July 25, 2023

The Honorable Patrick McHenry
Chairman
House Committee on Financial Services
2129 Rayburn HOB Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
House Committee on Financial Services
4340 O'Neill HOB
Washington, DC 20515

Re: July 27 Full Committee Markup

Dear Chairman McHenry, Ranking Member Waters, and other members of the House Committee on Financial Services:

Americans for Financial Reform (AFR) writes to address a number of legislative proposals that the House Financial Services Committee (HFSC) is scheduled to consider at its July 27th Full Committee markup. As a preliminary matter, AFR strongly supports policies that seek to establish an effective and standardized framework for the disclosure of environmental, social, and governance (ESG) information under the federal securities laws. Protecting investors, and maintaining fair, orderly, and efficient markets, demands that investors have access to the data they need to make informed choices and hold companies they own accountable, including with respect to ESG factors.

This markup represents the culmination of what the HFSC majority has publicly characterized as "ESG month" — a series of six hearings and a markup designed to discourage companies from prioritizing ESG considerations in their operations and their public disclosures. Unfortunately, in its zeal to discredit ESG considerations, the HFSC is poised to approve legislation that will weaken investor protections, reduce transparency, and make it even more difficult for shareholders to hold corporations accountable.

The legislative proposals being considered in this markup fall into three general categories or tranches: 1) bills that would undermine regulations that would equip investors with more information to make better investment decisions; 2) bills that would insulate the management of public companies from investor input and accountability; and 3) bills that would hamstring the ability of federal banking regulators to respond effectively to micro- and macro-prudential risks to the financial system. We oppose these bills and discuss each in further detail below.

I. AFR opposes bills that would undermine regulations that would equip investors with more information to make better investment decisions.

Investor protection is a central part of the mission of the SEC. At a time when climate risk equates to investment risk,[1] the SEC has proposed a thoughtful rule that will enhance investors' understanding of how public companies are contending with climate risk. Investors' overwhelmingly support the rule's main provisions,[2] and securities law experts agree that the proposal is clearly within agency authority.[3] Additionally, the SEC is expected to propose a rule on human capital management disclosures to provide investors with visibility into how public companies manage their workforce, a central component of long-term value creation.[4] These two proposals aim to give investors access to consistent, comparable, and decision-useful data that would help them and asset managers get a fuller picture of risks and opportunities to make investment decisions and for the valuation of securities. The following package takes direct aim at the SEC's investor protection mission.

1. H.R. 4790, the *Guiding Uniform and Responsible Disclosure Requirements and Information Limits (GUARDRAIL) Act*

H.R. 4790, the *Guiding Uniform and Responsible Disclosure Requirements and Information Limits (GUARDRAIL) Act*, was introduced by Representative Bill Huizenga (R-MI) on July 20, 2023. It has three cosponsors: Representative Alexander Mooney (R-WV), Representative Frank Lucas (R-OK), and Representative Daniel Meuser (R-PA). The bill is a compilation of four previously introduced bills, including:

- H.R. 4168, the *Mandatory Materiality Requirement Act*

The Mandatory Materiality Act would require SEC to "expressly provide" within each of its disclosure rulemakings that disclosures are required only "to the extent that the issuer has determined that such information is material with respect to a voting or investment decision regarding the securities of such issuers."

If enacted, this legislation would functionally make all SEC disclosure requirements discretionary, and it would statutorily limit the ability of SEC or investors to scrutinize materiality determinations by issuers

