



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

March 20, 2024

Louis Goldberg
Davis Polk & Wardwell LLP

Re: Exxon Mobil Corporation (the "Company")
Incoming letter dated January 21, 2024

Dear Louis Goldberg:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by the National Legal and Policy Center for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests the compensation committee of the board of directors to revisit its incentive guidelines for executive pay, to emphasize legitimate fiduciary goals and consider eliminating greenhouse gas reduction targets and other scientifically dubious goals from compensation inducements.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(3). We do not believe that the Proposal, taken as a whole, is so vague or indefinite that it is rendered materially misleading.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Luke Perlot
National Legal and Policy Center

January 21, 2024

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: Exxon Mobil Corporation
Exclusion of Shareholder Proposal – National Legal and Policy Center
Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the “**Company**”), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), we are filing this letter with respect to the shareholder proposal (the “**Proposal**”) submitted by National Legal and Policy Center (the “**Proponent**”) for inclusion in the proxy materials the Company intends to distribute in connection with its 2024 Annual Meeting of Shareholders (the “**2024 Proxy Materials**”). The Proposal is attached hereto as Exhibit A.

We hereby request confirmation that the Staff of the Division of Corporation Finance (the “**Staff**”) will not recommend any enforcement action if, in reliance on Rule 14a-8, the Company omits the Proposal from the 2024 Proxy Materials.

In accordance with relevant Staff guidance, we are submitting this letter and its attachments to the Staff through the Staff’s online Shareholder Proposal Form. Also, in accordance with Rule 14a-8(j), a copy of this submission is being sent simultaneously to the Proponent as notification of the Company’s intention to omit the Proposal from the 2024 Proxy Materials. This letter constitutes the Company’s statement of the reasons it deems the omission of the Proposal to be proper. We have been advised by the Company as to the factual matters set forth herein.

THE PROPOSAL

The Proposal states:

RESOLVED: Shareholders of ExxonMobil request the Compensation Committee of the Board of Directors to revisit its incentive guidelines for executive pay, to emphasize legitimate fiduciary goals and consider eliminating greenhouse gas reduction targets and other scientifically dubious goals from compensation inducements.

REASONS FOR EXCLUSION OF THE PROPOSAL

The Company believes that the Proposal may be properly omitted from the 2024 Proxy Materials pursuant to Rule 14a-8(i)(3) because the Proposal is materially false and misleading.

The Company may omit the Proposal pursuant to Rule 14a-8(i)(3) because it is materially false and misleading and therefore contrary to the Commission's proxy rules, including Rule 14a-9.

Rule 14a-8(i)(3) permits exclusion of a shareholder proposal if the proposal or supporting statement is contrary to any of the rules promulgated by the SEC, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials. A proposal is false and misleading when implementation by the Company could be significantly different from the actions envisioned by shareholders voting on it. See *Fuqua Industries, Inc.* (Mar. 12, 1991). Accordingly, the Staff has taken the view that a proposal may be excluded pursuant to Rule 14a-8(i)(3) if it is so vague and indefinite that “neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.” See Staff Legal Bulletin No. 14B (Sept. 15, 2004).

Consistent with that guidance, the Staff has consistently permitted the exclusion of proposals that contain vague or undefined terms. See e.g., *The Boeing Company* (Feb. 23, 2021) (concurring in the exclusion of a proposal requiring that 60% of the company's directors “have an aerospace/aviation/engineering executive background” where such phrase was undefined); *AT&T Inc.* (Feb. 21, 2014) (concurring in the exclusion of a proposal requesting a review of policies and procedures related to the “moral, ethical and legal fiduciary duties and opportunities” of the company's directors to ensure privacy rights where such phrase was undefined); *Moody's Corp.* (Feb. 10, 2014) (concurring in exclusion of a proposal requesting “ESG risk assessments” where such phrase was undefined); *Interpublic Group of Companies, Inc.* (Mar. 12, 2014) (concurring with the exclusion of a proposal related to monitoring votes for “other proper purposes” where such phrase was undefined); *United Airlines Holdings, Inc.* (Mar. 6, 2014) (same); *The Boeing Company* (Mar. 2, 2011) (concurring in the exclusion of a proposal related to “executive pay rights” where such phrase was undefined); *Prudential Financial Inc.* (Feb. 16, 2007) (concurring with the exclusion of a proposal requiring stockholder approval for certain “senior management incentive compensation programs” where such phrase was susceptible to differing interpretations).

