

**The Wharton School – University of Pennsylvania
FNCE 402
Corporate Governance and Shareholder Activism**

**Fall 2022
Preliminary Course Syllabus**

(Please note that this syllabus is subject to change over the duration of the course; however, the general structure and content of the course will remain the same.)

Professors

Kevin Kaiser (kaiserk@wharton.upenn.edu)

Teaching Assistants

tbd

Classroom JMHH 240

FNCE 402 – M/W at 1:45 p.m. – 3:15 p.m.

Course Description

The aim of the course is to provide an introduction to corporate governance and shareholder activism. The course makes use of lectures and case studies. This year's course has been substantially revised based on previous student's feedback to better spread the workload across the semester and respond to other requests. The lectures expose the students to the institutional and empirical facts as well as approaches followed by leading shareholder activists. The case studies are designed to provide students an experience on identifying potential opportunity for value creation through active engagement. The speaker sessions will provide opportunities to learn from market participants directly and will represent various perspectives including: investment banking support, legal support, corporate executives, and shareholder activists.

An essential element of the course is learning how to estimate the value of the activism target, and how to assess the potential for value creation through alteration of the company strategy, operations, or financial policy. This potential for unlocking value needs to be assessed, and the resulting value compared to the existing price to assess the quality of the investment thesis. The course assignments require students to develop and practice skills on fundamental analysis.

Teamwork is an essential part of the course, and participants are encouraged to form diverse teams with the objective of maximizing learning and competing perspectives. In addition to the case assignments, each team will identify and analyse an activism target and prepare a 'fight deck' as well as draft letter(s) to the board/press/institutional investors outlining their recommendations and strategy for effecting change and creating value.

Reading Materials:

- Case materials and lecture notes on course webpage (Canvas)
- Additional background reading materials will be distributed
- Recommended (but not required) background reading:
 “The Blue Line Imperative,” by Kaiser and Young, 2013

“Corporate Governance Matters: A Closer Look at Organizational Choices and Their Consequences,” by David Larcker and Brian Tayan

Format:

The structure of the course includes lectures, case discussions, and guest speakers. The major objective of the case method in finance is to **use the logic of financial theory to arrive at sensible conclusions** when faced with real world problems. However, one should **keep in mind that there is not one absolutely right answer to a case; different assumptions can lead to different solutions**. While there are no “right” answers, there are good arguments and bad arguments. The process of this course will help distinguish between sensible and senseless arguments. Considering the professor’s analyses as the correct solution defeats the purpose of this course and contributes to the silly notion that in the “real world” there is a single correct recipe to be followed.

Student Responsibilities and Assessment:

1. Case Study Assignments: (50% of the course grade).

Students will organize themselves into groups of three to five members to work on all cases. Groups must be fixed throughout the course. Diverse background within the group is beneficial. Since group work is a cooperative undertaking, students are urged to ensure that they form groups that are able to work effectively as a group. Although brief discussions across different groups are allowed, exchange of analysis and calculations is not. The major objective of the case method in finance is to **use the logic of financial theory to arrive at sensible conclusions** when faced with real world problems. Therefore, demonstration of the key concepts of financial theory is imperative in these cases.

There are 8 case studies in the course. All groups must submit a report for the Corteva – Starboard Value negotiation exercise. There are 7 remaining cases and each group will select for which 3 of those cases they wish to submit a ‘long’ of 3 pages, double-spaced, plus exhibits report which will be graded. The reports to be submitted for a grade (will be referred to as ‘long’ or ‘to be graded’ reports) will be identified prior to Monday, Sept. 13 and each group must inform Prof. Kaiser and the TAs of their selected cases. For the remaining cases, for which the reports will not be graded, each group must submit a ‘short’ report demonstrating that they read the case and discussed it among the group.

Summary of Submission and Grading of cases:

- Each and every group will submit a long report (in pdf format, of maximum 3 pages plus exhibits) for Corteva – Starboard Value
- Each group must select 3 of the remaining 7 cases for which they will submit a "long report" to be graded (in pdf format, of maximum of 3 pages text plus exhibits)
- Each group must submit a "short report" of maximum 1 page (in pdf format) for the

remaining 4 cases for which they did not choose to submit a long report. The short reports will only be graded for "pass" or "fail".

