



ESG 2021 OLLI Investment Forum

November 3, 2021

Tom Kaufman

Montfort Fiduciary Advisors LLC

- **What is ESG?**

- Stands for Environmental, Social & Governance
 - Socially Responsible Investing
- 2004 Kofi Annan Held UN /IFC Investment Conference
 - Purpose to Change Capital Market Investment
- 2005 Report of that Conference “Who Cares Wins” coined the term ESG
 - Report – Embedding Environmental, Social and Governance Concerns
 - Makes Better Business Sense
 - Better Results for Society

What is ESG? (Continued)

Environmental, social, and governance (ESG) criteria are a set of standards for a company's operations that investors may use to screen potential investments. Broader than just governance

- **Environmental** – How company preforms as a steward of nature - greenhouse gas emissions, climate change risks, water usage and supply, energy usage, waste materials, land use, and impact on natural resources
- **Social** - Social criteria examine how it manages relationships with employees, suppliers, customers, and the communities where it operates. Many points like Business Roundtable and S&P Governance Criteria discussed later
- **Governance** deals with a company's leadership, executive pay, audits, internal controls and shareholder rights. All discussed relating to governance previously

Step Back - What is the Role for a Business Corporation?

- **Original role**
 - Maximize return for investors
 - Dodge v. Ford Motor Co (1919) M. SCt "...a business corporation is organized and carried on primarily for the profit of the stockholders."
- **Revised role**
 - Balance of Interests
 - 2019 Business Roundtable – create value for all stakeholders (shareholders, customers, employees, suppliers & communities)
 - **Shareholders**
 - Primary duty to create fair return for investors
 - **Customers** – most important group for every corporation?
 - Quality products
 - Products fit for intended purpose
 - Customer support post sale
 - Fair price w/o degrading quality
 - No false inducements or claims about product

What is the Role for a Business Corporation (Continued)?

- **Employees** – output depends on productivity and work quality
 - Employee or gig worker? – it depends
 - Equality of opportunity
 - Healthy and safe work environment
 - Fair wages in compliance with law
 - Compensation for workplace injury
 - Insurance and medical benefits
- **Suppliers** – cannot produce without
 - Fair treatment and opportunity
 - Fair pricing
- **Communities** – Does the company contribute to the community? Does it sponsor museums, relief assistance during a disaster, or other? Does it contribute to global warming?

Problem for ESG – Stock Voting

How stock voting works

- Who owns shares
 - Investor, but usually in name of someone else
 - DTCC / Street name of broker-dealer or other who keeps name of real S/H
 - Direct entry on books of corporation
 - Virtually no stock certificates (Berkshire Hathaway B Stock)
- Who votes shares
 - Direct entry – owner
 - Broker Dealer - Street Name/DTCC (Depository Trust Clearing Corporation)
 - Only registered owner gets to vote so BD votes
 - By **contract** beneficial owner may vote or not vote by "voting instructions"
- Fund or ETF
 - Fund or ETF votes

ESG - Paradigm Shift in Fund Relations

Factors

- Concentration by Institutional Holders
 - 25% of S&P 500 and 22% Russell 3000 by just 3 - Blackrock, Vanguard and State Street
- Conviction that ESG is a driver of business performance
 - Many actively managed funds seek advantage
 - Differentiator to index funds
 - \$12T of \$46T in professional managed funds & growing into sustainable investments

Continuing Changes to Investment - ESG

Does ESG Yield Better Corporate Economic Outperformance?

