STRIVE

The Fiduciary Focus

Investment News From a Pro-Shareholder Perspective

February 6, 2024

This Week: Tesla may be headed to Texas; Federal Aviation Administration takes heat for DEI; An Eye On Energy focuses on Saudi Arabia.

Could Texas Be The Next Delaware For U.S. Companies?

Tesla may be heading to Texas.

Elon Musk announced last week that he'd ask shareholders to vote on whether to reincorporate in Texas, following a Delaware court's rejection of his $55 billion pay package.

"The public vote is unequivocally in favor of Texas," Musk tweeted, announcing the results of a poll on X. "Tesla will move immediately to hold a shareholder vote."

The potential move comes as Delaware has faced criticism for its lurch towards stakeholder capitalism. Delaware has long been viewed by U.S. companies as a business-friendly jurisdiction, a perception bolstered by its separate court system dedicated entirely to corporate disputes. As a result, more than 300 companies in the S&P 500 are incorporated in Delaware.

But some are now questioning whether that reputation is deserved. In November, former Attorney General Bill Barr and attorney Jonathan Berry penned an op-ed in the Wall Street Journal entitled, "Delaware Is Trying Hard to Drive Away Corporations." The pair argued that the state's "flirtation with environmental, social and governance investment principles" is jeopardizing its status as the go-to place for companies to incorporate.

Other states are ready to make Delaware's losses their gains. Texas is set to open its own business court system later this year. Utah, Georgia, and Wyoming plan to do the same. The Tesla standoff may serve as a warning that if Delaware continues to put stakeholders over shareholders, corporations are willing to vote with their feet.

Skeptics of stakeholder capitalism often say that virtue signaling isn't free. That's true for investors and companies; Delaware may soon prove that it's true for states as well.

Federal Aviation Administration Put DEI Over Safety

We talked a few weeks ago about how, in the wake of the Boeing catastrophe, the FAA was criticized for prioritizing diversity over merit when it came to hiring air traffic controllers.

Since then, evidence from a pending lawsuit has resurfaced documenting exactly how the FAA has jeopardized passenger safety in the name of DEI. According to the lawsuit, in 2013, the agency revamped its hiring process to favor minority applicants. To do so, it instituted a first-line biographical questionnaire to screen out 90% of applicants. Only then would an applicant's results on the cognitive and skills-based assessment, called the AT-SAT, be considered. Among other odd choices, the questionnaire rewarded applicants for having their lowest high school grades in science.

The biographical questionnaire was allegedly designed to screen out white male applicants. But if that isn't concerning enough, the lawsuit alleges that an FAA employee actually shared the answers to the biographical questionnaire with black applicants to ensure they would be able to pass.

While Congress put an end to these shenanigans in 2018, the air traffic controllers hired through this faulty process are still at the helm. The results have not been good. Last year, there were 19 near-collisions due to air traffic control issues and a system-wide failure that grounded thousands of flights.

The FAA's proposed solution? New diversity quotas, this time focused on hiring people with severe physical and mental disabilities. This time around, its DEI efforts are a lot less likely to fly under the radar.

Twelve State Agriculture Chiefs Investigate Banks Over Net Zero Policies

A dozen state agricultural commissioners have launched a probe into U.S. banks over their net zero lending policies, Fox News reports.

The letter was sent to Bank of America, JP Morgan, Citigroup, Goldman Sachs, Morgan Stanley and Wells Fargo last week. The commissioners seek documents from the banks about their participation in the Net Zero Banking Alliance, including their imposition of ESG goals on their farming clients.

The letter expresses concerns about the impacts of such policies on America's farmers and consumers. Green fertilizers, for example, are "predicted to increase fertilizer costs by up to 60% and food prices by up to 26%, even according to net zero *proponents* like the World Economic Forum," the commissioners warn. They also cite Sri Lanka—where a government ban on synthetic fertilizer and pesticide imports led to food shortages, economic crisis, and civil unrest—as a cautionary tale.

"Now more than ever, banks that do business with America should be unquestionably supporting American industries—and that starts with the one that puts food on our tables, clothes on our backs, and shelter over our heads," a Georgia agriculture official told Fox News.

Documents are due by February 16.

Execs Cling to DEI Policies, Line Pocketbooks Despite Risks

Last month, employment law firm Littler released a survey revealing that most American companies are not only maintaining, but increasing, their commitment to diversity, equity, and inclusion (DEI).

The survey asked more than 300 U.S. C-suite execs how their organization's commitment to DEI has changed over the past year. In response, 57% said that their commitment had increased. Another 36% claimed it remained the same, meaning that just 7% have reduced their DEI activities.

The number of execs clinging to these policies is particularly troubling in the face of the U.S. Supreme Court's decision in *Students for Fair Admissions v. Harvard*, which struck down the use of affirmative action in higher education.

