

RELATÓRIOS COPPEAD

432

Junho 2017

RECENT
ACTIVISM
INITIATIVES IN
BRAZIL

Luiz Henrique Fernandes Vargas
Patrícia Maria Bortolon
Lucas Ayres Barreira de
Campos Barros
Ricardo P. C. Leal

Relatórios COPPEAD é uma publicação do Instituto COPPEAD de Administração da Universidade Federal do Rio de Janeiro (UFRJ)

Editora

Leticia Casotti

Editores

Lucilia Silva

Ficha Catalográfica

Cláudia G. Santos

V297r Vargas, Luiz Henrique Fernandes

Recent activism initiatives in Brazil / Luiz Henrique Fernandes Vargas, Patrícia Maria Bortolon, Lucas Ayres Barreira de Campos Barros, Ricardo Pereira Câmara Leal – Rio de Janeiro: UFRJ / COPPEAD, 2017.

21 p.; 27 cm. – (Relatórios COPPEAD; 432)

ISBN 9788575081198

ISSN: 1518-3335

1. Governança corporativa. 2. Investidor institucional. I. Patrícia Maria Bortolon. II. Lucas Ayres Barreira de Campos Barros. III. Ricardo Pereira Câmara Leal. IV. Título. V. Série.

CDD: 658.4

RECENT ACTIVISM INITIATIVES IN BRAZIL

Luiz Henrique Fernandes Vargas¹
Federal University of Espírito Santo

Patrícia Maria Bortolon²
Federal University of Espírito Santo

Lucas Ayres Barreira de Campos Barros³
FEA/USP

Ricardo Pereira Câmara Leal^{4*}
The COPPEAD Graduate School of Business
Federal University of Rio de Janeiro

* Acknowledges grants of the Brazilian National Scientific and Technological Development Council (Proc. # 305104/2015-2).

¹ Accounting Department. E-mail: luizfvargas@gmail

² Accounting Department. E-mail: patricia.bortolon@ufes.br

³ Accounting and Actuary Department. E-mail: lucasayres2002@gmail.com

⁴ Corresponding author. E-mail: ricardoleal@coppead.ufrj.br

ABSTRACT

This study offers an overview of shareholder activism in Brazil through the mapping of various types and examples of activism, the construction of an activism index and an analysis relating the activism index to corporate characteristics. The sample contains 195 companies listed on the Brazilian stock exchange and observed in 2008, 2010 and 2012. The data sources are the minutes of ordinary and extraordinary shareholder meetings, complaints filed with the securities commission and news articles published in a daily business newspaper. The study documents the increase in the average activism index during the period, with only eight companies failing to register any type of activism event. However, the items comprising the index did not develop in a homogeneous fashion, with some remaining stable while others decline. The indicators with the highest rates of growth during the period were: minority presentation of proposals at shareholder meetings; cumulative voting requests to elect directors; and the number of news articles related to the topic. Non-inferential analyses document that evidence of activism is more often found in: larger companies; those with many shareholders; with inferior corporate governance practices; and controlled by the state.

Keywords: activism, corporate governance, institutional investors

RESUMO

Esta pesquisa oferece um panorama do ativismo dos acionistas no Brasil, envolvendo o mapeamento das diversas evidências de ativismo, a construção de um índice de ativismo e uma análise preliminar relacionando o índice de ativismo com características corporativas. A amostra contém 195 empresas listadas na BM&FBovespa e observadas nos anos de 2008, 2010 e 2012. As fontes dos dados são as atas de assembleias ordinárias e extraordinárias, os processos abertos junto à CVM e as notícias veiculadas na mídia especializada. Documenta-se o crescimento do índice de ativismo médio no período amostral e apenas 8 empresas não registraram nenhum evento de ativismo. Entretanto, os itens que compõem o índice não evoluem homogeneamente, registrando-se estabilidade ou decréscimo em alguns casos. Os indicadores com maior taxa de crescimento no período são: apresentação de propostas em assembleias por minoritários; solicitação de voto múltiplo; e o número de notícias na imprensa relacionadas ao tema. Análises preliminares de caráter não-inferencial documentam que evidências de ativismo são mais frequentes em: empresas de maior porte; com muitos acionistas; com práticas de governança corporativa inferiores; e de controle estatal.

Palavras-chave: ativismo, governança corporativa, investidores institucionais

1 – INTRODUCTION

Shareholdings of institutional investors are an external control mechanism that is becoming increasingly important and may affect the corporate governance practices of a company (AGGARWAL *et al.*, 2011). This article offers a descriptive documental analysis of activist actions in Brazil in 2008, 2010 and 2012. The document analysis comprises more than 5000 proposals included in the minutes of shareholder meetings, accounts published in the Valor Econômico business daily, in addition to cases filed with the Securities Commission of Brazil (CVM or *Comissão de Valores Mobiliários*). The article also proposes and develops scoring criteria for an activism index attributed to each company according to various shareholder demands. Finally, the article presents some basic and descriptive correlations, without attempting any type of causal inference.

