

Shareholder Litigation and Anti-Takeover Provisions

Garabed Berberian

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By: Garabed Berberian

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Signed by the final Examining Committee:

_____ Chair

Dr. Parianen Veeren

_____ Examiner

Dr. Parianen Veeren

_____ Examiner

Dr. Ravi Mateti

_____ Supervisor

Dr. Nilanjan Basu

Approved by _____ *David Newton* _____
Chair of Department or Graduate Program Director

Date _____ June 01, 2021 _____

Dean of Faculty

Abstract

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Garabed Berberian

In this paper, we analyze the impact of anti-takeover provisions (ATPs) on shareholder litigation. In theory, ATPs could result in an increased propensity for litigation if they block the market for corporate control and leave aggrieved shareholders looking for an alternative for redress in the form of litigation, or in a decreased propensity for litigation if they directly block the ability to litigate. Our results indicate that the net effect of an index of ATPs on litigation is unclear. However, individual ATPs have an impact on litigation. Some that directly block specific avenues of litigation appear to reduce the probability of litigation, while others that do not do so increase the probability of litigation. Our results indicate that the overall lack of a relationship between an ATP index and litigation is driven by these two opposing forces. We conclude that the relationship between ATPs and takeovers and the concomitant effect on firm governance is not limited to a simple reduction in the probability of takeovers but is more complex, including litigation and possibly other aspects of corporate governance.

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Shareholder litigation and anti-takeover provisions

1. Introduction

The G-index proposed by Gompers, Ishii, and Metrick (2003) has now become a standard measure of corporate governance in the Corporate Finance literature. But how exactly do anti-takeover provisions (ATPs) impact corporate governance? Intuitively, it appears logical that the presence or absence of such corporate governance provisions would correlate with the extent to which managers are insulated from the discipline imposed by the market for corporate control and, therefore, would impact the quality of governance. Empirically, Karpoff, Schonlau, and Wehrly (2020) provide evidence that this is indeed the case. They find that 11 of the 24 measures studied by Gompers, Ishii, and Metrick (2003) are reliably correlated with the likelihood of a takeover. However, the influence of such provisions may well extend beyond takeover events. We extend this literature by analyzing the important role played by shareholder litigation in this context.

Securities class action lawsuits are an alternate mechanism that can be used by shareholders to influence or discipline managers. In particular, prior evidence indicates that such lawsuits are associated with firms that have a prior propensity to overinvest (McTier and Wald, 2011), with firms that manipulate earnings upwards prior to the lawsuit (Peng and Roell, 2007), and with a reduction in the ownership of institutions, especially those with greater monitoring ability (Barbanov, Ozocak, Turtle, and Walker, 2008). The general conclusion that emerges is that such lawsuits are deployed as an alternative to the market for corporate control by shareholders in their attempt to discipline managers. As such, litigation appears to be part of a system of incentives and deterrents that add up to the governance of a particular firm. More specifically, with respect to ATPs, they may serve as a redress mechanism for shareholders whose interests have been damaged by anti-takeover provisions. Thus, in situations where the market for corporate control has been thwarted by ATPs, shareholders would have a greater incentive to pursue litigation to redress the situation. However, this is not the only possible connection between the two, and an alternative mechanism can exist as well. In particular, certain ATPs, such as provisions related to director's duties, specifically rule out

litigation on specific grounds and as a result, appear designed to act as overall deterrents to litigation. Such provisions, therefore, would be expected to inhibit (rather than encourage) litigation. Therefore, we conjecture that ATPs have the potential to influence the likelihood of a firm facing such litigation, although, in light of this discussion above, the direction of this influence remains an empirical question.

We test this conjecture using the sample of firms in the Institutional Shareholder Services (ISS) database (formerly Riskmetrics) of which 436 firms faced 492 distinct lawsuits between 1996 and 2006. As discussed above, ATPs can influence shareholder litigation in two possible ways. On one hand, certain ATPs can directly make it harder to litigate by stipulating certain protections for officers and directors. For example, director indemnification provisions can insulate officers or directors from certain legal expenses and judgements. Therefore, empirically, ATPs should be associated with a reduction in the probability of litigation. On the other hand, certain provisions could deter takeovers but not directly affect shareholder litigation. In such cases, by making one avenue for shareholder redress (the market for corporate control) less relevant, these provisions can induce a greater reliance on an alternative avenue (shareholder litigation). As a result, we would expect to empirically observe an increase in the likelihood of shareholder litigation associated with such provisions.

We first test for the overall effect of ATPs by examining the influence of the G-Index (Gompers, Ishii, and Metrick, 2003) and the E-Index (Bebchuk, Cohen, and Ferrell, 2008) on the likelihood of shareholder litigation. We find that overall, there is no statistically significant link between the aggregate level of ATPs and the probability of litigation. As noted earlier, a possible explanation lies in some provisions increasing the probability of litigation while others reduce this probability. We examine each of the provisions in the literature separately and find that three of the provisions have a positive impact on litigation, while three others have a negative impact. We do not find a significant impact for the remaining provisions. Moreover, a rough characterization of separate provisions as either increasing or decreasing the probability of litigation appears to be largely consistent with our empirical results.

Overall, our results, contribute to the literature by suggesting that the role of ATPs is more complex than a simple push towards deterring takeovers as analyzed by Karpoff, Schonlau and Wehrly (2020). Instead, our

results indicate that ATPs have a more nuanced and complex impact on the market for corporate control by affecting, at the least, shareholder litigation as well as takeovers. The remainder of this paper is organized as follows. Section 2 develops our hypotheses. Section 3 discusses our data. Section 4 outlines our tests and the results. Section 5 concludes.

2. Anti-Takeover Provisions in The Context of Shareholder Litigation.

Although there is a burgeoning literature on shareholder litigation, there is very little research that connects ATPs to shareholder litigation.¹ The literature on ATPs is relatively larger.² However, it too has largely been silent on the relation between these two issues. As a result, our starting point is the implicit logic inherent in the literature on ATPs that such provisions have the potential to insulate management from the discipline of the market for corporate control. If such is indeed the case, there are at least two broad avenues through which these could operate. First, specific ATPs could block or attenuate specific aspects of the market for corporate control. For example, the Anti-greenmail provision is believed to inhibit the accumulation of large blocks of stock and thus protect management from a hostile takeover threat. However, it does not inhibit shareholder litigation. As a result, we argue that a provision such as this that prevents or inhibits the market for corporate control from disciplining management will prompt shareholders to seek alternative channels of redress. Shareholder litigations being a prominent example of such an alternative mechanism, we would expect an increase in shareholder litigation as a result of such provisions. Second, certain other ATPs deter takeovers by directly influencing the legal process. For example, director indemnification provisions can prevent the shareholders from holding directors accountable through the litigation process. In such cases, ATPs can dampen the propensity of shareholders to seek redress through litigation and therefore empower managers to pursue their own interests at the expense of shareholders. Given these opposing effects of ATPs on litigation, their overall impact remains an open and largely

¹ See, e.g., McTier and Wald (2011)

² See, e.g., Straska and Waller (2014)

empirical question. Our first goal is to test this relationship. Empirically, we operationalize this by examining the relationship between the G-Index and the likelihood of shareholder litigation.

A second, and perhaps more interesting, question pertains to the influence of specific ATPs on the probability of shareholder litigation. As noted above in some cases we are able to speculate as to whether a specific provision is expected to increase or decrease the probability of litigation. However, in the absence of a theoretical literature to guide this issue, our conjectures are intended more as an initial starting point and our approach remains, to rephrase Karpoff, Schonlau, and Wehrly (2020) in our context, one of using “data-driven, atheoretic tests that examine the relation between firms’ [shareholder litigation] likelihoods and their uses of the specific provisions that comprise the G-index”. Specifically, we investigate the relationship of each of the 24 components of the G-Index to the probability of litigation. As such our results are intended to be interpreted as exploratory rather than confirmatory.

3. Data

Our starting point is the data on governance provisions for the years between 1996 and 2006 that we obtain from The Institutional Shareholder Services (ISS) database (formerly Riskmetrics). We remove financial and utility firms from our sample. Following McTier et al. (2011), we complement this information with hand-collected litigation data from the Securities Class Action Clearinghouse (SCAC) at Stanford University. The process of gathering litigation data involved multiple steps.

First, we filter the filings by year and notice that there is a significant variation in the number of filings in the study period, number of cases are significantly higher in 2001, after the dotcom bubble. Next, we merge our sample with ISS governance data using company name to have an initial sample that allows us to investigate each litigation and then confirm the sturdiness of our merge.

