Testimony to the United States House of Representatives
Committee on Oversight and Accountability

Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs & Subcommittee on Healthcare and Financial Services

Hearing: "ESG Part II: The Cascading Impacts of ESG Compliance "

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Washington, D.C.
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Chairman Fallon, Chairwoman McClain, Ranking Member Bush, Ranking Member Porter, and members of the subcommittees, thank you for the opportunity to participate in today's hearing discussing the consequences of ESG.

My name is Mandy Gunasekara, and I am the director of Independent Women's Forum's Center on Energy and Conservation. IWF is a nonprofit organization, committed to increasing the number of women who value free markets and personal liberty. We advance policies that enhance people's freedom, opportunities, and well-being. My work focuses on implementing the CEC mission: advancing our energy potential, protecting the environment, and promoting thriving communities. I am also a Visiting Fellow at the Heritage Foundation

As American families continue to struggle under Bidenflation, increased energy costs, and an economy on the verge of a recession, a subset of financial elites and their allegiance to environment, social, and governance—or rather "ESG"—investing are making matters worse. While branded as an investment strategy for "good," ESG manipulates markets, as well as access to markets, in order to advance a leftist political agenda. The policies pushed by ESG end up causing more harm than good.

Accordingly, my testimony will explain the following:

- "E" standards result in higher cost energy, unreliable electricity grids, and stand to undermine environmental progress.
- "E" standards enrich high-end asset managers at Blackrock, State Street, and Vanguard at the expense of retirees and pensioners.
- "S" standards force companies to engage in controversial political issues, such as campaigns to defund the police or promoting "gender transitions" in children, cultivating division in the workplace and the marketplace.
- "G" standards give the appearance of diversity while restricting freedom of thought and competing viewpoints in the workforce.

The Cascading Consequences of E

The most economically-devastating policies of ESG fall under the "E" rubric. The goal is to phase out fossil energy by 2050, despite the fact that the oil and gas industry provides 80% of the energy we need to fuel our economy and maintain our modern way of life.[1] Marketed under the concept of "net zero," ESG-driven divestment from oil and gas companies is undercutting our grid stability and broader energy security,[2] while also putting American families and communities at risk. In fact, ESG is a contributing factor to the high gas[3] and electricity prices[4] that hit low-income households the most, forcing many to choose between food or electricity.[5]

As I have previously testified before this committee:

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[1] U.S. Energy Information Administration, *U.S. energy facts explained* (April 2022) available at: https://www.eia.gov/energyexplained/us-energy-facts/.

[2] Rupert Darwall, *Net-Zero and ESG Are Worsening the Energy Crisis – and Weakening the West*, RealClear Energy (March 17, 2022) available at: https://www.realclearenergy.org/articles/2022/03/17/net-zero_and_esg_are_worsening_the_energy_crisis__and_weakening_the_west_822337.html.

[3] Adam Brandon, *The Left's Insistence on ESG Has Led to Higher Gas Prices*, RealClear Energy (July 21, 2022) available at: https://www.realclearenergy.org/articles/2022/07/21/the_lefts_insistence_on_esg_has_led_to_higher_gas_prices_843784.html.

[4] Will Wade & Francesca Maglione, *Electric Bills Double for U.S. Families with Fuel Costs Surging*, Bloomberg (March 7, 2022) available at: https://www.bloomberg.com/news/articles/2022-03-07/electric-bills-double-for-u-s-families-with-fuel-costs-surging#xj4y7vzkg.

[5] ACEEE, *Report: Low-Income Households, Communities of Color Face High "Energy Burden" Entering Recession* September 20, 2020) available at: https://www.aceee.org/press-release/2020/09/report-low-income-households-communities-color-face-high-energy-burden.

> Rising energy costs and inflation have created immense financial burdens on the American people. One in six American families is currently behind on electricity bills. The cost for an average household has risen approximately $10,000 over the past two years. … These costs are squeezing the middle class and making it virtually impossible for low-income Americans to ever cross the middle-class threshold. Most concerning, some families have been forced to choose between powering their homes or putting food on the table.[6]

ESG investing also ignores the reality that ESG-preferred technologies, like wind and solar, are not technically capable of meeting current energy needs, much less future energy growth. Both wind and solar have become larger parts of our energy supply but they still only produce a small fraction of our total energy needs. Wind provides around 9% of U.S. electricity and solar a mere 2.8%.[7] Reducing access to and development of the energy sources we need while also forcing a greater use of inferior energy technologies has created an energy grid ill-equipped to deal with predictable weather patterns, such as hot weather during the summer and cold weather during the winter.[8]

The net-zero divestment also ignores the reality that we lead the world in overall emissions reductions because of advancements in the oil and gas industry.[9] Constraining growth and shutting down fossil fuel companies here will simply make life harder for Americans while shipping productivity and related opportunities overseas to countries like China. Earlier this year, it was revealed China has approved the equivalent of two new coal plants a week,

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[6] Testimony to the U.S. House Committee on Oversight and Accountability Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs, *Fueling Unaffordability: How the Biden Administration's Policies Catalyzed Global Energy Scarcity and Compounded Inflation* (March 29, 2023) available at: https://oversight.house.gov/wp-content/uploads/2023/03/Mandy-Gunasekara-Testimony_Biden-Policy-Feed-Energy-Scarcity-and-Inflation.pdf.

[7] U.S. Energy Information Administration, *What is U.S. electricity generation by energy source?* (February 2023) available at: https://www.eia.gov/tools/faqs/faq.php?id=427&t=3.

[8] WSJ Editorial Board, *America's Summer of Rolling* Blackout, Wall Street Journal (May 27, 2022) available at: https://www.wsj.com/articles/americas-summer-of-rolling-blackouts-green-energy-grid-north-american-electric-reliability-corporation-11653683348.

[9] Nicole Jacobs, *EPA: Oil And Natural Gas Methane Emissions Fall Despite Record Production*, Energy in Depth (April 19, 2021) available at: https://www.energyindepth.org/epa-oil-and-natural-gas-methane-emissions-fall-despite-record-production/.

which will be built with outdated pollution control technologies that fail to capture standard pollution, much less reduce greenhouse gasses.[10]

It's not just oil and gas. ESG is used by progressive activists to defund and constrain the growth of other politically-disfavored companies, including firearms manufacturers and animal agriculture. These misguided efforts create a range of perverse outcomes beyond lost jobs and economic growth to companies deemed "bad" by ESG standards. They also harm retirees and pensioners.

