

AFR Americans for Financial Reform

February 1, 2024

Chair Luetkemeyer, Ranking Member Beatty, and members of the Subcommittee on National Security, Illicit Finance, and International Financial Institutions,

Americans for Financial Reform writes to the Subcommittee concerned about the widespread lack of information and investor protection in the private markets that has prevented both market participants from truly knowing where their capital is going, including knowing whether their funds may be impermissibly financing the development of sensitive technology or enabling human rights abuses. Similarly, gaps in our current regulatory regime block regulators and national security experts from obtaining essential visibility into where investors' capital is flowing, and for what purposes.¹

As the Subcommittee considers a number of approaches to enable the U.S. to screen for outbound investments in countries of concern, we urge the Subcommittee both to urge the SEC and other agencies to use existing authority to gain greater transparency into U.S. capital funding foreign issuers, and to expand their authority to do so. Both of these would complement the White House's Executive Order requiring the Treasury Department to be notified of all private investments in certain technological sectors.² The notification system under the executive order only applies to future investments but does not provide any further insight into the billions in existing investments. The SEC ending the registration exemptions of issuers in countries of concern would provide that additional clarity.

Foreign issuers may raise capital from U.S. investors in both the public and private markets. But while the public markets typically allow for a baseline minimum level of transparency and accountability, the private markets generally do not. Further, because most capital is raised in the opaque private markets, national security professionals, policymakers, and regulators currently lack visibility into what foreign issuers raise from U.S. investors, how much they raise, and for what purposes. While some of U.S. investors fund foreign firms through direct investments abroad, many others opt to make such investments through third-party, private investment advisers based in the U.S. or abroad. Even if they may have specific holding information (although many do not), investors typically have extremely limited visibility into the specifics of to whom their capital is flowing, and for what purposes.

The private markets have grown four-fold, to more than \$10 trillion over the past decade. Private bond offerings alone in the U.S. are around \$5 trillion.³ The lack of information available to

¹ Countries of concern as defined by Secretary of State. [Countries of Particular Concern. Special Watch List Countries. Entities of Particular Concern - United States Department of State](#)

² [Federal Register :: Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern](#). Aug 11, 2023.

³ Dinwoodie, Jeffrey T. Yale Journal on Regulation. Sept 25, 2023. [Fixed Income Securities and SEC Rule 15c2-11: History, Context, Uncertainties—and a Pathway Forward - Yale Journal on Regulation \(yalejreg.com\)](#)

investors, regulators, policy makers, and national security professionals in these markets is a threat to investors, market integrity, and our national security.

We urge you to consider legislation to:

- Limit the application of Rule 144A and Reg D to require all large issuers (such as those with greater than \$75 million) to register their offerings with the SEC and become publicly reporting companies;⁴ and
- Require all foreign issuers in countries of concern (or issuers whose principal place of business is in a country of concern) to register their securities offerings in the U.S.

We thank the Subcommittee for its consideration of our letter. If you have any further questions please contact Andrew Park at andrew@ourfinancialsecurity.org

⁴ Gellach, Tyler and Thornton, Alexandria and Weise, Crystal. Center for American Progress. Mar 22, 2023. [How Exemptions From Securities Laws Put Investors and the Economy at Risk - Center for American Progress](#)