Votes that matter: Investors should call time on poor climate governance as Exxon swerves engagement

ShareAction recommends that investors take a strong voting stance on director re-election at the 2019 ExxonMobil AGM, and encourages investors to also support items 4, 7 and 10 on the ballot.

Executive Summary

This briefing makes the case for shareholders to include climate change in their voting decisions on ordinary resolutions. It encourages investors to support the Church Commissioners and the New York State Common Retirement Fund's (NYSCRF) call to ExxonMobil shareholders to take a robust approach to voting on the re-election of ExxonMobil directors. It also lists upcoming shareholder resolutions on climate change at other high-carbon companies.

Section 1: Background Information

The Church Commissioners and the New York State Common Retirement Fund (NYSCRF) have been engaging together with ExxonMobil on climate change and governance issues since 2015. They were the lead proponents of a shareholder proposal on climate-related disclosures at ExxonMobil in 2017, which obtained around 62% of the votes.[1]

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Following the 2017 shareholder proposal, ExxonMobil duly published its first 'Energy and Carbon Summary' report. Whilst this was an important step forward for the company, ExxonMobil's summary reports in 2018 and 2019 have both been criticised by scientists, investors and civil society for lacking clarity across a number of critical areas, therefore minimising its usefulness to investors.[2] While ExxonMobil recognised that not all fossil fuel resources would be extracted in a 2°C scenario, it failed to estimate the potential impact that this could have on individual assets and long-term profitability. Analysis by Carbon Tracker estimates that as much as 20-30% of ExxonMobil's upstream capital expenditure could fall outside of the International Energy Agency's (IEA) Sustainable Development Scenario, which gives only a 50% chance of keeping global temperature rise below 2°C. This number rises to 40-50% in the IEA's Below 2 Degree Scenario.[3]

These numbers stand in stark contrast with the company's fossil fuel ambition. At a presentation for analysts in March 2019, ExxonMobil CEO Darren Woods announced that the company would increase capital spending to $35bn in 2020 up from $26bn in 2018, with a view to increasing production by more than 25% on

2018 levels by 2025 (or 1 million barrels of oil equivalent per day).[4] According to Mr Woods, the investment opportunities available to ExxonMobil are more attractive than at any time since Exxon and Mobil merged in 1999. This could explain why ExxonMobil continues to question the desirability or feasibility of urgent action towards a global low-carbon energy transition,[5] and to allocate millions to trade associations that oppose most forms of climate regulation.[6]

In December 2018, the Church Commissioners and the NYSCRF, backed by a coalition of more than 30 investors representing US$1.9 trillion in assets, filed a shareholder proposal asking ExxonMobil to set Scope 1, 2 and 3 emissions targets aligned with the goals of the Paris Agreement.[7] Instead of engaging positively with these investors, ExxonMobil asked the US Securities and Exchange Commission (SEC) for permission to block their shareholder proposal, on the grounds that it was "impermissibly vague and indefinite so as to be inherently misleading" and sought to "micro-manage" the company.[8] It also argued that its 2018 Energy and Carbon Summary "substantially addresses the principal objective of the proposal: that the company do its part to help address the risks of climate change and (...) report to shareholders on those actions."

The SEC ruled in Exxon's favour, preventing shareholders from exercising their basic shareholder rights and voting on a much-needed shareholder proposal.

A similar resolution was voted on at the 2018 Royal Dutch Shell AGM.[9] Although the resolution did not pass, it was an important step towards increased investor engagement with the company and represented an opportunity for shareholders to voice their climate concerns. Following the AGM and after robust engagement by institutional and retail shareholders, Shell announced in a joint statement with Climate Action 100+ (CA100+) that it would set short-term emissions targets covering its Scope 1, 2 and 3 emissions.[10]

In response to the SEC's decision, the Church Commissioners and NYSCRF have lodged exempt solicitation documentation with the SEC.[11] This announces that both investors will be voting against the re-election of the entire ExxonMobil board, as well as voting for item 4 (calling for an independent chair) and item 7 (asking for the establishment of a climate change committee) on ExxonMobil's ballot. Both investors are encouraging other shareholders in the company to cast their votes thoughtfully, with climate-related concerns in mind, at this year's AGM.

ShareAction supports the call to ExxonMobil shareholders to take a strong voting stance on director election, as well as to vote in favour of items 4 and 7 on ExxonMobil's notice of AGM.

In particular, ShareAction recommends investors to vote against the re-election of:

- Mr. Darren Woods, CEO and Chair;
- Mr. Steve Reinemund, Presiding Director; and
- Mr. Kenneth C. Frazier, Chair of the Board Affairs Committee.

Section 2: Voting Against Directors

Voting rights give fiduciary shareholders both the opportunity and the responsibility to participate in the stewardship of companies, and to influence board management of risks and key strategic decisions.[12]

The transition to a low-carbon economy will disrupt many established business models, whilst a failure to curb carbon emissions has grave implications for investment returns and for the stability of capital markets.[13] The failure to incorporate these risks into business planning at high carbon companies, such as ExxonMobil, threatens the long-term performance both of those companies and the investment portfolios in which they sit.

Fiduciary investors should use their voting rights to ensure such risks are being identified and adequately managed. This includes voting against: auditors and audit reports if these are substandard; the re-election of specific directors if these individuals fail to represent shareholder interests or to foster the long-term success of the company; and remuneration policies that reward an excessive focus on short-term metrics and performance.