As far as could be ascertained, the documental survey of thousands of items relating to activism about Brazil is unprecedented, and, possibly, in emerging markets. The Brazilian literature on the impact of the presence of institutional investors on the value of companies and the quality of their corporate governance (CG) practices is inconclusive (OLIVEIRA, LEAL, and ALMEIDA, 2012; PUNSUVO, KAYO, and BARROS, 2007). The metrics used by Brazilian authors include binary categorical variables to indicate the presence of certain types of institutional investors or specific institutions and their stakes in companies. The quantitative results stemming from this literature strongly suggest that institutional investors cannot be treated as a uniform category and that a given institutional investor may act in favor of or against the interests of minority shareholders or its beneficiaries, depending on its links with the controlling shareholders of the companies it invests in. Thus, it is essential to gain a greater understanding of activism actions in Brazil in order to better evaluate routes of investigation for studies that use quantitative models.

Results show an increase in activism actions in the three sample years. The average activism index recorded a 12% growth between 2008 and 2010. In particular, an analysis of the minutes of shareholder meetings reveals a substantial increase in requests for the adoption of cumulative voting procedures for the election of board members (6 in 2008 and 12 in 2012) and the actual use of cumulative voting in elections of board members (5 in 2008 and 22 in 2012). There was also a reduction in the proportion of proposals approved unanimously at shareholders' meetings (64% in 2008 and 51% in 2012) and an increase in the number of proposals suggested by minority shareholders in advance of shareholder meetings (1 in 2008 and 5 in 2012). It is important to highlight that only board members may include items in the agenda of shareholder meetings. The noticeable increase in the number of news items related to the topic in the Valor Econômico

newspaper (7 news stories in 2008, 67 in 2010, and 159 in 2012) suggests an increase in activism actions during the period or, at least, in the interest of the specialized media. The number of companies that did not register signs of activism during the year fell from 41 in 2008 to 23 in 2012, while the number of companies with 3 or more events during the year rose from 46 in 2008 to 55 in 2012, both out of 195 companies in the sample.

Despite the increase in the average activism index, several of its components, such as the rate of rejection of proposals put forward at shareholder meetings, the number of requests to institute fiscal boards and the number of complaints filed with CVM, remained stable or declined. In addition, it is important to highlight that, in absolute terms, activism indicators remained modest throughout the period. For example, despite having increased markedly during the period, the number of proposals suggested by minority shareholders in advance of shareholder meetings represented only 0.3% of the total proposals in 2012. The average activism index was 1.87 out of a maximum potential level of 11 in that year.

Activism actions are less frequent among companies listed in the Novo Mercado special listing segment of the Brazilian stock exchange (BM&FBovespa) and also among those that have a higher CG practices score (measured by a broad index of CG practices). This finding is consistent with the arguments in Gillan and Starks (2007) and Chung and Zhang (2011) who claim that there may be a substitution relationship between CG mechanisms and incentives for shareholder activism. Activism is also greater in large companies and those with many shareholders. However, there is no clear relationship between the level of the activism index and measures of performance and debt.

2 – LITERATURE REVIEW

Large institutional investors can reveal information that is important for the market as a whole and influence the management of companies in various ways. Elyasiani and Jia (2010) classify the monitoring actions of institutional investors in terms of the stance they adopt towards those who command companies as active, passive or conniving. They hold that these three approaches are not mutually exclusive. Aggarwal *et al.* (2011) believe that the influence institutional investors on corporate governance practices can be direct or indirect. They refer to the direct form as voice, which is achieved through votes or by influencing management. They may, for example, sit on boards of directors, giving their opinions or making suggestions in private or even through the media when management does not accept them. Becht, Bolton, and Röell (2003) remind us that the effectiveness of having a seat on the board of directors is limited by domestic laws and regulations, as in the case of the Florange Law in France, which grants double voting rights to shareholders

who have held their positions for two years or more. Alternatively, the indirect form, voting with their feet or the Wall Street walk, manifests itself in the decisions of institutional investors to buy or sell shares.

Becht *et al.* (2003) claim that liquidity may condition the actions of institutional investors due to the size of their shareholdings. Gillan and Starks (2003) observe that institutional investors have historically favored liquid companies because their willingness to monitor management may be associated with less liquid positions. A lack of liquidity and its costs, however, may be unacceptable to many institutional investors. Chung and Zhang (2011) conclude that institutional investors prefer companies that display better CG practices because they may require less monitoring, are more liquid and less questionable from a fiduciary point of view. This conclusion suggests that these investors are attracted to companies that adopt best practices, but does not mean that significant institutional investor stakes cannot help improve these practices. Bushee *et al.* (2014) examine the behavior of institutional investors who are sensitive to CG practices, in particular whether these institutions choose companies which already had good practices or whether they take steps to improve them, and they conclude that both situations can occur.

Gillan and Starks (2003) believe that the presence of institutional investors may lead to less noisy share prices and lower monitoring costs for other investors. However, it is very difficult to gauge the effectiveness of institutional investors monitoring and separate its effects from other influences, such as changes in the economy, markets or management, whose observation and measurement are fraught with difficulties. In addition, the possible collusion of institutional investors with company management has perhaps led to ambiguous results in terms of the impact of their actions (BECHT *et al.*, 2003). Gillan and Starks (2003) doubt the effectiveness of institutional investors monitoring because they may not have the expertise necessary to advise management. These authors also comment that institutional investors have their own agency conflict problems, thus making them imperfect monitors.