We read through each litigation briefly to verify if the class action complaint was due to a matter related to anti-takeover provisions. For instance, a litigation that was initiated due to the actions of a certain class of shareholders might be irrelevant and distort our analysis (see Appendix A). Similar to Kim and Skinner (2012), we find that the majority of the cases are related to misleading information stated by directors or unjustified compensations that they received in violation of the Securities Exchange Act of 1934. Subsequently, we search for each firm on the Edgar database. This step helps us to confirm that we didn't have any merging errors by verifying the name, ticker, and CIK code of each company that we merged between SCAC and ISS governance data. We obtain supplementary firm-level data from the Compustat and Execucomp databases.

A summary of our data is provided in Table 1 with all variables defined in Appendix B. Panel A provides summary firm characteristics for the sample of firms that were the subject of shareholder litigation. For comparison in Panel B, we provide the benchmark of firms with available data on the anti-takeover index that were not subject of shareholder litigation. As can be seen, the two groups vary in terms of size (with a mean of \$10,386 M. for the litigated firm-years compared to \$5,270 M. for firm-years that were not litigated) while they appear to be leveraged at the same level (with a mean of 15.7 percent for the litigated firm-years compared to 16.3 percent for firm-years that were not litigated). However, they appear to differ in terms of firm performance. In terms of firm performance, litigated firms report a mean ROA of approximately 9.3 percent compared to 13.3 percent for firms that were not litigated. More relevant to our concerns here, litigated firms have a mean G-index of 8.61 and a mean E-index of 2.02 as compared to 8.95 and 2.11 respectively for firms that were not litigated. Based on the cursory comparisons in this table it appears that litigation is associated with a slightly lower level of anti-takeover indexes. We explore these differences more formally and in detail in the following section.

4. Results

4.1. Univariate Tests

A first test of the connection between ATPs and litigation is presented in Table 2. In this Table, we divide our sample of firm-years (litigated and not litigated) into four quartiles based on the value of the G-Index. We then examine the percent of firms that were litigated in each group. For the quartile of firms with the lowest G-Index score, we find that 2.85% were the subject of litigation. For the following quartiles, this fraction goes up slightly to 3.00%, then 2.46%, and finally 1.75%. Although the difference between the first and second quartile proportions is not significant, the differences between the second and third, and third and fourth quartiles are statistically significant.

Additionally, the variation between the first and the fourth quartiles is significant. In summary, our univariate tests indicate a weak negative relationship between the G-Index and the proportion of firms that are subject to shareholder lawsuits. We explore this in more detail in the following section.

4.2. Regression Results

4.2.1. Indexes

Our first set of logistic regressions examine the probability of shareholder litigation as predicted by the overall level of ATPs in a firm. Our main variables of interest are *gindex*, the composite index of 24 ATPs developed by Gompers, Ishii, and Metrick (2003), and *eindex*, the composite of 6 ATPs proposed by Bebchuk, Cohen and Ferrell (2008). Our control variables are motivated by the work of McTier and Wald (2011). Similar to them, we control for firm size proxied by the natural log of assets, overall firm performance proxied by the return on assets, leverage proxied by the ratio of total debt to assets, growth opportunities proxied by Tobin's Q and systematic risk proxied by firm's beta. We also control for industry and time grouping of litigation by including fixed effects for year and industry.

The results reported in Table 3 fail to find a clear relationship between ATPs and the probability of litigation. The results are qualitatively similar in Panel A, where we include all firms that have data on ATPs, and in Panel B where we match each litigated firm to one that was not litigated in the same year,

belonged to the same industry. Furthermore, we narrow our matching criteria to include firms that had an ROA within a range of plus or minus 20% and closest in size. Overall, there is no clear relation between the aggregate level of ATPs and the probability of litigation. The sign and significance of the coefficient estimates for the control variables are consistent across specifications and are similar to those of McTier and Wald (2011). The only slight exception is leverage which is inconsistent across specifications for McTier and Wald (2011) but consistently positive and significant in our tests.

4.2.2. Individual Provisions

A potential explanation for our insignificant results could lie in our earlier discussions – that certain ATPs result in a higher likelihood of litigation due to their stifling the market for corporate control and encouraging litigations as an alternative, while others result in a lower likelihood of litigation as they act by directly blocking the path to litigation. If such is that case, a better question to ask is whether individual ATPs, rather than composite ATP indexes, are able to predict litigation. We turn to our tests of the individual ATPs in Tables 4 and 5.

Our first set of tests reported in Table 4 replace the *gindex* and *eindex* of Table 3 with each specific ATP provision. Thus, we report eight distinct logit regressions for each ATP corresponding to the eight regressions for *gindex* and eight for *eindex* reported in Table 3. In the interests of brevity, we do not report the full details in Table 4. Instead, we only report the coefficient estimates, sign, and significance separately for each ATP. For control variables, we report the average coefficient estimate and a summary of significance levels across the 24 separate specifications. As noted earlier, the sign and significance for the control variables is fairly consistent across specifications and these summaries provide a fairly accurate representation of our results.

A potential concern with our specifications in Table 4 lies in the fact that we do not include more than one provision in any regression. Thus, the test for any specific ATP does not control for the presence of other ATPs. We follow Karpoff, Schonlau, and Wehrly (2020) in remedying this. Specifically, we include an additional control variable that includes an index constructed similarly to *gindex* based on the remaining

ATPs. Thus the first series of tests of the anti-greenmail provision controls for an index that is calculated based on all ATPs other than the anti-greenmail provision. Results for these tests are reported in Table 5. As can be seen, the inclusion of this additional variable does not result in any major change in our conclusions. In unreported tests, we also redo all our results including a different measure of firm risk (standard deviation of residuals from a market model as a proxy for unsystematic risk) in addition to all previously included variables. Our results remain qualitatively unchanged. Overall, the results in Tables 4 and 5 indicate that anti-greenmail, blank check and written consent appear to increase the probability of litigation while limitations on director liability, supermajority requirements and control-share cash-out laws reduce the probability of litigation. The remaining ATPs appear to not have a discernible influence on the probability of litigation.

4.3. Implications

The results thus far are similar to Karpoff, Schonlau, and Wherly (2020) in that they do not rely on any clear theoretical precedents in the literature. Although we are constrained in this matter in that, to our knowledge, there is no theoretical model to guide us here, and we attempt to explore the implications a little further by trying to develop a rough set of predictions for each ATP. The results of our conjectures are reported in Table 6, where we attempt for each ATP to guess its impact on litigation and, therefore, the corresponding predicted sign in Tables 4 and 5. As can be seen, there is a consistent pattern in that the predicted signs in Table 6 match the observed coefficient estimates in Tables 4 and 5. Certain ATPs appear to be designed to deter litigation and these do have the desired effect in terms of reducing the probability of litigation. Others appear to be designed to affect the process of takeovers rather than litigation. For instance, blank check provision could be implemented to benefit board members' interest over shareholders' leading to an increased probability of litigation, indicating that investors, having been denied the opportunity to use the market for corporate control to reign in managerial misconduct, tend to turn to litigations as an alternative. Still others appear to have no effect, positive or negative on litigation.

5. Conclusion

In this paper, we find that, while ATP indexes appear to be largely uncorrelated with litigation, several individual ATP provisions are either positively or negatively associated with litigation. Moreover, the sign, positive or negative, of such association has a connection to the nature of the provision. Provisions that suppress the process of takeovers without impacting the process of litigation often result in higher litigation, while those that directly suppress the process of litigation are associated with a lower probability of litigation. Our results indicate that ATPs are more complex than suggested by prior research. Instead of acting as simple barriers to takeovers, they appear to address a broader spectrum of issues in corporate governance. While the most obvious way for ATPs to affect corporate governance may be through the reduction of the likelihood of takeovers (as indicated by Karpoff, Schonlau and Wehrly, 2020) their effect may not be confined to this channel. They also influence the likelihood of shareholder litigation, which prior literature has indicated is an alternative mechanism that may discipline management. Thus, their findings that only 11 of the 24 ATPs seem to impact the probability of takeovers do not indicate that the remaining are ineffective. They may be designed to impact not the probability of takeovers but other aspects of the corporate governance framework.

We would like to emphasize that our findings do not suggest that the potential impact of ATPs ends with their effects on takeover likelihood and shareholder litigation. It is entirely possible, as indicated by Aharony, Liu, and Yawson (2015), that their effects spill over into other realms such as top management compensation. As an example, in theory it is feasible that ATPs reduce the idiosyncratic risk faced by CEOs that have a significant and undiversifiable part of their wealth tied to their career at a particular firm. In such a situation, ATPs can reasonably be expected to influence the contracting between the firm and its top management. Therefore, a more comprehensive analysis of ATPs must consider their impact not just on the market for corporate control but also on the broader framework of corporate governance, including the complex contracting between shareholders and managers. As such, we look forward to future research that explores and integrates issues related to takeovers, litigation, and contracting between top executives and firms into a more holistic framework for analyzing anti-takeover provisions.

