Statement before the House Committee on Ways and Means

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Chairman Smith, Ranking Member Neal, and Members of the Committee, thank you for inviting me to testify before you on the impact of Environmental Social, and Governance ("ESG") on retirement security.

Masquerading as a sophisticated, holistic, and enlightened way of creating shareholder value, ESG is a dangerous investment scheme that threatens to displace our free market system and erode our democracy.

Proponents of the framework argue that ESG is designed to provide investors with more information to make better-informed decisions. This is misleading. For example, banks and insurance companies have long used financially material factors to evaluate risk, and companies are already required to disclose financially material risks to investors – regardless of whether today, some would categorize those factors or risks as "ESG."

In truth, ESG has become an uncontrollable impulse to pressure corporations to solve complex global and societal issues that are in the purview of a democratically elected government – such as climate, policing, income inequality, guns, and abortion, to name just a few. ESG hijacks corporate governance to advance ideological objectives often divorced from, and even detrimental to, long-term shareholder value. In other words, ESG goes beyond scores and risk measures and opens the door to coercion, bullying, and other forms of compulsion by activist shareholder proponents with little skin in the game, in collusion with and the assistance of the foreign-owned and very influential duopoly of ISS and Glass Lewis, as well as many large institutional shareholders, which manage billions of dollars in state-owned pension funds. The goal of ESG is not better financial performance, but rather, to force compliance to one world view.

Accordingly, it is not surprising that when academic researchers surveyed 1,141 primary peer-reviewed papers and 27 meta-reviews (based on about 1,400 underlying studies) published from 2015 to 2020, the results showed a statistically significant negative relationship between ESG investing and investor returns.[1]

The ESG trend that has overtaken our capital markets will undermine our free market system, harm our economy, and erode the retirement security of hard-working Americans.

[1] Atz, Ulrich and Van Holt, Tracy and Liu, Zongyuan Zoe and Bruno, Christopher, Does Sustainability Generate Better Financial Performance? Review, Meta-analysis, and Propositions (July 22, 2022). Journal of Sustainable Finance and Investment, Available at SSRN: https://ssrn.com/abstract=3708495 or http://dx.doi.org/10.2139/ssrn.3708495

**ESG Is Incompatible with Free Markets**

ESG is incompatible with free markets and will destroy our economic freedoms. Climate change is one of the animating forces behind ESG. The E is focused on pushing 'net zero' carbon emissions. However, the primary objective of proponents of the climate initiative is to transform the global economy. Christiana Figueres, who oversaw the writing of the Paris Climate Agreement, said in 2015 the true goal of pursuing climate change initiatives is to abandon the economic model that has been the engine of global growth for 150 years.[2] As reported by the Washington Post, Alexandria Ocasio-Cortez's chief of staff, Saikat Chakrabarti in 2019 echoed this sentiment stating, "The interesting thing about the Green New Deal, is it wasn't originally a climate thing at all… we really think of it as a how-do-you-change-the-entire-economy thing."[3] Similarly, a United Nations-commissioned report in 2018 predictably concluded, "We cannot fight climate change with capitalism."[4]

As is evident from our country's history of economic outperformance, the benefits of our economic system are extensive and critical to our success as a nation. Our free market system means we are free to choose how we make and spend money. Similar to our Constitutional form of government, where our political leaders serve the individuals who elect them, our economic system places each of us at the center – economic success depends on companies serving our wants and needs. Conversely, ESG places "elites" – such as the United Nations, large government investment pools, and the World Economic Forum – and their demands at the center of its system. Whether intentional or not, those who catastrophize climate are attacking and destroying our foundational economic freedoms.

The United Nations published a report in 2004 titled "Who Cares Wins," which is widely recognized as including the first significant mention of ESG. This report urged all stakeholders to band together to broadly adopt ESG principles.[5]

Now, the net zero climate pledges signed onto by the banking, insurance, and investment industries focus on transitioning away from traditional energy sources without addressing the question of what we are transitioning to, crafting a roadmap for how we will effectively execute that transition, or evaluating the very real human cost of boycotting fossil fuels. In other words, these climate pledges seek to address the "supply" side of the energy equation, without so much as referencing the "demand" side of the equation – or the significant impacts of the transition on our economy, economic well-being, standard of living, or energy security. The ESG enthusiasts' agenda would leave us susceptible to as-of-yet unscalable alternative energies. Ultimately, the climate issue must be solved by the democratic process, which is uniquely situated to balance the

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[2] Figueres: First time the world economy is transformed intentionally. Internet archive: Wayback Machine. (2015, January 3). https://web.archive.org/web/20150423160411/https://unric.org/en/latest-un-buzz/29623-figueres-first-time-the-world-economy-is-transformed-intentionally