Indeed, the impact of institutional investor actions may be difficult to assess. Seifert, Gonenc, and Wright (2005), for example, failed to find conclusive evidence of their influence on companies in Germany, the US, Japan and the United Kingdom. Becht *et al.* (2003) report that there is little evidence that the presence of institutional investors is related to improvements in the operational performance of companies. Hartzell, Sun, and Titman (2014), however, affirm that diversified real-estate investment funds in the US traded at a higher discount than those concentrating in a specific geographical region. However, this effect is attenuated by the presence of institutional investor unit holders, particularly those that tend to be activists. These articles suggest that institutional investors should not be seen as a monolithic group, without controlling for their characteristics or

nature, which, themselves have various dimensions, as pointed out by Goranova and Ryan (2014).

Brazilian studies, so far, do not clearly verify a relationship between the presence of institutional investors and company CG, value or performance. Silveira and Barros (2008) analyze the determinants of CG practices measured by an index they developed in 2002. Their explanatory variables include the significant participation of pension funds in the shared control group. Their results for this categorical variable are not significant and do not suggest that CG practices are better when pension funds participate in the control group. Leal and Carvalhal-da-Silva (2007) affirm that there is no impact on firm value when institutional investors are the ultimate controlling shareholders (i.e. after considering indirect control structures). Punsuvo *et al.* (2007) and Oliveira *et al.* (2012) find a negative or neutral relationship, respectively, between the presence of pension funds as relevant shareholders and the quality of CG practices. None of these studies address activism but solely institutional shareholding.

It is important to characterize the alignment of institutional investors with the control block, as results in Carvalhal (2012) suggests. For example, state company pension funds may align with the controlling shareholder when the latter is the state, to the detriment of minority shareholders. Crisóstomo and González (2006) report that pension funds began to play a more important role as shareholders during the privatization process initiated in the 1990s. In addition, the authors affirm that Brazilian pension funds began to adopt practices that encouraged activism, such as participation in shareholder meetings, exercising voting rights and a closer supervision of company management. These authors, however, did not observe differences between the performance of companies where pension funds were large shareholders and those where they were not. One could expect something similar in the case of the giant Brazilian National Economic and Social Development Bank (BNDES) and its equity investment affiliate BNDESPar (INQUE, LAZZARINI, and MUSACCHIO, 2013).

Carvalhal and Souza (2014) investigate the relation between the shareholdings of PEVC funds and the CG practices of companies. The authors found a correlation between the presence of PEVC funds – independently of the variable used to evaluate this presence – and the Corporate Governance Practices Index (IPGC), whose details and format are described in Leal, Carvalhal and Iervolino (2015), as well as listing the Novo Mercado. The results for the issuance of American Depository Receipts (ADR) are weaker, but still show a positive relationship, but the authors do not discuss possible identification issues.

A conclusion one can draw from these studies is that it is important to assess the nature of the involvement of institutional investors and their alignment with the control

block, even if they are not signatories of a shareholder agreement. It is highly possible that the negative or neutral relationship between the presence of pension funds as important shareholders and the quality of CG practices in Punsuvo *et al.* (2007) and Oliveira *et al.* (2012) is a reflection of a political aspect, which is an important factor in the case of some of the most important institutional investors in Brazil.

3 – METHODOLOGY

The population for this study is the companies whose shares trade on the Brazilian Securities, Commodities and Futures Exchange (BM&FBovespa). Two criteria were observed to select the sample: (1) the company had to trade in the three sample years (2008, 2010 and 2012) and (2) there had to be minimum market liquidity. Thus, the same 195 companies were observed during each year. This criterion introduces a survivorship and size bias in the selection of the sample, but increases the chances of finding evidence of changes in activism actions. Stock market liquidity is expressed as $Liquidity = 100 \frac{p}{P} \sqrt{\frac{n}{N} \times \frac{v}{V}}$ where P is the number of stock market trading days; p is the number of days on which the shares were traded; N is the total number of stock market trades; n is the number of trades involving the company's shares; V is the total monetary amount traded in the stock market and v is the monetary amount of trading involving the company's shares. The Liquidity Index had to be greater than 0.001, which means that the liquidity of the company approximately corresponds to one thousandth of the market.

Implementation of CVM rules permitting a greater disclosure and standardization of information (CVM Instruction n° 480, 12/07/2009 which instituted the Reference Form as a new filing instrument) and requirements for the holding of shareholder meetings (CVM Instruction n° 481 of 12/17/2009, which established rules for proxy voting requests and advance disclosure of information) begin in 2010. The period selected for this study encompassed the year before these changes were made and two subsequent ones.

3.1 Sources of information about shareholder activism

3.1.1 Meeting minutes

The call notices and the minutes of the first ordinary shareholder meeting of each year and extraordinary shareholders' meetings were obtained from the CVM's website. The first ordinary shareholders' meeting of the year has important themes defined in the legislation, such as the allocation of net income, auditing of management accounts, executive compensation and approval of financial statements.

Thirty-three items were searched in each document analyzed to map the information. These items involved matters such as shareholder meeting quorums, proposals and their authors, protest votes and shareholder opinions recorded in the minutes and their authors, requests for the institution of a fiscal board and the adoption of cumulative voting. These issues offer a description of what was officially reported from these meetings and made it possible to construct the activism index used in the article. The study analyzed 1,284 meetings of shareholders, including ordinary and extraordinary ones, together with their call documents and minutes.

