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Activism and the Shift to Annual Director Elections

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We examine a comprehensive sample of 465 firms that switch from staggered boards to annual director elections between 2003 and 2010. Shareholder activism is an important determinant of the manner of the switch. When the change is pushed by aggressive hedge fund activists the board is more likely to embrace annual elections immediately and the markets react favorably, but if the change is pushed by non-binding shareholder proposals, the response is to drag out the change as much as possible and the markets are commensurately unimpressed. Moreover, our sample firms are substantially more likely to be acquired in the ensuing two years when the shift to annual elections is pushed by activist hedge funds.

INTRODUCTION

The staggered board, a structure whereby directors typically have non-synchronous terms of three years rather than facing annual elections, is arguably the most consequential takeover defense. As such, staggered boards have drawn the ire of activist shareholders and governance experts alike. The result is a significant reduction in the incidence of staggered boards: in 2001 roughly 60% of S&P 500 companies had staggered boards, while that proportion has fallen to well under twenty percent today. Our earlier study (Guo, Kruse, and Nohel, 2008) found that non-binding shareholder proposals (what Ferri, 2010, calls "low cost" activism) were an important catalyst in the move away from staggered boards. More recently, activist hedge funds have emerged as an alternative and better-financed vehicle to channel shareholder displeasure, and to benefit financially from improvements in the governance environment. In this paper, we document the extent to which shareholder activism of any type continues to push this change in governance practice, focusing on the implementation and aftermath of the de-stagger.

Staggered boards, and their takeover defense cousins, poison pills, continue to figure prominently in the battle for shareholder democracy. According to Georgeson (2012), shareholder proposals to repeal staggered terms for directors are among the most common and are the most popular with shareholders reaching 81% support in 2012 (up from a still substantial 62% in 2003). The use of staggered boards and poison pills in tandem creates a veritable fortress against would-be suitors. For all intents and purposes, no poison pill meant to deter a hostile takeover has ever been triggered.[1] Moreover, since it is the board of directors rather than the shareholders that control the fate of most poison pills, the ability to influence the

board is paramount. But gaining control of a staggered board is prohibitively expensive as it requires winning elections at two separate annual shareholders' meetings. In fact, no prospective suitor has ever gained control of a staggered board by voting out incumbent directors.

The difficulty of fighting through a staggered board was recently brought to the fore in the much-watched and expensive battle between rivals Air Products & Chemicals and Airgas. Air Products had been in negotiations with Airgas since late 2009, and finally went public with a hostile offer at $60 per share in February of 2010. Airgas held firm, rejecting this and all subsequent offers, protected by its staggered board and poison pill combination. The case eventually featured dissident directors pushed by Air Products, an attempt to alter the timing of Airgas' annual meeting, and even a court battle that reached the Delaware Supreme Court. Air Products ultimately abandoned their bid, purportedly dumping a total of $100+ million in the process. For more details see Section Two, as well as Bebchuk et al. (2013).

Several papers support the notion that staggered boards destroy shareholder value. These include Bebchuk et al. (2002a,b), Bebchuk and Cohen (2005), Daines (2005), Faleye (2007), Guo et al. (2008), and Bebchuk et al. (2013). Faleye (2007), in particular, demonstrates staggered boards are a means of entrenching managers, allowing them to continue to enjoy considerable autonomy, as well as the many perks that come with working in the C-suite. Yet, of these studies, only Guo et al. (2008) consider the role of shareholder activists in advancing this cause, but the focus was entirely on non-binding shareholder proposals.

Recently, research in the area of corporate governance has shifted increasingly to the role of activist hedge funds as external monitors. Papers such as Brav et al. (2008), Klein and Zur (2008), Greenwood and Schor (2009), and most recently Bebchuk, Brav, and Jiang (2013) show that activist hedge funds, motivated by their large financial stakes in firms often successfully agitate for change at target firms. These activist hedge fund campaigns typically focus on board membership, disbursement of cash, or pushing the target to put itself up for sale. Takeover defenses can pose a considerable obstacle, prompting activist hedge funds to push for removal of the defense(s), or for board membership, giving them a voice in the ultimate fate of defenses. None of the above papers specifically focuses on the role of activist hedge funds in pushing for the removal of anti-takeover amendments in general, let alone staggered boards.

The recent case of Chesapeake Energy highlights the role and relative power of different types of shareholder activists. In 2008 and 2009, gadfly activist Gerald Armstrong made shareholder proposals calling for the elimination of Chesapeake Energy's staggered board. In both cases, a majority of shareholders casting votes supported these shareholder proposals with 86.2% of shares voted supporting the 2009 proposal. Not only did Chesapeake not relent to shareholders' wishes, but in 2011 they convinced the Oklahoma legislature to require *all* publicly-traded firms incorporated in Oklahoma to have a staggered board (Gilbert, 2011).

Subsequently, two well-known activists, Carl Icahn and Southeastern Asset Management, launched a campaign directed at Chesapeake in 2012, motivated by their ownership stakes of 7.56% and 13.6%, respectively. The campaign culminated in the appointment of five new independent directors and a new non-executive chairman.[2] In January 2013, the newly configured board announced that if the new mandatory staggered board provision was not overturned by the legislature, the company would reincorporate in Delaware. On March 5, the governor signed an amendment dropping the staggered term rule, and Chesapeake announced that the entire board will stand for reelection at the next annual meeting: they had de-staggered their board, and in the quickest possible way at that (Gilbert, 2013). In this paper, we show that the manner in which companies respond to requests from shareholders is markedly different depending on the identity of the shareholder making the request, as illustrated by the situation at Chesapeake.

The move away from staggered boards in favor of unitary boards (i.e., boards whose directors face annual elections) is but one of many contemporaneous attempts to empower shareholders.[3] Other significant issues include proxy access, new rules requiring shareholders to have a "say on pay", reducing the influence of broker non-votes, and majority voting in director elections. This movement accelerated following the fallout from the bursting of the internet and telecom bubbles and the ensuing revelations of corporate fraud that led to the passage of the Sarbanes-Oxley Act in late 2002.[4]

In terms of shareholder proposals, it wasn't that proposals to de-stagger the board only began in earnest in 2003. There were significant numbers of such proposals already in the mid-1990s, and they even received considerable support (See Georgeson, 1996, 2000, and 2004). Instead, it appears that finally, beginning in 2003 and continuing thereafter, management started to listen to shareholders and seek changes to mollify them.[5]

In this paper, we build on Guo et al. (2008) and compile a sample of instances of firms whose management has stated an intention to put a resolution to de-stagger the board to a shareholder vote or simply de-staggered by board vote. We focus on the post-Sarbanes-Oxley period (i.e., 2003-2010) and find 465 separate events. We find that the overall reaction to the decision to de-stagger shows a small but significant increase in shareholder wealth of 0.4% over the 3-day announcement period centered on the event date. This is driven by the instances where an activist hedge fund has taken an active role in trying to reform the target firms' governance. Subsequent analysis indicates that such firms have a significantly enhanced probability of being acquired within two years of de-staggering the board.

