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Lawsuit Over Climate Shareholder Proposal
Highlights Pressures on the Rule 14a-8 Process

Exxon Mobil (“Exxon”) last month filed a [lawsuit](#) in the District Court for the Northern District of Texas seeking relief to exclude a shareholder proposal submitted by two shareholders, Arjuna Capital and Follow This. The proposal has been withdrawn, but the lawsuit remains pending. Exxon’s decision to pursue relief from the court instead of seeking no-action relief from the Securities and Exchange Commission highlights the growing pressures on the Rule 14a-8 shareholder proposal process since the Commission revised its guidance on the “ordinary business” exception in Staff Legal Bulletin [14L](#).

Arjuna Capital and Follow This’ shareholder proposal requested that Exxon accelerate its Scope 1, 2 and 3 emissions reductions and “summarize new plans, targets, and timetables.” Exxon sought exclusion of the proposal from its proxy materials on the basis that the proposal related to the company’s ordinary business operations and was substantially similar to previously voted-on proposals that failed to meet the requisite shareholder support threshold for resubmission. Exxon also expressed concern that Arjuna Capital and Follow This had purchased shares in the company with the intended purpose of submitting shareholder proposals that would “shrink” the company, against the interests of shareholders at large. Exxon has continued to seek declaratory relief to prevent future resubmissions of the proposal.

Large U.S. institutional investor support for environmental and social proposals declined in both 2022 and 2023, but the overall number of such proposals grew, fueled by smaller activist and impact investors and European funds. While shareholder proposals are precatory and most do not pass, proxy advisory firms may recommend against directors if a company fails to take responsive actions to a shareholder-approved proposal.

In the wake of the Exxon lawsuit, the Council of Institutional Investors and the Interfaith Center on Corporate Responsibility have [issued letters](#) cautioning against the use of litigation as a tool to resolve shareholder proposals. It remains to be seen whether other investors may take a different view, how the Commission will respond and whether the latest developments will impact pending [amendments](#) that seek to narrow the substantial implementation, duplication and resubmission bases for exclusion of Rule 14a-8 shareholder proposals. In the meantime, periodic evaluation of the shareholder base and proactive engagement remain powerful tools to ensure conflicting shareholder priorities and expectations are timely evaluated, balanced and addressed.

Kevin S. Schwartz
Carmen X. W. Lu
Courtney D. Hauck