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May 10, 2023

The Honorable James Comer, Chairman
The Honorable Jamie Raskin, Ranking Member
U.S. House of Representatives
Committee on Oversight and Accountability
2157 Rayburn House Office Building
Washington, DC 20515

Re: Woke ESG Investing Threatens Louisianans and Americans

Dear Chairman Comer and Ranking Member Raskin:

I applaud the efforts of Chairman Comer and the House Committee on Oversight and Accountability to hold a hearing on May 10, 2023 titled, "ESG Part I: An Examination of Environmental, Social, and Governance Practices with Attorneys General." I am grateful that the Committee is focusing on the important issue of ESG and has solicited the views of state Attorneys General.

As the Attorney General of Louisiana, I welcome the opportunity to submit my views on ESG practices, particularly with respect to Climate Action 100+. ESG investing puts politics over people and raises significant concerns that companies pushing these green-energy fantasies may be engaging in unfair, deceptive, and anti-competitive practices that harm consumers. To address such concerns, my Office has recently launched a major initiative to probe the potential unlawfulness and consumer harm from this foundational ESG consortium.

By its own statements, Climate Action 100+ appears to be one of the worst ESG offenders. Formed just months after President Trump withdrew the United States from the Paris Agreement, Climate Action 100+ was designed to continue implementing the woke ESG agenda and throttle initiatives that are crucial to American energy independence.¹ The consortium's avowed purpose is to achieve the goals of the Paris agreement through private economic pressure, once they were rejected by valid political processes.

When it launched in December 2017, Climate Action 100+ had 200 investor members with more than \$26.3 trillion in assets under management, all of whom were coordinating action to pressure

¹ Robert Clark and Lindsey White, *Slowly but surely, US investors pivoting to focus on sustainability*, S&P GLOBAL MARKET INTELLIGENCE, Dec. 11, 2017, available at <https://www.spglobal.com/marketintelligence/en/news-insights/trending/yi9vib0p4z5d-3oitnyzqa2> (emphasis added).

100 “focus companies.”² Today, Climate Action 100+ currently includes 700 global investors who are responsible for more than \$68 trillion in assets under management, and who are coordinating action toward 166 “focus companies.”³ Climate Action 100+ claims that these 166 companies “account[] for up to 80 percent of global corporate industrial greenhouse gas emissions.”⁴

Climate Action 100+ members “engage” with companies to force them to implement woke ESG priorities. Members of Climate Action 100+ “commit to engaging with at least one of 166 focus companies that are strategically important to the net-zero emissions transition and to seek commitments on the initiative’s key asks: [i]mplement a strong governance framework on climate change; [t]ake action to reduce greenhouse gas emissions across the value chain; and [p]rovide enhanced corporate disclosure.”⁵

Anti-competitive coordination appears to lie at the heart of such initiatives. Throughout the company “engagement” process, Climate Action 100+ members appear to be violating antitrust laws by improperly coordinating and conspiring. According to the Climate Action 100+ website, “[e]ngagement with focus company executives and board members is spearheaded by a lead investor or investors, who work cooperatively with a number of collaborating investors.”⁶ Lead investors disclose their “engagement plans and priorities” twice per year “to ensure strong and concerted action.”⁷

Even if Climate Action 100+ members engage with companies on an individual basis, they are still required to coordinate with each other. Like lead investors, members meeting individually must disclose their engagement plans and priorities twice per year to “ensure strong and concerted action.”⁸ Members meeting individually also must coordinate to ensure alignment: “Investors can also engage with focus companies on an individual basis, but are required to: liaise with relevant network staff and/or lead investors to ensure engagement priorities and ambition are aligned with the goals of the initiative, as well as with the overall collaborative approach (as appropriate in each sector).”⁹ In addition, members must share information after individual meetings: “Investors can also engage with companies on an individual basis, but are required to share information with the engagement working group and the coordinating investor network.”¹⁰

Each company engagement carries a threat: “a central message of each engagement is that inaction by companies following engagement may result in investors taking further action.”¹¹ And this is

² *Global investors launch new initiative to drive action on climate change by world’s largest corporate greenhouse gas emitters*, Dec. 12, 2017, available at <https://www.climateaction100.org/news/global-investors-launch-new-initiative-to-drive-action-on-climate-change-by-worlds-largest-corporate-greenhouse-gas-emitters/>.