A comprehensive analysis of the role that external pressure plays in driving this change in governance reveals that a majority of firms that eventually decide to move to annual director elections face some form of shareholder pressure, but the nature of the pressure has considerable impact on the response of the targeted firm and the response in the markets to the announced change. Specifically, there is considerable variation in the pace of the change in board structure: firms that face pressure in the form of non-binding shareholder proposals tend to allow directors to serve out existing terms, thereby phasing in the move to annual director elections over several years, i.e., dragging the process out as much as possible. In contrast, firms that have been targeted by activist hedge funds tend to de-stagger their boards by the next shareholders meeting if not immediately (that is, all of the directors agree to resign and face reelection that very year if the shareholders approve the proposal to de-stagger). Moreover the markets respond in kind, bidding up the shares of firms targeted by activist hedge funds, seemingly in anticipation of an eventual takeover, while being unresponsive to a de-staggering prompted by non-binding shareholder proposals. This is buttressed by our evidence from the M&A market.

Consistent with this interpretation, firms moving to annual director elections under pressure from activist hedge funds are significantly more likely to be acquired within two years than otherwise comparable firms, in the spirit of Greenwood and Schor (2009). In contrast, firms moving to annual director elections under shareholder pressure in the form of non-binding shareholder proposals are no more likely to be acquired within two years than otherwise similar firms that do not face any pressure. Interestingly, the association between hedge fund involvement and eventual acquisition largely disappears during the financial crisis. A likely explanation is that activist hedge funds rely on liquid financial markets to practice their craft (Norli et al., 2010), but financial market liquidity had been rather impaired during, and in the immediate aftermath of, the recent crisis.

STAGGERED BOARDS, CORPORATE GOVERNANCE, ACTIVISM, AND FIRM VALUE

Researchers have examined the use of anti-takeover protections for nearly 30 years.[6] The earlier literature is rather inconclusive in many respects with few papers showing significant wealth effects on the adoption of takeover defenses. Moreover, those that do find significant effects are unable to reach a consensus on the question of whether defenses are good or bad for shareholders.

These earlier studies focus on the *adoption* of takeover defenses. However, many defenses were adopted during the 1980s before the case law in this area had yet to reach a consensus. More recently, firms tend to go public with takeover defenses already in place. With the recent pushes toward shareholder empowerment, firms seem reluctant to put the adoption of defenses to a shareholder vote. One of the primary advantages of our approach is that we focus on the removal rather than the adoption of takeover defenses. Moreover, with the Delaware case law on the viability of takeover defenses firmly established by the mid-1990s (see Bebchuk et al. 2002), our focus on the post Sarbanes-Oxley period means that we are dealing with a fairly stable and well-established legal environment.

Underlying the lack of consistency in earlier studies of takeover defenses is a theoretical debate over whether takeover defenses help or hurt shareholders. Opponents argue that defenses are a way for poorly performing managers to entrench themselves. However, proponents claim defenses enhance stability and the bargaining position of the incumbent board, leading ultimately to a higher premium on deals that eventually go through.[7]

A similar debate has centered on the topic of optimal board structure. Several early studies concluded that small boards and outsider-dominated boards are optimal (see Yermack, 1996; Weisbach, 1988; and Rosenstein and Wyatt, 1990), but more recent work has questioned whether such prescriptions should apply universally, by stressing the advisory role, in addition to the monitoring role, of corporate boards (see Raheja, 2005; Coles et al., 2008; as well as earlier work by Adams, 2000; Bainbridge, 2002; and Stout, 2003). A consensus in this literature is certain firm characteristics, as well as the environment within which the firm operates (including the regulatory and governance environment), might have an inconsistent impact on the monitoring and advising function of boards. Therefore, an optimum likely involves a trade-off between better enabling the monitoring function and better enabling the advising function based on which role is more important for any given firm and in any given environment.[8]

The literature has established staggered boards as the most important takeover defense.[9] It is not a staggered board in isolation but rather the combination of a staggered board and a poison pill that creates a near impenetrable defense. But since a board can install a pill at any time without shareholder approval, the staggered board becomes the key element of this joint defense. If you control the board, the fate of the poison pill is in your hands. The poison pill is so effective that no pill meant to deter a takeover has ever been triggered.

Governance experts and shareholder activists have been fighting against staggered boards for some time. As a result, the number of firms attempting to get shareholder approval to stagger their boards has declined precipitously since 1990.[10] One exception to this trend is that firms going public often adopt a staggered board prior to their IPO. In fact from 1988 to 1999, the proportion of firms going public with staggered boards has increased substantially (Field and Karpoff, 2002, Daines and Klausner, 2001, Coates, 2001). Another exception is that some states have adopted laws meant to shield local firms from potential hostile offers, as in the case of Oklahoma/Chesapeake discussed earlier.[11]

Several papers have paid considerable attention to staggered boards (i.e., Bebchuk et al, 2002a, b; Bechuk and Cohen, 2005; Bebchuk, Cohen, and Ferrell, 2006; Daines, 2005; Faleye, 2007; and John and Kadyrzhanova, 2009). For example, Faleye (2007) showcases specific ways in which staggered boards help to entrench management. He shows that firms with classified boards are less likely to fire the CEO when warranted, reduce the effectiveness of independent directors, are more likely to have officers whose pay is unresponsive to performance, and are less likely to implement (non-binding) shareholder proposals when passed, all consistent with an entrenched CEO lacking accountability.[12]

More recently, Bebchuk, Cohen, and Wang (2013) take advantage of two Delaware decisions regarding director elections to perform a natural experiment examining the value destroying impact of staggered boards. Following unsuccessful private negotiations, Air Products & Chemicals, Inc. launched a hostile takeover offer for Airgas, Inc. in February 2010. The hostile offer faced the typical difficulty of gaining timely control of Airgas' staggered board. As a result, Air Products hit upon the idea to file a shareholder proposal calling for Airgas to move its annual meeting forward from its typical August date to January, reducing the time it would take Air Products to wage and (perhaps) win two proxy fights and thereby gain control of the board. While a majority of the votes cast were in favor of the proposal, it did not receive the two-thirds approval Airgas claimed was required for passage and the case went to the Delaware Chancery Court.

While the Chancery Court ruled in favor of Air Products, the Supreme Court overturned the Chancery Court's decision in favor of Airgas. Bebchuk et al. (2013) perform an event study of over 3,000 firms on the two decision dates. Overall, the announcement effect of the Chancery Court decision was significantly positive and then the effect was reversed on the Supreme Court decision to overturn the original ruling. The effect was strongest for smaller, more undervalued firms, i.e., those most likely to be takeover targets. The authors argue that their results help resolve an endogeneity issue surrounding takeover

defenses. Specifically, it is more likely that takeover defenses reduce firm value, rather than that lowered-valued firms are more likely to implement takeover defenses. Presumably, the decisions of the Delaware Courts can be assumed to be exogenous.

Overall, the recent research makes it much harder to make the case that staggered boards are good for shareholders. Voting and proposal patterns over the last 15 years indicate shareholders increasingly recognize the detrimental effect of a staggered board. Moreover, institutions such as activist hedge funds and pension funds and proxy advisory services such as Institutional Shareholder Services (ISS) and Glass-Lewis generally act against staggered boards.

In this study, our main focus is on the implementation of annual director elections and its aftermath, rather than on the decision to de-stagger the board. We take it as given that staggered boards are on average value-destroying and focus on the aftermath of the decision to instigate annual director elections, examining the implementation of annual elections, as well as the exposure of the de-staggering firm to the market for corporate control.

Shareholder activists have long made the removal of takeover defenses a primary goal. However, the effectiveness of the activism, frequently pursued via non-binding shareholder proposals, has been mixed (see Gillan and Starks, 2000 and Ferri, 2010 for surveys). More recently hedge funds have become common and frequently vocal shareholder activists. These activists have many goals, but often their ultimate goal is getting their targets acquired. Removing takeover defenses such as staggered boards and poison pills are seen as an important step to increase shareholder value regardless of the ultimate independence of the target (see Brav, Jiang, and Kim, 2009, for a survey).