Asset managers like BlackRock, Vanguard, and State Street, which collectively manage over $21 trillion, including a large portion of U.S.-based retirement funds, subscribe to ESG. Numerous reports have found that ESG funds consistently perform worse than non-ESG funds producing lower returns for the retirees and pensioners that have been planning for them.[11]

One report by University of Chicago researchers analyzed the Morningstar sustainability ratings of more than 20,000 mutual funds representing over $8 trillion of investor savings.[12] The report found that "although the highest rated funds in terms of sustainability certainly attracted more capital than the lowest rated funds, none of the high sustainability funds outperformed any of the lowest rated funds."[13] Another analysis comparing one of the leading ESG funds to the S&P 500 found that, as of mid-2022, the ESG fund was down 23.7% vs. 20% for the S&P 500 index.[14]

Even though the pensioners and retirees are losing out, the high-end financial advisors at these investment houses are making bank. They get paid

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[10] Ben Zeisloft, *China Is Full Steam Ahead With New Coal Plants As The West Goes Green*, Daily Wire (February 27, 2023) available at: https://www.dailywire.com/news/china-is-full-steam-ahead-with-new-coal-plants-as-the-west-goes-green.

[11] Matt Krantz, *'Woke' ESG Funds are Now Costing you Money*, Investors Business Daily (May 26, 2022) available at: https://www.investors.com/etfs-and-funds/sectors/sp500-esg-and-woke-funds-are-now-costing-you-money/.

[12] Samuel Hartzmark & Abigail Sussman, *Do Investors Value Sustainability? A Natural Experiment Examining Ranking and Fund Flows*, The Journal of Finance (August 9, 2019) available at: https://onlinelibrary.wiley.com/doi/abs/10.1111/jofi.12841.

[13] Sanjai Bhagat, *An Inconvenient Truth About ESG Investing*, Harvard Business Review (March 31, 2022) available at: https://hbr.org/2022/03/an-inconvenient-truth-about-esg-investing.

[14] Andy Kessler, *The Many Reason ESG is a Loser*, Wall Street Journal (July 10, 2022) available at: https://www.wsj.com/articles/esg-loser-funds-costs-basis-points-blackrock-500-environment-green-sec-11657461127.

their premium fees either way. The ratio rates for ESG investing are "5 to 15 times more" even though the ESG investments themselves consistently "perform worse."[15]

The Cascading Consequences of S

ESG is also a tool to advance the Left's broader cultural agenda. Most of its social standards require support for policies with which many Americans disagree, such as mandating non-gendered bathrooms in the workplace, meeting race-specific hiring quotas, teaching critical race theory (CRT) sessions with management, as well as support for liberal campaigns, such as defunding the police, progressive politicians, or efforts to promote "gender transitions" for children.

While these ideas are trendy among some progressive corporate leaders, polling reveals the majority of Americans oppose them and would prefer they be kept out of the workplace and marketplace:

- **51%** of Americans believe bathroom use should match one's biological sex.
- **43%** of Americans believe CRT will worsen race relations compared to 23% that don't; Latinos and Asians oppose critical race theory by **two-to-one margin**.
- **73%** of Americans oppose racial quotas in hiring.
- **58%** of Americans oppose defunding police.

Beyond the polling, the recent backlash at Target, Budweiser, and American Girl makes clear the broader public's disdain for extreme social campaigns being pushed by ESG acolytes.

The Cascading Consequences of G

Adhering to the Left's cultural standards is becoming a litmus test for access to markets as well as credit and investors. There is a standing policy at Goldman Sachs' that they will not take a company public in the U.S. if its board isn't sufficiently diverse with regard to race, sexual orientation, and gender. But some analysts have found that governance policies that prioritize

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[15] *Id.*

checking superficial boxes result in decreased viewpoint diversity.[16] Also concerning, some companies incorporate diversity language solely for marketing benefits undermining actual progress in the workplace. Two high profile cases exposed this practice:

- Wells Fargo employees interviewed “diverse” candidates after the position had already been filled.[17]
- A former Miami Dolphins head coach has alleged the New York Giants attempted to circumvent a diversity requirement in the Rooney Rule by holding a “sham interview” with him three days *after* it was promised to another candidate.[18]

ESG metrics are a convoluted, subjective measurement set by high-end consultants that vary from firm to firm.[19] High scores are more indicative of the amount a company spends on consultant fees and the use of favored verbiage within sustainability reports, rather than the standardized, measured outcomes of any objective good. Analysis by CEC Co-Director Gabriella Hoffman found that companies will pay up to half a million dollars to boost their ESG scores.[20] Other companies will use ESG to justify poor business performance[21] or cover for poor labor and environmental compliance records.[22]

By design, ESG has been developed to achieve leftist goals that have failed to gain traction in Congress and state legislatures and are increasingly being shut down by the courts. A Board Director and former global vice chair of public policy at Business for Social Responsibility recently revealed this point

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[16] Viewpoint Diversity Score, *2023 Business Index* available at: https://www.viewpointdiversityscore.org/business-index.

[17] Emily Flitter, *At Wells Fargo, a Quest to Increase Diversity Leads to Fake Job Interviews*, New York Times (May 19, 2022) available at: https://www.nytimes.com/2022/05/19/business/wells-fargo-fake-interviews.html.

[18] Pamela Newkirk, Brian Flores' Lawsuit Shows the Limits of Diversity Initiatives, Time (February 7, 2022) available at: https://time.com/6145755/brian-flores-lawsuit-rooney-rule-diversity/.

[19] Kenan Insight, *ESG Measurement: A Surprisingly Complex Issue*, Kenan Institute of Private Enterprise (February 17, 2022) available at: https://kenaninstitute.unc.edu/kenan-insight/esg-measurement-a-surprisingly-complex-issue/.

[20] Gabriella Hoffman, Companies Paying Pretty Penny for ESG Scores, IWF (March 31, 2023) available at: https://www.iwf.org/2023/03/31/report-companies-paying-pretty-penny-for-esg-scores/.

[21] Ryan Flugum & Matthew E. Souther, *Stakeholder Value: A Convenient Excuse for Underperforming Managers?*, SSRN (March 29, 2023) available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3725828.

