

# 2023 in Federal Policy Review: “Anti-ESG” Flurry Was All Talk and No Walk

The following brief contains highlights from a report that US SIF released exclusively to members in December 2023 entitled “2023 in Federal Policy: ‘Anti-ESG’ Flurry Was All Talk and No Walk.” The report covers federal policy takeaways around sustainable investing including:

- At the beginning of 2023, US SIF worked closely with Rep. Sean Casten (D, IL-06) and Rep. Juan Vargas (D, CA-52) to **launch the first-ever Congressional Sustainable Investment Caucus**, which has been educating members of Congress about our industry since the launch.
- In March, **President Biden blocked a Congressional resolution that would have negated the DOL rule** that states that private-sector pension plan fiduciaries may use data that measures a company’s long-term risks and opportunities in the plans they manage.
- In September, **the SEC issued the final “Investment Company Names” rule**, which went into effect on December 11<sup>th</sup>, 2023. This rule amends the Investment Company Act of 1940 to expand and improve the universe of funds that must comply with the existing requirement to invest at least 80% of a fund’s assets in accordance with the focus indicated in the fund’s name.
- Throughout 2023, **seven bills that make it harder for investors to use a variety of corporate data in their investment decisions** and disrupt the shareholder proposal process passed out of two committees in the U.S. House of Representatives.

**Spotlight on Appropriations:** In 2023, the House considered several appropriations bills for the 2024 fiscal year that contained provisions aimed at blocking investors from using ESG data in their investment decisions or obstructing the SEC’s rulemaking agenda. These include provisions that prohibit the SEC from being able to require publicly traded corporations to disclose their climate-related risks and their secret political contributions. Congress needs to negotiate a final spending deal before government funding runs out in early 2024.

## Looking Ahead

The US SIF policy team anticipates that 2024 will be another important year for sustainable investing policy at the federal level. We will monitor the bills that passed out of committee in the House of Representatives in 2023 in case they get scheduled for a vote in 2024. The SEC is expected to finalize the corporate climate risk disclosure rule next year and has [tentatively indicated](#) that it will finalize the fund disclosure rule by the Spring. The SEC has also issued a [list of proposed rules](#) that it may issue in 2024 which includes human capital management disclosure and board diversity disclosure.

US SIF members have access to the full 2023 report with a list of members of the Sustainable Investment Caucus, more details about all of the takeaways listed here, and a comprehensive chart of every bill introduced in Congress. US SIF members should contact Rachel Curley, Director of Policy and Programs, for a copy.

## About US SIF

[US SIF: Sustainable Investment Forum](#) is the leading voice advancing sustainable investing across all asset classes. Its mission is to rapidly shift investment practices toward sustainability-aligned goals with the aim of achieving long-term investment goals and preserving our planet and society. US SIF members include investment management and advisory firms, mutual fund companies, asset owners, data and research firms, financial planners and advisors, broker-dealers, banks, credit unions, community development financial institutions and non-profit associations. [JOIN US!](#)

*US SIF is supported in its work by the US SIF Foundation, a 501(C)(3) organization that undertakes educational and research activities to advance the mission of US SIF, including offering trainings for advisors and other financial professionals on the [Fundamentals of Sustainable and Impact Investment](#).*

# Bills Passed Out of Committee That Oppose Sustainable Investing

Bill Name	Sponsor	Committee	Summary	Link	Date Introduced
Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Labor relating to "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights"	Sen. Braun (R, IN)	Senate Health, Education, Labor, and Pensions	Revokes the Department of Labor's rule "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights."	<a href="#">S.J. Res. 8</a>	February 7, 2023 (Later passed the Senate)
	Rep. Barr (R, KY-06)	House Education and the Workforce		<a href="#">H.J. Res. 30</a>	February 7, 2023 (Later passed the House)
Business Over Activists Act	Rep. Norman (R, SC-05)	House Financial Services	Stops the SEC from requiring any issuer to include any shareholder proposal or discussion related to a shareholder proposal on its proxy statement.	<a href="#">H.R. 4655</a>	July 14, 2023
Protecting Americans' Retirement Savings from Politics Act	Rep. Steil (R, WI-01)	House Financial Services	<b>Package of bills including</b> <a href="#">H.R. 4641</a> , <a href="#">H.R. 4644</a> , <a href="#">H.R. 4640</a> , <a href="#">H.R. 4657</a> , <a href="#">H.R. 4662</a> , <a href="#">H.R. 4589</a> , <a href="#">H.R. 4590</a> , <a href="#">H.R. 4648</a> , <a href="#">H.R. 4656</a> , <a href="#">H.R. 4645</a> , and <a href="#">H.R. 4600</a> .	<a href="#">H.R. 4767</a>	July 20, 2023
Guiding Uniform and Responsible Disclosure Requirements and Information Limits Act of 2023	Rep. Huizenga (R, MI-04)	House Financial Services	<b>Package of bills including</b> <a href="#">H.R. 4168</a> , <a href="#">H.R. 4628</a> , <a href="#">H.R. 4652</a> , and <a href="#">H.R. 4653</a> .	<a href="#">H.R. 4790</a>	July 20, 2023
Roll back ESG to Increase Retirement Earnings Act (RETIRE Act)	Rep. Allen (R, GA-12)	House Education and the Workforce	Requires that pension plan fiduciaries only consider pecuniary factors when making investment decisions and may not sacrifice returns or add additional risk to promote "non-pecuniary" goals.	<a href="#">H.R. 5399</a>	September 14, 2023
Retirement Proxy Protection Act	Rep. Houchin (R, IN-09)	House Education and the Workforce	Reaffirms that the fiduciary duty of a pension plan manager includes the right to vote proxies unless those votes are passed through.	<a href="#">H.R. 5337</a>	September 14, 2023

No Discrimination in My Benefits Act	Rep. Good (R, VA-05)	House Education and the Workforce	States that when selecting or retaining a plan fiduciary, counsel, employee or service provider, a plan cannot consider the race, color, religion, sex or national origin of that person.	<a href="#">H.R. 5338</a>	September 14, 2023
Providing Complete Information to Retirement Investors Act	Rep. Banks (R, IN-03)	House Education and the Workforce	Requires plan fiduciaries to notify the plan participants/beneficiaries each time they direct an investment in or out of an investment vehicle that is “not a designated investment alternative” (which would include those that consider ESG factors).	<a href="#">H.R. 5340</a>	September 14, 2023

## Federal Agency Rulemakings

Agency	Rule	Link	Proposal Date	Finalization Date
DOL	Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights	<a href="#">Link</a>	October 14, 2021	November 22, 2022
SEC	Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure	<a href="#">Link</a>	October 7, 2022	July 26, 2023
SEC	Investment Company Names	<a href="#">Link</a>	May 25, 2022	September 20, 2023
SEC	The Enhancement and Standardization of Climate-Related Disclosures for Investors	<a href="#">Link</a>	May 9, 2022	-
SEC	Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices	<a href="#">Link</a>	May 25, 2022	-
SEC	Substantial Implementation, Duplication, and Resubmission of Shareholder Proposals Under Exchange Act Rule 14a-8	<a href="#">Link</a>	July 13, 2022	-