First Affirmative
a FolioFinancial company

AFFIRMATIVE IMPACT
October 2019

Gun Violence: Are We Moving Beyond Thoughts and Prayers?

By Holly Testa

Recent events give us hope that the answer is yes, even in the face of an unresponsive Senate. In the last few months we have seen significant developments:

- In the absence of viable federal legislation, state lawmakers have been taking action, with numerous states enacting new gun laws that strengthen background checks, increase age requirements and restrict magazine size and accessories that enhance rapid firing capability. New Jersey Governor Philip Murphy asked banks doing business in the state to disclose relationships with gun manufacturers and sellers.
- The U.S. House passed a bill that represents the first substantive attempt to enhance federal firearms regulation since 1994.
- Walmart terminated hand gun and short barrel rifle ammunition sales after a mass shooting killing 20 in one of their own stores. CEO Doug McMillon publicly asked for public policy action.
- 145 CEOs signed a letter asking the Senate to pass legislation mandating background checks for all firearms sales and to enact a strong red flag law.

What Has First Affirmative Done?

Firearms manufacturers are excluded from our client portfolios, and so how do we advocate for change at the corporate level? We started by evaluating the role that financial institutions play. Financing firearms manufacturers and retailers entails fairly obvious risks. There is also risk at the consumer level, as banks and credit card companies in some cases enable firearms purchases that ultimately end up in dangerous hands.

This is why First Affirmative organized a 43 member investor coalition to engage banks and credit card companies.

We contacted 18 banks and 3 credit card companies in June, 2018 and followed up again in June, 2019 to request disclosure regarding their exposure to firearms manufacturers and retailers. We also asked them to amend their merchant credit processing agreements to better screen purchasers and restrict firearms with high-capacity, rapid-fire capability.

Although these contacts generated significant discussion with major banks and credit card companies, we were disappointed in consensus response: Action to curtail gun violence is urgently needed to reduce the risk of firearms falling into the hands of high risk purchasers, but such action should only be taken by public policy makers. We disagree with this consensus, as clearly gun violence damages our social fabric and represents a significant systemic economic risk.

Too Late to Lead, but Not Too Late to Act

Given that virtually all of the banks and credit card companies we contacted assert that they must not exceed current legal requirements, it is time that the CEOs of these companies go public in support of changes to the legal standard that will allow them to better screen firearms purchasers. We are therefore organizing our coalition to contact these banks once again, and making a public appeal to all banks and credit card companies:

We urge banks and credit card companies to publicly support decisive action by our Congress and President Trump by joining the CEOS for Gun Safety letter or by directly and publicly urging enactment of common sense legislation that could be a significant step in finally addressing an urgent societal problem that ultimately impacts all of us.

We are pleased that we were able to congratulate VISA, who recently supported two of three legislative actions we would like to see. Background checks for ALL gun sales and red flag laws that remove guns from high risk owners. This campaign is underway as we go to press.

Tax Reporting

An Under the Radar ESG Issue

First Affirmative engages with companies on priority issues that we update frequently and that are prominent in the news – such as climate change, environmental degradation, diversity, corporate involvement in public policy. There are other issues, often more obscure and less sensational, that deserve attention. Today we shed some light on one of these issues — corporate tax reporting.

U.S. Corporations are currently allowed to report taxes paid in a lump sum. This practice allows companies to mask aggressive international tax strategies that present financial, reputation, and economic risks that investors cannot evaluate based on the information presented. These strategies can have substantial financial consequences as countries crack down on companies with questionable tax avoidance practices. These strategies also shortchange countries in which they operate, as companies pursue strategies to book income in countries with minimal tax rates when their operations are located elsewhere. Less-developed countries in particular are impacted as adequate revenue is required from taxes to develop infrastructure on which corporations depend as well as to establish and maintain social services.

77 countries around the world require companies to disclose country-by-country tax and financial information to tax authorities, and other countries are in the process of adopting the standard. Unfortunately, the United States lags behind. The Financial Accounting Standards Board (FASB), the standard-setting body that establishes and maintains Generally Accepted Accounting Principles (GAAP), recently proposed a change that would require companies to show a breakdown of income and tax payments divided between foreign and domestic-a minor improvement that does not address investor concerns.

Combining foreign amounts from an unknown number of countries, each with its own tax laws, policies, and enforcement agendas, does not help investors meaningfully analyze a company's tax practices or risk.

Financial and reputational risk from aggressive tax strategies can be significant and much of this risk is undisclosed. Recent unanticipated tax bills include a $2 billion charge to Caterpillar when the IRS invalidated its $55 million with tax shelter and a $340 million fine to Chevron after an Australia rejected the companies tax interpretations. In 2018, GE posted a $22 billion quarterly loss and cut their dividend-something they have not done since the Great Depression. Aggressive accounting practices have been cited as a significant factor.

We therefore joined an investor coalition with over $1 trillion in assets under management asking the FASB to reconsider their recommendation and adopt country specific disclosure requirements that are becoming standard practice across the globe.

Investor Rights Still at Risk

First Affirmative is an active member of the Shareholder Rights Group, a coalition of investment managers formed when it became apparent that efforts were underway to undermine investor engagement with their portfolio companies. This article is written by attorney Sanford Lewis, director of the Shareholder Rights Group.

In the midst of the chaos enveloping Washington DC, there is a danger that you may lose track of developments affecting your shareholder rights. At risk is your right as an investor, together with your trustees and advisors, to engage with public companies to improve governance, and to elevate attention to emerging risks that may affect financial returns over the long term.

Through shareholder proposals, investors can communicate with fellow shareholders on issues of concern, and demonstrate shareholder voting support on neglected issues such as the risks posed to the company from climate change, the need to bring more people of color and women to the board, or the need to reform broken governance processes of board or management. There is pressure from the Business Roundtable and a few large companies on the Securities and Exchange Commission, seeking to weaken the shareholder proposal rules as part of the current Administration's rollback of business regulatory requirements.

Where can I learn quickly about the threats to my rights?

A new website, the Investor Rights Forum, provides a primer on your Rights at Risk. The site also documents the important impacts of the shareholder proposal process. For instance, a case study profiles the work of religious investors to guide pharmaceutical companies to take action to avoid mishandling the opioid crisis. It is no exaggeration to say that proposals like these may help to steer companies away from the edge of bankruptcy-inducing mismanagement and risk. The site also profiles governance reform efforts, such as the New York City employee pension funds campaign using the shareholder proposal process to promote proxy access.

The Threats

The Securities and Exchange Commission has announced that it is considering conducting a rule making to alter the thresholds for filing or resubmitting shareholder proposals. These moves could significantly restrict the ability of investors to file important, non-binding resolutions with companies they hold shares in.

In addition, the SEC recently announced a change in the manner in which it handles decisions regarding whether proposals may be excluded from a proxy statement ("no-action decisions"). The newly announced policy, under which the SEC may issue oral decisions instead of written ones, or even decline to address a proposal entirely, appears likely to increase the costs and uncertainties associated with filing a shareholder proposal.

Shareholders Push Back

The site provides examples of models of correspondence for investors concerned about preserving these rights, which could allow you as an investor to submit your own letter to the decision-makers at the SEC and the House Financial Services Oversight Committee in Congress.

The Investor Rights Forum website has been produced through the combined efforts of three investor organizations - the US Social Investment Forum, The Interfaith Center on Corporate Responsibility and the Shareholder Rights Group.