[3] The Washington Post. (2019, July 10). AOC's chief of staff isn't just running her office. he's guiding a movement. The Washington Post. https://www.washingtonpost.com/news/magazine/wp/2019/07/10/feature/how-saikat-chakrabarti-became-aocs-chief-of-change/?utm_term=.118277479754

[4] Paddison, L. (2018, September 11). We cannot fight climate change with capitalism, says report. HuffPost. https://www.huffpost.com/entry/climate-change-capitalism-economy_n_5b87bf0ce4b0cf7b00326edc

[5] United Nations Global Compact. (2004). Compact who cares wins - united nations environment programme finance ... https://www.unepfi.org/fileadmin/events/2004/stocks/who_cares_wins_global_compact_2004.pdf

costs, benefits, risks, and opportunities of the transition, and through innovation driven by a free market economy.

Our country was founded on the concept of plurality to prevent a consolidation of power. Our constitutional form of government separates power into equal branches with checks and balances. The markets represent one of our most pluralistic institutions, composed of many parties with diverse views about the future. Markets only operate when differing views are allowed. ESG dangerously moves the market to one view – the perspective of a small group of like-minded individuals – that is generally subjective and controversial.

The markets allocate capital to environmental solutions by investing in innovation. However, when politics force an ideological agenda and get enough participants to behave one way, markets stop functioning effectively. ESG distorts the markets, pulls funding from the very organizations most likely to find a solution, and attempts to bankrupt an industry that is vital to our day-to-day lives, including the food we eat, the clothes we wear, the healthcare we rely on, the electricity we consume, and our transportation.

ESG is not a function of the free markets. It is the result of direct or indirect coordination among international organizations, self-proclaimed "socially responsible investors," foreign proxy advisory firms ISS and Glass Lewis, and influential investment firms that manage other people's assets, which are effectively forcing an agenda through adopting or coercing others to adopt climate pledges.

Investment managers are using the trillions of dollars under their management as leverage to compel companies to implement certain policies for political reasons unrelated to returns. One CEO of a large investment management company has very publicly stated that "forcing behaviors" is necessary to achieve the firm's goals.[6]

Through shareholder proposals that are often backed by the powerful proxy advisory firms and many large institutional investors, to avoid having their board members targeted with no-votes or to receive an ESG score that will allow them to transact business with others, companies throughout our economy – from start-ups to multi-nations – are pressured to adopt certain politicized policies, driven by forces that do not have investors' nor America's best interests at heart. This is true with respect to not only environmental issues, but also social issues – the S in "ESG."

I have spoken with executives of start-ups and small companies who have said that venture capital firms ask them to complete long ESG questionnaires including questions such as whether or not 60% or more of their board and staff are trans, LGBTQ+, or women. If certain demographic ratios are not met, the surveys then ask whether there are policies in place to terminate employees who are not in the protected classes until at least 50% of employees are in those classes within six months. Other questions ask about efforts to monitor electricity usage monthly, assurance that renewable electric sources are used at an increasing amount each month, and policies to monitor airline travel to ensure employees are flying on aircraft with technology

[6] Fox Business. (2023, June 5). Blackrock CEO admits investment firm would "force behaviors" in 2017 interview: Fox Business Video. Fox Business. https://www.foxbusiness.com/video/6328848893112

that is reducing the carbon footprint. Executives have expressed concerns about not having the resources to monitor these activities and wasting precious capital needed to grow the company for these kinds of activities.

The obsession with ESG will be devastating to the economy and will snuff out start-ups and small corporations that cannot afford the enhanced burden. Importantly, all of this will not result in solutions to environmental and social challenges. It may help some people feel better about their investments, but its coercive nature should scare us all.

**ESG Contributes to Inflation and Hurts Investment Returns**

ESG politicizes what should be purely financial decisions. Americans put their trust in investment managers to grow their money for important savings goals like retirement, education, and future emergencies. Investment managers have a fiduciary obligation to focus solely on creating returns for investors. This important protection makes it illegal for those managing your money to do anything with it that is contrary to your financial best interest.

In 2022, the Department of Labor adopted a rule that provides plan sponsors and investment managers a safe harbor to use politically motivated investment strategies in retirement plans as a default option.[7] When a manager tries to achieve a dual purpose, there is the potential for returns to suffer or volatility to increase. Because investment managers are now allowed to use these strategies as a default option, it is unlikely most employees will know their investments are being politicized to their detriment.

