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STRIVE

The Fiduciary Focus

Investment News From a Pro-Shareholder Perspective

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This Week: Strive to host webinar on how ESG hurts AI; The Big Three chose ESG over Disney shareholders; the Silicon Surge looks at how Intel and China are adapting to U.S. regulation.

Though AI promises significant breakthroughs for society, its progression is often met with strong headwinds from ESG regulations, leading to slower and sometimes undesired results. Join Chris Nicholson, Head of Research at Strive, on **Thursday, April 25 at 2:00 p.m. EDT** for a discussion about how ESG is harming the development of AI.

Sign up for the webinar here.

Big Three Were "Turned Off" By Peltz's Call For Less Political Grandstanding At Disney

Earlier this month, we reported on activist Nelson Peltz's defeat in his bid for two board seats at Disney. Now we know why: big wigs at the Big Three were "turned off" by Peltz's comments that Disney's financial woes were the results of the company's political grandstanding and DEI goals, the Wall Street Journal reported last week.

Catch me up: In the past few years, Disney has stepped in controversy after controversy, as its shareholder have paid the price. Nelson Peltz's firm, Trian Fund Management, sought two board seats to try to correct course. After months of campaigning, that effort ultimately failed, as Disney's largest shareholders voted to keep the status quo.

Peltz's heresy: Peltz gave an interview with the Financial Times in which he stated his concern about the politicization of Disney. Per the outlet:

> [Disney CEO Bob] Iger acknowledged last year that his company has focused too much on movie messaging and not enough on quality storytelling. Peltz agrees that Disney has become too woke. "People go to watch a movie or a show to be entertained," he says. "They don't go to get a message... We've got to get these politics out of the boardroom."

An unsurprising surprise: Initially, the Big Three's no-vote came as something of a surprise, given that proxy advisory firm Institutional Shareholder Services endorsed Peltz, and that BlackRock and State Street have both supported Peltz in the past. And as we outlined in our letter to fellow shareholders, Peltz made a strong case for how he would help Disney increase shareholder value.

But in retrospect, the Wall Street Journal's revelation is no revelation at all. The Big Three are vocal advocates for DEI and stakeholder capitalism policies. Supporting Peltz would have forced them to recognize that strategy is flawed, which is something they were ultimately unwilling to do.

Supreme Court Decision Could Impact DEI

The Supreme Court's recent decision in *Muldrow v. City of St. Louis* may give ammo to pro-equality advocates who want to restore employment decisions based on merit, rather than DEI goals, Axios reported last week.

A unanimous decision: The Court held that police officer Jatonya Muldrow could sue the St. Louis police department for discrimination under the Civil Rights Act after the department transferred her from a prestigious Intelligence Division position to a patrol job.

- The police department argued that even if it transferred her to make way for a man, she couldn't sue because she wasn't "substantially" or "materially" harmed by the lateral move, which didn't require a pay cut.
- The Supreme Court disagreed, holding that *any* harm is enough to bring a discrimination claim.

The implications: The case will make it easier for employees to sue for discrimination. That's a great result for those who want employers to make all employment-related decisions—whether in hiring, firing, promoting, transferring, or otherwise—based on merit, rather than race or gender. On the flip side, it also means that employers face increased litigation risk, including with respect to their DEI programs.

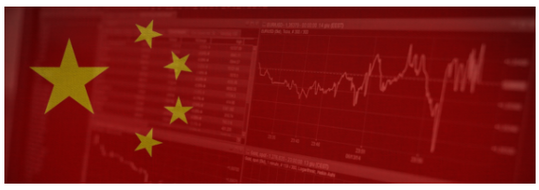
DEI on the chopping block: "Could you say that exclusion from participation in a mentoring or leadership program materially disadvantages someone?" Jonathan Segal, an employment lawyer, told Bloomberg. Segal was already counseling companies to avoid exclusionary training and mentoring programs. Now "the risk is even higher."

Appellate judge James Ho agrees, explaining that principles announced in *Muldrow* will "help restore federal civil rights protections for anyone harmed by divisive workplace policies that allocate professional opportunities to employees based on their sex or skin color, under the guise of furthering diversity, equity, and inclusion."

DEI advocates fight back: The ACLU has already claimed the decision does nothing and is urging businesses to stand by their DEI commitments. NYU professor Kenji Yoshino made his prediction even more succinctly: "DEI lives on."

