



STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

STEVE MARSHALL  
ATTORNEY GENERAL

501 WASHINGTON AVENUE  
P.O. BOX 300152  
MONTGOMERY, AL 36130-0152  
(334) 242-7300  
ALABAMAAG.GOV

Written Testimony of

**Steven T. Marshall**  
**Alabama Attorney General**  
**Before the United States House of Representatives**  
**Committee on Oversight and Accountability**

ESG Part I: An Examination of Environmental, Social and Governance  
Practices with Attorneys General

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**I. Introduction**

Chairman Comer, Ranking Member Raskin, and members of the Committee, thank you for the opportunity to be here today to discuss the important issue of environmental, social and governance (ESG) and its impact on the people we serve.

My name is Steve Marshall, and I serve as the Attorney General for the State of Alabama. I am a career prosecutor, having previously served as the District Attorney for my home county for 16 years, and now as Attorney General for the last six years. It is my honor and privilege to represent the State of Alabama as attorney general.

ESG is a clear and present danger to consumers and to our democracy. An unelected cabal of global elites are using ESG, a woke economic strategy, to hijack our capitalist system, coerce corporations, and threaten the hard-earned dollars of working Americans. ESG must be stopped.

Republican attorneys general are fighting back against ESG. I am proud of the work that my colleagues and I have done to protect consumers from the many harmful consequences of ESG.

**II. Attorneys General are charged with protecting consumers.**

Protecting citizens from illegal, harmful conduct is a solemn responsibility of elected officials. Alabama's lawmakers concluded long ago that "[t]he public health, welfare and interest require a strong and effective consumer protection program to protect the interest of both the consuming public and the legitimate businessperson." Ala. Code § 8-19-2.

States typically empower the attorney general to represent the state’s interests in court and to enforce the state’s consumer protection laws.<sup>1</sup> In Alabama, the attorney general has authority to enforce the Deceptive Trade Practices Act, which prohibits any “unconscionable, false, misleading, or deceptive act or practice in the conduct of trade or commerce.”<sup>2</sup> The attorney general has the power to conduct investigations,<sup>3</sup> send subpoenas,<sup>4</sup> seek injunctions,<sup>5</sup> and file lawsuits.<sup>6</sup> Only the attorney general may bring class action claims under the Deceptive Trade Practices Act.<sup>7</sup>

Federal and state laws also prohibit anti-competitive activity in order to protect consumers. Under the Sherman Act, “Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal.”<sup>8</sup> Alabama law prohibits any “unlawful trust, combine, or monopoly, or its effect, direct or indirect, . . .”<sup>9</sup>

### **III. Action by the global elites threatens consumers and undermines our system of government.**

Elites from around the globe have formed alliances to coordinate together to implement woke climate policy. These alliances threaten consumers by limiting output, raising prices, risking retirement funds, and creating anti-competitive conduct. In Alabama, they threaten core industries like iron and steel, agriculture, and timber. More broadly, these schemes undermine our system of government because unelected elites are making policy decisions outside of democratic processes.<sup>10</sup>

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<sup>1</sup> See, e.g., Ala. Code § 36-15-12 (“The attorney general is to institute and prosecute, in the name of the state, all civil actions and other proceedings necessary to protect the rights and interests of the state.”).

<sup>2</sup> Ala. Code § 8-19-5(27).

<sup>3</sup> See Ala. Code § 8-19-4(a) (“The office of the Attorney General and the district attorneys shall have the following functions, powers, and duties: . . . (1) Conduct preliminary investigations to determine the merit of complaints, . . .”);

<sup>4</sup> Ala. Code § 8-19-9 (“Before any action is commenced, the Attorney General or the district attorneys may issue subpoenas to any person to appear and produce relevant papers, documents, and physical evidence, and administer an oath or affirmation to any person, in aid of any investigation or inquiry into possible violations of this chapter.”).

<sup>5</sup> Ala. Code § 8-19-8 (“Whenever the office of the Attorney General or the office of the district attorney has reason to believe that any person is engaging in, has engaged in or is about to engage in any act or practice declared to be unlawful by this chapter, the Attorney General or the district attorney may bring an action in the name of the state against such person to restrain by temporary restraining order, temporary or permanent injunction such acts or practices.”).

<sup>6</sup> Ala. Code § 8-19-4(a)(2) (“The office of the Attorney General and the district attorneys may otherwise receive and investigate complaints with respect to acts or practices declared to be unlawful by this chapter, and inform the complainants with respect thereto. Said persons may institute legal proceedings or take such other actions provided for herein which are necessary or incidental to the exercise of its powers and functions.”).

<sup>7</sup> Ala. Code § 8-19-10(f), (g); see also *Green v. Bissell Homecare Inc.*, No. 2:10-CV-02421-AKK, 2011 WL 13175163, at \*7 n.7 (N.D. Ala. July 29, 2011), *aff’d*, 476 F. App’x 238 (11th Cir. 2012) (“The Alabama Deceptive Trade Practices Act (‘ADTPA’) bars class claims unless brought by the attorney general.”).

<sup>8</sup> 15 U.S.C. § 1.

<sup>9</sup> Ala. Code § 6-5-60(a).

<sup>10</sup> See generally Consumers’ Research, *Defeating the ESG Attack on the American Free Enterprise System: An Overview of the Corporate Proxy System for Oversight & Litigation Efforts*, Mar. 2023, available at [https://consumersresearch.org/wp-content/uploads/2023/03/CR-Report\\_Defeating-ESG-Final.pdf](https://consumersresearch.org/wp-content/uploads/2023/03/CR-Report_Defeating-ESG-Final.pdf).