The risk to retirement is not strictly through designated ESG funds. ESG has infiltrated the entire market, and asset managers are driving the agenda using all assets under management, not just ESG-related assets. There are 5,381 asset owners and asset managers, representing $121 trillion in assets under management,[8] that are signatories to the UN Principles for Responsible Investment ("PRI"), which requires signatories to commit to "incorporate ESG issues into investment analysis and decision-making processes." Moreover, the PRI's Blueprint for Responsible Investment specifically notes that they aim to "establish that asset owners' responsibilities to their beneficiaries extend beyond the risk/return profile of their investments to include making decisions that benefit the world beneficiaries live in.[9]

This politicization has manifested itself in the capital markets where, for example, banks are pressured to cut off capital to the oil, gas, coal, and firearms industries. In 2015, 59 oil and gas funds were raised globally representing $46.6 billion; in 2021, 11 funds were raised totaling $4.6 billion, a drop of 90%, despite improving economics.[10] This has contributed to sky-high gas

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[7] Figueres: First time the world economy is transformed intentionally. Internet archive: Wayback Machine. (2015, January 3). https://archive.org/web/

[8] United Nations Global Compact. (2023). Principles for Responsible Investing: Signatory Update (January to March 2023). https://www.unpri.org/download?ac=18691, P. 3.

[9] United Nations Global Compact. (n.d.). Principles for Responsible Investing: A Blueprint for Responsible Investing. https://www.unpri.org/download?ac=5330, P. 14.

[10] Jacobius, A. (2022, March 14). War and sanctions ramp up oil prospects - pensions & investments. Pensions & Investments Magazine. https://www.pionline.com/alternatives/war-and-sanctions-ramp-oil-prospects

prices because of insufficient supply and inflation across the economy. Sadly, Americans who can least afford it are bearing the greatest burden.

In addition to the tangible harms to our free market system's economic freedoms and increased inflation, we have seen some truly baffling ESG scores, which further underscore the absurdity of ESG as an indication of value creation. For example, S&P Global Ratings assigned (and later retracted) Russian-controlled energy producers higher ESG ratings than similar entities in the United States. Russian energy giants Gazprom and Rosneft outscored American energy companies ExxonMobil and Chevron, despite the fact the Russian government is the majority owner of Gazprom and owns a 40% stake in Rosneft—the same government that invaded neighboring Ukraine in an unprovoked and unjustifiable attack, in violation of international law.

Following renewed aggressive sanctions by Western governments, any investor who relied on S&P Global's ESG ratings was left to wonder whether those ratings accurately captured the actual "social" risk attributable to the Russian government's longstanding and documented disregard for human rights and international law.[11]

Some recent headlines highlight how pursuing ESG can hurt a company's bottom line. Budweiser found itself at the center of a significant controversy when it introduced a limited-edition Bud Light can featuring transgender influencer Dylan Mulvaney. Consumers expressed outrage, and the company experienced a notable decline in business as a result. There is a reasonable case to be made that the decision to feature Mulvaney was designed to enhance Anheuser-Busch InBev's ESG score under the Diversity, Equity, and Inclusion (DEI) category. The company promotes its DEI rating through recognition on the Bloomberg Gender Equality Index (GEI) and the Human Rights Campaign's Corporate Equality Index (CEI). The CEI considers outward-facing policies, with a company facing a potential 25% penalty for actions that do not support LGBTQ+ causes.[12] Similarly, in Target's 2022 ESG Report, the company proudly highlights its perfect 100% score on the CEI. Yet, Target lost $10 billion in market valuation over 10 days, as the retailer faced backlash over its Pride-themed clothing line for children.[13]

## Proxy Voting and Shareholder Activism Hurts Retirement Security

New federal regulations, proposed regulations, and the regulatory approach to applying existing regulations support activists inserting their ideological agendas through corporate proxy ballots at annual shareholder meetings, a practice that has become increasingly prevalent over the past few years. In some cases, these proposals are asking corporations to break the law. In any event, in the vast majority of cases, these proposals are driving environmental, social, and political agendas that are not aimed at furthering shareholder value.

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[11] State of Utah. (2022, April 21). Letter to S&P Global. https://treasurer.utah.gov/wp-content/uploads/04-21-22-Utah-Letter_SP-Global_ESG-Indicators.pdf

[12] McGowan, J. (2023, April 14). Was Bud Light's Dylan Mulvaney decision about ESG? Forbes. https://www.forbes.com/sites/jonmcgowan/2023/04/12/was-bud-lights-dylan-mulvaney-decision-about-esg/?sh=547b8b2b8ba4

[13] McGowan, J. (2023b, May 30). Target's LGBTQ+ Pride marketing may be ESG DRIVEN. Forbes. https://www.forbes.com/sites/jonmcgowan/2023/05/25/targets-lgbtq-pride-marketing-may-be-esg-driven/?sh=15cd153a31f2