3.1.2 Complaints filed with CVM

A request for information about investor consultation or complaints was made through the Citizen's Service Bureau of CVM. It replied with a spreadsheet with data for the 2006-2012 period. The complainant provided the information about the nature of the complaint when filing it. Only those with the title "Investor Complaint/General Public" were considered and cases in which the complainant could not be clearly identified as an investor were not used. The procedures described above led to the analysis of 400 cases during the three years observed in the study.

3.1.3 News in the Valor Econômico newspaper

The online version of the Valor Econômico newspaper was surveyed in the January 1st – December 31st period of each year in the study. These news stories were collected using 10 keywords: activism, shareholder activism, minority shareholder, public proxy solicitation, shareholder proposal, minority shareholder proposal, agenda proposal, proposal in advance of the shareholder meeting and cumulative voting. The news stories selected were analyzed to identify the companies in the sample. Cases of recurring news stories, in which the same news story was included in more than one article on the same day or on different days, were quantified separately. It was also possible to analyze more than one case of activism in the same news story, even involving different target companies. This procedure led to the analysis of 1,726 news stories, and 233 were identified as activism events related to the companies in the sample.

3.2 Shareholder activism index

In the academic literature one may observe the use of indices composed of binary questions in order to provide an approximate measure of the events under investigation. This methodological approach can be found in the CG studies involving emerging markets

and Brazil, such as Klapper and Love (2004), Silva and Leal (2005), Silveira and Barros (2008), and Leal *et al.* (2015), among others.

The definition of the questions for inclusion in the index was based on an analysis of the documents described in item 3.1 for an initial set of companies. This analysis generated a list of 33 items to be observed, which, as described below, were grouped together for presentation reasons. Among the items that are not directly reflected in the index, but which make it possible to perform descriptive analyses of the activism phenomenon, one may cite, for example, the identification of proposals and their authors, the number of proposals, shareholder meeting quorums and the subjects covered in news stories published in Valor Econômico. The index is composed of 11 binary and objective affirmations. The affirmations are grounded in the rights of shareholders established by Law 6.404/76 such as, for example, requests for the establishment of a fiscal board, adoption of cumulative voting and requests for representation on the board of directors. A value of 1 is attributed to each one if it is true and zero otherwise. Thus, the score of each company can vary from 0 to 11 in each year. Affirmations 1 to 9 were observed in the documents related to ordinary and extraordinary shareholder meetings, affirmation 10 indicates the existence or not of a complaint against the company filed with CVM and affirmation 11 if an activism event was reported in the Valor Econômico newspaper. Table 1 shows the 11 affirmations.

Table 1 – Activism index

No.	Shareholder activism index questions
1	Shareholders seek representation on the board of directors and/or the fiscal board
2	Shareholders reject proposal(s) presented for voting at the shareholders' meeting
3	Shareholders vote against, but are not able to reject proposal(s) presented for voting at the shareholders' meeting
4	Shareholders present proposal(s) in advance to be voted at the shareholders' meeting
5	Shareholders present proposal(s) for voting during the shareholders' meeting
6	Shareholders request the institution of a fiscal board
7	Shareholders request the adoption of a cumulative voting process for the election of the board of directors
8	Shareholders suggest and approve a proposal that differs from the one presented by management
9	Shareholders record their opinions in the minutes
10	Shareholders file a complaint against the company with CVM
11	News stories about the company report some kind of shareholder activism and/or investor dissatisfaction

3.3 Variables of interest

The behavior of the activism index was observed in relation to some variables of interest, mainly involving CG, ownership structure and financial characteristics. The aim

was to identify future lines of investigation regarding explanatory factors of activism using quantitative approaches. The quality of CG practices is assessed in three ways: (1) using a binary categorical variable which identifies a listing in the Novo Mercado special segment of BM&FBovespa; (2) using a broad index of CG practices developed by Leal and Carvalhal (2007), whose current form, used in this study, is described in Leal *et al.* (2015) and (3) using a binary categorical variable that identifies whether the company has complied with CVM Instruction 480 regarding the disclosure of management's minimum and maximum compensation levels (BARROS *et al.*, 2015). The present study observed the ownership structure in three different ways: (1) type of control, classified as shared (control bloc under an agreement), state, family or dispersed; (2) number of individual investors and (3) number of institutional investors. Company size is measured by the natural logarithm of total assets of the company. Performance is measured through the return on equity (ROE), which is the net profit over total equity ratio, and the return on assets (ROA), which is measured by dividing operating profits by total assets. Finally, leverage is measured by dividing total liabilities by total assets.

4 – RESULTS

4.1 Minutes of ordinary and extraordinary shareholder meetings

The analysis included call documents and minutes of 1,284 meetings of shareholders in the three sampled years. A general observation is that the minutes provide few details. Important information is often omitted, such as approval percentages and authors of a specific proposal or the identity of shareholders who voted against a proposal, as well as detailed quorum information. Table 2 shows the main items of information obtained from the minutes before the calculation of the index. A count of the proposals on the agenda (item 1) revealed a high number, even though only a small number of proposals were presented during the shareholder meeting (items 2 and 3). This is not surprising because only the board of directors sets the agenda. However, the number of proposals presented in advance by minority shareholders (item 9) was even smaller, with only one occurrence in 2008 and 2010, and 5 in 2012.