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Appendix A: Details of Sample Litigations

Example of litigation included in the sample.

A standard case that we include in our sample is linked to materially false and misleading statements issued by corporate leaders: Novell, Inc. Securities Litigation (1998)

The class action lawsuit was initiated against top officers and directors of the firm. The plaintiffs claimed that defendants were engaged in a fraudulent scheme that tried to conceal serious problems in the business due to futile acquisitions and weakening of competitive position as company's products lost ground in the marketplace. In addition, Novell's insiders knowingly misrepresented the state of demand and the success of Novell's products and its prospects for revenue and EPS. Eventually, the stock price of Novell Inc. experienced a huge decline and caused a significant loss to the shareholders.

Example of litigation excluded from the sample.

Conversely, we excluded lawsuits from our sample where the catalyst behind them are complaints against a specific class of shareholders' activity (e.g., short-swing realized profits) and not directly against managers.

Data Race Inc. Common Stock: Series C Convertible Preferred Stock Securities Litigation (2002)

Data Race Inc. sought capital to market a new product. A few institutional Investors showed interest in private placement of a Series C convertible preferred stock where each investor individually obtained the right to convert the preferred stock into common shares at either a fixed or floating conversion price. Furthermore, Data Race came to an agreement with the investors that the conversion would not be considered "short sales". Accordingly, each investor acquired its own preferred shares and immediately requested to convert the preferred shares into common stock. During this period, the stock dropped from \$5 per share to \$0.625 per share and the plaintiffs initiated a lawsuit to recover the short-swing profits realized by the Series C investors.

Appendix B: Variable Descriptions

<i>Dependent variable</i>	
Litigation	The variable takes a value of one when a firm faces litigation in a particular year, or else, zero.
<i>Anti-takeover provisions (from Gompers, Ishii and Metrick, 2003)</i>	
Anti-Greenmail (antigreen)	The variable takes a value of 1 when it is present. “Greenmail refers to a transaction between a large shareholder and a company in which the shareholder agrees to sell his stock back to the company, usually at a premium, in exchange for the promise not to seek control...” Anti-greenmail prevents this. “Such provisions are thought to discourage accumulation of large blocks of stock because one source of exit for the stake is closed, but the net effect on shareholder wealth is unclear (Shleifer and Vishny 1986; Eckbo 1990)” (Gompers, Ishii and Metrick, 2003)
Blank Check (blankcheck)	The variable takes a value of 1 when it is present. “Blank Check preferred stock is stock over which the board of directors has broad authority to determine voting, dividend, conversion, and other rights. While it can be used to enable a company to meet changing financial needs, its most important use is to implement poison pills or to prevent takeover by placing this stock with friendly investors. Because of this role, blank check preferred stock is a crucial part of a “delay” strategy...” (Gompers, Ishii and Metrick, 2003)
Business Combination laws (buscomp)	The variable takes a value of 1 when it is present. “Business Combination laws impose a moratorium on certain kinds of transactions (e.g., asset sales, mergers) between a large shareholder and the firm, unless the transaction is approved by the Board of Directors. Depending on the State, this moratorium ranges between two and five years after the shareholder’s stake passes a prespecified (minority) threshold. These laws were in place in 25 states in 1990 and two more by 1998. It is the only state takeover law in Delaware, the state of incorporation for about half of our sample” (Gompers, Ishii and Metrick, 2003)
Bylaw amendment limitations (labylw)	The variable takes a value of 1 when it is present. “Bylaw and Charter amendment limitations limit shareholders’ ability to amend the governing documents of the corporation. This might take the form of a supermajority vote requirement for charter or bylaw amendments, total elimination of the ability of shareholders to amend the bylaws, or the ability of directors (beyond the provisions of state law) to amend the bylaws without shareholder approval” (Gompers, Ishii and Metrick, 2003)
Charter amendment limitations (lachtr)	The variable takes a value of 1 when it is present. “Bylaw and Charter amendment limitations limit shareholders’ ability to amend the governing documents of the corporation. This might take the form of a supermajority vote requirement for charter or bylaw amendments, total

Control-share Cash-out laws (cashout)	<p>elimination of the ability of shareholders to amend the bylaws, or the ability of directors (beyond the provisions of state law) to amend the bylaws without shareholder approval” (Gompers, Ishii and Metrick, 2003)</p> <p>The variable takes a value of 1 when it is present.</p> <p>“Control-share Cash-out laws enable shareholders to sell their stakes to a “controlling” shareholder at a price based on the highest price of recently acquired shares. This works something like fair-price provisions extended to nontakeover situations. These laws were in place in three states by 1990 with no additions during the decade” (Gompers, Ishii and Metrick, 2003)</p>
Classified Board (cboard)	<p>The variable takes a value of 1 when it is present.</p> <p>“A Classified Board (or “staggered” board) is one in which the directors are placed into different classes and serve overlapping terms. Since only part of the board can be replaced each year, an outsider who gains control of a corporation may have to wait a few years before being able to gain control of the board. This slow replacement makes a classified board a crucial component of the Delay group of provisions, and one of the few provisions that clearly retains some deterrent value in modern takeover battles (Daines and Klausner 2001)” (Gompers, Ishii and Metrick, 2003)</p>
Compensation Plans (compplan)	<p>The variable takes a value of 1 when it is present.</p> <p>“Compensation Plans with changes-in-control provisions allow participants in incentive bonus plans to cash out options or accelerate the payout of bonuses if there should be a change in control. The details may be a written part of the compensation agreement, or discretion may be given to the compensation committee” (Gompers, Ishii and Metrick, 2003)</p>
Cumulative Voting (cumvote)	<p>The variable takes a value of 1 when it is absent.</p> <p>“Cumulative Voting allows a shareholder to allocate his total votes in any manner desired, where the total number of votes is the product of the number of shares owned and the number of directors to be elected. By allowing them to concentrate their votes, this practice helps minority shareholders to elect directors. Cumulative Voting and Secret Ballot are the only two provisions whose presence is coded as an increase in shareholder rights, with an additional point to the Governance Index if the provision is absent.” (Gompers, Ishii and Metrick, 2003)</p>
Directors’ Duties (duties)	<p>The variable takes a value of 1 when it is present.</p> <p>“Directors’ Duties provisions allow directors to consider constituencies other than shareholders when considering a merger. These constituencies may include, for example, employees, host communities, or suppliers. This provision provides boards of directors with a legal basis for rejecting a takeover that would have been beneficial to shareholders.” (Gompers, Ishii and Metrick, 2003)</p>
Fair-Price (fairprice)	<p>The variable takes a value of 1 when it is present.</p> <p>“Fair-Price provisions limit the range of prices a bidder can pay in two-tier offers. They typically require a bidder to pay to all shareholders the highest price paid to any during a specified period of time before the commencement of a tender offer, and do not apply if the deal is approved by the board of directors or a supermajority of the target’s shareholders. The goal of this provision is to prevent pressure on the target’s shareholders to tender their shares in the front end of a two-tiered tender offer, and they have the result of</p>