Who will be the judge? The fate of DEI programs will ultimately rest on the shoulders of corporate America and the employees, shareholders, and judges that keep their practices in check; DEI advocates are no longer steering the ship.

Vanguard, BlackRock Funneled Billions To Blacklisted Chinese Companies, Probe Finds



A report issued by a bipartisan congressional committee reveals that Wall Street firms have steered billions of dollars to blacklisted Chinese companies, the Wall Street Journal reported Thursday.

Blacklisted for a reason: Per the report, "[t]hese companies develop advanced fighter jets and nuclear weapons for the People's Liberation Army (PLA) and create the technology used to perpetrate the ongoing genocide against the Uyghur people."

Wall Street continues to invest: The probe found that in 2023, Wall Street steered $6.5 billion into 63 different blacklisted or red-flagged Chinese companies.

The leaders of the pack:

1. Vanguard invested $1.901 billion
2. BlackRock invested $1.899 billion
3. Fidelity invested $542 million
4. Dimensional invested $533 billion

Needless to say, Strive was not among the 152 asset managers the committee found to have invested in these companies.

The money is yours: The billions funneled to China isn't owned by Vanguard or BlackRock; it's the money held in pension accounts, investment funds and retirement accounts.

How did this happen? Per the *Wall Street Journal* (emphasis ours):

> The Chinese government lobbied heavily for the inclusion [of Chinese stocks in the funds]. The other strong voice that helped drive the shift was **BlackRock**... The firm started out opposing the move but then threw its weight behind it after Beijing made it easier for foreign investors to trade Chinese stocks. Soon after MSCI announced its decision in June 2017, BlackRock received approval for a prior application to start a private-fund business in China for select investors.

Across the pond EU regulators are launching their own probe into China, focused on whether China is unfairly subsidizing and favoring domestic manufacturers of medical equipment, escalating concerns about a potential EU-China trade war.

Unpacking The SEC Crackdown On AI-Washing

The SEC's recent crackdown on AI-washing holds lessons for investment advisors, corporate America, and tech advocates alike, a new article in the Harvard Law Forum on Corporate Governance explains.

The enforcement actions:

- Delphia paid a $225,000 fine because its investment brochures and press releases claimed the firm "uses machine learning to analyze the collective data shared by its members to make intelligent investment decisions," when no such inputs were actually used.
- Global Predictions paid a $175,000 fine for falsely claiming to use "AI-driven forecasts" when it did not.

Is corporate America next? These actions targeted investment advisors who violated the Investment Advisors Act. But, of course, false advertising is illegal under many different statutes, including some that fall under the SEC's jurisdiction. That means that all publicly listed companies should be cautious about making exaggerated claims about their use of AI.

Similar to greenwashing: The SEC's approach to AI-washing appears to be similar to greenwashing, which is the practice of making exaggerated ESG claims. In either case, the lesson is the same: don't overpromise, be transparent, and tell the truth to your investors.

Regulations on the way: The authors note that the enforcement actions highlight the dangers of AI and so may bolster support for additional regulations, such as the SEC's pending rule on predictive data analytics. We have the opposite reaction. As Strive previously explained, including in our letter to the SEC, we believe current regulations already bar shady investment advisors from misleading investors about their AI capabilities; the current enforcement actions prove it.

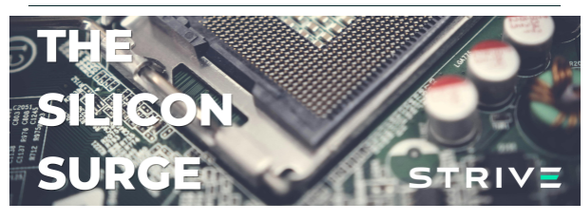
Unilever: ESG's Former Poster Child Now Its Bad Boy

Once ESG's golden child, Unilever is now ditching or watering down many of its sustainability commitments, Bloomberg reports.

The scoop: The company made its name for giving a social purpose to each of its brands, none more famous than Ben & Jerry's commitment to progressive causes including fighting everything from global warming to Israeli settlements to President Donald Trump. But that's now changed. The chart below highlights a few examples.

