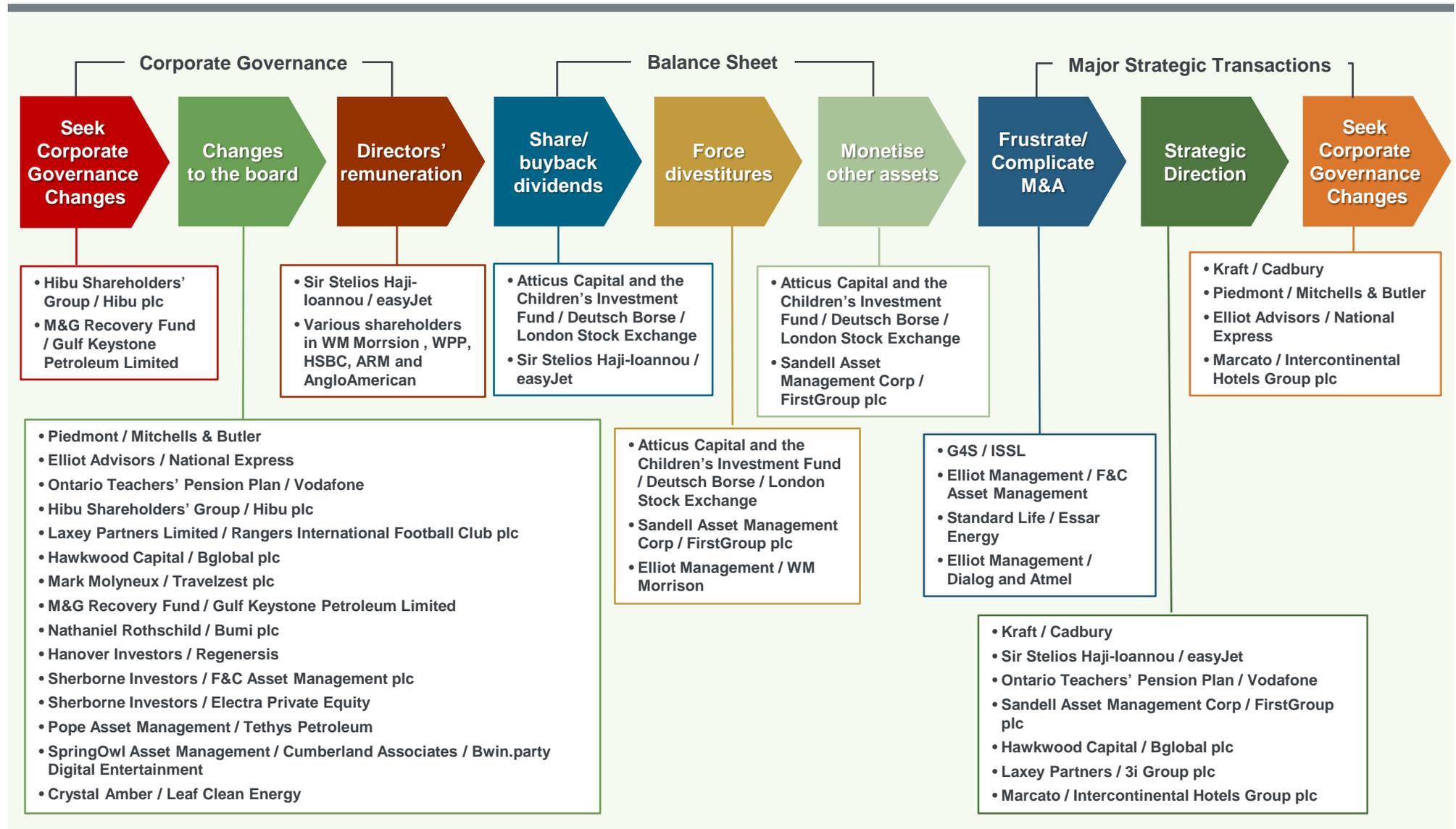
- Launch a "vote no" campaign against company's director nominees or proposals
- Make a shareholder proposal
- Launch dissident slate proxy contest
- Call an informal "shareholder referendum"
- Call a special meeting
- Force a settlement

