

117TH CONGRESS  
2D SESSION

# H. R. 7896

To prohibit investments under the Thrift Savings Plan in certain mutual funds that make investment decisions based primarily on environmental, social, or governance criteria.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 27, 2022

Mr. ROY (for himself, Mr. GOOD of Virginia, Mr. JOHNSON of Ohio, Mr. CLOUD, Mr. GOHMERT, Mr. BUDD, Mrs. MILLER of Illinois, and Mr. POSEY) introduced the following bill; which was referred to the Committee on Oversight and Reform

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## A BILL

To prohibit investments under the Thrift Savings Plan in certain mutual funds that make investment decisions based primarily on environmental, social, or governance criteria.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No ESG at TSP Act”.

1 **SEC. 2. PROHIBITION ON CERTAIN MUTUAL FUNDS UNDER**  
2 **THE THRIFT SAVINGS PLAN.**

3 (a) IN GENERAL.—Section 8438(b)(5) of title 5,  
4 United States Code, is amended by adding at the end the  
5 following new subparagraphs:

6 “(E) The Board may not offer through the mutual  
7 fund window any mutual fund, exchange traded fund (as  
8 defined in section 270.6e–11 of title 17, Code of Federal  
9 Regulations), or other investment vehicle that invests in  
10 bonds or equities that is invested based on any one or  
11 more of the following criteria to the extent that such cri-  
12 teria are unrelated to maximizing monetary returns for  
13 investors:

14 “(i) Environmental criteria, including—

15 “(I) emissions, climate change, sustain-  
16 ability, environmental justice, pollution, or con-  
17 servation; or

18 “(II) whether a company is engaged in the  
19 exploration, production, utilization, transpor-  
20 tation, sale, or manufacturing of fossil fuel-  
21 based energy.

22 “(ii) Social criteria, including—

23 “(I) diversity criteria, including—

24 “(aa) the race, ethnicity, gender iden-  
25 tity, sexual orientation, or socioeconomic

1 status of the owners, board members, em-  
2 ployees, or customers of companies; or

3 “(bb) whether such board members,  
4 employees, or customers are members of a  
5 labor organization (as such term is defined  
6 in section 2 of the National Labor Rela-  
7 tions Act (29 U.S.C. 152)); or

8 “(II) whether a company is engaged in the  
9 manufacture, transportation, or sale of fire-  
10 arms, firearms accessories, or ammunition.

11 “(iii) Political criteria, including the perceived  
12 or actual political affiliations, donations, or associa-  
13 tions of companies.

14 “(iv) Criteria for corporate governance stand-  
15 ards that differ from the applicable standards re-  
16 quired under State and Federal law as in effect on  
17 the date of the enactment of this subparagraph.

18 “(F) The Board may not offer through the mutual  
19 fund window any mutual fund, exchange traded fund (as  
20 defined in section 270.6c–11 of title 17, Code of Federal  
21 Regulations), or other investment vehicle that is marketed  
22 as being invested based on environmental, social, or gov-  
23 ernance criteria, commonly known as ‘ESG criteria’.”.

24 (b) EXISTING INVESTMENTS IN IMPERMISSIBLE MU-  
25 TUAL FUNDS.—

1           (1) IN GENERAL.—An employee or Member (or  
2 former employee or Member) may elect to have any  
3 covered sums credited to the account of such indi-  
4 vidual in the Thrift Savings Fund reinvested in ac-  
5 cordance with section 8438 of title 5, United States  
6 Code, as amended by this Act.

7           (2) NOTICE.—Not later than 30 days after the  
8 date of the enactment of this Act, the Board shall  
9 notify each employee or Member (or former em-  
10 ployee or Member) that may make an election under  
11 paragraph (1) of the option to make such election.

12           (3) MANDATORY REINVESTMENT.—Not later  
13 than the date that is 30 days after the date on  
14 which notice is provided under paragraph (2) to an  
15 employee or Member (or former employee or Mem-  
16 ber), the Board shall reinvest, in accordance with  
17 section 8438 of title 5, United States Code, as  
18 amended by this Act, any covered sums credited to  
19 the account of such individual in the Thrift Savings  
20 Fund with respect to which such individual has not  
21 made an election under paragraph (1).

22           (4) DEFINITIONS.—In this subsection:

23           (A) BOARD; EMPLOYEE; MEMBER.—The  
24 terms “Board”, “employee”, and “Member”

1           have the meanings given such terms in section  
2           8401 of title 5, United States Code.

3           (B) COVERED SUMS.—The term “covered  
4           sum” means any sums of the Thrift Savings  
5           Fund that, on the date of the enactment of this  
6           Act, are invested in a mutual described in sec-  
7           tion 8438(b)(5)(E) of title 5, United States  
8           Code.

9           (C) THRIFT SAVINGS FUND.—The term  
10          “Thrift Savings Fund” means the fund estab-  
11          lished under section 8437 of title 5, United  
12          States Code.

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