In recent years, a rising number of institutional and retail investors have started voting against board members on issues of sustainability and governance. State Street, for example, has voted against nomination committees on all male boards,[14] while Legal & General Investment Management is voting against the re-election of chairs at companies deemed climate change laggards.[15]

Section 3: Voting Against ExxonMobil's Directors

A number of individual board members at ExxonMobil have backed climate change action outside of their role as directors of ExxonMobil. Mr Kenneth Frazier and Mrs Ursula Burns have both backed climate action as Chief Executives of Merck and Xerox, respectively, while Dr Susan Avery is an atmospheric scientist with significant climate expertise who, at a renewable energy conference in 2014 said, "Clearly climate science is telling us get off fossil fuels as much as possible."[16]

However, these directors seem to have had limited influence on ExxonMobil's climate change strategy. This could be due to a lack of independent governance.

One possible reason for this is the 'excessive management influence on the board and weaker oversight of management'[17] (as stated in item 4), caused by the following factors:

- The combined role of Mr Darren Woods as CEO and Chairman;
- The lack of a proper Senior Independent Director with direct accountability to shareholders; and
- The fact that ExxonMobil awards independent directors shares for performance, further blurring the divide between executive management and the supervisory role of the board.

ShareAction strongly supports the Church Commissioners and NYSCRF's decision to vote against the re-election of its entire board, but it would like to draw all shareholders' particular attention to the following three directors, namely Mr. Darren Woods, Mr. Steven Reinemund, and Mr. Kenneth C. Frazier.

1. Mr. Darren Woods, CEO and Chairman

Mr Woods joined ExxonMobil in 1992 and became CEO and Chair in 2016. ExxonMobil's position on climate change has shifted very little under the leadership of Mr Woods. Analysis by InfluenceMap[18] has found that Mr Woods has consistently undermined climate action in public communications, focusing repeatedly on the threat of global energy poverty to justify inaction on climate change, undermining the need for climate regulation and effective carbon pricing, and supporting measures that incentivise increased oil and gas production at the expense of alternative energy sources.

In May 2019, Mr Woods stated that ExxonMobil would contribute US$10 million a year to develop technologies including algae biofuels and carbon capture and storage.[19] The company aims to develop the technical ability to produce 10,000 barrels of algae biofuel per day by 2025. This would constitute only 0.2% of its current refinery capacity, according to InfluenceMap. Furthermore, this investment represents approximately five hours of profit for ExxonMobil and is only a small portion of the company's US$1 billion research and development budget.[20]

Despite Mr Woods' promise to improve shareholder dialogue, Exxon has consistently refused invitations to engage seriously and constructively with investors in the CA100+ initiative, which is backed by institutions with over US$33 trillion in assets.

2. Mr. Steven Reinemund, Presiding Independent Director

Mr Reinemund was selected to be the Presiding Independent Director of ExxonMobil in 2016, the board member accountable to shareholders in the absence of a Senior Independent Director at the company. He sits on both the Executive Committee and the Public Issues and Contributions Committee, which is responsible for issues of public interest such as climate change.

In 2017, he was one of two non-executive directors subject to a protest vote at Exxon's AGM for failing to engage with shareholders, including on climate risks.[21] Although both directors received the majority vote, this was an important expression of dissent by shareholders.

3. Mr. Kenneth C. Frazier, Chair of the Board Affairs Committee

Mr Kenneth C. Frazier is the Chair, President, and Chief Executive Officer of pharmaceutical company Merck & Co, and the chair of ExxonMobil's Board Affairs Committee. The purpose of this committee is primarily to monitor compliance with good corporate governance standards.

In 2016, Mr Frazier implemented a policy to prevent directors from speaking directly with shareholders, instead requiring investors to submit messages of no longer than 2,200 characters through a form on the company's website.[22] Keeping board members from engaging directly with shareholders is out of step with corporate governance best practice, as investors and companies now expect board members to make themselves available to shareholders for discussions. This policy led BlackRock, ExxonMobil's second largest investor, to withhold its support from both Mr Frazier and former Presiding Independent Director Jay Fishman in 2016.[23] In 2017, ExxonMobil reversed its decision and announced it would allow shareholders to meet members of its board.[24] This is a powerful example of the impact of dissent voting at ExxonMobil.

In summary, and for the reasons outlined above, ShareAction urges investors to vote against the re-election of Mr. Darren Woods, Mr. Steven Reinemund, and Mr. Kenneth C. Frazier; and to vote for item 4 (independent chair) and item 7 (establishment of a climate change committee) on ExxonMobil's ballot.

Section 4: Highlights of 2019 AGM Season: What else can investors do?

The 2019 proxy season provides an opportunity for investors to influence companies' strategic decisions and express their discontent at companies that have shown reluctance to engage with shareholders on climate change and other ESG issues. This includes voting for special shareholder resolutions on climate change. Resolutions to be voted on in 2019 are listed in Table 1 below.

Company	Filer	Shareholder Resolution
BP 21 May	CA100+	Resolution 22 - Publish a strategy consistent with the Paris Agreement, including capital expenditure and metrics and targets
	FollowThis	Resolution 23 - Publish Scope 1, 2 and 3 targets aligned with the Paris Agreement
Chevron 29 May	As You Sow	Item 5 - Publish a report on reducing carbon footprint in line with the Paris Agreement
	Arjuna Capital	Item 6 - Create a new Board Committee on Climate Change
		Item 7 - Appoint an independent Chairman
ExxonMobil 29 May	The Kestrel Foundation	Item 4 – Separation of the role of CEO and Chair
	Arjuna Capital	Item 7 – Creation of a new Board Committee on Climate Change
	United Steelworkers	Item 10 – Publish a report on the company's lobbying activities
Standard Bank 30 May	RAITH Foundation	Resolution 10 – Report on the assessment of emissions and disclose a policy on lending to coal-fired power projects

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ShareAction (Fairshare Educational Foundation) is a registered charity that promotes responsible investment practices by pension providers and fund managers. ShareAction believes that responsible investment helps to safeguard investments as well as securing environmental and social benefits.

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