

UNSOLICITED VIEWS

MoFo's monthly newsletter chronicling developments in hostile M+A

Editors: Jeffery Bell, Enrico Granata, Spencer Klein, Jonathan Melmed, Ted Powers

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Featured Article

ACTIVISTS INCREASINGLY SEEK A "SECOND BITE AT THE APPLE"

By Spencer Klein and Enrico Granata

In recent proxy seasons we have noticed an increase in the frequency of "second bite" proxy contests. These situations can take various forms, including (i) a second proxy contest by an activist that reached a settlement with the company in a prior year, (ii) an additional proxy contest launched by a shareholder that had previously unsuccessfully tried to appoint nominees to the board, or (iii) a contest launched by a shareholder after the company has reached a settlement with another activist. While it is impossible to provide recommendations of general applicability since any strategic advice in the context of a proxy fight needs to be customized to the specific circumstances of the case, we have included below some considerations that might provide some preliminary guidance to companies to reduce the likelihood of a "second bite" situation. [Read more](#)

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