

MEMORANDUM

To: Members of the Committee on Financial Services
From: Committee Staff
Date: July 7, 2023
Re: Financial Services Committee Hearing entitled “Protecting Investor Interests: Examining Environmental and Social Policy in Financial Regulation”

On Wednesday, July 12, 2023, at 10:00 a.m. (ET) in 2128 Rayburn House Office Building, the Committee on Financial Services will hold a hearing entitled “Protecting Investor Interests: Examining Environmental and Social Policy in Financial Regulation.” Testifying at the hearing will be:

- **James Copland**, Senior Fellow & Director, Manhattan Institute
- **Benjamin Zycher**, Senior Fellow, American Enterprise Institute
- **Lawrence Cunningham**, Special Counsel, Mayer Brown
- **Ted Allen**, Vice President, Society for Corporate Governance
- **The Honorable Keith Ellison**, Attorney General, State of Minnesota

Background

The federal government’s focus on costly non-material environmental, social, and political issues at the expense of sound financial regulation has troubling consequences. This approach significantly drives up the costs and burdens associated with participating in the U.S. public markets, leading to decreased attractiveness for private companies considering going public or remaining public. Additionally, these increased costs hinder the ability of American public companies to compete on a global scale. Ultimately, these non-core regulations impact retail investors who rely on solid financial returns for their retirement savings. The resulting scenario not only discourages private companies from entering the public market but also places undue strain on existing public companies and the investors who depend on them.

One area that requires greater transparency and accountability is the proxy process, which no longer promotes long-term shareholder value efficiently and effectively. Currently, untethered shareholder activism diverts attention and resources from core issues, thereby undermining the attractiveness of U.S. markets and deterring companies from going public. The Securities and Exchange Commission (SEC) has exacerbated this problem by promulgating changes that facilitate the inclusion of politically motivated shareholder proposals in annual proxy statements and reversing important reforms to proxy solicitation rules. This shift in focus towards advancing

environmental, social, and political policies detracts from the primary purpose of public markets—to enable companies to raise capital and foster economic growth.

Furthermore, the federal government’s imposition of climate reporting and other requirements diverts corporate resources away from growth and competitiveness. For instance, the SEC has proposed a 500-page climate disclosure rule that would replace voluntary sustainability reports with mandatory disclosures, including detailed emissions data and climate risk management strategies. These additional reporting obligations place an unnecessary burden on companies, distracting them from their core objectives and hindering their ability to grow and compete in a global economy.

Regulators overseeing depository institutions are also adopting climate-related financial risk measures. Banking regulators have issued draft principles and sought input on managing climate risks. Such actions politicize regulatory agencies, as they may be influenced by external organizations advocating for climate policies based on highly questionable financial risk scenarios. Such politicization threatens the independence of regulators, including the Federal Reserve, and risks blurring the line between their regulatory duties and political agendas.

Legislative Proposals

- **H.R. _____**, to authorize the exclusion of shareholder proposals from proxy or consent solicitation material if such proposals are substantially similar to previously included proposals.
- **H.R. _____**, to authorize the exclusion of shareholder proposals from proxy or consent solicitation material if such proposals substantially implement, substantially duplicate, or are substantially similar to previously included proposals.
- **H.R. _____**, to authorize the exclusion of shareholder proposals from proxy or consent solicitation material if the subject matter of the shareholder proposal is environmental, social, or political.
- **H.R. _____**, to clarify that an issuer may exclude a shareholder proposal pursuant to section 240.14a-8(i) of title 17, Code of Federal Regulations, without regard to whether such proposal relates to a significant social policy issue.
- **H.R. _____**, to amend the Securities Exchange Act of 1934 to prohibit the Securities and Exchange Commission from compelling the discussion of shareholder proposals or proxy or consent solicitation materials.
- **H.R. _____**, to require the Securities and Exchange Commission to conduct a study of certain issues with respect to shareholder proposals, proxy advisory firms, and the proxy process, and for other purposes.
- **H.R. _____**, to amend the Securities Exchange Act of 1934 to provide for the registration of proxy advisory firms, and for other purposes.

- **H.R. ____**, to amend the Securities Exchange Act of 1934 to provide for liability for certain failures to disclose material information in connection with proxy voting advice, and for other purposes.
- **H.R. ____**, to amend the Securities Exchange Act of 1934 to provide for duties of certain investment advisors, asset managers, and pension funds with respect to voting on shareholder proposals, and for other purposes.
- **H.R. ____**, to amend the Securities Exchange Act of 1934 to prohibit robovoting with respect to votes related to proxy or consent solicitation materials, and for other purposes.
- **H.R. ____**, to amend the Investment Advisers Act of 1940 with respect to proxy voting of passively managed funds, and for other purposes.
- **H.R. ____**, to require the Comptroller General of the United States to conduct a study on the detrimental impact of the Directive on Corporate Sustainability Due Diligence and the Corporate Sustainability Reporting Directive on United States companies, and for other purposes.
- **H.R. ____**, **the International Regulatory Transparency and Accountability Act**, to require transparency from the Federal financial regulators with respect to international meetings, negotiations, and agreements, and for other purposes.
- **H.R. ____**, **the Mandatory Materiality Requirement Act of 2022**, to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to require that information required to be disclosed to the Securities and Exchange Commission by issuers be material to investors of those issuers, and for other purposes.
- **H.R. ____**, to amend the Securities Exchange Act of 1934 to require the Securities and Exchange Commission to disclose and report on non-material disclosure mandates, and for other purposes.
- **H.R. ____**, **the Public Company Advisory Committee Act of 2022**, to amend the Securities Exchange Act of 1934 to establish within the Securities and Exchange Commission the Public Company Advisory Committee, and for other purposes.
- **H.R. ____**, to amend the Investment Advisers Act of 1940 to specify requirements concerning the consideration of pecuniary and non-pecuniary factors, to require the Securities and Exchange Commission to conduct a study on climate change and other environmental disclosures in the municipal bond market, and to require the Securities and Exchange Commission to conduct a study on the solicitation of municipal securities business.

- **H.R. 2743, the Fair Access to Banking Act**, to amend the Federal Reserve Act to prohibit certain financial service providers who deny fair access to financial services from using taxpayer funded discount window lending programs, and for other purposes.