	making such an acquisition more expensive. Also, 25 states had Fair-Price laws in place in 1990, and two more states passed such laws in 1991. The laws work similarly to the firm-level provisions.” (Gompers, Ishii and Metrick, 2003)
Golden Parachutes (gparachute)	<p>The variable takes a value of 1 when it is present.</p> <p>“Golden Parachutes are severance agreements that provide cash and noncash compensation to senior executives upon an event such as termination, demotion, or resignation following a change in control. They do not require shareholder approval. While such payments would appear to deter takeovers by increasing their costs, one could argue that these parachutes also ease the passage of mergers through contractual compensation to the managers of the target company [Lambert and Larcker 1985]. While the net impact on managerial entrenchment and shareholder wealth is ambiguous, the more important effect is the clear decrease in shareholder rights. In this case, the “right” is the ability of a controlling shareholder to fire management without incurring an additional cost.” (Gompers, Ishii and Metrick, 2003)</p>
Director Indemnification (dirind)	<p>The variable takes a value of 1 when it is present.</p> <p>Director Indemnification uses the bylaws, charter, or both to indemnify officers and directors from certain legal expenses and judgments resulting from lawsuits pertaining to their conduct. Some firms have both this “Indemnification” in their bylaws or charter and additional indemnification contracts. The cost of such protection can be used as a market measure of the quality of corporate governance (Core 1997, 2000).” (Gompers, Ishii and Metrick, 2003)</p>
Director Indemnification Contracts (dirindc)	<p>The variable takes a value of 1 when it is present.</p> <p>Director indemnification contracts are contracts between the company and particular officers and directors indemnifying them from certain legal expenses and judgments resulting for lawsuits pertaining to their conduct. Some firms have both “indemnification” in their bylaws or charter and these additional indemnification “contracts.”</p>
Limitations on director Liability (dirliab)	<p>The variable takes a value of 1 when it is present.</p> <p>“Limitations on director Liability are charter amendments that limit directors’ personal liability to the extent allowed by state law. They often eliminate personal liability for breaches of the duty of care, but not for breaches of the duty of loyalty or for acts of intentional misconduct or knowing violations of the law.” (Gompers, Ishii and Metrick, 2003)</p>
Pension Parachutes (pparachute)	<p>The variable takes a value of 1 when it is present.</p> <p>“Pension Parachutes prevent an acquirer from using surplus cash in the pension fund of the target to finance an acquisition. Surplus funds are required to remain the property of the pension fund and to be used for plan participants’ benefits.” (Gompers, Ishii and Metrick, 2003)</p>
Poison Pills (ppill)	<p>The variable takes a value of 1 when it is present.</p> <p>“Poison Pills provide their holders with special rights in the case of a triggering event such as a hostile takeover bid. If a deal is approved by the board of directors, the poison pill can be revoked, but if the deal is not approved and the bidder proceeds, the pill is triggered. Typical poison pills give the holders of the target’s stock other than the bidder the right to purchase stock in the target or the bidder’s company at a steep discount, making the target unattractive or diluting the acquirer’s voting power. Poison pills are a crucial component of the “delay” strategy at the core of modern defensive tactics... Coates (2000) and Daines and Klausner (2001)” (Gompers, Ishii and Metrick, 2003)</p>

Secret Ballot (secretballot)	<p>The variable takes a value of 1 when it is absent.</p> <p>“Under a Secret Ballot (also called confidential voting), either an independent third party or employees sworn to secrecy are used to count proxy votes, and the management usually agrees not to look at individual proxy cards. This can help eliminate potential conflicts of interest for fiduciaries voting shares on behalf of others and can reduce pressure by management on shareholder-employees or shareholder-partners.” (Gompers, Ishii and Metrick, 2003)</p>
Severance (severance)	<p>The variable takes a value of 1 when it is present.</p> <p>“Executive Severance agreements assure high-level executives of their positions or some compensation and are not contingent upon a change in control (unlike Golden or Silver Parachutes).” (Gompers, Ishii and Metrick, 2003)</p>
Silver Parachutes (sparachute)	<p>The variable takes a value of 1 when it is present.</p> <p>“Silver Parachutes are similar to Golden Parachutes in that they provide severance payments upon a change in corporate control but differ in that a large number of a firm’s employees are eligible for these benefits...” (Gompers, Ishii and Metrick, 2003)</p>
Special Meeting limitations (lspmt)	<p>The variable takes a value of 1 when it is present.</p> <p>“Special Meeting limitations either increase the level of shareholder support required to call a special meeting beyond that specified by state law or eliminate the ability to call one entirely. Such provisions add extra time to proxy fights, since bidders must wait until the regularly scheduled annual meeting to replace board members or dismantle takeover defenses. This delay is especially potent when combined with limitations on actions by written consent.” (Gompers, Ishii and Metrick, 2003)</p>
Supermajority requirements (supermajority)	<p>The variable takes a value of 1 when it is present.</p> <p>“Supermajority requirements for approval of mergers are charter provisions that establish voting requirements for mergers or other business combinations that are higher than the threshold requirements of state law. They are typically 66.7, 75, or 85 percent, and often exceed attendance at the annual meeting. In practice, these provisions are similar to Control-Share Acquisition laws. These laws require a majority of disinterested shareholders to vote on whether a newly qualifying large shareholder has voting rights. They were in place in 25 states by September 1990 and one additional state in 1991.” (Gompers, Ishii and Metrick, 2003)</p>
Unequal Voting (uneqvote)	<p>The variable takes a value of 1 when it is present.</p> <p>“This provision is used to limit the voting rights of some shareholders and expand those of others. Under time-phased voting, shareholders who have held the stock for a given period of time are given more votes per share than recent purchasers. Another variety is the substantial-shareholder provision, which limits the voting power of shareholders who have exceeded a certain threshold of ownership.” (Gompers, Ishii and Metrick, 2003)</p>
Written Consent (lwcnst)	<p>The variable takes a value of 1 when it is present.</p> <p>”Limitations on action by Written Consent can take the form of the establishment of majority thresholds beyond the level of state law, the requirement of unanimous consent, or the elimination of the right to take action by written consent. Such requirements add extra time to many proxy fights, since bidders must wait until the regularly scheduled annual meeting to replace board members or dismantle takeover defenses. This delay is especially potent</p>

when combined with limitations for calling special meetings.” (Gompers, Ishii and Metrick, 2003)

GIndex	Governance Index constructed by Gompers, Ishii, and Metrick (2003), it contains 24 governance provisions.
EIndex	Entrenchment index constructed by (Bebchuk, Cohen, and Ferrell, 2008), it’s based on six provisions: staggered boards, limits to shareholder bylaw amendments, poison pills, golden parachutes, and supermajority requirements for mergers and charter amendments.

Remaining 23

Control variables

size	The natural logarithm of total assets.
roa	One year lagged return on assets defined as earnings before interest taxes depreciation and amortization divided by total assets
lev	One year lagged leverage defined as total debt divided by total assets.
tobinQ	One year lagged Tobin’s Q defined as the sum of total assets and market value of equity minus book value of common equity, all divided by total assets.
Year fixed effect	Defined by the fiscal year corresponding to Compustat data
Industry fixed effect	Defined by the 2-digit SIC code

Figure 1: FEDERAL SECURITIES CLASS ACTION LITIGATION 1996 – 2006 (from Stanford University’s Database)

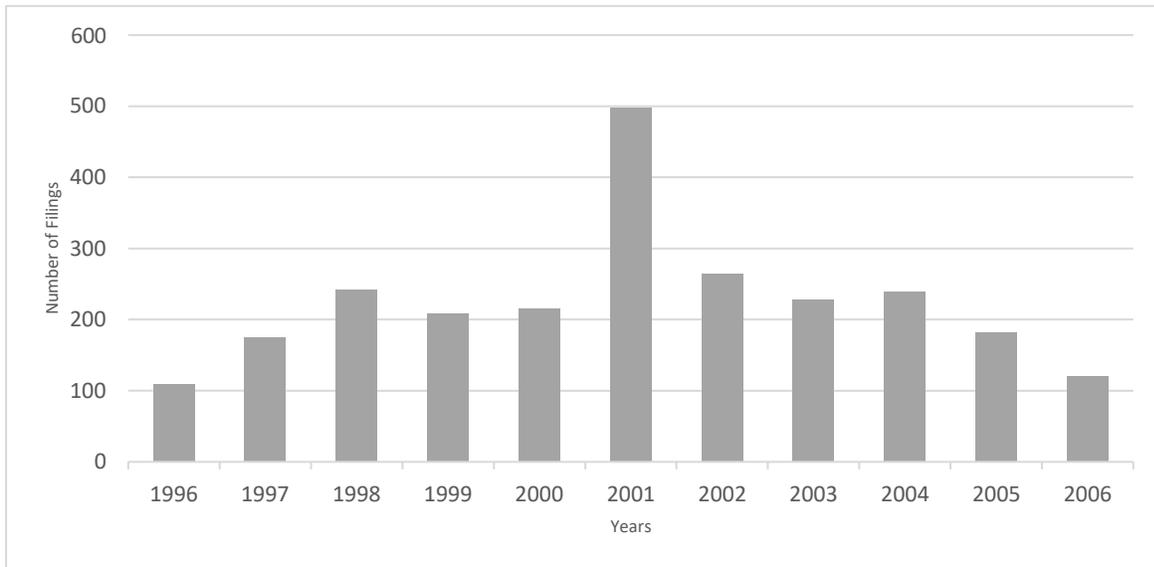


Table 1: Descriptive Statistics

This table reports the mean, standard deviation and min/max values for explanatory and control variables that are included in our main regression. All the variables are as described in Appendix B.

Panel A: Descriptive Statistics for firms that faced litigation.

Variable	Obs	Mean	Std.Dev.	Min	Max
gindex	368	8.611	2.383	3	16
eindex	368	2.022	1.235	0	5
roa	367	.093	.167	-.998	.417
tobinQ	367	2.536	2.022	.63	14.404
leverage	363	.157	.168	0	.811
total assets	368	10386.01	36779.42	19.238	476000
Beta	365	1.287	.684	-.212	3.832

Panel B: Descriptive Statistics for firms that did not face litigation.

