Securities Regulation Daily Wrap Up, PROXIES—SEC should not let ExxonMobil dodge climate change proposal, investors say, (Feb. 26, 2016)

Securities Regulation Daily Wrap Up

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By John Filar Atwood

ExxonMobil is resisting investors' calls for it to disclose how its business would be affected by the Paris climate change agreement to try to rein in global warming, and investors are asking to SEC to take their side. New York State Comptroller Thomas DiNapoli and the Church of England's investment fund, which submitted a climate change proposal to ExxonMobil, have asked the Commission to reject the company's attempts to prevent a shareholder vote on the issue.

Proposal. DiNapoli, as trustee of the New York State Common Retirement Fund, and representatives of the Church of England's investment fund submitted their proposal to ExxonMobil in December. They requested that by 2017 ExxonMobil publish an annual assessment of the long-term impact of public climate change policies.

Specifically, the proponents asked that the report analyze the impact on ExxonMobil's oil and gas reserves and resources of a situation in which demand is reduced because of carbon restrictions and related rules adopted under the Paris agreement to try to hold global warming under two degrees Celsius. The report should assess the resilience of the company's full portfolio of reserves and resources through 2040, and address the financial risks associated with such a scenario, according to the proponents.

ExxonMobil's argument. ExxonMobil notified the SEC that it intended to omit the proposal from its proxy materials for its upcoming annual meeting on the grounds that the proposal is vague and fails to address the central aspects of its implementation. Alternatively, the company sought to omit the proposal because it has substantially implemented the proposal through its disclosures in which it concluded it is highly unlikely that global governments will impose restrictions on fossil fuels consistent with the two-degree plan.

Investors' reply. In their letter to the Commission, the proponents argued that the fact that global solutions and approaches to meeting the two-degree target are still subject to innovation and policy refinement does not render the proposal vague. They claim that enough is known about the general direction of public policy related to the two-degree target and its potential restrictions on carbon and fossil fuels to allow ExxonMobil to assess the issues.

With regard to whether the company has implemented the proposal, the proponents noted that ExxonMobil issued a 2014 report in response to a previous proposal, in which it stated that it is confident that none of its hydrocarbon reserves are now or will become stranded through 2040. The proponents noted that they crafted the current proposal as a response to that report, which they believe underestimates the prospect for global restrictions to meet the two-degree target.

The proponents advised the SEC that the essential purpose of their proposal is for ExxonMobil to calculate the potential losses in the event its conjectures prove false. As such, they believe the company has not issued a report fulfilling this purpose, and therefore has not substantially implemented the proposal.

DiNapoli said in a press release that ExxonMobil risks becoming an outlier among its peers that support reining in climate change. He urged the company to keep investors informed about how it will be impacted by the global effort to reduce emissions, and what the company plans to do about it.

Companies: ExxonMobil Corp.

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