



Action Report

Diversity

ExxonMobil

May 5, 2011

Ticker	Exchange	Meeting Date	Record Date	Annual Meeting Location
XOM	NYSE	5-25-11	4-6-11	Dallas, Texas

Agenda

Item	Proposal
1	MGT: Elect directors
2	MGT: Ratify selection of auditors
3	MGT: Advisory vote on executive compensation
4	MGT: Advisory vote on frequency of future advisory votes on executive compensation
5	SH: Establish independent chair of board
6	SH: Report on political spending
7	SH: Adopt sexual orientation non-discrimination policy
8	SH: Adopt policy on human right to water
9	SH: Report on oil sands risks
10	SH: Report on hydraulic fracturing
11	SH: Report on sustainable energy leadership
12	SH: Adopt goals to cut greenhouse gas emissions

Si2 Briefing	Diversity
Report Author	Peter DeSimone
Links	Proxy Statement
Resolved Clause	Resolved: The Shareholders request that ExxonMobil amend its written equal employment opportunity policy to explicitly prohibit discrimination based on sexual orientation and gender identity and to substantially implement the policy.
Lead Proponent	New York State Common Retirement Fund
Vote History	A resolution requesting that ExxonMobil adopt an anti-bias policy that includes sexual orientation has come to a vote at the company's annual meeting every year for more than a decade. This same proposal won 22.1 percent support in 2010.
Summary	ExxonMobil favors a blanket approach to its global policies on discrimination and harassment, in saying that it promotes a workplace free of all forms of harassment and unlawful discrimination. It does not mention specific classifications in its global policies, but it does in various copies of its policies for specific locations, which vary based on legal requirements. The proponent says that this is confusing to employees and is placing ExxonMobil at a competitive disadvantage in recruiting and retaining employees. It notes that LGBT affinity groups hold the company in disdain, and the leading LGBT advocate in the United States, the Human Rights Campaign, has given Ex-

ExxonMobil its lowest rating, a zero, for the last eight years. Given the past shareholder support and damage to its reputation and human resources, the proponent believes that ExxonMobil is long overdue in adding sexual orientation and gender identity to its global EEO policy.

I. Exxon Mobil and Diversity (LGBT Rights)

ExxonMobil is the world's largest publicly traded oil and gas company. Its business covers the whole range of oil- and gas-related activity, including exploration, extraction, refining, transportation and sale of natural gas and petroleum products, plus petrochemicals.

The company's operations are divided into three business segments:

- **Upstream** operations for exploration, development, production, gas marketing and related research,
- **Downstream** operations that manufacture and sell the company's petroleum, through a global refining and supply network of plants, transportation systems and distribution centers for fuels, lubricants and other products, and
- **Chemicals**, which makes and sells commodity petrochemical products, including olefins, aromatics, and polyethylene and polypropylene plastics.

ExxonMobil has 24.8 billion barrels of oil equivalent in proved oil and natural gas reserves on six continents, including some unstable areas such as Nigeria, Angola and Kazakhstan. The company is the world's largest oil refiner, with ownership interest in 36 refineries in 21 countries. In 2010, the company refined an average of 5.25 million barrels of oil a day.

Employees: Worldwide, ExxonMobil has more than 83,000 employees.

Financials					
Revenue	\$370,125 million	Net Income	\$30,460 million	Reporting Year	2010

The company's revenue and net income rebounded sharply in 2010 as the worldwide recession eased and oil prices climbed. Although net income was still below the record all-time high of \$45.2 billion earned in 2008, 2010's \$30.5 billion was well above 2009's \$19.3 billion.

Reserves: In its [2010 Form 10-K](#), Exxon reported that total proved oil and gas reserves of 24.8 billion barrels of oil equivalent. With the June 2010 completion of its merger with XTO Energy, a company with extensive unconventional natural gas holdings, ExxonMobil's continuing transition from petroleum toward natural gas was reinforced. The company's natural gas reserves now make up 53 percent of its total reserves.

Production: In 2010, ExxonMobil produced an average of 2.42 million barrels of oil a day and processed 12.1 trillion cubic feet of natural gas (with an energy content equivalent to 2.0 million barrels of oil a day). Natural gas production now accounts for 46 percent of ExxonMobil's energy production, up from 39 percent in 2009 and a reflection of the company's acquisition of XTO Energy's natural gas assets.