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[1] *See generally* Financial Stability Oversight Council, "Report on Climate-Related Financial Risk," 2021, *available at* https://home.treasury.gov/system/files/261/FSOC-Climate-Report.pdf.
[2] Steven M. Rothstein, "Analysis shows that investors strongly support the SEC's proposed climate disclosure rule," Ceres, Oct. 11, 2022, *available at* https://www.ceres.org/news-center/blog/analysis-shows-investors-strongly-support-secs-proposed-climate-disclosure-rule.
[3] Jill E. Fisch, George S. Georgiev, Donna M. Nagy, & Cynthia A. Williams, "Climate Change, West Virginia v. EPA, and the SEC's Distinctive Statutory Mandate," Summer 2022, *available at* https://www.sec.gov/comments/s7-10-22/s71022-20154853-323117.pdf.
[4] Office of Information and Regulatory Affairs (OIRA), "Agency Rule List - Spring 2023," Securities and Exchange Commission, *available at* https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=3235&csrf_token=EB6E6E76495294838DA7E8EE32E1F93448172E2F72A28D2FF9B80A8594EE4EC93950AA2F9E44B14F1A608F5238A37223C09A.

and seek additional information. Issuers would receive unquestionable authority to determine what information is material to investors.

Issuer-determined materiality has often yielded incomplete and incomparable information for investors.[5] Making the entire SEC disclosure regime based on this principle would be disastrous and AFR strongly opposes this legislation.

- H.R. 4628, *a bill to amend the Securities Exchange Act of 1934 to require the Securities and Exchange Commission to disclose and report on non-material disclosure mandates, and for other purposes*

H.R. 4628 would require the SEC to have a public list of all its legal mandates and regulations that require disclosure of "non-material" information, along with an explanation of why that disclosure is required. Every five years, the SEC would have to give Congress a report justifying the disclosures on the list. It would also prohibit private lawsuits against entities that fail to disclose "non-material" information.

This bill is designed to minimize a company's responsibility to disclose information investors need to make better decisions about their investments by requiring the SEC to engage in an unnecessary and wasteful exercise. The bill would also close an avenue for investor accountability by prohibiting private lawsuits over "non-material" information that is nonetheless important for investor protection.

- H.R. 4652, the *Public Company Advisory Committee Act*

The "Public Company Advisory Committee Act" would amend the Exchange Act to establish within the SEC a new "Public Company Advisory Committee." The proposed new advisory committee would exclusively represent the interests of the management of public companies within the SEC. The advisory committee — whose members would be executives and directors of public companies and professionals who work for them — would provide advice on rules, regulations, and policies and be entitled to "such staff as the chairman of the Committee determines are necessary" and a swift public response to its findings and recommendations.

The proposed legislation's core goal is to increase the influence that top executives of public companies have on the SEC. The proposed Advisory Committee is both unnecessary, and at odds with the Commission's three part statutory mission. It is also worth noting that the SEC's Investor Advisory Committee does not benefit from compensation, staffing, or a requirement of a prompt, public response even though investor protection — not the protection of the management of public companies — is a key part of the SEC's mission. We urge Congress to reject the legislation.

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[5] With respect to the materiality-based 2010 SEC guidance on climate risk disclosure, see e.g., https://crsreports.congress.gov/product/pdf/R/R46766; https://www.dfinsolutions.com/sites/default/files/documents/2019-10/TCFD_II_Climate_Disclosure_V10_revisedFINAL.pdf

- [H.R. 4653](), the *Protecting U.S. Business Sovereignty Act*

H.R. 4653 appears to be based on previously-introduced H.R. 4625, which would require the Government Accountability Office ("GAO") to conduct a study on the "detrimental impact" of the Directive on Corporate Sustainability Due Diligence ("CSDDD") and the Corporate Sustainability Reporting Directive ("CSRD") on U.S. companies. In short, the CSDDD would "require large companies to undertake due diligence on their own activities and that of their suppliers, and to identify and prevent, end or mitigate any actual or potential adverse impacts of their activities on human rights and on the environment."[6] The CSRD requires that companies disclose information "on what they see as the risks and opportunities arising from social and environmental issues, and on the impact of their activities on people and the environment."[7] The difference seems to be that under H.R. 4653, the SEC would be tasked with completing the study instead of the Comptroller.

