

Greenlight sues Apple, wants more cash

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An activist investor wants Apple Inc. to distribute more of its ballooning cash hoard to shareholders.

Greenlight Capital said Thursday that it is suing Apple in a New York federal court over the company's proposal to eliminate preferred stock. David Einhorn, who heads Greenlight, said the proposal would prevent Apple's board from unlocking shareholder value.

Apple, the world's most valuable company, is drawing increasing criticism from investors who are pushing the company to do more with its enormous pile of cash — \$137 billion and growing. Einhorn told CNBC on Thursday that Apple has a Depression-era mentality. He compared Apple to his grandmother "Roz," who grew up during the Great Depression. She was so careful about saving money, Einhorn said, that she never left messages on his answering machine out of concern that she'd be charged for the call.

People who've experienced trauma, he said "sometimes feel like they can never have enough cash."

Apple started paying a quarterly dividend last year, but at \$2.65 per share, the payout is paltry considering the amount of cash Apple generates each quarter. Apple has also started to repurchase some of its shares, but Greenlight and others say it should be pushing its cash in another direction.

Greenlight, a shareholder since 2010 with 1.3 million Apple shares, said it's dissatisfied with the way the company allocates capital. Einhorn said his firm has been talking to Apple over the past several months about the creation of new preferred class of stock that would be distributed to Apple shareholders.

Apple, he said, rejected the idea in September.

The company doesn't currently issue preferred stock. But the proposal Einhorn opposes would eliminate the Apple board's ability to issue such shares without shareholder approval. Apple said in its proxy statement filed with the Securities and Exchange Commission that its board does not plan to issue preferred stock in the future and "believes that it is appropriate to eliminate this provision" from its charter. If the proposal passes, shareholders will have to approve future issuances of preferred stock, according to the filing.

A representative for Apple could not immediately be reached for comment early Thursday.

In a letter to Apple shareholders, Greenlight called Apple a "phenomenal company

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filled with talented people creating iconic products that consumers around the world love." But it said the company has an "obligation to examine all options to create and unlock additional value."

Apple, Greenlight continued, "has \$145 per share of cash on its balance sheet. As a shareholder, this is your money."

Apple plans to hold its annual shareholder meeting on Feb. 27. Greenlight's lawsuit claims that Apple's proposal bundles three distinct proposals that the SEC requires to be separated so shareholders can vote on each one.

Apple has at least one major shareholder on its side. The California Public Employees' Retirement System, the country's largest pension fund, said in an SEC filing Monday that it will vote for Apple's proposal. CalPERS owns 2.7 million Apple shares, nearly three times as many as Greenlight.

Shares of Apple, based in Cupertino, California, climbed \$1.21 to \$455.91 in morning trading amid a broader market decline.

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