[22] Aneesh Raghunandan and Shivaram Rajgopal, *Do ESG Funds Make Stakeholder-Friendly Investments?*, SSRN (May 27, 2022). available at: https://ssrn.com/abstract=3826357 or http://dx.doi.org/10.2139/ssrn.3826357.

when recounting a behind the scenes meeting in Davos. Attending this meeting was then-Vice President Joe Biden who purportedly told the elite business group that when it comes to forcing compliance with a leftwing social agenda "you companies can do what we government cannot."[23]

As awareness of ESG increases, so too does the opposition. I thank the subcommittee for the opportunity to testify today and you willingness to educate the public on what ESG is and its affiliated consequences.

[23] Ben Shapiro, *Prepare Thyself For the Holy Month of Pride!!!,* The Ben Shapiro Show (May 31, 2023) available at: https://podcasts.apple.com/us/podcast/the-ben-shapiro-show/id1047335260?i=1000615170186.

June 6, 2023

Testimony of the Honorable Jason Isaac
Director, Life:Powered
Texas Public Policy Foundation

Before the
U.S. House Committee on Oversight and Accountability

Subcommittee Chairman Fallon and Subcommittee Chairwoman McClain, Ranking Members Bush and Porter, and Members of the Committee:

On behalf of Life:Powered, a national initiative of the Texas Public Policy Foundation to raise America's energy IQ, I thank you for the opportunity to testify today.

From 2011 to 2019, it was my honor to serve two counties in the Texas Hill Country as a member of the Texas House of Representatives. During my four terms in office, I primarily served on the Environmental Regulation, Energy Resources, and Economic Development committees, where I learned that the United States is a world leader in environmental protection and economic prosperity. Now, as the director of Life:Powered, one of my primary missions is to expose how environmental, social, and governance (ESG) investing threatens our economic prosperity and, instead of improving our environment, enables China's abysmal human rights and environmental records. ESG has infiltrated our economy and been weaponized against essential industries all of us rely on, including, but not limited to, fossil fuels, agriculture, and forestry.

Today, I want to discuss with you the detrimental effects the collusory ESG agenda is having on American energy producers and why Congress must do everything in its power to stop this overreach into what is supposed to be a free market.

ESG investing isn't just harmful to our economy and energy industry—it could violate antitrust laws.

A free market is no longer free when the major financial players are colluding—not even behind the scenes but out in the open—to gut politically targeted businesses while forcing dollars into their own "green" investments. That's exactly what's happening on Wall Street with the rise of ESG investing. Energy companies that don't toe the line on political pet projects risk losing access to capital and even having existing contracts terminated. It's happening all over the country, as companies from BlackRock to The North Face are boycotting fossil fuels and shady shareholder tactics are being used to take over oil companies.

These cartel-like tactics are a flagrant violation of longstanding federal antitrust laws. Corporations are legally barred from engaging in group boycotts. These rules were set into place over a century ago to protect consumers from conspiracies to manipulate prices, constrain competition, and use politically or socially favored rhetoric to limit consumer choice.

The worst part of all this? Even the most powerful financial club could never actually succeed at eliminating fossil fuels—only at driving up prices and sending production overseas. It's a power grab with no net gain.

No matter how excessive the media narrative on climate change becomes, we won't stop needing affordable, reliable energy. Even after decades of multibillion-dollar subsidies intended to take renewable energy mainstream, the share of our energy provided by fossil fuels dipped from 80% to—wait for it—79%. All that expense, borne by the taxpayers, did next to nothing to improve renewable technology. Wind and solar may be politically popular, but history is proving again and again that they just don't work as a primary power source.

Faced with the possibility of losing access to capital and even having existing contracts canceled, many responsible American energy producers, especially small and medium-sized businesses without the vast resources of major oil companies, face the threat of going out of business altogether as banks increasingly refuse to serve the energy industry.

Unfortunately, this will drive energy production overseas, where environmental standards are lax. Not only will weakening America's energy dominance result in higher energy costs and a weaker stance in the global balance of power, but also, ironically, the long-term result of ESG collusion will be more harmful air pollution and more carbon dioxide emissions—the opposite of environmentalists' stated goal of protecting the planet.

Energy producers shouldn't have to apologize for existing. Instead, we should be celebrating the role of responsibly produced American oil, natural gas, and clean coal in protecting our environment, improving our quality of life, and fighting poverty all over the world.

ESG investing, which could be a useful tool for individuals to make informed choices about their investments, has instead become a wrecking ball that could destroy entire industries and cause even more painful inflation.

The un-American agenda of the climate cartel is an affront to the principles of liberty that founded our country.

As our policy director, Brent Bennett, Ph.D., points out in his research, *Keeping Politics Out of Texas Pensions Through Proxy Voting Reform*:

> A large portion of the voting shares in many public companies, up to 20%, is now controlled by three asset managers: Vanguard, BlackRock, and State Street. ESG investing has been a significant source of new revenue for these firms, enabling them to offer funds with a higher fee structure in an environment of declining fees, and they heavily market their ESG credentials.
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> The market for proxy voting advisory services—used by pensions, foundations, and endowments, as well as many asset managers to facilitate voting in thousands of corporate elections each year—is even more concentrated. Two firms, Institutional Shareholder Services Inc. (ISS) and Glass Lewis, hold over 90% of the market share and have become major ESG promoters because they benefit financially from the increasing number and complexity of shareholder resolutions from ESG activists.

> Public pensions, as some of the largest institutional investors in the world, are important trendsetters in the investment industry, and several state pensions, particularly the California State Teachers' Retirement System (CalSTRS) and the California State Employees' Retirement System (CalPERS), the two largest public pensions in the country, have led the charge in ESG activism. …
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> One example of this activist pressure at work is the campaign to force major oil and gas companies to adopt "net zero by 2050" carbon emissions targets and essentially embark on a 30-year effort to cannibalize their existing businesses in favor of low- or zero-carbon alternatives. Some of the notable groups behind this effort are Climate Action 100+ (CA100+), As You Sow, and Follow This, as well as traditional environmental groups like the Sierra Club. Despite ample evidence that oil and gas demand will continue to grow over the next 30 years, these activists claim that government policies will be able to dictate a rapid transition away from fossil fuels and that companies need to manage so-called transition risk. What's really happening is that they are weakening the resolve of energy companies to fight those policies, as evidenced by the shifts in the stance of the American Petroleum Institute, the oil and gas industry's main trade group, on issues like methane regulations and carbon taxes.
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> ESG activists would be sideshows in most public company elections if not for the influence of two important groups of participants in the proxy voting process: investment managers and proxy voting advisory firms. Consolidation in the investment industry and the rise of large, passively managed index funds have brought a large portion of the proxy votes of the largest U.S. companies under the control of three asset managers: Vanguard, BlackRock, and State Street. … When these companies vote together, they have tremendous power to sway corporate elections, a fact that ESG activists have long been aware of and are using to their advantage.

