



Corporate Governance and Shareholder Activism

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Forces that make for effective corporate governance

- A board that makes decisions that are in the interests of shareholders [and other stakeholders] and respects both the spirit and letter of the law and regulatory framework
- Shareholders that are informed & active
- Active takeover markets
- Minority protection

The landscape of ownership in Europe

	1996					2006			
Ownership Type	Germany	France	UK	Italy		Germany	France	UK	Italy
Multiple Blocks	4.4	2.0	0.3	2.0		2.0	1.0	0.4	1.2
Family	38.6	43.8	21.0	53.1		33.3	38.2	20.4	46.8
State	13.5	10.1	2.0	12.7		9.7	8.2	3.8	13.3
Widely Held	9.9	8.9	27.5	5.6		13.0	13.1	24.2	12.2
Widely Held Parent	31.5	32.1	46.4	24.4		36.5	36.1	46.0	25.8
No. of Companies	923	970	980	954		856	975	996	960

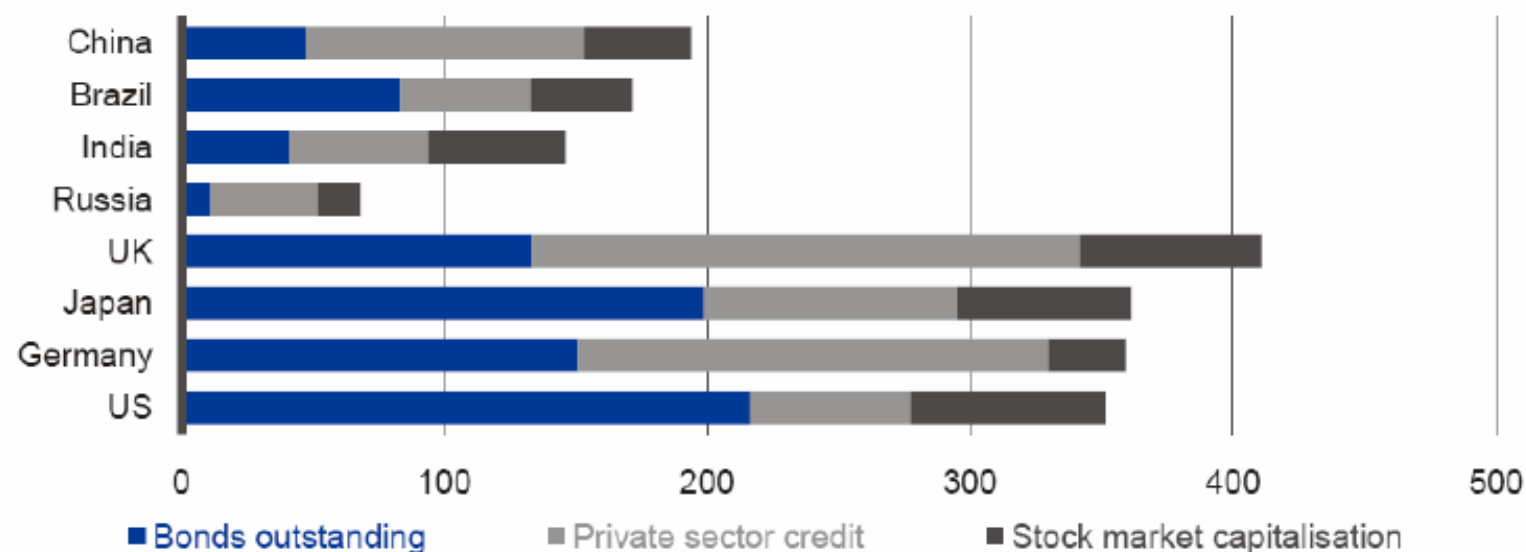
The landscape of ownership in Asia

Country	Number of Firms	Widely Held	Family	State	Widely Held Financial	Widely Held Corporation
China*	851(1998) 1599(2004)	2.1 17	0.0 1.8	43.8 54	4.4 5.1?	41.2 25
Hong Kong	330	0.6	64.7	3.7	7.1	23.9
Japan	1,240	42.0	13.1	1.1	38.5	5.3
South Korea	345	14.3	67.9	5.1	3.5	9.2

Size of financial markets across countries

Financial markets in comparison

% of GDP*, 2008 (latest available data)



*As shares of 2008 est. GDP. Sources: BIS, Bloomberg, IMF IFS, DB Research

What makes for successful stock markets?

- Why has Germany traditionally had a much smaller stock market and higher debt ratios than the UK?
- Why are voting premiums high in Italy and low in the US?
- Why do Continental European capital markets have concentrated ownership and Anglo American markets dispersed ownership?

Evidence suggests key is the law & investor protection.

Law and finance

	Shareholder Rights	Creditor Rights
UK	5	4
US	5	1
	} 4.00	} 3.11
Italy	1	2
Brazil	0	1
France	3	0
Turkey	2	2
	} 2.33	} 1.58
S. Korea	2	3
Germany	1	3
	} 2.33	} 2.33
Denmark	2	3
Sweden	3	2
	} 3.00	} 2.00

What is wrong with Anglo American corporate governance?

“Strong managers weak owners” Mark Roe

- Takeover markets are costly and ? over profitability
- Managers & boards do not have the right incentives
- Shareholders are often small & dispersed
- **Solution 1:** Block holders & families but private benefits
- **Solution 2:** Private equity but expensive, high leverage and reduces liquidity of the stock market
- **Solution 3:** Shareholder activism

Popular Views

- Activist investors are “a terrible thing for corporate America even more dangerous than the kind of junk bond bust-ups, and the greenmail activity of the '70s and the early '80s.”
- *Martin Lipton (Quoted in the New York Times, 2006)*
- “Activist fund managers of all kinds - including hedge funds - play a much more valuable role than any government or any regulator in reducing the cost of capital”
- *Charlie McCreevy, EU Internal Markets Commissioner (2007)*

Activism in Japan

- “To be blunt, shareholders in general do not have the ability to run a company. They are fickle and irresponsible. They only take on a limited responsibility, but they greedily demand high dividend payments.”

-Takao Kitabata, vice-minister of Japan's Ministry of Economy, Trade and Industry (Economist, 2008)

- Hostile raiders are ‘vulture and hyenas’... When we operate the company, we are not only looking at stockholders, we look at employees and creditors and everybody.

- Masai Yamaguchi, executive director of Teikoku Hormone Manufacturing Company (2004)

Who are the Activists?

- Traditional Activists
 - Pension funds
 - Direct or through service providers (e.g. Ethos, ISS, DSW)
 - Insurance companies
 - (some) mutual funds
- “New” Activists
 - Focus funds
 - long only positions
 - Hedge funds
 - specialised and “opportunistic” activists
 - complex risk and engagement strategies
 - Corporate “raiders”

What Are Typical Activist Demands?

Traditional Activists

(Pension Funds, Insurance Companies)

- dismantle takeover defenses
- management compensation
- split role of chairman and CEO
- corporate social responsibility

How much value does this add?

