

## Simply Defined Choices for Dell Investors

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Since Dell has given its shareholders another few days to decide what they want, I've been encouraged to present a simplified definition of your practical choices.

The alternatives summarized below are based on remarkably similar discussions with a wide range of Forum participants, including familiar professionals as well as several individual investors who are new to corporate control contests. While focused on the specific Dell situation, the general definition of choices may also be applied to other buyouts we will be addressing.

### Four choices

Most investors want one of these alternatives:

- A. ***\$13.65 cash*** – If you want the “safe” cash offer, your obvious choice is to vote in favor of the proposed transaction.
- B. ***Fair value option*** – If you want the appraised fair value alternative to the cash offer price, or at least the right to consider the option, there are two ways to get it. The one supported by the Forum<sup>1</sup> and encouraged by Icahn<sup>2</sup> is to arrange the required delivery of a demand letter to Dell and vote against the transaction (or abstain, or simply not vote). The alternative for those of you who cannot get your demand delivered to Dell by the adjourned Wednesday deadline is to vote in support of the transaction so that others will be able to secure appraisal rights that you can buy.
- C. ***Proxy fight*** – To support a proxy fight instead of the more predictable cash or fair value alternatives available from a buyout, you can simply vote against the transaction.
- D. ***Increased offer price*** – Although it is probably too late in the Dell game for bluffing, you could theoretically threaten a negative vote to encourage the buyer group's revision of terms. Of course, your actual vote would ultimately be based on the three real choices above.

These choices need to be considered in the practical context of your particular investing objectives, as well as a realistic understanding of probabilities in a control contest. The Dell contest has been characterized by an exceptional level of rumors and confusion, fueled by a

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<sup>1</sup> See the “[Immediate priorities for reserving appraisal rights](#)” section of a [July 5, 2013 Forum Report](#).

<sup>2</sup> See [July 10, 2013 Wall Street Journal: “Icahn Calls on Dell Holders to Seek Appraisal of Shares.”](#)

special committee's unusual efforts at promotion as well as by a champion agitator, and it is important to sort through all the noise to make a rational analysis.

### **Broader applications**

These decision alternatives, and many other lessons from the Dell project, will be applicable to other buyout proposals.

As some of you know, the Forum has begun reviews of other potential appraisal rights opportunities suggested by participants. This has naturally stimulated thinking about ways to organize the process of selecting potential subjects for support, probably using some variation of a workshop or review panel of invited professionals to assure effective identification and consideration of candidates. I will naturally welcome the views of Forum participants who want to benefit from investing in appraisal rights.

It should be emphasized that our development of an ability to support efficient management and marketability of these rights has created a new type of specialized investment, and that all of us who want to profit from it share a common interest in establishing a sound foundation for its broad acceptance. That will require doing everything right, including the selection of sound demonstration cases.

*GL – July 20, 2013*

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