September 17, 2024

The Honorable Mike Johnson
Speaker of the House
United States House of Representatives
Washington, DC 20515

The Honorable Hakeem Jeffries
Minority Leader
United States House of Representatives
Washington, DC 20515

Re: Opposition to anti-ESG bills that threaten workers' retirement security and our financial system, and weaken tools of corporate accountability

Dear Speaker Johnson and Minority Leader Jeffries:

Americans for Financial Reform (AFR) and the 39 undersigned organizations write in opposition to Prioritizing Economic Growth Over Woke Policies Act (H.R. 4790) and the Protecting Americans' Investments from Woke Policies Act (H.R. 5339), which are packages of several bills that are part of a broader, unpopular campaign against common sense investment practices. This campaign seeks to both force financial actors to ignore a slew of financial risks to the detriment of workers' retirement security and the integrity of our financial system, and weaken tools of corporate accountability. The bills at issue were marked up by the House Financial Services Committee (HFSC) and the House Committee on Education and the Workforce. If passed, they would represent a giveaway to corporations at the expense of workers, investors, and the public.

The bills marked up by HFSC in July of last year were the culmination of what the committee's majority publicly characterized as "ESG month" — a series of six hearings and a markup designed to discourage financial actors from taking into account environmental, social, and governance (ESG) factors in their investment decision-making and undermine corporate accountability. The bills can be categorized based on the effects they would have: 1) undermine regulations that would equip investors with more information to make better investment decisions (H.R. 4790); 2) insulate the management of public companies from investor input and accountability, including by eliminating fundamental investor rights to file shareholder proposals (H.R. 4767 and H.R. 4655); and 3) hamstring the ability of federal banking regulators to respond effectively to micro- and macro-prudential risks to the financial system (H.R. 4823). For a more detailed discussion of these bills, see AFR's letter of opposition submitted ahead of the markup.[1]

[1] Americans for Financial Reform, Letter in Opposition to Bills Being Marked up by the House Financial Services Committee, Jul. 25, 2023, *available at* https://ourfinancialsecurity.org/wp-content/uploads/2023/07/Americans-for-Financial-Reform-Letter-Opposing-Anti-ESG-Bills.pdf.

The bills marked up by the House Committee on Education and the Workforce in September would amend the Employee Retirement Income Security Act (ERISA) with the effect of undermining workers' retirement security. Two of the bills – H.R. 5339 and H.R. 5337 – have a longer history, mirroring two Trump-era Department of Labor (DOL) rules.[2] Those rules were widely criticized and have since been rescinded because they produced significant confusion about what fiduciaries are allowed to consider when making investment decisions, and had a chilling effect on the consideration of financially relevant information – thereby putting workers' retirement security at risk. The other two bills would also harm workers saving for retirement, H.R. 5338 by interfering with efforts to increase diversity among asset managers managing workers' savings and H.R. 5340 by mandating confusing and misleading information be sent to investors. For a more detailed discussion of these bills, see AFR's letter of opposition submitted ahead of the markup.[3]

Congress should not lend support to an effort that would harm the public interest and has triggered fierce and effective opposition from a broad coalition of diverse stakeholders. For example, state-level anti-ESG legislation – which included 161 pieces of legislation introduced in 28 states this year[4] – faced significant pushback from public pension beneficiaries, retirement system officials, bank and local business associations, and unions. As a result, the vast majority of the bills were defeated.[5] A strong coalition has also opposed past anti-ESG congressional actions.[6]

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[2] Financial Factors in Selecting Plan Investments, Final Rule, Employee Benefits Security Administration, Nov. 13, 2020, *available at* https://www.federalregister.gov/documents/2020/11/13/2020-24515/financial-factors-in-selecting-plan-investments; Fiduciary Duties Regarding Proxy Voting and Shareholder Rights, Final Rule, Employee Benefits Security Administration, Dec. 16, 2020, *available at* https://www.federalregister.gov/documents/2020/12/16/2020-27465/fiduciary-duties-regarding-proxy-voting-andshareholder-rights.

[3] Americans for Financial Reform, Letter in Opposition to Anti-ESG Bills Being Marked up by the House Committee on Education and the Workforce, Sept. 13, 2023, *available at* https://ourfinancialsecurity.org/wp-content/uploads/2023/09/9.13.23-CorporateGovernance-Letter-of-Opposition-to-Anti-ESG-Bills.pdf.

[4] Pleiades Strategy, "2024 Statehouse Report: Republican state legislative attacks on responsible investing continue, weakened and reshaped by their costly reality and a year of continued opposition," 3, Jun. 18, 2024, *available at* https://drive.google.com/file/d/1e1PkwVGbMPb7ZhI1W3CYxNce3jJWHBmY/view.