What Are Typical Activist Demands?

“New” Activists

(Focus and Hedge Funds in “Raider” tradition)

- restructure, typically through divestitures
- pay-out cash
- replace management
- stop planned acquisition of another company
- sell company to highest bidder

How much value does this add?

Importance of the law

U.K.

- Majority Voting
- 10% can requisition EGM
- Can propose to remove board
- Decision to remove board binding

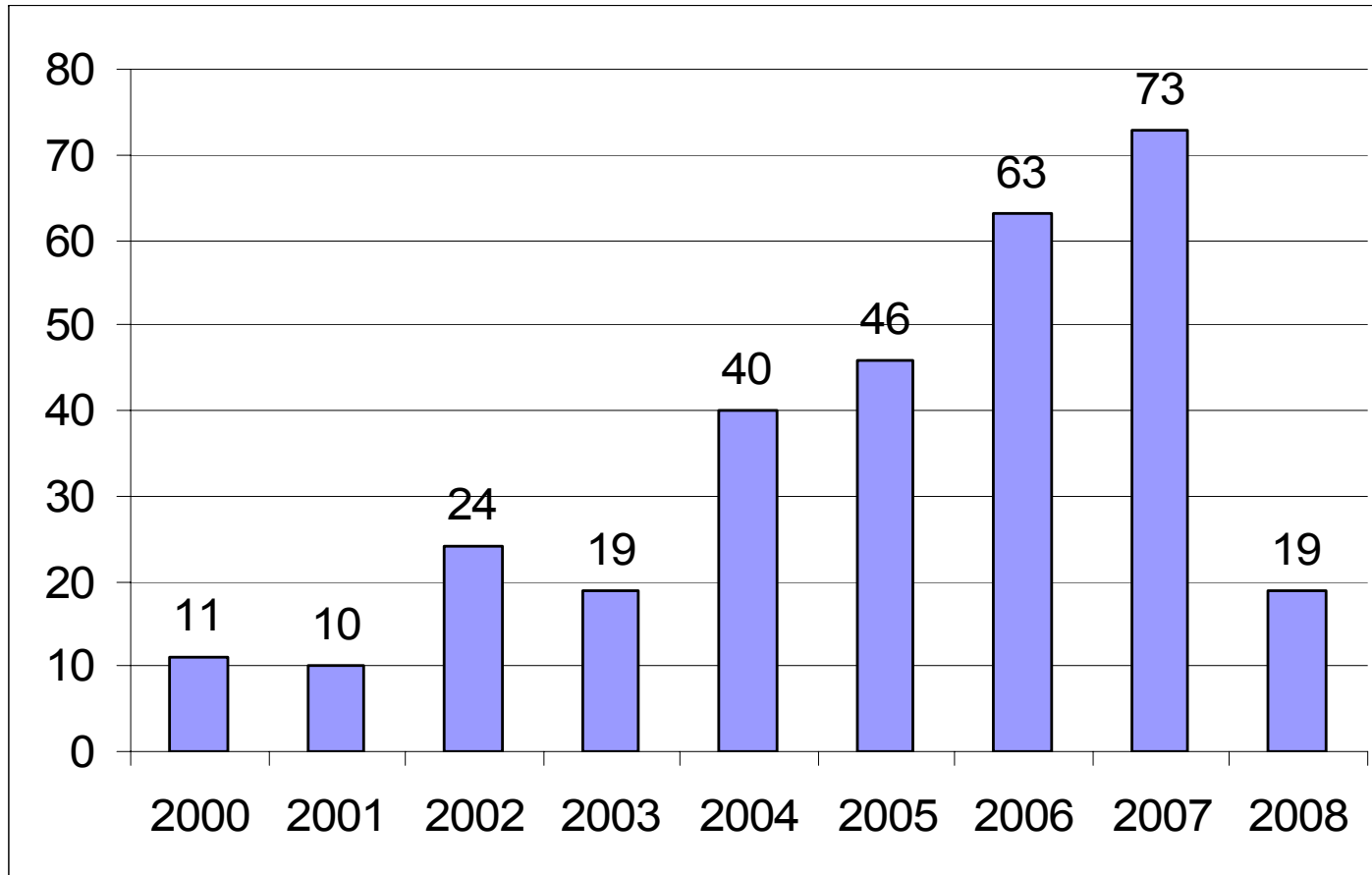
Continental Europe

- Majority Voting
- Less favourable to activists than U.K.
- Exception : NL
 - Amsterdam Court
- Blockholders
 - With or without CEMs

“Have a Quiet Word?” Data

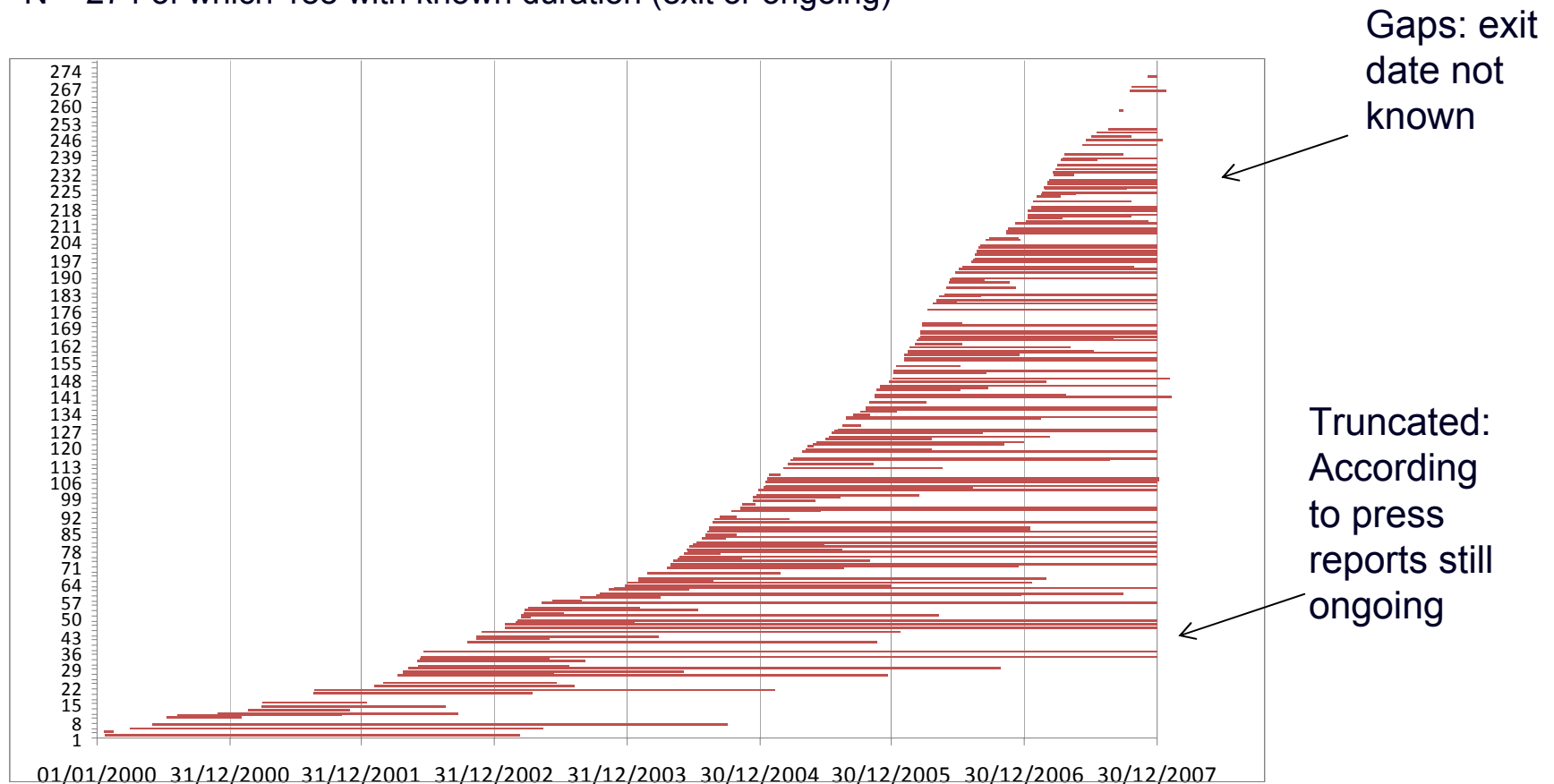
- Public Engagements Database
 - January 2000 to December 2008
 - 15 European countries
 - 299 engagements
- Private Fund Database
 - Full information on public and private engagements
 - Five funds included at the moment
 - 140+ engagements
 - About half of the engagements in private

