United States Senate
WASHINGTON, DC 20510

December 7, 2022

The Honorable Joseph Biden
President of the United States
1600 Pennsylvania Avenue Northwest
Washington, D.C. 20502

Dear President Biden:

As we turn to a new Congress in a few weeks, we write to draw your attention to our ongoing concerns with your administration's unrealistic environmental agenda and focus on government-imposed environmental, social, and governance (ESG) initiatives. While businesses may elect to pursue their own ESG agendas as part of a free-market society, the heavy-handed imposition from the federal government will have (and in some cases, already has had) negative real-world impacts on our economy and American families, especially by deepening the ongoing energy and inflation crises.

In the nearly two years since you were sworn into office, your administration has made countless efforts to push through its sweeping environmental agenda through the financial regulators. These efforts, though sold by administration officials as steps necessary to mitigate climate risks, are solely an attempt to strong-arm financial institutions and other firms into choking off capital to industries that are foundational to our nation's economy, yet are continually villainized by the far left.

One example of your administration's overreach is the Securities and Exchange Commission's (SEC's) proposed climate-disclosure rule that would not only require registrants to disclose information about their greenhouse gas emissions, but, in many cases, indirect emissions from upstream and downstream activities (i.e., their suppliers and customers) in their value chain – known as scope 3 emissions[1]. Scope 3 emissions are not produced or even controlled by the regulated organization, making this rule entirely unworkable for any public company to comply with. The rule would also require registrants to comply with new financial impact metric disclosure requirements and determine the effects of certain climate-related events on each line item of their consolidated financial statements. The rule would almost certainly reduce or potentially even eliminate businesses' access to the resources they need to operate, as it would discourage firms from investing in or extending capital to them. The SEC rule would be destructive for businesses in the energy and agriculture sectors, but to businesses, in particular small businesses, across all sectors of our economy as well.

Equally alarming is the recently proposed Federal Supplier Climate Risks and Resilience Rule that would similarly require certain federal contractors to publicly disclose not only their greenhouse gas emissions, but scope 3 emissions[2], compounding the burden imposed by the SEC. Ultimately, private companies would be disincentivized to apply for these federal contracts altogether, which would increase project costs for the federal government and harm taxpayers.

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[1] https://www.sec.gov/rules/proposed/2022/33-11042.pdf

[2] https://www.whitehouse.gov/briefing-room/statements-releases/2022/11/10/fact-sheet-biden-harris-administration-proposes-plan-to-protect-federal-supply-chain-from-climate-related-risks/

Unfortunately, your administration's efforts to use financial regulators to force through an unrealistic environmental agenda do not end there. After joining the Network of Central Banks and Supervisors for Greening the Financial System, an organization with the stated agenda of "mobilizing mainstream finance to support the transition toward a sustainable economy," the Federal Reserve announced a pilot program to analyze the climate-related financial risks for the nation's largest banks[3]. The Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and, most recently, the Federal Reserve have all published draft principles for climate-related financial risk management for large banks[4]. The Department of Labor just finalized a rule that would, in practice, require pension fiduciaries to consider climate change and ESG factors in making investment decisions, irrespective of their pecuniary relevance[5]. And last, but certainly not least, the National Credit Union Administration published a since-rescinded strategic plan that seemed to recommend credit unions need to alter their field of membership and loan offerings in farming communities[6].

All of these actions have real-world impacts that your administration would be well served to evaluate. For instance, establishing rules, strategic plans, and principles to coerce financial institutions and other firms to limit their lending and exposure to certain businesses drives up prices on consumers. Choking off access to capital for companies in the energy sector in an attempt to decimate the fossil fuels industry drives up the cost of fuel and electricity at a time of record costs, further stoking inflation. Discouraging lending to farming and ranching communities in an attempt to reduce natural livestock emissions strains supply chains and increases the cost of food. Therefore, it would be prudent for your administration to actually take the time to evaluate the costs its actions are directly and indirectly imposing on American businesses and families, as well as conduct the necessary analysis as required by the Regulatory Flexibility Act. As our nation continues to grapple with record-high inflation, administrative actions that increase prices should be the last thing on your agenda.

Of course, financial institutions and other firms need to be mindful of their exposure to and concentration in certain industries to ensure safety and soundness. However, your administration must recognize that, though these ESG-type regulatory actions are generally targeted at the nation's largest financial institutions and Wall Street firms, they have a trickledown effect on our nation's community banks and credit unions that are feeling the pressure from Washington. These entities, which are essential for economic opportunity and stability across the country, are concerned about how your administration's myopic environmental agenda could impede their ability to lend to their clients and foster the growth necessary to steer our economy away from a recession. And in rural communities, community banks and credit unions are acutely wary of how your administration's overreach could harm their ability to lend to their agriculture clients.

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[3] https://www.federalreserve.gov/newsevents/pressreleases/other20220929a.htm

[4] https://www.occ.gov/news-issuances/bulletins/2021/bulletin-2021-62.html. *See also* https://www.fdic.gov/news/financial-institution-letters/2022/fil22013.html. *See also* https://www.federalreserve.gov/newsevents/pressreleases/other20221202b.htm

[5] https://www.federalregister.gov/documents/2021/10/14/2021-22263/prudence-and-loyalty-in-selecting-plan-investments-and-exercising-shareholder-rights

[6] https://www.ncua.gov/files/agenda-items/AG20211118Item2b.pdf

As you head into the second half of your current term, it is vitally important that your administration, prior to taking action and pumping out rules, actually look beyond the beltway and take into account the real-world impacts that financial regulators' environmental actions have on businesses, families, and community banks and credit unions across the nation. This common sense is long overdue.

Sincerely,

John Thune
United States Senator

John Barrasso, M.D.
United States Senator

Marsha Blackburn
United States Senator

Mike Braun
United States Senator

Shelley Moore Capito
United States Senator

Kevin Cramer
United States Senator

Ted Cruz
United States Senator

Chuck Grassley
United States Senator

John Hoeven
United States Senator

Ron Johnson
United States Senator

Cynthia Lummis
United States Senator

Roger Wicker
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