

Congress of the United States
Washington, DC 20515

June 13, 2023

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave, NW
Washington, DC 20220

Dear Secretary Yellen:

We write to you with serious concerns regarding the Biden Administration's engagement with the European Union (EU) and the European Commission's proposed Corporate Sustainability Due Diligence Directive (CSDDD) legislation. In particular, we are concerned by the CSDDD's extraterritorial application of EU law to U.S. business activities outside the EU. This proposal could have significant financial and legal implications for U.S. companies and is a blatant attempt by the EU to advance its policy goals beyond its borders, including within the United States.

The proposed CSDDD would require American companies with a revenue footprint greater than €150 million in the EU (and, in some sectors, significantly less) to address environmental, social and governance (ESG) related issues throughout their value chain and financing. This would implicate U.S. business relationships that have no direct connection to the EU. U.S. companies, including in "high-impact sectors" that the EU defines as textiles, footwear, clothing, agriculture, forestry, fisheries, food, live animals, wood, beverages, mineral resources, natural gas, coal, lignite, metals, construction materials, fuels, and chemicals, would be captured. Moreover, the CSDDD would require American companies active in Europe to sever business relationships in the U.S. and elsewhere, where addressing ESG impacts in compliance with EU law is not readily feasible. As an enforcement mechanism, the CSDDD would allow non-government stakeholders to sue U.S. companies for failing to meet EU requirements.

Most concerning is the devastating impact that CSDDD will have on the ability of U.S. multinational companies to source from or sell to U.S. businesses, including small businesses. In practice, U.S. companies subject to the EU law would need to certify that every point in their value chain is compliant with the EU's ESG requirements. This includes their dealings with U.S. small businesses that have no EU revenues or presence. Furthermore, CSDDD would require U.S. companies to not just disclose, but also identify, mitigate, and address "adverse environmental and social impacts" of their businesses. This would place a significant burden on smaller U.S. companies that work with larger U.S. companies, and they may risk losing those important partnerships if they cannot meet the EU standards.

As you know, the U.S. Securities and Exchange Commission (SEC) proposed a regulation that included mandatory Scope 3 emissions reporting for companies. That rule has resulted in a

substantial number of comment letters filed in opposition. As we have stated previously, the rule exceeds the SEC's statutory authority. Considering the anticipated legal challenges to the SEC's rule, U.S. regulators should not attempt to circumvent U.S. sovereignty by collaborating with international regulators to impose rules domestically. Such regulations would be of questionable legal validity if implemented by U.S. regulators. The concern arises from the fact that a non-U.S. regulatory body will be imposing similar requirements without having the same obligations as the SEC under the Administrative Procedures Act, which includes conducting thorough cost-benefit and economic analyses on their regulations.

Instead, the Biden Administration has acquiesced to extraterritorial European ESG regulations. According to a joint press release issued on February 13th for the U.S.-EU Joint Regulatory Forum that included representatives of the U.S. Department of Treasury ("Treasury"), the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Office of the Comptroller of the Currency, and the SEC:

"Participants discussed issues related to sustainable finance, mainly ongoing work on climate and other sustainability-related financial disclosures and on climate-related financial risks. The European Commission presented progress made on the implementation of the Sustainable Finance Disclosures Regulation and on the development of European Sustainability Reporting Standards, as mandated under the Corporate Sustainability Reporting Directive. SEC staff discussed the SEC's proposals to enhance disclosures regarding issuers' climate-related risk and enhance disclosures by certain funds and investment advisers regarding ESG practices. EU and U.S. participants agreed to continue the bilateral exchange on sustainability-related disclosures and their engagement in international for a, including on standards being developed by the International Sustainability Standards Board (ISSB). Discussions also turned to the management of climate-related financial risks, where both sides exchanged on recent developments and initiatives to ascertain risk and management practices and challenges."

We view the extraterritorial application of EU requirements on American businesses as a violation of international norms and an infringement on U.S. sovereignty. The Biden Administration and, by extension, the Treasury has a duty to protect and advocate for U.S. interests, both domestically and abroad.

Historically, the Treasury has defended American interests from the extraterritorial reach of foreign regulators. Please provide a written response detailing the following:

- The Administration's formal position on the CSDDD and any views that have been expressed by U.S. officials to international counterparts of the Treasury and any other agency of the U.S. government.
- A list of all U.S. companies that Treasury expects will be subject to CSDDD.
- An estimate of the costs to the U.S. economy and businesses due to CSDDD, as well as any economic analysis conducted by the Treasury.

- A detailed list of any existing regulatory authority available to the Administration, which could be utilized to mitigate the impact of the EU legislation if the CSDDD is implemented.
- Any steps taken or future plans by the Treasury to prevent this rule from applying to U.S.-based firms and their U.S. operations.
- The Administration's plans to assist U.S. small business mitigate the impact of the EU law if the CSDDD is implemented.

We would appreciate a response no later than June 30, 2023. We appreciate your prompt attention to this request.

Sincerely,



French Hill
Member of Congress



Andy Barr
Member of Congress



Patrick McHenry
Chairman



Frank D. Lucas
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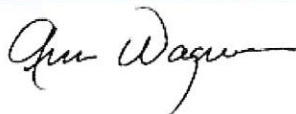
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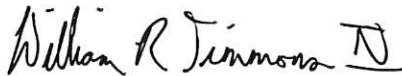
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