STRIVE

The Fiduciary Focus

Investment News From a Pro-Shareholder Perspective

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This Week: Disney's Iger cashes in big on DEI; An Eye on Energy discusses Mexico; Strive urges Supreme Court to protect investors.

2023: Good for Iger, Bad for Disney

In its SEC filing last week, Disney revealed that in 2023, its former-turned-current CEO, Bob Iger, raked in nearly $31.6 million in compensation.

The package includes over $2 million in compensation tied in part to Disney's progress in meeting its diversity and inclusion (DEI) goals. While the compensation committee acknowledged that the company did not meet financial targets, they found that Iger and other executives more than made up for it on the diversity front. Specifically, the committee praised Disney for:

- increasing the percentage of racial minorities in executive and management ranks by 1% compared to 2022,
- increasing the percentage of women in executive and management ranks by .5%, and
- "creat[ing] and promot[ing] content with diversity both in front of and behind the camera," including its controversial "The Little Mermaid" remake.

The committee therefore awarded Iger 99% of his financial-based bonus, but 145% of his bonus tied to non-financial factors like DEI.

The payout comes at a time when the Company's financial performance continues to underwhelm. By the end of 2022, Disney's stock fell to what was at that time its worst performance since 1974, with a 44% drop over the course of the year. It was hoped that Iger would right the ship upon his return. But even at its lowest point in 2022, Disney stock hovered around $84. By the fall of 2023, nearly a year after Iger's return, Disney stock hit a new $80 low.

Disney's stock wasn't the Company's only losses in 2023. As part of a restructuring, Iger oversaw several rounds of layoffs, parting ways with roughly 7,000 employees. Attendance at Disney's theme parks also declined. Iger attributed the drop to a spike in attendance in 2020 due to Florida's early COVID-19 reopening and has said that he is "not at all concerned" about long-term decreases.

And why would he be? That same week the Disney Board announced that Iger would be staying on through 2026—two years longer than his anticipated 2024 departure.

At Davos, Global Elite Talk Climate And Trade Tricks On How Not To Say ESG

At last week's World Economic Forum at Davos, the global elite gathered to solve the world's impending crises and attend apres-ski parties. Following a year of revolutionary progress in artificial intelligence and unrest in the Middle East, ESG did not take center stage. But that's not to say it wasn't discussed at all. "ESG may be on the backburner, but it's still on the stove," the New York Times reported.

Climate speakers appeared to offer the standard fare. Al Gore decried that Saudi Arabia is already finding loopholes into the COP28 climate agreement it signed last month. World Bank President Ajay Banja emphasized the need for investments in renewables in Africa and condemned natural gas, even as it kept the heat on in Texas last week. OpenAI Founder Sam Altman opined on carbon capture technology while attendees dined on vegetarian fare under a geodome at a lunch hosted by Salesforce CEO Marc Benioff.

Politico described the discussions as typical Davos-speak, a mix of "conventional wisdom and smart-set cliché": "It is not that the observations and arguments are notably dumb, though it is rare to hear something arrestingly smart," the piece noted. "Their views are no more banal than the average person who also follows the news, but they are typically no less so."

The conference also hosted a series of panels on stakeholder capitalism and related social issues, including how to "ramp up sustainability at scale," "accelerate inclusive climate action," and "unlock the benefits of gender parity." The Fast Company Newsroom also hosted its own speaker series at the conference, addressing how to make capitalism "more equitable and conscious" in panels featuring executives from Andreessen Horowitz, Bridgewater Associates, Citigroup, and more.

Virtually missing from discussions was any mention of the now-verboten acronym ESG. But that was by design. Indeed, one attendee predicted cocktail hour conversations would entail "companies trading tricks for how to 'evolve' their language on ESG practices" to quiet opposition while continuing to pursue the cause.

The hushed rebranding is already underway: "Will 'stakeholder capitalism' face a backlash?" one program promised to address. It already has. ESG's critics aren't opposed to three letters in the English alphabet, they are opposed to the stakeholder capitalism principles at its core. And though the Davos set might try, no amount of roundtable discussions, PR savvy makeovers or caterers in Switzerland can change that basic truth.

New Hampshire Proposes Bill To Criminalize Using Taxpayer Funds To Promote ESG Goals

New Hampshire lawmakers proposed a new law that would make it a crime to use taxpayer funds to promote ESG causes rather than maximize long-term financial returns, Pensions and Investments reported last week. Since then, commentators have called the bill "toxic" and "extreme," suggesting the proposed bill goes far beyond the laws that currently apply.