This bill takes aim at the idea that companies should be accountable to social and environmental issues more broadly. Opposition to the targeted directives is not in line with what voters want: "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 finding is consistent across political lines, with both the majority of Republicans (69%) and Democrats (82%) in agreement–reflecting bipartisan common ground."[8] Indeed, real costs come not from these important directives, but from anti-ESG bills. A report on state-level anti-ESG bills documents the costs of these bills to pensioners and the public at large.[9]

II. AFR opposes bills that would insulate the management of public companies from investor input and accountability.

Most workers saving for retirement are long-term investors who hold equity in a broad swath of public companies for decades. These investors are interested in how a company performs over the next quarter century, not the next quarter.[10] Because their retirement security depends on the ability of the many

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[6] Marit Bosselaar, Irene Bloemen, and Sjoerd Pennink, "The Corporate Sustainability Due Diligence Directive (CSDDD): the position of the European Parliament and potential impact," Loyens Loeff, Jul. 6, 2023, *available at* https://www.loyensloeff.com/insights/news--events/news/the-corporate-sustainability-due-diligence-directive-csddd-the-position-of-the-european-parliament-and-the-impact/.

[7] European Commission, "Corporate sustainability reporting," Jan. 5, 2023, *available at* https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en.

[8] 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/.

[9] Connor Gibson & Frances Sawyer, "2023 Statehouse Report: Right-Wing Attacks on the Freedom to Invest Responsibly Falter in Legislatures," 9-11, Pleiades Strategy, Jun. 2023, *available at* https://drive.google.com/file/d/1VJ82mMNupoFSZPQ98nLcW7AtcyBQWB18/view.

[10] Minority witness Michael Frerichs, Illinois State Treasurer, repeatedly noted this in his testimony at the House Committee on Oversight and Accountability hearing, "ESG Part I: An Examination of Environmental, Social, and

public companies they are invested in to engage in long-term, sustainable value creation, they have an incentive to push companies toward this goal, and away from short-term, risky value extraction that jeopardizes the long-term value of their investments. But this is possible only because the law allows shareholders to engage with the companies whose shares they own. With these tools, shareholders can push companies to address issues affecting their long-term investments, including those related to workplace safety, human capital, racial equity, environmental sustainability, and workers' freedom of association.

The package of bills demonstrate a hostility toward investors' ability to use their rights as shareholders and a desire to insulate management from investor input and accountability by targeting the shareholder proposal process, proxy advisory firms, and asset managers.

2. H.R. 4767, the *Protecting Americans' Retirement Savings from Politics Act*

H.R. 4767, the *Protecting Americans' Retirement Savings from Politics Act*, was introduced by Representative Bryan Steil (R-WI) on July 20, 2023. The bill is a compilation of eleven previously introduced bills, including:

- H.R. 4641, the *Performance Over Politics Act* (Rep. Fitzgerald)

H.R. 4641 requires the SEC to significantly increase the percentage of votes a shareholder proposal must obtain in order for a proposal that "address[es] substantially the same subject matter" to be resubmitted for consideration within five years.[11]

If enacted, H.R. 4641 would make it much more difficult for shareholders to have their voices heard by the management of public companies they are invested in by increasing the threshold shareholders' proposals need to break through and have an impact. Shareholder proposals play an important role in identifying, raising awareness, and addressing risks at public companies.[12] A high resubmission threshold would mean emerging risks important to investors are more likely to go unaddressed. Congress should reject this misguided and damaging legislation.

- H.R. 4644, the *No Expensive, Stifling Governance (No ESG) Act* (Rep. Houchin)

H.R. 4644 would nullify a pending SEC rule that seeks to clarify the circumstances under which the SEC

Governance Practices with Attorneys General," May 10, 2023, *available at* https://oversight.house.gov/hearing/esg-part-i-an-examination-of-environmental-social-and-governance-practices-with-attorneys-general/.

[11] Under the bill, a failed proposal would need 10% shareholder voting support the first time it is voted on, 20% the second time it is voted on, and 40% the third time it is voted on to be resubmitted (within a five-year period). This would significantly increase the thresholds from the current 5%, 15%, and 25% respectively.