In what regards the approval or rejection of proposals, item 5 shows that, albeit high, the proportion of proposals approved unanimously declined (64% in 2008, 54% in 2010, and 51% in 2012). However, more than 90% of the proposals presented at shareholder meetings were approved, if the previous percentages are added to the approximately 35% of proposals approved by a majority (item 6). The number of rejected proposals was thus very small (item 8). These data appear to show that shareholder

meetings rarely contest what is proposed by the board, or company management, suggesting an environment of mere rubber-stamp approval.

Items 11 and 15 analyze two mechanisms established in Law 6.404/1976 that increase the rights of shareholders: the fiscal board and cumulative voting. The fiscal board can be permanent or temporary, and is an optional board. This board does not participate in the decision making process, thus it is not an "ex-ante" or "insider" board, as the board of directors. It verifies publicized information, such as financial statements, and company procedures, somewhat like an audit committee. Minority and non-voting shareholder representation in the fiscal board may be easier than in the board of directors. Article 141 of Law 6.404/76 states that shareholders holding at least one tenth of the voting equity capital may request the adoption of the cumulative voting process, which assigns the same number of votes as the number of board of directors members to each share and concedes the right to concentrate them in one board of directors candidate or distribute them as the shareholder wishes. This increases the chances of minority representation in the board of directors. In the case of these initiatives, the target companies and authors of the proposals were surveyed, but it was not always possible to identify proponents clearly.

The proponents of requests to institute a fiscal board that appeared more than once during the period (and the number of occurrences) were: an undetermined number of minority shareholders (20); Previ, the Banco do Brazil employees pension fund, the largest in the country (7); one minority shareholder (4); holders of preferred shares, almost always non-voting (4); Orbe Value master stock fund, a mutual fund (3); and Victor Adler, an individual (3). It was not possible to identify whether the shareholders nominated in the minutes were minority shareholders. The most frequently targeted companies, with 3 requests during the period, were: Aço Altona, Frax-Le, GPC Participações, Randon Participações and Unipar.

Table 2 - Analysis of the contents of the minutes of shareholder meetings

	2008	2010	2012
1 – Proposals placed on the agenda	1902	1809	1705
2 – Proposals suggested at the shareholders’ meeting by minority shareholders	22	24	22
3 – Proposals suggested at the shareholders’ meeting by the controlling shareholder or by someone who was not identified as a minority shareholder	21	17	22
4 – Proposals that were on the agenda but were not voted on	34	57	77
5 – Proposals approved unanimously	1213	980	877
6 – Proposals approved by a majority of shareholders	610	747	669
7 – Proposals approved with no record if unanimously or by a majority	83	63	123
8 – Proposals that were not approved	5	3	3
9 – Proposals suggested in advance by minority shareholders (number)	1	1	5
10 – Approved proposals suggested in advance by minority shareholders	1	1	1
11 – Minority shareholders request to institute a fiscal board during the shareholders’ meeting	19	21	17
12 – Approved minority shareholders request to institute a fiscal board during the shareholders’ meeting	20	21	15
13 – Minority shareholders elect fiscal board members (actually elected – number)	92	108	114
14 – Minority shareholders elect members of the board of directors (effective – number)	69	77	74
15 – Shareholders request the adoption of a cumulative voting process for the election of the board of directors	6	7	16
16 – Cumulative voting process is used to elect members of the board of directors	5	7	22
17 – Protest vote formalized at the shareholders’ meeting by a shareholder who is not the controlling one	0	0	0
18 – Opinion presented	8	4	5

Although not frequent, requests to adopt cumulative voting increased substantially in the period. The proponents who appeared more than once during the period observed (and the number of occurrences) were: an undetermined number of minority shareholders (4); Previ (4); Southern Electric Brasil Participações Ltda. (3); AGC Energia S.A. (2); and Victor Adler (2). The most frequently targeted companies were Cemig (5), Celesc (4) and Unipar (2). The first two are energy companies, mostly electricity, and the third one is a petrochemical company. An analysis of the two mechanisms showed that Previ, the pension fund, and Victor Adler, an individual shareholder, were particularly active.

4.2 News stories in the Valor Econômico newspaper and cases filed with CVM

Keyword research in the website Valor Econômico newspaper generated a set of 1,713 news stories. The activism theme was identified in 233 of them and became more common during the period: 7 news stories in 2008, 67 in 2010 and 159 in 2012. The

activism-related themes were very diverse and 48 different subjects were mapped. Shareholder agreements, changes in bylaws, lawsuits and indemnity, were quite rare (one occurrence each). The most frequent themes and their number were: public offer to buy (43); representation on the board of directors (29); mergers (27); corporate reorganization (14); dissenting vote of minority shareholders at the shareholders' meeting (10); share dilution (8); distribution of dividends (6); changes in bylaws (5); equity capital increase (5). The ten companies that appeared the most in the news stories observed (and frequency) were: Brasil Telecom (27); Eletrobras (25); Redecard (24); Petrobras (17); Oi (15); Gafisa (13); Celesc (11); Pão de Açúcar - CBD - Grupo Pão de Açúcar (10); Laep (9); Confab (8).

As regards the complaints informed by CVM in which the topic was "Investor Complaint/General Public", there was a decline in their frequency during the period with 162 cases registered in 2008, 132 in 2010, and 106 in 2012. In the "Description of the topic" box of the database provided by CVM, the most frequent themes were: measures adopted by the controlling shareholder and/or CEO of the company; shareholdings (reverse split, split, stock dividends); material information disclosure and quarterly financial statements. Sixty companies were targets of more than one CVM complaint during the period. The ten companies with the highest number of complaints were: Banco do Brasil (65), Bradesco (38), Petrobras (20), Laep (19), Telemar (18), Telebras (17), Agreco (13), Itau Unibanco (12), BM&FBovespa (9), Eletrobras (7).