ExxonMobil's EEO Policies and Training Materials

ExxonMobil's EEO policy: ExxonMobil has an Equal Employment Opportunity (EEO) policy and a Harassment in the Workplace policy, which are folded into its global code, [Standards of Business Conduct](#). All three state roughly the same message. Quoting from its global EEO policy, as reprinted in ExxonMobil's Standards document, the company says:

It is the policy of Exxon Mobil Corporation to provide equal employment opportunity in conformance with all applicable laws and regulations to individuals who are qualified to perform job

requirements. The Corporation administers its personnel policies, programs and practices in a nondiscriminatory manner in all aspects of the employment relationship, including recruitment, hiring, work assignment, promotion, transfer, termination, wage and salary administration, and selection for training.

Managers and supervisors are responsible for implementing and administering this policy, for maintaining a work environment free from unlawful discrimination, and for promptly identifying and resolving any problem area regarding equal employment opportunity.

In addition to providing equal employment opportunity, it is also the Corporation's policy to undertake special efforts to:

- Develop and support educational programs and recruiting sources and practices that facilitate employment of minorities and women;
- Develop and offer work arrangements that help to meet the needs of the diverse workforce in balancing work and family obligations;
- Establish company training and developmental efforts, practices, and programs that support diversity in the workforce and enhance the representation of minorities and women throughout the Corporation;
- Foster a work environment free from sexual, racial, or other harassment;
- Make reasonable accommodations that enable qualified disabled individuals to perform the essential functions of their jobs;
- Emphasize management responsibility in these matters at every level of the organization.
- Individuals who believe they have observed or been subjected to prohibited discrimination should immediately report the incident to their supervisors, higher management, or their designated Human Resources Department contacts.

Individuals will not be subjected to harassment, intimidation, discrimination, or retaliation for exercising any of the rights protected by this policy and the various EEO statutes.

In addition to the EEO policy and global code, duplicated above, ExxonMobil's Harassment in the Workplace policy uses roughly the same language. All three emphasize that all forms of discrimination and harassment are prohibited at ExxonMobil, and none of the three mention any protected classes. Rather, they take a blanket approach to barring all forms of discrimination and harassment in a move that ExxonMobil says is aimed at being as inclusive as possible.

Other policies—Meanwhile, ExxonMobil's U.S. EEO policy states that it provides "equal employment opportunity in conformance with all applicable laws and regulations to individuals who are qualified to perform job requirements regardless of their race, color, sex, religion, national origin, citizenship status, age, physical or mental disability, veteran or other legally protected status." Policies for other countries also are tailored to meet local legal requirements, as ExxonMobil argues it is doing in this case by listing the classifications it is required to list and protect under U.S. federal law.

Training: ExxonMobil provides training materials through its corporate Intranet that include an example of harassment based on a person's sexual orientation, and ExxonMobil clearly states in the materials that it does not tolerate this form of harassment.

Chairman statement: In a letter to employees signed by ExxonMobil Chairman of the Board Rex W. Tillerson, the chairman states that ExxonMobil bans discrimination based on sexual orientation. (The statement does not discuss gender identity.)

II. Proponent Position

The proponent argues that for all of ExxonMobil's positioning, it does not effectively ban discrimination and harassment based on sexual orientation or gender identity until it includes these classifications in its global policy specifically and alongside other classifications mentioned in its U.S. policy. The proponent has been making this request for more than a decade in concert with other shareholder proponents from the socially responsible investing community, as well as affiliates from the Interfaith Center on Corporate Responsibility. The proponent notes that ExxonMobil's record on this issue has won it the dubious distinction of getting a zero rating—the lowest awarded—by the Human Rights Campaign (HRC), the leading advocate of LGBT rights in the United States, this year and in every year in the eight years the HRC has ranked companies.

The proponent also points out that more than 89 percent of *Fortune* 500 companies have adopted written nondiscrimination policies banning harassment and discrimination on the basis of sexual orientation, as have more than 95 percent of *Fortune* 100 companies. In addition, nearly 70 percent of *Fortune* 100 and more than 43 percent of the *Fortune* 500 also prohibits discrimination based on gender identity. The proponent believes it is critical for ExxonMobil to do the same, not only from a moral standpoint, but also from the view of gaining competitive advantage (or at least not being left disadvantaged). It notes that “corporations that prohibit discrimination on the basis of sexual orientation and gender identity have a competitive advantage in recruiting and retaining employees from the widest talent pool.” It also underscores that LGBT workplace discrimination is a real problem, with 44 percent of gay and lesbian workers in the United States reporting an experience with some form of job discrimination related to sexual orientation.

