View in browser

STRIVE

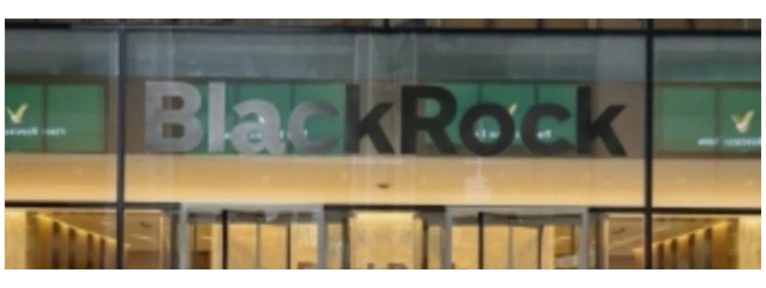
The Fiduciary Focus

Investment News From a Pro-Shareholder Perspective

August 27, 2024

This Week: BlackRock hit with cease and desist order; DEI suit against CBS can proceed; The Silicon Surge dissects Intel's commitment to DEI.

BlackRock Hit With Cease and Desist Order



On Thursday, Indiana's Secretary of State issued a cease and desist order against BlackRock for alleged securities fraud related to its ESG policies, the National Review reports.

The Order: Per the order, the state's securities division is seeking to "stop BlackRock's alleged fraudulent actions" related to its ESG policies. The order alleges that BlackRock marketed its non-ESG funds as not following an ESG strategy, when, in reality, BlackRock uses the money in those funds to advance its firmwide ESG agenda, including pressuring portfolio companies to adopt net zero goals.

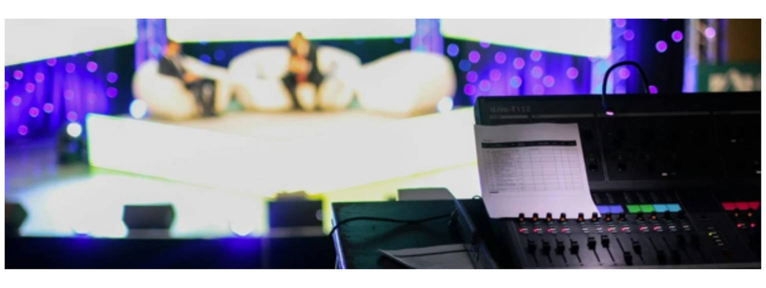
What They're Saying:

- "Larry Fink's ESG fraud is catching up with him. . . BlackRock [is] committing fraud and lying to its customers about whether or not their money was being used to push ESG. Secretary of State Morales is doing the right thing. He's protecting his constituents from Fink's unscrupulous business practices, and Indiana will be better for it," said Will Hild, a consumer advocate.
- "Investment companies that engage in fraudulent activities not only betray the trust of their clients but undermine the integrity of our financial markets. My office is committed to rigorously enforcing the law . . . to ensure Hoosier investors are protected and that those who exploit the system are held accountable," said Indiana Secretary of State Morales.

BlackRock's Non-Denial: BlackRock's PR team responded to the order, calling it "a politically motivated attack" and asserting that the firm "intend[s] to defend ourselves and our clients against this arbitrary use of state power." Notably, BlackRock did not deny that it used the money in non-ESG funds to pursue ESG goals—a denial that would be increasingly implausible in light of recent disclosures revealing that BlackRock used money in non-ESG funds to push environmental and social measures on portfolio companies in at least twenty separate instances this year alone.

Following Mississippi's Lead: The cease and desist order is similar to the one Mississippi issued in April, which alleged that BlackRock defrauded consumers by pushing ESG policies even in non-ESG funds.

DEI Suit Against CBS Can Proceed



A discrimination lawsuit filed against CBS over its DEI quotas will be allowed to proceed, a judge ruled earlier this month.

The Allegations: The plaintiff—a white freelance script writer who wrote several episodes of CBS's Seal Team—alleges that CBS refused to hire him as a full-time employee because he was not a minority.

- The complaint alleges that CBS made a pledge that at least half of its writers would be nonwhite by the 2022-2023 television season.
- To meet this goal, plaintiff alleges that CBS hired several black employees with no writing credits.
- When asked why these less qualified individuals were hired over him, his boss allegedly responded that the plaintiff "could not be brought on as a staffwriter [because] he did not check any diversity boxes."

CBS's Response: In its bid to toss the case, CBS argued that it had the constitutional right to discriminate. More specifically, CBS argued that because TV shows are artistic expression, it has a First Amendment right to exclude writers based on race, regardless of what the Civil Rights Act says.

The Judge Weighs In: The judge denied CBS's request to dismiss the case, saying that the court will decide the constitutional arguments at a later stage.

An Increasing Trend: CBS is not alone in facing litigation over DEI quotas.

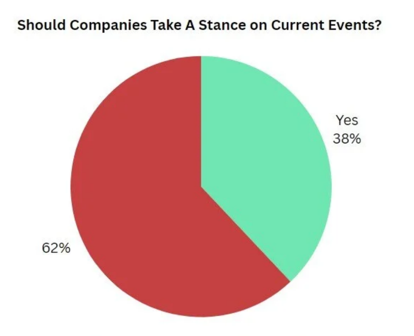
- Last week, a white employee sued IBM for firing him to meet diversity goals, after the CEO emphasized that managers who did not increase the number of racial minorities on their teams by at least 1% would "lose part of [their] bonus" and were threatened with termination,
- In July, a court ruled that actress Gina Carano could move forward with her DEI discrimination suit against Disney, and
- This spring, an appellate court upheld a jury verdict against Novant Health, ordering the company to pay $3.4 million to a white employee who was fired to make way for DEI hires.

