118TH CONGRESS
1ST SESSION

# H. RES. 32

Supporting the current definition of materiality in the securities laws and opposing new disclosure requirements outside the core mission of the Securities and Exchange Commission.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 12, 2023

Mr. JOYCE of Ohio (for himself, Mr. STEIL, Mr. STEWART, Mr. JOHNSON of South Dakota, Mr. DUNCAN, and Mr. GROTHMAN) submitted the following resolution; which was referred to the Committee on Financial Services

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# RESOLUTION

Supporting the current definition of materiality in the securities laws and opposing new disclosure requirements outside the core mission of the Securities and Exchange Commission.

Whereas certain policymakers have demonstrated increased interest in evaluating companies based on environmental, social, and governance or ''ESG'' performance metrics;

Whereas certain policymakers have called for Federal agencies, including the Securities and Exchange Commission (SEC), to require public companies to disclose more ESG-related information;

Whereas the securities disclosure regime of the SEC has for decades been guided by a standard of materiality first es-

tablished by the Securities Act of 1933 and affirmed several times by the Supreme Court, including the decision TSC Industries Inc. v. Northway Inc. (426 U.S. 438 (1976)), which held that information is ''material'' (and subject to disclosure) if ''there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote'';

Whereas ''materiality'' depends upon whether information is important to an investor at any time, making it a durable standard which provides a framework for addressing new issues and ignoring issues which have lost importance;

Whereas the materiality standard has been the bedrock principle governing Federal securities disclosure law for over eight decades;

Whereas the materiality standard fosters strong capital markets that create a competitive advantage for the United States by enabling the efficient flow of capital and labor;

Whereas the materiality standard is critical for maintaining efficient disclosure regimes that limit burdensome requirements, filter unimportant information, and prevent confusing information overload for investors;

Whereas, in 1976, Justice Thurgood Marshall writing for the majority in the TSC Industries Inc. v. Northway Inc. decision noted that ''some information is of such dubious significance that insistence on its disclosure may accomplish more harm than good'';

Whereas certain policymakers intend to reorient the securities disclosure regime to require disclosure of immaterial information to achieve social and political goals;

Whereas the SEC is not tasked with or capable of formulating environmental or social policy; its core mission is

to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation;

Whereas to the extent that climate risks become material for a particular public company, disclosure of those risks is already required;

Whereas SEC rules currently make explicitly clear that material effects of climate change to the business must be disclosed (17 C.F.R. 211, 231, and 241);

Whereas additional SEC climate disclosure regulations threaten to impose expensive compliance costs and lessen investor enthusiasm for American energy companies; and

Whereas capital markets regulations should not discourage investments which would further United States energy independence: Now, therefore, be it

*Resolved,* That the House of Representatives—

(1) supports current law that defines materiality and has guided the securities disclosure regime for decades; and

(2) opposes new disclosure requirements outside the core mission of the Securities and Exchange Commission, which burden United States businesses and harm investors with information overload.

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