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STRIVE

The Fiduciary Focus

Investment News From a Pro-Shareholder Perspective

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This Week: Tesla and Elon Musk's $46 billion deal; Vanguard questions Exxon's climate suit; An Eye on Energy talks about securing a power hungry world.

Tesla and Elon Musk: A Deal's A Deal

On Thursday, Tesla shareholders will vote on whether to approve the biggest executive compensation package of all time: The $46 billion pay package to CEO Elon Musk. Shareholders approved the package—which was conditioned on Tesla meeting extraordinary growth targets—back in 2018. But now, some shareholders are calling for a do-over. Why? Are the complaints really about Tesla's financial performance, or are they born of a distaste for Musk and his renegade style? Are the asset managers and proxy advisors looking at what's most likely to generate returns or what's most likely to keep them in the good graces of the stakeholder-capitalism movement?

Read Strive's take on all of these questions in our latest article on X.

Read on X

Vanguard "Questions" Exxon's Climate Suit

Vanguard "questions" Exxon's decision to sue climate activist shareholders over their proposals to wind Exxon's oil and gas business down, Ignites reported last week.

Catch Me Up: As we've previously covered, Exxon's annual meeting was a showdown over ESG. Climate activists want to shut down Exxon's oil and gas business, and filed a shareholder proposal to do so. Exxon sued to keep it off the ballot. The proponents withdrew the proposal, but Exxon is continuing its suit. California pension fund CalPERS then launched a campaign to oust Exxon's board members for having the audacity to challenge the proposal in court.

Vanguard Questions Exxon's Strategy: In a bulletin issued shortly after the Exxon meeting, Vanguard noted that it voted for Exxon's directors but that its "decision to continue to pursue the lawsuit gives us some pause." In particular, Vanguard said, "we do question why Exxon has continued to pursue the lawsuit despite the proponents' withdrawal."

Exxon Seeks To Avoid Abusive Proposals: Vanguard claims to be clueless on why Exxon is continuing its lawsuit, but the reason is clear: The activists may have withdrawn their proposal this year, but they will surely refile the same kind of proposal next year and the year after that unless they are stopped for good. The court agreed. As the judge explained, the case is not moot. Exxon has every right to protect itself, and its shareholders, from such an abuse of the shareholder proposal process.

Vanguard's New CEO, Old Climate Playbook: A closer look at the company's new leadership reveals that Vanguard's climate posturing at Exxon should come as no surprise.

- The comment comes as Vanguard's new CEO and ESG-proponent Salim Ramji takes the reigns.
- Among the company's first new publications is its "approach to climate risk governance" report, published last month. In it, Vanguard presses boards to consider setting and disclosing "clear climate-related goals" and notes its support for climate organizations including the International Sustainability Standards Board (ISSB) and the Task Force on Climate-related Financial Disclosures (TCFD).

Returns-focused investors may have hoped that Vanguard's new leadership would turn over a new leaf, but it seems that Vanguard is serving up more of the same.

Court Blocks Race-Based Grant Program

A federal appeals court in Georgia has blocked a grant program that was open only to black women-owned businesses, Reuters reported last Tuesday.

Fearless Fund Lawsuit: Venture capital group Fearless Fund awarded $20,000 in grants and other resources to black women to grow their businesses. Three business owners sued, claiming the program discriminated against them on the basis of race. The court agreed, and halted the program.

A Principled Stance: The ruling comes as courts are beginning to interpret the impact of the Supreme Court's ruling in *Students for Fair Admission v. Harvard,* where the Court held that "[e]liminating racial discrimination means eliminating all of it."

Corporate America Should Take Note: Of course, Fearless Fund is not alone in awarding contracts based on race. Many companies, from McDonald's to Microsoft, have pledged to increase their spending with suppliers owned by racial minorities, while others, including Target and Ulta, have promised to set aside at least 15% of shelf space for black-owned brands. Now that the Supreme Court has held that racial discrimination is unambiguously impermissible, companies would be wise to reconsider such programs.

Congress Probes IRS Over ESG Practices

The chairman of the House Oversight Committee is investigating the IRS over its enforcement of IRS rules requiring pension funds be used for the "exclusive benefit" of plan participants, rather than to pursue ESG goals, The Daily Caller reports.

The Letter: The letter cites concerns over "efforts by leftist activists to impose favored environmental, social, and governance (ESG) policies across the U.S economy and society," and so seeks to "investigat[e] whether state-sponsored pension funds are violating provisions of the Internal Revenue Code (IRC) related to investing for the exclusive benefit of their enrollees."