Public Activism: interventions by year



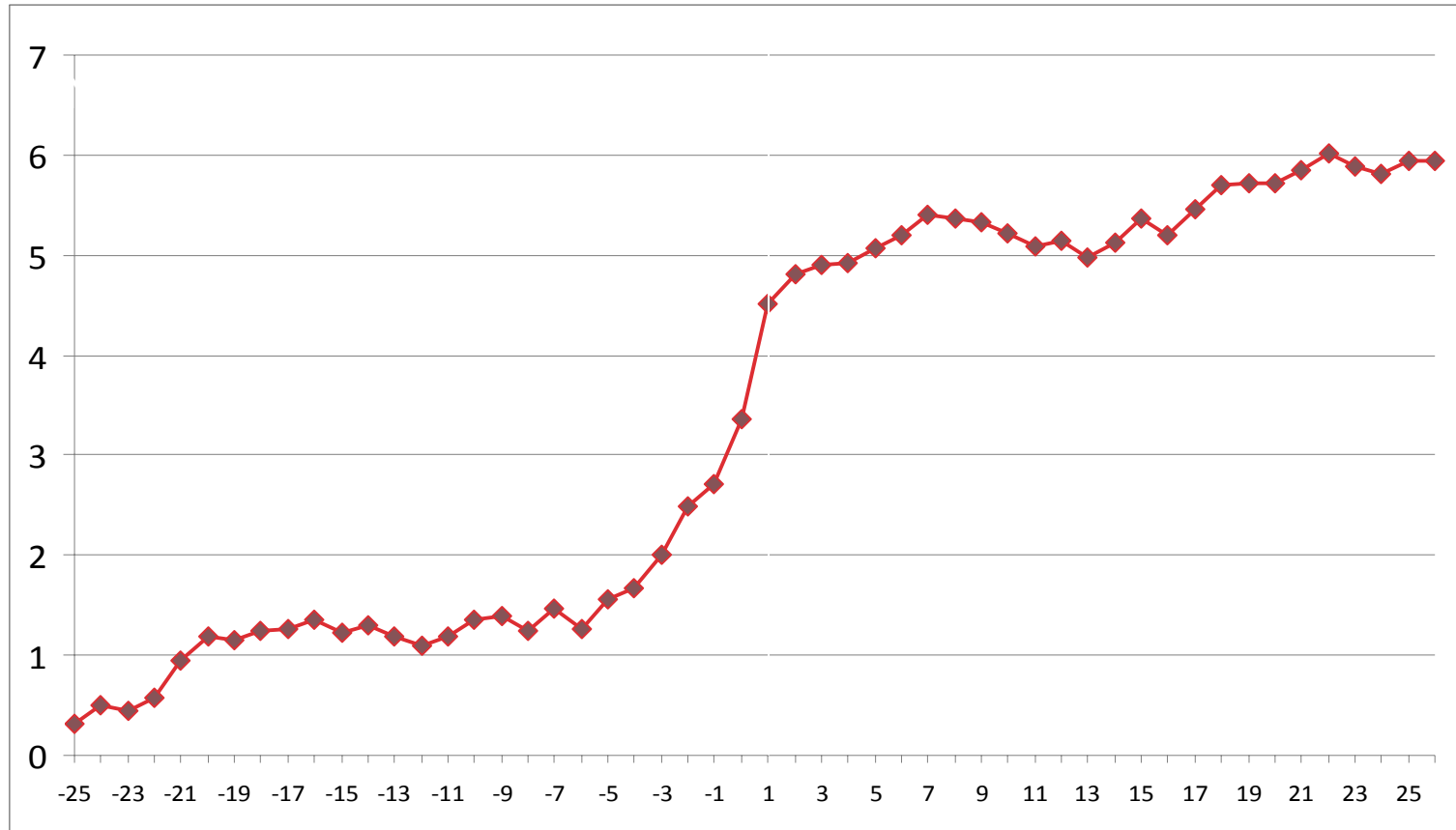
Holding Period in Public Database

N = 274 of which 188 with known duration (exit or ongoing)