4.3 Activism index

Table 3 presents the activism index for the 195 companies in the sample. Each affirmation portrayed in Table 1 is assessed in each year with value one if that type of activism is present and zero if it is not. Thus, the index can vary from 0 to 11. The average values observed, although very low, registered an increase of 12% between 2008 and 2012 (with no change between 2010 and 2012). The activism-related actions that increased the most during the period were requests for representation on the board of directors (affirmation 1), votes against proposals (affirmation 3), request for the adoption of cumulative voting (affirmation 7) and news stories published in the Valor Econômico newspaper (affirmation 11). Despite the increase in the percentage of companies with dissident votes (affirmation 3), the rejection of proposals did not occur very often and declined during the period (affirmation 2).

Observing the average rate of growth during the three years, the greatest proportional increase was registered by the presentation of proposals at shareholder meetings (affirmation 4), followed by requests for the adoption of cumulative voting

(affirmation 7) and the number of news stories in Valor Econômico. The following declined during the period: requests to record opinions in the minutes, request for the institution of a fiscal board, complaints filed with CVM and the presentation of proposals at shareholder meetings. Even though the activism index was constructed with a maximum value of 11, the maximum value observed in the sample was 6. Only 8 companies had no type of activism event in any of the three years (CR2, Daycoval, Docas de Imbituba, Eucatex, GP Invest, Sansuy, Springer, and Wilson Sons). Seventy-three percent of the companies had more than one activism event during the period.

Table 4 shows the frequency distribution of the scores in the three years in the sample. The number of companies with no activism event mapped by the index fell substantially during the period (from 41 in 2008 to 23 in 2012). On the other hand, the number of companies with 3 or more events rose from 46 in 2008 to 55 in 2012. The data appear to show that, although not very frequent, the level of activism increased during the period. The still rare occurrence of activism events seems consistent with the lack of effectiveness of institutional investors in Brazil highlighted in Punsuvo *et al.* (2007) and Oliveira *et al.* (2012). This finding is also in line with Dutra and Saito (2002) who had already revealed the scarce use of cumulative voting in the country.

Table 3 – Activism index – Change during the period

	2008	2010	2012
Activism Index Average	1.66	1.86	1.87
Shareholder Activism Index Question Averages:			
(1) Shareholders seek representation on the board of directors and/or the fiscal board	0.385	0.456	0.482
(2) Shareholders reject proposal(s) presented for voting at the shareholders' meeting	0.021	0.015	0.015
(3) Shareholders vote against, but are not able to reject proposal(s) presented for voting at the shareholders' meeting	0.707	0.774	0.744
(4) Shareholders present proposal(s) in advance to be voted at the shareholders' meeting	0.005	0.005	0.015
(5) Shareholders present proposal(s) for voting during the shareholders' meeting	0.108	0.123	0.103
(6) Shareholders request the institution of a fiscal board	0.097	0.108	0.082
(7) Shareholders request the adoption of a cumulative voting process for the election of the board of directors	0.021	0.036	0.077
(8) Shareholders suggest and approve a proposal that differs from the one presented by management	0.000	0.000	0.000
(9) Shareholders record their opinions in the minutes	0.031	0.021	0.021
(10) Shareholders file a complaint against the company with CVM	0.251	0.267	0.231
(11) News stories about the company report some kind of shareholder activism and/or investor dissatisfaction	0.036	0.056	0.103

Table 4 – Activism index – Frequency distribution

Activism index	2008		2010		2012	
	Freq.	%	Freq.	%	Freq.	%
0	41	21.03	24	12.31	23	11.79
1	60	30.77	63	32.31	66	33.85
2	48	24.62	57	29.23	51	26.15
3	26	13.33	28	14.36	32	16.41
4	13	6.67	14	7.18	16	8.21
5	4	2.05	8	4.10	5	2.56
6	3	1.54	1	0.51	2	1.03
Total	195	100	195	100	195	100

4.4 Activism index and variables of interest

Table 5 presents the average values of the activism index according to CG and ownership identity variables. Panels A and D exhibit the three broad metrics used to assess CG practices. Companies listed in the Novo Mercado had an average activism index score of 1.61, compared with 2.12 in the case of other companies, i.e. there was less activism among Novo Mercado companies. The averages are higher in the third and fourth quartiles (2.02 and 1.97) of the CG Practices Index, the companies with the worst CG practices. The two results suggest the existence of a potential substitution relationship between CG practices and activism. Gillan and Starks (2007) suggest that the poor quality of CG practices provides a motivation for activism. Curiously, there was no clear association between non-compliance with disclosure of executive compensation details (Panel B) and activism. Companies that did not disclose this information showed less evidence of activism (average = 1.69), possibly because among those using the preliminary court injunction allowing non-compliance are some of the largest and best performing companies in Brazil, consistently with Barros *et al.* (2015).

