INTERFAITH CENTER ON CORPORATE RESPONSIBILITY

June 1, 2023

Esteemed Members of Congress,

The undersigned organizations are members of the Interfaith Center on Corporate Responsibility (ICCR), a coalition of over 300 institutional investors that focus on engaging corporations on issues affecting long-term value, including environmental, social, and governance (ESG) issues. Our membership comprises faith-based organizations, asset managers, union and other pension funds, endowments, and other responsible investors with collective assets exceeding US$4 trillion. For over five decades, our members have led productive engagements with their portfolio companies on ESG issues that have catalyzed meaningful change[i] and have helped companies mitigate financial, legal, and, reputational risks to safeguard shareholder value.

Shareholder engagement on ESG issues has long served as a cost-effective "early warning system" for companies to identify emerging risks before they become financial liabilities. ESG is also a widely-used, judicious investment strategy that provides pension funds and other investors with the needed information to protect the wealth and retirement savings of workers now and for future generations. Put simply, ESG brings a focus to how companies treat their workers, how they interact with the communities where they operate, and how corporate practices affect our shared environment and public health; all issues of paramount importance to your constituents.

We are writing to ask you to use your voice and influence as a public official to speak out publicly against a surge in legislative, regulatory, and legal threats seeking to undermine the practice of ESG investing.

> ➢ **A well-orchestrated and well-funded[ii] campaign to discredit ESG investing is being launched by a variety of political actors[iii]. This rhetoric is harmful to multiple stakeholders, but especially to workers dependent on thoughtful investment strategies that will enhance their future pension returns**.

ESG is not political investing; it is prudent investing and should transcend partisan politics. Challenges such as climate change and industrial pollution, the widening wealth gap, worker and supply chain issues, and escalating healthcare costs are systemic risks to society that threaten the broader economy and are of great concern to everyone, including fiduciaries who manage diversified investments across the market. Moreover, prohibiting the consideration of ESG factors such as climate risk, for example, would foreclose investment *opportunities* in profitable solutions such as the infrastructure and technology to advance the clean energy transition. Investors in every state have built ESG considerations into their investment policies[iv] and regularly vote for shareholder proposals requesting stronger environmental and social policies and increased transparency and disclosure[v] They do so because they understand that how a company addresses its social and environmental impacts often significantly influences its long-term enterprise value, and therefore the risk-adjusted return that it provides to its shareholders. These impacts do not only redound to individual companies; they can create systemic risks that negatively affect broader portfolio returns. Yet, as the use of ESG as a risk management strategy continues to take hold in the mainstream investment community, a growing list of politicians and groups are attempting to discredit ESG. Groups like the American Legislative Exchange Council (ALEC)[vi], State Financial Officers Foundation (SFOF)[vii], and National Center for Public Policy Research (NCPPR)[viii] are helping spearhead these initiatives with significant funding from organizations tied to fossil fuel, firearms, and other interests.

> ➢ **As investors and fiduciaries, we are required to act prudently and impartially to prioritize the financial interests of our beneficiaries and clients. Thus, we are concerned to see multiple legislative and political actions that would effectively prohibit the use of ESG as a risk assessment framework, requiring us to violate these fiduciary duties and subjecting our portfolios to additional risk. These efforts will harm pensioners and taxpayers and, more broadly, will harm the public interest.**

As you are aware, President Biden recently used his first veto to prevent the passage of a bill seeking to overturn the Department of Labor's rule governing ERISA-managed pension funds. At issue was the fact that the rule allowed - not mandated - fund managers to consider ESG factors as a risk mitigation framework for long-term investing. This leeway is critical for pension fund fiduciaries who are responsible for long-term investment strategies that safeguard the pensions of future beneficiaries. As part of this same anti-ESG campaign, some legislators are attempting to block the SEC's Climate Disclosure Rule[ix] which would standardize corporate disclosures on climate-related impacts and risks long considered to be critical information for investors. These are only the latest efforts in an escalating attack on ESG investing at the state, and now federal, level.