[12] *See* Morningstar, "The Proxy Process: Raising the Investor Voice to Address New Risks," 10, Feb. 8, 2019, *available at* https://perma.cc/7VQN-27R5.

may allow a company to exclude a shareholder proposal from its proxy statement.[13] The bill would also increase the resubmission thresholds in the same manner as the bill above. Once again, the effect would be that shareholders would find it more difficult to have their voices heard by the management of public companies. The SEC's pending rules would make the process by which the SEC determines whether to allow a company to exclude a shareholder proposal from its proxy statement more efficient, objective, and predictable. The current rules, which invite overly subjective determinations by the SEC about whether or not a company can exclude a shareholder proposal, have led to an increase in the number and length of no-action requests (requests by the company to the SEC to allow them to exclude a shareholder proposal from their proxy statement) and the exclusion of proposals that would have benefited shareholders.

- H.R. 4640, *a bill to authorize the exclusion of shareholder proposals from proxy or consent solicitation material if the subject matter of the shareholder proposal is environmental, social, or political* (Rep. Donalds)

H.R. 4640 would allow public companies to exclude proposals if they are about "environmental, social, or political (or a similar subject matter)" issues. In other words, the bill would specifically deny investors their right to exercise legal means of corporate accountability with respect to many issues they care about that have an impact on the value of their investments — for example, workplace safety,[14] racial equity,[15] climate change[16] and environmental sustainability,[17] and workers' freedom of association.[18]

H.R. 4640 is an affront to investors and their role in our corporate governance system. Congress should reject the bill.

- H.R. 4657, *a bill to clarify that an issuer may exclude a shareholder proposal pursuant to section 240.14a-8(i) of title 17, Code of Federal Regulations, without regard to whether such proposal relates to a significant social policy issue* (Rose)

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[13] Securities and Exchange Commission, Press Release, "SEC Proposes Amendments to Shareholder Proposal Rule," Jul. 13, 2022, *available at* https://www.sec.gov/news/press-release/2022-121.
[14] *See* Gabrielle Fonrouge, "Dollar General shareholders pass proposal to improve worker safety," CNBC, May 31, 2023, *available at* https://www.cnbc.com/2023/05/31/dollar-general-worker-safety-proposal-passes-at-shareholder-meeting.html.
[15] *See* SOC Investment Group, "Racial equity audit," *available at* https://www.socinvestmentgroup.com/racial-equity-audit.
[16] Climate Action 100+, "Proxy Season & Flagged Shareholder Votes," Jun. 30, 2023, *available at* https://www.climateaction100.org/approach/proxy-season/.
[17] *See* Maria Rachal, "Amazon, Yum Brands, Kroger face upcoming shareholder votes on circular packaging," Packaging Dive, May 10, 2023, *available at* https://www.packagingdive.com/news/packaging-plastics-shareholder-resolutions-as-you-sow/649837/.
[18] *See* Trillium Asset Management, "The Investor Case for Supporting Worker Organizing Rights," Jul. 2022, *available at* https://www.trilliuminvest.com/whitepapers/the-investor-case-for-supporting-worker-organizing-rights; *see also* Committee on Workers' Capital, "Shared Prosperity: The Investor Case for Freedom of Association and Collective Bargaining," Nov. 29, 2022, *available at* https://www.workerscapital.org/our-resources/shared-prosperity-the-investor-case-for-freedom-of-association-and-collective-bargaining/.

This bill would allow companies to exclude proposals "without regard to whether [it] relates to a significant policy issue." This bill would undermine the viability of important shareholder proposals related to the issues discussed in the paragraph above.

- H.R. 4662, the *Corporate Governance Examination Act* (Rep. Wagner)

This bill would require the SEC to waste resources conducting a needless study after the bill's passage and every five years after that. The list of topics to study and their framing makes clear that the intention behind it is to put the thumb on the scale in favor of management in the proxy voting process and undermine investors' ability to hold companies accountable. For example, the study would scrutinize "the economic analyses, if any, conducted by proxy advisory firms and institutional shareholders when recommending or voting in favor of shareholder proposals," while such scrutiny would be absent from management-friendly votes.

