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STRIVE

The Fiduciary Focus

Investment News From a Pro-Shareholder Perspective

May 29, 2024

This Week: CalPERS plays politics with Exxon; judge certifies class in American Airlines pilot's lawsuit over ESG investing; An Eye on Energy looks at how hurricane season threatens gas prices.

DEI Rules of the Road: A Fireside Chat with EEOC Commissioner Andrea Lucas

Diversity, Equity, and Inclusion (DEI) initiatives have permeated company operations across corporate America, often extending into divisive political and social issues. Are companies sticking to the rules of the road paved by civil rights laws and regulations? What happens if they don't? Join Strive Head of Corporate Governance Justin Danhof and EEOC Commissioner Andrea Lucas, a leading expert on DEI and Title VII, for a fireside chat on the current state of DEI in corporate America and the legal landscape surrounding it.

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CalPERS Plays Politics With Exxon

Last week, CalPERS, the nation's largest state pension fund, announced that it plans to vote against all of Exxon Mobil's directors at today's shareholder meeting. Its justification for this remarkable act is that Exxon is threatening shareholder democracy by suing a group of climate activists to stop them from putting forward emissions reduction proposals year after year. But Strive CEO Matt Cole knows how CalPERS operates, having spent 16 years there. In this piece, he explains how his former employer is burdening traditional energy to boost its new $100 billion commitment to green energy.

Judge Certifies Class In Pilot's Suit Against ESG

A federal judge in Texas will allow an American Airline pilot's lawsuit to proceed as a class action, per a court order issued last week.

The Suit: As we've discussed, the case is a first-of-its-kind action alleging that American Airlines violated its fiduciary duties under a federal statute called ERISA by allowing its employees' 401(k) accounts to be managed by pro-ESG asset managers like BlackRock, which pursued ESG goals rather than financial returns.

The Class: The class includes, with minor exceptions, all pilots who participated in the company's 401(k) from 2017 to today. That's a lot of people. "There are more than 100,000 plan participants and beneficiaries allegedly injured by defendants' unlawful, plan-wide misconduct," the judge explained.

The Upshot: Class actions are common in ERISA cases, given that it is much more efficient for a court to decide a single lawsuit, rather than allow 100,000 plan members to sue individually. But it also means American Airlines faces potentially staggering liability. Other companies who hand their employees' 401(k)s to ESG promoting asset managers would be wise to take note.

Klaus Schwab Stepping Down From World Economic Forum

After more than fifty years, World Economic Forum founder Klaus Schwab is stepping away from day-to-day management of the organization, Semafor reported last week.

Father of Stakeholder Capitalism: Schwab is considered the "father of stakeholder capitalism." In his book of the same name, he argues:

> [W]e can't continue with an economic system driven by selfish values . . . Instead, we need a society, economy and international community that is designed to care for all people and the planet as a whole.

World Economic Forum: Schwab founded the World Economic Forum in 1973 to "promote the stakeholder capitalism concept." Today, the annual gathering is the see-and-be-seen event for the billionaire class, where celebrities, politicians and business execs gather to solve the world's most pressing problems from climate change to poverty to war.

What's Next: While Schwab is stepping down, the organization has pledged to maintain "institutional continuity" and vowed to continue to provide a "platform to address the complex challenges of an interconnected world."

Senators Ask SEC to Scrap AI Conflict Rule

A bipartisan group of senators has asked the Securities and Exchange Commission to scrap a proposed rule regulating investment advisors' and broker-dealers' use of artificial intelligence, Pensions & Investments reported Friday.

A Broad Rule: The proposed rule would require investment advisors and broker-dealers to "eliminate and neutralize" any potential conflict of interest arising from any use of "virtually every technology used by firms, including artificial intelligence, formulas in spreadsheets and numerous other basic tools that have been in common use for decades."

Senators' Concerns: "[T]echnology has significantly increased access for retail investors to our capital markets," the senators wrote. But the new rule "would harm American innovation and curtail the use of many beneficial technologies, including artificial intelligence, by financial services firms, potentially limiting market access to both retail and institutional investors."