After working for months on a potential transaction, one entrepreneur was told by Credit Suisse First Boston that if he tweeted several points of agreement and alignment, including with the Paris Climate Accord and Net Zero by 2050, they would consider facilitating a transaction. That is clearly coercive in nature to align with political goals.

What would you call it when asset managers and proxy firms force compliance with a foreign treaty that has yet to be ratified by Congress? Even attempting to achieve Net Zero by 2050 would be massively catastrophic for humanity and we need look no further than the destructive net-zero policies implemented in Sri Lanka. This once-prospering country was exporting agriculture commodities until the worlds' first ever "net-zero candidate" was elected president and implemented policies banning the use and importation of nitrogen-based fertilizers. What happened to a country that had a near perfect ESG rating in the world? Food production decreased by 40% and prices skyrocketed 80%. When the president's palace was overrun, he didn't flee to the net-zero country of Malawi that was suffering from a cholera outbreak, he fled to the nation with one of the highest per capita CO_2 emissions on the face of the earth: Singapore.

The European Union's embrace of ESG, namely the E (decarbonization), has led to energy becoming expensive, scarce, and government controlled. After spending billions on unreliable electric generation European leaders are realizing the people they serve won't stand for unreliable electricity or skyrocketing prices. In an attempt to ease the pain of their mistakes, leaders are attempting to label

natural gas as a sustainable 'green investment.' I argue that Europeans are waking up to the realization that life is much more sustainable with fossil fuels, than without.

Financial institutions should not be able to use their financial power to coerce political agendas on businesses. The repercussions are tangible: several high profiles companies were all-in on ESG; Credit Suisse, SVB, and FTX (the crypto company without a board of directors had a higher ESG rating, at the time of its collapse, than ExxonMobil). No financial institution should be pursuing a political agenda over its fiduciary duty.

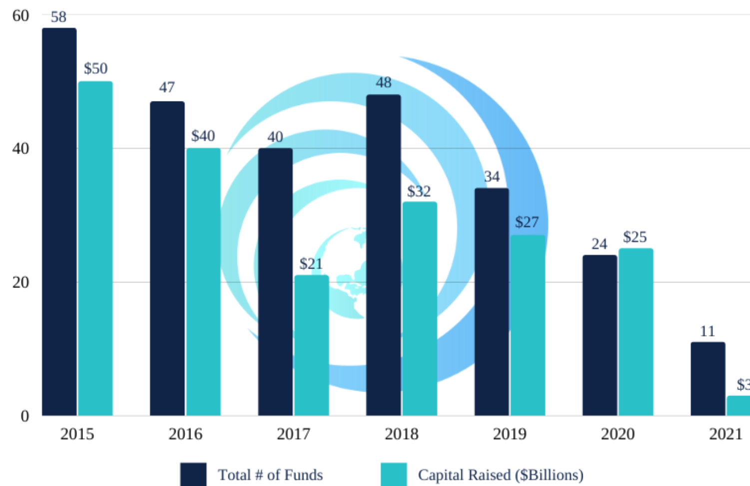
The owner of a small oilfield services company, James Lofton, detailed in his testimony in front of the Texas House Committee on State Affairs in 2021 how his business had been "targeted" and denied funding when Chase Bank decided to cancel the company's line of credit. In his testimony, Mr. Lofton said he was told the bank was "discontinuing anything to do with oil and gas." This change came despite the fact that Mr. Lofton's company had strong financial statements, had never missed a payment, and had not overextended its credit.

The problem with this is that energy is necessary for human flourishing. Cutting off credit to an industry essential to modern life because of a political agenda is problematic for our livelihoods.

The chart below details the effectiveness of the ESG agenda. Private capital investments in North American oil and gas operations has diminished over the past several years despite the fact that global demand for oil and gas is rising. This anti-American and anti-capitalist ESG agenda is definitely playing a role in restricting our ability to produce more energy here, which means that autocratic nations abroad will have more control over the global energy market.

North American Oil and Gas Private Capital Raised ($Billions)

Between 2015-2021:
81% reduction in the number of funds, 94% reduction in dollars raised.



Data from Preqin, 2021. (https://www.preqin.com/data/our-data).

We are not troubled by individual financial institutions making their own independent decisions. What's troubling is the global collusive effort that is behind the modern ESG movement. Research we have done at Life:Powered shows the intricate feedback loop between capricious standards of political correctness, government policy, and corporate actions that is driving woke capitalism. That loop must be broken to prevent the continued takeover of the means of production—from energy to agriculture to raw materials—by government and crony corporatists.

Energy driven inflation is leading to an increasing number of Americans getting their utilities disconnected, electricity disconnects have increased 30% while natural gas cut-offs have soared 76%, and globally 345 million people are on the brink of starvation. We cannot let the ESG agenda continue to deliver this pain, without any environmental gain. It puts our country and our very way of life at risk.

Thank you for the invitation to testify today. I look forward to your questions.

Sincerely,

The Honorable Jason Isaac
Director, Life:Powered
Texas Public Policy Foundation

Testimony by:

Stephen Moore

Senior Fellow, Heritage Foundation

Co-Founder of the Committee to Unleash Prosperity

Before the House Committee on Oversight and Accountability

Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs

and the

Subcommittee on Health Care and Financial Services

“The Impact of ESG Policies on American Investors, Retirees, and Pension Plans”

June 6, 2023

2154 Rayburn House office Building

Mr. Chairman, Madam Chairwoman, and distinguished members of the House Oversight Committee. Thank you for the opportunity to testify on a financial issue of great significance to the tens of millions of American retirees and the tens of millions more Americans who will soon be retired: The Impact of ESG investment and federal ESG policies on Americans' investment returns on their lifetime savings.

In compliance with Truth in Testimony, I attest that neither I nor my employer receive any funding form the United States federal government.

In this testimony, I would like to emphasize two points, based on studies I have been involved with that deal with ESG policies.