The Proposal requests that the Company “revisit” its incentive guidelines for executive compensation to emphasize “legitimate fiduciary goals.” The phrase “legitimate fiduciary goals” is central to the Proposal's request and yet within the context of the Proposal is inherently vague. As discussed below, the phrase is also subject to differing interpretations, such that neither the Company, nor shareholders would be able to understand what the Proposal is requesting.

We note that the Company has publicly disclosed that it expects its Low Carbon Solutions business to generate strong returns of approximately 15% by 2030.¹ For its investments in reducing its own emissions, the Company views these efforts as building skills and know-how to offer these same services to third parties in the future, with additional market potential. Given the Company's focus on building a profitable business in this space, the proponent's objection on fiduciary grounds is especially unclear. Even a very narrow reading of a board's fiduciary duties that goes beyond current law, suggesting that the board focus solely on plans that have a planned return within the near future, is satisfied by the Company's current approach to this business and is reflected in its current executive compensation approach.

It is unclear the type of director actions related to executive compensation that would result in the emphasis of “legitimate fiduciary goals.” The supporting statement argues that “energy transition metrics are unscientific and create a breach of fiduciary duty,” seeming to invoke state law corporate governance considerations for defining “legitimate fiduciary goals.” The Company is incorporated in New Jersey, where directors have broad discretion to set executive compensation and any review by a New Jersey

¹ See ExxonMobil's December 6, 2023 Corporate Plan Disclosure, available at: https://d1io3yog0oux5.cloudfront.net/_816861dcd0da227ef5df791dee25104/exxonmobil/db/2261/22172/file/Corporate_Plan_Update_-_Consolidated_Prepared_Remarks_Post_Recording.pdf at p. 15.

court for an alleged breach of fiduciary duties in connection with that activity would meet the presumptive legal standard under the business judgment rule.²

In other words, absent evidence of gross negligence, bad faith or a conflict of interest, the courts in New Jersey would most likely defer to a board's business judgment on adopting any metrics or criteria directors consider appropriate for determining executive pay in their best judgment, and would therefore conclude that the board is already fulfilling its "legitimate fiduciary goals," especially as they directly relate to a business the Company is building. While the Proposal suggests, without any elaboration, that the members of the Company's Compensation Committee have somehow breached their fiduciary duties, the Proposal does not specify, or attempt to lay out, any activities or actions by directors in support of that suggestion. Nor does the Proposal specifically allege that either the board or the Company's Compensation Committee have undertaken any illegal or otherwise illegitimate activity under New Jersey state law in the exercise of the board's fiduciary duties. This makes it impossible to understand what is intended by emphasis of "legitimate fiduciary goals" to implement the Proposal.

As demonstrated in the Company's 2023 proxy materials,³ the board is already acting consistent with its fiduciary duties through its process for setting executive pay. Without understanding the meaning of "legitimate fiduciary goals" in the context of the Proposal, the board is not able to determine what changes to executive compensation would be warranted. The Compensation Committee, with the assistance of an independent compensation consultant that advises and informs the Compensation Committee on trends in executive compensation, "reviews executive compensation, which is designed to promote accountability to maximize shareholder value over the long term while effectively managing longer-term risks, including those related to the energy transition" (20). The Company considers executive performance in the "Energy Transition" in setting executive compensation as defined in the 2023 proxy materials by the leadership and accomplishments of executives in "leading the industry in hard-to-decarbonize GHG emissions reductions." This is one of several long-term strategic objectives that serves as an input to the Compensation Committee's determinations regarding executive compensation, which is then translated into annual plan goals through a comprehensive and disciplined goal-setting process (46, 50). Specific examples of achievement of that strategic objective are then identified and disclosed to shareholders (56). The Company believes that the process is well-governed by the board in the exercise of their fiduciary duties to shareholders under New Jersey law. The Proposal appears to allege otherwise by questioning those goals as being inconsistent with fiduciary duties but fails to explain or define how any of those decisions are "illegitimate," as the corollary to "legitimate fiduciary goals." Without that key term being defined, it is unclear what the Proposal is asking the board to do in directing the Company to implement the proposal.

Similar to the Staff's decision in *AT&T Inc.*, where the Staff permitted the exclusion of a proposal requesting that the company review its policies relating to the "moral, ethical and legal fiduciary duties and opportunities" of its directors in order to protect privacy rights, the Proposal here is similarly so vague and indefinite that neither shareholders, nor the Company would be able to determine with any reasonable certainty exactly what actions or measures the Proposal requires.