Goal ► strategic review, M&A, capital structure, management change

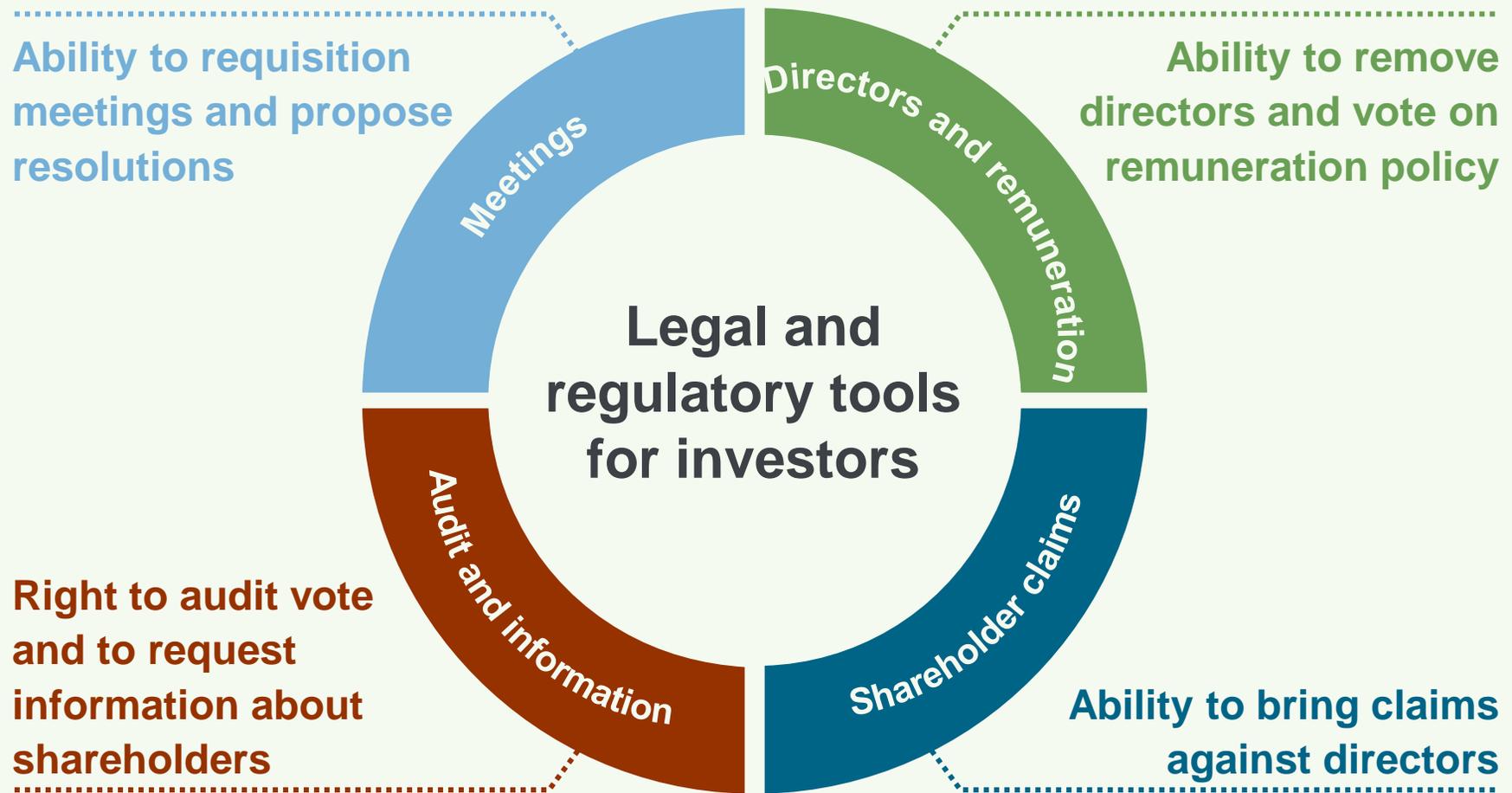
UK public mood and regulatory focus in favour of greater shareholder engagement