- H.R. 4589, *a bill to amend the Securities Exchange Act of 1934 to provide for the registration of proxy advisory firms, and for other purposes* (Rep. Steil)

This bill would require proxy advisory firms to register with the SEC, set up a process so that companies have a say before voting recommendations go out to investors — including having an ombudsman to resolve issues raised by companies, allow companies to sue proxy advisory firms in cases where they recommend voting in favor of shareholder proposals later found by a court to be illegal, and require an annual report that includes an economic analysis of management unfriendly votes (but not of management friendly votes).

This bill would result in the management of companies inappropriately influencing what are supposed to be independent recommendations proxy advisory firms give their clients. It would also make creating voting recommendations against management more difficult, costly, and dangerous.

Lastly, the part of the bill that would allow companies to sue proxy advisory firms if they recommend voting in favor of shareholder proposals later found to be illegal appears to be a nod toward recent misguided threats by Republican Attorneys General to seek legal action against companies engaging in diversity, equity, and inclusion efforts.[19] Some Democratic Attorneys General responded by sending a letter to companies stating that "that corporate efforts to recruit diverse workforces and create inclusive work environments are legal and reduce corporate risk for claims of discrimination."[20] If passed, this bill

[19] Trisha Thadani, "Republican attorneys general warn companies against 'race-based quotas,'" The Washington Post, Jul. 13, 2023, *available at* https://www.washingtonpost.com/technology/2023/07/13/gop-attorneys-general-warn-against-dei/.

[20] Olivia Olander, "Democratic AGs blast Republicans trying to 'intimidate' corporations on diversity efforts," Politico, Jul. 19, 2023, *available at* https://www.politico.com/news/2023/07/19/corporate-dei-efforts-top-democratic-state-lawyers-00107189.

would inappropriately influence proxy advisory firms' advice to their clients about shareholder proposals related to diversity, equity, and inclusion.

- H.R. 4590, *a bill to amend the Securities Exchange Act of 1934 to provide for liability for certain failures to disclose material information in connection with proxy voting advice, and for other purposes* (Rep. Steil)

This bill would make proxy advisory firms liable for the "the failure to disclose material information (such as a proxy voting advice business's methodology, sources of information, or conflicts of interest) or the making of a material misstatement regarding proxy voting advice."

While the Business Roundtable, National Association of Manufacturers, and other management groups have long claimed that proxy advice is rife with errors, there is little evidence that this is the case. A study that purports to document proxy advisor errors alleges just 39 factual errors over nearly three years (or 0.1% of more than 30,000 reports by proxy advisory firms Institutional Shareholder Services (ISS) and Glass Lewis during that period).[21] However, the Council of Institutional Investors' analysis of the study found that no more than 17 of the claimed factual errors had merit.[22]

This bill appears designed to intimidate proxy advisory firms into siding with management more often by increasing their exposure to liability.

- H.R. 4648, *a bill to amend the Securities Exchange Act of 1934 to provide for duties of certain investment advisors, asset managers, and pension funds with respect to voting on shareholder proposals, and for other purposes* (Rep. Loudermilk)

This bill would require institutional investment managers to file an annual report with the SEC that explains how they voted in every shareholder proposal, what percentage of votes were consistent with proxy advisers' recommendations, and more. The bill would also require asset managers with a fair market value of at least $100 billion to tell their clients that they are not required to vote on every proposal, provide an economic analysis when voting against management in a shareholder proposal, and include it in their annual report to the SEC. This bill is a solution in search of a problem that would tilt the playing field in favor of management. Institutional investment managers already have fiduciary duties and legal obligations to vote proxies in the best interests of beneficiaries. Additionally, the SEC recently enhanced proxy voting disclosures by investment funds.[23]

