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STRIVE

The Fiduciary Focus

Investment News From a Pro-Shareholder Perspective

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This Week: Companies feeling pressure to speak out on Israel-Gaza conflict; Strive releases white paper on how stakeholder capitalism hurts investors; An Eye on Energy discusses Middle East risk; and more.

To Speak or Not to Speak? Companies Feeling Pressure to Take Stance on Israel-Gaza Conflict

Companies are grappling with whether or not to speak out on the Israel-Gaza conflict, the Associated Press reported Saturday.

Many non-profit advocacy groups are calling for companies to take a stronger stand, although which stand companies should take depends on who you ask. Jewish-aligned nonprofit groups, like the Anti-Defamation League, have been calling on corporate America to support Israel and sign pledges to fight antisemitism in the wake of the attacks. The Council on American-Islamic Relations, an Islamic civil rights group, on the other hand, has denounced statements from U.S. corporate leaders that "lack any meaningful display of sympathy toward Palestinian civilians."

The competing pressure shows the tightrope that companies walk when they decide to speak up. To date, one of the highest profile controversies has involved the Starbucks union, Starbucks Workers United, which tweeted "Solidarity with Palestine!" with an image of a bulldozer plowing through a fence in Gaza following the Hamas attacks. Starbucks has sued the union, alleging that its use of Starbucks's logo and trademark has damaged the brand. Cosmetic retailer Lush and tech company Web Summit have also drawn fire for comments criticizing Israel. Meanwhile, on the other side, McDonald's has faced boycotts after McDonald's Israel made a series of Instagram posts announcing free meals for Israeli Defense Force soldiers.

But even more even-handed statements have drawn fire. "People from all ranks have been called out for speaking too forcefully—or not forcefully enough—making it nearly impossible to come up with a unifying message when passions run deep on all sides," the Associated Press explained.

Given the complexity of the controversy, many companies have decided the best course is to stay focused on their mission, rather than wade into the hot button issue. From a fiduciary standpoint, this may prove to be the most prudent course: as we mentioned in last week's Fiduciary Focus, less than 30% of Americans believe companies should be taking public stances on international conflicts. A war in the Middle East may not be the best opportunity for brandification.

Court Upholds NASDAQ Diversity Disclosure Rule

On Wednesday, a federal appellate court upheld a NASDAQ rule requiring companies listed on the exchange disclose the race, gender and LGBTQ+ make up of their board of directors.

The Court made clear that the rule required only disclosures, and did not impose any quotas or force any changes to company boards. The structure of the NASDAQ rule, however, shows how disclosure requirements often blur into efforts to influence, if not outright compel, company behavior. In this instance, the objective of the rule was to require companies to appoint at least two diverse directors; if companies refused to do so, they had to explain why they did not comply. Legally speaking, this out—allowing companies to explain noncompliance—turned an impermissible mandate into an allowable disclosure rule, despite the fact that the rule was hardly neutral in its goal. The Court also explained that, even if the rule would be unconstitutional if enacted by the Securities and Exchange Commission, the Court could not prevent NASDAQ—which is a private actor—from moving forward with it, because private companies are not required to comply with the Equal Protection Clause.

That ruling is in contrast to a decision issued in May striking down a California law requiring companies headquartered in the state to have a minimum number of underrepresented minority directors. In that case, the Court explained that the statute was facially unconstitutional because it violated the Equal Protection Clause by imposing racial quotas on companies.

Plaintiffs in the NASDAQ case have not yet indicated whether they will ask the Supreme Court to review the appellate court's decision.

Stakeholder Capitalism Is the Enemy, Marc Andreessen Warns

Last week, venture capitalist Marc Andreessen published his Techno-Optimist Manifesto, in which he called on people to embrace technological progress, and the abundance it brings, rather than pessimistically focus on hypothetical risks.

