Monthly Insights
October 2025

JASPER STREET

With companies heads down in "off-season" shareholder engagement, our monthly newsletter covers the activism and governance news that you don't want to miss.

The Highlights

1

Activism momentum building ahead of 2026 proxy season.

Activist investors are positioning themselves for the opening of nomination windows with renewed energy, targeting complex, undervalued companies – increasingly those with latent M&A potential. Campaigns at WEX, Baker Hughes and a new wave of regional-bank plays underscore how activism and M&A are converging. For boards, **preparedness is critical**.

2

Modest updates to 2026 proxy advisor policies, although bigger changes ahead.

ISS released its 2026 policy updates, with a focus on executive compensation and shareholder proposals. More notable (but perhaps overblown): Glass Lewis will discontinue its benchmark policy in 2027, and ISS plans to offer research that omits voting recommendations.

3

Pressure for climate action continues from (some) institutional investors.

Even as the largest U.S. asset managers have taken a large step back from climate-related demands, European asset managers – and some progressive U.S. investors – reaffirm their focus on climate action (albeit, with some adjustments to their approach).

4

Potentially, a bombshell shift in managing shareholder proposals.

Momentum gathers behind the view that there is *no shareholder right* under Delaware law to submit/vote upon non-binding proposals, potentially giving Delaware companies a formidable tool to omit inappropriate proposals.

Off-season engagement is critical.

As the shareholder engagement paradigm shifts in 2025, success in the off-season comes down to a focused agenda, knowing investor priorities, prepping your team, and addressing potential friction. Done correctly, this leads to enhanced credibility with long-term investors and a more resilient business.

We're hiring! Jasper Street is looking for a Senior Associate.

Please reach out to robert.main@jasperstreet.com for more details.

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Activism Highlights

Jasper Street attended the 13D Monitor Active-Passive Investor Summit, where the activism community once again convened to exchange perspectives and preview the next wave of campaigns. The mood was **energetic and opportunistic** – several new situations were unveiled, and the consensus was that this will be another record year for activism. With investor focus still concentrated in **AI-linked equities**, traditional **energy and industrial names** were repeatedly cited as trading at structural valuation discounts — a setup that has attracted renewed activist attention. The conference also reinforced how **activism and M&A are converging**, as investors position themselves as strategic catalysts for unlocking value rather than governance critics.

Activist: IMPACTIVE CAPITAL *Target:* wex

- Impactive formally **nominated four directors** to WEX's Board — the firm's *first ever contested nomination* since its founding. The campaign escalates its prior "withhold" effort and signals a sharpened focus on governance, compensation alignment, and capital allocation discipline.

Activist: STARBOARD VALUE *Target:* bill

- Starboard and BILL reached a **settlement granting four board seats**, including two immediate appointments and two nominees at the upcoming 2025 annual meeting. The agreement follows months of pressure around execution, growth, efficiency, and shareholder communication - marking one of the year's most expansive cooperation deals.

Activist: A | N | A | N | Y | M *Target:* Baker Hughes

- Ananym has quietly emerged as a new player in the **energy activism space**, taking a position below 5% and reportedly **pushing for a separation** of Baker Hughes' industrial technology and oilfield services businesses. Jefferies highlighted that BKR's own October 6 shareholder update already signaled an internal review of capital allocation, cost structure, and business mix - effectively "pushing on an open door" and Charlie Penner confirmed that Ananym's preference is for the "board and management to choose the optimal path for shareholders." The engagement is noteworthy given that the energy sector has remained *relatively quiet on the activism front* in 2025, and that Penner led the Engine No. 1 campaign at Exxon in 2021.

Activist: HOLDCO ASSET MANAGEMENT *Target:* First Interstate BancSystem, Eastern Bank

- Fresh off the heels of successfully pushing for **Comerica** to sell itself for $10.9bn to Fifth Third Bancorp (despite only holding ~1.8% of the stock), HoldCo disclosed **sub-5% stakes** in several mid-cap regional lenders - including **First Interstate BancSystem** and **Eastern Bankshares** - signaling a thematic bet on regional bank consolidation. HoldCo has a history of seeking operating efficiency and balance sheet optimization through constructive engagement rather than overt confrontation.