Greenwood and Schor (2009) partition their sample by whether the activist target is ultimately acquired. They report both the short- and long-term abnormal returns are significantly positive only for the firms that are acquired within 18 months of the initial 13D filing. A firm’s decision to de-stagger its board increases the likelihood of an eventual acquisition.

SAMPLE SELECTION AND DATA SOURCES

Our primary sample consists of firms that chose to de-stagger their boards between 2003 and 2010. We collect data on the elimination of staggered boards from the governance database available from the IRRC and from Riskmetrics. The sample firms are first identified from firms that change their staggered board status in the IRRC data and/or a change is reported in a Riskmetrics report. We supplement the sample by searching the Dow Jones Newswire (Factiva) and Lexis-Nexis with the key words "declassification," "de- staggering," "declassify," "de-stagger," and "annual election of directors." Our final sample consists of 465 firms and is relatively evenly distributed over the sample period.

We combine our sample with that of an earlier paper covering 1987 to 2004 (Guo et al., 2008) and present this longer time series in Figure 1. Overall, 527 companies have announced an intention to de-stagger their boards over 1987 to 2010, with over 88% of that total having done so since 2003. The remarkable increase in the number of firms de-staggering their boards is part of a general trend focusing on shareholder empowerment in the wake of scandals such as Enron and Worldcom. In this paper, we focus our attention on these later de-staggering events (i.e., subsequent to the Sarbanes-Oxley legislation), since this represents a period of stable regulatory environment, and case law in the area of takeover defenses had been firmly established for several years by then.

We collect information regarding the de-staggering proposals from proxy statements filed with the SEC in the year of the decision to de-stagger and from press reports for each sample firm. An important consideration is the speed that the firms de-stagger their board (i.e., what is the first year that shareholders have the opportunity to elect the entire board for the first time).

The fastest outcome has all directors resigning immediately and allowing shareholders the opportunity to elect the entire board in the proposal year (year 0). At the other extreme, some firms drag out the process as long as possible. In this case, the current slate of directors is still elected to a three year term and all directors serve out their terms. Then beginning with the next year, directors are elected to new one year terms. As a result, shareholders do not have the opportunity to vote for the entire board

until three years after the de-staggering event. Of course, intermediate cases are also possible. As there are no legal conditions preventing the immediate move to annual elections, any proposed delay is clearly an indication of reluctance on the part of officers and directors to move to annual elections.

We provide information regarding the relative frequency of each type of implementation in Table 1, Panel A and the evolution of the relative frequency of each type over the sample period in Figure 2. There is a clear trend towards dragging out the process, with an increase in the time until shareholders can elect the entire board of over a year from 2003 to 2010. Sample firms used the longest possible time frame less than 15% of the time in 2003 and 2004. By 2009 and 2010, this proportion exceeded 60%. A typical stated reason for the phased-in approach is to smooth the transition to the new method of electing directors. However, there are few, if any, logistical issues involved in transitioning to annual director elections, nor are there legal constraints, as stated above. We therefore conclude that these instances likely represent foot-dragging on the part of directors.

We report ownership figures in Panel B. On average, officers and directors hold 9.1% of their firm's shares, while the CEO holds about 3.1% of the equity. Moreover, the CEO is also the board chair at 62% of the sample firms. It is likely management considers the firm's governance environment when determining the manner in which it de-staggers. Therefore, we collect data on institutional shareholders and find they hold an average of 73% of the shares of our sample firms in the quarter ending before the announcement. These figures do not suggest anything unusual about our sample firms.

We collect information on concurrent management and shareholder proposals regarding other takeover defenses in Panel C. Overall, there are other management (shareholder) proposals contemporaneous with the de-stagger decision at 23.4% (14.3%) of our sample firms. Typical management proposals include eliminating supermajority voting provisions, allowing shareholders the right to call a special meeting, and instituting majority voting for directors. In a few cases, management called for the elimination of cumulative voting for directors. This latter proposal can be seen as an attempt to minimize the impact of the de-staggering decision. The most common shareholder proposals call for majority voting in director elections, elimination of supermajority voting provisions, and the elimination of poison pills.

We report data on the degree of entrenchment of the sample firms, as well as their industry peers, in Panel D. We use the E-index of Bebchuk, Cohen, and Ferrell (2009) as our entrenchment index. These data are available for all firms covered by IRRC on Bebchuk's website.[13] We collect information on the components of the E-index for firms not covered by the IRRC from Capital IQ and SEC filings. The E-Index is the sum of six dummy variables indicating the presence of a staggered board, poison pill, whether there exists limits to shareholder bylaw amendments, whether there is a supermajority requirement for mergers, whether there exist limits to shareholder charter amendments, and whether there is a golden parachute. Our sample firms typically are well protected with 3.53 out of 6 defenses (median of 4 defenses), which is significantly greater than their industry peers at the 1% level (either based on industry means or medians).

We collect information on the incidence of shareholder activism at the de-staggering firms. We use Riskmetrics and proxy statements to examine the incidence of shareholder proposals calling for annual elections in the three years up to the announcement. We also examine Schedule 13Ds filed with the SEC, along with news articles, for evidence of hedge fund activism targeted at the sample firms. The SEC requires investors acquiring a stake of 5% or greater with an intent to influence management to file a Schedule 13D within 10 days of crossing the 5% threshold (otherwise they must file 13-G). Note that while filers of Form 13D are not exclusively activist hedge funds, such funds do represent a substantial majority of the entities behind such filings and therefore for simplicity we refer to all of these as "activist hedge funds".

We focus our attention on Item 4 of the 13D statements which details the plans of the investor. In many cases, the language is simply boilerplate: the investor states that they bought the shares because they view them as undervalued and that the shareholder might informally contact the target management. In other cases, the shareholders take a much more active role including writing letters, attending board meetings, making shareholder proposals, and even running proxy fights for board seats.

A frequent outcome of this activism is that the board eventually decides to de-stagger. Our sample firms are subject to more active attention from large investors than the norm. Brav, Thomas, and Kim (2009) report 47.9% of all Schedule 13D filings indicate a less aggressive, boilerplate approach. As can be seen in Panel E, the less aggressive approach occurs in only approximately 27% of our cases in which a 13D is filed. Overall, nearly 60% of the sample firms are subject to some form(s) of activism, with over 40% the target of shareholder proposals to de-stagger the board in any of event years -1 through -3. Over half of the non-binding shareholder proposals come from "gadfly" shareholders with the remainder coming from institutional investors, unions, and hedge funds.[14]

We collect a wide array of accounting data for our sample firms. We industry-adjust the figures by deducting the median figure based on two-digit SIC code. We report these industry-adjusted figures in Panel F. Overall, our sample firms tend to out-perform their industry peers in terms of both EBITDA and Net Income to Assets, both significantly greater than their industry peers at the 1% level. The sample firms are noticeably more levered than their industry peers. The typical target has a market capitalization of just over $2 billion. We do not see a trend in terms any of the financial variables over time.

THE SHIFT TO ANNUAL DIRECTOR ELECTIONS AND ITS AFTERMATH

Figure 2 shows that the trend among our sample firms has been to lengthen the time until shareholders can elect the entire board, with the average number of years until shareholders can elect the entire board increasing from one to well over two over the sample period. We begin our more detailed analysis by examining factors affecting this implementation decision. We then analyze the announcement effects of the decision to de-stagger. Finally we consider outcomes by looking at the likelihood of acquisition of sample firms in the two years following their decision to de-stagger and the factors affecting those outcomes. In all of these analyses, our main focus is on the type of activism faced by firms (if any) and its influence on outcomes.