[5] *Id*.; *see also* Steven Musfon, "The conservative battle against 'woke' banks is backfiring," The Washington Post, Feb. 28, 2023, *available at* https://www.washingtonpost.com/climate-environment/2023/02/28/climate-change-wall-street-investments/ and Michael Katz, "Kentucky Retirement System Trustees Say It Is Not Subject to State's Anti-ESG Law," Chief Investment Officer, Feb. 15, 2023, *available at* https://www.ai-cio.com/news/kentucky-retirement-system-trustees-say-it-is-not-subject-to-states-anti-esg-law/.

[6] *See* Americans for Financial Reform & Public Citizen, Coalition letter against the Congressional Review Act resolution seeking to nullify the Department of Labor ESG rule with over 60 signatories, Feb. 24, 2023, *available at* https://ourfinancialsecurity.org/wp-content/uploads/2023/02/2.24.23-corporate-power-DOL-ESG-sign-on.pdf; *see also* Americans for Financial Reform, Coalition letter in opposition to the policy agenda behind House Financial Services Committee's "ESG month" with 58 signatories, *available at* https://ourfinancialsecurity.org/wp-content/uploads/2023/07/7.11.23-Letter-for-the-record-1.pdf.

Voters overwhelmingly oppose measures like these. Although the anti-ESG campaign is well-funded,[7] polling decidedly shows a strong majority of voters do not support its goals. For example, 63% of voters do not believe the government should set limits on corporate ESG investments.[8] And when it comes to how companies should operate in our society, "most voters (76%) feel companies play a vital role in society and should be held accountable to make a positive impact on the communities in which they operate." This includes both the majority of Republicans (69%) and the majority of Democrats (82%), reflecting strong bipartisan support.[9] Additionally, a recent poll by Public Citizen found that voters oppose Congress passing legislation to limit the type of information about a corporation's business record that is disclosed to pension and retirement fund managers, investors, and the public, and that voters would reward an elected official who favors requiring corporations to disclose environmental, social, and governance information about their business dealings to investors and the public.[10]

For all the reasons stated above, the undersigned organizations urge you to oppose these anti-ESG bills. Thank you for your consideration of our perspective. Please do not hesitate to contact Natalia Renta at natalia@ourfinancialsecurity.org if you have any questions.

Sincerely,

Americans for Financial Reform
17 Communications
350.org
Adrian Dominican Sisters, Portfolio Advisory Board
AFL-CIO
Alabama Interfaith Power & Light
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers
Center for Popular Democracy
ClientEarth USA
Communications Workers of America
Congregation of St. Joseph
Daughters of Charity, Province of St. Louise

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[7] *See* Julie Bykowicz & Angela Au-Yeung, "Conservatives Have a New Rallying Cry: Down With ESG," The Wall Street Journal, Feb. 26, 2023, *available at* https://www.wsj.com/articles/conservatives-have-a-new-rallying-cry-down-with-esg-2ef98725.

[8] ROKK Solutions and Penn State University's Center for the Business of Sustainability, "Navigating ESG in the New Congress," *available at* https://rokksolutions.com/wp-content/uploads/2022/12/Navigating-ESG-in-the-new-Congress.pdf.

[9] Lindsay Singleton, "We asked 1,261 voters about the crackdown on ESG investing. You'll never guess which party's voters are most opposed to it," Fortune, Jan. 2, 2023, *available at* https://fortune.com/2023/01/02/voters-congress-crackdown-esg-investing-youll-republicans-most-opposed-free-market-politics-lindsay-singleton/.

[10] Lake Research Partners, "Survey Findings," Dec. 7, 2023, *available at* https://www.citizen.org/wp-content/uploads/memo.Public-Citizen.2023.12.07.pdf.

Environmental Defense Fund
For the Long Term
Global Reporting Initiative (GRI)
Green America
Interfaith Center on Corporate Responsibility
International Brotherhood of Teamsters
Invest Vegan
League of Conservation Voters
Majority Action
Mercy Investment Services, Inc.
National Education Association
National Women's Law Center
NETWORK Lobby for Catholic Social Justice
Oxfam America
Private Equity Stakeholder Project
Public Citizen
RFK Human Rights
Rhia Ventures
Rise Economy (formerly California Reinvestment Coalition)
Sierra Club
SOC Investment Group
Stance Capital
Strong Economy For All Coalition
Take on Wall Street
The People's Justice Council
Tulipshare, Sustainable Investment Fund
Unlocking America's Future

CC: Members of the U.S. House of Representatives