Previous ESG Pledge	Current ESG Pledge
Spend $2 billion with diverse suppliers	Dropped
Halve food waste by 2025	Dropped
100% sustainable sourcing key crops	95% sustainable sourcing key crops
50% virgin plastic reduction by 2025	30% virgin plastic reduction by 2026
Recyclable plastics by 2025	Recyclable plastics by 2035
Restore 1.5M hectares of ecosystems	Restore 1M hectares of ecosystems
100% suppliers get living wage	50% of suppliers get living wage

Setting a precedent: If even Unilever is realizing that its aspirational statements have become liabilities, surely other companies should realize it too. Still, as the chart above shows, Unilever has a ways to go before it can say it has truly abandoned its pursuit of ESG goals.



Intel and China adapt to U.S. regulation

Despite ongoing regulations, U.S. tech giants remain committed to the Chinese market.

Intel announced it will release two new AI chips for China compliant with U.S. requirements. The chips are part of Intel's latest Gaudi 3 product line and will launch later this year. The changes Intel made to the chips to meet the latest U.S. exporting guidelines remain unknown.

Semiconductors, critical components in modern day technology ranging from cell phones to medical devices, drive the economic war between the U.S. and China. In its latest 10K, Intel reported that 6% of its revenue ($3.2 billion) in 2023 depended on U.S. government export control authorization and believes that will increase if regulations get tougher. China is Intel's largest market, accounting for nearly 27% of its 2023 revenue.

Intel continues to work with regulators to please Chinese businesses such as Huawei, a telecommunication giant. Huawei relies on advanced central processors for its laptops, so the company heavily depends on Intel. Without the CPUs, the company would be at a competitive disadvantage.

Washington is erupting due to the Department of Commerce's failure to revoke Intel's license to sell to Huawei, as national security concerns continue to rise. Intel can sell its chips to the Chinese tech giant, even though competitors such as AMD are restricted.

Amid harsh regulatory rulings by the U.S., China is now firing back with its own. Chinese restrictions on U.S. companies began in December when Beijing blocked

Intel and AMD's chips in government computers. The two companies have most of the global market share for their central processing unit (CPU) chips, mainly used in computer servers. The ruling was filed by China's Ministry of Industry and Information Technology (MIIT), representing one of the most significant steps forward to ban foreign technology in the region.

China now demands that all its largest telecommunication companies remove foreign chips from their networks by 2027. The marching orders from China's MIIT also preventedstate-owned businesses from using outside processors for their wireless networks.

The requirements give Chinese companies only eight CPU options, with Intel and AMD listed as last resorts. Computers used in-house are preapproved for state buyers, while those powered by Intel and AMD must undergo a security evaluation. Although China claims it can become self-sufficient, the truth is it's still behind the U.S. in advanced technology. It relies on many U.S. tech companies to get the supplies it needs, which made it vulnerable to U.S. regulation. Only time will tell if China can successfully create a domestic semiconductor supply chain.

Voting Spotlight: Charter Communications

Each week during proxy voting season, Strive will highlight one interesting vote from a recent company's annual meeting.

Earlier today, Strive voted against a shareholder proposal asking Charter Communications to issue a lobbying report. The proponent faults Charter for not paying enough federal taxes, which the proponent argues could "pay for health care, education and safety net programs," and argues that the company's successful political lobbying efforts were to blame.

Charter opposed the proposal, explaining that its lobbying efforts increased shareholder value. The company further explained that more detailed disclosures would "further encourage issue activists, some motivated by special or short-term interests, to pressure us to alter our political participation in a manner that could adversely affect stockholder interests."

We agree. There is no logical way that paying *more* taxes than legally required would help Charter's bottom line. Nor would issuing detailed lobbying reports serve any purpose other than making Charter a target for further activism. Because we didn't believe the proposal was likely to increase long-term financial value, we voted against it.

The Best of the Rest

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

- South Carolina considers bill to protect farmers from ESG; would ban banks from discriminating against farmers based on green pledges or commitments to ESG goals.
- Both ISS and Glass Lewis consistently opposed counter-ESG proposals in 2022 and 2023; the only one they occasionally supported was the "G" measure for independent board chairs.
- Companies increasingly asking SEC to keep shareholder proposals off ballot as no action requests rose 30% this year.
- Vanguard, BlackRock, State Street all back climate measures: "Say-on-climate support by all the 'Big Three' index firms exceeded 95% over the past three years," Morningstar reports.
- Senators challenge SEC climate disclosure rule; SEC rule is "entirely overreaching, fiscally irresponsible, and simply un-American," Senator Manchin said.
- Shell says ESG activists are being "unrealistic" about "the role of the supply side of the energy system" in asking company to do more to fight climate change.

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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.

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