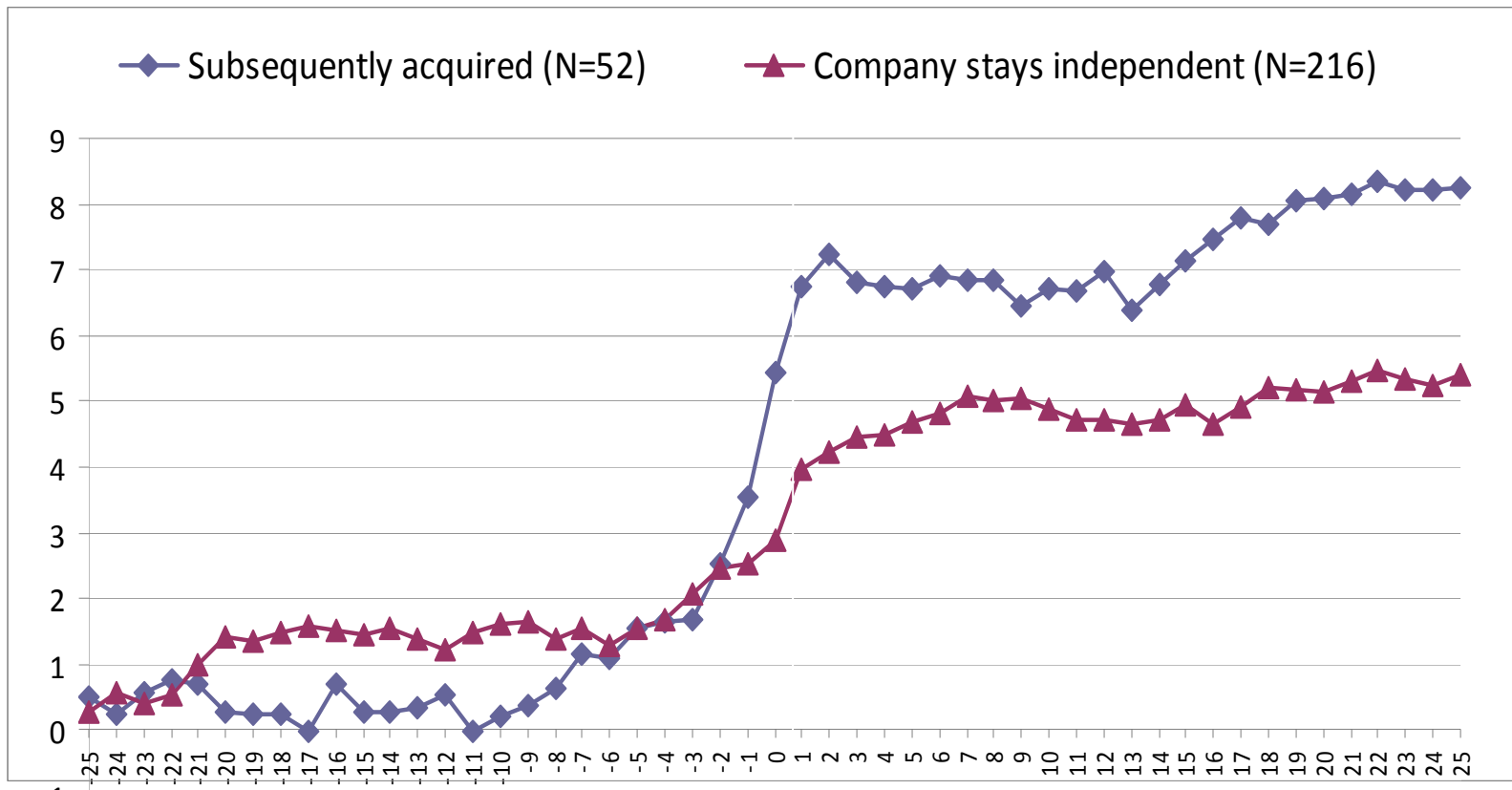


Mean Holding Period: 563 days (median 455)

