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Does Climate Change Affect Profitability? S.E.C. Orders Shareholder Vote on Disclosure

By Sean Pinckney, J.D. Candidate 2018 | April 8, 2015

The S.E.C. recently ordered oil behemoth Exxon Mobil to include a resolution on its annual shareholder proxy statement that, if approved by shareholders, would require the company to disclose how its future profitability might be affected by climate change and related legislation. This marked a defeat for Exxon, the world's largest oil producer, which fought against the proposal. While Exxon suggested that it was too vague and that it already provided adequate carbon disclosures, the S.E.C. rejected those arguments. A company spokesman stated that Exxon would provide the board's position on the proposal in its upcoming proxy materials. It is questionable whether Exxon's shareholders will approve the measure, as just last year shareholders overwhelmingly rejected adding an independent board member with expertise in climate change.

In a sign that other oil companies will be subject to similar treatment, the S.E.C. ordered Chevron to allow the same kind of votes for its shareholders. This push for enhanced climate change disclosure came after the recent Paris accord on climate change, led by a coalition of investors headed by New York State comptroller Thomas DiNapoli, trustee of the New York State Common Retirement Fund, and by the Church of England. The coalition, which also includes other large pension managers such as the University of California Retirement Plan and the Vermont State Employees' Retirement System, controls over $1 billion of Exxon stock. It has already had success with Exxon's peers Shell and BP, which have agreed to disclose the impact of more strict greenhouse emissions standards.

The S.E.C. order comes at an inopportune time for Exxon, who is currently under investigation by New York State over concerns that the company lied to the public about the risks of climate change. Additionally, the Rockefeller Family Fund – established by the family of John D. Rockerfeller Sr., the co-founder of Standard Oil (predecessor to Exxon) – announced it would divest its fossil fuel holdings as quickly as possible due to "morally reprehensible conduct" by Exxon. In recent years, a number of other "socially responsible" investment firms have pledged to divest from Exxon and other fossil fuel companies, while many endowments and pension funds have expressed similar stances.

Professor Daniel Farber, Co-Director of the Center for Law, Energy, and the Environment at Berkeley Law, said, "I doubt this is going to have a substantial effect on the industry, at least in the near term, but it helps keep the issue on the companies' agendas and incrementally raises the pressures on the companies. It's a step in the right direction, but probably a small one." With the heightened global scrutiny on climate change as well as the current S.E.C. order requiring a shareholder vote on disclosure, oil companies are likely to continue facing demands for greater transparency from the investment community.