- Data Explosion and AI used to determine performance impact
 - Governance - statistics for longer time period
 - Environmental & Social - many studies, but most are recent

Criticisms of ESG

Disagreement

US Department of Labor

- April 2018 Bulletin “ERISA fiduciaries may not sacrifice investment returns or assume greater investment risks as a means of promoting collateral social policy goals”
- November 2020 adopted regs for pension funds bound by ERISA allowing investment choices only by “pecuniary factors”.
- December 2020 also adopted regs that plan fiduciaries may not subordinate the interests of plan participants and beneficiaries in receiving financial benefits under a plan to non-pecuniary objectives
- March 2021 announces will not enforce regs pending review
- 96% of 8,730 responses to proposed Labor rules OPPOSED them
 - One major comment was why even do such a regulation

Examples -ESG Ratings - Publicly Traded Companies (Ratings by S&P)

Excellent - Nvidia -ESG Rating - **74**

(Chips and especially AI. Developing diverse talent pipeline and gender and racial pay equality)

Surprise - Exxon Mobil -ESG Rating - **36**

Apple -ESG Rating - **29**

Disney -ESG Rating - **26**

Tesla -ESG Rating - **15**

Bad - Peabody Energy -ESG Rating - **12**

Fox Corporation -ESG Rating - **9**

Nvidia ESG SCORE - 74

Environmental



NVIDIA Corp. **82** | Industry Mean **15** | Industry Best **94** | Rank in Industry **10 of 276**

Social



NVIDIA Corp. **71** | Industry Mean **12** | Industry Best **93** | Rank in Industry **11 of 276**

Governance & Economic



NVIDIA Corp. **69** | Industry Mean **15** | Industry Best **85** | Rank in Industry **10 of 276**

Exxon Mobil ESG SCORE - 36

Environmental



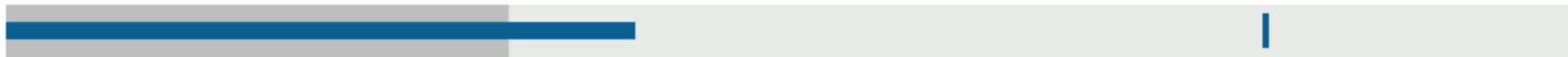
Exxon Mobil Corp. 29 | Industry Mean 21 | Industry Best 92 | Rank in Industry 40 of 145

Social



Exxon Mobil Corp. 35 | Industry Mean 21 | Industry Best 96 | Rank in Industry 30 of 145

Governance & Economic



Exxon Mobil Corp. 40 | Industry Mean 32 | Industry Best 80 | Rank in Industry 36 of 145

APPLE ESG SCORE - 29

Environmental



Apple Inc. 47 | Industry Mean 29 | Industry Best 98 | Rank in Industry 23 of 89

Social



Apple Inc. 7 | Industry Mean 20 | Industry Best 94 | Rank in Industry 48 of 89

Governance & Economic



Apple Inc. 30 | Industry Mean 22 | Industry Best 86 | Rank in Industry 21 of 89

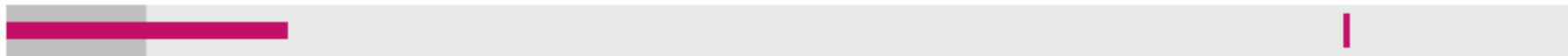
Disney ESG SCORE - 26

Environmental



Walt Disney Company **32** | Industry Mean **12** | Industry Best **86** | Rank in Industry **35 of 210**

Social



Walt Disney Company **18** | Industry Mean **9** | Industry Best **85** | Rank in Industry **33 of 210**

Governance & Economic



Walt Disney Company **31** | Industry Mean **15** | Industry Best **75** | Rank in Industry **15 of 210**

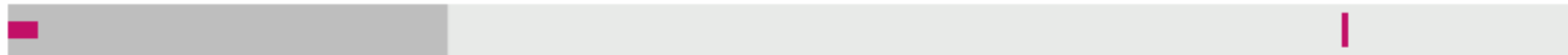
Tesla ESG SCORE - 15

Environmental



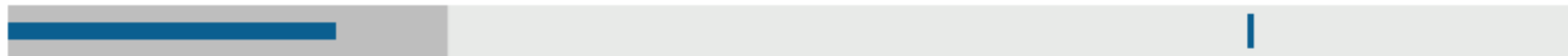
Tesla Inc. 21 | Industry Mean 31 | Industry Best 86 | Rank in Industry 31 of 60