Multiple research studies have shown that ESG-related proxy measures often have a detrimental effect on financial returns. For instance, a study published in the Journal of Financial Economics investigated the influence of activist public pension funds on the market values of a subset of Fortune 500 companies. The findings revealed a negative correlation between increased activism by public pension funds and stock returns. Additionally, companies receiving proposals from activist public pension funds advocating for social agendas were valued at 14% less compared to similar companies that did not pursue such agendas.[14]

During both the 2022 and 2023 annual meeting seasons, activists have introduced numerous shareholder resolutions that call for companies to prioritize political agendas at the expense of growth and competitiveness. With the explicit support of the Securities and Exchange Commission (SEC), aggressive backing from the two large proxy advisory firms, and the affirmative voting practices of large global investment firms, these activists have outsized power to push their agendas on corporate America and unsuspecting American shareholders and even have the ability to influence the make-up of boards of directors based on their political objectives.

In 2022, Comcast shareholders proposed that the company "prepare a report assessing the alignment of the Company's retirement plan options with its climate action goals."[15] This proposal sought to deviate from the fiduciary standard for the purpose of achieving political aims using retiree funds. Although this proposal failed, had it passed, it likely would have resulted in lower returns or increased risks for investors.

In a 2022 proposal at insurance giant Chubb, shareholders requested a report on reducing greenhouse gas emissions associated with the company's underwriting and investment activities in alignment with the Paris Agreement's 1.5-degree goal. Chubb's response included the comment, "We are not aware of any method by which we could reasonably measure the GHG emissions of our insureds."[16] Nevertheless, the proposal passed by a large margin.

Moreover, for two consecutive proxy seasons, the SEC has allowed proposals on proxy ballots that, under the guise of "equity," promote blatantly illegal forms of discrimination. Another 2022 proposal, directed at Republic Services, a waste and recycling management company, called for an "environmental justice audit" to evaluate the "racial impacts" of its operations.[17]

According to a recent analysis, many asset managers are supporting shareholder proposals related to ESG issues, such as racial audits and fossil fuel restrictions, even within non-ESG investment vehicles. The report by the Committee to Unleash Prosperity evaluated the voting behavior of 4,814 non-ESG-branded funds in relation to 50 of the most extreme ESG-oriented

[14] Woidtke, T. (2002). Agents watching agents?: Evidence from pension fund ownership and firm value. Journal of Financial Economics, 63(1).
[15] Securities and Exchange Commission. (2022, April 13). Comcast Corporation: Rule 14A-8 No-action Letter. https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2022/kantorcomcast041322-14a8.pdf
[16] Sec.gov. (n.d.). https://www.sec.gov/Archives/edgar/data/896159/000121465922005166/0001214659-22-005166.txt .
[17] Republic Services Environmental Justice Audit. Investor Environmental Health Network (IEHN). (n.d.). https://iehn.org/resources/resolution/republic-services-environmental-justice-audit

shareholder proposals from 2022. For instance, one of these proposals urged Home Depot to conduct a “racial equity audit” to assess its impact on nonwhite stakeholders, while another called on Costco to establish climate targets for “Scope 3” emissions, including those resulting from “land use change” and “deforestation.” Notably, these proposals are unrelated to the financial performance of the companies involved.[18]

## Conclusion

If lower investment returns were the only issue, that would be bad enough. Worse is the threat to our economic freedoms. Whereas Adam Smith, the 18th-century moral philosopher, spoke of an invisible hand as the driving force behind capital allocation, each citizen pursuing their own desires and interests, ESG represents an invisible fist of economic coercion. The much-discussed energy transition is perhaps the most dangerous. At no time in our history has a market economy attempted such a large-scale transition. Why? Because markets lead to organic natural transitions that are less expensive and happen without force or coercion. No matter how badly a small group of vocal individuals want to transition away from traditional energy, a forced transition will bring with it any number of negative foreseeable consequences, among which may include blackouts, intermittent power, higher energy costs, energy shortages, and other similar impacts, as well as lower life expectancy, worse education, and decreased healthcare – all of which will be felt most acutely by lower socioeconomic communities.

The efficient allocation of capital means we are more productive, generate greater wealth, are better positioned to confront adversaries and assist allies, and can help more people out of poverty. ESG represents the greatest threat to our economic engine, which has produced more innovation, wealth, and opportunity than any other economic system in the history of the world. And that is the real problem with ESG. We will either have ESG and the economic coercion that system ushers in, or we will maintain economic freedom.

[18] Dow Jones & Company. (2023, May 17). Opinion | the ESG proxy vote ranking. The Wall Street Journal. https://www.wsj.com/articles/committee-to-unleash-prosperity-esg-proxy-vote-ranking-investment-goldman-sachs-blackrock-glass-lewis-iss-29401488