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Activism Highlights (continued)

What We're Reading

Recent thought leadership converges on a common theme: activism is expanding, diversifying, and intersecting more directly with M&A.

- **Wachtell Lipton –** Shareholder Activism: Ten Trends for 2026
  Wachtell highlights a surge in **M&A-focused activism** and the growing use of **"private placeholder" nominations** and **withhold campaigns**. Boards are urged to anticipate activism earlier, as campaigns are being planned well before nomination windows open. The memo also points to new complexity in investor engagement, as "voting choice" programs at **BlackRock, Vanguard and State Street** fragment stewardship decision-making.

- **Goldman Sachs –** Pursuing Separations in an Activist Era
  Goldman's analysis of 114 U.S. spin-offs finds that **one in four SpinCos** with a $1bn+ market capitalization have faced activism within three years. Newly listed companies are vulnerable due to shareholder turnover (~50% in the first year), untested management, and underperformance relative to peers. The report underscores the need for **pre-spin defense planning** and proactive investor communication strategies.

- **Kirkland & Ellis –** The Bring Down Market Update (October 2025)
  Global M&A value is up **~33% year-over-year**, led by a surge in mega-deals and take-privates. Kirkland notes the resurgence of structured equity and minority stake transactions as creative financing tools—an environment that often attracts activist attention.

- **Vinson & Elkins / Edelman Smithfield –** When Should Boards Fight?
  Roughly **half of proxy contests in 2025** have ended in settlement, but companies that settle underperform the S&P 500 by **~10%** over the following three years (unless they were subsequently sold, which outperformed the market by **~15%+** on average). The piece cautions that boards should be prepared to resist when activist demands threaten leadership stability or long-term value creation.

Jasper Street insights

The convergence of themes from **the 13D Monitor Conference** and the latest campaign activity point to a clear through-line: **activists are deploying smaller stakes earlier, targeting complex companies with latent M&A potential, and positioning themselves as partners in "unlocking value."** The combination of a revived M&A market, increased use of below-5% "toe-hold" positions, and early-stage private nominations means many campaigns will begin well before they are visible.

For boards, this means the activism calendar is already underway. With **nomination windows opening through winter**, companies should be:

- Refreshing vulnerability assessments and "break-glass" protocols;
- Incorporating investor feedback from off-season engagements; and
- Aligning on how the company's **strategic and capital allocation narrative** stacks up against the activist alternative.

The most successful boards in 2026 will be those that treat preparedness not as defense – but as strategy.

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Proxy Advisor Updates

Institutional Shareholder Services (ISS) announced the launch of its comment period on proposed changes to its benchmark voting policies for 2026. Some of the more pertinent proposed changes applicable to U.S. companies included:

- *Executive compensation – long-term alignment in pay-for-performance evaluation*: Updates U.S. pay-for-performance **quantitative screens to assess pay-for-performance alignment over a five-year period**, compared to the current three years, while maintaining an assessment of pay quantum over the short term.
- *Executive compensation – time-based equity awards with long-term time horizon:* Following feedback received in its most recent policy surveys, ISS is proposing a more flexible approach in evaluating equity pay mix in the pay-for-performance qualitative review, whereby **time-based equity awards with extended time horizons will be viewed positively**. (ISS also clarified that it will continue to consider "well-designed and clearly disclosed performance equity structures" as a positive factor.)
- E*xecutive compensation – company responsiveness*: In light of recent SEC guidance on Schedule 13G versus Schedule 13D filing status for institutional investors, the proposed policy change allows **more flexibility for companies to demonstrate responsiveness** to low say-on-pay support where the company states that they were "unable to obtain specific feedback".
- *Executive compensation – enhancements to equity plan scorecard:* Adds (1) a new score factor under the Plan Features pillar to assess whether plans that include non-employee directors disclose cash-denominated award limits and (2) a new negative overriding factor for equity plans found to be lacking sufficient positive features under the Plan Features pillar.
- *Environmental and social-related (E&S) shareholder proposals:* Updates on four E&S-related shareholder proposal topics – climate change/greenhouse gas emissions, diversity and equal opportunity, human rights, and political contributions – to reflect **a fully case-by-case assessment** of each situation, as compared to the current policy where ISS would generally recommend support unless specific conditions warranted otherwise.