Average Price Reaction (%) for First Press/Block Disclosure

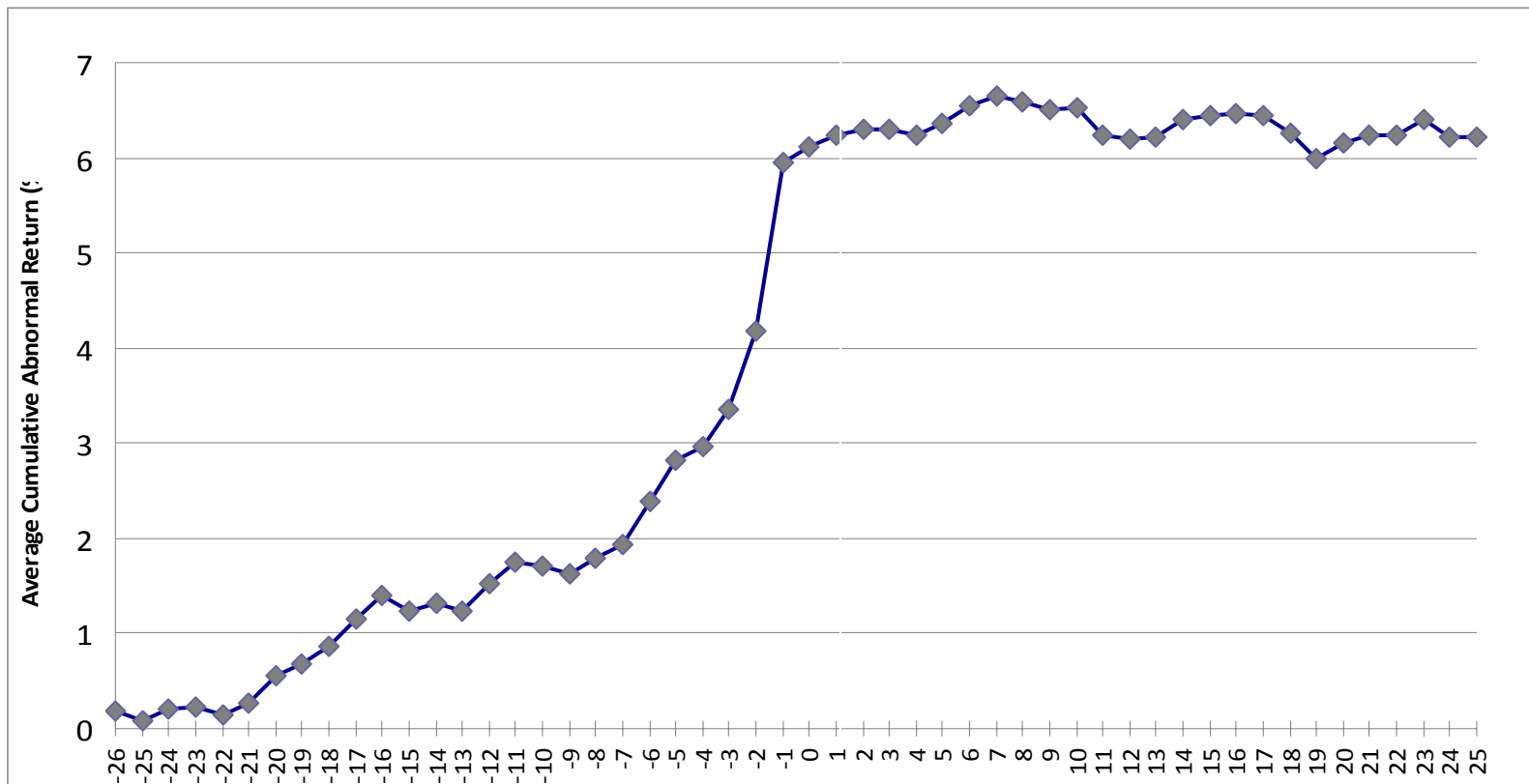


Public Database: Average price reaction for First Press/Block Disclosure

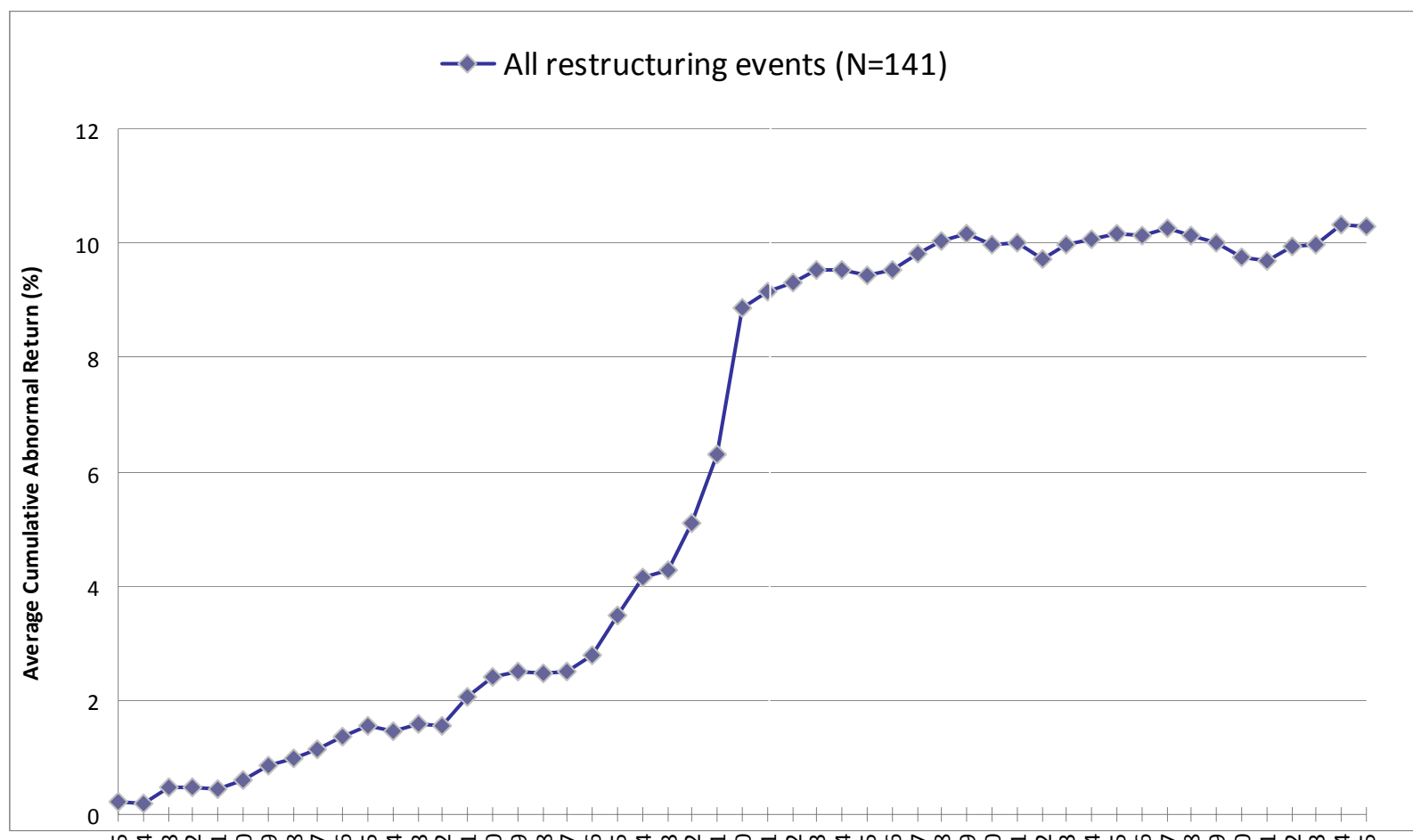


Price reactions (%) from 'All Outcomes' – restructuring, payout, board changes etc.

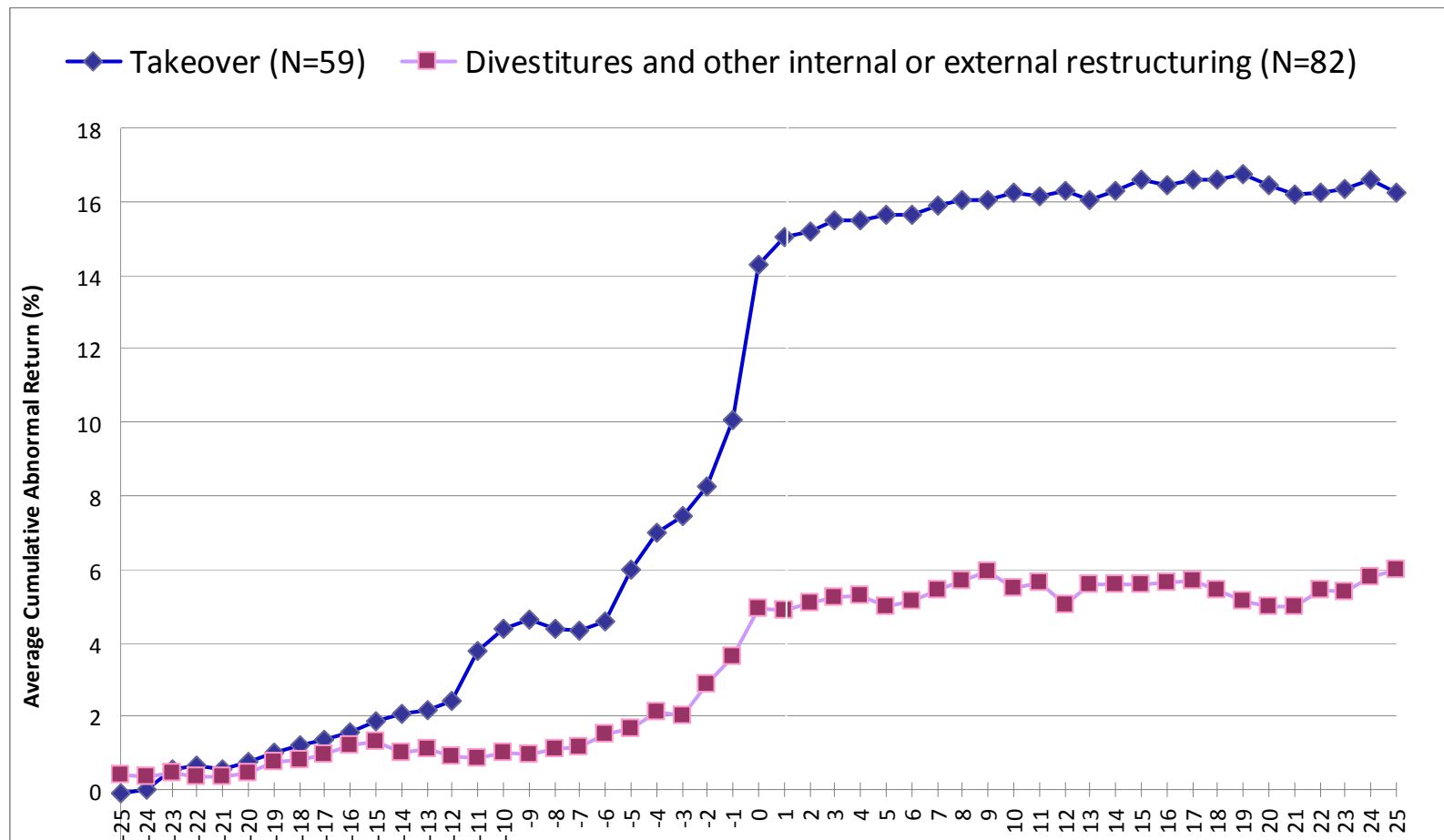
N = 249 (10 lost due to non-availability of price information)



