

Investment Stewardship

Vote Bulletin: Tesla, Inc.

Company	Tesla, Inc. (NASDAQ: TSLA)
Market and Sector	United States, Consumer Discretionary
Meeting Date	13 June 2024
Key Resolutions ¹	<p>Item 1a: Elect Director James Murdoch</p> <p>Item 3: Change State of Incorporation from Delaware to Texas</p> <p>Item 4: Ratify Performance Based Stock Options to Elon Musk</p> <p>Item 6: Shareholder Proposal Regarding Declassifying the Board</p> <p>Item 7: Shareholder Proposal Regarding Adopting Simple Majority Vote</p> <p>Item 8: Shareholder Proposal Regarding Reporting on Harassment and Discrimination Prevention Efforts</p> <p>Item 9: Shareholder Proposal Regarding Adopting a Non-Interference Policy Respecting Freedom of Association</p>
Key Topics	Board quality and effectiveness, executive compensation, human capital management
Board Recommendation	The board recommended shareholders vote FOR Items 1a, 3, and 4 and AGAINST Items 6, 7, 8, and 9
BlackRock Vote ²	BlackRock voted FOR Items 3, 4, 6, 7, and 8 and AGAINST Items 1a and 9

Overview

Tesla, Inc. (Tesla) is a U.S.-based company that designs, develops, manufactures, sells, and leases electric vehicles and energy generation and storage systems, and offers services related to its products.

As part of our fiduciary duty to our clients, BlackRock Investment Stewardship (BIS) promotes sound corporate governance as an informed, engaged shareholder on their behalf. In our experience, sound governance is critical to long-term financial value creation and the protection of investors' interests.

¹ Tesla, Inc., "Proxy Statement 2024", April 2024.

² BIS conducts proxy voting for those clients who authorize us to vote on their behalf. As part of BlackRock's Voting Choice program, eligible institutional and retail clients can have greater access to the proxy voting process where legally and operationally viable. Read more about Voting Choice [here](#).

BIS takes a constructive, long-term approach to engagement with companies and focuses on the management and oversight of the drivers of risk and financial value creation in a company's business model. Engagement may also help inform our voting decisions for those clients who have given us authority to vote on their behalf.

Over the past several years, BIS has regularly engaged with members of Tesla's board and management team to discuss the company's governance structure, board independence, compensation practices, executive share pledging, disclosures of climate-related risks and opportunities, and approach to human capital management.

While we have previously conveyed concerns about Tesla's responsiveness to shareholders, the company has taken steps to enhance its policies and disclosures on several topics, including executive share pledging, proxy access, material climate-related risks, human capital management, and human rights-related policies.

In January 2024,³ Chancellor Kathaleen McCormick of the Delaware Court of Chancery ruled in favor of a shareholder derivative lawsuit invalidating CEO Elon Musk's \$55.8 billion compensation package (the "Tornetta Opinion"). According to the Court, the 2018 shareholder vote to approve the pay package was not fully informed because the proxy statement omitted details about the approval process and did not detail the extensive personal and professional relationships between Mr. Musk and key Tesla directors accountable for compensation decisions. At the time, Mr. Musk's award was approved by approx. 73% of the votes cast by disinterested shareholders,⁴ including BlackRock. Shortly after the Tornetta Opinion, Mr. Musk said he would seek shareholder approval to move the company's incorporation from Delaware to Texas.⁵

The board subsequently formed a Special Committee in February 2024 to evaluate the topic of reincorporation. In March 2024, the Committee's remit was expanded to include determining whether Tesla should hold another ratification vote of the 2018 CEO Performance Award, which it ultimately decided in favor of.⁶ The Committee initially comprised of two directors, however one withdrew from the Committee once its remit was expanded "out of an abundance of caution" due to perceived conflicts of interest.⁷

According to the Committee's report included in Tesla's 2024 proxy statement,⁸ the Committee did not renegotiate the amount or terms of the 2018 CEO Performance Award or opine on the Tornetta Opinion. The board believes the 2018 CEO Performance Award was fair and should be upheld, as originally agreed, and will be appealing the ruling as a result.⁹

Rationale for BlackRock's vote

Management Proposals

Item 1a: Elect Director James Murdoch (AGAINST)

BIS did not support the election of Director James Murdoch, who is a member of the board's Nominating and Corporate Governance Committee, to convey our concerns regarding the board's decision-making process, independence, and ability to oversee management.

