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February 19, 2015, 6:38 AM ET

# The Morning Risk Report: How Activist Wolf Packs Work

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By [GREGORY J. MILLMAN](#)

Wall Street Journal

The Securities and Exchange Commission requires that investors who individually or in concert acquire more than 5% of a company must disclose the fact in a [Schedule 13D](#) filing. But what if investors could collectively accumulate big stakes and act together without actually coordinating? [New research](#) shows that they can, much as schools of fish or flocks of birds manage to move in unison without members talking to each other. “There are ways that things become coordinated and activism campaigns succeed despite the fact the 13D rules make it harder to coordinate actions,” explained Professor Richmond D. Matthews, a professor of finance at the University of Maryland and a co-author of the research.

In so-called “wolf pack activism”, the researchers find, groups of activist investors, each holding a relatively small stake, can spontaneously coalesce around a target and effectively work together without phoning each other or laying plans. The presence of a lead activist with a relatively bigger stake than others increases the probability of success. “The fact there is this larger player actually makes the smaller activists more aggressive in their engagement strategy. It gives them more comfort that expending some resources to engage the target will in end be more fruitful and makes them more willing to do so,” said Professor Matthews.

Whether it is good or bad that the 13D disclosure requirement is a mere gossamer barrier to such campaigns may be a matter of where one’s interests lie. When it comes to these wolf packs, the loudest howling often seems to emanate from the corporate boardrooms targeted. In a blog post earlier this year, corporate attorney Martin Lipton, founding partner of Wachtell Lipton Rosen & Katz and veteran critic of shareholder activism, [called 2014 “the year of the wolf pack”](#) for the number and intensity of attacks and offered a litany of reasons why this was an unwelcome

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*Please note: The Wall Street Journal News Department was not involved in the creation of the content above.*

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development. On the other hand, [as we have previously reported](#), academic studies lend strong support to the notion that activist campaigns improve companies and benefit shareholders over the long term.

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**[Malware exists: deal with it.](#)** Companies have to accept that governments and criminals will seek their data, and they should instead work on mitigating the risks that come from intrusions, experts told Risk & Compliance Journal. Their remarks come after two separate reports Monday from Kaspersky Lab ZAO, a Russian computer-security firm, detailing efforts utilizing malware to exploit computers across the globe.

**[U.S. Treasury allows personal communication exports to Sudan.](#)** Modeled on exports to Iran allowed by Treasury's Office of Foreign Assets Control since May 2013 (and expanded in February 2014), the general license allows services, software and hardware "incident to personal communications" to be exported to Sudan.

**[Flowserve discloses FCPA investigation.](#)** Flowserve Corp. said Tuesday in a securities filing that it discovered a potential foreign violation of the Foreign Corrupt Practices Act involving an employee based in an overseas subsidiary.

## COMPLIANCE

**[U.K. launches investment banking competition investigation.](#)** The U.K.'s financial conduct regulator on Thursday said it would investigate competition in the investment and corporate-banking sector following a series of complaints about a lack of transparency in the market, the WSJ reports. The Financial Conduct Authority said that it had received feedback from industry participants concerned about conflicts of interest and that bundling services together stifles competition. The regulator is talking to trade bodies and clients and will publish the terms of reference for the review in the coming months.

**[Caterpillar](#) CAT -1.49% [faces pileup of probes and inquiries.](#)** The Peoria, Ill.-based maker of heavy equipment and engines, Caterpillar Inc., faces a federal grand-jury investigation in Illinois involving cash transfers within the company and another in California focused on railcar repairs. Caterpillar has acknowledged that the Securities and Exchange Commission and the Internal Revenue Service have raised questions related to its tax-reducing strategies. The SEC also is looking into Caterpillar's accounting related to the 2011 acquisition of Bucyrus International Inc.

**[Apple](#) AAPL +0.22% [sued for poaching A123 employees.](#)** A123 Systems, a lithium-ion battery maker for electric cars and other business sectors, is suing Apple Inc. for what it alleges is an "aggressive campaign to poach employees." The WSJ reports that the complaint, filed in Massachusetts earlier this week, names five employees that have either defected to Apple or appear to be in the process

distract management and harm investors. Its content spans governance, risk and compliance and includes analysis of the significance of laws and regulations, the risks inherent in global expansion and the protective moves taken by companies.

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