Variable	Obs	Mean	Std.Dev.	Min	Max
gindex	13785	8.949	2.681	1	19
eindex	13785	2.108	1.296	0	6
roa	13724	.133	.122	-1.877	.965
tobinQ	13769	2.08	1.736	.258	78.565
leverage	13714	.163	.155	0	.922
total assets	13785	5269.907	22549.96	1.144	751000
beta	13703	1.003	.607	-1.116	5.158

Table 2: Univariate Test of Differences in the Proportion of Litigated Firms Between Quartiles Formed by The G-Index.

Quartiles	Observations	Number litigated	Percent litigated	z-test for difference in proportions
G Index between 01 and 07	4,425	126	2.85%	0.4008
G Index between 08 and 09	3,872	116	3.00%	-1.3993
G Index between 10 and 11	3,339	82	2.46%	-1.8478
G Index between 12 and 19	2,517	44	1.75%	

Note: the difference between first and fourth quartile is significant at the 1% level

Table 3: ATP Indexes as Predictors of The Probability of Litigation

Regressions on firm characteristics following a lawsuit. This table reports coefficients for eight logit regression models. The predictor variables of interest are gindex and eindex and the dependent variable takes on a value of 1 if the firm is the target of litigation and 0 otherwise. All control variables are winsorized at 1% in each tail and two-digit SIC industry and year fixed effects are denoted by “Y” when present. Standard errors are shown in parentheses. *, **, and *** correspond to significance at the 10%, 5%, and 1% level, respectively. All the variables are as described in Appendix B.

Panel A: Composite Sample of All Firms

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Full Sample	Full Sample	Single Litigation	Single Litigation	Full Sample	Full Sample	Single Litigation	Single Litigation
gindex	-0.0279 (0.0218)		-0.0202 (0.0237)		-0.0247 (0.0225)		-0.0128 (0.0245)	
eindex		-0.0213 (0.0436)		-0.0249 (0.0476)		0.0003 (0.0455)		-0.0096 (0.0496)
size	0.2142*** (0.0358)		0.1717*** (0.0398)	0.1665*** (0.0397)	0.2093*** (0.0383)	0.2049*** (0.0383)	0.1589*** (0.0423)	0.1560*** (0.0422)
roa	-2.6521*** (0.5123)	-1.7882*** (0.4651)	-2.6188*** (0.5559)	-2.6317*** (0.5557)	-1.9434*** (0.5529)	-1.9792*** (0.5530)	-1.8612*** (0.5962)	-1.8735*** (0.5961)
lev	0.2844 (0.4009)	0.7464** (0.3806)	0.7018* (0.4252)	0.7113* (0.4261)	0.8270* (0.4296)	0.8214* (0.4314)	1.1669** (0.4552)	1.1690** (0.4559)
tobinQ	0.1967*** (0.0369)	0.1970*** (0.0365)	0.1932*** (0.0406)	0.1942*** (0.0407)	0.1533*** (0.0396)	0.1574*** (0.0397)	0.1498*** (0.0434)	0.1510*** (0.0435)
beta	0.4170*** (0.0948)	0.4319*** (0.0936)	0.4251*** (0.1040)	0.4321*** (0.1036)	0.3917*** (0.1072)	0.4023*** (0.1069)	0.3831*** (0.1170)	0.3873*** (0.1167)
Year FE	Y	Y	Y	Y	Y	Y	Y	Y
Industry FE					Y	Y	Y	Y
Constant	-5.9385*** (0.4193)	-4.7042*** (0.3053)	-5.9353*** (0.4596)	-6.0313*** (0.4379)	-5.5823*** (0.6464)	-5.7357*** (0.6379)	-5.2672*** (0.6709)	-5.3273*** (0.6614)
Observations	13,776	13,776	13,715	13,715	12,845	12,845	12,784	12,784

Panel B: Matched Sample

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Matched Sample	Matched Sample	Single Litigation	Single Litigation	Matched Sample	Matched Sample	Single Litigation	Single Litigation
gindex	-0.0172 (0.0313)		-0.0049 (0.0327)		-0.0145 (0.0334)		0.0042 (0.0351)	
eindex		0.0378 (0.0623)		0.0334 (0.0663)		0.0594 (0.0662)		0.0564 (0.0704)
size	0.0745 (0.0511)		0.0387 (0.0546)	0.0397 (0.0542)	0.0797 (0.0558)	0.0805 (0.0555)	0.0310 (0.0595)	0.0357 (0.0593)
roa	-0.8921 (0.7630)	-0.6076 (0.7303)	-0.8672 (0.8092)	-0.9019 (0.8113)	-1.0465 (0.8273)	-1.1177 (0.8317)	-0.9225 (0.8755)	-0.9825 (0.8795)
lev	1.5509*** (0.5892)	1.6733*** (0.5824)	1.9498*** (0.6192)	1.9426*** (0.6187)	1.6141** (0.6472)	1.5864** (0.6475)	1.9569*** (0.6818)	1.9305*** (0.6824)
tobinQ	0.1415** (0.0607)	0.1447** (0.0608)	0.1192* (0.0630)	0.1250** (0.0634)	0.1419** (0.0648)	0.1540** (0.0652)	0.1278* (0.0676)	0.1357** (0.0681)
beta	0.5495*** (0.1401)	0.5485*** (0.1398)	0.5636*** (0.1473)	0.5675*** (0.1472)	0.7364*** (0.1665)	0.7510*** (0.1664)	0.7242*** (0.1735)	0.7290*** (0.1733)
Year FE	Y	Y	Y	Y	Y	Y	Y	Y
Industry FE					Y	Y	Y	Y
Constant	-1.4262 (0.9645)	-1.2304 (0.8862)	-1.7185 (1.0591)	-1.8499* (1.0425)	-0.9608 (1.3637)	-1.3113 (1.3520)	-1.1570 (1.4530)	-1.3098 (1.4382)
Observations	712	712	651	651	712	712	651	651

Table 4: Individual ATPs and the Probability of Litigation

Results of 192 logit regressions of the incidence of a lawsuit on firm characteristics. Each row in the first part of this table reports coefficients for eight logit regression models that include the predictor variable of interest and all control variables. The predictor variables of interest are indicators for the presence of the respective ATP provisions and the dependent variable takes on a value of 1 if the firm is the target of litigation and 0 otherwise. All control variables are winsorized at 1% in each tail and two-digit SIC industry and year fixed effects are denoted by “Y” when present. Standard errors are shown in parentheses. *, **, and *** correspond to significance at the 10%, 5%, and 1% level, respectively. For control variables such significance is shown based on the mean number of *. All the variables are as described in Appendix B.