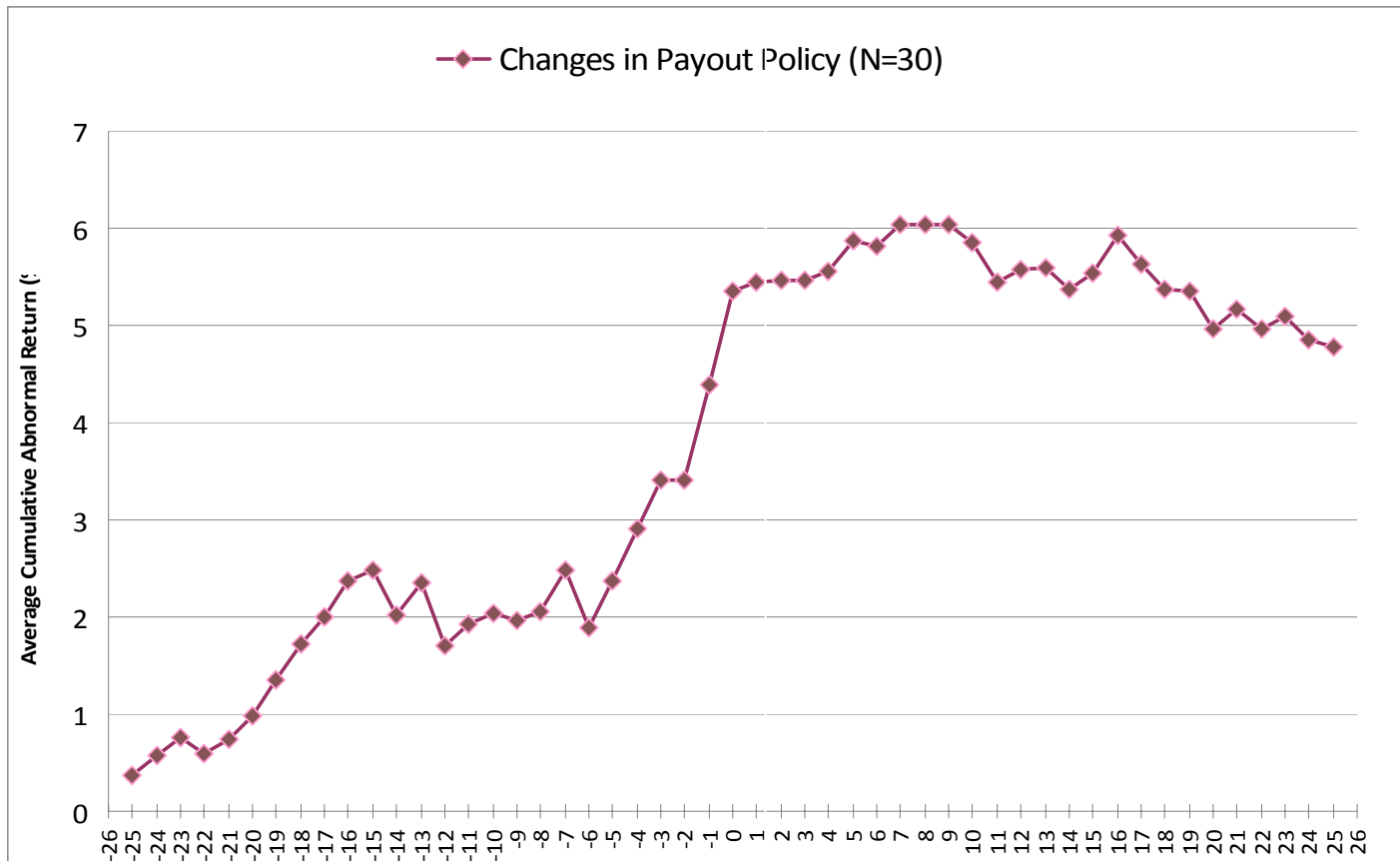
Restructuring Outcomes – Public Database



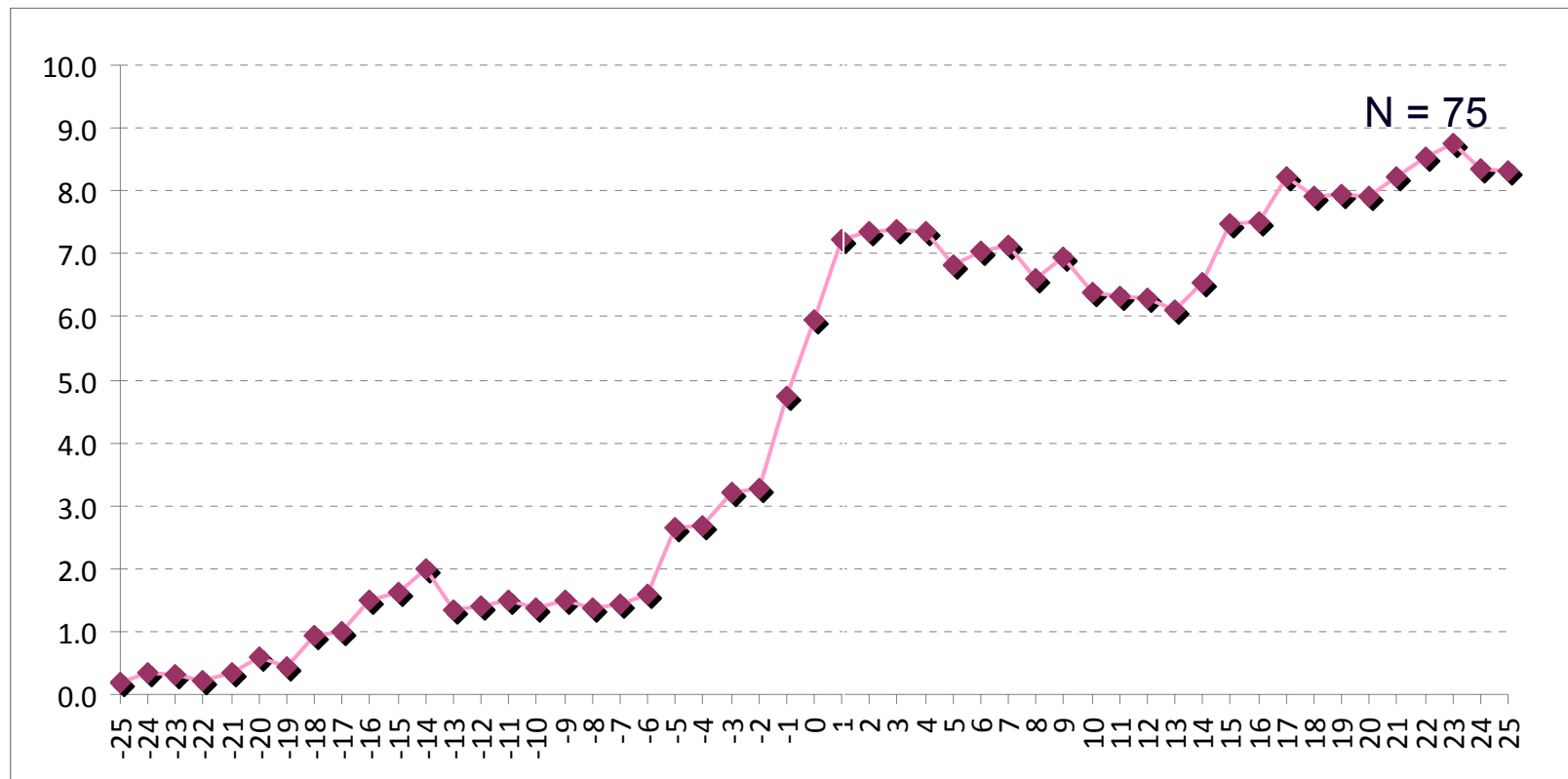
Restructuring Outcomes – Public Database