## A. The global elites work around elected leaders in the U.S. Senate and President Trump.

In December 2015, world leaders at the United Nations Climate Change Conference in Paris reached a climate change agreement known as the Paris Agreement.<sup>11</sup> Among other things, the Paris Agreement limited “the global temperature increase in this century to 2 degrees Celsius while pursuing efforts to limit the increase even further to 1.5 degrees.”<sup>12</sup> Although it was a “legally binding international treaty,”<sup>13</sup> and the United States Constitution requires treaties to be ratified by two-thirds of the United States Senate,<sup>14</sup> then-President Obama ratified the Paris Agreement on behalf of the United States without submitting it to the Senate.<sup>15</sup>

Less than one year after the Paris Agreement, to the great shock and dismay of the global elites, Donald J. Trump won the 2016 election. Candidate Trump had promised to “cancel” the Paris Agreement.<sup>16</sup> Proudly proclaiming that he “was elected to represent the citizens of Pittsburgh, not Paris,” President Trump kept his promise and withdrew the United States from the Paris Agreement.<sup>17</sup>

The same day that President Trump announced the decision to withdraw from the Paris Agreement, the effort commenced for “non-national actors” to continue the climate crusade.<sup>18</sup> According to the June 1, 2017, report, more than 100 American businesses were part of a group negotiating with the United Nations to remain part of the Paris Agreement.<sup>19</sup> “While the executive branch of the U.S. government speaks on behalf of our nation in matters of foreign affairs, it does not determine many aspects of whether and how the United States takes action on climate change,” billionaire Michael Bloomberg wrote in a draft letter to the United Nations secretary-general.<sup>20</sup> “The bulk of the decisions which drive U.S. climate action in the aggregate are made by cities, states, businesses, and civil society,” Bloomberg continued.<sup>21</sup> “Collectively, these actors remain committed to the Paris accord.”<sup>22</sup>

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<sup>11</sup> The Paris Agreement, United Nations Climate Action, *available at* <https://www.un.org/en/climatechange/paris-agreement>.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> U.S. CONST. art. II, § 2.

<sup>15</sup> Valerie Richardson, *Obama will bypass Senate, ratify Paris climate accord himself during trip to China: report*, THE WASHINGTON TIMES, Aug. 29, 2016, *available at* <https://www.washingtontimes.com/news/2016/aug/29/obama-will-bypass-senate-ratify-paris-climate-acco/>; *cf.* Christie Aschwanden, *A Lesson from Kyoto’s Failure: Don’t Let Congress Touch a Climate Deal*, FIVETHIRTYEIGHT, Dec. 4, 2015, *available at* <https://fivethirtyeight.com/features/a-lesson-from-kyotos-failure-dont-let-congress-touch-a-climate-deal/>.

<sup>16</sup> Benjy Sarlin, *Donald Trump Pledges to Rip Up Paris Climate Agreement in Energy Speech*, NBC NEWS, May 26, 2016, *available at* <https://www.nbcnews.com/politics/2016-election/donald-trump-pledges-rip-paris-climate-agreement-energy-speech-n581236>.

<sup>17</sup> White House, *Statement by President Trump on the Paris Climate Accord*, June 1, 2017, *available at* <https://trumpwhitehouse.archives.gov/briefings-statements/statement-president-trump-paris-climate-accord/>.

<sup>18</sup> Hiroko Tabuchi and Henry Fountain, *Bucking Trump, These Cities, States and Companies Commit to Paris Accord*, THE NEW YORK TIMES, June 1, 2017, *available at* <https://www.nytimes.com/2017/06/01/climate/american-cities-climate-standards.html>.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

The strategy for private actors to implement climate policy despite the decision by the president of the United States culminated in the December 2017 launch of Climate Action 100+.<sup>23</sup> Organizers were clear that they were proceeding regardless of what governments decided:

[S]takeholders interviewed by S&P Global Market Intelligence suggest that the drive for more ESG disclosures and investment strategies will proceed with or without government support, because investors are increasingly demanding it.

The Paris accord is a case in point: Trump withdrew the U.S. from the international climate agreement, but some of the world's largest asset owners are proceeding with initiatives to tackle climate change on their own. The Principles for Responsible Investment, an ESG advocacy group, and other stakeholders are currently assembling an alliance of global investors to pressure the biggest corporate greenhouse gas emitters to cut emissions and address climate-change issues.

This Climate Action 100+ project will launch on Dec. 12 — the second anniversary of the drafting of the Paris climate agreement. The project has signed on investors representing trillions of dollars, according to Anne Simpson, sustainability investment director at the California Public Employees' Retirement System, or CalPERS, which helped form the alliance. CalPERS manages the largest public pension fund in the U.S. with a market value of about \$344 billion.<sup>24</sup>

Climate Action 100+ launched at a summit hosted by French President Emmanuel Macron to commemorate the second anniversary of the Paris Agreement.<sup>25</sup> While President Trump was not invited to the summit, billionaire Michael Bloomberg, billionaire Bill Gates, and multi-millionaire and then-private citizen John Kerry attended.<sup>26</sup>

During the Trump presidency, several alliances launched to implement the Paris Agreement through non-governmental channels. These include:

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<sup>23</sup> *Global investors launch new initiative to drive action on climate change by world's largest corporate greenhouse gas emitters*, Dec. 12, 2017, available at <https://www.climateaction100.org/news/global-investors-launch-new-initiative-to-drive-action-on-climate-change-by-worlds-largest-corporate-greenhouse-gas-emitters/>.

<sup>24</sup> Robert Clark and Lindsey White, *Slowly but surely, US investors pivoting to focus on sustainability*, S&P GLOBAL MARKET INTELLIGENCE, Dec. 11, 2017, available at <https://www.spglobal.com/marketintelligence/en/news-insights/trending/yi9vib0p4z5d-3oitnyzqa2> (emphasis added).

<sup>25</sup> Eric J. Lyman, *Macron Tries to Keep the Paris Agreement Alive*, PACIFIC STANDARD, Dec. 19, 2017, available at <https://psmag.com/environment/macron-tries-to-keep-the-paris-agreement-alive>.

<sup>26</sup> *Paris Summit Focused on Boosting Funding for Climate Change Fight*, VOA News, Dec. 12, 2017, available at <https://www.voanews.com/a/paris-summit-focused-on-boosting-funding-for-climate-change-fight/4160074.html>.