³ Richard J. Tornetta et al. v. Elon Musk et al., case number 2018-0408, in the Court of Chancery of the State of Delaware. Full text is available [here](#).

⁴ Disinterested shareholders are shareholders other than Mr. Musk and Kimbal Musk. At the time of the 2018 shareholder vote, Mr. Musk [beneficially owned](#) approx. 21.9% of the outstanding shares of Tesla's common stock.

⁵ CNN, "[Elon Musk says Tesla shareholders will vote 'immediately' on quitting Delaware for Texas](#)", February 2024.

⁶ Tesla, Inc., "[Proxy Statement 2024](#)", April 2024, page E-4, E-5.

⁷ Tesla, Inc., "[Proxy Statement 2024](#)", April 2024, page E-4, E-5., page E-26.

⁸ Tesla, Inc., "[Proxy Statement 2024](#)", April 2024, page E-20.

⁹ According to the company, if ratification is successful, the deficiencies identified by the Delaware Court should be remedied and ratification will be utilized in the appeal process. However, there is no certainty regarding how ratification will be treated under Delaware law.

BIS, alongside BlackRock's active investors, held multiple engagements with Tesla to better understand the Special Committee's process and how the interests of disinterested shareholders were taken into consideration. We also discussed the board's views on the concerns raised in the Tornetta Opinion concerns regarding director independence.

Based on our assessment, BIS determined to not support the election of Director James Murdoch to convey our concerns regarding the board's decision-making process, independence, and effectiveness in overseeing management. As mentioned above, the board formed a Special Committee following the Delaware Court's guidance to assemble a committee "comprised of indisputably independent directors, even if that meant it was a committee of one".¹⁰ Ultimately, the Special Committee was comprised of only one director. In our view, the fact that the board was unable to appoint additional directors to the Committee suggests that there may have been potential or actual conflicts of interest concerning Tesla's other independent directors. BIS has previously conveyed concerns about the board's oversight of management.

As discussed in BIS' [U.S. proxy voting guidelines](#), in our view, a majority of the directors on the board should be independent to ensure objectivity in the decision-making of the board and its ability to oversee management. Common impediments to independence include having any other interest, business, or relationship (professional or personal) which could, or could reasonably be perceived to, materially interfere with the director's ability to act in the best interests of the company and its shareholders.

Because Tesla's board of directors stand for election on a three-year rolling cycle, Mr. Murdoch, who is a member of the board's Nominating and Corporate Governance Committee, is the only director nominated for election with direct oversight responsibilities for evaluating board composition and independence.

Item 3: Change State of Incorporation from Delaware to Texas (FOR)

BIS supported the management proposal to reincorporate Tesla from Delaware to Texas. While we have concerns with the board's decision-making process, we are satisfied that a re-domestication to Texas would not impair shareholders' rights.

As discussed in BIS' [U.S. proxy voting guidelines](#), we assess the economic and strategic rationale behind a company's proposal to reincorporate on a case-by-case basis. In all instances, we will evaluate the changes to shareholder protections under the new charter/articles/bylaws to assess whether the move increases or decreases shareholder protections.

Given Tesla's corporate headquarters and principal manufacturing facilities are in Texas, the board believes home-state incorporation is in the company's and shareholders' best interests.¹¹ Following our assessment, we are satisfied that a re-domestication to Texas would not impair shareholders' rights, as most of the governance provisions in Texas and Delaware business codes are substantially similar.¹²

Item 4: Ratify Performance Based Stock Options to Elon Musk (FOR)

BIS supported the re-ratification of Mr. Musk's 2018 Performance Award because we recognize that Mr. Musk and Tesla have achieved all the relevant performance milestones, creating substantial value for shareholders.

BIS supported the CEO Performance Award in 2018 based on our assessment that the market cap and operational metrics were sufficiently challenging and encouraged stretch performance. Though we have concerns regarding the structure and magnitude of the award, we recognize that Mr. Musk and Tesla have

¹⁰ Tesla, Inc., "[Proxy Statement 2024](#)", April 2024, page E-36.

¹¹ Tesla, Inc., "[Proxy Statement 2024](#)", April 2024, page 27.

¹² Tesla, Inc., "[Proxy Statement 2024](#)", April 2024, page E-9.

achieved all the relevant performance milestones, growing the company from approximately \$59 billion in market cap at the time of the 2018 award to \$789 billion in market cap at the end of 2023.¹³

Accordingly, it was in the financial interests of our clients to support the ratification of Mr. Musk's 2018 Performance Award at the June 2024 AGM. However, BIS intends to provide feedback regarding go-forward executive compensation practices.

