Energy Discrimination in Finance

The Issue

As public awareness of the environmental impact of our daily activities has grown, so too has corporations' interest in appearing socially and environmentally responsible—particularly when it comes to the energy industry, a critical component of the state of Texas's economy.

Thanks to mounting pressure from climate change activists, politically motivated investment firms are engaging in "energy discrimination," bullying businesses into divesting from fossil fuels and related industries including forestry, agriculture, petrochemicals, and mining by threatening to withhold capital. A few major banks and investment firms including JPMorgan, BlackRock, and Bank of the West have announced plans to partially divest from the fossil fuel industry. As environmental, social, and governance (ESG) ratings—which are used to demonstrate corporate commitment to social causes ranging from gender equality to climate change—have become a significant part of the investing landscape, several states are also making ESG a central factor in their pension investments, claiming that it is part of their fiduciary duty to consider "climate risks" and other nonfinancial factors.

Divestment initiatives will harm Texans by raising the cost of capital for Texas energy producers and forcing higher prices for oil, natural gas, and electricity. A disproportionate amount of harm will fall on the poor, who pay a large share of their income on energy and depend on a robust Texas economy. Nearly a third of U.S. households reported some level of energy insecurity in 2015, and electricity, heating, and gasoline are nearly 10% of household expenses for the bottom 30% of income earners. The cost of essential goods and services also rises with the cost of energy, which places further strains on family budgets.

This energy discrimination is also harming investors by placing nonfinancial goals ahead of investment returns, a practice that the Department of Labor has recently proposed limiting in ERISA-regulated retirement funds. Research and financial theory show that divesting from certain industry sectors such as energy increases risks and lowers returns. Absent a clear connection between ESG considerations and superior financial performance, pensioners and retirement investors should not be exposed to these risky investment practices.

One of the primary goals of fossil fuel divestment is to mitigate climate change, but these efforts will not have any meaningful effect. Eliminating *all* greenhouse gas emissions in the U.S. by 2030 would result in less than two tenths of a degree temperature change by the end of the century, according to data models used by the United Nations Intergovernmental Panel on Climate Change and other leading global organizations. In the United States, even after decades of multibillion-dollar subsidies, wind and solar still provide a mere 4% of our energy, and there's no viable path to 100%. Furthermore, the myopic focus of the ESG movement on moving away from energy dense fossil fuels and nuclear increases the land use of our energy system and creates more environmental problems than it solves.

As climate alarmism gains popularity in the media and among politicians, the Texas Legislature should condemn any policy that would needlessly restrict our vibrant energy industry. Penalizing our energy producers will not help the environment but only serve to shift energy production to other nations that do not share our commitment to responsible energy production. Texas produces a vast amount of energy with some of the strongest environmental and safety standards in the world, and we should strive to be the best place for producing all forms of energy to the benefit of both Texans and people around the world.

The Facts

- Attempt to restrict investments in fossil fuels, even on a national or global scale, will not reduce our need for fossil fuels or have any meaningful effect on the climate. The primary effect will be to raise the cost of energy and harm the poor.
- The myopic focus of the ESG investing movement on CO_2 emissions and its promotion of wind and solar energy ignores or exacerbates more pressing environmental problems, such as land and water pollution and loss of natural habitat.
- Texas produces energy under some of the most stringent environmental standards in the world, and efforts to restrict the flow of capital to Texas energy producers will only serve to benefit less responsible producers.

Recommendations

- Prohibit the state of Texas or its subdivisions from contracting with or purchasing from businesses that boycott or actively divest from fossil fuels, petrochemicals, agricultural products, or forestry products.
- Require that ERS and TRS pension funds emphasize their fiduciary duty in their investment policy statements and not use ESG as a criterion in investments.
- Oppose any legislation that studies, certifies, creates a registry for, or spends taxpayer dollars or resources on businesses based on ESG ratings.

Resources

"The Weaponization of ESG Investing," livestream event with Jason Isaac and Rupert Darwall, Life:Powered (June 2020).

The Climate Noose: Business, Net Zero, and the IPCC's Anticapitalism by Rupert Darwall, Global Warming Policy Foundation (May 2020).

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Fossil Fuel Divestment: A Costly and Ineffective Investment Strategy by Daniel R. Fischel, Compass Lexecon (Feb. 2015).

Keeping the Promise: Getting Politics Out of Pensions by Theodore Lafferty, Kati Siconolfi, Jonathan Willams, and Elliot Young, American Legislative Exchange Council (Dec. 2016).

"'Stop the Money' Anti-Energy Project Will Strap the Poor for Cash" by Jason Isaac, *RealClear Energy* (Feb. 2020).