**Climate Action 100+.** Climate Action 100+ launched in December 2017 with more than 200 investor members who had more than \$26.3 trillion in assets under management.<sup>27</sup> Climate Action 100+ was initially formed as a five-year initiative targeting 100 “focus companies” and “led by investors to engage with the world’s largest corporate greenhouse gas emitters to improve governance on climate change, curb emissions, and strengthen climate-related financial disclosures.”<sup>28</sup> Climate Action 100+ is coordinated by five partner organizations: the Asia Investor Group on Climate Change, Ceres, Investor Group on Climate Change, Institutional Investors Group on Climate Change, and Principles for Responsible Investment.<sup>29</sup> Climate Action 100+ currently includes 700 global investors who are responsible for more than \$68 trillion in assets under management and who are coordinating action toward 166 “focus companies.”<sup>30</sup>

**Net-Zero Asset Owner Alliance.** The United Nations Environment Programme Finance Initiative and UN-supported Principles for Responsible Investment convened the Net-Zero Asset Owner Alliance in early 2019 with six forming members.<sup>31</sup> The Net-Zero Asset Owner Alliance describes itself as “a member-led initiative of institutional investors committed to transitioning their investment portfolios to net-zero GHG emissions by 2050 – consistent with a maximum temperature rise of 1.5°C.” The Net-Zero Asset Owner Alliance believes it “can drive the development of industry best practice through our investment mandates.”<sup>32</sup> The Net-Zero Asset Owner Alliance currently includes 86 asset owners who have \$11 trillion in assets under management.<sup>33</sup>

**Paris Aligned Asset Owners.** The Institutional Investors Group on Climate Change launched the Paris Aligned Investment Initiative in May 2019,<sup>34</sup> and Paris Aligned Asset Owners became “the net zero commitment vehicle for asset owners” in January 2021.<sup>35</sup> One of the ten

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<sup>27</sup> *Global investors launch new initiative to drive action on climate change by world’s largest corporate greenhouse gas emitters*, Dec. 12, 2017, available at <https://www.climateaction100.org/news/global-investors-launch-new-initiative-to-drive-action-on-climate-change-by-worlds-largest-corporate-greenhouse-gas-emitters/>.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* Last year, members of Congress asked Ceres to provide documents relating to Climate Action 100+ and were disappointed when Ceres indicated it did not intend to cooperate voluntarily. See House of Representatives Judiciary Committee, *Judiciary Republicans: Woke Companies Pursuing ESG Policies May Violate Antitrust Law*, Dec. 6, 2022, available at <https://judiciary.house.gov/media/press-releases/judiciary-republicans-woke-companies-pursuing-esg-policies-may-violate>; Letter from Rep. Jim Jordan and Rep. Dan Bishop to Mindy Lubber, Dec. 31, 2022, available at <https://judiciary.house.gov/sites/evo-subsites/judiciary.house.gov/files/evo-media-document/2022-12-31-db-jdj-to-ceres.pdf#:~:text=See%20generally%20Letter%20from%20Rep.%20Jim%20Jordan%2C%20Ranking,Judiciary%2C%20et%20al.%2C%20at%201%20%28Dec.%2020%2C%202022%29>.

<sup>30</sup> Investor Signatories, Climate Action 100+, available at <https://www.climateaction100.org/whos-involved/investors/>; Companies, Climate Action 100+, available at <https://www.climateaction100.org/whos-involved/companies/>.

<sup>31</sup> About, Net-Zero Asset Owner Alliance, available at <https://www.unepfi.org/net-zero-alliance/about/> (identifying Allianz, Caisse des Dépôts, La Caisse de dépôt et placement du Québec (CDPQ), Folksam Group, PensionDanmark and Swiss Re as forming members); The Net-Zero Asset Owner Alliance FAQ, 14, available at [https://www.unepfi.org/wordpress/wp-content/uploads/2019/09/AOA\\_FAQ.pdf](https://www.unepfi.org/wordpress/wp-content/uploads/2019/09/AOA_FAQ.pdf).

<sup>32</sup> *Id.*

<sup>33</sup> Members, Net-Zero Asset Owner Alliance, available at <https://www.unepfi.org/net-zero-alliance/alliance-members/>.

<sup>34</sup> FAQ, Paris Aligned Asset Owners, available at <https://www.parisalignedassetowners.org/news-resources/faq/>.

<sup>35</sup> Paris Aligned Asset Owners, 2022 Progress Report, at 5, available at [https://www.parisalignedassetowners.org/media/2022/11/PAAO-Progress-Report-November2022\\_Final.pdf](https://www.parisalignedassetowners.org/media/2022/11/PAAO-Progress-Report-November2022_Final.pdf).

commitments made by Paris Aligned Asset Owners is “[e]ngaging with asset managers, credit rating agencies, auditors, stock exchanges, proxy advisers, investment consultants, and data and service providers to ensure that funds, products and services available to investors are consistent with achieving global net zero emissions by 2050 or sooner.”<sup>36</sup> Paris Aligned Asset Owners currently has 56 asset owners, with over \$3.3 trillion in assets.<sup>37</sup>

***Net-Zero Asset Managers Initiative.*** The Net-Zero Asset Managers Initiative launched in December 2020 with 30 founding investor signatories.<sup>38</sup> The Net-Zero Asset Managers Initiative describes itself as “an international group of asset managers committed to supporting the goal of net zero greenhouse gas emissions by 2050 or sooner, in line with global efforts to limit warming to 1.5 degrees Celsius; and to supporting investing aligned with net zero emissions by 2050 or sooner.”<sup>39</sup> One signatory noted how the initiative planned to achieve its goals: “Investment decisions, engagement practices and voting power must be consistent with limiting the increase in global temperature to no more than 1.5 °C. Companies that take early action will be recognized by customers, investors, employees and other stakeholders.”<sup>40</sup> As of December 31, 2022, the Net-Zero Asset Managers Initiative included 301 asset managers with \$59 trillion in assets.<sup>41</sup>

## **B. The global elites work around an evenly divided Congress.**

Joe Biden entered office in January 2021 with an evenly divided Senate (50R-50D) and a narrowly divided House (221D, 211R). These margins would make it difficult, if not impossible, to advance radical climate change policies through Congress.<sup>42</sup>

Naturally, the global elites decided to continue and expand their efforts to implement climate change policy through non-governmental channels. Alliances that have launched since Biden entered office include:

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<sup>36</sup> Commitment, Paris Aligned Asset Owners, *available at* <https://www.parisalignedassetowners.org/commitment/>.