Supporting computations and tables can be described in the text of the report or in an appendix and submitted in Excel format. All of the inputs and formulas used should be provided. Some of the case assignments contain questions that need to be addressed, however you will also be graded based upon how well you identify the relevant questions and issues to be addressed. Therefore, whether there are questions for the case or not, please consider what the relevant questions are in the context of each case and discuss why and then perform the necessary analysis to address these questions. The raw data and relevant information for cases will be made available on the course webpage. **A subset of groups may be chosen to lead the discussion by presenting their analysis.**

2. Class Participation and Attendance: (15% of the course grade)

A goal of this course is to provide students with the opportunity to learn how to best contribute to discussions about complex financial issues. Therefore, this class depends and thrives on class participation. It is an important and essential part of this course. Because so much learning in this course occurs in the classroom, it is important that you attend every class. **Voluntary class participation is encouraged. "Cold calls" will be made as to ensure that the class enjoys the benefit of every student's contribution.** Inadequate class participation combined with several absences can lead to a failing grade. Performance will be judged based on the quality of comments/answers. **Students are expected to prepare for each case and participate actively in class.** To facilitate recording of class participation, please keep the same sitting arrangement throughout the semester.

3. Activism Campaign Analysis ('fight deck'): (30% of the course grade)

Each participant should endeavor to increase her/his awareness of activist events and corporate governance news during this course. In order to ensure participants exercise their own curiosity and pursue and apply knowledge outside of the case studies and lecture/speaker sessions presented in the classroom, each participant is responsible for identifying and analyzing a potential activism target. The summary of this analysis will be a 'fight deck' representing the team's analysis along with a letter to the board summarizing the key points of the team's recommendations and communication. Each group will present their original work to the class.

4. Individual Reflection paper (5% of the course grade)

Learning is an effortful process and I have added this assignment in place of a final exam. The purpose of this exercise is to ensure that each individual devotes some time (a couple hours or more) to reflecting back on this course and trying to recall and deepen your understanding of the many topics and concepts covered. You are expected to submit (along with the group paper) your individual reflections on what you learned during this course and the insights you gained. It is expected to be between 2-5 pages and address the following elements: (1) Summarize and demonstrate understanding of the concepts taught in this course, (2) Summarize the insights you gained, and (3) Describe how these insights will impact you/your behavior going forward.

Please do not be evaluative (e.g., please avoid statements such as "I really loved the session when we talked about..." or "I found the discussion around xxx to be very confusing...")

Simply emphasize your learning by structuring your reflections as, "What I learned was"
Grading will be based on the depth and quality of your reflections as reflected in the depth and quality of the learning and insights you share in this report.

Important Note Concerning Group Grading Process:

To provide effective governance and to encourage effective teamwork, grades for groupwork will be allocated according to contribution allocations as assessed by the other members of your group for ALL group members of ALL groups. All group members are required to provide a response to the survey question below after all group work for the course has been completed. The results will apply to group grade allocation across group members for ALL of the groupwork throughout the course,

Survey question to be answered by all students enrolled in the course:

Please provide an allocation out of 100% for the contribution made by the individual members of your group to all group work submitted in this course, excluding any measure of your own contribution, such that the sum totals 100%.

Each group member’s contribution will be assessed as the average of the percentages reported by the other members of the group. For example, if you are in a 5-member group and the other four members of your group gave you contribution allocations of 20%, 20%, 25% and 15%, then your average is 20% across 4 people, which translates into 16% across 5 (which puts you below average).

See the chart below as a sample template:

Group member name:	Howard Marks	Marie Curie	Mary O'Connor	Martin Luther King, Jr	Michael Jordan	Allocation (out of 25%)	Percent allocation (out of 20%)
Howard Marks	20%	20%	20%	15%	25%	20%	16%
Marie Curie	25%	25%	25%	25%	25%	25%	20%
Mary O'Connor	35%	30%	35%	35%	30%	33%	26%
Martin Luther King, Jr.	35%	30%	35%	20%	20%	30%	24%
Michael Jordan	5%	20%	20%	25%	25%	18%	14%
TOTAL	100%	100%	100%	100%	100%	125%	100%

Your own grade will be the average of the contribution allocated by you as reported by your teammates. For example, if your 4 teammates gave you contribution allocations of 20%, 20%, 15% and 25%, such as for Howard Marks above, then your average allocation would be 20% as assessed by your 4 teammates, which results in a relative contribution of 16% out of 20% for your contribution to the team. In this case, your team grade will be reduced by 4% of the team average grade. As another example, had your teammates given you contribution allocations of 25%, 25%, 25%, and 25%, such as for Marie Curie above, then your average allocation would be 25%, which results in a relative contribution of 20% out of 20%.