For that reason, the Company believes that the Proposal may be omitted from the Company's 2024 Proxy Materials pursuant to Rule 14a-8(i)(3).

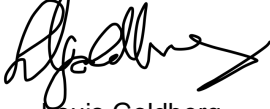
² In addition to the deference given to decisions made by boards under the business judgment standard, New Jersey's "constituency statute" permits directors to consider other factors besides the pecuniary interests of shareholders. See NJ Statutes Annotated 14A:6-1(2) ("In discharging his duties to the corporation and in determining what he reasonably believes to be in the best interest of the corporation, a director may, in addition to considering the effects of any action on shareholders, consider any of the following: (a) the effects of the action on the corporation's employees, suppliers, creditors and customers; (b) *the effects of the action on the community in which the corporation operates*; and (c) *the long term as well as the short-term interests of the corporation and its shareholders*, including the possibility that these interests may best be served by the continued independence of the corporation") [emphasis added]. See also NJ Statutes Annotated 14A:6-14(4) ("In taking action, including, without limitation, action which may involve or relate to a change or potential change in the control of the corporation, a director shall be entitled to consider, without limitation, both the long-term and the short-term interests of the corporation and its shareholders").

³ Available at <https://www.sec.gov/ix?doc=/Archives/edgar/data/34088/000119312523100079/d429320ddef14a.htm>.

CONCLUSION

The Company requests confirmation that the Staff will not recommend any enforcement action if, in reliance on the foregoing, the Company omits the Proposal from its 2024 Proxy Materials. If you should have any questions or need additional information, please contact the undersigned. If the Staff does not concur with the Company's position, we would appreciate an opportunity to confer with the Staff concerning these matters prior to the issuance of its response.

Respectfully yours,



Louis Goldberg

Attachment

cc w/ att: James E. Parsons, Exxon Mobil Corporation
Luke Perlot, Associate Director, National Legal and Policy Center

Proposal

Whereas: The “scientific consensus”^{1 2} claims anthropogenically-driven climate change will result in catastrophic impacts to the environment, to the planet, and to humans. However, research increasingly shows worst-case scenarios are unlikely, and the potential consequences of carbon dioxide emissions (aka “plant food”) have been greatly overstated.³ For example:

- Corporate climate policy is often guided by the Paris Agreement, which is heavily informed by the Intergovernmental Panel on Climate Change.⁴ These targets are neither legally binding nor legitimized by scientific evidence.
- The IPCC’s most extreme scenario unrealistically assumes a return to a previous era of unrestricted fossil fuel usage and heavy reliance on coal power.⁵ This extreme scenario is unlikely now that most nations have climate policies in place.⁶
- Regarding catastrophic scenarios that are highly unlikely but are treated as the expectation, “the media then often amplifies this message, sometimes without communicating the nuances. This results in further confusion regarding probable emissions outcomes, because many climate researchers are not familiar with the details of these scenarios in the energy-modeling literature.”⁷
- These apocalyptic predictions have been repeatedly proven false.⁸ Climate models used to predict future events “may be overly sensitive to carbon dioxide increases and therefore project future warming that is unrealistically high.”⁹
- Renewable energy will not replace hydrocarbons in the near future, if ever.¹⁰ ExxonMobil Corporation’s (“ExxonMobil” or the “Company”) competitors are betting big on hydrocarbons.¹¹

Supporting Statement: Considering the clear evidence climate alarmism is overstated, ExxonMobil’s executive pay incentives are an inefficient deployment of company resources.

- According to the company’s 2023 proxy statement, the annual bonus and performance share award make up a combined 80 to 90 percent of total compensation for Named Executive Officers.¹²

¹ <https://www.mdpi.com/2225-1154/11/11/215>

² <https://nypost.com/2023/08/09/climate-scientist-admits-the-overwhelming-consensus-is-manufactured/>

³ <https://judithcurry.com/2023/03/28/uns-climate-panic-is-more-politics-than-science/>

⁴ <https://www.ipcc.ch/sr15/faq/faq-chapter-1/>

⁵ <https://www.sciencedirect.com/science/article/pii/S0140988317301226>

⁶ <https://www.carbonbrief.org/explainer-the-high-emissions-rcp8-5-global-warming-scenario/>

⁷ <https://www.nature.com/articles/d41586-020-00177-3>

⁸ <https://www.aei.org/carpe-diem/18-spectacularly-wrong-predictions-were-made-around-the-time-of-the-first-earthday-in-1970-expect-more-this-year/>