<sup>37</sup> Paris Aligned Asset Owners, *available at* <https://www.parisalignedassetowners.org/>.

<sup>38</sup> *Leading Asset Managers Commit to Net Zero Emissions Goal with Launch of Global Initiative*, Dec. 11, 2020, *available at* <https://www.netzeroassetmanagers.org/leading-asset-managers-commit-to-net-zero-emissions-goal-with-launch-of-global-initiative/>. Initial signatories were a.s.r. Asset Management, Anaxis Asset Management, Arisaig Partners, Asset Management One, ATLAS Infrastructure, AXA Investment Managers, BMO Global Asset Management, Calvert Research and Management, CCLA Investment Management, Clean Energy Ventures, DWS, FAMA Investimentos, Fidelity International, Generation Investment Management LLP, Gulf International Bank Asset Management, Handelsbanken Fonder AB, IFM Investors, Inherent Group LP, Kempen Capital Management, Legal & General Investment Management, M&G plc, New Forests Pty Ltd, Nordea Asset Management, Robeco, Sarasin & Partners LLP, Schroders, Swedbank Robur, UBS Asset Management, Wellington Management and WHEB. *Id.*

<sup>39</sup> Net-Zero Asset Managers Initiative, *available at* <https://www.netzeroassetmanagers.org/>.

<sup>40</sup> *Leading Asset Managers Commit to Net Zero Emissions Goal with Launch of Global Initiative*, Dec. 11, 2020, *available at* <https://www.netzeroassetmanagers.org/leading-asset-managers-commit-to-net-zero-emissions-goal-with-launch-of-global-initiative/>.

<sup>41</sup> Signatories, Net-Zero Asset Managers Initiative, *available at* <https://www.netzeroassetmanagers.org/signatories/>.

<sup>42</sup> See Emma Newburger, *Biden’s climate change agenda will face big obstacles with evenly divided Senate*, CNBC, Jan. 30, 2021, *available at* <https://www.cnn.com/2021/01/30/bidens-climate-change-agenda-to-face-obstacles-with-senate.html>; Alexandra Jaffe, *Biden adjusting agenda to reflect narrow divide in Congress*, ASSOCIATED PRESS, Dec. 4, 2020, *available at* <https://apnews.com/article/joe-biden-climate-climate-change-legislation-immigration-d82f2d93520edbf9ced20d599585a8e0>.

**Glasgow Financial Alliance for Net Zero.** The Glasgow Financial Alliance for Net Zero launched in April 2021, in an announcement joined by two Biden Administration officials: U.S. Special President Envoy for Climate, John Kerry, and Treasury Secretary, Janet Yellen.<sup>43</sup> This alliance, which is co-chaired by Bloomberg, pledged to “provide a forum for strategic coordination among the leadership of finance institutions from across the finance sector to accelerate the transition to a net zero economy.”<sup>44</sup> The Glasgow Financial Alliance for Net Zero “brings together independent, sector-specific Alliances to tackle net-zero transition challenges” and provides “a forum for addressing sector-wide challenges associated with the net-zero transition, helping to ensure high levels of ambition are met with credible action.”<sup>45</sup> More than 550 firms are connected to the Glasgow Financial Alliance for Net Zero through one of the seven sector-specific net-zero alliances from across the global financial sector, rather than through direct membership.<sup>46</sup>

**Net-Zero Banking Alliance.** The United Nations Environment Programme Finance Initiative convened the Net-Zero Banking Alliance on April 21, 2021, with 43 founding members.<sup>47</sup> In its announcement, the Net-Zero Banking Alliance reported that its “[b]anks’ first 2030 targets will focus on priority sectors where the bank can have the most significant impact, i.e., the most GHG-intensive sectors within their portfolios.”<sup>48</sup> Next, “[w]ithin 36 months of joining, banks will set a further round of sector-level targets for all or a significant majority of specified carbon-intensive sectors, including: agriculture; aluminum; cement; coal; commercial and residential real estate; iron & steel; oil & gas; power generation; transport.”<sup>49</sup> A March 2022 press release announced that “[t]he Net-Zero Banking Alliance does not support the financing of fossil fuel expansion.”<sup>50</sup> The Net-Zero Banking Alliance currently includes 129 banks who have \$74 trillion in total assets (41% of global banking assets).<sup>51</sup>

**Net-Zero Insurance Alliance.** The United Nations Environment Programme Finance Initiative’s Principles for Sustainable Insurance convened the Net-Zero Insurance Alliance in July

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<sup>43</sup> Mark Carney, *UN Race to Zero Campaign and COP26 Presidency Launch Net Zero Financial Alliance with World’s Biggest Banks, Asset Owners, Asset Managers and Insurers*, Apr. 21, 2021, at 1, available at <https://www.unepfi.org/wordpress/wp-content/uploads/2021/04/GFANZ-Launch-press-release.pdf>.

<sup>44</sup> *Id.* at 2.

<sup>45</sup> About, Glasgow Financial Alliance for Net Zero, available at <https://www.gfanzero.com/about/>.

