

June 3, 2020

Elliott Asks Investors To Lock Up Cash For 18-Months For Activist Investments

Dear **(Investor)**,

I am writing because **(Fund)** is an investor with hedge fund and private equity manager Elliott Management (“Elliott”).

According to Bloomberg, Elliott Management recently asked investors to extend their commitment to the firm by switching from Class A shares to Class B shares, which have an 18-month lock-up period, or face mandatory redemption with a surcharge. Elliott says this is necessary because its activist investments are taking longer to succeed.

Investors should closely scrutinize Elliott’s recent track record before acceding to this request.

- **Elliott essentially halved its disclosed economic interest in AT&T, indicating that it may be less bullish on its ability to execute on one of its most aggressive activist plays.** [Elliott’s May 2020 regulatory filings](#) show that it cut its disclosed economic interest in AT&T from 5 million shares and 20,250,000 call options in 2019 to 5 million shares and 10,500,000 call options at the end of the first quarter of 2020. In the same period of time, AT&T stayed the course on its business strategy, despite Elliott’s demand for major divestitures, and it elevated John Stankey to Chief Executive Officer. [Although Elliott did not trust AT&T leadership initially, it ultimately supported the decision to promote him to CEO](#), and it now appears less bullish on its aggressive intervention. AT&T also bucked Elliott’s plan by [cancelling all buybacks](#) to focus on investments that better serve customers.
- **In April, Elliott was fined \$22 million by French securities regulators for purportedly skirting disclosure regulations and obstructing an investigation into a takeover bid.** In April 2020, [French securities regulators fined Elliott Management \\$22 million](#) for filing inaccurate and late reports related to its position in logistics firm Norbert Dentressangle and its participation in a 2015 takeover of the company by US-based XPO. According to Reuters, French regulators said “Elliott had filed inaccurate reports on the financial instruments they were using as part of its investment into Norbert Dentressangle and had not accurately reported to the regulator whether it planned to participate in the [XPO] tender.” The regulator also said that Elliott had “obstructed the investigation by providing incomplete and late information when requested.” This is the second time French regulators fined Elliott. According to [Pensions and Investments](#), “The hedge fund was fined €16 million by the markets regulator in 2014 for using non-public information in the 2010 purchase of shares of a toll road company in France.”

Elliott Management’s activist engagements are just one strategy the fund has adopted as it broadened into a sprawling multi-strategy giant over the past 10 years. Given that Elliott has asked investors to lock-up cash longer because of the performance of its activist investments,

we believe investors should press Elliott to disclose more information about the performance and social impact of its activist investments before switching to the longer-term share class.

Disclosures should provide investors with information that directly bears on the decision whether to lock-up cash with Elliott for longer to see its activist engagements through to fruition. This includes disclosing:

- The full extent of Elliott's current activist investments, including synthetic positions;
- Elliott's management plan and strategy for realizing its goals for each of its current activist targets, including the expected duration of each investment;
- Elliott's assessment of the performance of its previous activist investments, including the total economic interest Elliott held and duration and return on those investments.

Elliott's history shows that it frequently leaves its corporate targets in worse shape than before it staked the investment. Given that Elliott has targeted public companies in multiple market capitalization brackets, investors should closely evaluate whether the short-term stock price bump Elliott seeks to achieve with activist interventions at companies may be off-set by long-term share price declines of the same companies in their passive equity investments.

Regards,

Jim Baker
Private Equity Stakeholder Project