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ClientEarth

ClientEarth Investor Briefing

Exxon sued in US for allegedly misleading investors on climate risk

1 Executive Summary

- The world's largest oil and gas company has been accused of making false and misleading statements relating to the impact of climate change on its business, and consequently materially overstating the value of its oil reserves, artificially inflating the company's value.
- This case highlights the rights of investors to seek compensation from companies that make false or misleading statements or disclosures on climate-related financial issues.
- Similar legal rights are also available to investors in UK listed companies, and – in light of these serious developments – investors should consider escalating engagement with companies in the oil and gas sector to encourage them to provide robust disclosure of the risks and opportunities of climate change to the companies' business models and to preserve their legal rights.

2 Summary of the claim

In a groundbreaking development, on 8 November 2016 a group of US investors commenced a class action seeking damages from Exxon Mobil Corporation (**Exxon**) after its stock price fell by 13% over 2016.

The filing of the case follows revelations in Exxon's third quarterly financial reports released in late October that it may be forced to write down nearly 20% of its oil and gas assets that the company now concedes are not profitable to produce under current oil prices.

Exxon had failed to write down its existing oil reserves since the oil price crash, in contrast to its competitors. It has continually insisted to investors that none of its proven hydrocarbon reserves are, or will become stranded despite the continued low oil price, developments in international climate change law (including the adoption of the Paris Agreement), demand destruction caused by technology, and heightened domestic regulatory pressure and competition from renewables. Shareholders are pursuing the lawsuit on the basis that this and other claims were materially false and misleading.

This development should be of interest to investors who hold shares in Exxon and other US (and potentially UK) listed corporations in the oil and gas sector. It clearly demonstrates the risks to companies and consequently investors, from failing to properly and adequately disclose exposure to stranded assets and other climate risks to the market. It also raises valid concerns many analysts have about the valuation of reserves in a continued low price environment, and in the context of an energy transition in which the majority of reserves may have to be left in the ground. Investors who are eligible and wish to join the US lawsuit may do so here.

3 Implications for the sector

A recent report from the think tank InfluenceMap The Oil Majors and Climate Risk: What Investors Need to Know, (to which ClientEarth contributed a legal foreword) considered in detail the disclosures of ten oil and gas majors, and found that exposure arising from inadequate disclosure may not be confined to ExxonMobil.

According to InfluenceMap's scoring methodology, which measured the quality of companies' disclosures on a range of climate risk metrics, Chevron, Oxy and ConocoPhilipps also performed poorly receiving an E grade. Total, BP and Shell received marginally better grades of D-. The quality of a company's disclosures of climate risks (such as carbon pricing assumptions) can be used to measure its preparedness for the energy transition, and exposure to emerging transition and liability risks.

4 What can investors do?

In our opinion, investors should be keenly aware of these emerging issues within the sector. They are right to question the rosy assumptions and assertions made by executives about how climate-related factors impact the valuation of reserves and the long term value of oil and gas companies. If corrections are made to the valuations of other companies in the future, due to reserve write-downs, investors may face mounting losses.

In order to mitigate these potential future losses, we suggest that investors should consider taking proactive steps to engage with oil and gas companies and seek management's assurance that sufficiently robust internal controls are in place in order to avoid the issues currently faced by Exxon. They may like to seek clarification of the methodology of reserves valuation, and the extent to which energy transition risks (such as the implications of the Paris Agreement) have on that methodology.

ClientEarth has prepared a sample letter that investors in the oil and gas sector could immediately send to management, requesting clarification and assurance in relation to these matters. Please contact us for further details.

Please contact Alice Garton, ClientEarth Company and Financial Project Leader on agarton@clientearth.org, or by phone at 0303 050 5937 for further information.