

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-6074
MINORITY (202) 225-6051
<https://oversight.house.gov>

September 23, 2025

Ms. Kristen Waggoner
CEO
Alliance Defending Freedom
15100 N. 90th St.
Scottsdale, AZ 85260

Dear Ms. Waggoner:

The Committee on Oversight and Government Reform is investigating the rise of politicized anti-growth corporate activism which undermines retirement security, jeopardizes the American economy, and punishes citizens for exercising their Constitutional rights. The Committee is specifically concerned with whether legislation is necessary to secure crucial pro-freedom, fiduciary-driven protections for American businesses, investors, retirees, and beneficiaries for years to come. As your organization took action to oppose political attacks advanced through corporate discrimination, the Committee seeks information from your organization to inform potential legislation.

An investment manager's fiduciary responsibility to beneficiaries or clients is a well-established principle in financial services and in U.S. law through U.S. Supreme Court decisions such as *Fifth Third Bancorp et al. v. Dudenhoeffer*¹ and through *SEC v. Capital Gains Research Bureau*.² The U.S. Securities and Exchange Commission (SEC) adopted Regulation Best Interest (BI) in 2019, which firmly clarified that fiduciary responsibility extends to broker-dealers when making investment recommendations to retail customers.³

Despite President Donald Trump's Executive Order entitled, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," which scrutinized discriminatory corporate DEI practices,⁴ the Committee remains concerned following reports of publicly traded companies intentionally camouflaging or rebranding diversity, equity, and inclusion (DEI) and environmental, social, and governance (ESG) policies to hide such discrimination from "the Trump Administration, courts or influential activists."⁵ At minimum, shareholders and retirement plan beneficiaries deserve transparency around discriminatory practices employed by corporate directors and officers as such behavior is rebranded. Replacing DEI and ESG titles with "employee engagement" or "inclusion and impact" represents yet another deceptive practice

¹ *Fifth Third Bancorp et al. v. Dudenhoeffer*, 573 U.S. 409 (2014).

² *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 191-192 (1963).

³ 17 CFR § 240.15l-1 (2019).

⁴ Exec. Order No. 14173, 90 Fed. Reg. 8633 (Jan. 21, 2025).

⁵ Callum Borchers, *Companies Quietly Recast DEI to Duck Backlash*, WALL ST. JOURNAL (June 11, 2025).

to advance a politicized agenda and further corrupts the fiduciary duties of the directors and officers behind them.⁶

Using the board room to achieve ends that America's political left failed to force through the ballot box is frequently deployed in troubling attempts to deprive Americans of their Constitutional rights. As one example, despite the U.S. Supreme Court repeatedly reaffirming the fundamental right to bear arms guaranteed by the Second Amendment,⁷ advocacy groups campaigned for corporate entities to bankrupt firearm manufacturers and distributors. Business for Social Responsibility (BSR), a global corporate sustainability group whose members include many of the world's largest corporations,⁸ published "A Toolkit for Corporate Action to End Gun Violence"⁹ which bluntly advocates for companies to "prohibit lending to clients and customers who manufacture and/or distribute guns."¹⁰

In addition to prohibiting political or unlawful debanking, President Trump's Executive Order entitled, "Guaranteeing Fair Banking for All Americans," authorizes the Administrator of the U.S. Small Business Administration and the Financial Stability Oversight Council's bank regulatory agencies to review and rectify past and ongoing instances of debanking.¹¹ The Committee's investigation of discriminatory behavior in the American financial system and the Biden Administration's bolstering of such practices seeks to determine whether legislation is necessary to ensure such practices do not simply hibernate in hopes of emerging again during a future administration which does not prioritize American prosperity and freedom. To assist its investigation into this matter, the Committee requests responses to the following questions as soon as possible but no later than October 7, 2025:

1. Is Congressional legislative action needed to further clarify fiduciary responsibility for financial advisors, company directors, and retirement plan managers?
2. What current regulatory and legislative gaps should Congress address to ensure fiduciary responsibilities will not be hijacked to advance politically-charged corporate campaigns going forward?
3. Since President Trump's Administration rolled back various regulations promulgated by the previous administration which enabled certain social and political objectives to be pushed into corporations, are you aware of any organized efforts by activists or their entities to entrench or hibernate progressive activist policies? If yes, please explain.

⁶ *Id.*

⁷ *See* McDonald v. City of Chicago, 561 U.S. 742 (2010).

⁸ *Member List*, BUS. FOR SOC. RESP., *available at* <https://www.bsr.org/en/membership/member-list>.

⁹ Bus. for Soc. Resp., *A Toolkit for Corporate Action to End Gun Violence* (Jan. 2022), *available at* <https://www.bsr.org/reports/BSR-Toolkit-Corporate-Action-End-Gun-Violence.pdf>.

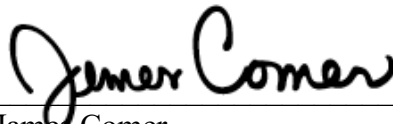
¹⁰ *Id.* at 50.

¹¹ Exec. Order No. 14331, 90 Fed. Reg. 38925 (Aug. 12, 2025).

4. Has corporate activism enabled foreign interference in U.S. corporations and investment managers? If yes, please explain.
5. Has ESG and DEI corporate activism assessing reputational and legal risks for certain corporations failed to account for the reputational and legal risks of employing such ESG or DEI priorities? If yes, please explain.
6. Are increased transparencies and disclosures needed from publicly traded companies which seek to abridge their fiduciary responsibility to shareholders in business risk areas which are not in the “grey area” of business risk categories such as legal and compliance risk? If yes, please explain.
7. Are new federal protections needed to ensure that lawful businesses are not discriminated against based on non-financial, political metrics? If so, please provide examples, rationale and how to achieve these protections.

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. To arrange for an appropriate response or to ask any related follow up questions, please contact the Committee on Oversight and Government Reform Majority staff at (202) 225-5074. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

James Comer
Chairman

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