Your resulting relative contribution allocation as rated by your teammates will then be used to either add to or deduct from the team’s overall grade on the group assignments according to the distance your

relative contribution allocation is away from 20% (for groups of 5) or 25% (for groups of 4). Each 1% above/below the mean will result in an addition/deduction of 1% of the group grade. Therefore, for example if your group grade is 18/20 on the TER Negotiation exercise and your relative contribution is rated 24% in a team of 5, such as for Martin Luther King, Jr. above, so that you are 4% above the mean of 20% for relative contribution, then your grade on the TER Negotiation exercise will be $104\% \times 18 = 18.72/20$. As another example, if you are in the same group with a group grade of 18/20 but your relative contribution is rated 14% in a team of 5, then your grade will be $94\% \times 18 = 16.92/20$.

Code of Ethics:

Submitted assignments for grading should be your own or your team's own work only. Most cases in this course involve actual companies. You may use firm specific or market data that are publicly available for your analysis. You cannot, however, use analysis originating/belonging to others e.g. banks, hedge funds. Failure to observe this rule may result in an automatic failing grade for the course.

Office Hours and Contact Information:

Kevin Kaiser:

Office Hours: Tuesdays at hours tbd

Email: kaiserk@wharton.upenn.edu

Course Schedule All dates, including due dates of assignments, are subject to change to accommodate speakers

Class #	Date	Topic	Assignment
1	Monday, August 29, 2022	Course Intro & Who are Activist Investors?	no assignment today
2	Wednesday, August 31, 2022	Introduction to Corporate Governance / ESG	no assignment today
	Monday, September 5, 2022	LABOR DAY - No class	No class
3	Wednesday, September 7, 2022	Value Investing Foundations	no assignment today
4	Monday, September 12, 2022	Activist Toolkit - Proxy advisors and campaign	Apple: Corp Governance & Carl Icahn
5	Wednesday, September 14, 2022	The PR side of Activism	Speaker
6	Monday, September 19, 2022	Activist Toolkit - Valuation and Value Creation	no assignment today
7	Wednesday, September 21, 2022	Analysing an activist target	United Technologies or AOL
8	Monday, September 26, 2022	Defending against a Shareholder Activist	Speaker
9	Wednesday, September 28, 2022	Legal support for Activists	Speaker
10	Monday, October 3, 2022	Overview of the landscape of Shareholder Activism	Speaker (Alejandro Pryzgod)
11	Wednesday, October 5, 2022	Analysing and activist target	Engine No. 1 and Exxon
Penn Fall Break			
12	Monday, October 10, 2022	Investment Banking Support	Speaker?
	Wednesday, October 12, 2022	MBA Core Exams	
	Monday, October 17, 2022	MBA Opportunity Week	
	Wednesday, October 19, 2022	MBA Opportunity Week	
13	Monday, October 24, 2022	Corteva negotiation	Corteva setup
14	Wednesday, October 26, 2022	Corteva negotiation	Corteva negotiation in class time
15	Monday, October 31, 2022	Corteva debrief	Corteva debrief
16	Wednesday, November 2, 2022	Operational Improvement	CP and Third Point
17	Monday, November 7, 2022	Group presentations	Fight decks for selected companies
18	Wednesday, November 9, 2022	Marvell	Speaker (Jon Sagal and Ajay Sundar)
19	Monday, November 14, 2022	Speaker (Chairman of Target)	Rick Hill (board chair)?
20	Wednesday, November 16, 2022	Group presentations	Fight decks for selected companies
	Thursday, November 17, 2022	Speaker (Investor)	Jeff Smith (afternoon special session)
	Monday, November 21, 2022	No MBA Class	No MBA class
	Wednesday, November 23, 2022	THANKSGIVING - no class	No class
21	Monday, November 28, 2022	Speaker - Japan	FANUC/GS Activism defense in Japan
22	Wednesday, November 30, 2022	Presentations & Reflection	Fight decks for selected companies
23	Monday, December 5, 2022	Presentations & Reflection	Fight decks for selected companies
24	Wednesday, December 7, 2022	Presentations & Course wrap-up	Course summary and wrap up