While the piece has garnered media attention mainly for its stance on artificial intelligence—which Andreessen views as having unlimited potential to improve human lives—the piece also takes aim at stakeholder capitalism, which it calls "anti-merit, anti-ambition, anti-striving, anti-achievement, anti-greatness":

> Our present society has been subjected to a mass demoralization campaign for six decades—against technology and against life—under varying names like "existential risk", "sustainability", "ESG", "Sustainable Development Goals", "social responsibility", "stakeholder capitalism", "Precautionary Principle", "trust and safety", "tech ethics", "risk management", "de-growth", "the limits of growth".
>
> This demoralization campaign is based on bad ideas of the past—zombie ideas, many derived from Communism, disastrous then and now—that have refused to die.

The piece comes as organizations like the World Economic Forum and the Business Roundtable continue to push businesses to adopt stakeholder capitalism, despite the criticism the doctrine has received.

China May Hold U.S. Company Assets Hostage To Further Taiwan Strategy, Chinese Researchers Claim

Chinese researchers affiliated with the CCP have been busy studying and preparing for what China may do if the U.S. imposes sanctions on China in response to an invasion of Taiwan similar to those the U.S. imposed on Russia following its invasion of Ukraine. The consequences could be severe, Reuters reports, including potential seizures of assets of U.S. companies operating in China.

"The sanctions against Moscow have prompted hundreds of Chinese economists, financiers, and geopolitical analysts to examine how China should mitigate extreme scenarios." The outlet reviewed more than 200 Chinese-language policy papers and academic articles published since February 2022 exploring the issue. "If the U.S. implemented Russia-style sanctions on China, Beijing should freeze U.S. investment and pension funds and seize the assets of U.S. companies," Reuters described one such article.

Given this possibility, many Chinese researchers recommended that Beijing further open its domestic markets to U.S. companies and entice U.S. businesses to invest in the region so that the CCP will have greater leverage to exact countermeasures in the event that relations with the U.S. deteriorate. "The mutual penetration of the Chinese and American economies will inevitably weaken the willingness to impose financial sanctions," one researcher wrote. U.S. companies looking to take advantage of the Chinese consumer market should therefore do so with open eyes, knowing that the CCP is already eyeing them as potential hostages in future diplomatic disputes with the United States.

Straight From Strive

New White Paper Analyzes the Financial Superiority of American Style Shareholder Primacy

Strive's latest white paper—the Cost of Stakeholder Capitalism—quantifies the benefits of shareholder primacy and the price of abandoning it.

The paper discusses how American outperformance has been under threat by a European-based ideology called stakeholder capitalism, which holds that corporations should prioritize not just shareholders, but anyone affected by their actions. Since 1986, the U.S. S&P 500 has outperformed the Stoxx Europe 600 by 3.25% annualized due to American capitalism's commitment to maximizing shareholder value.

American CEOs and asset managers have allowed stakeholder capitalism to influence their business decisions under the guise of considering environmental, social, and governance (ESG) risk factors, especially by discouraging fossil fuel use and investment.

The paper highlights that after 2020, the American oil and gas major companies that stayed focused on shareholders' interests outperformed their European competitors, but that U.S. energy outperformance is now endangered by the same pressures that dragged down Europe.

Our thesis is that when a company deviates from its core mission to pursue social goals, its shareholders pay the price.

An Eye on Energy

Middle East Risk on the Oil Market

The market's perception of a tight supply of oil and risk of a region-wide conflict in the Middle East will cause volatility in the oil market.

Oil prices traded between 5%-10% since Hamas's attack into southern-Israel on October 7. This situation placed a $3-$4 'war risk' premium on oil and reversed a downward trend in the market due to perceptions of a depressed economic outlook.

Recent events since October 18 have maintained oil market sentiment to a significant degree from demand-concerns to geopolitical fears of a disruption to supply. They include a perception that the oil market remains undersupplied; an announcement by the United States Department of Energy (DOE) of its intention to refill the Strategic Petroleum Reserve (SPR); and fear of a geopolitical disruption to supply and exports.