	(1) Full Sample	(2) Single Litigation	(3) Full Sample	(4) Single Litigation	(5) Full Sample	(6) Single Litigation	(7) Full Sample	(8) Single Litigation
	Composite sample				Matched samples			
antigreen	0.3655 (0.2453)	0.0060 (0.3148)	0.3716 (0.2532)	0.0103 (0.3220)	1.1676** (0.4693)	0.7719 (0.5169)	1.2863*** (0.4834)	0.8965* (0.5328)
blankcheck	0.4559* (0.2343)	0.3257 (0.2414)	0.4078* (0.2373)	0.2845 (0.2449)	0.6025** (0.2938)	0.4789 (0.3004)	0.6114** (0.3060)	0.4753 (0.3146)
cboard	-0.0601 (0.1087)	-0.1144 (0.1186)	-0.0461 (0.1114)	-0.0838 (0.1213)	-0.0343 (0.1555)	-0.0785 (0.1638)	-0.0258 (0.1626)	-0.0401 (0.1714)
compplan	-0.0415 (0.1198)	0.0440 (0.1327)	-0.0425 (0.1226)	0.0566 (0.1362)	-0.0825 (0.1728)	0.0224 (0.1832)	-0.0663 (0.1834)	0.0194 (0.1954)
cumvote	-0.1151 (0.2017)	-0.3793 (0.2472)	-0.1403 (0.2059)	-0.4074 (0.2516)	-0.1984 (0.2790)	-0.3884 (0.3134)	-0.2197 (0.2964)	-0.5048 (0.3362)
dirind	-0.2322 (0.1503)	-0.2300 (0.1656)	-0.2168 (0.1532)	-0.2137 (0.1694)	-0.2652 (0.2054)	-0.2388 (0.2171)	-0.2741 (0.2178)	-0.2536 (0.2318)
dirliab	-0.4346*** (0.1319)	-0.3871*** (0.1440)	-0.3759*** (0.1360)	-0.3263** (0.1488)	-0.5116*** (0.1841)	-0.4139** (0.1933)	-0.5621*** (0.1988)	-0.4524** (0.2102)
fairprice	-0.1909 (0.1182)	-0.1324 (0.1283)	-0.1828 (0.1208)	-0.1135 (0.1312)	-0.0293 (0.1691)	0.0424 (0.1777)	-0.0198 (0.1799)	0.0556 (0.1893)
gparachute	0.0339 (0.1151)	0.0173 (0.1256)	0.0158 (0.1179)	0.0096 (0.1288)	0.2574 (0.1669)	0.2280 (0.1764)	0.2573 (0.1755)	0.2537 (0.1860)
labyllw	0.1458 (0.1316)	0.0475 (0.1476)	0.1846 (0.1337)	0.0773 (0.1497)	0.2376 (0.1961)	0.1413 (0.2101)	0.3123 (0.2044)	0.2078 (0.2196)
lachtr	-0.2380 (0.4585)	-0.0710 (0.4591)	-0.0672 (0.4648)	0.0809 (0.4662)	0.4772 (0.7601)	0.6664 (0.7606)	0.4861 (0.7919)	0.6044 (0.7926)
lspmt	0.1168 (0.1110)	0.1192 (0.1213)	0.1054 (0.1120)	0.1144 (0.1225)	-0.0756 (0.1598)	-0.0519 (0.1675)	-0.0587 (0.1649)	-0.0133 (0.1743)
lwcnst	0.1452 (0.1092)	0.1855 (0.1193)	0.1323 (0.1112)	0.1842 (0.1215)	0.1191 (0.1576)	0.1474 (0.1657)	0.1428 (0.1644)	0.2055 (0.1745)
pparachute	-0.3016 (0.5114)	-0.1040 (0.5123)	-0.3232 (0.5153)	-0.1047 (0.5172)	-0.6325 (0.6172)	-0.3950 (0.6217)	-0.7718 (0.6743)	-0.5574 (0.6843)
ppill	-0.1113 (0.1082)	-0.0472 (0.1185)	-0.1259 (0.1121)	-0.0432 (0.1228)	-0.1502 (0.1567)	-0.0721 (0.1649)	-0.1537 (0.1656)	-0.0533 (0.1759)
secretballot	0.0288 (0.1735)	-0.2835 (0.2113)	0.0548 (0.1789)	-0.2717 (0.2168)	0.2534 (0.2621)	-0.0530 (0.2914)	0.2291 (0.2769)	-0.1314 (0.3117)
severance	-0.0323 (0.1967)	-0.0727 (0.2183)	-0.0506 (0.1998)	-0.0984 (0.2216)	0.1977 (0.2938)	0.1528 (0.3126)	0.1895 (0.3083)	0.1030 (0.3289)
buscomp	-0.1858 (0.2022)	-0.0609 (0.2309)	-0.3110 (0.2079)	-0.1608 (0.2366)	-0.1025 (0.2929)	0.0504 (0.3161)	-0.1713 (0.3179)	0.0758 (0.3475)
cashout	-2.0766** (1.0039)	-1.8979* (1.0042)	-1.9549* (1.0060)	-1.8182* (1.0066)	-2.2480** (1.0588)	-2.0642* (1.0634)	-2.9663** (1.2854)	-2.8962** (1.2992)
supermajority	-0.2352* (0.1268)	-0.2192 (0.1381)	-0.1569 (0.1312)	-0.1426 (0.1432)	-0.2243 (0.1732)	-0.2046 (0.1834)	-0.2438 (0.1890)	-0.2397 (0.2020)
dutiesnf	-0.1128 (0.2011)	-0.1736 (0.2255)	-0.0137 (0.2043)	-0.0898 (0.2286)	0.0019 (0.2824)	-0.0814 (0.3030)	-0.0281 (0.2997)	-0.1319 (0.3251)
sparachute	-0.2547 (0.4589)	-0.5625 (0.5872)	-0.2152 (0.4681)	-0.5234 (0.5962)	-0.4722 (0.5776)	-0.7897 (0.6864)	-0.6926 (0.6751)	-1.3542 (0.8816)
uneqvot	-1.3763 (1.0065)	-1.1966 (1.0068)	-1.2660 (1.0101)	-1.1314 (1.0113)	-1.6872 (1.0964)	-1.5356 (1.0994)	-1.7771 (1.1151)	-1.6105 (1.1182)
dirindc	-0.1807 (0.2023)	-0.3227 (0.2364)	-0.1676 (0.2066)	-0.2730 (0.2407)	-0.2731 (0.2791)	-0.3816 (0.3057)	-0.2831 (0.2888)	-0.3606 (0.3198)

Control variables: mean coefficient estimates, mean standard errors, and implied significance

size	0.2105*** (0.0361)	0.1699*** (0.0400)	0.2058*** (0.0385)	0.1584*** (0.0424)	0.0719 (0.0511)	0.0399 (0.0546)	0.0780 (0.0560)	0.0341 (0.0596)
roa	-2.6608*** (0.5127)	-2.6197*** (0.5564)	-1.9619*** (0.5528)	-1.8653*** (0.5960)	-0.8922 (0.7643)	-0.8641 (0.8099)	-1.0553 (0.8289)	-0.9183 (0.8763)
lev	0.2785 (0.4030)	0.6968* (0.4266)	0.8146* (0.4311)	1.1595** (0.4559)	1.5318*** (0.5900)	1.9266*** (0.6200)	1.5869** (0.6485)	1.9313*** (0.6828)
tobinQ	0.1988*** (0.0368)	0.1944*** (0.0405)	0.1558*** (0.0394)	0.1505*** (0.0432)	0.1425** (0.0605)	0.1184* (0.0628)	0.1431** (0.0646)	0.1252* (0.0672)
beta	0.4275*** (0.0944)	0.4312*** (0.1035)	0.3983*** (0.1069)	0.3845*** (0.1167)	0.5504*** (0.1403)	0.5597*** (0.1475)	0.7357*** (0.1665)	0.7142*** (0.1735)
Year FE	Y	Y	Y	Y	Y	Y	Y	Y
Indus FE			Y	Y			Y	Y
Constant	-6.1727 (0.3841)	-6.1101 (0.4210)	-5.7318 (0.6337)	-5.3526 (0.6560)	-1.5625 (0.9334)	-1.7621 (1.0300)	-1.0725 (1.3359)	-1.1157 (1.4266)

Percent of coefficients that are significant at 1%, 5% and 10% level of significance

size 1%	100%	100%	100%	100%				
size 5%					4%		4%	
size 10%								
roa 1%	100%	100%	100%	100%				
roa 5%								
roa 10%								
lev 1%				8%	75%	100%		100%
lev 5%				92%	25%		100%	
lev 10%		63%	100%					
tobinQ 1%	100%	100%	100%	100%	4%			
tobinQ 5%					96%	4%	100%	4%
tobinQ 10%						96%		96%
beta 1%	100%	100%	100%	100%	100%	100%	100%	100%
beta 5%								
beta 10%								
Observations	13,776	13,715	12,845	12,784	712	651	712	651

Table 5: Individual ATPs and the Probability of Litigation, Controlling for Other ATPs
Results of 192 logit Rregressions of the incidence of a lawsuit on firm characteristics following a lawsuit. Each row in the first part of
This table reports coefficients for eight logit regression models that include the predictor variable of interest and all control
variables. The predictor variables of interest are indicators for the presence of the respective ATP provisions gindex and eindex and
the dependent variable takes on a value of 1 if the firm is the target of litigation and 0 otherwise. In this table we additionally control
for an index consisting of the remaining 23 provisions not including the specific provision under investigation. All control variables
are winsorized at 1% in each tail and two-digit SIC industry and year fixed effects are denoted by “Y” when present. Standard
errors are shown in parentheses. *, **, and * correspond to significance at the 10%, 5%, and 1% level, respectively. For control**
variables such significance is shown based on the mean number of *. All the variables are as described in Appendix B.