<sup>46</sup> *Id.* The seven alliances are the Net-Zero Asset Owner Alliance; Net-Zero Asset Managers initiative; Paris Aligned Asset Owners; Net-Zero Banking Alliance; Net-Zero Insurance Alliance; Net Zero Financial Service Providers Alliance; and Net Zero Investment Consultants Initiative. *Id.*

<sup>47</sup> Mark Carney, *UN Race to Zero Campaign and COP26 Presidency Launch Net Zero Financial Alliance with World’s Biggest Banks, Asset Owners, Asset Managers and Insurers*, Apr. 21, 2021, at 5, available at <https://www.unepfi.org/wordpress/wp-content/uploads/2021/04/GFANZ-Launch-press-release.pdf>. Founding members were Ålandsbanken, Amalgamated Bank, Produbanco – Grupo Promerica, Banpro – Grupo Promerica, Banco Promerica, Bancolombia, Bank of America, Banorte, Barclays, BBVA, BNP Paribas, CaixaBank, CIB, Citi, Commerzbank, Coopeservidores, Credit Suisse, Deutsche Bank, Ecology Building Society, Fana Sparebank, GLS, Handelsbanken, HSBC, Ibercaja, IDLC, Íslandsbanki, Kenya Commercial Bank, KB Financial Group Inc., La Banque Postale, LGT Private Banking, Lloyds Banking Group, Morgan Stanley, NatWest Group, Republic Financial Holdings Limited, Santander, SEB, Shinhan Financial Group, Société Générale, SpareBank 1 Østlandet, Standard Chartered, Triodos Bank, UBS, and Vancity. *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> NZBA responds to recent research on fossil fuels, coal, Mar. 3, 2022, available at <https://www.unepfi.org/industries/banking/nzba-responds-to-recent-research-on-fossil-fuels-coal/>.

<sup>51</sup> Members, Net-Zero Banking Alliance, available at <https://www.unepfi.org/net-zero-banking/members/>.

2021 with eight founding members.<sup>52</sup> Approaches the Net-Zero Insurance Alliance announced it would use “include setting underwriting criteria and guidelines for the most GHG-intensive activities within their underwriting portfolios, engaging with clients and potential clients with the most GHG-intensive activities on their decarbonization strategies and net-zero transition pathways, developing and offering insurance and reinsurance solutions for low-emission and zero-emission technologies and nature-based solutions that absorb GHG emissions, improving claims management in an environmentally sustainable manner, and integrating net-zero and decarbonization related risk criteria into their risk management frameworks.”<sup>53</sup> One founding member described the leverage the Net-Zero Insurance Alliance could wield: “Our whole economy depends on insurance, so a net-zero insurance industry is a fundamental part of helping shift the economy towards protecting the planet.”<sup>54</sup> The Net-Zero Insurance Alliance currently includes 28 members.<sup>55</sup>

***Net Zero Financial Service Provider Alliance.*** The Net Zero Financial Service Providers Alliance launched in September 2021 with 17 founding members.<sup>56</sup> The Net Zero Financial Service Providers Alliance “have committed to aligning all their relevant services and products to improve consistency in financial decision-making with achieving a net zero economy by 2050, at the latest.”<sup>57</sup> “For example,” the alliance explained, “for index providers, the commitment will mean providing net zero aligned indices by default for all main markets, which will make it easier for investors to choose to anchor their investments to the net zero transition.”<sup>58</sup> One founding member acknowledged the colossal task of the net-zero movement: “Reaching net zero emissions will require the largest economic transformation since the Industrial Revolution.”<sup>59</sup> The Net Zero Financial Service Provider Alliance currently includes 27 members.<sup>60</sup>

***Net Zero Investment Consultants Initiative.*** The Net Zero Investment Consultants Initiative also launched in September 2021 with 12 founding signatories.<sup>61</sup> These signatories “are trusted to provide advice to pension funds, endowments, foundations, insurers, sovereign funds,

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<sup>52</sup> *Global insurance and reinsurance leaders establish alliance to accelerate transition to net-zero emissions economy*, July 11, 2021, available at <https://www.unepfi.org/industries/insurance/global-insurance-and-reinsurance-leaders-establish-alliance-to-accelerate-transition-to-net-zero-emissions-economy-2/>. Founding members were AXA (NZIA Chair), Allianz, Aviva, Generali, Munich Re, SCOR, Swiss Re and Zurich Insurance Group. *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Members, Net-Zero Insurance Alliance*, available at <https://www.unepfi.org/net-zero-insurance/members/>.

<sup>56</sup> *Net zero gets boost from global financial powerhouses*, Sept. 22, 2021, available at <https://www.netzeroserviceproviders.com/2021/09/22/financing-net-zero-gets-boost-from-global-financial-powerhouses/>. Founding members were BDO, Bloomberg LP, Campbell Lutyens, Deloitte, De Vere, EY, Grant Thornton, KPMG, London Stock Exchange Group (LSEG), Minerva Analytics, Moody’s Corporation, Morningstar, MSCI, PwC, Singapore Exchange (SGX), Solactive, S&P Global. *Id.* at n.1.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Signatories, Net Zero Financial Service Provider Alliance*, available at <https://www.netzeroserviceproviders.com/signatories/>.

<sup>61</sup> *Investment consultants with USD 10 trillion of assets under advice come together launch global ‘net zero’ initiative*, Sept. 20, 2021, at 1, available at <https://www.unpri.org/download?ac=14620>. Founding signatories were Barnett Waddingham, bfinance, Cambridge Associates, Cardano, Frontier, Hymans Robertson, JANA, LCP, Meketa, Redington, Willis Towers Watson, and Wilshire. *Id.*



family offices, and more.”<sup>62</sup> The Principles for Responsible Investment noted that “[t]he orderly transition away from fossil fuels will require all parts of the institutional investment chain to work together, and this initiative will be essential to this process.”<sup>63</sup> Signatories not only “[i]ntegrate advice on net zero alignment into all our investment consulting services as soon as practically possible,” but they also monitor—and implicitly enforce—progress by asset managers: “Assess and monitor asset managers on the integration of climate risks and opportunities in their investment decisions and stewardship and reflect this evaluation in our client recommendations.”<sup>64</sup>