The U.S. has accused the Iranian government and the Islamic Revolutionary Guard Corps (IRGC) of "actively facilitating" multiple attack drones against United States bases in Iraq and Syria by pro-Iranian Shia militias, the USS Carney intercepting missiles and drones launched by Huthi rebels in Yemen towards Israel, and Iranian efforts to deter a ground offensive on Gaza by Israel—calling for an oil embargo—have signaled an escalation to this conflict.

Uncertainty will remain. A second-front developing in northern Israel with Hezbollah, and more serious proxy attacks by Iranian-backed "resistance axis forces" against targets in Iraq, Lebanon, or Syria would impact international markets. The market's belief of a serious threat to oil supplies will keep oil prices elevated, and add to inflationary pressures.

OPEC+ has given little guidance on their policy and emphasized "data dependence." The energy minister for the Kingdom of Saudi Arabia recently said that it was "about making the decisions that are right when we have the data." Research shows that, because of the conflicting economic signals and energy market forecasting, data may become a "psychological test" for markets, where investors may interpret the latest readings based on which narrative—bull or bear—has the upper hand.

These circumstances, including Iran's strategy to test the restraint of the U.S., may push oil prices to the $130 range in the near-term. However, at the moment we believe that Saudi Arabia would reverse its voluntary oil production cut policy to prevent the price of oil from going above $140.

The Best of the Rest

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

- SEC drops ESG as enforcement priority; ESG had been listed in the past three years' reports.
- CCP unhappy with U.S. chip restrictions; new restrictions "violate the principles of the market economy and fair competition," according to China.
- American Airlines responds to pilot's lawsuit over ESG investing; asks court to dismiss the case.
- Public benefits corporation Vita Coco under fire for allegedly unethical supply chain issues; stock price takes a hit.
- Should there be an antitrust exception for climate-related coordination? Two scholars think so.
- DEI initiatives create litigation risk for companies; rise in suits not just from employees, but shareholders as well
- New guidelines for nature-related corporate disclosures; the "E" push is moving beyond climate change to include company impacts on biodiversity, ecosystems, water rights, indigenous peoples, and more.
- Climate Action 100+ continues to press companies to fight climate change: "urgent action is needed to shift the weight of focus from mere commitments to implementation" and "companies need to move further and faster."

Strive News

Earlier this month, Strive CEO Matt Cole sat down with Hedgeye CEO Keith McCollough at the Hedgeye Investing Summit.

During the interview, Cole explained:

> What are we doing, what are we for? It all stems back to an easy question: What is a purpose of a corporation, a for-profit corporation. My belief is that it is to make money period. It is not to be woke. Not to be anti-woke. It's to make money. And I think that in this industry we've moved away from that. Not everyone obviously. You guys have not moved away from that, obviously, but the impact that I've seen from what I will call the corporate ESG movement is a rejection of American capitalism.

Cole went on to discuss his investing roots at CalPERS, the politicization of investing, and why he believes in Strive's mission. He also explained that investors and companies should look at all financially-material risks—recession risk, inflation risk, environmental risks, social risks and governance risks—to determine how to maximize value. The problem, as he sees it, is that while people are allowed to have varied views on how recession risk, inflation risk and other traditionally financially-focused metrics are likely to impact markets and companies, there is only one politically correct way to view ESG risk, and that does not necessarily lend itself to making the most prudent decisions for shareholders.

Cole and McCollough also discuss how we ended up in a place where companies are no longer exclusively focused on shareholders and why large index fund managers bear much of the blame. In Cole's view, large blue state customers like CalPERS have pushed large asset managers to use the billions or trillions of dollars of capital held in those index funds—capital that belongs to other clients, who have not agreed to an ESG strategy—to further their climate and social goals.

For more on Strive's investing philosophy, also check out Matt Cole's discussion with Alexander McCobin on the Liberty Ventures podcast, available on Spotify and YouTube.

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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.

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