But does it really? A review of existing law suggests that New Hampshire's proposed bill is not as much an outlier as headlines claim. For example, the federal statute that governs how asset managers can invest retirement funds—the Employee Retirement Security Act of 1974—similarly requires that asset managers make all investment decisions based on financial factors alone. And while breaches of these fiduciary duties typically carry civil penalties, fiduciaries may also be subject to criminal penalties if they willfully violate certain reporting and disclosure requirements or make certain misstatements.

More broadly, promising investors one thing and then doing another has always been a crime—it's called fraud. Just ask Bernie Madoff: If you tell investors you are buying blue chip stocks and using an options strategy to generate returns, but you're really using that money to pay off other investors in a Ponzi scheme, that's fraud. DWS would likely agree: If you tell investors you're going to invest their money based on ESG criteria, but then you don't, that's fraud. The same is true in the other direction: If you take New Hampshire's money, and tell New Hampshire you will invest it based on financial considerations alone, but then decide to pursue ESG goals instead, that's also fraud. The new law just makes that clearer.

"The New Hampshire retirement system shall adhere to their fiduciary obligations, . . . as the investment goal should be to obtain the highest return on investment for New Hampshire's taxpayers and retirees," the new bill states. That's not extreme. Or toxic. It's common sense.

World Economic Forum Unveils "Stakeholder Metrics" Reporting

Earlier this month, the World Economic Forum unveiled its "Stakeholder Metrics" reporting system, which seeks to standardize ESG reporting in order to mobilize the "private sector to drive progress towards the UN Sustainable Development Goals."

The metrics—which were designed by the World Economic Forum in conjunction with the Big Four accounting firms—require reporting on an enormous range of non-financial issues. Topics include:

- DEI metrics, including percentage of employees at each rank of the company by age, gender, and ethnicity;
- Detailed information regarding discrimination and harassment incidents, including their status, action taken, and amount of settlements;
- The company's impact on land use and ecological sensitivity, including disclosing "the valued societal impact of use of land and conversion of ecosystems" across its supply chain;
- The company's "social value generated"—i.e., the "percentage of revenue from products and services designed to deliver specific social benefits";
- A comprehensive disclosure of all taxes the company has paid, globally, so that outside stakeholders can determine the extent to which the company supports "community and social vitality";
- And dozens of other categories.

What's most surprising, however, isn't that the World Economic Forum keeps issuing its ever-expanding reporting regimes, but that corporate America is still rushing to sign up for them. The World Economic Forum announced that over 150 companies agreed to implement the metrics "to show their commitment to stakeholder capitalism," including Bank of America, IBM, Nestle, Mastercard, Salesforce, Fidelity, and more. Notably, while the announcement touts all kinds of stakeholders its new non-financial reporting system will serve, there is one stakeholder conspicuously absent from the list: shareholders, which are mentioned no where in the organization's announcement.

An Eye on Energy

Importance of Regional Energy Trade with Mexico

As the United States increases energy production, and as international export routes are threatened, its regional trade with Mexico has become more important than ever.

The United States is pumping out more oil and gas than ever. The Energy Information Agency (EIA) forecasts U.S. oil production will reach a record 13.2 million barrels per day (b/d) in 2024 and over 13.4 million b/d in 2025. Production of natural gas is forecast to keep breaking records as well.

Non-OPEC producers in the Western Hemisphere have offset the impact of OPEC+ production cuts at a time of high geopolitical risk. Remarkably, even after repeated attacks on shipping vessels in the Red Sea and potential for escalation in the Strait of Hormuz, fossil fuel production and exports have steamed ahead, containing prices for now.

But the question is how that oil and gas reaches international markets. U.S. producers prefer energy export routes that retain flexibility in terms of destination. For instance, U.S. liquefied natural gas (LNG) isn't sold on fixed-destination contracts. This flexibility allows for the diversion of cargos to either Europe or Asia.

Given this flexibility, strengthening North American energy trade is important and investment in pipeline infrastructure must be encouraged. Oil and natural gas pipelines enable market access. They link U.S. energy production to the greater Western Hemisphere, enabling the security of supply for the entire region.

Increasingly, that road runs through Mexico.

According to the EIA, the value of U.S. energy exports to Mexico reached a record $55.8 billion in 2022. U.S. natural gas exports to Mexico reached record highs near 7 billion cubic feet per day (Bcf/d) in 2023, and exports of U.S. crude oil and petroleum products are expected to reach a record of almost 2 million b/d in 2024, from 1.8 million b/d in 2023.