First, when it comes to ESG investing, there is little doubt that when fund managers restrict the kinds of investments they make -that are not related to increasing the returns to their clients, they are violating their fiduciary duty and should be held accountable for potential fraud.

Second, the analysis that I participated in this year of ESG proxy voting finds most of the nation's major money management firms, with multiple trillions of dollars of Americans' lifetime savings are routinely violating that fiduciary. ESG resolutions and ESG investing on balance UNDERPERFORM the stock market and therefore can cost average families tens of thousands of dollars by achieving lower returns. ESG proxy voting is happening routinely without the consent or even knowledge of the clients whose money they are safeguarding.

How Prevalent Is ESG Investing Work?

Investment management companies – including J.P. Morgan, Blackrock, and Fidelity - have trillions of dollars of Americans' lifetime savings under management. These companies indirectly own roughly 75 percent of the shares of America's publicly traded corporations. These money managers also have a legal obligation to earn the highest return for the tens of millions of Americans, who have placed their lifetime savings and pensions in these firms' legal custody.

But our new Committee to Unleash Prosperity study "Putting Politics Over Pensions" finds that a majority of the largest firms are routinely violating that fiduciary duty and letting political biases interfere with sound business practices.

Through a process known as "proxy voting" money management firms like State Street are voting on shareholder resolutions of the companies their clients own. Without the support or even the knowledge of their clients, big money managers are routinely supporting resolutions brought by leftist social activists. These "ESG' resolutions – which stands for "environment," "social justice," and "governance"- impose on a company's management radical climate change mandates – such as zero carbon emissions - divestment of oil and gas, or plastics companies, racial and gender quotas in hiring and so on.

This practice hurts American retirees and investors because myriad studies have indicated that ESG policies typically reduce shareholder returns. For example, when firms were required to sell their oil and gas holdings, this cost their clients potentially tens of thousands of dollars in returns because companies like Chevron and Exxon had among the highest returns in 2022. I have no problem with Americans choosing to put their money in funds that are explicitly ESG funds.

Our study has found that a majority of the 40 largest investment firms voted routinely in favor of even the most invasive ESG proposals related to related to left-wing environmental and equity activism. None of these proposals were supported by management at the targeted companies.

The table below shows the results of the 40 largest investment firms, which account for the vast majority of funds under management. Vanguard and Dimensional earned the best grades, having voted in the interests of their clients at least 90 percent of the time.

But a grade of F- went to six firms that supported more than 90 percent of ESG-focused shareholder resolutions:

- Deutsche Bank

- Swisscanto
- Northern Trust
- Storebrand Asset Management
- Invesco Perpetual Select Trust
- BNP Paribas

Nine other notable firms earned a D or an F:

- Columbia Threadneedle
- AllianceBernstein
- Geode
- Invesco Capital
- Guggenheim
- State Street
- Sun America
- Royal Bank of Canada
- Wellington

By voting with shareholder activists on resolutions that are hostile to the company's ability to provide a high return to shareholders, the result is billions of dollars in losses for America's shareholders – a high price to pay for advancing a leftist agenda they were never asked whether they support. The losses we all suffer will not just be from lower share prices: America's security and global competitiveness depend on its corporations' leadership.

What is ESG Investing?

ESG investing is a disingenuous response by the left to its failure to enact its unpopular social policies (like race-based hiring) and its environmental agenda. Having failed through the open political process to directly impose mandates on businesses, the tactic now is to try to foist its ideas on companies through an opaque process that leverages the money of others to hijack corporate governance.

ESG investing is becoming more common in the investment world. The process involves pension funds, endowments, and investment firms wielding their influence at shareholder meetings to support left-leaning measures related to race, sex, ethnicity, the environment, and political activity. These large firms exercise this influence through

what's known as "proxy voting," in which the aforementioned entities vote the shares of their clients on proposals advanced primarily by liberal activist groups.

In recent years, left-leaning activist groups have become much more aggressive at shareholder meetings and are filing more resolutions and pursuing bolder, more audacious objectives. They hide extreme positions behind anodyne terms such as "diversity," "racial equity," and "climate justice."

Emblematic of how a fund manager can go awry is USAA, whose capital is invested through its partner, Victory Capital. It earned an F-,surely not reflecting the views of their investors, who are limited to members of the military and their descendants. Meanwhile, an F was also the average grade earned by the 31 public pensions and endowments that cast votes on the Fiduciary-Free 50. (See methodology below.)

A striking contrast was Vanguard, which recently opted out of its membership in the Net Zero Asset Managers Initiative. It earned an A grade.

Fund families receiving an F

The following 25 of the most active voting firms earned an F, based on their voting records within non-ESG branded funds on the Fiduciary-Free 50 proposals.

- DWS Investment GmbH
- Swisscanto
- Guggenheim Investments
- MFS Investment Management, Inc.
- American Century
- Thrivent Investment Management, Inc.
- UBS Asset Management
- Northern Trust Investments
- Storebrand Asset Management
- Invesco Perpetual Select Trust Plc
- BNP Paribas Asset Management
- First Trust Advisors LP
- ProFund Advisors LLC
- DWS Investment Management Americas, Inc.
- Danske Bank A/S
- Credit Suisse Asset Management LLC

- Gotham Asset Management, LLC
- TD Asset Management
- Victory Capital Management, Inc.
- Irish Life Investment Managers Limited
- ProShares
- Principal Global Investors LLC
- APG
- United Services Automobile Association (USAA)
- Parametric Portfolio Associates, LLC

The funds receiving an A grade were:

Dimensional Advisors

Vanguard

Fidelity

T.Rowe Price

ESG Funds Underperform and Are De Facto Violations of Fiduciary Duty

The fundamental issue with ESG and related measures is that in most cases, they have a proven record of undermining company performance and shareholder returns. And that creates a thicket of liability issues for pensions and fund families that support these measures, given that state and federal law requires pensions and fund families to focus on maximizing shareholder returns.

The Biden Administration and many liberal activists and academics contend that ESG investing increases a company's returns by lowering the risk of climate change weather events or by promoting racial and gender equality. But numerous studies show that those returns are depressed (through stock price performance and the burden of higher fee structures charged to investors), add costs to companies, and deviate from core competencies when pursuing an ESG agenda.