Social



Tesla Inc. 2 | Industry Mean 28 | Industry Best 85 | Rank in Industry 51 of 60

Governance & Economic



Tesla Inc. 21 | Industry Mean 28 | Industry Best 79 | Rank in Industry 28 of 60

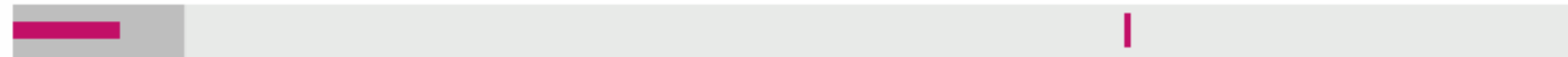
Peabody Energy ESG SCORE - 12

Environmental



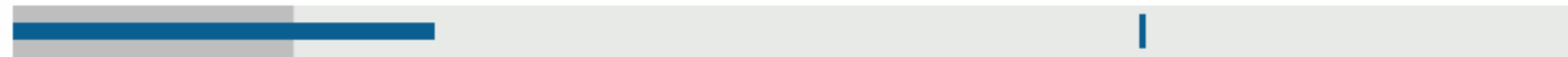
Peabody Energy Corp. 2 | Industry Mean 11 | Industry Best 82 | Rank in Industry 23 of 39

Social



Peabody Energy Corp. 7 | Industry Mean 11 | Industry Best 71 | Rank in Industry 21 of 39

Governance & Economic



Peabody Energy Corp. 27 | Industry Mean 18 | Industry Best 72 | Rank in Industry 5 of 39

FOX ESG SCORE - 9

Environmental



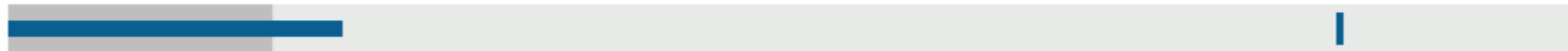
Fox Corp. 0 | Industry Mean 12 | Industry Best 86 | Rank in Industry 95 of 210

Social



Fox Corp. 2 | Industry Mean 9 | Industry Best 85 | Rank in Industry 115 of 210

Governance & Economic



Fox Corp. 19 | Industry Mean 15 | Industry Best 75 | Rank in Industry 55 of 210

ESG and Publicly Traded Companies

1. Is ESG a fad or a new beginning?
2. How strong is the correlation between ESG and profitability?
 - I.E. Under Armour in Baltimore
3. Will foreign competition change ESG?

- Is ESG **REALLY** Working?
- Bloomberg Green says
 - \$35.3T invested globally in ESG
 - \$25T “Isn’t Doing That Much”
 - \$25T is not really in ESG, but part of a strategy of “ESG Consideration” – where it is only 1 factor
 - “[M]ost of what’s earmarked to do good is barely even good-adjacent” - it gives a “...**false Impression...[of]... helping solve societal ills**”
 - Many active fund managers merely considering ESG to attract pension and other socially responsible funds

ESG for Next Decade?

1. Climate Change: The Path to Net Zero?
2. The Next Phase of Good Governance
3. ESG Disclosures: The New Normal
4. ESG Investing: From Stewardship to Integration
5. ESG Engagement: Asset Managers Take the Lead
6. Governance as a Driver for Change
7. Executive Compensation: Increased Focus on Metrics and Goals (including ESG)

Continuing Changes to Corp Governance-ESG

What are ERISA Statutory Fiduciary Duties?

The highest duties known to law and include:

- (1) the duty to act **loyally** to plan participants and beneficiaries, *i.e.*, in their exclusive interests
- (2) the duty to act **prudently**, *i.e.*, with the care, skill, prudence, and diligence under the circumstances then prevailing
- (3) the duty to **diversify**, *i.e.*, diversify plan investments to minimize the risk of large losses and
- (4) the duty to act in **accordance with** the **plan documents** to the extent consistent with **ERISA**.

What could justify ESG?