The proponent also notes that 21 states, the District of Columbia and more than 160 cities and counties, where ExxonMobil does business, have laws prohibiting employment discrimination based on sexual orientation. It also notes that 12 states and the District of Columbia have laws prohibiting employment discrimination based on sexual orientation and gender identity. Furthermore, it says, Minneapolis, San Francisco, Seattle and Los Angeles have adopted legislation restricting business with companies that do not guarantee equal treatment for gay and lesbian employees, providing yet another economic incentive for ExxonMobil to do so.

National public opinion polls, the proponent says, also support ExxonMobil making such a change. The proponent notes that polls “consistently find more than three-quarters of the American people support equal rights in the workplace for gay men, lesbians and bisexuals; for example, in a Gallup poll conducted in May 2009, 89 percent of respondents favored equal opportunity in employment for gays and lesbians.”

The proponent concludes, “Because state and local laws are inconsistent with respect to employment discrimination, our company would benefit from a consistent, corporate wide policy to enhance efforts to prevent discrimination, resolve complaints internally, and ensure a respectful and supportive atmosphere for all employees.” It adds, “ExxonMobil will enhance its competitive edge by joining the growing ranks of companies guaranteeing equal opportunity for all employees.” The proponent argues that ExxonMobil's myriad policies tailored by jurisdiction that add some classifications and not others are only confusing employees and possibly creating human resources problems. For consistency and reputation, it concludes, it is best for ExxonMobil to adopt a policy with sexual orientation and gender identity specifically mentioned.

III. Management Position

ExxonMobil says in its proxy statement that it “is committed to having a workplace that facilitates the maximum contribution from all of our employees” and “is free from any form of harassment or discrimination.” It says that its board has “reviewed in detail ExxonMobil’s existing global policies that prohibit all forms of discrimination, including those based on sexual orientation and gender identity, in any company workplace, anywhere in the world.” It underscores that “ExxonMobil’s policies go beyond the law and prohibit any form of discrimination.” Given “these existing all-inclusive, zero-tolerance policies,” it says that it believes the proponent’s proposal is “unnecessary.”

ExxonMobil explains that it has an Equal Employment Opportunity (EEO) policy and a Harassment in the Workplace policy, which are folded into its global code, Standards of Business Conduct. (All three are reviewed above.) Its EEO policy and associated “communication initiatives, training programs, and investigating and stewardship processes explicitly state that any form of discrimination or harassment in the workplace based on sexual orientation will not be tolerated, and more broadly, that no form of discrimination or harassment in the workplace will be tolerated.” Furthermore, it says the EEO section in its Standards of Business Conduct, states that it “administers its personnel policies, programs, and practices in a nondiscriminatory manner in all aspects of the employment relationship, including recruitment, hiring, work assignment, promotion, transfer, termination, wage and salary administration, and selection for training.” Furthermore, it has posted a written statement by its chairman “regarding ExxonMobil’s commitment to nondiscrimination, including that based on sexual orientation,” which is accessible to all of its employees through its corporate intranet. It also notes that it provides “training programs for new employees and refresher courses for existing employees” that outline these points. In particular, it says its harassment training material, which is part of its Working Together booklet, “includes an example specifically based on sexual orientation.” ExxonMobil adds that it also is vigilant on enforcement. It notes that it has “annual reporting and compliance procedures, which include a letter to all senior managers emphasizing their responsibilities regarding maintaining work environments free from harassment and discrimination.”

ExxonMobil caps its arguments against the proposal by emphasizing that it is “a meritocracy, with programs and policies designed to employ the best people, recognize and reward superior job performance, and to create an environment in which employees can maximize their contributions and reach their full potential.” It adds, “A discrimination-free environment is essential to meet these objectives.”

Finally, it notes, “Where we operate in countries in which the national laws require specific language regarding nondiscrimination based on sexual orientation or gender identity be included in policies, we have amended our policies as appropriate.”

IV. Analysis

Key Points at Issue

- Does ExxonMobil already prohibit discrimination based on sexual orientation and gender identity?
- What would be the costs and benefits associated with adopting the proponent’s proposal?
- Do ExxonMobil’s competitors ban discrimination based on sexual orientation and gender identity?

ExxonMobil does not explicitly bar discrimination based on sexual orientation or gender identity. It states that it prohibits all forms of discrimination and harassment, and lists sexual orientation and gender identity as protected classes in specific policies for localities, states, provinces and countries where it is required to do so by law. It does not list sexual orientation or gender identity in its U.S. EEO statement, global EEO policy or global code of conduct. ExxonMobil does not list other classifications in its

global EEO policy or global code of conduct either, but its U.S. EEO policy lists all of the classifications required by federal law— race, color, sex, religion, national origin, citizenship status, age, physical or mental disability and veteran status. As noted above, however, ExxonMobil provides an example of harassment based on a person’s sexual orientation in its training materials, and clearly states there that this type of behavior is not permitted at ExxonMobil. Its chairman reiterates that ExxonMobil does not permit discrimination based on sexual orientation in a letter to all employees. Both the training materials and the letter fail to mention gender identity.