- A meta-review of more than 2,000 studies found that ESG-focused investing depressed returns.[1]

[1] https://www.tandfonline.com/doi/full/10.1080/20430795.2015.1118917

- A performance review conducted by Boston College and published in 2020 found that pension funds with an ESG orientation lagged those of non-ESG funds by two basis points per year over a ten-year period.[2]

- A 2022 Harvard Business Study concludes: "Investing in sustainable funds that prioritize ESG goals is supposed to help improve the environmental and social sustainability of business practices. Unfortunately, close analysis suggests that it's not only not making much difference to companies' actual ESG performance, it may actually be directing capital into poor business performers."

- In a recent Journal of Finance paper, University of Chicago researchers analyzed the Morningstar sustainability ratings of more than 20,000 mutual funds representing over $8 trillion of investor savings. Although the highest rated funds in terms of sustainability certainly attracted more capital than the lowest rated funds, none of the high sustainability funds outperformed any of the lowest rated funds.

- In 2022, many ESG proposals to banks and insurance companies attempted to halt any financing or underwriting activities that could have supported new fossil fuel projects. But the oil and gas sector outperformed nearly every other industry, in terms of stock market gains.

What Should Be Done to Protect Investors

Congress should investigate whether the financial firms with trillions of dollars under management are honoring their fiduciary duty to their clients. If they are not, they may be committing investor fraud. These firms have an obligation to get the best return for their clients – not to save the planet. If individual investors want their retirement dollars invested in ESG, there are hundreds of plans that explicitly make those kinds of investments.

It is worth noting that states are already taking action. Nineteen state attorneys general wrote to BlackRock's Fink last year and questioned whether the company was violating its fiduciary and legal obligations:

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[2] ESG Investing and Public Pensions: An Update (bc.edu)

> Blanket statements regarding investing in particular asset classes without referencing price is not consistent with fiduciary and legal obligations. Nor are blanket commitments to vote for directors based upon protected characteristics, such as gender. Rather, BlackRock appears to be acting for a social purpose that may have a financial benefit if certain improbable assumptions occur. If BlackRock were focused solely on financial returns, its conduct would likely be different.[3]

To avoid legal liability, BlackRock maintains that "We are a fiduciary. . . .We put our clients' interests first and deliver the investment choices and performance they need."[4]

But the ideological hijacking of the fiduciary obligation by companies like BlackRock and other fund families is undeniable. Just this week BlackRock's CEO Larry Fink reiterated the commitment to forcing firms to adopt ESG policies – whether it is in the interests of shareholders or not.

Does ESG Reduce Future Risks?

At the heart of the ESG movement is the assumption that all of the future risks to the economy and the state of the planet emanate from climate change risks and the use of fossil fuels. Those risks exist. And there are ecological and financial risks from every other form of energy. But there are enormous risks and costs to NOT producing American oil and gas, or plastics, or coal, or pipelines, etc. Technological development and economic growth are by far the best ways to combat ecological risks. Similarly, racial and gender quotas are inconsistent with the concept of merit based on performance and qualifications.

Biden's Anti-Fossil Fuels ESG Agenda Is Making America Poorer

The worst example of how ESG fanaticism is negatively impacting Americans is the rise in oil and gas prices at the pump and the impact on prices and U.S. GDP.

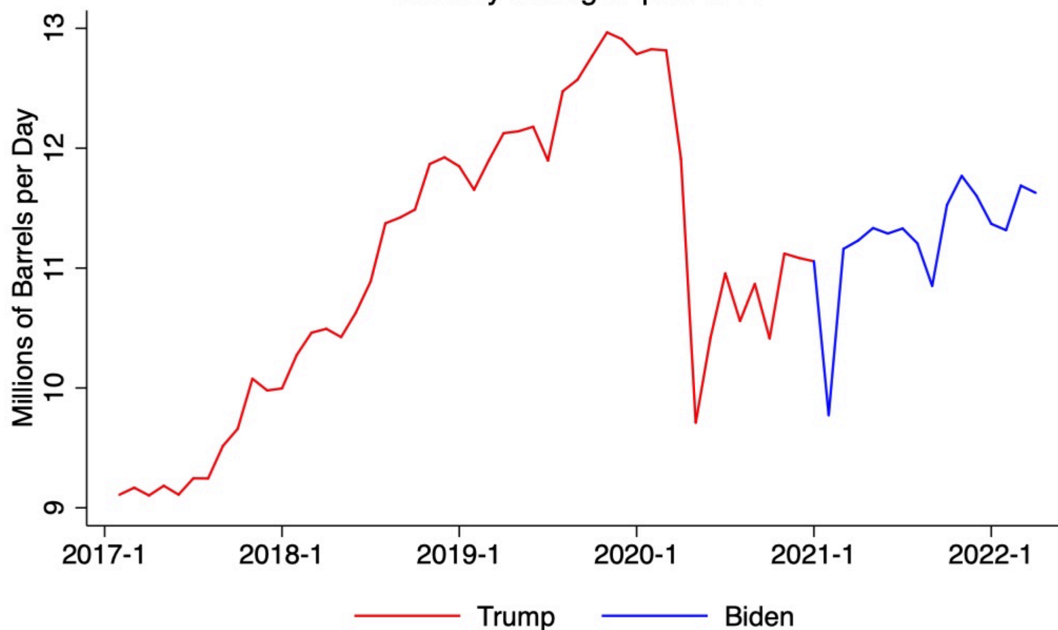
The Biden administration's hostility toward the oil and gas industry is well-established. The Institute for Energy Research has chronicled more than 100 separate actions and orders by the Biden administration that have blocked or created financial disincentives for drilling.

[3] BlackRock Letter.pdf (texasattorneygeneral.gov)

[4] https://abcnews.go.com/Business/esg-investing-republicans-criticizing/story?id=97035891

As the graph below shows, by January 2021, the U.S. had achieved Trump's goal of energy independence. That is to say, the U.S. was a net EXPORTER of oil and gas. The Energy Information Agency had predicted that the U.S. could produce as much as 15 million barrels of oil under current trends.

Another data point: in early 2020, right before the Covid crisis shutdown the American economy, the United States oil and gas industry reached peak production at a record 13 million barrels of oil a day, according to the U.S. Department of Energy's Energy Information Administration (EIA).



According to EIA, in April of 2023 (the latest U.S. data available), U.S. oil production was roughly 12 million barrels. This is assuredly LESS than the 13 million peak we reached under Trump.

