Comments on Coffee, Jackson, Mitts & Bishop, “Activist Directors and Agency Costs: What Happens When an Activist Director Goes on the Board?”

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Fascinating paper!
Comments on Empirics
• **Leakage increases after appointing a director.**
  – If the activist is a hedge fund.
  – If the director is an employee of the activist.
  – If there is no confidentiality agreement.
  – The effect disappears within 36 months.

• **Bid-ask spread increases after appointing a director.**
  – If the director is an employee of the activist.
  – If there is no confidentiality agreement.
  – And only if the activist is a hedge fund?

• **Market reaction and option trading relate to settlement type (no tables)**
  – Higher returns and lower option trading without employee director
  – Higher returns with confidentiality agreement

**Main results**
Figure 3: Why does leakage decrease in the 6 months preceding the director’s appointment? Why does it decrease again later?
• The paper says the higher leakage in settling firms disappears as detection risk increases.
  – But detection risk should be highest near director appointment.
  – Detection matters only for illegal trading.
  – Check when the activist sells and when the director resigns.

The gradual disappearance of leakage needs explaining.
Table 5: Treatment firms start with less leakage and catch up after director appointment.
• The dummy variable indicating a firm that settled with an activist (Treatment) is time-invariant.

• If there is a difference of more than a few days between the settlement date and the director appointment date, create a dummy for each.

• Only when the director actually joins the board, can she leak information.
• Leakage increase only for activism by hedge funds
  – 81% of activists in the sample.
• Leakage increase only for employee directors
  – 70% of directors in the sample.
• Leakage increase only when no confidentiality agreement
  – The majority of settlements in the sample (percentage not reported). Are these agreements enforceable?

Tables 7, 8, 9: Can small sample size explain the absence of an effect for subgroups of treatment firms?
Figure 4: Why does bid-ask spread continue to increase over a year after director appointment (while leakage reverts down)?
• What are the determinants of placing employees on the board?
  – Hedge fund identity; firm characteristics

• Does placing an employee on the board predict the outcome of the activism campaign?
  – This may independently explain the increase in leakage and bid-ask spread.

• Focus on 8-K filings associated with substantial price reactions. Only they contain material information, on which it is illegal to trade pre-filing.

• Include settlement variables also with no interaction with Post in bid-ask spreads regressions (as in leakage regressions)?
  – Treatment in Table 10; Employee Director and Non-Employee Director in Table 11; Information Sharing Rule and Non-Information Sharing Rule in Table 12

• Include firm and year fixed effects?

Miscellanea
Comments on Theory
• The paper says probably not the employee on the board because her trades are easy to trace.
• Trades by her hedge fund employer (the activist) are also easy to trace.
• Still, it is worth checking whether hedge fund employees on corporate boards or their hedge fund employers earn above-market returns after the employee joins the board.

Who trades on inside information when a hedge fund employee is on the board?
• The paper claims they receive tips from the employee on the board in return for supporting the hedge fund that placed her.
  – Can we identify any hedge funds holding stock? Do they earn above-market returns after the employee joins the board?

• The paper argues the tips keeps other hedge funds from selling after the stock price jumps at the filing of the activist’s 13D.
  – But they can still benefit from mergers, buybacks, etc.
  – And if tips are needed to keep them, this is a cost of hedge fund activism. Without it the activist’s threat will not be credible and the 13D will not affect stock price.
  – Also, it is not clear why the activist would dole out valuable tips, widening bid-ask spread and cutting down its gain, if this is not necessary for its campaign.

The paper says other hedge funds are the traders.
Rule out the possibility that incumbent directors are the traders...
• The paper proposes ways in which institutional investors or the law can combat tipping by hedge fund employees on corporate boards.

• If information sharing (including sharing of non-material information) keeps wolf packs together, preventing it will undermine hedge fund activism. Is this what we want?

• And if the current price of hedge fund activism is too high, the market can fix the problem: hedge fund activists will stop winning board seats, if institutional investors stop backing them.

Do we need a cure?
Thank You