The Bigger Picture: Companies that adopted racially-discriminatory DEI policies during the height of the pandemic-era progressivism may have expected those they discriminated against to sit back and take it. Now, it's increasingly clear that they're fighting back. The best time to jettison discriminatory policies is before they take effect; the second best time is now.

Americans Want Companies Out Of Politics

Americans want companies to stay out of politics, a new Gallup poll reveals.

The Numbers: Nearly two-thirds of Americans now say companies should avoid taking stances on current events, a ten percentage point drop from just two years ago.



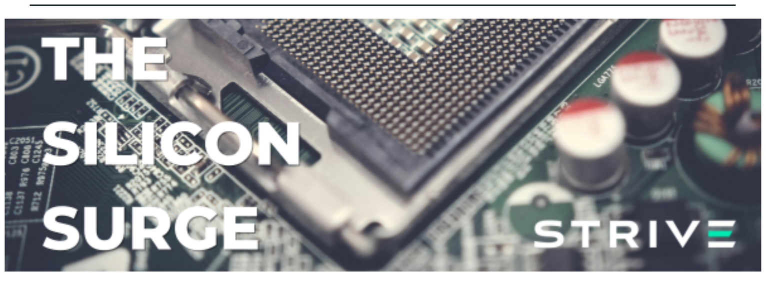
Source: Strive Asset Management; data source: https:/news.gallup.com/poll/648269/americans-business-stay-quiet-public-policy.aspx

A Trend That Cuts Across Demographic Lines: The decreasing support for corporate activism cuts across demographic lines, with members of every generation, racial, and gender group showing declining interest in seeing companies take social stances, compared to 2022. Indeed, the largest changes were amongst Asians (-27 percentage points), blacks (-18 percentage points) and Gen Z (-13 percentage points).

Fair-Weather Friends: Even for those who say they support socio-corporate activism, that support likely hinges on whether the corporate stance aligns with their own views. The poll showed, for instance, that more than sixty percent of people would be less likely to purchase products from a company that endorsed a political candidate from the opposing party, even though most people were indifferent to a corporate endorsement of their preferred candidate.

The Bottom Line: Per Gallup,

> As Americans collectively turn their attention to the 2024 presidential race..., their tolerance for businesses that wade into those debates continues to wane. For two consecutive years, adults have become less likely to want to hear from businesses on current events... Companies that do choose to [do so anyway] may feel repercussions in their bottom lines.



Intel cuts dividend and jobs, keeps DEI

Layoffs are happening at Intel, but DEI gets to stay.

After an underperforming second quarter, Intel made the strategic decision to halt its dividend and reduce its workforce by 15%, with its marketing and sales teams bearing the brunt. Intel's shareholders could benefit from a more strategic approach to cost-cutting.

DEI jobs are known to be the first ones to go in tech layoffs. We've seen companies like Zoom and Microsoft fire DEI teams throughout the year. Many big tech names committed to DEI in 2020 are rethinking their stances, so Intel must believe its DEI team is still valuable since it will remain employed.

For years, Intel committed itself to meeting DEI targets and is even paying its executives a bonus if they hit these goals. In its Corporate and Social Responsibility Report, Intel states that by 2030, its goal is to have 25% women in senior leadership and, even more specifically, for 12% of U.S. senior roles to be filled by female racial minorities by 2030.

Does Intel hold its DEI hires to the same performance standards as its other teams, or are they off the hook? Will reaching these DEI targets make Intel spare some employees the axe but not others? Given the executive bonuses tied to DEI targets, these are reasonable questions. Intel still employs its Chief Diversity Officer, while thousands of others are now looking for work elsewhere.

While some investors are bullish on Intel's decision to purchase ASML's latest lithography machinery in its fabs to produce advanced chips, others are bearish due to the company's financial health and uncertainty regarding business decision-making and its DEI priorities.

As Intel is a large holding in one of our ETFs, we felt it was important to write a letter to voice our concerns about its management decisions on behalf of our clients. We believe that Intel should focus on driving value rather than overly fixate on DEI initiatives. This strategic shift could reassure investors about the company's future.

Boeing's DEI Woes

Boeing has long prioritized DEI over safety goals, with disastrous results. Last week, Matt Cole, CEO, and Justin Danhof, EVP of Corporate Governance, wrote a piece for Townhall highlighting these misplaced priorities and what Strive is doing about them.

Read Here

The Best of the Rest

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

- Lawsuit highlights poor returns for ESG investing; article reviews the evidence submitted in American Airlines case on ESG underperformance.
- Greenhushing still in play as companies continue to pursue sustainability goals without making a "marketing splash."
- John Deere announces end to DEI program; states that it does not use racial quotas for hiring and will no longer have race-based targets for its supplier spend.
- The China hangover is here; countries that over relied on China are now feeling the pain.
- Institutional investors, nonprofits back SEC in climate disclosure lawsuit; one brief notes that BlackRock, Fidelity, State Street, Wellington, and other major firms all supported the new rule.
- Florida proposes new banking law to establish state control over state funds; proposal states that currently, state funds are managed by out-of-state banks that engage in DEI and ESG practices that Floridians would be unlikely to vote for.
- Corporate boards prepare for DEI reckoning as more companies face backlash over allegedly discriminatory programs.

Know someone who might enjoy this newsletter? Be sure to share it with them. Not signed up and want to receive your own weekly copy of The Fiduciary Focus? Click here to sign up.

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.

Full disclosures and terms of use here.

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