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## To ESG or Not: "Damned If You Do, Damned If You Don't," at Least in Some US States - Mayer Brown

On July 28, 2022, the West Virginia State Treasurer named five banks as the first-listed Restricted Financial Institutions under West Virginia's Senate Bill 262 for having engaged in boycotts of energy companies and thus effectively has banned these banks from future banking contracts with the state.

Apparently not to be outdone, on August 24, 2022, the comptroller of public accounts for the State of Texas (Comptroller) released the list of financial companies that boycott energy companies, a list required under the Texas statute (Tex. Gov't Code sec. 809.051) prohibiting investment in financial companies that boycott certain energy companies (the Texas Boycott Code). The list includes 10 financial firms (mostly non-US banks) and 348 registered investment companies.

The criteria initially used by the Comptroller to screen financial firms for the list included public pledges to Climate Action 100+ and membership in the United Nations-convened Net-Zero Banking Alliance or the Net Zero Asset Managers Initiative, as well as ESG rating information provided by MSCI. Requests for verification were apparently also sent to the firms.

Continue reading.

**Mayer Brown** – J. Paul Forrester, Erin K. Cho, Leslie S. Cruz and Adam D. Kanter

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