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Full Sample	Single Litigation	Full Sample	Single Litigation	Full Sample	Single Litigation	Full Sample	Single Litigation
	Composite sample				Matched samples			
antigreen	0.4008 (0.2467)	0.0285 (0.3160)	0.3914 (0.2540)	0.0194 (0.3226)	1.1850** (0.4706)	0.7806 (0.5178)	1.2952*** (0.4840)	0.8971* (0.5331)
blankcheck	0.4885** (0.2351)	0.3494 (0.2423)	0.4404* (0.2383)	0.3043 (0.2462)	0.6270** (0.2949)	0.4929 (0.3018)	0.6392** (0.3078)	0.4844 (0.3167)
cboard	-0.0161 (0.1151)	-0.0968 (0.1256)	-0.0067 (0.1178)	-0.0752 (0.1284)	-0.0073 (0.1643)	-0.0846 (0.1738)	-0.0025 (0.1723)	-0.0572 (0.1821)
compplan	-0.0148 (0.1216)	0.0678 (0.1346)	-0.0217 (0.1242)	0.0709 (0.1377)	-0.0716 (0.1747)	0.0277 (0.1851)	-0.0575 (0.1851)	0.0169 (0.1972)
cumvote	-0.1093 (0.2019)	-0.3743 (0.2474)	-0.1410 (0.2060)	-0.4072 (0.2516)	-0.1872 (0.2798)	-0.3846 (0.3139)	-0.2150 (0.2966)	-0.5048 (0.3363)
dirind	-0.2099 (0.1529)	-0.2175 (0.1686)	-0.1985 (0.1558)	-0.2104 (0.1720)	-0.2627 (0.2120)	-0.2555 (0.2240)	-0.2744 (0.2224)	-0.2798 (0.2368)
dirliab	-0.4315*** (0.1340)	-0.3903*** (0.1465)	-0.3717*** (0.1377)	-0.3314** (0.1506)	-0.5260*** (0.1873)	-0.4384** (0.1971)	-0.5739*** (0.2007)	-0.4783** (0.2127)
fairprice	-0.1700 (0.1227)	-0.1164 (0.1333)	-0.1667 (0.1255)	-0.1078 (0.1363)	-0.0090 (0.1735)	0.0551 (0.1836)	-0.0036 (0.1840)	0.0556 (0.1948)
gparachute	0.0672 (0.1172)	0.0412 (0.1280)	0.0411 (0.1197)	0.0229 (0.1308)	0.2917* (0.1697)	0.2521 (0.1799)	0.2868 (0.1781)	0.2678 (0.1893)
laby1w	0.1955 (0.1347)	0.0786 (0.1508)	0.2315* (0.1367)	0.1004 (0.1530)	0.2936 (0.2028)	0.1681 (0.2180)	0.3750* (0.2118)	0.2268 (0.2284)
lachtr	-0.1805 (0.4612)	-0.0276 (0.4622)	-0.0121 (0.4678)	0.1113 (0.4695)	0.5058 (0.7608)	0.6782 (0.7617)	0.5241 (0.7951)	0.6038 (0.7963)
lspmt	0.1745 (0.1153)	0.1657 (0.1260)	0.1605 (0.1169)	0.1519 (0.1277)	-0.0600 (0.1648)	-0.0510 (0.1725)	-0.0450 (0.1708)	-0.0212 (0.1804)
lwcnst	0.2042* (0.1133)	0.2390* (0.1239)	0.1893 (0.1158)	0.2314* (0.1267)	0.1505 (0.1614)	0.1700 (0.1705)	0.1790 (0.1695)	0.2262 (0.1806)
pparachute	-0.2361 (0.5145)	-0.0549 (0.5159)	-0.2681 (0.5184)	-0.0746 (0.5208)	-0.5989 (0.6268)	-0.3952 (0.6315)	-0.7527 (0.6849)	-0.6004 (0.6971)
ppill	-0.0821 (0.1129)	-0.0206 (0.1237)	-0.1050 (0.1164)	-0.0291 (0.1276)	-0.1455 (0.1652)	-0.0761 (0.1739)	-0.1541 (0.1734)	-0.0697 (0.1843)
secretballot	0.0472 (0.1744)	-0.2688 (0.2122)	0.0690 (0.1797)	-0.2629 (0.2176)	0.2659 (0.2633)	-0.0481 (0.2932)	0.2378 (0.2779)	-0.1354 (0.3136)
severance	-0.0561 (0.1974)	-0.0905 (0.2192)	-0.0663 (0.2002)	-0.1065 (0.2222)	0.1865 (0.2943)	0.1496 (0.3131)	0.1806 (0.3087)	0.1043 (0.3293)
buscomp	-0.1692 (0.2028)	-0.0481 (0.2315)	-0.2979 (0.2085)	-0.1550 (0.2370)	-0.1021 (0.2928)	0.0498 (0.3161)	-0.1687 (0.3180)	0.0755 (0.3475)
cashout	-2.0349** (1.0051)	-1.8736* (1.0057)	-1.9160* (1.0077)	-1.8112* (1.0086)	-2.2415** (1.0617)	-2.0842* (1.0658)	-2.9820** (1.2930)	-2.9839** (1.3153)
supermajority	-0.2218* (0.1283)	-0.2118 (0.1397)	-0.1431 (0.1325)	-0.1380 (0.1447)	-0.2212 (0.1762)	-0.2144 (0.1869)	-0.2436 (0.1915)	-0.2584 (0.2049)
dutiesnf	-0.0745 (0.2038)	-0.1497 (0.2284)	0.0247 (0.2073)	-0.0736 (0.2317)	0.0367 (0.2891)	-0.0770 (0.3090)	-0.0004 (0.3069)	-0.1482 (0.3314)
sparachute	-0.2122 (0.4604)	-0.5348 (0.5885)	-0.1762 (0.4698)	-0.5068 (0.5977)	-0.4438 (0.5824)	-0.7928 (0.6896)	-0.6731 (0.6787)	-1.3901 (0.8879)
uneqvote	-1.3453 (1.0069)	-1.1735 (1.0073)	-1.2337 (1.0106)	-1.1159 (1.0120)	-1.6788 (1.0970)	-1.5346 (1.0996)	-1.7705 (1.1159)	-1.6170 (1.1179)
dirindc	-0.1543 (0.2038)	-0.3082 (0.2379)	-0.1515 (0.2075)	-0.2672 (0.2415)	-0.2611 (0.2816)	-0.3875 (0.3082)	-0.2766 (0.2901)	-0.3693 (0.3210)

Control variables: mean coefficient estimates, mean t-statistics, and implied significance

remaining_23	-0.0280 (0.0229)	-0.0194 (0.0249)	-0.0248 (0.0236)	-0.0125 (0.0257)	-0.0165 (0.0329)	-0.0032 (0.0344)	-0.0135 (0.0351)	0.0059 (0.0370)
size	0.2152*** (0.0361)	0.1736*** (0.0402)	0.2102*** (0.0386)	0.1608*** (0.0426)	0.0762 (0.0517)	0.0412 (0.0551)	0.0816 (0.0565)	0.0337 (0.0601)
roa	-2.6357*** (0.5128)	-2.6035*** (0.5564)	-1.9303*** (0.5534)	-1.8498*** (0.5968)	-0.8857 (0.7642)	-0.8645 (0.8105)	-1.0497 (0.8291)	-0.9277 (0.8773)
lev	0.2771 (0.4009)	0.6924* (0.4252)	0.8204* (0.4296)	1.1595** (0.4551)	1.5259*** (0.5905)	1.9242*** (0.6203)	1.5904** (0.6486)	1.9315*** (0.6829)
tobinQ	0.1955*** (0.0370)	0.1918*** (0.0407)	0.1522*** (0.0396)	0.1486*** (0.0434)	0.1401** (0.0608)	0.1180* (0.0632)	0.1406** (0.0650)	0.1266* (0.0677)
beta	0.4130*** (0.0949)	0.4208*** (0.1042)	0.3883*** (0.1073)	0.3794*** (0.1171)	0.5465*** (0.1407)	0.5590*** (0.1478)	0.7309*** (0.1671)	0.7167*** (0.1741)
Year FE	Y	Y	Y	Y	Y	Y	Y	Y
Indus FE								
Constant	-5.9623 (0.4233)	-5.9641 (0.4637)	-5.5927 (0.6490)	-5.2838 (0.6737)	-1.4400 (0.9675)	-1.7399 (1.0625)	-0.9573 (1.3687)	-1.1659 (1.4593)

Percent of coefficients that are significant at 1%, 5% and 10% level of significance

remaining_23 1%								
remaining_23 5%	4%	4%	4%					
remaining_23 10%	12.5%							
size 1%	100%	100%	100%	100%				
size 5%					4%		4%	
size 10%					4%			
roa 1%	100%	100%	100%	100%				
roa 5%								
roa 10%								
lev 1%				8%	58%	100%		100%
lev 5%			4%	92%	42%		100	
lev 10%		50%	96%					
tobinQ 1%	100%	100%	100%	100%				
tobinQ 5%					100%	4%	100%	4%
tobinQ 10%						96%		96%
beta 1%	100%	100%	100%	100%	100%	100%	100%	100%
beta 5%								
beta 10%								
Observations	13776	13715	12845	12784	712	651	712	651

Table 6: Estimated and Observed Signs of Individual ATPs

Statistical significance in the observed relation is marked with * where the relation is sometimes statistically significant and with ** where the relation is consistently statistically significant. In cases where there is a clear prediction and a clear trend in the sign of the coefficients, these are highlighted as follows: observed signs of coefficient estimates are in bold where they are systematically consistent with the prediction and underlined if they are systematically opposite of the predicted sign.