Analysis of the Implementation Decision

We report various factors associated with the type of implementation in Table 2. We divide the sample by the year in which shareholders first have the opportunity to elect the entire board and examine firm and activism characteristics for each group. We also report test statistics comparing firms that allow for the election of the entire board immediately (in year 0) against those that draw out the process as long as possible (not until year 3) as well as for a broader comparison of those that allow quicker elections (years 0 and 1) against those that drag out the process (years 2 and 3).

As reported in Table 2, Panel A, non-binding shareholder proposals have a perverse impact on the speed with which management implements its decision to de-stagger. Among firms that choose to allow an immediate vote for all directors, shareholder proposals occurred in only 15.6% of cases. In contrast, shareholder proposals preceded 64.6% of the cases in which the firm decided to drag out the process through year 3. This is consistent with the idea that management believes it is necessary to listen to shareholder proposals more than they might have in the past, yet they feel comfortable enough to drag out the process as long as possible. However, firms who find themselves targeted by activist hedge funds (those filing Schedule 13D) tend to accelerate the de-staggering process, suggesting an unwillingness of these more well-financed activists to accept managerial foot-dragging. Specifically, 37.2% of firms choosing to immediately allow the entire board to be elected are pressured by activist hedge funds, while only 18% of the firms that decide to drag out the process for three years faced pressure from activist hedge funds.

Next, we examine whether managerial ownership or the presence of other takeover defenses plays a role in the speed at which the de-staggering decision is implemented. Panel B reports the proportion of shares held by the CEO and Officers and Directors (O&D) as well as the sample firms' E-index and industry adjusted E-index segmented by year in which shareholders can first elect all directors. Firms with higher CEO or O&D holdings are more likely to allow quicker elections, consistent with the idea

that higher shareholdings better align officer and general shareholder interests. In contrast, firms that drag out the process tend to be those with higher firm and industry-adjusted defenses, as well as smaller O&D/CEO holdings. It is possible these firms are concerned that they are unduly exposing themselves to unwelcome offers by de-staggering quickly. The fact that CEO and O&D ownership is low suggests that they have less to gain from de-staggering, while the fact that they have strong defenses in place suggests that they may fear the accountability and exposure to the market for corporate control that comes with annual director elections.

Finally, we examine the relative financial performance and firm size of the firms segmented by first election year and report the results in Panel C. Firms dragging out the process as long as possible had the best earnings prior to the de-staggering decision. They also tended to be larger in terms of total assets and market capitalization. However, the latter result is weaker, as a few extremely large firms did decide to allow immediate elections, thus skewing the means. In contrast, there are few differences in leverage and market to book ratios among firms choosing different implementation processes. Seemingly their outperformance and large size embolden them with a sense of having more leeway with investors.

We run regressions of the implementation decision on various independent variables and report the results in Table 3, focusing on explanatory variables discussed earlier. We perform this analysis with and without industry dummy variables based on either 2 digit SIC codes or Fama-French industry classifications. The inclusion of the dummies has no appreciable impact on the results, so we report results without industry dummies in the interest of saving space. The dependent variable (DELAY) is the number of years until the full board must face annual elections (with values from 0-3). Since the dependent variable is discreet, with only four possible values, we use ordinal logistic regression, which allows for the use of ordered dependent variables. Specifically we examine DELAY as in Equation (1) below:

$$\text{DELAY}_i = \mathbf{x_i}\beta_{\text{activism}} + \mathbf{y_i}\beta_{\text{controls}} + \mathbf{z_i}\beta_{\text{crisis}} + \boldsymbol{\varepsilon_i} \quad (1)$$

Where the activism independent variables are a series of dummies indicating whether firm i was targeted by large shareholders filing a Schedule 13D, who indicated either the intention of taking specific actions (Active Investor) or a more passive approach (Investment Only 13D) and by firms receiving Shareholder Proposals. The control variables consist of CEO and institutional ownership, adjusted and unadjusted E-indexes, and industry adjusted performance. Finally, the Crisis dummy indicates the firm began the de-staggering process in 2008 or later.

Consistent with the results of Table 2, companies subject to notification of a 13D filing, particularly those by more active investors, choose to allow the election of all directors more quickly, by about half a year on average (significant at the 5% level). In contrast, firms tend to drag out the de-staggering process as long as possible in response to shareholder proposals, by almost one and a half years (significant at the 1% level).

As with Table 2, firms with a high degree of takeover protection and superior performance want to maintain their staggered board as long as they can. Also, consistent with the results presented in Figure 2, there is a trend towards delaying the de-staggering in later years, particularly after the financial crisis began in late 2007. Specifically, firms dragged out the process for about one and a half extra years, even after controlling for the impact of shareholder pressure, and firm governance and performance. This is consistent with the notion that market conditions during and immediately after the financial crisis, especially the reduced liquidity, made activist investing a tougher proposition and hampered the market for corporate control overall.

We consider the possibility that monitoring costs or advising needs of sample firms affect the implementation of the move to annual director elections. In regressions not reported in the table, there is a weak positive relation between advising needs and the length of time to implement the shift to annual director elections, but the relation is not significant at conventional levels, while the length of the implementation period is unrelated to monitoring costs. Finally, CEO ownership and

institutional ownership mostly have no significant relation with the implementation of the de-stagger.

Wealth Effects

We perform a standard event study of the announcement effects of the move to annual director elections. We calculate 3-day cumulative abnormal returns (CARs) using the earliest of three possible dates: (1) the date the intention to put the staggered board to a shareholder vote was announced or simply the date the board announced its move to annual director elections (if no shareholder vote is necessary), (2) the date the firm released its preliminary proxy statement including the de-stagger vote with the SEC, or (3) the filing date of the definitive proxy statement with the de-stagger vote. Not all firms have press announcements or preliminary proxy statements, implying that the dates are not necessarily precise, and also implying that the reported CARs most likely understate the impact of the move to annual director elections on shareholder wealth.

We report the CARs for our de-staggering events in Table 4a. For the entire sample, the CARs are small but significant at the 5% level, with the mean and median announcement effects of 0.424% (p = 0.034) and 0.195% (p = 0.045), respectively. We also examine the announcement effects for firms subject to the various forms of shareholder activism. Perhaps the most interesting result is when we divide the sample by whether activist hedge funds targeted the firms prior to their decision to de-stagger. In this case, the mean and median CAR's are 1.374% and 0.832%, respectively, both significant at the 1% level. This finding is consistent with Greenwood and Schor (2009), who provide evidence that hedge fund shareholder activism creates the most shareholder value when the target firms are eventually acquired. They also report that activism sometimes has unintended consequences. Namely the target firm is ultimately acquired in 15.7% of the incidences in which the initial goal of the activism was governance improvements. If we include all firms subject to prior 13D filings (including those with no stated intention to engage management in discussion about policy changes), the median announcement effects are smaller at 0.6% but still significant at the 5% level. In contrast, firms subject to shareholder proposals prior to the de-staggering decision experience insignificant CARs, as do firms that were not subjected to any form of shareholder activism. Finally, firms that choose to de-stagger quickly (either immediately or within a year) have median CARs of 0.366%, significant at the 10% level, while those choosing to delay have insignificant negative CARs.