A Receptive Audience: Per comments from SEC Chair Gary Gensler last week, the SEC is listening. Following substantial feedback from the industry, he's asked staff to consider reproposing the rule or making modifications.

Strive's Take: As we outlined in our own letter to the SEC last year, we share many of the senators' concerns that the proposal may hurt investors and are glad to see the SEC taking these concerns seriously.

Hurricane Season Threatens Gas Prices

America's back on the road. Over Memorial Day weekend around 38.4 million people traveled by car, an increase of 4% from last year. The addition of one million travelers compared to 2019 exceeds pre-pandemic levels by around 2%, signaling an active traveling season in 2024.

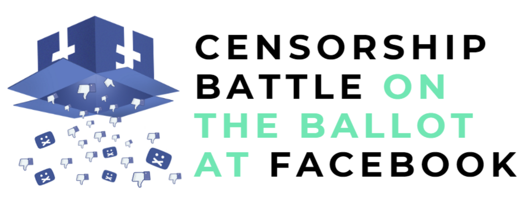
All that driving is enabled by lower gas prices: prices at the pump were 2% lower than last year. But the upcoming hurricane season could make that spike by wreaking havoc on the nation's delicate system of refineries.

This year, meteorologists have forecast an active Atlantic hurricane season, with an expected 20-30 named storms. A storm's location and intensity are the main determining factors in the severity of impact on petroleum markets. In the U.S., hurricanes often hit the U.S. Gulf Coast (PADD 3) region. The vulnerable PADD 3 accounts for over half of U.S. refining capacity at 8.8 million barrels per day.

This is significant with gasoline prices already above $3.50 per gallon. The U.S. consumes around 9 million b/d gasoline, and production is averaging around 10 million b/d with refineries operating at 91.7% of their capacity. A high-impact natural disaster estimated to remove 1.5 to 3 million b/d of refining capacity would easily increase the cost of gasoline by 30 cents per gallon, bringing the price to around $4 per gallon.

Even worse, if a major refinery is offline for a month or permanently closed in this active driving season, regional supply chains may be disrupted. Then any sudden increase in gasoline demand could compound a supply shortfall if refinery capacity is below 70%, potentially bringing gasoline to around $5 per gallon.

Americans should drive while the driving's good. But they should also keep an eye on the weather.



At today's annual meeting, ESG activists are calling on Facebook to censor conservative views. Their demand: Have Facebook favor "big, mainstream publishers like CNN, New York Times and NPR" and downgrade "hyper-partisan" sources like Breitbart into oblivion.

Ahead of the vote, Strive is speaking out. Read more about the proposal and what it could mean for investors on X.

Read the full story on X

Wendy's

Voting Spotlight: Wendy's

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

Last week, Strive voted against a proposal asking Wendy's to serve only cage-free eggs, which cited "substantial ethical concerns" over "animal welfare."

Wendy's board opposed the move, explaining that there are a variety of humane housing options for laying hens, such that cage-free is not the only way to avoid animal cruelty. The company further noted that its customers value affordability, and that using exclusively cage-free eggs would force Wendy's to raise prices, thereby undermining its ability to compete.

Strive agreed and voted against the proposal, as it appears unlikely that the proposal will lead to long-term financial gains for Wendy's shareholders.

The Best of the Rest

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

- Canada Pension Plan decreases China exposure to 5% as troubled economy dragged down the portfolio's overall returns.
- Sustainability advocacy group pays for legal clearance opinion from law firm willing to claim that, despite dozens of federal and state investigations alleging otherwise, using client funds to promote climate causes is A-okay.
- ESG funds seeing net outflows for first time globally as ESG funds have underperformed.
- Florida investigating Starbucks over DEI policies; attorney general alleges that Starbucks has "employment policies that on their face appear to discriminate on the basis of race."
- Sierra Club launches proxy voting tool to make it easier for investors to vote in favor of green proposals.

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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.

Strive, 6555 Longshore St, Dublin, OH 43017, United States