In the last year, we have seen a rash of bills introduced and laws passed at the state level seeking to prohibit state and municipal pension funds from implementing ESG investing strategies or utilizing asset managers that do so. Numerous anti-ESG bills have been introduced in 32 states and a number of these bills have been passed into law, including a law in Texas mandating that state pension funds cut ties with investment firms seen to be "boycotting" fossil fuel companies by addressing climate risk in their portfolios. Billions of dollars of assets have been withdrawn from specific investment managers and the State of Texas has published a list of 100 blacklisted investment firms and funds they allege are boycotting fossil fuel companies.

Recent studies highlight that these bills will cause significant financial harm to pension beneficiaries and taxpayers. A Wharton study[x] on the consequences of the Texas law concluded the state would pay up to $532 million in additional municipal bond costs as a result of banning some of the largest bond underwriters due to their ESG policies. A further study by ESI Economics[xi] applied the same methodology used in the Wharton study to six states which have passed or have pending similar legislation - Florida, Kentucky, Louisiana, Missouri, Oklahoma, and West Virginia - finding that this legislation could cost taxpayers across these states a total of over $700 million, through lost interest and fees on municipal bonds. Another study of a proposed Indiana anti-ESG bill noted the legislation could cost the State pension funds $6.*7 billion* over a decade[xii]. The bill did not advance in Indiana and similar bills have failed in several other states due to their predicted negative financial impact on the public. According to the EMI study: "By limiting competition for the government [investment] services, states are closing the free market and passing the costs onto the taxpayer, with a methodology that does not necessarily factor these costs into the final result."

> ➢ **Anti-ESG campaigns are also targeting and punishing companies that actively pursue sustainability goals and acknowledge that strategies such as reducing emissions, implementing**

worker health and safety measures, or increasing board diversity are vital to their long-term profitability.

The American public has a strong interest in how corporations impact the communities where they operate, how they treat their workers, and how they help or hurt the environment. This ethos lies at the heart of the Business Roundtable's (BRT's) 2019 Statement on the Purpose of a Corporation,[xiii] which declares that *"companies should serve not only their shareholders but also deliver value to their customers, invest in employees, deal fairly with suppliers, and support the communities in which they operate"*.

Investors must be allowed to consider the environmental and social risks that companies generate in order to properly serve our beneficiaries. A series of stock declines have followed the discovery of ESG risks including environmental violations,[xiv] harassment claims,[xv] worker safety issues[xvi], opioid mismanagement,[xvii] allegations of forced labor,[xviii] and other disagreements with local communities that damage corporate reputation and social license to operate.[xix] Academic studies have found that these ESG controversies are quite common, can lead to significantly negative returns,[xx] and increase the odds that a company will not survive in a competitive market.[xxi]

Yet companies that are practicing the principles of the BRT statement and managing their ESG risks now find themselves on the defensive as they are publicly challenged by a host of ESG critics. One example of these attacks: According to a recent NY Times report,[xxii] "In October, Kentucky's attorney general ordered some of the nation's biggest banks and investment firms to turn over piles of documents that had the word 'climate' or 'environmental' in them." The banks were also issued subpoenas in relation to their involvement with the United Nation's Net-Zero Banking Alliance. In response, the Kentucky Banking Association sued.

In a recent memo from corporate law firm Wachtell, Lipton, Rosen & Katz,[xxiii] they advised: "…environmental, social, and governance (ESG) topics have become prominent (and polarized) political issues in recent months…we underscore that the public and political scrutiny of ESG must not dissuade directors and officers from confronting and addressing ESG risks — to the contrary, fiduciary duties and *Caremark* obligations require it, and the long-term value of the corporation depends on it."

