

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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<https://oversight.house.gov>

September 23, 2025

Mr. Paul Atkins
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Dear Chairman Atkins:

The Committee on Oversight and Government Reform is investigating the prolific use of proxy proposals and other activism targeting corporate boards of directors by activists pursuing political agendas at the expense of the retirement and personal savings of Americans. Specifically, the Committee seeks to understand how giant investment managers and pension fund managers, aided by proxy advisory firms, sidestepped or abandoned their fiduciary duties to beneficiaries to pursue a political agenda and whether new legislation is needed to protect investors.

The Committee also seeks to work with the Trump Administration to permanently close loopholes or regulatory maneuvers the previous administration and progressive activists exploited to ultimately harm American investors and lawful businesses. To support this investigation, the Committee aims to revisit information requested from the Board of Governors of the Federal Reserve System in its February 26, 2024 letter¹ and in its questions to the Internal Revenue Service (IRS) in its June 6, 2024 letter.² The Committee requests additional documents to complement its original requests and clarify how investment fiduciaries can ensure true best interests for American retirement savings and investments going forward.

An investment manager's fiduciary responsibility to beneficiaries or clients has been a well-established principle in financial services and in U.S. law. The 2017 Supreme Court case *Fifth Third Bancorp et al. v Dudenhoeffer* held that pension plan managers' fiduciary duties of prudence to beneficiaries under the Employee Retirement Income Security Act of 1974 (ERISA) "refer[s] to the sort of financial benefits ... that trustees who manage investments typically seek to secure for the trust's beneficiaries."³ Investment advisers' fiduciary duties can be easily understood through cases like the 1940 *Securities Exchange Commission (SEC) v. Capital Gains Research Bureau* Supreme Court decision which held that "The Investment Advisers Act of

¹ Letter from James Comer, Chairman, H. Comm. on Oversight and Gov't Reform, to Mark E. Van Der Weide, General Couns., Bd. of Governors of the Fed. Rsrv. Sys. (Feb. 26, 2024).

² Letter from James Comer, Chairman, H. Comm. on Oversight and Gov't Reform, to Daniel Werfel, Commissioner, Internal Revenue Service (June 6, 2024).

³ *Fifth Third Bancorp et al. v Dudenhoeffer*, 573 U.S. 409 (2014).

1940 thus reflects a congressional recognition ‘of the delicate fiduciary nature of an investment advisory relationship, as well as congressional intent to eliminate, or at least to expose, all conflicts of interest which might incline as investment adviser ... to render advice which was not disinterested.’”⁴ In its 2019 final rule for Regulation Best Interest, the SEC plainly requires that “when making a recommendation, a broker-dealer must act in the retail customer’s best interest and cannot place its own interests ahead of the customer’s interests.”⁵ Whether an investment advisor, pension fund manager, or broker-dealer making investment decisions, fiduciary duty comprises acting in a beneficiary’s best financial interest and accordingly removing any self-interest a fiduciary may hold: especially return-diminishing political agendas.

Particularly concerning to the Committee is how investment and pension fund managers have used their client’s funds to amplify political activism in portfolio companies through proxy votes or other engagement. Activists have increasingly used image-driven proposals in such proxy votes to advance progressive initiatives disguised as rational business decisions—known as environmental, social, and governance (ESG).⁶

In the 118th Congress, the Committee heard from two state attorneys general on the harms of various aspects of ESG, specifically the conflict such proposals place corporate boards into as well as fiduciaries granting ESG factors preferential treatment. Utah Attorney General Reyes explained how “radical ESG activists ... unlawfully coordinate and breach fiduciary duties to impose their woke vision on American workers.”⁷ Proxy voting is an essential tool for shareholders to have a say over the management and policies of the companies they own and operate. However, when investment managers, voting the shares acquired using their clients’ funds, pursue a political agenda, potentially contrary to the clients’ best interest, fiduciary considerations are at best an afterthought.

This area of ESG and its associated activism is of great concern to the Committee. In statements made to Committee staff, one senior executive for a publicly traded firearms company shared that during their engagement with the stewardship officers of one of the world’s largest asset managers, the company was pressed to abandon their core and profitable businesses for political reasons: providing a perfect example of putting a political agenda ahead of an asset manager’s fiduciary responsibility. Attempts to justify the relevance of such factors on businesses are too often purely subjective. A 2022 KPMG survey of CEOs revealed that 74% of CEO fears for failing to meet ESG expectations were contingent on the beliefs or values of others—concerns like disengaged employees or higher cost of raising finance—with only 21% citing “competitors gaining an edge” and 5% citing “loss of customers” as their feared

⁴ *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 191-192 (1963).

⁵ 17 CFR § 240.3320 (2019).

⁶ Subodh Mishra, *U.S. Shareholder Proposals: A Decade in Motion*, HARV. LAW SCH’L F. ON CORP. GOVERNANCE (Nov. 18, 2024), available at <https://corpgov.law.harvard.edu/2024/11/18/u-s-shareholder-proposals-a-decade-in-motion/>.

⁷ Statement of Steven Marshall, Ala. Att’y Gen., to H. Comm. on Oversight & Accountability, at 13 (May 10, 2023).

downside.⁸ Ultimately, these thinly-veiled activist efforts are seldom meant for practical business reasons, instead confounding management and their natural business decisions with attempts to achieve what progressives cannot at the ballot box.