The comment period will run through November 11, and final changes will be announced in late November. Glass Lewis is expected to announce its 2026 policy changes in November / December.

Jasper Street insights

- ➢ To the extent companies were not previously focused on five-year P4P alignment (in addition to three- and one-year), the ISS change should be an additional signal that **investors are looking at P4P alignment across time periods**.
- ➢ We are pleased to see ISS's recognition that **compensation committees should have the flexibility to design long-term incentives as best fits for their own specific situations**, including potentially using more time-based grants despite the previously-sacrosanct ISS view that such incentives should be at least 50% performance-based. That said, the ISS policy changes are somewhat light on details, and we will be watching closely how this impacts ISS's actual analysis and recommendations.
- ➢ While the policy change on shareholder proposals is welcome, we also note that, **in practice, ISS's support for each of these proposal categories had already significantly declined**: climate reporting (33% in 2024 to 0% in 2025); climate targets (68% to 17%); DEI (92% to 8%); human rights (43% to 20%); and political spending / lobbying (65% to 54%).

Proxy Advisor Updates (continued)

In perhaps more important long-term news, **Glass Lewis** announced that it will end its benchmark voting recommendations in 2027 amidst heightened scrutiny of the proxy advisor. Instead, **Glass Lewis will replace them with customized, investor-specific research**, including:

- Supporting clients as they "move beyond standard policies, guiding them in creating voting frameworks that reflect their individual investment philosophies;" and
- Providing "multiple perspectives that reflect the varied viewpoints of clients," including ones that "lean toward management and others that reflect more governance fundamentals", all of which would be available to clients.

In less-widely-reported news, **ISS** also announced new **"research-only" services** for investors *that exclude* voting recommendations.

Jasper Street insights

- The proxy advisors' move toward bespoke voting analysis is further evidence that **more investors already have, or will soon have, differentiated proxy voting practices** *(see chart below reflecting the alignment, or lack thereof, of the largest asset managers' voting with the proxy advisors).* In turn, this heightens the importance for companies to **understand – and engage with – each top shareholder** to understand their individual votes and priorities.
- At the same time, it may be a little early to pronounce the demise of the proxy advisors' influence, as it remains to be seen how bespoke each individual client's voting framework will be. Particularly at smaller investors that currently vote in lockstep with Glass Lewis or ISS, those investors will continue to depend on the proxy advisors' 'analysis' and their **'new, individualized' voting policies may look a lot like the benchmark policies as they exist today**. Accordingly, for the foreseeable future, companies should continue to engage with Glass Lewis (and ISS) to ensure that their 'analysis' is as accurate and measured as possible.

Alignment with ISS's and Glass Lewis's "Adverse" Recommendations*

Asset Manager	Director Elections		Say on Pay		E&S Shareholder Proposals	
	ISS	GL	ISS	GL	ISS	GL
BlackRock	20%	13%	37%	21%	14%	8%
Vanguard	12%	6%	13%	8%	0%	0%
State Street	42%	32%	23%	14%	41%	31%
Fidelity	28%	10%	32%	20%	44%	30%
Capital Group	4%	2%	35%	41%	20%	10%
Invesco	29%	19%	80%	44%	30%	18%

Source: Based on data from Diligent Market Intelligence, and reflecting voting across the Russell 3000 during the 2025 proxy season (July 1, 2024 – June 30, 2025). Reflects each asset manager's respective alignment with proxy advisors' voting recommendations "against" director nominees, "against" say-on-pay" and "for" shareholder proposals relating to environmental and social matters.