As one EEOC commissioner has explained, the ruling is a warning shot to corporate America. Last summer, more than a dozen attorneys general reminded Fortune 100 CEOs of their obligations as employers not to discriminate. Now many companies are embroiled in legal battles over their DEI initiatives.

So why are executives clinging to these policies? Perhaps because their paychecks depend on it. One study reveals that more than three in four S&P 500 companies incorporated at least one ESG metric in their executive incentive plans, with human capital metrics like DEI being the most popular.

With more lawsuits on the horizon, it will be interesting to see how many execs increase their DEI commitments—and their bonuses—next year.

An Eye on Energy

Saudi Arabia's Surprising Restraint

On January 30, on orders from Saudi Arabia's Ministry of Energy, Saudi Aramco announced that it will maintain its sustainable capacity of 12 million barrels per day (b/d), abandoning its previous goal of 13 million b/d by 2027.

The kingdom has been a committed swing oil producer for 30 years, increasing production on a dime to fill temporary gaps in global supply. That safety net may be disappearing.

Will Saudi Arabia produce enough to maintain its reputation? A couple signs point to "no." It currently pumps out only 9 million b/d of oil, an uncommon level of restraint outside of a global recession. And in December, Saudi Arabia's 2024 budget projected a GDP growth rate of 4.4%, aiming to boost non-oil economic growth in infrastructure, local industry, and services like tourism.

According to Energy Intelligence, Saudi Aramco's about-face would steer investments away from upstream oil expansion, which currently accounts for 60% of annual CAPEX spending, diverting an estimated $30 billion toward other projects. Aramco said it may pursue growth in gas production instead. Still, this investment has always been part of a demand-based Asia investment strategy for downstream refining and petrochemical projects. The freed-up funds should accelerate Saudi Arabia's Vision 2030 economic reform program to diversify the economy away from hydrocarbon projects.

As Saudi Arabia quietly cuts back on its oil ambitions, American energy is ramping up. The U.S. Energy Information Administration (EIA) believes U.S. oil output will increase from 12.9 million b/d in 2023 to 13.4 million b/d by 2025. It also sees an increase in non-OPEC oil production coming from Canada, Brazil, and Guyana.

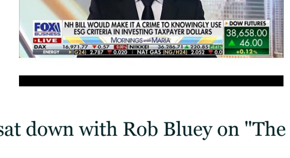
The United States will gratefully accept Saudi Arabia's invitation to replace it, increasing American market power, production output, and spare capacity. The real risk from this event is if other major oil-producing entities follow Aramco's decision. We hope not, as we've seen how a well-supplied market has been key to handling the energy shock of ongoing Red Sea attacks since November, allowing inflation to continue its downward trajectory.

Strive In the News

CEO & CIO Matt Cole Is Spreading The Word

Strive CEO and Chief Investment Officer Matt Cole has had a busy week, spreading the word about Strive and its mission over the airwaves, on a podcast, and in print.

On Air: Cole joined Maria Bartiromo on *Maria in the Morning* to discuss how ESG is different than considering the risk factors it encompasses, how ESG has snuck into everyone's portfolios, and much more.



Via Podcast: Cole also sat down with Rob Bluey on "The Daily Signal" podcast.

"Strive shouldn't even have to exist," Cole explained. "The idea that for a for-profit company, the shareholder comes first should not be a contrarian statement. Go back 20 years, that would be the consensus statement." Today, of course, that's not the case.

Cole also shared his greatest fear:

> My biggest worry of why Strive or why this movement to restore shareholders first, to restore meritocracy, how it could fail is passivity amongst people that want to see it succeed because they think just because the word goes away, the issue is solved. And unfortunately, I don't think that's the reality.

Audio and the full transcript is available here.

In Print: Cole also spoke with RIA Biz over the backlash to Vanguard's decision to leave the Net Zero Asset Managers initiative:

> I don't define success, with regard to business principles, in having a certain subset of people on both political sides who dislike you. I define it as having a clear mission and clear principles by which a business operates ... What the clear principle is for Vanguard is unclear. They had clear principles under John Bogle; today, it appears their principles sway with the wind

The full article is available here.

The Best of the Rest

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

- Forbes calls out the "ESG bait and switch": "Activist investors claim they submit ESG proposals at annual meetings to improve corporate profitability. All too often, these proposals are attempts to hijack the governance process to implement policies that Congress refuses to pass."
- GM's bullish projections based on gas models, narrowing EV losses; Chinese market remains a struggle.
- Senator Hagerty introduces legislation to protect companies from ESG activists; bill would roll back SEC rule that allows shareholder proposals that dictate ordinary business decisions if they relate to a "significant social policy."
- DeSantis promises more enforcement and legislation to fight ESG; describes ESG as an "end run around the Constitution...violating the best interest of shareholders."
- Climate proposal withdrawn at Exxon after suit; activists hope to kill the case, Exxon plans to press on.
- "Investing in Communism Never Pays"; investors question whether China's proposed stimulus will be enough to restore confidence amid social unrest and economic downturn.

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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.