⁹ <https://www.sciencedaily.com/releases/2020/04/200430113003.htm>

¹⁰ <https://www.theguardian.com/environment/2023/nov/27/us-oil-gas-record-fossil-fuels-cop28-united-nations>

¹¹ <https://www.wsj.com/articles/chevron-bets-on-peak-green-energy-99e72109>

¹² https://d1io3yog0oux5.cloudfront.net/7127b400fb78e05736f323f5511bd2ae/exxonmobil/db/2301/22049/proxy_statement/2023-Proxy-Statement.pdf

- The Compensation Committee of the Board of Directors uses “Progress Toward Strategic Objectives” as one of the criteria for awarding the annual bonus and performance shares.
- One of the company’s four long-term strategic objectives is “Energy Transition.” 2022 results included:
 - “Developed detailed roadmaps in support of 2030 GHG Emissions Reduction Plans⁴ and 2050 Net Zero Ambitions.”
 - “A founding signatory to the Aiming for Zero Methane Emissions initiative.”
 - “Investing ~\$17 billion in lower-emission initiatives from 2022-2027, positioning for attractive returns from large potential addressable markets, and competitively advantaged products.”
 - “Capex flexibility to grow lower carbon initiatives spend as opportunity pipeline matures, technology advances, and markets and policies evolve.”

Energy transition metrics are unscientific and create a breach of fiduciary duty. ExxonMobil is an oil and gas company and should focus on what it does best. The company cannot afford to be left behind because of misguided executive pay incentives.

Resolved: Shareholders of ExxonMobil request the Compensation Committee of the Board of Directors to revisit its incentive guidelines for executive pay, to emphasize legitimate fiduciary goals and consider eliminating greenhouse gas reduction targets and other scientifically dubious goals from compensation inducements.



February 13, 2024

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: *Exxon Mobil Corporation*
Shareholder Proposal of the National Legal and Policy Center (“NLPC”)
Securities Exchange Act of 1934—Rule 14a-8

SUBMITTED THROUGH THE SEC ONLINE SHAREHOLDER PORTAL

Ladies and Gentlemen:

This letter responds to the letter dated January 21, 2024, from Louis Goldberg of Davis Polk and Wardwell, LLC, on behalf of the Exxon Mobil Corporation (“Exxon” or “Company”), requesting that the Division of Corporation Finance (“Staff”) take no action if the Company excludes our shareholder proposal (“Proposal”) from its proxy materials (“Proxy”) for its 2024 annual shareholder meeting.

The Company’s request provides insufficient justification for exclusion and should be denied no-action relief.

The Proposal requests the “Compensation Committee of the Board of Directors to revisit its incentive guidelines for executive pay, to emphasize legitimate fiduciary goals and consider eliminating greenhouse gas reduction targets and other scientifically dubious goals from compensation inducements.”

The Company’s excuses to exclude our Proposal from the Proxy – because it is “materially false and misleading” pursuant to Rule 14a-8(i)(3) – are erroneous. Contrary to Exxon’s claims in its letter seeking no-action relief, NLPC’s proposal makes a specific request – to reconsider its executive incentives tied to greenhouse gas emissions reductions – that shareholders can easily understand.

To address the Company’s no-action request, I will address the Company’s “Analysis” of its point of objection to the Proposal submission as presented in its January 21 letter.

Nat’l Headquarters: 107 Park Washington Court, Falls Church, Virginia 22046

Phone: (571) 749-5085 | Email: lperlot@nlpc.org

The Proposal is not “materially false and misleading”, and therefore the Proposal should NOT be excluded from its Proxy under Rule 14a-8(i)(3)

The Company’s argument for exclusion – that the Proposal is “materially false and misleading” – is a bad-faith effort to use NLPC’s goodwill against it. The Company’s no-action letter states:

A proposal is false and misleading when implementation by the Company could be significantly different from the actions envisioned by shareholders voting on it. See *Fuqua Industries, Inc.* (Mar. 12, 1991). Accordingly, the Staff has taken the view that a proposal may be excluded pursuant to Rule 14a-8(i)(3) if it is so vague and indefinite that “neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.” See Staff Legal Bulletin No. 14B (Sept. 15, 2004).

The Company subsequently cites a handful of precedents to make the false assertion that the Proposal should be excluded because it contains “vague or undefined terms.” The Company takes issue with the phrase “legitimate fiduciary goals,” claiming it is “central to the Proposal’s request and yet within the context of the Proposal is inherently vague.” This contention is absurd. While the Company’s no-action letter fixates on this single phrase, it ignores the clear issue identified in the rest of the Proposal: executive pay incentives that include greenhouse gas emissions targets.

