

## Elliott Management Corp

# Elliott brings a 'prosecutorial' approach to activist investing

Hedge fund's sometimes belligerent statements mask a careful and dogged strategy

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If Hitachi, the Japanese conglomerate, thought it would be a routine matter to buy out the remaining investors in an Italian rail signalling equipment company where it had just become the largest shareholder, then it did not reckon on Paul Singer's Elliott Management.

For the past two years, Hitachi's planned takeover of Ansaldo STS has been under a multi-pronged legal attack, orchestrated by Elliott, that has included multiple complaints to the Italian markets regulator, a complaint to the country's auditing board and a lawsuit.

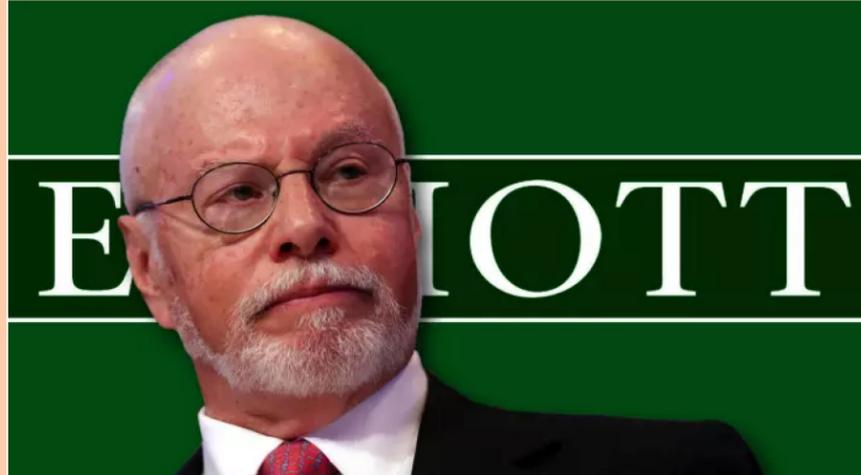
For Elliott, this is business as usual. The \$32.8bn fund and its billionaire Republican donor founder are an anomaly among activist hedge funds because of their readiness for a very protracted fight and the very broad legal tools they employ to win.

Elliott is battling on multiple fronts. It is demanding, among other things, that BHP Billiton spin off its US petroleum business, Akzo Nobel accept a takeover offer and Samsung break itself up. Last week it disclosed an activist stake in Gigamon, a network-monitoring company.

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Jon Pollock, co-chief executive

The string of victories includes claiming back more for holders of Argentine sovereign debt or pushing Klaus Kleinfeld out as chief executive of metals group Arconic. But Elliott's belligerent legal strategies and bellicose public language mask a patient strategising that reflects Mr Singer's early career as a lawyer. One rival activist calls



Elliott Management founder Paul Singer © FT montage / Bloomberg

it a "prosecutorial" approach; Mr Singer himself has called it "using every tool in the tool chest".

Another anomaly: as other big-name activists falter and the sector faces criticism for crowding into the same trades, Mr Singer's fund still has investors clamouring to pay the full rate. The industry standard is a 2 per cent management fee and a 20 per cent performance fee. When Elliott briefly opened its main fund to accept new investments earlier this month, it raised \$5bn in 24 hours.

"Raising that much money that quick is really hard, especially in a time when people are taking money away from the activists," said Don Steinbrugge, managing partner at Agecroft Partners, a hedge fund consultancy. "You have all this competition and the low-hanging fruit is gone, especially if you're a big activist."

The consistency of the returns explains why. Elliott's main fund was up 3.1 per cent in the first quarter, and returned 13.1 per cent last year. In its 40-year history, Elliott has had only had 12 losing quarters, and only two down years. In two years – 2007 and 2009 – the fund returned more than 30 per cent.

As a multi-strategy fund, Elliott

remains more versatile than its competitors, investing in a range of credit, commodities, property and various arbitrage strategies when equity opportunities are thin. Its long background in distressed debt investing means that Elliott instinctively takes a "what's the worst that can happen" approach that has limited its downside.