***Venture Climate Alliance.*** The Venture Climate Alliance launched in April 2023 with 23 members.<sup>65</sup> The Venture Climate Alliance describes itself as “an organization created by leading global venture capital firms to define, facilitate, and realize net zero-aligned pathways for early-stage investments.”<sup>66</sup> Members of the Venture Climate Alliance proclaim that they “have committed to supporting a rapid, global transition to net zero or negative carbon emissions by 2050 or sooner, and will take specific, near-term steps to achieve this goal, both within their respective firms and in their roles as investors and advisors to their portfolio companies.”<sup>67</sup> One founding member said that it “look[s] forward to collaborating through the VCA to move the broader market, not just our own portfolio, into alignment with decarbonization goals.”<sup>68</sup> The Venture Climate Alliance has not reported any new members since its launch last month.

These alliances share several important similarities. They are created by the United Nations or private actors based around the world. They are led by individuals who work for non-governmental organizations under the United Nations, private corporations, or charities. Most importantly, they require their members to coordinate on business activity to meet unreasonable ESG goals.

This private coordination is designed to accomplish what could not be done through normal democratic processes. These alliances seek to implement woke ESG policies by starving a company of capital, staging a mutiny from within through hostile shareholder resolutions or director votes, or scaring a company to surrender to the ESG bullies. Never mind that the woke ESG policies are almost always not in the best interests of the company.

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<sup>62</sup> Principles for Responsible Investment, *Leading investment consultants form global initiative to push for net zero*, Sept. 20, 2021, available at <https://www.unpri.org/climate-change/leading-investment-consultants-form-global-initiative-to-push-for-net-zero/8549.article>.

<sup>63</sup> *Id.*

<sup>64</sup> The Net Zero Investment Consultants Commitment, #1, #4, available at <https://www.unpri.org/download?ac=14612>.

<sup>65</sup> *Leading Venture Investors Form Global Alliance to Build Net Zero Businesses from Day Zero*, Apr. 25, 2023, available at [https://www.prnewswire.com/news-releases/leading-venture-investors-form-global-alliance-to-build-net-zero-businesses-from-day-zero-301806332.html?tc=eml\\_cleartime](https://www.prnewswire.com/news-releases/leading-venture-investors-form-global-alliance-to-build-net-zero-businesses-from-day-zero-301806332.html?tc=eml_cleartime). Founding members were Prelude Ventures, Capricorn Investment Group, DCVC, Energy Impact Partners, Galvanize Climate Solutions, S2G Ventures, Union Square Ventures, Tiger Global, World Fund and 2150; along with Obvious Ventures, Congruent Ventures, Valo Ventures, Clean Energy Ventures, Fifth Wall, Overture Ventures, Blackhorn Ventures, Spring Lane Capital, Azolla Ventures, Systemiq Capital, The Westly Group, Innovation Endeavors, and ReGen Ventures.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

This private coordination also is designed to accomplish what could not be done through a free market. Without this unlawful coordination, the free market would not implement ESG at the scale and pace demanded by the radical ESG activists. ESG requires companies to forego otherwise profitable economic transactions to achieve woke social policy, often abandoning pecuniary interests and fiduciary duties.

### **C. The alliances created by global elites hurt consumers.**

These global alliances hurt consumers by breaching fiduciary duties. Those entities entrusted with Americans' money have a fiduciary duty to act in their investors' best interests by maximizing profit. ESG funds do not maximize return. According to one chief investment officer, "Over the past five years, global ESG funds have underperformed the broader market by more than 250 basis points per year, an average 6.3% return compared with a 8.9% return."<sup>69</sup> Prioritizing some investments, loans, or insurance policies, and excluding other investments, loans or insurance policies, based on woke ESG principles instead of potential profitability is inconsistent with companies' fiduciary duties.

ESG is not good for fiduciaries, and it is not good for American workers. The retirement savings of many Americans are invested, advised, or otherwise affected by an entity that is participating in a net-zero alliance. Woke agendas should not impact how the dollars of hard-working American workers are invested. Americans who have responsibly saved for retirement should not be harmed by irresponsible, woke investment managers.

These alliances also hurt consumers by increasing energy prices. To accomplish their net-zero goals, these alliances must work to phase out fossil fuels. Energy output is then limited, which results in higher prices for consumers. Of course, energy and utility costs are regressive. Our nation's lowest-income households spend almost one-quarter of their disposable income on energy costs.

These alliances also hurt consumers through anti-competitive conduct and agreements to coordinate. Alliance members appear to be conspiring and combining to restrain trade and commerce by colluding with other members to reduce competition amongst themselves and coordinate restricted investment toward specific companies unless certain ESG policy objectives are implemented. In these alliances, asset managers, banks, and insurers are required to share information with each other, convey common messages to common companies, and take common action with their assets, loans, or insurance policies against those same common companies.

American companies in the Net-Zero Banking Alliance exemplify this anti-competitive conduct and coordination. Bank of America openly admits that it is operating "in alignment with" the Net-Zero Banking Alliance: "As part of our net zero strategy and in alignment with NZBA

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<sup>69</sup> David McGarry, *Biden's First Veto Protects and Promotes ESG*, REASON, Mar. 21, 2023, available at <https://reason.com/2023/03/21/bidens-first-veto-protects-and-promotes-esg/> (citing Terrence R. Keeley, *ESG Does Neither Much Good nor Very Well*, WALL STREET JOURNAL, Sept. 12, 2022, available at <https://www.wsj.com/articles/esg-does-neither-much-good-nor-very-well-evidence-composite-scores-impact-reports-strategy-jay-clayton-rating-agents-11663006833>).

guidelines, . . .”<sup>70</sup> Citi makes the same admission: “These targets were developed in line with Net-Zero Banking Alliance (NZBA) Guidelines for Climate Target Setting.”<sup>71</sup> Morgan Stanley uses very similar language: “The targets, as well as our broader measure-manage-report framework, align with our public commitments, specifically the Net-Zero Banking Alliance.”<sup>72</sup>