Institutional Investor Updates

In our September Monthly, we highlighted how the stewardship and proxy voting priorities of U.S. and European investors continue to diverge – particularly in the context of E&S matters. Another case in point: **Norges Bank Investment Management** (NBIM), the entity that manages the $2T Norwegian Government Pension Fund Global (and a top 15 shareholder in many U.S. public companies), published its updated climate action plan (as well as a 2025 lookback). In this plan, NBIM emphasizes that it will continue to "support and challenge" portfolio companies to transition their business models to net zero emissions by 2050, as well as enhancing its focus on nature, physical climate risk and adaptation and resilience measures.

Jasper Street insights

- As we have already seen in fall engagements, **European and other non-U.S. investors continue to ask probing questions** about companies' climate risks and "transition plans". There is a marked difference between these engagements and those with the largest U.S. asset managers; companies need to prepare and **be ready for both investor approaches**.
- At the same time, in engagements with the more pragmatic European investors (which, in our opinion, includes NBIM), **we are seeing a shift in tone** as these investors recognize that changes in climate-related regulation, consumer demand and other factors may not be as imminent as some thought a couple years ago. Rather, **many investors are focusing on 'adaptation and resiliency'** as much, or more, than they are asking about "science-based" GHG reduction targets.

ESG Activism Update

Climate Action 100+ (CA100+), the world's largest investor engagement initiative focused on climate change, has released the latest round of company assessments using the Net Zero Company Benchmark. This year, the group evaluated the performance of 164 CA100+ focus companies in line with the initiative's three high-level goals: emissions reduction, climate governance, and climate-related disclosure. Among the group's key findings: while focus companies had shown "encouraging" progress on emissions reductions and disclosure of decarbonization strategies, **"significant gaps and lack of details remain",** particularly regarding how companies are allocating capital to the implementation of their decarbonization plans. The group also found that "only 32% [of focus companies] reduced their emissions intensity in line with credible 1.5°C benchmarks" over the past three years.

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- With the exodus of nearly all large U.S. assets managers from CA100+ in 2024 following a Republican-led investigation into the group (*e.g.,* BlackRock, State Street Investment Management, J.P. Morgan Asset Management, Goldman Sachs Asset Management and PIMCO), **CA100+'s influence has significantly declined**.
- However, companies in CA100+'s "focus" are well-advised to remain aware of their benchmark assessments. The assessment may drive shareholder questions (or shareholder proposals), and **companies should be prepared to respond to investor questions about gaps identified by the assessments**.

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Policy Updates

As we flagged in last month's Monthly, an upcoming paper from Kyle Pinder of Morris Nichols argues that Delaware law provides no firm basis for a shareholder right to submit or vote upon non-binding proposals.

In a speech on October 9, **SEC Chairman Paul Atkins** shared his view on how this interpretation of Delaware law would interplay with Rule 14a-8 and the SEC's no-action process. Chair Atkins indicated that:

> "if there is no fundamental right under Delaware law for a company's shareholders to vote on precatory proposals—and the company has not created that right through its governing documents—then **one could make an argument that a precatory shareholder proposal submitted to a Delaware company is excludable under paragraph (i)(1) of Rule 14a-8**. If a company makes this argument and seeks the SEC staff's views, and the company obtains an opinion of counsel that the proposal is not a "proper subject" for shareholder action under Delaware law, **this argument should prevail, at least for that company. I have high confidence that the SEC staff will honor this position**." *(emphasis added)*

Chair Atkins further noted that the SEC may certify this question of Delaware law to the Delaware Supreme Court for declaratory judgment. Chair Atkins also suggested that Texas corporations opting into the recent Texas state law placing restrictions on shareholder proposals should have SEC support in their exclusions of proposals that don't meet the Texas requirements.

More broadly, Chair Atkins noted that the SEC will "review and reassess the original intent behind the rule", and "**Shareholder Proposal Modernization" is a prominent priority** on the SEC's most recent reg flex agenda.

