

Director elections at Exxon Mobil Corporation

May 2024

Company: Exxon Mobil Corporation (Exxon)

Meeting date: May 29, 2024

Proposal: Item 1.1-1.12: Election of Directors

How the funds voted

At the 2024 annual meeting of Exxon, a U.S.-based multinational oil and gas corporation, the company faced several campaigns to vote against certain director nominees (so-called “Vote No” campaigns) in response to Exxon’s decision to file a lawsuit against two of its shareholders, Arjuna Capital and Follow This. The company’s lawsuit sought a declaratory judgment to exclude from its 2024 proxy statement a proposal submitted by the shareholders requesting the company accelerate the pace of greenhouse gas (GHG) emission reductions. The Vanguard-advised funds voted in support of each of Exxon’s board nominees.¹

The funds’ proxy voting policies

As articulated in the funds’ proxy voting policies, the Vanguard-advised funds evaluate all director elections on a case-by-case basis, taking into consideration the facts and circumstances at the company in question, and with an assessment of what is in the best interests of each fund’s shareholders.

On behalf of the funds, we seek to understand how portfolio company boards—who are elected to serve on behalf of all shareholders, including Vanguard-advised funds—effectively carry out their responsibilities. We examine how boards are composed to provide for their companies’ long-term success, how they consult with management on strategy and oversee material risks, how they align executives’ financial incentives with shareholders’ interests, and how they provide and safeguard shareholder rights. The funds seek to ensure that the individuals who serve as board directors to represent the interests of all shareholders are appropriately independent, experienced, committed, capable, and diverse.

¹ Vanguard’s Investment Stewardship program is responsible for proxy voting and engagement on behalf of the quantitative and index equity portfolios advised by Vanguard (together, “Vanguard-advised funds”). Vanguard’s externally managed portfolios are managed by unaffiliated third-party investment advisors, and proxy voting and engagement for those portfolios are conducted by their respective advisors. As such, throughout this document, “we” and “the funds” are used to refer to Vanguard’s Investment Stewardship program and Vanguard-advised funds, respectively.

Analysis and voting rationale

At each of Exxon's two prior shareholder meetings (in 2022 and 2023), the company received shareholder proposals requesting that the company set GHG reduction targets aligned with the Paris Agreement. The Vanguard-advised funds did not support either of these proposals, and they received relatively low support from shareholders (27% and 11% of the votes cast in 2022 and 2023, respectively).

In late 2023, Exxon received a proposal for its upcoming 2024 shareholder meeting from Arjuna Capital and Follow This that the company believed was sufficiently similar to the prior years' proposals and would allow the company to exclude it from their 2024 proxy based on Securities and Exchange Commission (SEC) Rule 14a-8(i)(12), which governs the resubmission of proposals that received low levels of support in prior years. The company also indicated that the proposal was excludable because, under Rule 14a-8(i)(7), it deals with a matter relating to the company's ordinary business operations. However, rather than following the more common approach of seeking to obtain no-action relief from the SEC, in January 2024, Exxon filed a complaint against the two proponents in U.S. District Court. In a subsequent filing, the company indicated that the action was prompted by the belief that the SEC was failing to follow its rules related to providing no-action relief.² In its legal complaint, Exxon articulated its perspective that the proxy process as it is currently operating "does not serve investors' interests and has become ripe for abuse by activists with minimal shares and no interest in growing long-term shareholder value."³ Soon after the legal action was announced, the proponents withdrew the proposal at Exxon, but Exxon continues to litigate the case.

Exxon's decision to file a lawsuit against two of its shareholders has generated a reaction from certain sectors of the investor community who assert that such actions are an inappropriate use of the company's significant legal resources to infringe upon shareholders' rights to put forth proposals. Certain shareholders launched high-profile "Vote No" campaigns targeting Exxon's lead independent director, and in some cases, the board chair and CEO and/or other board members, to express disapproval of the company's pursuit of legal action related to the shareholder proposal.

We have a general view that certain shareholder proposals may not be an appropriate use of shareholder votes, particularly those that address a company's ordinary business operations or strategy, address matters that do not materially bear on long-term shareholder returns at the company in question, or are duplicative or redundant. As a result, we do not view it as unreasonable that a company would take steps to avoid the cost, complexity, and potential distraction associated with managing shareholder proposals that may be excludable under Rule 14a-8 of the SEC's proxy rules. However, we do question why Exxon has continued to pursue the lawsuit despite the proponents' withdrawal, and we would have concerns if a company leveraged its resources to pursue such legal cases with the intent of chilling the shareholder proposal process more generally.

² U.S. Securities and Exchange Commission, Exxon Mobil Corporation Letter RE: 2024 Glass Lewis Proxy Report Feedback Statement (May 15, 2024).

³ Courthousenews.com, Exxon Mobile Corporation v. Arjuna Capital, LLC and Follow This. Case 4:24-cv-00069-P (2024).

We discussed these issues with Exxon leaders during our February engagement and they presented a reasonable case for the company's approach. They shared that the company resorted to litigation given (in their view) the SEC's failure to enforce its own rules. We note that the SEC's guidance on excluding shareholder proposals highlights the informal nature of the no-action process and clarifies that only a court can determine whether a proposal can appropriately be excluded from a company's proxy materials.⁴ In our assessment, the Exxon board demonstrated appropriate oversight of the process and made a compelling argument for why the company's actions to seek clarity were in the interests of Exxon shareholders in this case.

While the company's decision to continue to pursue the lawsuit gives us some pause given the potential chilling effect on future shareholder proposals, we do not, at this time, see evidence that the board has overseen actions that have negatively impacted shareholder returns. As a result, the Vanguard-advised funds supported the election of Exxon's director nominees at the company's 2024 annual meeting.

We plan to continue to engage with leaders at Exxon, as well as other companies across the Vanguard-advised funds' portfolios, to monitor future developments regarding company use of litigation related to shareholder proposals and other shareholder rights.

⁴ U.S. Securities and Exchange Commission, Division of Corporation Finance: Informal Procedures Regarding Shareholder Proposals (2022).