In its own discussions with corporate leaders, the Committee has also identified growth-undermining proxy campaigns pushed by the two leading proxy advisory firms—Glass Lewis and Institutional Shareholder Services (ISS). While Glass Lewis has only recently become a U.S. company⁹ and ISS is owned by a German corporation,¹⁰ the two companies dominate the global proxy advisory market with roughly 97% combined market share in 2023.¹¹ Such duopoly has enabled Glass Lewis and ISS to direct massive voting blocs in proxy votes and board of directors elections. The Committee continues to engage with affected companies to understand the breadth of proxy advisory usurpation of beneficiary and fiduciary authority to force political agendas upon unwilling companies.

A March 14, 2024, letter from seventeen state treasurers and auditors to State Street reflects one of the most prominent instances concerning fiduciary neglect in favor of political activism.¹² In their letter, the officials demonstrated how State Street, the world’s fourth largest asset manager,¹³ not only objected to considering in its proxy voting benchmark policy the financial risks of implementing “‘green’ energies before such energies are technologically feasible and fully affordable,”¹⁴ but also that “State Street offers *no* options that support *any* pro-fiduciary environmental and social proposals.”¹⁵ On August 4, 2022, nineteen state attorneys general, wrote to BlackRock expressing concern that Blackrock used the “hard-earned money of our states’ citizens to circumvent the best possible return on investment, as well as their vote,”¹⁶ pledging to stand up against the states’ “pensioners’ retirements to be sacrificed for BlackRock’s climate agenda.”¹⁷ While many policies behind the material breaches of fiduciary responsibilities may have been reversed in recent months, the Committee remains concerned that activists are now waiting for a different political climate to strike at businesses and retirement savings again. Asset managers, conscious or ignorant to the fact, have become another vehicle through which activists seek to drive progressive agendas.

The SEC under former-Chairman Gary Gensler issued Staff Legal Bulletin (SLB) No. 14L on November 3, 2021 which attempted to create a “significant social policy exception” for

⁸ *KPMG 2022 CEO Outlook*, KPMG, available at <https://assets.kpmg.com/content/dam/kpmg/xx/pdf/2022/10/ceo-outlook-report.pdf>.

⁹ News Release, Peloton Cap. Mgmt., Peloton Cap. Mgmt. and Stephen Smith Acquire Glass Lewis (Mar. 16, 2021).

¹⁰ *About ISS*, ISS, available at <https://www.issgovernance.com/about/about-iss/>.

¹¹ Kezia Farnham, *Proxy advisory firms: What they are & why you should care*, DILIGENT (Dec. 21, 2023), available at <https://www.diligent.com/resources/blog/Proxy-advisory-firms>.

¹² Letter from Andrew Sorrell, Auditor, State of Ala., *et al.*, to Ronald O’Hanley, CEO, State St. Global Advisors (Mar. 14, 2024) [hereinafter “Sorrell Ala.”].

¹³ *2024 Annual Report*, STATE STREET, 32, available at <https://www.statestreet.com/us/en/asset-manager/about/our-story/2024-annual-report>.

¹⁴ Sorrell Ala., *supra* n. 12.

¹⁵ Sorrell Ala., *supra* n. 12.

¹⁶ Letter from Mark Brnovich, Att’y Gen., State of Ariz., *et al.*, to Laurence Fink, CEO, BlackRock Inc. (Aug. 4, 2022).

¹⁷ *Id.*

board of directors proposals to be considered relevant so long as they would hold a “social policy significance.”¹⁸ SLB 14L would have removed company-specific exclusion criteria for proposals,¹⁹ allowing just about any impassioned or image-driven topic to waste precious board meeting minutes and cost millions of dollars to fight. Fortunately, the current Administration chooses to put American prosperity first and rescinded the misguided SLB 14L on February 12, 2025.²⁰

The Committee seeks to further its understanding of how proxy voting and related board room political activism schemes conflict with basic fiduciary responsibility and even abridge federal law, including for both public pensions and private pensions covered by ERISA. The Committee seeks to bring accountability to regulators under the previous administration who contributed to breaches of fiduciary trust and determine whether legislation is necessary to prevent such actions in the future. At a minimum, Americans deserve to fully know if their hard-earned savings are being used in a progressive playbook.

To assist the Committee’s investigation on this matter, we request the following document production and staff briefings, covering the time period January 1, 2021 to present, as soon as possible but no later than October 7, 2025:

1. All documents and communications between or among staff and officials at the SEC concerning the drafting and issuance of SLB 14L;
2. All documents and communications between or among staff and officials at the SEC concerning fiduciary responsibility surrounding ESG principles for broker-dealers, investment advisors, and investment managers; and
3. A staff briefing by the SEC on competition among and accountability of proxy advisory firms.

To arrange for delivery of documents or to ask any related follow up questions, please contact the Committee on Oversight and Government Reform Majority staff at (202) 225-5074. The Committee on Oversight and Government Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Thank you for your attention to this important matter.

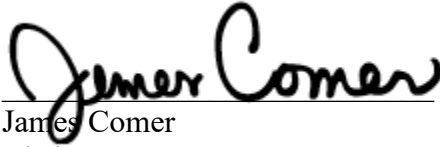
¹⁸ U.S. SEC. EXCH. COMM’N, S’HOLDER PROPOSALS: STAFF LEGAL BULL. NO. 14L (CF), (Nov. 3, 2021).

¹⁹ *Id.*

²⁰ U.S. SEC. EXCH. COMM’N, S’HOLDER PROPOSALS: STAFF LEGAL BULL. NO. 14M (CF), (Feb. 12, 2025).

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Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style with a large, looping "J" and "C".

James Comer
Chairman
Committee on Oversight and Government Reform

cc: The Honorable Robert Garcia, Ranking Member
Committee on Oversight and Government Reform