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[21] Frank M. Placenti, "Are Proxy Advisors Really a Problem?," American Council for Capital Formation, Oct. 2018, *available at* https://accfcorpgov.org/wp-content/uploads/2018/10/ACCF_ProxyProblemReport_FINAL.pdf.
[22] Council of Institutional Investors, Letter to the Securities and Exchange Commission re: File No. 4-725 Proxy Advisor Regulation, Oct. 24, 2019, *available at* https://www.cii.org/files/issues_and_advocacy/correspondence/2019/20191024%20SEC%20comment%20letter%20proxy%20advisor%20accuracy.pdf.
[23] Securities and Exchange Commission, Press Release, "SEC Adopts Rules to Enhance Proxy Voting Disclosure by Registered Investment Funds and Require Disclosures of 'Say-on-Pay' Votes for Institutional Investment Managers," Nov. 2, 2022, *available at* https://www.sec.gov/news/press-release/2022-198.

- H.R. 4656, the *Protecting Americans' Savings Act* (Rep. Nunn)

This bill would prohibit voting automatically based on the recommendations of a proxy advisory firm or pre-populating votes on a proxy advisory firm's electronic platform with the proxy advisory firm's recommendations "without independent review and analysis." The bill also prohibits outsourcing voting decisions and prohibits any requirement to vote at all.

This bill ignores the fact that under sections 206(2) and 206(4) of the Investment Advisers Act, advisers are already required to vote their clients' shares in their best interest, and implement policies and procedures reasonably designed to ensure their clients' shares are voted in the best interests of its clients. If passed, though, this bill would put the thumb on the scale against voting by making it more difficult and costly for retail investors and employees with 401k to cast their votes–which ultimately would benefit the management of public companies.

- H.R. 4645, the *Empowering Shareholders Act* (Rep. Huizenga)

The bill would require these funds to vote based on the instructions of beneficiaries, with management, or not at all, except when it comes to "routine matters," defined, largely, as votes management wants, like approvals of executive compensation packages and mergers and acquisitions. This bill would tilt the playing field dramatically in favor of management when it comes to proxy voting by passively managed funds.

- H.R. 4600, the *Protecting Retail Investors' Savings Act* (Rep. Barr)

H.R. 4600 would amend the Investment Advisers Act of 1940 to specify requirements concerning the consideration of so-called "pecuniary" and "non-pecuniary" factors, to require the SEC to conduct a study on climate change and other environmental disclosures in the municipal bond market, and to require the SEC to conduct a study on the solicitation of municipal securities business.

This bill amends the "best interest" provision for investment advisers to specify that "the best interest of a customer shall be determined using pecuniary factors, which may not be subordinated to or limited by non-pecuniary factors, unless the customer provides informed consent, in writing, that such non-pecuniary factors be considered." The bill defines "pecuniary factor" as a "a factor that a fiduciary prudently determines is expected to have a material effect on the risk or return of an investment based on appropriate investment horizons." Notably, in an analysis of state-level anti-ESG bills, three legal experts find the distinction between "pecuniary" and "non-pecuniary" unworkable because the distinction is "so blurry that the bills are self-contradictory."[24]

[24] David J. Berger, David H. Webber, and Beth Young, "The Liability Trap: Why the ALEC Anti-ESG Bills Create a Legal Quagmire for Fiduciaries Connected with Public Pensions," SSRN, Feb. 17, 2023, *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4360119.

This bill may create a chilling effect, whereby investment advisers disfavor investment options that could be perceived as having "non-pecuniary" collateral benefits, even if such investments are prudently judged as being in the best interest of the client based on their age, goals, and other factors. Investment advisers will likely feel pressure to subordinate their clients' overall goals to avoid the appearance of running afoul of the new "pecuniary"/"non-pecuniary" distinction.

3. H.R. 4655, the *Businesses Over Activists Act*

This bill would prohibit the SEC from mandating companies include shareholder proposals or discussions of shareholder proposals in their proxy statements. This would functionally end the ability of shareholders to have a meaningful opportunity to bring important issues to the attention of the management of public companies by gutting the shareholder proposal process.