Provision (variable name)	Predicted sign of coefficient estimate	Observed sign of coefficient estimate <i>(based on table 5)</i>
<i>Anti-greenmail provision</i> (antigreen)	<i>Predicted sign of coefficient: positive</i> The presence of this provision discourages the accumulation of large block holders that usually have more monitoring power on the action of managers. Both Pinnell (2000) and Gompers, Ishii, and Metrick (2003) consider anti-greenmail as a takeover defense that limits shareholder rights. Thus, managers' actions might have a higher potential to prompt litigation with the absence of large block holders. In the presence of anti-green mail provision managers are more likely to be entrenched and therefore more likely to face litigation.	<i>Positive</i> Consistent with prediction.
<i>Blank Check provision</i> (blankcheck)	<i>Predicted sign of coefficient: positive</i> Blank Check's most important use is to implement poison pills or to prevent takeover by placing Blank Check preferred stocks with friendly investors. Board members might exploit this provision to protect their own interests or benefit a certain party of stakeholders. We expect higher litigation with the presence of Blank Check provision	<i>Positive and significant **</i> Consistent with prediction.
<i>Classified Board</i> (Cboard)	<i>Predicted sign of coefficient: positive</i> The type of BOD delay or deter takeover and acts as a good takeover defense. Thus, we expect it be positively related to litigation	<i>Negative</i> <u>Inconsistent</u>

Provision (variable name)	Predicted relationship to litigation	Observed relationship to litigation
<i>Compensation Plans</i> (compplan)	<i>Predicted sign of coefficient: Inconclusive</i> Previously disclosed compensation agreements for managers will not be a reason to initiate a class action. No relationship to litigation is expected.	<i>Negative</i> Inconclusive
<i>Cumulative Voting</i> (cumvote)	<i>Predicted sign of coefficient: negative</i> Cumulative Voting allows a shareholder to allocate his total votes in any manner desired. This helps small shareholders to concentrate their voting power. In general, we expect this to have a negative impact on litigation as this benefits small shareholders.	<i>Negative</i> Consistent with prediction.
<i>Director Indemnification</i> (dirind)	<i>Predicted sign of coefficient: negative</i> The presence of such a provision isolates the directors from any liability in a lawsuit and makes the firm liable. Thus, a lawsuit against the directors is more likely to destroy shareholder value since the firm is going to be responsible. Therefore, the shareholders are unlikely to file a lawsuit which is going to destroy value of their own assets.	<i>Negative</i> Consistent with prediction.
<i>Limitations on director Liability</i> (dirliab)	<i>Predicted sign of coefficient: negative</i> The presence of such a provision isolates the directors from any liability in a lawsuit and makes the firm liable, as it is difficult to prove an intentional misconduct. Thus, a lawsuit against the directors is more likely to destroy shareholder value since the firm is going to be responsible. Therefore, the shareholders are unlikely to file a lawsuit which is going to destroy value of their own assets.	<i>Negative ***</i> Consistent with prediction.

Provision (variable name)	Predicted relationship to litigation	Observed relationship to litigation
<i>Fair-Price</i> (fairprice)	<i>Predicted sign of coefficient: negative</i> The presence of this provision will require a bidder to pay to all shareholders the highest price paid to any during a specified period of time before the commencement of a tender offer. This provision should reduce the potential conflicts and must have a significant negative effect on litigation.	Negative Consistent with prediction.
<i>Golden Parachutes</i> (gparachute)	<i>Predicted sign of coefficient: Inconclusive</i> this provision can deter takeover since senior executives end up getting a good package which may make the takeover more expensive. Alternatively, the bidder can make a deal with the takeover at the expense of the shareholders.	<i>positive</i> Inconclusive
<i>Bylaw amendment limitations</i> (labylw)	<i>Predicted sign of coefficient: Inconclusive</i> This provision limits the ability of both the BOD and shareholders to change the bylaw.	<i>Positive</i> Inconclusive
<i>Bylaw and Charter amendment limitations</i> (lachtr)	<i>Predicted sign of coefficient: Inconclusive</i> This provision limits the ability of both the BOD and shareholders to change the bylaw.	<i>Negative</i> Inconclusive
<i>Special Meeting limitations</i> (lspmt)	<i>Predicted sign of coefficient: positive</i> Shareholders might be incapable to make changes in a timely manner due to restrictions introduced by this provision. Accordingly, they might need to take legal actions.	<i>Positive</i> Consistent with prediction.

Provision (variable name)	Predicted relationship to litigation	Observed relationship to litigation
<i>Written Consent</i> (lwcnst)	<i>Predicted sign of coefficient: Positive</i> This provision will add extra time to make changes such as replacing board members or dismantling takeover defense. Thus, ongoing conflict might not be resolved in timely manner and lead to litigation.	<i>Positive *</i> Consistent with prediction.
<i>Pension Parachutes</i> (pparachute)	<i>Predicted sign of coefficient: Inconclusive</i> This provision is not directly related to managers behavior. It makes it more difficult for an acquiror to seize control by using the surplus cash of the target firm's pension fund.	<i>Negative</i> Inconclusive
<i>Poison Pills</i> (ppill)	<i>Predicted sign of coefficient: negative</i> Poison pill will be beneficial for shareholders if exercised. Accordingly, the existence of this provision would reduce the probability of litigation.	<i>Negative</i> Consistent with prediction.
<i>Secret Ballot</i> (secretballot)	<i>Predicted sign of coefficient: inconclusive</i> Confidential voting might help to reduce conflicts, but we can not foresee any potential effects on litigation.	<i>Positive</i> Inconclusive
<i>Severance</i> (severance)	<i>Predicted sign of coefficient: inconclusive</i> This provision will give executives some level of comfort, but it is not expected to have a direct influence on managers' behaviors. No significant impact on litigation is expected.	<i>Negative</i> Inconclusive

Provision (variable name)	Predicted relationship to litigation	Observed relationship to litigation
<i>Business Combination laws</i> (buscomp)	<i>Predicted sign of coefficient: Inconclusive</i> With the existence of this provision certain kinds of transactions between a large shareholder and the firm are restricted or delayed unless approved by board of directors. The provision is focused on enhancing due diligence on certain transactions only and might not have a direct impact on litigation.	<i>Negative</i> Inconclusive
<i>Control-share Cash-out laws</i> (cashout)	<i>Predicted sign of coefficient: Negative</i> This provision will help shareholders to get a similar price on their shares to any large shareholder or director that might sell a big portion of their holdings to a third party even when there is no takeover situation. The provision is advantageous to shareholders and might should have a significant negative impact on litigation.	<i>Negative and significant**</i> Consistent with prediction.
<i>Supermajority requirements</i> (supermajor)	<i>Predicted sign of coefficient: negative</i> Supermajority provision requires the approval of majority shareholders for major changes. This will avoid later conflicts that lead to lawsuits.	<i>Negative *</i> Consistent with prediction.
<i>Directors' Duties</i> (dutiesnf)	<i>Predicted sign of coefficient: negative</i> The provision serves as a legal shield for managers to protect the interest of different stakeholders even when it's against shareholders' best interest. Such actions will certainly lead into litigation in the absence of this provision.	<i>Negative</i> Consistent with prediction.

Provision (variable name)	Predicted relationship to litigation	Observed relationship to litigation
<i>Silver Parachutes</i> (sparachute)	<i>Predicted sign of coefficient: inconclusive</i> This provision does not only apply on key decision makers as is the case for the Golden Parachutes provision. It can deter takeover since senior executives and other employees might end up getting a good package which may make the takeover more expensive. Alternatively, the bidder can make a deal with the takeover at the expense of the shareholders.	<i>Negative</i> Inconclusive
<i>Unequal Voting</i> (uneqvote)	<i>Predicted sign of coefficient: negative</i> Setting restrictions on the voting rights of new shareholders or large block holders might serve as a shield against hostile takeovers and keep decisions under the control of the company's long-term investors. This might be a reason for less conflict. Thus, we expect negative significant relationship.	<i>Negative *</i> Consistent with prediction.
<i>Director Indemnification Contracts</i> (dirindc)	<i>Predicted sign of coefficient: negative</i> The presence of such contracts aids the directors in preventing liability for some actions. Similar to director indemnification provision, a lawsuit against the directors is more likely to destroy shareholders value when the management is protected.	<i>Negative</i> Consistent with prediction.