ESG activity is subject to antitrust laws, as the Biden Administration has confirmed.<sup>73</sup> The Federal Trade Commission chair recently told the Senate Judiciary Committee, “[W]e’ve seen firms come to us and try to claim an ESG exemption, and we’ve had to come to them and explain clearly that there is no such thing.”<sup>74</sup> Assistant Attorney General of the Department of Justice’s Antitrust Division Jonathan Kanter agreed with “the sentiment that collusion is anticompetitive, and I also agree with the underlying sentiment that when firms have substantial power and they use that power to achieve anticompetitive ends, that should be actionable under the antitrust laws.”<sup>75</sup>

#### **IV. Attorneys general are taking action to protect consumers from ESG harms.**

Global elites are advancing ESG through unlawful and anti-democratic means. But Republican attorneys general are fighting back to protect consumers from harm caused by woke ESG policies. Republican attorneys general have:

- Launched an investigation into the Net-Zero Banking Alliance and its members: JPMorgan Chase, Goldman Sachs, Bank of America, Citigroup, Wells Fargo, and Morgan Stanley;<sup>76</sup>
- Launched an investigation into Climate Action 100+ and its global steering committee members: Franklin Templeton and the California Public Employees’ Retirement System;<sup>77</sup>
- Launched an investigation into Morningstar Investment Management;<sup>78</sup>

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<sup>70</sup> Bank of America, *Approach to Zero: Our commitment to helping finance the transition to net zero before 2050*, April 2022, at 8, available at <https://about.bankofamerica.com/content/dam/about/pdfs/approach-to-zero-2022.pdf>.

<sup>71</sup> Citi, *Net Zero Emissions Commitment*, available at <https://www.citibank.com/citi/sustainability/net-zero.htm>.

<sup>72</sup> Morgan Stanley, *Reaching Net-Zero Financed Emissions*, available at <https://www.morganstanley.com/about-us/sustainability-at-morgan-stanley/net-zero-financed-emissions>.

<sup>73</sup> See Christopher Hutton, *FTC Chairwoman Khan rejects corporate ESG concessions in antitrust enforcement*, Washington Examiner, Sept. 20, 2022, available at <https://www.washingtonexaminer.com/news/business/ftc-chair-khan-rejects-corporate-esg-concessions-antitrust>.

<sup>74</sup> *Id.*; see also Lina Khan, *ESG Won’t Stop the FTC*, THE WALL STREET JOURNAL, Dec. 21, 2022, available at <https://www.wsj.com/articles/esg-wont-stop-the-ftc-competition-merger-lina-khan-social-economic-promises-court-11671637135>.

<sup>75</sup> Letter from United States Senators to law firms, Nov. 3, 2022, available at [https://www.cotton.senate.gov/imo/media/doc/esg\\_letter.pdf](https://www.cotton.senate.gov/imo/media/doc/esg_letter.pdf).

<sup>76</sup> *JPMorgan, Goldman face probe by 19 states over ESG investing*, NEW YORK POST, Oct. 19, 2022, available at <https://nypost.com/2022/10/19/jpmorgan-goldman-face-probe-by-19-states-over-esg-investing/>.

<sup>77</sup> Thomas Catenacci, *Republican-led state opens sweeping investigation into woke investing group*, FOX NEWS, Apr. 25, 2023, available at <https://www.foxnews.com/politics/republican-led-state-opens-sweeping-investigation-woke-investing-group>.

<sup>78</sup> Ross Kerber, *Eighteen U.S. states join Missouri probe into Morningstar ESG*, REUTERS, Aug. 17, 2022, available at <https://www.reuters.com/world/us/eighteen-us-states-join-missouri-probe-into-morningstar-esg-2022-08-17/>.

- Warned asset managers to not violate the law through ESG investment practices;<sup>79</sup>
- Criticized the ESG investment practices of Blackrock;<sup>80</sup>
- Criticized the ESG practices of two proxy firms, International Shareholder Services, Inc. and Glass, Lewis & Co.;<sup>81</sup>
- Demanded S&P stop publishing ESG credit indicators as part of its credit ratings for states and local governments;<sup>82</sup>
- Filed a protest with the Federal Energy Regulatory Commission to protest Vanguard’s attempt to enhance energy-related efforts;<sup>83</sup>
- Sued the Biden Department of Labor to block a rule that would allow 401(k) managers to direct their clients’ money to ESG investments;<sup>84</sup>
- Opposed the Biden Securities and Exchange Commission’s proposal to require ESG disclosures by corporations;<sup>85</sup>
- Opposed the Biden Securities and Exchange Commission’s proposal to require ESG disclosures by investment advisors and investment companies;<sup>86</sup>
- Opposed the Biden Department of Labor’s proposal to allow investment decisions to reflect ESG considerations;<sup>87</sup>
- Opposed the Biden Department of Labor’s consideration of requiring fiduciaries to consider ESG in employee retirement savings investment decisions;<sup>88</sup>

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<sup>79</sup> Fred Lucas, *21 State AGs Warn Top Asset Management Firms About Woke Investing*, THE DAILY SIGNAL, Mar. 31, 2023, available at <https://www.dailysignal.com/2023/03/31/21-state-ags-warn-top-asset-management-firms-about-woke-investing/>.

<sup>80</sup> Amy Resnick, *19 GOP Attorneys General Slam BlackRock Over ESG Investments*, CHIEF INVESTMENT OFFICER, Aug. 9, 2022, available at <https://www.ai-cio.com/news/19-gop-attorneys-general-slam-blackrock-over-esg-investments/>.

<sup>81</sup> *Attorney General Steve Marshall Joins 20 States in Challenging Proxy Firms’ ESG Practices*, Jan. 20, 2023, available at [https://www.alabamaag.gov/Documents/news/Press\\_Release\\_2023-01-20.pdf](https://www.alabamaag.gov/Documents/news/Press_Release_2023-01-20.pdf).