Our support for this proposal should not be taken as a general endorsement of this style of award. BIS would be unlikely to support a compensation program with similar structures at mature operating companies in sectors where these practices have not traditionally been employed.

Shareholder Proposals

As discussed in our [Global Principles](#), when assessing shareholder proposals, we evaluate each on a pragmatic, case-by-case basis, taking into consideration the context within which a company is operating. We evaluate each proposal on its merit, with a singular focus on its implications for long-term financial value creation by that company.

Item 6: Shareholder Proposal Regarding Declassifying the Board (FOR)

Item 7: Shareholder Proposal Regarding Adopting Simple Majority Vote (FOR)

In line with our [U.S. proxy voting guidelines](#), BIS supported two governance-related shareholder proposals regarding declassifying the board (Item 6) and adopting a simple majority vote standard (Item 7),¹⁴ as these provisions enhance and protect the interests of long-term shareholders, including BlackRock's clients.

As discussed in BIS' [U.S. proxy voting guidelines](#), in our view, directors should be re-elected annually; classification of the board generally limits shareholders' rights to regularly evaluate a board's performance and select directors. In addition, BIS generally favors a simple majority voting requirement to pass proposals. Therefore, we will generally support the reduction or the elimination of supermajority voting requirements to the extent that we determine shareholders' ability to protect their economic interests is improved.

BIS supported a board declassification shareholder proposal that was on the agenda of Tesla's October 2021 AGM. Prior to 2023, Tesla had put forth its own set of management proposals to eliminate supermajority voting provisions and reduce director terms (to two years), though they did not receive the supermajority support they needed to pass. Consequently, in 2023, the company highlighted steps it was taking to increase the participation rate of retail investors through its Shareholder Platform, outreach campaigns, direct mailings, and social media channels. Tesla explained that once it achieves a shareholder participation rate of at least 65%, the board will put these amendments back on the ballot.¹⁵

Consistent with our historical support of both management and shareholder proposals related to these governance provisions, BIS determined that support for these two proposals was in our clients' financial interests as long-term shareholders.

¹³ For context, the company hit 12 successive market capitalization growth, revenue, and adjusted EBITDA milestones, resulting in increases from \$59 billion to \$650 billion in market cap and \$12 billion to \$75 billion in revenue; though, market cap has since decreased to approximately \$565 billion as of June 12, 2024. For additional information, please see the [2024 Proxy Statement](#).

¹⁴ Tesla, Inc., "[Proxy Statement 2024](#)", April 2024, pages 94-97.

¹⁵ Tesla, Inc., "[Proxy Statement 2024](#)", April 2024, pages 4-5.

Item 8: Shareholder Proposal Regarding Reporting on Harassment and Discrimination Prevention Efforts (FOR)

BIS supported the shareholder proposal regarding reporting on harassment and discrimination prevention efforts (Item 8) because, in our view, greater disclosures on this issue, which we deem material to the long-term financial interests of shareholders, would help investors better assess risks at the company.

The shareholder proposal requested that the board “oversee the preparation of an annual public report describing and quantifying the effectiveness and outcomes of Tesla, Inc.’s (Tesla) efforts to prevent harassment and discrimination against its protected classes of employees.”¹⁶

Tesla continues to face significant material legal and reputational risks due to high-profile controversies, including ongoing harassment and discrimination allegations.¹⁷

This shareholder proposal was also on the ballot at Tesla’s August 2022 AGM, and it received approximately 46% shareholder support, including from BIS. Tesla subsequently made some enhancements to its disclosures, such as reporting on types of complaints received and employee training initiatives.¹⁸

Even so, these disclosures do not provide investors with a clear sense of how many of these complaints are specifically related to harassment and discrimination, or whether any remediation efforts have been sufficient to minimize the risk of additional adverse verdicts.

In our view, enhanced disclosures on this issue, which we deem material, would help investors better assess risks at the company. As a result, BIS determined that support for the proposal was warranted as the request is aligned with the long-term financial interests of our clients.

Item 9: Shareholder Proposal Regarding Adopting a Non-Interference Policy Respecting Freedom of Association (AGAINST)

BIS did not support this shareholder proposal because, while Tesla continues to face material risks in relation to its approach to human capital management, the company already has policies in place that address the specific request made.

