

## CHEAT SHEET: Bills Passed During #AntiESGMonth

Below is a summary of the bills passed out of the U.S. House Financial Services Committee on July 27<sup>th</sup>, 2023 related to ESG disclosure, shareholder rights, and proxy advisors. The Committee introduced 18 bills on these issues at the beginning of the month, but then later passed the bills as three legislative packages. It is unclear how quickly they will move to the floor of the U.S. House of Representatives, and they have no likelihood of being picked up in the U.S. Senate. For questions, email US SIF Director of Policy and Programs, Rachel Curley, at [rcurley@ussif.org](mailto:rcurley@ussif.org).

**Legislative Package #1:** [H.R. 4767](#), the “Protecting Americans’ Retirement Savings from Politics Act” (Rep. Steil)

<a href="#">H.R. 4641</a> , the <i>Performance Over Politics Act</i> (Rep. Fitzgerald)	Allowed to exclude “substantially similar” shareholder proposals
<a href="#">H.R. 4644</a> , the <i>No Expensive, Stifling Governance (No ESG) Act</i> (Rep. Houchin)	Allowed to exclude “substantially implemented, substantially duplicate, or are substantially similar to previously included proposals”
<a href="#">H.R. 4640</a> , a bill to authorize the exclusion of shareholder proposals from proxy or consent solicitation material if the subject matter of the shareholder proposal is environmental, social, or political (Rep. Donalds)	Allowed to exclude if proposal addresses environmental, social or governance matters
<a href="#">H.R. 4657</a> , a bill to clarify that an issuer may exclude a shareholder proposal pursuant to section 240.14a-8(i) of title 17, Code of Federal Regulations, without regard to whether such proposal relates to a significant social policy issue (Rep. Rose)	Removes “social policy” criteria from Rule 14a-8
<a href="#">H.R. 4662</a> , the <i>Corporate Governance Examination Act</i> (Rep. Wagner)	SEC to study various aspects of the proxy process, including: <ul style="list-style-type: none"> <li>- Cost/benefit of duopoly in proxy advisory business</li> <li>- Cost to issuers for responding to “politically-, environmentally-, or socially-” motivated shareholder proposals</li> <li>- Cost/benefit analysis of current resubmission thresholds</li> <li>- Extent to which “politically-motivated” proposals impact issuer operating costs</li> <li>- Whether current proxy process discourages companies from going public</li> </ul> Various impacts of proxy advisory firms

<p><a href="#">H.R. 4589</a>, a bill to amend the Securities Exchange Act of 1934 to provide for the registration of proxy advisory firms, and for other purposes (Rep. Steil)</p>	<p>Requires proxy advisory firms to register with the SEC and establishes filing requirements</p>
<p><a href="#">H.R. 4590</a>, a bill to amend the Securities Exchange Act of 1934 to provide for liability for certain failures to disclose material information in connection with proxy voting advice, and for other purposes (Rep. Steil)</p>	<p>Makes proxy advisory firms liable for failing disclose or make misstatements on material information “(such as a proxy voting advice business’s methodology, sources of information, or conflicts of interest)”</p>
<p><a href="#">H.R. 4648</a>, a bill to amend the Securities Exchange Act of 1934 to provide for duties of certain investment advisors, asset managers, and pension funds with respect to voting on shareholder proposals, and for other purposes (Rep. Loudermilk)</p>	<p>Requires institutional investment managers that use proxy advisors to report</p> <ul style="list-style-type: none"> <li>- How the manager voted on a shareholder proposal and percentage of votes cast that were consistent with proxy advisor recommendations; how the manager used the proxy advisor recommendation; how often the manager voted with proxy advisor rec</li> <li>- How such votes reconcile with fiduciary duty and the best economic interests of shareholders</li> <li>- How frequently votes were changed when new information from issuers was offered</li> </ul> <p>Largest asset managers are required to notify customers that shareholders are not required to vote on every proposal; requires economic analysis be performed for every non-board seat proxy item before voting</p>
<p><a href="#">H.R. 4656</a>, the Protecting Americans’ Savings Act (Rep. Nunn)</p>	<p>Calls for rulemaking to prohibit robovoting (proxy firm recommendations without independent review and analysis)</p>
<p><a href="#">H.R. 4645</a>, the Empowering Shareholders Act (Rep. Huizenga)</p>	<p>Requires passively managed funds to vote (1) in accordance with the beneficial owner’s instructions, (2) issuer’s recommendations or (3) abstain</p>
<p><a href="#">H.R. 4600</a>, the Protecting Retail Investors’ Savings Act (Rep. Barr)</p>	<p>Requires investment advisors, brokers and dealers to receive informed consent from clients/customers before considering “non-pecuniary factors.” Pecuniary means “that a fiduciary prudently determines is expected to have a material effect on the risk or return of an investment based on appropriate investment horizons.”</p>

	<p>Directs SEC to conduct a study to determine the extent to which issuers of municipal securities make disclosures to investors regarding climate change and other environmental matters.</p> <p>Directs the SEC to conduct a separate study to determine the effectiveness of rules that prevent payments to elected officials or candidates for bond business.</p>
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**Legislative Package # 2:** [H.R. 4790](#), the “Guiding Uniform and Responsible Disclosure Requirements and Information Limits (GUARDRAIL) Act” (Rep. Huizenga)

<a href="#">H.R. 4168</a> , the <i>Mandatory Materiality Requirement Act</i> (Rep. Huizenga)	Whenever the SEC is “engaged in rulemaking regarding disclosure obligations of issuers, the Commission shall expressly provide that an issuer is only required to disclose information in response to such disclosure obligations to <b>the extent the issuer has determined</b> that such information is material with respect to a voting or investment decision regarding the securities of such issuer.”
<a href="#">H.R. 4628</a> , a bill to amend the Securities Exchange Act of 1934 to require the Securities and Exchange Commission to disclose and report on non-material disclosure mandates, and for other purposes (Rep. Mooney)	Requires the SEC to create a website to list “each mandate under the Federal securities laws and regulations that requires the disclosure of non-material information” and the reasoning for the mandate
<a href="#">H.R. 4652</a> , the <i>Public Company Advisory Committee Act</i> (Rep. Lucas)	Creates a public company advisory committee (akin to the Investor Advisory Committee)
<a href="#">H.R. 4653</a> , the <i>Protecting U.S. Business Sovereignty Act</i> (Rep. Meuser)	Directs US Comptroller to study “detrimental impact and potential detrimental impact of each of the Directives on Corporate Sustainability Due Diligence” on companies, consumers, investors, the US economy.

**Legislative Package # 3:** [H.R. 4655](#) the "Businesses Over Activists Act" (Rep. Norman)

H.R. 4655, the <i>Businesses Over Activists Act</i>	Commission may not compel an issuer to include in a proxy statement of the issuer— “(A) any shareholder proposal; or “(B) any discussion (either from the issuer or otherwise) related to a shareholder proposal contained in the proxy statement
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