These challenges to ESG create concerns that corporations and large asset managers will walk back their commitments to sustainability measures, increasing portfolio risks for all investors.[xxiv] Again, the long-term impact of corporate inaction on climate change, environmental pollution, or labor abuses, to name a few ESG concerns, is enormous and, in some cases, irreversible. As Treasury Secretary Janet Yellen recently said, "As climate change intensifies, natural disasters and warming temperatures can lead to declines in asset values that could cascade through the financial system. And a delayed and disorderly transition to a net-zero economy can lead to shocks to the financial system as well."[xxv]

In summary, we are living in extraordinarily challenging times that require bold and forward-looking solutions as the existential and systemic threats we face, such as the climate crisis, will have serious consequences for economic growth both now and in the future.[xxvi] Ensuring that these impacts can be properly considered in investment decision-making by fiduciaries and addressed by companies, not only safeguards the financial security of pension beneficiaries, but also reduces overall market risk and strengthens our economy, our infrastructure, and our communities. Actions that would constrain investors in the pursuit of ESG investing are antithetical to the public interest and to foundational free market concepts.

Given the risks that these anti-ESG attacks represent, we ask for your leadership in forcefully speaking out against, and opposing, any anti-ESG legislation or regulation at both the state and federal levels to ensure that institutional investors retain the freedom to make prudent and thoughtful long-term investment choices for their beneficiaries.

If you would like to speak with us about this matter or require any further information, please contact Tim Smith, Sr. Advisor for Policy at the Interfaith Center on Corporate Responsibility (tsmith@iccr.org).

Achmea
Achmea Investment Management
Adasina Social Capital
Adrian Dominican Sisters, Portfolio Advisory Board
AFL-CIO
American Baptist Home Mission Society
Aquinas Associates
As You Sow
Azzad Asset Management
Benedictine Coalition for Responsible Investment
Change Finance, PBC
Christian Church Foundation
Church Investment Group
Committee on Mission Responsibility Through Investment of the Presbyterian Church U.S.A.
Congregation of St. Joseph
Corporate Responsibility Office - Province of Saint Joseph of the Capuchin Order
Dana Investment Advisors
Daughters of Charity, Province of St. Louise
Dominican Sisters ~ Grand Rapids
Dominican Sisters of Sparkill
Dominican Sisters of Springfield, IL
Eko
Ethos Foundation
Evangelical Lutheran Church in America
Everence and the Praxis Mutual Funds
Figure 8 Investment Strategies
FOR Investment Partners
Franciscan Sisters of Allegany NY
Friends Fiduciary Corporation
Green Century Capital Management
Grey Nuns of the Sacred Heart
Heartland Initiative
Investor Advocates for Social Justice
Leadership Team of the Felician Sisters of North America
Maryknoll Fathers and Brothers
Maryknoll Sisters
Mercy Investment Services, Inc.
Miller/Howard Investments, Inc.
Nugent Properties
Oxfam
Proxy Impact
Reform Pension Board
Region VI Coalition for Responsible Investment
Riverwater Partners
SC Group
School Sisters of Notre Dame Cooperative Investment Fund
School Sisters of Notre Dame, Central Pacific Province
School Sisters of St. Francis
Seventh Generation Interfaith Coalition for Responsible Investment
Sisters of Charity of Cincinnati, Ohio - Mount St. Joseph, Ohio
Sisters of Charity of Saint Elizabeth
Sisters of Charity of St. Vincent De Paul of New York
Sisters of Mary Reparatrix
Sisters of Saint Joseph of Chestnut Hill, Philadelphia, PA.
Sisters of St. Dominic of Blauvelt, New York
Sisters of St. Francis of Philadelphia
Sisters of St. Francis, Dubuque, IA
Sisters of St. Joseph of Boston
Sisters of St. Joseph of Springfield, MA
Sisters of the Holy Cross
Sisters of the Humility of Mary
Social Justice Committee of the UU Congregation at Shelter Rock
Socially Responsible Investment Coalition
The Educational Foundation of America
The Episcopal Church (DFMS)
The Pension Boards - UCC, Inc.

The Sustainability Group of Loring, Wolcott & Coolidge
Trillium Asset Management
Trinity Health
United Church Funds
United Women in Faith
Wespath Benefits and Investments
Whistle Stop Capital
Zevin Asset Management

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