Vanguard's Genocide Problem

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By Avi Salzman
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A group of activists is asking Vanguard to adopt a new policy to avoid buying stock in companies that "substantially contribute to genocide or crimes against humanity." These "genocide-funders" include PetroChina (ticker: PTR) and other oil companies that deal with brutal regimes such as Sudan. Vanguard is urging shareholders to vote against the proposal.

For Vanguard investors, it's a rare chance to weigh in on the firm's policies. Twenty million investors entrust Vanguard with their money, and the $4.4 trillion firm is gobbling assets faster than everyone else in the industry combined. Yet there's limited opportunity for shareholders to confront management policies en masse. The last large shareholder meeting was in 2009, when Vanguard had roughly a third of the assets it does today.

Vanguard needs its shareholders to participate in this year's meeting, scheduled for Nov. 15 in Scottsdale, Ariz., because there are pressing administrative issues on the ballot that require a quorum. The firm is reportedly spending $17.6 million to advertise the event to its clients.

This gives the Investors Against Genocide group a larger forum to make its case that Vanguard needs a stricter humanitarian policy. And unlike the last time this came up at the shareholder meeting, eight years ago, investors and fund companies are much more focused on the ethical considerations of investing. "This meeting and this resolution comes at a unique moment," said Stephen Davis, associate director of Harvard Law School's Programs on Corporate Governance and Institutional Investors. Vanguard and its competitors "have really begun to take environmental, social, and governance issues seriously as investment risks."

Vanguard broke with Exxon Mobil in August, voting to force the company to produce a report on how its activities affect climate change. Vanguard tends to couch its arguments in financial, not moral, terms—it's involved because climate change poses a risk to business models, not because of consciences (or seals). And its record on environmental and social activism remains mixed, to say the least, as it has also voted against similar climate-change proposals at other companies.

Vanguard's proxy statement says that while managers have "deep concern" about genocide, the solutions should be "diplomatic and political."

"Vanguard cannot manage the funds in an effective manner by seeking to meet the wide range of social and political beliefs held by our 20 million clients and, at the same time, uphold our fiduciary responsibility to deliver competitive investment returns," Vanguard spokeswoman Arianna Stefanoni Sherlock wrote in response to questions.

In addition, divesting from index funds poses particularly tricky challenges. "An index fund is required to track an index, and if we don't track that index, it introduces tracking error and harms our investor returns," said Stefanoni Sherlock in an interview.

Investors Against Genocide co-founder Eric Cohen considers these arguments cop-outs. The proxy gives fund managers discretion over when to raise red flags. Sudan, he says, was an obvious case of genocide that Wall Street chose to ignore. The government and its proxies slaughtered hundreds of thousands of civilians in the Darfur region. The U.S. government declared it a genocide and imposed sanctions. But such diplomatic and political solutions failed to stem the slaughter, because companies such as PetroChina's parent CNPC provided ample funding to the government. And who invested in PetroChina? A wide array of U.S. investors, including Warren Buffett. Big banks like UBS even helped the company raise money through equity offerings.

Unlike the college students who ran earlier divestment campaigns, Cohen, a longtime tech executive from Lexington, Mass., is a retiree. He and the other co-founders were shocked when they found that Fidelity was a top holder of PetroChina's U.S.-traded shares. "We couldn't believe that the firm we had our money in was investing in this," he said.

Cohen went to Fidelity's Boston headquarters and spoke to fund managers. But he failed to convince them, a pattern that was repeated almost everywhere. So the group decided to appeal directly to the shareholders, elbowing its way onto proxy statements for otherwise mundane shareholder meetings. To date, it has lost all but one of those battles, and Cohen doesn't expect to win this one. He's hoping for 25% of the vote, so Vanguard will see that millions of its investors care.

ALTHOUGH SUDAN IS OFF THE RADAR of most Western news outlets, and the U.S. government just lifted sanctions this month, Cohen believes that parts of Sudan remain in a genocide, and that government actions in both Syria and Myanmar are crimes against humanity. It's no surprise, perhaps, that CNPC is active in Syria and PetroChina in Myanmar. "I wish [the fund companies] had been better prepared for Burma and Syria, but they haven't learned their lessons," he said.

Were banks that financed the Nazi war effort and concentration camps complicit in that genocide? The answer is clearly yes. Is a fund manager who knows what PetroChina does, and owns it anyway, complicit in more-recent atrocities? That's trickier—"complicit" seems too strong a word. But at the very least, Vanguard and its peers should have confronted companies doing business with Sudan publicly and loudly, with the explicit threat that they'd divest. Their investors might technically be passive, but Vanguard is too powerful to be passive anymore.