We regress the CARs on a dummy variable indicating the incidence of hedge fund activism and a variety of financial and governance measures and report the results in Table 4b. Based on the results of Table 3, we include the Crisis dummy equaling one if the announcement year is 2008 or later and zero otherwise. Overall, the results are consistent with the univariate analysis: CARs are significantly higher (at the 5% level) if the firm was targeted by activist hedge funds (filing a form 13D prior to the decision to de-stagger). However, consistent with the general decline in M&A activity following the financial crisis, the crisis dummy is negatively related to the CARs, though not at traditional levels of statistical significance. The CARs are also positively related to the level of institutional ownership at the 5% level, consistent with the presence of these investors providing critical liquidity and support for potential activists, and CARs are positively related to inside ownership, but the significance is weak. We also estimated specifications that include financial variables on the right hand side, but the financial variables have no explanatory power for the CARs, so these results have been omitted in the interest of brevity.

Subsequent Acquisition Activity

We examine the acquisition activity of our sample firms following the decision to de-stagger. Specifically, we track all sample firms for two years subsequent to the de-stagger announcement, to see which, if any become targets in a takeover. We create a dummy variable, ACQUIRED, which equals one if the sample firm was acquired within two years of the annual meeting in which shareholders voted to eliminate the staggered board or announcement date if there was no shareholder vote, and zero otherwise.[15] Overall, 11.2% of the sample firms were acquired within two years. Next we examine the extent to which different forms of activism act as catalysts for an eventual acquisition.

We estimate a Logit model, regressing the variable ACQUIRED on the various forms of activism and an interaction term using the Crisis dummy and report the results in Table 5. Consistent with the announcement effects reported in the previous section and with Greenwood and Schor (2009), firms are more likely to be acquired if they were previously targeted by a hedge fund activist. That is, the firms were being put in play. This effect is both statistically and economically significant, with the implied probability of acquisition within two years of the decision to de-stagger rising from 8% or 10% to over 20% if targeted by an activist hedge fund, significant at the 1% or 5% level, depending on the specification. However, the impact of hedge fund activism is reduced in the aftermath of the financial crisis when equity and credit markets were strained, making it more difficult for hedge fund activists to succeed in their efforts to get the target acquired (or acquire it themselves). Again these effects are both statistically and economically significant, with the initial effect essentially obliterated in the crisis period.

In contrast to the impact of activist hedge funds, shareholder proposals have little influence on subsequent activism activity, and if anything make acquisition within the two-year window less likely (though not in a statistically significant way). This is consistent with the analysis of the implementation decision where target managers are minimally acceding to the wishes of this less intense and less well-funded form of activism.

Summary of the Empirics

Overall, our empirical results show that the trend of 2003 and 2004 documented in Guo et al. (2008) of acquiescence to shareholder wishes has continued through 2010 (and in fact has continued beyond 2010), though our analysis identifies a new trend: acceding to shareholder wishes on the surface, while dragging out the change as much as possible. This recent trend towards subtle resistance to change (or, more bluntly, foot-dragging) is clear and strong. Another novel finding is the role of activist hedge funds in pushing through improvements in corporate governance and the ability to monitor management, as well as countering the resistance to change.

As a general rule, though not completely ignored as was the case in years prior to SARBOX, non-binding shareholder proposals are likely to be met with superficial acceptance combined with managerial/directorial foot-dragging. In contrast, our sample firms are much less able to ignore the pressure mounted by hedge funds and other large investors. In fact we know of anecdotal instances where managerial foot-dragging in response to pressure from hedge fund activists was met with harsh calls to drop the foot-dragging (see Svaldi, 2004, for an example). These different forms of shareholder pressure have differing consequences and, ultimately, outcomes. Specifically, firms targeted by activist hedge funds are acquired within two years with considerably higher frequency (acquisition probability more than doubles), while firms targeted with non-binding shareholder proposals are not. These outcomes are anticipated in general by the equity markets although investors are not able to identify specific targets (i.e., CARs are large and significant when activist hedge funds are involved, but they are not predictive of eventual acquisitions).

The ultimate influence of these different forms of activism (non-binding shareholder proposals versus hedge fund activism) likely boils down to who has more skin in the game, and as a result, who has management's attention. After all, non-binding shareholder proposals may be filed by any investor who holds a certain trivial number of shares (as is the case with gadflies), while 13D filers by definition hold at least 5% of the outstanding equity. Moreover, we should keep in mind that the firms that still had staggered boards in 2009 and 2010 are likely to be the firms most reluctant to drop their staggered boards. For instance, by 2013, only a relative handful of S&P500 companies retain staggered boards. But the few that do are likely to require extreme pressure to change since thus far they have been unwilling to expose their directors to annual elections.

CONCLUSION

We study firms who have eliminated their staggered boards in favor of annual director elections. We focus on the 2003 to 2010 period following the passage of Sarbanes-Oxley, which is characterized by a

seemingly increased willingness on the part of companies to listen to shareholder activists. Our focus is on the role that different forms of shareholder activism play in the speed of implementation of the switch to annual director elections, the response of the market to this implementation decision, and the ultimate possibility of acquisition.

We build on an earlier study of Guo et al. (2008) that looked at firms choosing to eliminate staggered boards between 1988 and 2004, since this earlier study pre-dated the most influential period for hedge fund activism. In extending the sample through 2010, we find that the elevated level of de-staggering activity in 2003 and 2004 identified in Guo et al. continued at least through 2010. However, concurrent with this continued elevated level of de-staggering activity, we identify a new trend of companies increasingly dragging out the implementation of annual director elections for up to three years.

As in Guo et al. (2008) we find that non-binding shareholder proposals have substantial influence on target firms since we find that close to 40% of all decisions to de-stagger the board are preceded by shareholder pressure in the form of non-binding proposals. However, when we consider the speed of eventually moving to annual director elections, it is clear that shareholder interests are not of paramount importance since the tendency in these instances is to drag out the conversion to annual director elections for as long as possible. In contrast, events preceded by interest/prodding from activist hedge funds tend to lead to an immediate switch to annual elections. These two extremes of the activism spectrum also have differential impacts on shareholder wealth and probability of acquisition.

In terms of wealth effects, overall we see that the market responds favorably to a switch to annual director elections (significant at the 5% level). But this overall average masks a more striking result: the response to a de-stagger announcement that was preceded by an aggressive 13D filing from an activist hedge fund prompts a highly significant jump in share prices of around 1.4%, while a de-stagger announcement prodded by a shareholder proposal shows no significant reaction.

Finally, we consider the ultimate fate of our sample firms, namely, whether or not they are acquired within two years of their decision to de-stagger the board. Consistent with our other results, we find that sample firms subjected to hedge fund activism are substantially more likely to be acquired within two years of moving to annual director elections, while if anything non-binding shareholder proposals reduce the likelihood of being acquired, though not significantly. Though the wealth effects and eventual outcomes both showcase the important role played by activist hedge funds, the market reaction to de-stagger announcements is not predictive of actual takeover targets.

Overall, our results paint a striking picture of the relative effectiveness of different forms of shareholder activism. Though officers and directors seem reluctant to outright ignore the views of diffuse outside shareholders, as had they had been doing throughout the 1990s, their acquiescence appears superficial, often dragging out the process for several years. In contrast, hedge fund activists refuse to be ignored. These outcomes are perhaps not surprising considering the hedge funds influencing our sample firms necessarily had a stake in the target of at least 5%, while non-binding proposals can be submitted by any investor meeting a trivial ownership threshold.