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- This is potentially a bombshell development, allowing companies an additional channel to omit inappropriate proposals. At the same time, **many elements remain unresolved – including not only questions of Delaware law, but also how investors will react,** and which alternative channels might be used by ESG activists, if 14a-8 proposals were no longer an option. We are watching this closely.
- More broadly, we believe that changes to Rule 14a-8 would be **welcomed by many companies and investors alike.** However, as Chair Atkins noted, the SEC's rulemaking process "does not happen overnight" (and we can't imagine that the government shutdown is helping).

As deadlines near for companies to submit disclosures responsive to the California climate disclosure laws, the **California Air Resources Board** (CARB) was scheduled to release its full rulemaking on October 14. Instead, it released a **statement** that, "CARB is proposing an updated timeline for bringing the initial rulemaking…to [its supervisory board for approval] in Q1 2026." At the same time, CARB did not say anything about a corresponding delay to companies' own deadlines, including the January 1, 2026 deadline to submit a climate risk report under California's Climate-Related Financial Risk Act (Senate Bill 261).

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- It is frustrating for companies to be expected to submit reports responsive to rules that do not yet exist. Companies should talk to legal counsel about the legal issues at play here; **from a shareholder perspective, we do not expect that investors will be expecting anything new in SB 261 reports**. To the extent that they want to see additional climate disclosure, they were probably already asking for it.

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Policy Updates - Quick Hits:

- **Exxon Mobil** has filed a **lawsuit challenging the California climate disclosure laws**, arguing that the rules contravene the First Amendment of the U.S. Constitution by forcing it to act as a "mouthpiece for ideas with which it disagrees," putting it at risk of "stigmatization." The lawsuit is similar to a pending suit filed by the U.S. Chamber of Commerce and other business groups in January 2024.
- Lawmakers in the **European Parliament** rejected a compromise proposal that would have moved forward significant reductions in the scope of the EU's Corporate Sustainability Reporting Directive and Corporate Sustainability Due Diligence Directive. The so-called "Omnibus" proposal is not dead, but the October 22 vote does **reopen negotiations and potential amendments**, and further delays companies' certainty on the scope of the regulations. The next vote is scheduled for November 13.
- The **European Commission** backtracked on plans to postpone effectiveness of the EU Deforestation Regulation (EUDR), which will instead enter into force as expected in December for large companies.
- The **Paris Judicial Court** ruled against TotalEnergies in a landmark greenwashing case, finding that claims on its website about its "ambition to achieve carbon neutrality by 2050" and "to be a major player in the energy transition" were **likely to mislead consumers** about the company's commitments.
- The United **Nations-backed Net Zero Asset Managers initiative** (NZAM) – which suspended operations in January after BlackRock and other financial institutions departed from the group and its sister UN-aligned group, the **Net Zero Banking Alliance** (NZBA) – announced that it will relaunch in January 2026. (Conversely, the NZBA announced earlier in the month that it would no longer be a member-based alliance and would cease operations immediately.)

  The relaunch of NZAM will come with significantly scaled back requirements for signatories, including the removal of certain 2050 net zero goals. The group said it will relist signatories upon the relaunch; State Street Investment Management has already indicated that only its European and United Kingdom entities will remain signatories. (Its much larger U.S. arm was a member prior to the suspension in January.)
- The framework provider **GHG Protocol** announced proposed changes to its guidance and accounting methods underlying companies' Scope 2 greenhouse gas (GHG) emissions. Among other things, the proposed changes include stricter temporal and spatial granularity reporting requirements for renewable energy credits and similar instruments.

Notable upcoming events

- Nov 4-5, São Paulo, Brazil. ***PRI in Person 2025*, Principles for Responsible Investment**
- Dec 2-3, New York, NY. **Responsible Investor Americas, Responsible Investor**
- Dec 9, New York, NY. **Bloomberg Activism Forum, Bloomberg**

About Jasper Street

We are a leading shareholder advisory firm, supporting our clients in their most crucial interactions with their shareholders. Our unique expertise, relationships and insights help our clients build enduring trust and rapport with their investors. Our firm is also independent and unconflicted, enabling us to provide advice grounded exclusively in the best interests of our clients.

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