ExxonMobil and several other companies argue that a blanket ban on discrimination and harassment suffices. In fact, ExxonMobil extols the merits of its policy by saying that it is truly all-inclusive, not leaving any classifications out. It fears that by mentioning sexual orientation and gender identity or a dozen or so classifications will leave others out and prompt other groups to request official status as a protected class. Therefore, it explains, its approach is superior.

However, by law, ExxonMobil is required to mention specific classifications that vary by location. At times, this includes sexual orientation and gender identity, and, at others, it does not. For example, ExxonMobil’s U.S. policy, as noted in the body of this report, includes the classes protected under U.S. federal law, which do not include sexual orientation or gender identity. The proponent brings up a valid point that this could be leading to confusion among ExxonMobil employees. Adding to this confusion is that ExxonMobil does not provide same sex partner benefits in places it is not required to do so by law.

Note on gender identity: Gender identity is a particularly thorny issue for companies’ human resources departments to address, but there is plenty of guidance and precedents for companies to review in implementing such a policy. Some areas that need to be addressed are name changes, bathroom assignments, employee training and medical and leave benefits associated with gender reassignment. To implement the policy the proponent requests certainly will add costs to doing business for ExxonMobil, but there are benefits to doing so, too. As the proponent notes, a gender identity anti-bias policy would make the company a more appealing place to work for a wider pool of candidates. In addition, having a company-wide policy in place of a patchwork of protections across U.S. states and localities would eliminate confusion among employees. In addition, the Human Rights Campaign, the largest LGBT rights organization in the United States, offers guidance to companies implementing gender identity anti-bias policies.

Comparisons: Many of ExxonMobil’s top competitors, including **BP, Chevron and Royal Dutch Shell**, have non-discrimination policies that include sexual orientation and gender identity, but other chief rivals, including **Anadarko Petroleum, ConocoPhillips and Hess**, do not, although the three companies do include sexual orientation in their EEO statements.

Voting Considerations

Voting in favor: Shareholders might want to vote for this proposal if they believe that the benefits, as outlined above, outweigh the costs. Certainly, if there is a competitive advantage to be had by including sexual orientation in an EEO policy, all of ExxonMobil’s chief competitors have a leg up on ExxonMobil. And three of its significant peers also consider gender identity to be important to include from an employee recruitment and retention standpoint. Growing public support for these policies also points to a reputational argument for adopting them, and the increasing number of major cities with selecting contracting laws attached to these policies also makes a compelling economic argument for ExxonMobil.

ExxonMobil appears to be quibbling over words in a fight with the proponents and other human rights activists, and it is not winning any points with its critics or with general public, which is generally approving the activists’ calls in this area. Whether its approach is superior by technical design is a matter for debate, but ExxonMobil’s stand is not helping its reputation. As mentioned earlier, the Human Rights

Campaign (HRC), the leading LGBT advocacy organization in the United States, has given ExxonMobil its lowest, zero ranking in its annual evaluation of companies' policies and practices regarding LGBT issues. Its policies have left ExxonMobil alone among its chief competitors in not including sexual orientation in its non-discrimination policy. While changing its policy alone will not win ExxonMobil instant high marks with the HRC or other LGBT rights organizations, it certainly will be viewed by these groups as a step in the right direction and would go a long way to rebuilding ExxonMobil's reputation in this area. Clearly, ExxonMobil admits, at least on the sexual orientation point, that there is a need for such protections; otherwise it would not have gone to such great lengths to include an example on sexual orientation in its corporate training materials and specific mention in its chairman's letter to employees. Shareholder sharing this sentiment will want to vote for this proposal.

Voting against: Others who feel that ExxonMobil should follow federal statutes in mentioning specific protected classes in its non-discrimination policy and those who feel ExxonMobil's present policy suffices might want to vote against the proposal.

For additional analysis, see the Si2 Briefing Paper on [Diversity](#).

V. Resources

- 2010 ExxonMobil Form 10-K
<http://www.sec.gov/Archives/edgar/data/34088/000119312511047394/d10k.htm>
- ExxonMobil's Standards of Business Conduct
<http://www.exxonmobil.com/Corporate/files/corporate/sbc.pdf>