ENDNOTES

1. The lone exception is the case of Versata v. Selectica, in which Versata intentionally triggered the activation of Selectica's pill and then challenged its validity in court. However, Selectica's pill was an NOL pill with a 4.99% trigger, meant to deter transactions that would result in the limiting of Selectica's ability to make use of their sizeable amount of NOL carry-forwards. These NOL-based pills are not particularly meant to deter possible suitors interested in acquiring the adoptees of the pills.
2. Icahn was permitted to nominate one director, while Southeast was entitled to nominate three. Interestingly, several slots on the board became available after some existing directors failed to garner a majority of votes cast in the election. See the Company press release, June 21, 2012.
3. Of course, the empowerment of shareholders comes at the expense of CEO/managerial power, consistent with the Kahan and Rock (2010) notion of embattled CEOs.
4. See Ferri (2010) for a survey of the literature examining some of these issues. Moreover, Guo, Kruse and Nohel. (2008) document a remarkable acceleration in the trend towards unitary boards in 2003 and 2004.

5. A particularly egregious example is the case of Bristol-Myers Squibb. After adapting a classified board in 1984, they received shareholder proposals to repeal the classified board each year from 1985-2003, the last several years proposals each garnered majority support. Finally, in 2003, they announced that it was important to adhere to shareholder preferences and de-stagger the board.
6. See, for instance, DeAngelo and Rice (1983), Linn and McConnell (1983), Jarrell and Poulsen (1987), Karpoff and Malatesta (1989), Agrawal and Mandelker (1990), McWilliams (1990), Bhagat and Jeffries (1991), Comment and Schwert (1995), Mahoney et al. (1996), and McWilliams and Sen (1997) who all look at the wealth effects stemming from the adoption of takeover defenses by firms. None of these studies has significant coverage of the 1990s or later in their datasets.
7. Though limited in scope, Bebchuk et al. (2002a,b) raises serious questions about the ability of staggered boards to increase premia in either negotiated or hostile transactions. More recently, Bates et al. (2008) counter that staggered boards do increase bargaining power.
8. A recent paper by Ahn and Shrestha (2012) applies these ideas to the topic of staggered boards, with the idea that staggered boards are bad when the monitoring function appears more crucial than the advising function, but might improve the efficacy of outside directors in their role as advisors. They find evidence supporting these ideas: in cases where the board's role as advisors dominates, the efficacy of independent directors is enhanced when their terms are staggered. In contrast, when the need for the board to act as a monitor dominates, staggered boards lead to inferior outcomes, consistent with entrenchment. We construct proxies for monitoring costs and advising needs based on the same measures as Ahn and Shrestha (2012), but we find little evidence that these variables are significant determinants of either the implementation decision or the eventual independence of the target.
9. See, for example, Bebchuk et al. (2002a, b), Daines and Klausner (2001), Bebchuk and Cohen (2005), and Bebchuk, Cohen, and Ferrell (2008).
10. According to Klausner (2002), of the 10 proposals to introduce staggered boards made in 2000, 6 were made by firms where insider holdings exceeded 35% of outstanding shares. Of the remaining 4 only 1 passed.
11. Recently both Oklahoma and Indiana adopted laws mandating staggered boards for companies chartered in their states. In general these laws were implemented with considerable corporate pressure. See "Oklahoma Board Rule Benefits Chesapeake," by Daniel Gilbert, *Wall Street Journal*, July 11, 2011. Earlier, Massachusetts famously passed a 1990 classified board law, attempting to shield a local firm from foreign suitors (see Daines, 2005).
12. John and Kadyrzhanova (2009) explore the idea that would be acquirers look for the easy targets – that is, firms with fewer defenses relative to their industry peers. They find that among industries characterized by a higher incidence of classified boards (what they call the dictator portfolio), the relation between a specific firm having a classified board and the probability of (1) a bid and (2) conditional on a bid, successful acquisition, is negatively related to whether it has a classified board. However, the relation does not hold among firms in their democracy portfolio (i.e., industries characterized by the lowest incidence of classified boards).
13. http://www.law.harvard.edu/faculty/bebchuk/data.shtml
14. Note that the various forms of shareholder activism are not mutually exclusive. For instance, the same firm may be targeted by a non-binding shareholder proposal, while simultaneously being targeted by an activist hedge fund with a stake large enough to necessitate a 13D filing.
15. Though a 2-year window is an ad-hoc choice, it represents a reasonable compromise between a short window and a lengthy window. Given that there are a significant number of events in 2009 and 2010, a longer window treats these events differently from the rest of the sample. Note: our two-year window is similar to the 18-month window used on Greenwood and Schor (2009).

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FIGURE 1
DISTRIBUTION OF SAMPLE FIRMS BY YEAR OF THE DECISION TO DE-STAGGER

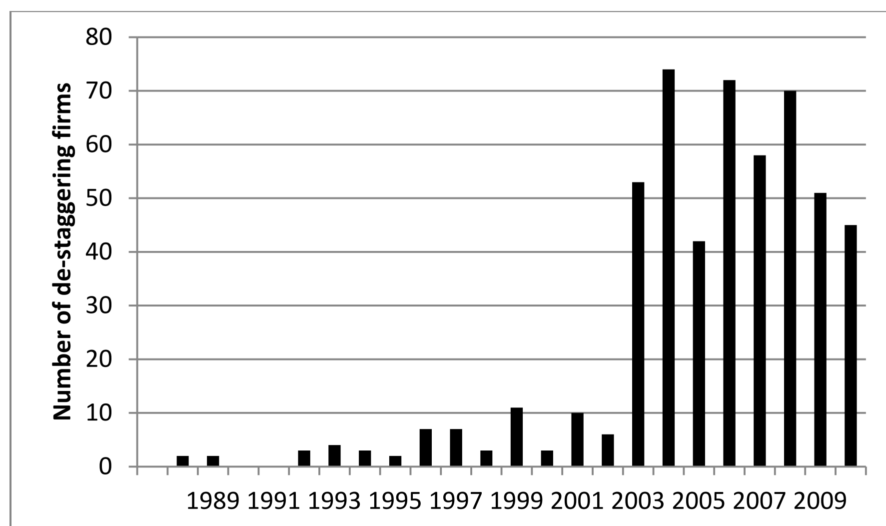

FIGURE 2
IMPLEMENTATION OF THE DE-STAGGERING PROCESS

This figure shows the relative frequency of the time (relative to announcement year) until shareholders can vote for entire board in a single election. Year 0 indicates the entire board will resign upon the vote to de-stagger and will stand for reelection immediately. Year 1 indicates the new term for the current class of directors is one year and the remaining directors also will stand for reelection in the following year. Year 2 indicates the new term for the current class of directors is one year, but remaining directors will be allowed to serve their three year terms. Year 3 indicates the current class of directors will receive a three year term and the remaining directors also will be allowed to serve out their three year terms, switching to annual elections as the terms expire.

