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Some States' Anti-ESG Push Garners Support In Congress.

Republican Congress could use riders to block SEC actions

Republican state lawmakers are berating U.S. financial institutions for increased reliance on environmental, social and governance metrics to screen investments and analyze credit risk factors, with some of the critics attracting support in Congress.

Utah state Treasurer Marlo Oaks coordinated a response to S&P Global Inc., blasting the financial services firm's credit rating division for plans to supplement its analysis of states with a score on certain ESG indicators, such as exposure to climate risk and demographic trends.

While S&P notes the ESG analysis is added only after it issues the credit rating, the move nonetheless sparked backlash from the state's GOP lawmakers, who say the inclusion of those factors stray from traditional financial factors.

"To call them 'credit indicators' attempts to legitimize a dubious and unproven exercise in developing a political ratings system that is based on indeterminate factors," the letter said. "Traditional public finance entity credit ratings already incorporate financially material factors, including ESG factors."

Notably, Oaks was joined by Gov. Spencer J. Cox, other state officials, and Utah's entire congressional delegation: Republican Sens. Mitt Romney and Mike Lee and Reps. John Curtis, Blake D. Moore, Burgess Owens and Chris Stewart.

Stewart said he and his colleagues are encouraging other GOP members to have similar conversations with their state treasurers and financial regulators on the proliferation of ESG metrics.

If Republicans take back control of the House at the midterm elections, they will look to utilize appropriation riders to curb additional ESG regulations. This would be akin to the long-standing rider that prevents the Securities and Exchange Commission from pursuing rulemaking on corporate political spending disclosure, he said in an interview Tuesday.

"We're going to be able to put some limits on this, precluding the Securities and Exchange Commission, for example, from using their regulatory authority to implement policies that are really out of bounds of their actual authority," said Stewart, who sits on the House Appropriations Committee. "We'll have some ability to push back on that starting next winter."

The letter and Stewart's remarks underscore the latest effort from Republican politicians who are pushing back against the financial sector's embrace of ESG metrics in credit analysis and investment decisions.

In particular, leaders in fossil fuel producing states have pursued policies to bar officials from dealing with businesses that are moving to ditch fossil fuels or considering climate change in their own investments.

Last month, Texas Comptroller Glenn Hegar sent letters to nearly 20 banks and financial services providers asking if their funds either limit or block fossil fuel investments in light of a law to boycott investment vehicles divesting from oil, gas and coal firms — ultimately affecting Texas' pension funds. In West Virginia, the state dropped BlackRock Inc. funds from its portfolio over the asset manager's embrace of ESG investing.

Model policy

Earlier this month, the American Legislative Exchange Council released a model policy titled the State Government Employee Retirement Protection Act that's aimed to "protect pensioners from politically driven investment strategies."

The conservative organization — whose members consist of nearly one-quarter of the country's state legislators representing more than 60 million Americans — says ESG-oriented strategies in investments shrink investment returns over the long run, hurting retirees and taxpayers.

Under the policy framework, plan sponsors for state and local pension funds must evaluate investments only on pecuniary issues, defined as a factor with a material effect on financial risk or returns on investments. ESG factors and "similarly oriented considerations" are considered pecuniary factors "only if they present economic risks or opportunities that qualified investment professionals would treat as material economic considerations under generally accepted investment theories."

Investor advocacy groups and ESG supporters say that Republicans' criticisms and actions to fight the movement are misplaced, particularly on climate risk.

"We fundamentally reject the argument that ESG is not materially impactful," said Steven Rothstein, managing director of the Ceres Accelerator for Sustainable Capital Markets. Ceres is a nonprofit organization for investors concerned with sustainability and other ESG issues.

"There is lots of data that shows" ESG is material, he said in an interview. "There is also data that shows that companies that address these issues over the long term do better financially. Because they think about these constituencies."

While Rothstein said not every ESG issue has the same level of materiality, investors' sentiment shows physical and transitional risks from climate change and other topics will have an impact on the returns of their portfolios. State and federal officials who choose to exclude or ignore ESG factors may put pension funds and investments of Americans' money at risk.

"I wouldn't put this in the context of being supportive of ESG. It's supportive of their fiduciary responsibility to look at the range of financial risks," Rothstein said. "As someone had said three years ago, is the pandemic an ESG issue? Is it a public health issue? Or is it a financial risk issue? Well, it's all of them. And I don't think anyone would argue the pandemic hasn't had a dramatic impact on our economy, in lots and lots of ways."

Bryan McGannon, director of policy and programs at US SIF: The Forum for Sustainable and Responsible Investment, echoed similar sentiments that some states' pension plans may be misguided by blatantly ignoring certain ESG factors. US SIF is composed of advisers, firms and banks that support sustainable investing.

Depending on midterm results, Republicans may push for more oversight on what the SEC does on ESG regulations and bring forward more bills that challenge the inclusion of non-traditional financial metrics, McGannon said in an interview.

Such actions would be similar to what Republicans pursued in previous sessions of Congress when they controlled both chambers. Moreover, he said they would do little to change investors' overall sentiment that ESG factors are on equal footing with other financial factors.

"Frankly, it's more a political move," he said in an interview. "The marketplace is so far down the road that there is no going back."

Roll Call

By Ellen Meyers

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