List of Readings

- Kaiser and Young, Managing for Value 2.0, *Journal of Applied Corporate Finance*,
- Chapters 1 & 2, from *The Blue Line Imperative*, by Kaiser and Young, 2013
- Berk and DeMarzo, “Corporate Finance”, Chapter 29, 4th Edition
- Henderson and Rose, “Investor “Short-Termism”: Really a Shackle?” (HBS 9-315-084)
- Graham, Kim and Leary, “CEO Power and Board Dynamics,” March 2017
- Chapter 12, “Institutional Shareholders and Activist Investors,” from *Corporate Governance Matters*, by Larcker and Tayan
- Gompers, Ishii, Metrick, 2003, “Corporate governance and equity prices,” *Quarterly Journal of Economics*, 107-155
- Bhagat and Bolton, 2008, Corporate governance and firm performance, *Journal of Corporate Finance*, 2008, 257-273
- Bebchuk, Cohen and Ferrell, What Matters in Corporate Governance?, *Review of Financial Studies*, 2008
- Bebchuk, Brav, Jiang, and Keusch, Dancing with Activists, June 2017
- La Porta et al, 2000, Investor protection and corporate governance, *Journal of Financial Economics* 58, 3-27
- Larcker and Tayan, Where Experts Get It Wrong: Independence vs. Leadership in Corporate Governance, Stanford Closer Look Series, March 2013
- Jensen, Value maximization, stakeholder theory, and the corporate objective function, *Business Ethics Quarterly*, 2002, 235-256
- Bebchuk, Brav, & Jiang, The Long Term Effects of Hedge Fund Activism, *Columbia Law Review*, June 2015
- Becht et. al., Returns to Shareholder Activism: Evidence from a clinical study of the Hermes UK Focus Fund, 2006
- Becht, Franks, Grant and Wagner, Returns to Hedge Fund Activism: An International Study, *Review of Financial Studies*, 2017
- Brav, Jiang and Kim, The Real Effects of Hedge Fund Activism: Productivity, Asset Allocation, and Labor Outcomes, *Review of Financial Studies*, 2015
- Brav, Jiang, Partnoy, and Thomas, Hedge Fund Activism, Corporate Governance and Firm Performance, *Journal of Finance*, August 2008
- Brav, Jiang, and Kim, 2009, Hedge Fund Activism: A Review; Foundations and Trends in Finance 4: 185-246. http://faculty.fuqua.duke.edu/~brav/HF_Activism_Review.pdf
- Brav, Heaton, and Zandberg, “Failed Anti-Activist Legislation: The Curious Case of the Brokaw Act,” *Journal of Business, Entrepreneurship and the Law*, 2019

- Entrepreneurial Shareholder Activism: Hedge Funds and Other Private Investors. Klein and Zur (2009)
- Hedge Funds and governance targets: Long-term results. William W. Bratton. Working paper. <http://ssrn.com/abstract=1677517>
- Artiga González, Tanja, and Paul Calluzzo, “Clustered Shareholder Activism,” *Corporate Governance: An International Review*, Vol. 27, Issue 3, pp. 210-225, 2019
- Heaton, John, “Hedge Fund Activism and Financial Performance,” *The Oxford Handbook of Hedge Funds* (Douglas Cumming and Geoffrey Wood, eds.), 2019.
- Chapter 19 “Takeover Defenses”, in Weston, Mitchell and Mulherin (Takeovers, Restructuring, and Corporate Governance).
- O’Byrne, Measuring and Improving Pay for Performance: Board Oversight of Executive Pay, *The Handbook of Board Governance*, 2016
- The controversy over executive compensation, *Journal of Applied Corporate Finance*, Nov 2003, 108-111
- Towner and Virani, Insider Activism, University of Arizona, March 2017
- Dealing with Activist Hedge Funds and Other Activist Investors, by Martin Lipton, Wachtell, Lipton, Rosen & Katz, Harvard Law School Forum on Corporate Governance and Financial Regulation, January 2017
- Proxy Contests, by Warren S. DeWied, November 2010, Practical Law
- Tonello, The Activism of Carl Icahn and Bill Ackman, Harvard Law School Forum on Corporate Governance and Financial Regulation, May 2014
- Coffee and Palia, The Wolf at the Door: The Impact of Hedge Fund Activism on Corporate Governance, *The Journal of Corporation Law*, 2016

Cases (non-Wharton)

- Case study: United Technologies: Are the Parts Worth More than the Whole? (HBS N9-220-018)
- Case study: Apple: Corporate Governance and Stock Buyback (Ivey, W14736)
- Case study: Canadian Pacific (A), (B), and (C) (Ivey, W17568, W17569, W17570)
- Case study: FANUC – Japan (HBS 9-216-042)