The shareholder proposal requested that the board “adopt and disclose a Noninterference Policy (“Policy”) upholding the rights to freedom of association and collective bargaining in its operations, as reflected in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work (“Fundamental Principles”).”¹⁹

Tesla’s workforce is largely non-unionized. In 2022, a shareholder proposal requesting that Tesla adopt a policy on respecting rights to freedom of association and collective bargaining received approximately 32% shareholder support, including from BIS. At the time, the company’s Global Human Rights Policy did not explicitly mention the right to freedom of association or collective bargaining in the context of its operations, a practice that was lagging compared to other automotive peers. Since then, Tesla updated its Global Human

¹⁶ Tesla, Inc., “[Proxy Statement 2024](#)”, April 2024. Page 98.

¹⁷ CNBC, [Tesla settles with Black worker who won two trials over racist discrimination](#), March 2024. The company faces litigation from the California Civil Rights Department (see Tesla, [2023 Annual Report](#), page 88) and most recently, in September 2023, the U.S. Equal Employment Opportunity Commission (EEOC) sued Tesla, alleging the company has violated federal law since 2015 at its Fremont, California facility by tolerating racial harassment and retaliation of its Black employees (see U.S. Equal Employment Opportunity Commission, [EEOC Sues Tesla for Racial Harassment and Retaliation](#), September 2023).

¹⁸ Tesla, Inc., [2023 Impact Report](#), pages 92-95.

¹⁹ Tesla, Inc., “[Proxy Statement 2024](#)”, April 2024. Page 101.

Rights Policy to include respecting rights to freedom of association and collective bargaining in conformance with local law.²⁰

Based on our assessment, Tesla's Global Human Rights Policy already contains components of the shareholder proposal's request, including a commitment to upholding higher standards where national law and international human rights standards differ. Therefore, BIS determined that support for this shareholder proposal was not warranted.

Over the past several months, BIS has closely followed developments related to the ongoing labor dispute in Sweden²¹ to understand how the dispute may impact returns to investors, including BlackRock's clients. BIS will continue to monitor the situation and engage to evaluate how Tesla's Global Human Rights Policy is being implemented in this context.

²⁰ Tesla Inc., [Global Human Rights Policy](#).

²¹ In October 2023, Swedish mechanics represented by the trade union IF Metall went on strike to pressure Tesla to sign a collective bargaining agreement. The strike has since spread to other unions across Sweden and Scandinavia. This is the first labor action against Tesla and is ongoing. According to IF Metall, this stance is not aligned with the Swedish labor model, which is grounded in collective representation.

About BlackRock Investment Stewardship (BIS)

BlackRock Investment Stewardship (BIS) promotes sound corporate governance as an informed, engaged shareholder on behalf of our clients. For those clients who have given us authority,²² we vote proxies in line with our public [Global Principles and regional voting guidelines](#) and informed by our engagements, where relevant, as well as our analysis of company disclosures.²³ We vote with the sole objective to advance our clients' long-term financial interests.

As one of many shareholders, and typically a minority one, our role, on behalf of our clients as long-term investors, is to better understand how a company's leadership is managing risks and capitalizing on opportunities to help protect and enhance its ability to deliver long-term financial returns.

The BIS team of more than 65 dedicated professionals²⁴ operates across nine offices globally, taking a localized approach while also benefitting from global insights. We focus most of our efforts on corporate governance as, in our experience, sound governance is critical to the success of a company, long-term financial value creation, and the protection of investors' interests.

We are committed to transparency in the stewardship work we do on behalf of clients. The BIS [Global Principles, regional voting guidelines](#), and five [engagement priorities](#) (collectively, the BIS policies) set out the core elements of corporate governance that guide our investment stewardship program globally and within each regional market every year. These policies support effective stewardship processes and transparency and align with our commitment to pursue long-term financial returns for our clients as shareholders.

In addition, we inform clients about our engagement and voting policies and activities through direct communication and through various other disclosure on our [website](#). For shareholder meetings where a vote might be of particular interest to clients, we may publish a vote bulletin after the meeting explaining how we voted on key proposals.

Want to know more? blackrock.com/stewardship

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²³ As detailed in our [Global Principles](#), proxy voting involves logistical issues which can affect BlackRock's ability to vote such proxies, as well as the desirability of voting such proxies. As a consequence, BlackRock votes proxies on a "best-efforts" basis.

²⁴ As of December 31, 2023.