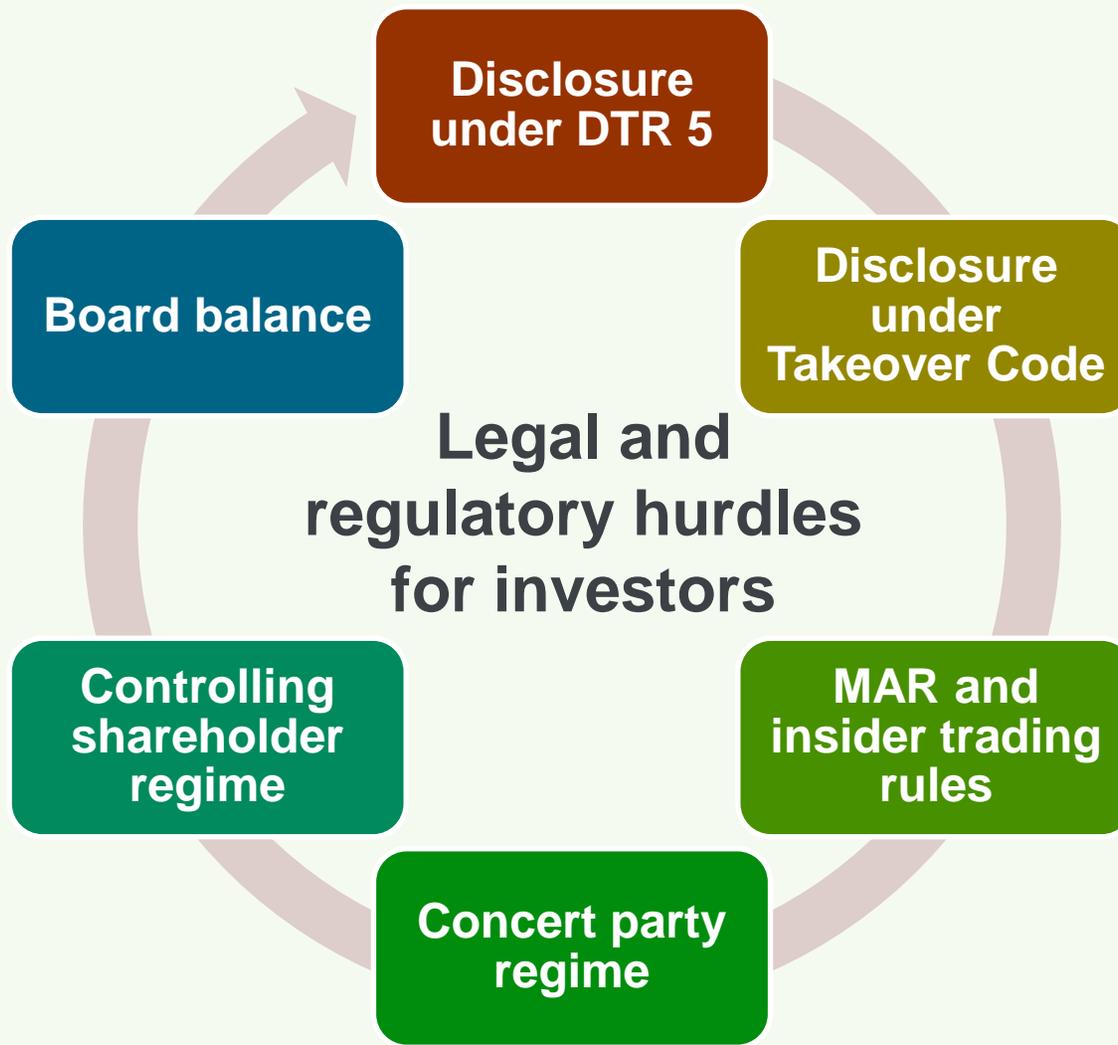
Focus and spectrum of activist campaigns in the UK



Legal and regulatory tools available to an investor ...

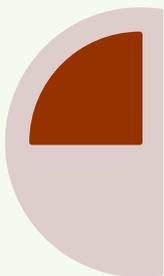


... but hurdles to jump



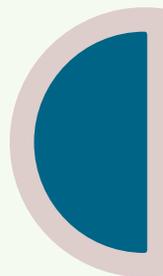
Comparing the US and UK environment

Factors that hinder activism in the UK



- Stricter regulatory requirements in the UK** – Disclosure of interests in shares and rules on insider dealing
- Litigation less prevalent in the UK** – Litigation is a real threat in the US, whereas litigation in the UK is generally limited to unfair prejudice claims and derivative actions
- Lower levels of M&A and IPO activity in the UK** – Less scope for deal activism
- Cultural differences** – UK institutions are more reluctant to side publicly against management
- Proxy advisers less influential in the UK** – ISS and Glass Lewis remain more powerful in the US, activists need to appeal to a broader shareholder base directly

Factors that assist activism in the UK



- Availability of statutory shareholder rights in the UK** – Shareholder rights allow activists in the UK with low, short term ownership interests to compel companies to convene general meetings and propose resolutions
- Absence of poison pills in the UK** – Companies in the UK cannot use poison pills
- Binding vote on remuneration policies in the UK** – Say on pay provides additional tool to exert pressure on boards
- Corporate governance encouraging shareholder engagement with companies** – UK Corporate Governance Code and Stewardship Code aim to enhance quality of engagement between companies and investors

Engaging with investors

Preparation

- Key role for the company secretary
- Know advisory team
- Know corporate procedure
- Identify vulnerabilities in strategy and record
- Develop IR message
- Monitor shareholder base and engage with new investors
- Keep board updated
- Practice run

Pro-active engagement

- Helpful to solicit views of investors
- Regular IR meetings
- Beware selective disclosure
- Treat shareholders equally
- Consider assistance of third parties (Investor Forum)

Defensive response

- Build the record
- Avoid public comment
- Tactics: engage vs. fight
- Consider views and support of other investors
- Reach a settlement

Questions?

If you have any further questions or wish to discuss the topics covered in greater detail, please contact:

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