The Proposal begins by making a strong case that alleged catastrophic effects of climate change predicted by a “scientific consensus” have been overestimated. Further, it argues that renewable energy – often proposed as the solution to climate change -- will be unable to replace hydrocarbons in the near future. By contrast, many of Exxon’s competitors are betting big on future hydrocarbon production.¹

The Proposal does not address carbon capture and storage (“CCS”) specifically, but CCS is controversial² and unproven,³ and many have questioned whether it will be possible to reach “Net Zero” greenhouse gas emissions goals by 2050 with CCS alone. If it is not, Exxon will have to reduce oil and gas production to meet its greenhouse gas emissions targets. These overarching issues should be allowed to be voted upon by shareholders via the Company’s Proxy.

¹ The Editorial Board. “Chevron Bets on Peak Green Energy,” *Wall Street Journal*, October 23, 2023. See <https://www.wsj.com/articles/chevron-bets-on-peak-green-energy-99e72109>

² Ziegler, Bart. “What Is the Future for Carbon Capture Technology?” *Wall Street Journal*, November 28, 2023. See https://www.wsj.com/science/environment/future-carbon-capture-technology-b1a3cc8e?mod=Searchresults_pos9&page=1

³ Niiler, Eric. “Carbon Capture is Hard. This Plant Shows Why.” *Wall Street Journal*, May 12, 2023. See https://www.wsj.com/articles/carbon-capture-is-hard-this-plant-shows-why-ce6e938c?mod=Searchresults_pos10&page=1

Exxon's no-action letter touts the future of its Low Carbon Solutions business. However, it is important to remember that Exxon was founded as an oil company⁴ and it still derives the vast majority of its revenue from hydrocarbon production and distribution.⁵ Such climate change commitments could arguably damage its legacy business, and shareholders deserve to consider such a broad-based, significant policy issue embraced by the Company, and its potential effects on financial performance.

The Proposal alludes to the reality that climate policy decisions are often motivated by politics rather than financial performance. Exxon's capitulation to this political narrative is evident in its executive compensation plans, which include greenhouse gas emission reduction targets. Therefore, the Proposal requests the Company revisit and consider eliminating these targets from executive compensation goals. Instead, the Proposal advises the Company to emphasize "legitimate fiduciary goals," meaning to prioritize the Company's financial performance over political narratives. Exxon insults shareholders by insinuating they would be unable to discern the subject of this Proposal or understand its request.

Further, nowhere in the Proposal does it seek to prevent the Company from making investments in its Low Carbon Solutions business, so the Company's argument that the Low Carbon Solutions business will produce worthwhile returns is merely a distraction. The Company concedes that producing returns is a "legitimate fiduciary goal," so why is it bothered by this phrase? The Proposal does not mention Exxon's Low Carbon Solutions at all, it merely takes issue with the incentives that may encourage less profitable endeavors in the future.

All that to say that the Company's contention that this Proposal is materially false and misleading is convoluted and erroneous. The Proposal is concise, specific, and leaves no room for interpretation error. As the Staff is aware, shareholders must straddle a line between being too vague, or interfering with ordinary business. The Proposal is written as clearly defined as it could possibly be within 500 words. This is clearly an important issue that should be allowed onto the Company's Proxy and debated by shareholders.

Conclusion

As outlined above in further explanatory detail and context, that was either misrepresented or omitted by the Company in its no-action request, the Proposal is fully compliant with all aspects of Rule 14a-8. For this reason, NLPC asks the Staff to recommend enforcement action should the Company omit the Proposal.

A copy of this correspondence has been timely provided to the Company. If you

⁴ Exxon. "Our History." See <https://www.exxon.com/en/history>

⁵ ExxonMobil. "10-K," February 22, 2023. See <https://www.sec.gov/ixviewer/ix.html?doc=/Archives/edgar/data/34088/000003408823000020/xom-20221231.htm>

Office of Chief Counsel
Division of Corporation Finance
February 13, 2024
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have any questions or need more information, please feel free to contact me via email at lperlot@nlpc.org or by telephone at (571) 749-5085.

Sincerely,

Luke Perlot
Associate Director
Corporate Integrity Project

Cc: James E. Parsons, Exxon Mobil Corporation
Louis Goldberg, Davis Polk and Wardwell, LLC,
Chris Van Buren, Davis Polk and Wardwell, LLC
Sherry M. Englande, Exxon Mobil Corporation