Table 5 – Average activism index values according to corporate governance characteristics

Panel A: Listing segment		Panel B: Compliance with disclosure of compensation regulation			
NM	Non-NM	Compliance		No compliance	
1.61	2.12	1.83		1.69	
Panel C: Type of controlling shareholder		Panel D: CGPI and number of individual and institutional shareholders			
Shared		Quartile	CGPI	Individual shareholder	Institutional shareholders
	1.67				
State	3.00	1 st (upper)	1.58	1.86	1.80
Foreign	2.36	2 nd	1.59	1.89	1.95
Family	1.68	3 rd	2.02	1.70	1.82
Dispersed	1.85	4 th (lower)	1.97	1.63	1.62

Table 6 – Average activism index values according to selected control variables

Quartile	Size	ROE	ROA	Leverage
1°. (upper)	2.19	1.86	1.65	1.66
2°.	1.79	1.74	1.90	1.98
3°.	1.68	1.82	1.79	1.85
4°. (lower)	1.53	1.78	1.94	1.71

The variables related to ownership identity are presented in panels C and D. The type of control seems to be associated with differences in the average values of the activism index. Activism appeared to be more common amid state-owned, foreign controlled and dispersed ownership companies, and less frequent in companies with shared or family control. The number of individual or institutional investors may affect the degree of activism as well. It tends to be greater in companies when there are more individual and institutional shareholders. This evidence appears to contradict Strickland, Wiles and Zenner's (1996) suggestion that activism is lower when there are many small shareholders, given their lack of motivation for engaging in activist initiatives. However, as observed by Dutra and Saito (2002), this can be explained in the case of Brazil by the high degree of control rights concentration, which, in many cases, prevents minority shareholders from jointly attaining the minimum percentage necessary to request the adoption of cumulative voting.

Some of the financial variables that are usually analyzed in studies of activism, and described in the methodology, are presented in Table 6. Average activism index values were calculated for the companies according to their quartile distribution. There seems to be an association between firm size and activism, with larger firms exhibiting higher activism index values. This result is in line with the findings of studies by Smith (1996), Strickland *et al.* (1996) and Jong, Mertens, and Roosenboom (2006). However, the association between performance and the activism index was not clear. The lowest performance quartiles of ROE were not the ones with the highest average activism index values. On the other hand, the behavior of ROA was somewhat consistent with expectations that poor performance motivates activism because its lower performance quartile exhibited the highest average activism index score (STRICKLANK *et al.*, 1996; POULSEN, STRAND, and THOMSEN, 2010). There appeared to be no relationship between leverage and the activism index. The upper and lower leverage quartiles exhibited the lowest levels of the activism index, while the second and third quartiles had the highest activism index averages.

5 – CONCLUSIONS

The documents consulted, especially the minutes of shareholders' meetings, contain insufficient details of the activities in the meeting. Even so, their analysis offers an overview of shareholder activism in Brazil and its recent evolution. There is evidence that activism is increasing. For example, there was: (1) substantial increase in requests to adopt cumulative voting for the election of directors (6 to 16 between 2008 and 2012); (2) reduction in the proportion of proposals approved unanimously (64% in 2008, 54% in 2010, and 51% in 2012); (3) increase in the number of proposals suggested in advance by minority shareholders (1 to 5 between 2008 and 2012); (4) substantial increase in news articles related to the theme (7 in 2008, 67 in 2010 and 159 in 2012); (5) reduction in the number of companies without an activism event during the year (41 in 2008, 23 in 2012) and (6) an increase in the number of companies with three or more events during the year (46 in 2008, 55 in 2012). This pattern was reflected in the 12% increase in the average activism index score between 2008 and 2010 (with the rate of growth close to zero between 2010 and 2012). However, it should be recognized that the absolute value of the average activism index, as well as most of its components, remained low throughout the period. For example, the number of proposals suggested in advance of shareholder meetings by minority shareholders represented a mere 0.3% of total proposals placed on the agenda in 2012. In addition, various activism indicators remained stable or declined during the period. For example, less than 10% of proposals (usually presented by company management) were rejected during any of the years and the rejection rate fell during the period; the number of requests to institute a fiscal board also fell during the period; the number of complaints filed with CVM fell from 162 in 2008 to 106 in 2012. This type of data suggest that shareholder activism in Brazil may have gained greater visibility during the period analyzed but remains rather limited.

Evidence of activism is clearly more often found amid large firms, in line with what is reported in the international literature. The average activism index is also higher in companies with inferior CG practices. This evidence suggests the existence of a substitution relationship between CG mechanisms and incentives for shareholder activism, in line with the arguments found in Gillan and Starks (2007) and Chung and Zhang (2011). On the other hand, in contrast with Strickland *et al.* (1996), the activism index tends to be higher in companies with a larger number of shareholders. Naturally, these analyses do not have any inferential and causal ambitions and their purpose is to identify avenues for future research, which could model activism determinants and impacts, after the proposals of Goranova and Ryan (2014) and Judge, Gaur and Muller-Kahle (2010), for example, as well as revisit the calculation of the activism index herein. Finally, activism

cases could be investigated in qualitative analyses to shed light on the nature of activism in Brazil.

6 – REFERENCES

AGGARWAL, R.; EREL, I.; FERREIRA, M.; MATOS, P. Does governance travel around the world? Evidence from institutional investors. **Journal of Financial Economics**, v. 100, p. 154-181, 2011.