Our best guess is that production is down by between 1 to 1.5 million barrels today from the Trump peak. At $80 a barrel, this is a loss of output to the tune of roughly $100 million a day in lost U.S. economic output.

But that is NOT the end of the story. The price of oil today is MUCH higher than the price when Trump was president. Adjusted for inflation, the average world price throughout Trump's presidency was $54 a barrel, and rarely exceeded $65. During Biden's presidency, the average was $71 through April 2022 and averaged $86 in 2022. See Figure 2.

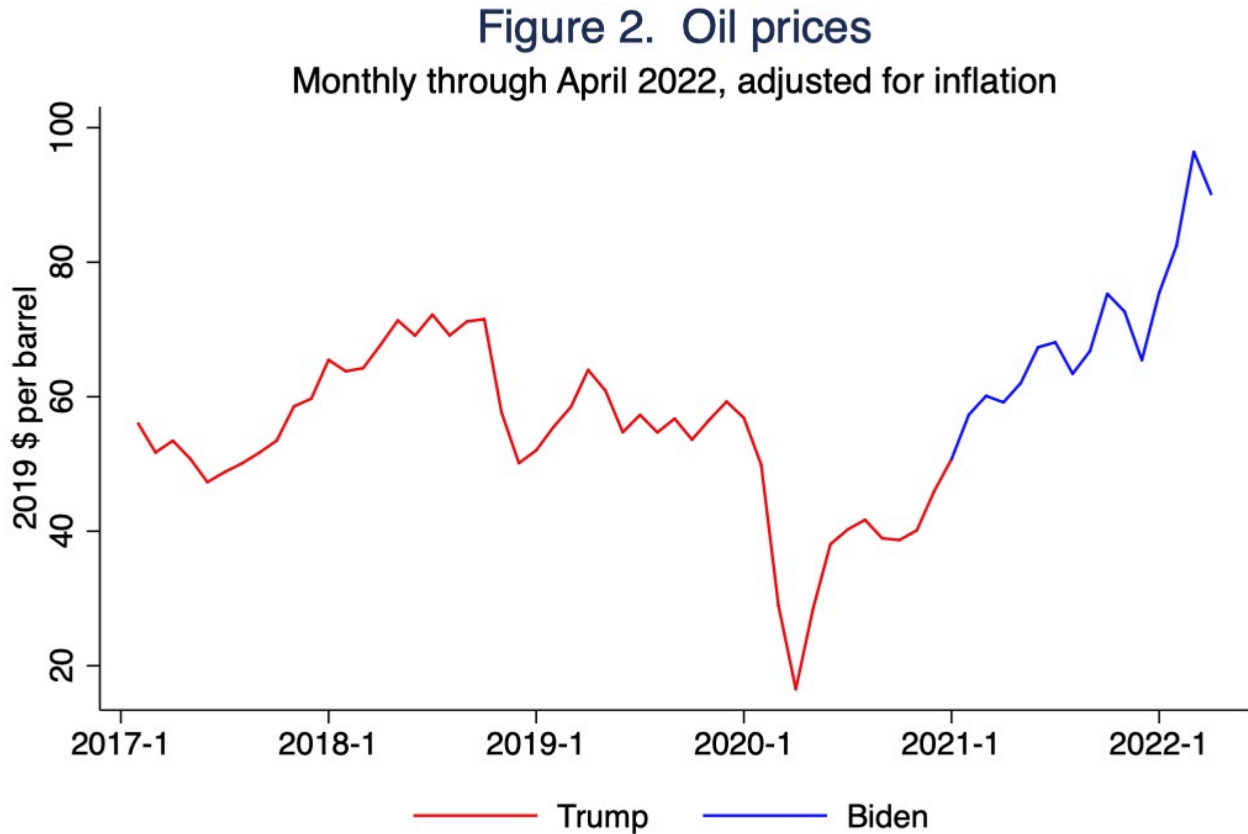
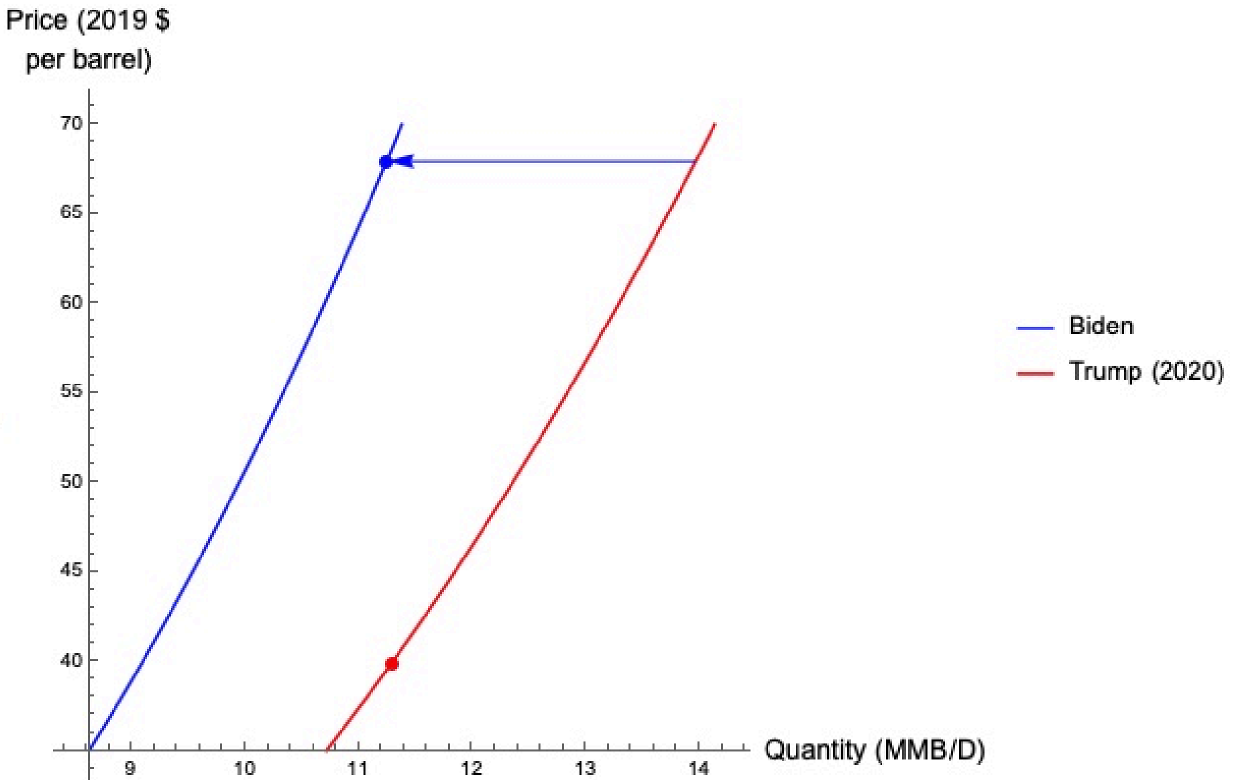


Figure 3. Something reduced the supply of oil after 2020



Circles are actual price-quantity points.
The supply shift (arrow) is -2.5 MMB/D in the quantity dimension.
Supply elasticity of 0.4 from US EIA.