<sup>82</sup> *AG Statement: Utah Letter Blasts S&P on ESG Ratings*, Apr. 21, 2022, available at <https://attorneygeneral.utah.gov/ag-statement-utah-letter-blasts-sp-on-esg-ratings-%EF%BF%BC/>.

<sup>83</sup> *Republican attorneys general target Vanguard’s ESG policies in protest with FERC*, S&P GLOBAL MARKET INTELLIGENCE, Nov. 30, 2022, available at <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/republican-attorneys-general-target-vanguard-s-esg-policies-in-protest-with-ferc-73332273>.

<sup>84</sup> *Attorney General Steve Marshall Joins 25 State Lawsuit on New Labor Rule Allowing Managers to Direct Their Clients’ Retirement to ESG Investments*, Jan. 30, 2023, available at [https://www.alabamaag.gov/Documents/news/Press\\_Release\\_2023-01-30.pdf](https://www.alabamaag.gov/Documents/news/Press_Release_2023-01-30.pdf).

<sup>85</sup> Monique Beals, *GOP attorneys general push back against SEC climate change disclosure initiative*, THE HILL, June 16, 2022, available at <https://thehill.com/policy/energy-environment/3526742-gop-attorney-generals-push-back-against-sec-climate-change-disclosure-initiative/>; see also Letter from Attorney General Morrisey *et al.* to the Securities and Exchange Commission, June 14, 2021, available at <https://www.sec.gov/comments/climate-disclosure/c112-8915606-244835.pdf>.

<sup>86</sup> Lesley Clark, *Red states decry ‘woke left’ SEC proposal for ESG investing*, E&E NEWS, Aug. 18, 2022, available at <https://www.eenews.net/articles/red-states-decry-woke-left-sec-proposal-for-esg-investing/>.

<sup>87</sup> Letter from Attorney General Reyes *et al.* to the Employee Benefits Security Administration, Dec. 13, 2021, available at [https://downloads.regulations.gov/EBSA-2021-0013-0799/attachment\\_2.pdf](https://downloads.regulations.gov/EBSA-2021-0013-0799/attachment_2.pdf).

<sup>88</sup> Letter from Attorney General Reyes *et al.* to the Employee Benefits Security Administration, May 16, 2022, available at <https://treasurer.utah.gov/wp-content/uploads/2022-05-16-EBSA-RFI-Response-Retirement-Savings-Climate-Risk-FINAL.pdf>.

- Opposed the Federal Deposit Insurance Corporation’s proposal to adopt ESG standards;<sup>89</sup>
- Opposed the Office of the Comptroller of the Currency’s proposal to impose principles for climate-related financial risk management for large banks;<sup>90</sup>
- Warned the Acting Comptroller of the Currency that attorneys general would take any necessary legal action if the new chief climate risk officer abused power;<sup>91</sup> and
- Opposed the Municipal Securities Rulemaking Board’s consideration that would require municipalities to make ESG-related disclosure.<sup>92</sup>

Attorneys general will continue pushing back at any effort by private actors to implement woke ESG policy. Attorneys general also will continue to oppose efforts by the Biden Administration to force private companies to disclose ESG information, since that information will be weaponized by the net-zero alliances.

## V. Conclusion

ESG threatens America’s prosperity. Americans want good-paying jobs, energy independence, more money in their monthly budget, and to enjoy retirement. Because the free market would not implement ESG like the radical ESG activists demand, they must unlawfully coordinate and breach fiduciary duties to impose their woke vision on American workers. ESG threatens American prosperity, and it must be stopped.

ESG also threatens America’s energy independence and national security. ESG artificially constricts our most foundational economic sectors, such as energy. In Alabama, it threatens our energy supply, largely powered by gas and coal. America achieved energy independence during the Trump Administration, but ESG weakens America such that we must rely on foreign countries to increase energy production to meet our demand. ESG also makes America dependent on products made in China like solar panels and electric battery components. This dependence threatens to give China and other bad actors a competitive advantage and leverage against the United States. ESG threatens American independence, and it must be stopped.

ESG also threatens America’s democratic system. In this country, important policy decisions are supposed to be made through the process set forth in the Constitution: Congress passes legislation, the president signs and enforces legislation, and the judiciary reviews any challenged legislation. The global elites are using ESG alliances to circumvent our system of

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<sup>89</sup> Letter from Attorneys General Morrissey and Reyes *et al.* to the U.S. Federal Deposit Insurance Corporation, June 3, 2022, *available at* <https://www.fdic.gov/resources/regulations/federal-register-publications/2022/2022-statement-principles-climate-related-financial-risk-management-3064-za32-c-051.pdf>.

<sup>90</sup> Letter from Attorney General Reyes *et al.* to the Office of the Comptroller of the Currency, Feb. 14, 2022, *available at* <https://treasurer.utah.gov/wp-content/uploads/2022-02-14-Comment-to-OCC-Principles-for-Climate-Related-Financial-Risk-Management-for-Large-Banks.pdf>.

<sup>91</sup> Letter from Attorney General Reyes *et al.* to the Acting Comptroller of the Currency, Sept. 29, 2022, *available at* <https://ago.wv.gov/Documents/2022-09-29%20Utah%20Letter%20to%20Hsu%20re%20Climate%20Risk%20Officer.pdf>.

<sup>92</sup> Letter from Attorney General Reyes *et al.* to the Municipal Securities Rulemaking Board, Mar. 8, 2022, *available at* <https://www.msrb.org/sites/default/files/RFC/2021-17/Utah.pdf>.

government by shifting power to unelected elites based in other countries who are not accountable to American voters. ESG threatens America's democratic system, and it must be stopped.

Republican attorney generals are defending Americans from these global elites and radical ESG activists. We appreciate the attention this Committee and members of Congress are giving to ESG. By working together, we can stop woke ESG and protect the American people.