BARROS, L. A. B. C.; SILVEIRA, A. M.; BORTOLON, P. M.; LEAL, R. P. C. Facing the regulators: non-compliance with detailed mandatory compensation disclosure in Brazil. **Emerging Markets Finance & Trade**, v. 51, S47-S61, 2015.

BECHT, M.; BOLTON, P.; RÖELL, A. Corporate governance and control. In: CONSTANTINIDES, G.; M. HARRIS, M.; STULZ, R. (Ed.). **Handbook of the Economics of Finance**. Amsterdam: Elsevier, 2003. V. 1, Part A, p. 1-109.

BUSHEE, B. The influence of institutional investors on myopic R&D investment behavior. **The Accounting Review**, v. 73, p. 305-333, 1998.

CARVALHAL, A. Do shareholder agreements affect market valuation? **Journal of Corporate Finance**, v. 18, p. 919-933, 2012.

CARVALHAL, A.; SOUZA, L. Private equity and corporate governance in Brazil. **Corporate Ownership & Control**, v. 12, p. 187-192, 2014.

CHUNG, K.; ZHANG, H. Corporate governance and institutional ownership. **Journal of Financial and Quantitative Analysis**, v. 46, p. 247-273, 2011.

CRISÓSTOMO, V.; GONZÁLEZ, E. Possível estratégia de ativismo de fundos de pensão no Brasil. **Revista de Economia Contemporânea**, v. 10, p. 139-155, 2006.

DUTRA, M.; SAITO, R. Conselhos de administração: análise de sua composição em um conjunto de companhias abertas brasileiras. **Revista de Administração Contemporânea**, v. 6, p. 9-27, 2002.

ELYSIANI, E.; JIA, J. Distribution of institutional ownership and corporate firm performance. **Journal of Banking and Finance**, v. 34, p. 606-620, 2010.

GILLAN, S.; STARKS, L. Corporate governance, corporate ownership, and the role of institutional investors: a global perspective. **Journal of Applied Finance**, v. 13, p. 4-22, 2003.

_____. The evolution of shareholder activism in the United States. **Journal of Applied Corporate Finance**, v. 19, p. 55-73, 2007.

GORANOVA, M.; RYAN, L. V. Shareholder activism: a multidisciplinary review. **Journal of Management**, v. 40, p. 1230-1268, 2014.

HARTZELL, J.; SUN, L.; TITMAN, S. Institutional investors as monitors of corporate diversification decisions: evidence from real estate investment trusts. **Journal of Corporate Finance**, v. 25, p. 61-72, 2014.

INQUE, C.; LAZZARINI, S.; MUSACCHIO, A. Leviathan as a minority shareholder: firm level implications of equity purchases by the State. **Academy of Management Journal**, v. 56, p. 1775-1801, 2013.

JONG, A.; MERTENS, G.; ROOSENBOOM, P. Shareholders' voting at general meetings: evidence from the Netherlands. **Journal of Management and Governance**, v. 10, p. 353-380, 2006.

JUDGE, W. Q.; GAUR, A.; MULLER-KAHLE, M. I. Antecedents of shareholder activism in target firms: evidence from a multi-country study. **Corporate Governance**, v. 18, p. 258–273, 2010.

KLAPPER, L.; LOVE, I. Corporate governance, investor protection, and performance in emerging markets. **Journal of Corporate Finance**, v. 10, p. 703-728, 2004.

LEAL, R.; CARVALHAL, A. Corporate governance and value in Brazil (and in Chile). In: LOPEZ DE SILANES, F.; CHONG, A. (Ed.). **Investor protection and corporate governance – firm level evidence across Latin America**. Palo Alto: Stanford University Press, 2007. p. 213-287.

LEAL, R.; CARVALHAL, A.; IERVOLINO, A. One decade of evolution of corporate governance practices in Brazil. **Revista Brasileira de Finanças**, v. 13, p. 134-161, 2015.

OLIVEIRA, R.; LEAL, R.; ALMEIDA, V. Large pension funds and the corporate governance practices of Brazilian companies. **Corporate Ownership & Control**, v. 9, p. 76-84, 2012.

POULSEN, T.; STRAND, T.; Thomsen, S. Voting power and shareholder activism: a study of swedish shareholder meetings. **Corporate Governance: An International Review**, v. 18, p. 329-343, 2010.

PUNSUVO, F.; KAYO, E.; BARROS, L. O ativismo dos fundos de pensão e a qualidade da governança corporativa. **Revista Contabilidade & Finanças**, v. 18, p. 63-72, 2007.

SEIFERT, B.; GONENC, H.; WRIGHT, J. The international evidence on performance and equity ownership by insiders, blockholders, and institutions. **Journal of Multinational Financial Management**, v. 15, p. 171-191, 2005.

SILVA, A.; LEAL, R. Corporate governance index, firm valuation and performance in Brazil. **Revista Brasileira de Finanças**, v. 3, p. 1-18, 2005.

SILVEIRA, A.; BARROS, L. Determinantes da qualidade da governança corporativa das companhias abertas brasileiras. **REAd - Revista Eletrônica de Administração**, v. 14, p. 1-29, 2008.

SMITH, M. Shareholder activism by institutional investors: evidence from CalPERS. **The Journal of Finance**, v. 51, p. 227-252, 1996.

STRICKLAND, D.; WILES, K.; ZENNER, M. A requiem for the USA is small shareholder monitoring effective? **Journal of Financial Economics**, v. 40, p. 319-338, 1996.