³ *Investor Signatories*, Climate Action 100+, available at <https://www.climateaction100.org/whos-involved/investors/>; *Companies*, Climate Action 100+, available at <https://www.climateaction100.org/whos-involved/companies/>.

⁴ *Companies*, Climate Action 100+, available at <https://www.climateaction100.org/whos-involved/companies/>.

⁵ *How We Work*, Climate Action 100+, available at <https://www.climateaction100.org/approach/how-we-work/>.

⁶ *Engagement Process*, Climate Action 100+, available at <https://www.climateaction100.org/approach/engagement-process/>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *How We Work*, Climate Action 100+, available at <https://www.climateaction100.org/approach/how-we-work/>.

¹¹ *Engagement Process*, Climate Action 100+, available at <https://www.climateaction100.org/approach/engagement-process/>.

the whole point of groups like Climate Action 100+. This threatening message hangs over productive companies like a Sword of Damocles: Implement this woke ESG agenda, or you will suffer the consequences.

The self-vaunted activities and methods of Climate Action 100+ give me strong reason to believe that Climate Action 100+ is engaged in unfair methods of competition in violation of federal and state law by conspiring and combining to restrain trade and commerce. Climate Action 100+ openly boasts that its members conspire with other investors and asset managers to reduce competition amongst themselves and coordinate restricted investment toward specific companies unless certain ESG policy objectives are implemented. There is strong reason to believe that these unlawful actions have harmed, and will continue to harm, Louisiana's consumers and citizens, as well as citizens across America.

In addition, the activities of Climate Action 100+ give me strong reason to believe that Climate Action 100+ has used deceptive, fraudulent, and unfair practices in violation of its fiduciary duties to citizens and consumers. Fiduciaries have a duty to act in the best interests of those who have entrusted them to handle their money, and to maximize profits instead of pushing left-wing political agendas. The decision to prioritize ESG and Climate Action 100+ policies, and to demand that other corporations prioritize ESG action and institute Climate Action 100+ policies, necessarily subordinates the fiduciary duty to maximize returns to an artificial goal to achieve left-wing dreams of climate-related governance. In effect, investors who push expensive ESG policies on the firms in which they invest are acting at war with their own clients' best interests. Breaches of fiduciary duty have, and will continue to, reduce corporate profits and thus investment return—all at the harm and expense of consumers and citizens.

ESG harms citizens in my state in many ways. Louisiana is home to several Climate Action 100+ "focus companies." Louisianans depend on these companies for good-paying jobs. Louisianans also depend on many of these companies for reliable, affordable energy. By attacking these companies with radical ESG plans, Climate Action 100+ puts Louisianans' jobs at risk and threatens to increase their energy bills.

Louisianans also have retirement accounts and life savings invested in members of the Climate Action 100+. These Louisianans expect their investors to maximize profit on their investments, not manipulate them to achieve progressive green fantasies. No Louisianan should have their retirement gambled and lost on ESG.

President Biden and the woke elite capitalists that manage him have systematically dismantled the era of prosperity and energy independence that we enjoyed under President Trump. Now, America must depend on rogue states like Venezuela to sell us the very oil that America has in abundance underneath our soil and coastal waters. America also must depend on China to sell us the solar panels and electric vehicle components that the woke ESG bullies demand. By stifling America's production of clean energy and outsourcing it to hostile, polluting nations, ESG defeats its own purposes, jeopardizes America's energy independence, and threatens our national security.

For these reasons, in April 2023 I launched the first state investigation into American members of the Climate Action 100+ global steering committee, Franklin Templeton and the California Public

Employees' Retirement Systems. Obtaining answers and documents from them will be instrumental in better understanding the many hidden aspects and harmful impacts of Climate Action 100+.

ESG is a pernicious threat to consumers in my State and across America. I will defend Louisiana consumers and work tirelessly to ensure that their hard-earned money is not used to fund the desires of climate control charlatans, and to protect the economy of Louisiana from private woke imperialism.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Landry", with a long horizontal flourish extending to the right.

Jeff Landry
Attorney General of Louisiana