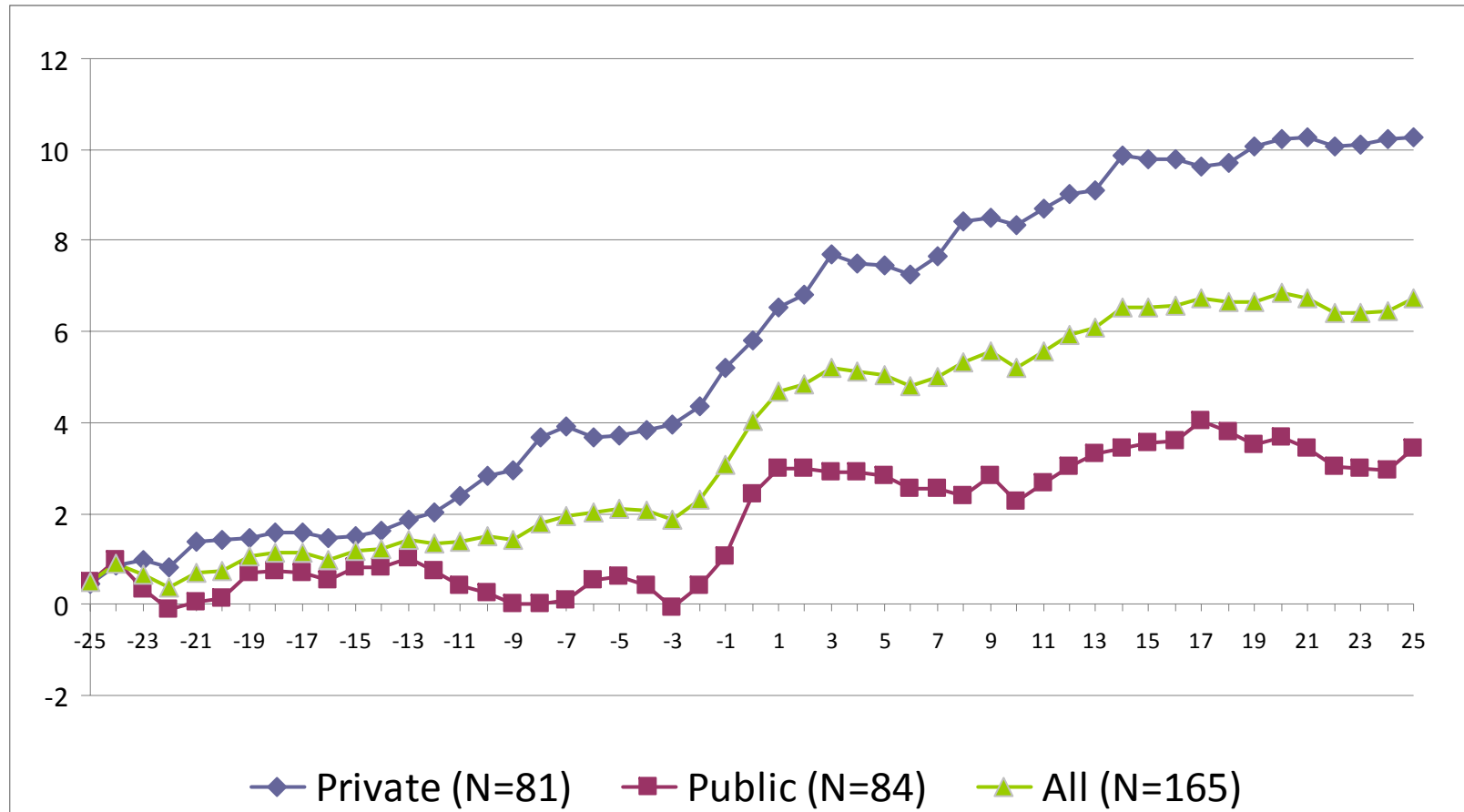
Changes in Payout Policy Outcomes – Public Database



