

CEO Forum Magazine Special Addendum: A 10 Point Anti-Activist Pro Plan.

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UNDERSTAND THE THREAT: Forewarned is forearmed.

1) **Admit the Probability:**

Stop denying the reality and/or hope that activist investors will overlook you. There are now more “activist” investors than targets, thus the probability increases daily. Does your company have cash, real estate, liquefiable assets and shares that can be acquired on any market? Yes? Then you are a target! You haven’t been overlooked; they just haven’t gotten around to you yet.

2) **Prepare Now:**

Want to keep your board seat? Now’s the time to persuade your fellow directors to focus on reality. If you can’t, the battle has likely already been lost. Full board discussions on activist threats, and how to prepare for them, need to be scheduled and acted on.

FIND YOUR FRIENDS: You can’t do this alone.

3) **Understand Your Stockholders:**

Whether they are hedge funds, institutions, investment firms, day traders, employees, or just small retail holders, your stockholders have different expectations and reasons for holding your stock. Contrary to the belief that boards need to “maximize shareholder value,” you can never satisfy all of them. It’s better to focus on assuring investors that your primary and continuous aim is maintaining a profitable, dynamic, responsible business that remains in business. Winning the hearts and minds of your shareholders can’t be overstated.

4) **Find Advisors Who Will be Real Friends:**

Good advisors can take many forms: financial advisors, governance advisors, attorneys, investor and public relations professionals, even investigators, can all be added to the team. Determining who, and what, works best will depend on your company's size, complexity, depth of management, and the board's knowledge, as well as the state of the company's coffers – don't go broke, trying *not* to go broke. Researching the right advisors can be done by special board committees; bringing retained advisors up to speed should be championed by someone you trust. Focus on those who will support and promote your company's long term objectives.

5) **Be Wary of Anti-Activist Defense Specialists:**

There are some well-known firms who tout their abilities to defend targets against activists. However, their ideas about winning often hinge on your company's losing something. Some specialize in engaging and escalating conflicts with activists, which serve to maximize their billings. This begs the question of where their real priorities reside. The mere act of hiring select, well-known anti-activist defenders can signal to the activists that you're ready to lose! Know what their "successful" strategies are and have been, *what they define as "success,"* and whose side they really will serve.

HARDEN THE TARGET: Make activists go after easier prey.

6) **Take Stock of all the Directors – From an Activist's Perspective:**

Tough to do, but not impossible. Analysts and investors are already parsing your directors' histories, skills, and relevancy to the company's future. Conduct a rigorous, (maybe) painful, assessment of each director's contributions and fit for the company's present and future from multiple perspectives. Be objective and pragmatic: sentimentality and collegiality have no place in this process. Review, revise, and refresh your board now! Drive towards a board comprised of solid, reliable performers who value the company first.

7) **Thoroughly Know the Company's Strategy:** Do you actually have one? Is this strategy clearly defined? Focused? Attainable in a reasonable time? Adaptable to changing markets and conditions? Does everyone "get" it and can management execute it properly?

8) **Look at the Business – Like an Activist:**

Rigorously assess what each and every business unit, division, subsidiary, etc. contributes to the bottom line and how each stacks up against an acceptable, value-added minimum. Spin off those that don't. Review the whole capital structure against what your competitors are using. Added risk is not always bad, if it leads to better, sustainable returns.

9) **Look at Management Regularly:**

Does management have practical short and long term operational goals against the strategy? Stay current on changes in the skills of the CEO and their team. Reward attributable endeavors that lead to sustained profits *from operations*. Punish financial gimmickry and evasiveness as you would fraud. Never hesitate to make needed changes!

PLAN FOR THE WORST:

Set Firm Ideas About What You Will and Won't do!

10) **Have a Plan, Set Some Guidelines:**

Look to Win. Once you throw in the towel, you will probably do it again and again for each successive activist. Who can resist an easy touch?

Deflection is Better Than Engagement. It's better to drive off activists immediately, by being an undesirable target, than to go through a give-and-take process, or worse, escalate towards a full blown proxy battle.

Control the Stage. It's never a bad idea to hear what activists have to say. But, discussions of the board's positions may best be kept among board members, then relayed, if needed, directly to *all* shareholders. Also, hastily responding to activist-raised issues risks transferring control of your message, reduces your options, and provides free advertising for the activists. Even if they move on, they gain the opportunity to attract more subscribers, and greater strength and motivation to return.

Don't Let Outsiders Know What You're Thinking. Confidentiality regarding all tactics, internal discussions, plans, and decisions must be adhered to and enforced. Activists very often win battles due to "treachery" within the ranks of a target's board and management. Be alert to those in the company who think they could personally benefit from such situations – board and management alike.

Don't Give Them Credit. At times, activists do come up with ideas for real improvements. Boards should be prepared to deliberate these objectively and make sensible changes. Although, who says you have to give activists credit for the changes? After all, those changes will be directed from the board and executed by management. Some might say that's a little unfair. Then again, the term "unfair" seems to be something mostly whined about by losers. Praise and credit only encourage activists to stay and increase their demands. Pointing to their "success" also makes it easier to attract more subscribers, available capital, and annual fees for themselves. Is that fair?

We invite you to continue the dialogue by contacting:

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