ESG at the Fore: In particular, the letter points CalPERS' support of activists like Arjuna Capital and Follow This—the two climate activists that sought to shut down Exxon's fossil fuel business—as evidence that state-run pension funds "have become aggressive in using the voting rights associated with their participant retirement assets to pursue anti-oil and gas policies, potentially in violation of the [Internal Revenue Code's] exclusive benefit requirements."

Why the IRS? While the federal ERISA statute—which requires that private pension funds and 401(k) managers invest retirement funds solely to promote the financial interests of retirees—doesn't apply to state pension funds, the Internal Revenue Code does. And that code provides for special tax advantages for money held in state pension funds. Contributions, for example, aren't taxed until retirement and can grow tax free. But these benefits only apply if the money is held for the exclusive financial benefit of retirees; if pension funds are using the money to advance political goals instead, the tax breaks don't apply.

Bottom Line: While we look forward to seeing what information the IRS provides, the letter alone should serve as a reminder to pension fund managers that their sole obligations are to their retirees, not outside stakeholders.

Securing a Power Hungry World

At the COP28 Climate Summit in December, almost two hundred nations agreed to collective pledges to triple renewable power capacity by 2030 to meet the Paris Agreement's emission targets.

The policy is clear: to scale up a clean energy economy and accelerate the pace of how we power our homes and cars. The U.S. and Canada's ambitions include installing around 1000 gigawatts of renewable capacity by 2030, twice as much as our current installed base and 13% of the global total. That would be great for China, the world's top supplier of renewable energy technologies and 80% of the world's solar manufacturing capacity, but not so much for the U.S.

The U.S. will continue being a key player in the energy space. Electricity demand is surging due to artificial intelligence, so upstream oil and gas investments—exploration and drilling activity—will likely continue to rise. According to the Electric Power Research Institute, data centers alone could consume 9% of U.S. electricity generation by 2030, double the amount consumed today.

According to the International Energy Forum's Upstream Oil and Gas Investment Outlook, annual upstream oil and gas capital expenditure (CapEx) investments need to hit $4.3 trillion between 2025 and 2030. However, low carbon business segments are trying to compete against upstream CapEx allocation. This conflicting demand on decisionmakers due to meeting aggressive renewable energy capacity goals may lead to underinvestment in fossil fuel-based generation capacity.

If energy companies are forced to increase their reinvestment rate to maintain CapEx production levels and decide between allocating CapEx towards upstream or low carbon segments, what would happen in the current ESG climate?

America's own energy supply is relatively safe for the time being. The U.S. exports more oil and gas than it imports, and in 2023 we exported more liquified natural gas than any other country. Heating and electricity generation are the main components of natural gas consumption, and during the summer of 2023, it was around 46% in 2023.

The U.S. will look to ensure that it has an abundant energy supply for both our export markets and data centers, especially with the proliferation of large language models. Users will be unhappy when their chatbots suddenly stop working, especially as business adoption increases.

NETFLIX

Voting Spotlight: Netflix

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 Netflix to expand its code of ethics and then report on how its directors live up to this new code, "including outside of their roles as Netflix board members." In the supporting statement, the proponent complained that several years ago, one of Netflix's outside directors did not fire an employee of a different, privately-held, foreign company quickly enough after that employee was accused of harassment, even though an independent law firm had cleared the employee of wrongdoing (which the employee denied). The proponent stressed that Netflix should adopt a "zero tolerance" approach in the wake of the "#MeToo movement," implying that this board member was unfit to serve.

Netflix opposed the proposal, explaining that it believes all of its directors have acted ethically and that the proposal "would not be in the best interests of Netflix or our stockholders."

Strive agreed the proposal was unlikely to increase Netflix's long-term financial performance, and so voted against it.

The Best of the Rest

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

- Pro-ESG shareholder proposals regaining momentum in 2024: "Environmental and social proposals are showing a sign of reversing trend of declining support from the 2021 peak," new Harvard Law Forum on Corporate Governance piece reports.
- Microsoft AI push at odds with climate goals: "Choosing to capitalize on its early lead in the market for generative AI has made Microsoft the most valuable company in the world, but its leaders also acknowledge keeping up with demand will mean investing more heavily in polluting assets."
- Unions exerting more influence on corporate battles; "the collision of financial, political and social issues in deal-making and proxy contests has never been more apparent in the United States than it was in 2023 and thus far in 2024."
- Bridgewater's Ray Dalio warns of China risk; urges diversification amid uncertainty.

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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.

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