III. AFR opposes bills that unduly interfere with banking agencies' supervisory discretion, impairing their ability to respond in a timely and appropriate manner to safety and soundness issues and emerging risks in the financial system.

The following bills will significantly hamper the federal banking regulators from engaging with their international counterparts and tying their hands behind their back as we recover from the multiple banking failures earlier this spring. Given this context, we think the following bills in this package are harmful.

4. H.R. 4823, the *American Financial Institution Regulator Sovereignty and Transparency Act*

H.R. 4823, the *American Financial Institution Regulator Sovereignty and Transparency Act*, was introduced by Representative Barry Loudermilk (R-GA) on July 24, 2023. The bill is a compilation of four previously introduced bills, including:

- H.R. 4737, the *Stop Executive Capture of Banking Regulators Act*

This bill would require each of the banking agencies to report on the implementation of executive orders or recommendations from the FSOC Chair. The agencies would be prohibited from implementing non-binding recommendations made by the FSOC Chair or contained in an FSOC Executive Order unless the agencies first provide the Committee on Financial Services in the House and the Committee on Banking, Housing and Urban Affairs in the Senate with: 1) A notice that the respective agency intends to implement such recommendation or order; 2) a report containing the proposed implementation and related justification; and 3) no later than 120 days after notifying the committee of the intention to implement, a testimony on the implementation.

AFR opposes this bill on the basis that it significantly limits FSOC from fulfilling its role as an oversight regulator and a convening body for the federal banking regulators. This will FSOC's ability to respond in a timely manner to risks to the financial system– a key component of the its mandate. FSOC is currently undoing rulesfrom 2019 that hampered its ability to fulfill another congressional mandate–designating non-banks as systemically important. Congress should be supporting and shoring up FSOC's ability to identify risks to the financial system, especially after the failure of multiple banks this Spring, not creating additional procedural barriers for regulators.

- H.R. 4649, the *Ensuring U.S. Authority Over U.S. Banking Regulations Act* and H.R. 4601, *Banking Regulator International Reporting Act*

The first bill, titled "the Ensuring U.S. Authority over U.S. Banking Regulations Act", would require the federal banking regulators to provide a report at least 120 days in advance to the financial services committees in Congress before issuing any major rule that stems from a recommendation made by a non-governmental international organization. It also prohibits these agencies from interacting or engaging with international organizations on climate-related financial risks unless they provided a report to Congress on the organization in the previous calendar year.

The second bill, titled "the Banking Regulator International Reporting Act," would require said agencies to maintain extensive records of all interactions with non-governmental international organizations and issue an annual report to Congress that details these interactions.

These bills would result in a chilling effect in participating in international standard-setting bodies where best practices are developed and information is shared, many of which the U.S. plays a leading role. This is particularly harmful given that our financial system is a global one and many of the largest institutions that have a disproportionate impact on the resiliency of our financial system are U.S. based. Preventing the U.S. federal prudential regulators from participating in these bodies by creating these roadblocks will only serve to further blind regulators to global risks and a decreased harmonized global regulatory landscape.

- H.R. 4630, the *Restoring the Federal Reserve Board Act*

This bill would strike wording from Section 10 of the Federal Reserve Act that designates the Vice Chair of the Board of the Governors as responsible for developing supervision and regulation policy recommendations for the Board and overseeing the Federal Reserve's supervision and regulation of depository institutions and other financial firms supervised by the Board of Governors. The bill proposes to replace this language with more general language, that the Vice Chair shall be designated by the President, by and with consent of the Senate, to serve as Vice Chair of the Board of Governors for a term of 4 years.

This bill would undo one of the landmark reforms in response to the 2008 financial crisis. It would remove the central person responsible for regulatory and supervisory oversight at the Fed, only a mere few months after a string of multiple bank failures. AFR strongly opposes this bill.

Thank you for your consideration of our perspective. Please do not hesitate to contact Renita Marcellin at renita@ourfinancialsecurity.org if you have any questions or concerns.

Sincerely,

Americans for Financial Reform

CC: Members of the House Committee on Financial Services