The 72-year-old Mr Singer, who founded Elliott 40 years ago, has shown signs that he is preparing for an eventual succession by bolstering the management ranks, but every investment decision still goes through him and his co-chief executive, Jon Pollock.

In a rare interview, Mr Pollock said that, whatever the asset class in which the fund is investing, "there is an activist thread that runs through the entire business", and he added: "Patience and persistence are certainly hallmarks at Elliott."

Most famously, Elliott spent 15 years battling Argentina in court over its defaulted debt, leading a band of creditors that were the last holdouts to settle. The final payoff to the New York-based hedge fund was \$2.4bn. With US car parts company Delphi, the fund pocketed nearly \$1bn after years as a creditor by buying it out of bankruptcy.

The soft-spoken, bearded Mr

Pollock favours button-down shirts with the sleeves rolled up, a tattoo on his wrist visible under his watch. Mr Singer's long-time deputy, he was promoted to co-CEO in late 2015. Earlier this month, the fund named Jesse Cohn and Steve Cohen equity partners, bringing the partnership to seven people.

Mr Cohn, who oversees Elliott's activist positions in US companies and runs Evergreen Coast Capital, their recently launched private equity arm, became the firm's youngest-ever partner at 36. Mr Cohen is Elliott's head trader and a macro specialist who has spent 14 years at the fund.

Mr Pollock chafes at the accusation of short-termism that is sometimes levelled at activists. Elliott will often be invested in a trade for five years, and it never seeks unnecessary public fights, he says.

"We have no interest in having our interactions with a company become public just for the sake of it. It usually becomes public after a series of conversations."

Yet the fund's style of activism has been criticised by its targets as "vulture" capital and has come under fire even from other activists.

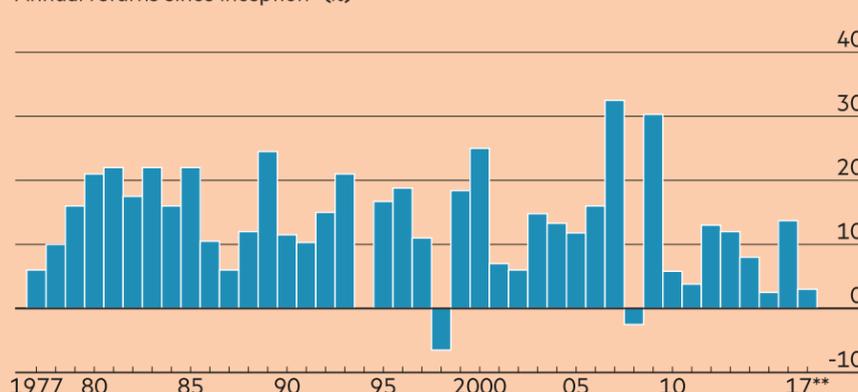
Jeff Ubben, chief executive of ValueAct, an activist fund that keeps its pressure behind the scenes, said the recent ouster of Mr Kleinfeld was an example of companies being "bullied" by Elliott. Mr Kleinfeld was forced out not because of Elliott's criticisms of his record at Arconic but because of what his board called "poor judgment" in sending a letter to an official at Elliott that the hedge fund said "read as a threat to intimidate or extort".

"It's prosecutorial in nature," said Mr Ubben, speaking on a panel at the Milken Conference in Los Angeles earlier this month. "You hear the Elliott side, but you don't ever hear the management or board side because they're the defence, and the defence doesn't talk . . . And then when you do strike back, you're fired."

The Ansaldo situation has not gone Elliott's way so far. It lost a ruling in a court in Genoa in November last year where it sought to suspend the appointment of the chairman of the board, and Hitachi has shown little inclination to boost its offer price. But there – as at Elliott's burgeoning number of activist positions – the infusion of new cash means it has additional firepower to prosecute its case.

### Elliott performance and portfolio

Annual returns since inception\* (%)



\* For Elliott Associates, Class A \*\* 2017 is for first three months  
Sources: company; Bloomberg

### Selected top holdings