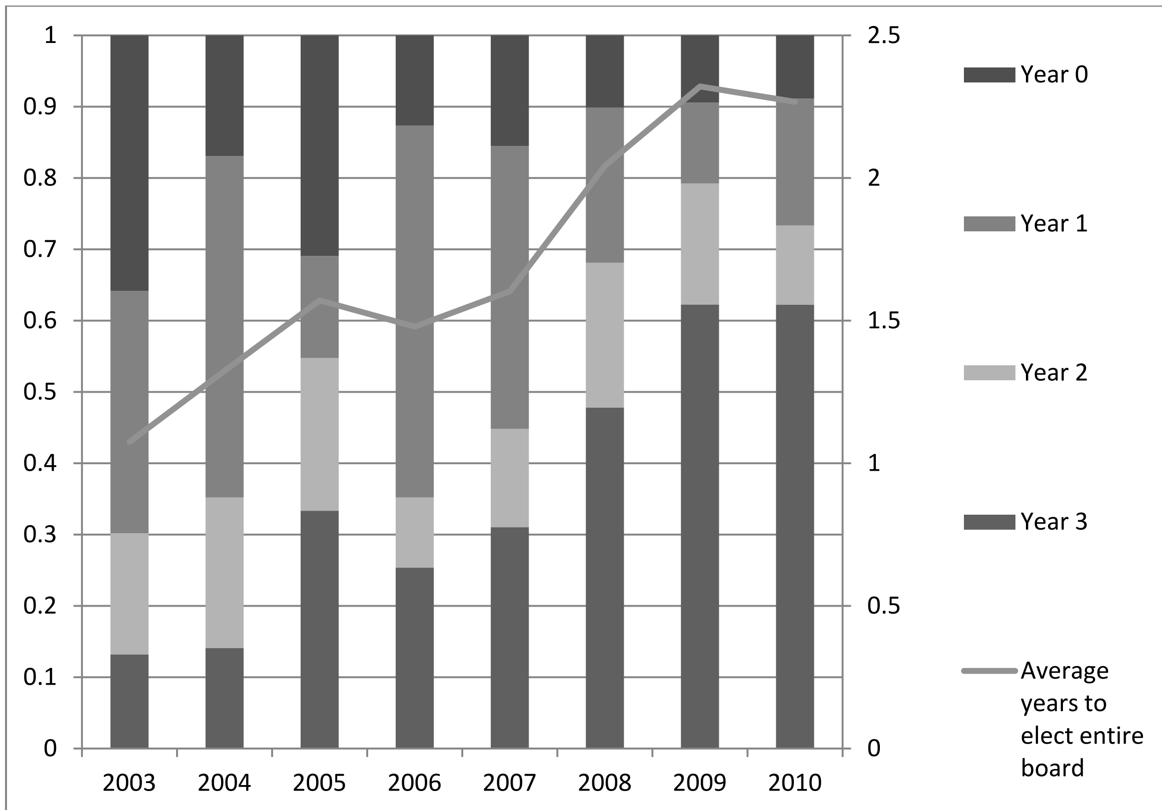

TABLE 1
SUMMARY STATISTICS

The sample is 465 firms announcing they will de-stagger their board or that they will put the matter to a shareholder vote. Panel A reports the implementation process of the decision to de-stagger in terms of the first year (relative to the announcement) in which shareholders gain the right to vote for all board members at the same annual meeting. Panel B reports board and ownership information. Ownership figures are the proportion of shares held by the CEO, officers and directors, and institutional investors. Panel C reports the frequency that other matters are put to a shareholder vote at the same time as the de-stagger decision, whether proposed by management or shareholders. Panel D provides information on the entrenchment index of Bebchuk, Cohen, and Farrell (2009). The E-index is the sum of six dummy variables indicating whether the sample firm has a staggered board, a poison pill, requires supermajority approval of any merger, has a golden parachute, has limits to amend its charter, and has limits to amend its bylaws. The adjusted E-index adjusts the sample firm E-index using either the industry mean or median based on **2-**digit SIC codes. Panel E reports the frequency that the sample firms were targeted by a shareholder proposal, an activist shareholder, or through a Schedule 13D filing simply indicating the possibility of future activism. Panel F reports various financial data for the sample firms. Industry adjustments use median figures based on 2-digit SIC codes.

Variable	Mean	Median
Panel A: First year shareholders can vote for the entire board at once		
Year 0	0.169	
Year 1	0.318	
Year 2	0.165	
Year 3	0.348	
Panel B: Ownership Characteristics:		
CEO share ownership	0.031	0.008
Officer & Director share ownership	0.091	0.037
CEO also holds chair position	0.620	
Institutional investor share ownership	0.733	0.791
Panel C: Other proxy proposals during de-stagger year		
Management proposals	0.234	
Shareholder proposals	0.143	
Panel D: Anti-takeover devices:		
E-index	3.53	4.00
Adjusted E-index (using industry mean)	0.53***	0.49***
Adjusted E-index (using industry median)	0.48***	0.00
Panel E: Monitoring:		
Shareholder proposal	0.421	
Activist target	0.261	
Investment based 13D filing	0.097	
Any of above	0.599	
Panel F: Industry adjusted financial measures (except size measures which are in $ billions)		
EBITDA/Assets	0.028***	0.011***
Net Income/Assets	0.001	0.005***
Profit margin	-0.142	0.012***
Long-term debt ratio	0.078***	0.048***
Total debt ratio	0.047***	0.012***
Market to book	0.103***	-0.015
Total assets	23.388	3.551
Market capitalization	10.288	2.157

TABLE 2
FACTORS AFFECTING THE IMPLEMENTATION DECISION

Panel A reports the frequency that the sample firms were targeted by various shareholder activists based on the implementation of the de-staggering process. The test statistic is the result of a chi-squared test of the null hypothesis that implementation process is the same regardless of shareholder activism. Panels B and C report data on ownership, the entrenchment index, and financial data based on the implementation decision. The mean figure is reported above the median in each instance. The sample comprises 465 firms announcing they will de-stagger their board or that they will put the matter to a shareholder vote. The test statistics examine the hypotheses that the means and medians are the same regardless of the implementation decision. *, **, *** indicates significance at the 10%, 5%, and 1% levels, respectively.

	Year of first opportunity to elect entire board				**Test statistic**	
	Year 0	Year +1	Year +2	Year +3	year 0 v 3	yrs 0/1 v 2/3
Panel A: activism						
Shareholder proposal	0.156	0.301	0.438	0.646	50.08^{***}	51.06^{***}
Activist event	0.231	0.170	0.184	0.124	4.46^{**}	1.89
Boilerplate 13D filing	0.143	0.102	0.092	0.068	3.45^{*}	2.15
Any 13D filing	0.372	0.272	0.289	0.180	10.50^{***}	5.02^{**}
Panel B: ownership and defenses						
Proportion CEO ownership	0.067	0.029	0.032	0.016	2.87^{***}	2.60^{***}
	0.010	0.007	0.008	0.006	3.20^{***}	2.09^{**}
Proportion O&D ownership	0.154	0.095	0.097	0.056	4.08^{***}	3.44^{***}
	0.072	0.040	0.047	0.026	4.91^{***}	3.80^{***}
Proportion Institutional Investors	0.582	0.705	0.755	0.820	5.01^{***}	4.88^{***}
	0.635	0.749	0.795	0.833	4.50^{***}	4.12^{***}
Firm E-index	2.913	3.365	3.446	3.938	5.28^{***}	4.41^{***}
	3.000	3.000	3.000	4.000	4.79^{***}	4.20^{***}
Adjusted E-index	0.233	0.425^{***}	0.500^{***}	0.624^{***}	2.20^{**}	1.87^{*}
	0.000	0.000	0.000	1.000^{***}	2.16^{**}	2.10^{**}
Panel C: financial data						
Adjusted EBITDA to TA	-0.015	0.019	0.021	0.057^{***}	2.97^{***}	2.71^{***}
	-0.011	0.010^{***}	0.009^{*}	0.018^{***}	3.23^{***}	2.41^{**}
Adjusted NI to TA	-0.027	-0.011	-0.013	0.031^{***}	2.74^{***}	2.37^{**}
	0.001	0.003^{*}	0.000	0.011^{***}	2.45^{**}	1.65^{*}
Adjusted Leverage	0.080^{***}	0.056^{***}	0.094^{***}	0.086^{***}	0.25	1.56
	0.020^{***}	0.028^{***}	0.066^{***}	0.067^{***}	1.43	2.36^{**}
Adjusted Market to book	0.195^{*}	0.056	0.163^{*}	0.050	1.19	0.25
	0.027	-0.013	0.000	-0.031	0.33	0.48
Total assets	21.378	26.534	14.150	21.625	0.02	0.66
	1.350	3.940	2.911	5.974	5.42^{***}	3.64^{***}
Market capitalization	7.594	11.785	8.013	11.010	1.22	0.13
	0.771	1.575	1.470	3.852	4.64^{***}	3.32^{***}