Our estimate is that if the Trump supply conditions had remained in place, daily U.S. oil production from 2021-23 would have been roughly two million barrels, and daily gas production 20 billion cubic feet, greater. The U.S. would again be the lead energy producer.

Under that scenario, the U.S. would not have to import a single net barrel of oil from abroad. The U.S. would be producing at least $200 million more oil output per day.

This is a direct hit on the American economy that equates to between $100 and $200 billion a year-depending on the fluctuation of the world price of oil and gas. ESG investing ("Environmental, social, and governance") requirements pile on obstacles and costs to U.S. production. They are making America poorer and shifting production to our adversaries – with no net benefit to the environment.

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Roy Bernard Kester and T.W. Byrnes
Professor of Accounting and Auditing

June 5, 2023

House Oversight Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs and Subcommittee on Health Care and Financial Services

Re: Testimony related to ESG

Thank you to Subcommittee Chairs Fallon and McClain, Subcommittee Ranking Members Porter and Bush, as well as the other members of the Committee for the opportunity to testify before you today on a topic of utmost importance – how companies allocate resources, who are they accountable to and how.

It is an honor to be here. My name is Shiva Rajgopal, and I am the Kester and Byrnes Professor of Accounting and Auditing at Columbia Business School.

To me, ESG is really about material factors that affect the future cash flows and cost of capital of a firm. I think of ESG as a term that covers data that is not adequately disclosed by our financial reporting model and mandated disclosure rules. Let us consider specific examples to illustrate this argument:

- Climate and extreme weather-related events already affect the cash flows of insurers, travel and tourism related companies such as cruise lines, agriculture firms, theme park operators, energy companies and transportation companies, to name a few.[1] Yet, current reporting rules in the US require no systematic disclosure of the impact of such climate related physical and transition risks on the affected firms future cash flows and cost of capital.

- Turning to the "S" in ESG related to workers and labor, it turns out that barely 15% of US firms disclose even the compensation costs that they pay in aggregate to their workers.[2] Companies are only required, as of now, to disclose the number of full-time employees in their financial statements. Companies rarely disclose the number of part time workers and contractors, or the compensation paid to such part time workers and contractors let alone important information such as tenure of these workers, abnormal turnover, training, or the gender and age composition of the work force or how much of the firm's operations have been outsourced or conducted via contractors. An appreciation of the firm's work force enables an investor to get a better sense of corporate culture and the quality of its human capital which, in turn, has been shown to be associated with value creation in a firm, including innovation, productivity, ethical behavior and compliance activities of the firm.

[1] https://www.bloomberg.com/news/articles/2023-06-03/a-global-stock-trader-s-guide-to-more-extreme-weather-events?sref=yv2coi81
[2] https://www.sec.gov/rules/petitions/2022/petn4-787.pdf

- Let us now consider another part of "S" related to the taxes a company pays and the grants and subsidies that it receives, and the conditions such as the minimum number of jobs the firm needs to create in exchange for such assistance. Corporate disclosures in this area are vague and sketchy at best.[3,4] Some of my research shows that the expected payoff to a dollar of lobbying to a firm can far exceed the expected payoff to say a dollar of R&D investment.[5] Yet, there is no required disclosure of the extent and scope of lobbying activity that a firm undertakes.

- The "G," or corporate governance of a firm describes the process of assessing what the CEO has done with the shareholder capital, natural capital, human capital, and taxpayer resources entrusted to such CEOs by shareholders, society, workers, and taxpayers. However, as mentioned before, the data available to assess how well the CEO has delivered a return on these sources of capital is often missing or vague. Even CEO compensation disclosures do not clearly reveal whether shareholders have actually paid the CEO for firm performance.[6]

ESG, in essence, is a free market, organic and an investor driven movement to ask firms to disclose more information about the described factors associated with their future cash flows or cost of capital. Investors would be derelict of their fiduciary responsibility to their stakeholders if they did not consider the material factors when making an investment decision. Prohibiting consideration of material ESG factors simply interferes with the provision of data to make asset markets efficient at pricing these risks and returns. In fact, there is evidence to suggest that substantial losses will be incurred by the constituents of the states such as Texas where legislation that infringes on the public pension fund's freedom to invest have been passed in recent months.[7]

In closing, I would reiterate that investors and asset managers cannot afford to ignore financial risks posed by overlooking material ESG data relevant to understand the future cash flows and risks of stocks, bonds and other assets.

Thanks again for listening to my testimony. I look forward to answering your questions.

Yours sincerely

Shiva Rajgopal

[3] https://www.forbes.com/sites/shivaramrajgopal/2022/12/21/why-investors-need-better-corporate-tax-disclosurespart-i/?sh=5b201873653f
[4] https://www.forbes.com/sites/shivaramrajgopal/2022/12/24/why-investors-need-better-corporate-tax-disclosurespart-ii/?sh=61128ae4694f
[5] https://www.forbes.com/sites/shivaramrajgopal/2021/06/07/it-should-be-mandatory-to-disclose-political-influence-seeking-and-payoffs-from-the-state-theres-an-evidence-based-reason-why/?sh=30a208d11eb3
[6] https://www.forbes.com/sites/shivaramrajgopal/2022/10/23/most-us-companies-pay-ceos-under-a-competitive-pay-policy-but-dont-confuse-it-for-pay-with-performance/?sh=758c58757a19
[7] https://knowledge.wharton.upenn.edu/podcast/knowledge-at-wharton-podcast/texas-fought-against-esg-heres-what-it-cost/