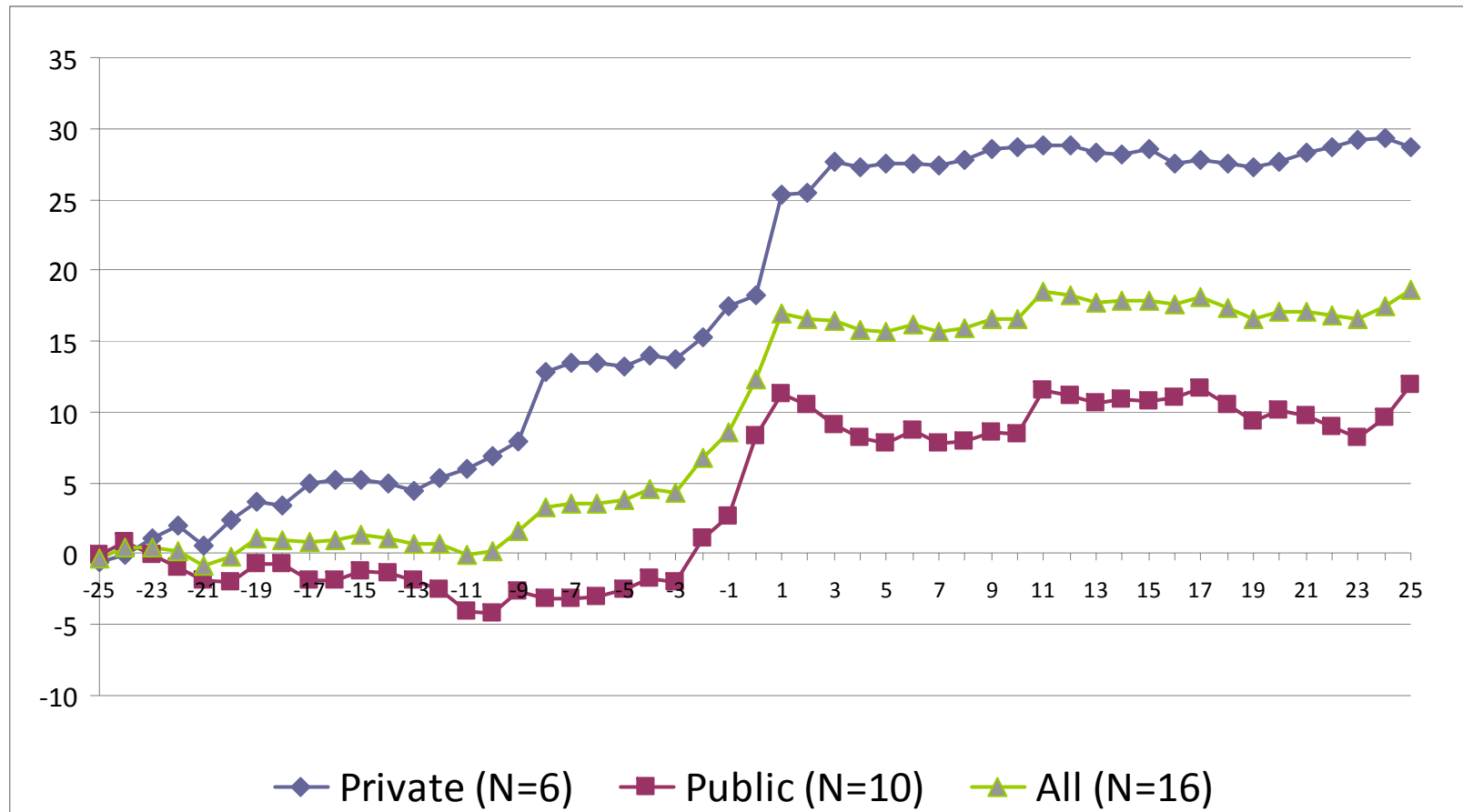
Private Fund Database – 5 Funds: Average Price reaction (%) for First Press/Block Disclosure



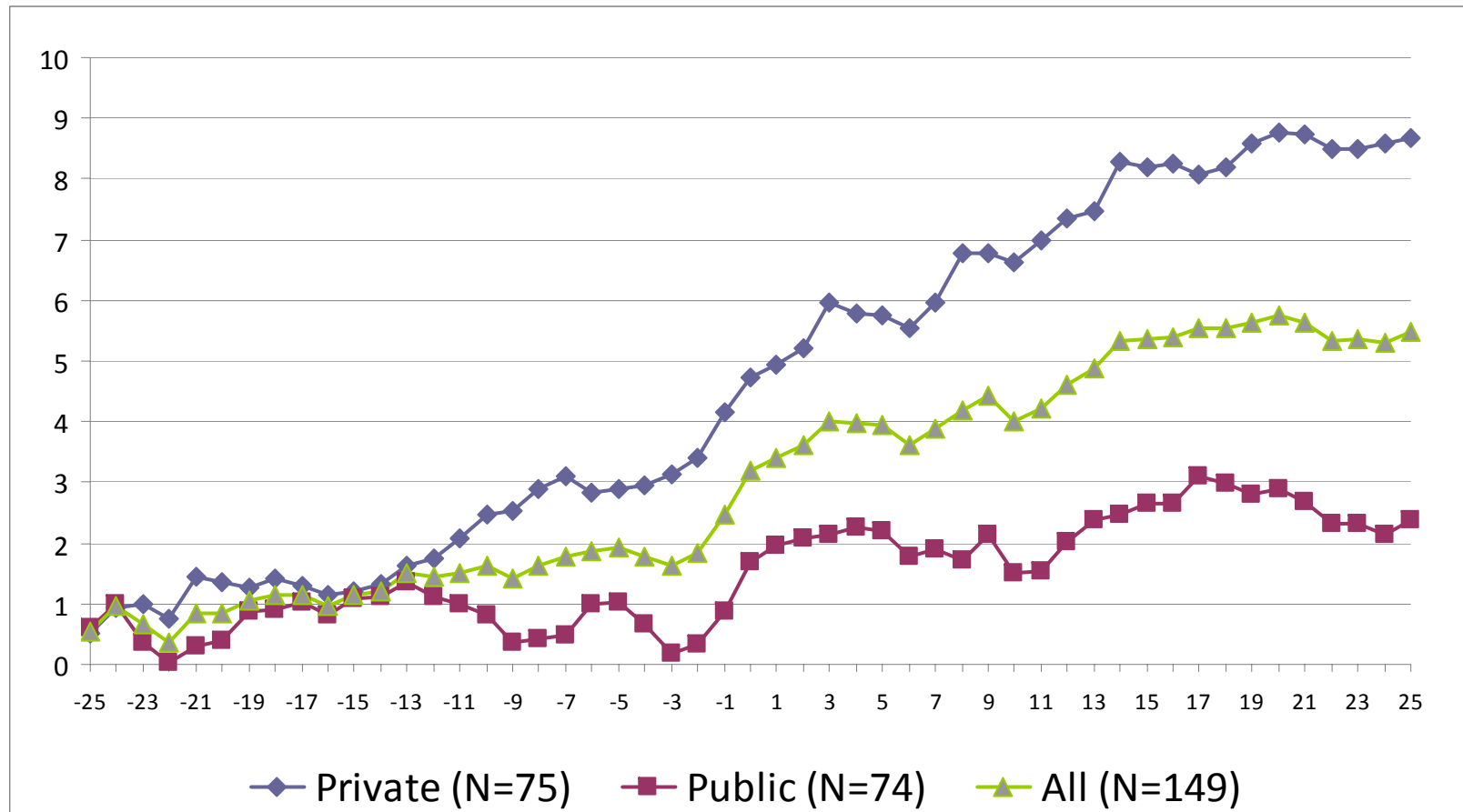
All Restructuring Outcomes – Funds V,W,X,Y,Z



Takeover Outcomes – Funds V,W,X,Y,Z



Restructuring Outcomes Excluding Takeovers Funds V,W,X,Y,Z



Conclusions

- “New” shareholder activism generates substantial returns for shareholders.
- The most substantial returns are associated with corporate restructuring.
- Private activism exists, can be effective and generate substantial returns.
- Private activism is frequent and profitable returns

How should CEOs engage with activists?