TABLE 3
ORDINAL LOGISTIC REGRESSION OF IMPLEMENTATION DECISION

The dependent variable is the number of years until the shareholders have the ability to vote for the entire board of directors in the same election. Active investor, Investment only 13D, any 13D filing, and shareholder proposal are dummy variables equaling one if the sample firm was the target of a shareholder activist. CEO shares and institutional ownership are the proportion of shares held by the CEO and institutional investors, respectively. E-index is the sum of six dummy variables indicating the sample firm has a staggered board, a poison pill, requires supermajority approval of any merger, has a golden parachute, has limits to amend its charter, and has limits to amend its bylaws. The adjusted E-index adjusts the sample firm E-index using the industry median based on **2-**digit SIC codes. The adjusted ROA is the industry-adjusted net income to total assets based on 2-digit SIC codes. Crisis is a dummy variable equaling one if the announcement to de-stagger was made in 2008 through 2010.The sample comprises 465 firms announcing they will de-stagger their board or that they will put the matter to a shareholder vote. Chi-squared statistics are reported in parentheses. *, **, *** indicates significance at the 10%, 5%, and 1% levels, respectively.

	(1)	(2)	(3)	(4)
Active investor			-0.575**	-0.564**
			(5.16)	(4.98)
Investment only 13D			-0.269	-0.266
			(0.65)	(0.63)
Any 13D filing	-0.461**	-0.453**		
	(4.50)	(4.36)		
Shareholder proposal	1.347***	1.339***	1.393***	1.385***
	(43.24)	(43.04)	(45.22)	(45.00)
CEO shares	-2.230*	-2.105*	-1.790	-1.651
	(3.51)	(3.10)	(2.28)	(1.92)
Institutional Ownership	0.426	0.387	0.424	0.384
	(1.50)	(1.22)	(1.47)	(1.19)
Firm E-index		0.157**		0.164**
		(4.23)		(4.58)
Adjusted E-index	0.131*		0.135*	
	(2.73)		(2.91)	
Adj ROA	1.362**	1.406**	1.381**	1.428**
	(4.17)	(4.47)	(4.30)	(4.62)
CRISIS	1.497***	1.380***	1.517***	1.393***
	(48.92)	(39.75)	(49.20)	(39.86)
Likelihood chi-square	143.39***	145.08***	144.31***	146.11***
N	424	425	423	424

TABLE 4A
THREE DAY CUMULATIVE ABNORMAL RETURNS

This table reports three day Cumulative Abnormal Returns (CARs) at the announcement of the decision to de-stagger the board or put the matter to a shareholder vote. The sample comprises 455 firms announcing they will de-stagger their board or that they will put the matter to a shareholder vote. The top portion of the table segments the sample by whether the sample firms were targeted by large shareholder activists or received shareholder proposals to de-stagger the board prior to the de-staggering decision. The bottom portion segments the sample by the implementation decision. Immediate equals one indicates the shareholders were able to elect the entire board within one year, while immediate equals zero indicates the sample firm phased in the implementation process and shareholders had to wait at least two years before they could vote for the entire board in one election. The sample comprises 465 firms announcing they will de-stagger their board or that they will put the matter to a shareholder vote. Test statistics (in parentheses) report examine the null hypothesis the CARs are equal to zero. *, **, *** indicates significance at the 10%, 5%, and 1% levels, respectively.

	ACTIVE=1	ACTIVE=0	SPROP=1	SPROP=0
Mean	0.01374***	0.00247	0.00427	0.00353
	(3.20)	(0.45)	(0.87)	(0.81)
Median	0.00832***	0.00129	0.001393	0.00173
	(2.83)	(0.35)	(0.76)	(0.71)

	Immediate=1	Immediate=0	Full Sample
Mean	0.00479*	0.00366	0.00424**
	(1.81)	(1.05)	(2.37)
Median	0.0366*	-0.0144	0.00195**
	(1.77)	(-1.20)	(2.12)

TABLE 4B
CROSS-SECTIONAL REGRESSION OF THREE DAY ABNORMAL RETURNS

This table presents results of regressions of the three day abnormal return at announcement of the decision to de-stagger the board or put the matter to a shareholder vote. Active investor is a dummy variables equaling one if the sample firm was the target of a large shareholder activist. Crisis is a dummy variable equaling one if the announcement to de-stagger was made in 2008 through 2010. Institutional ownership and O&D ownership are the proportion of shares held by the institutional investors and officers & directors, respectively. The sample comprises 465 firms announcing they will de-stagger their board or that they will put the matter to a shareholder vote. T-statistics are reported in parentheses. *, **, *** indicates significance at the 10%, 5%, and 1% levels, respectively.

	(1)	(2)	(3)	(4)
Intercept	0.00388	-0.00629	-0.00265	-0.01253*
	(1.46)	(-1.08)	(-0.87)	(-1.81)
Active investor	0.01159**	0.01347**	0.1148**	0.01332**
	(2.03)	(2.33)	(2.01)	(2.31)
Crisis	-0.00444	-0.00732	-0.0039	-0.00698
	(-1.01)	(-1.60)	(-0.87)	(-1.57)
Institutional Ownership	0.01501**		0.02014**	
	(2.01)		(2.50)	
O&D Ownership			0.01213	0.02692*
			(0.81)	(1.65)
R^2	0.0121	0.025	0.0137	0.0316
Adj-R^2	0.0072	0.018	0.0063	0.0219
F-statistic	2.47*	3.40**	1.86	3.24**
N	405	405	405	405

TABLE 5
LOGIT ANALYSIS OF ACQUISITIONS OF SAMPLE FIRMS

The dependent variable equals one if the sample firm was acquired within two years of the annual meeting in which shareholders voted to eliminate the staggered board or of announcement date if there was no shareholder vote. Active investor, Any 13D filing, and shareholder proposal are dummy variables equaling one if the sample firm was the target of a shareholder activist. Crisis is a dummy variable equaling one if the announcement to de-stagger was made in 2008 through 2010. The sample comprises 465 firms announcing they will de-stagger their board or that they will put the matter to a shareholder vote. P-values are reported in parentheses. *, **, *** indicates significance at the 10%, 5%, and 1% levels, respectively.

	(1)	(2)	(3)
Intercept	-2.1633***	-2.3482***	-1.9545***
	(0.0001)	(0.0001)	(0.0001)
Active investor	0.9397**		
	(0.0178)		
Active investor*crisis	-1.5172*		
	(0.0622)		
Any 13D filing		1.0544***	
		(0.0016)	
Any 13D filing*crisis		-0.7076	
		(0.1978)	
Shareholder proposal			-0.2334
			(0.5130)
Shareholder proposal*crisis			-0.2398
			(0.6469)
Pseudo R^2	0.018	0.028	0.004
N	465	465	465

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