Pipeline shipments of natural gas to Mexico are the most important method of trade, with natural gas exports at around 5.7 Bcf/d in 2022. These exports will continue to increase as border pipeline capacity becomes operational over the next few years. At the moment, air freight or high-speed rail aren't viable options.

The partnership is also important due to U.S. refining constraints. The U.S. remains a net-importer of crude oil from Mexico because most U.S. refineries are configured to process heavy, sour crude, not the light sweet crude that the U.S. produces and exports.

Energy producers must maintain access to markets where they can better adapt to, understand, and manage geopolitical risks and economic costs. This will require investments in new technologies, more secure infrastructure, and business relationships aimed at lowering operational costs, security risks, and transit times of energy exports. For the United States, that means investing in its partnership with Mexico.

Straight from Strive

Strive Urges Supreme Court To Protect Investors

On Wednesday, the Supreme Court heard arguments in a case that may significantly rein in federal agency power. The case—captioned *Loper Bright Enterprises v. Raimondo*—asks the Court to revisit precedent that gives the benefit of the doubt to agencies when Congress has been silent.

While the case centers on the fishing industry, the decision will likely have consequences that reverberate across the American economy as a whole. That's because the doctrine under review allows agencies to enact sweeping regulations across virtually every industry, including the financial sector, with little accountability. In recent years, agencies including the Department of Labor and the Securities and Exchange Commission have taken full advantage of this power to pass regulations that promote ESG investing to further the Administration's political goals, even at the expense of investors.

Given the importance of the case to both Strive and its clients, Strive filed an amicus brief with the Supreme Court sharing its perspective: Agency overreach, as demonstrated in recent years, is a serious problem that has hurt everyday Americans' savings and retirement accounts and threatens the American economy as a whole. Strive therefore asked the Court to revisit its precedent to curtail agency power. The full brief is available here.

The Court is expected to issue a ruling by June.

Read Strive's Full Brief Here

The Best of the Rest

Additional stories about ESG investing, company happenings, and more.

- Morningstar gets rid of ESG scores for asset managers that previously ranked managers as leaders, advanced, basic, and low in terms of ESG commitment; company vaguely alludes to "changes in the forthcoming regulatory environment" as reason for eliminating scores.
- Companies are facing mounting attacks on DEI; as cases gain legal traction, some companies are quietly altering their policies.
- Investors pulled $13 billion from sustainable funds in 2023, the New York Times reports.
- Wall Street adding more disclaimers to climate coalitions in attempt to duck antitrust scrutiny; tweak language to claim that group members make "individual" decisions on whether or not to take collective action.
- Cold snaps also chill consumer enthusiasm for electric vehicles as frozen cars left stranded and unable to charge.
- South Carolina legislature passes bill prohibiting ESG investing for state pension funds; law would require pension fund managers invest based on "pecuniary" factors alone.
- Tesla and Apple face huge risks in China and may no longer be "safe" investments.
- Annual meetings set to be "chaotic" this year; corporations should prepare for "a surge in activist engagement, amplified by 24/7 news and social media" and individuals who use the shareholder meeting to "seek[] exposure for their special issue."
- CalSTRS to focus on labor practices per revised policy on corporate governance principles.
- EU bans misleading climate neutrality claims that rely on carbon offsets.

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Who Are We?
Strive is one of the fastest growing asset management firms. Our mission is to maximize value for our clients by leading companies to focus on excellence. **Click here** to learn more.

What Makes Strive Different?
While many asset managers push companies to focus on other stakeholders such as employees, suppliers, the environment and society at large, we live by a strict commitment to shareholder primacy — the belief that **the purpose of a for-profit corporation is to maximize long-run value for investors. Click here** to learn why shareholder primacy is so important.

How Does Strive Maximize Value?
Our corporate governance team engages with the companies in which our clients are invested to advocate for the pursuit of excellence in corporate America. We are aggressively apolitical when it comes to utilizing our corporate governance tools and demand that companies focus exclusively on delivering long-term financial value for investors. The corporate governance team also determines how to cast our shareholder votes at annual meetings and special elections, evaluating each proposal through the lens of maximizing financial return.

Our research team conducts deep analysis of macro economic trends, market developments, and industry- and company-specific metrics to identify potential risks and opportunities for our clients. We then incorporate the results of this research into our engagement and voting strategy, and share it with our clients in the form of white papers and market research reports so they can make the most educated investment decisions possible.