

Cabinet News and Views

Informed analysis for the financial services industry



Non-Profit Targets U.S.-Based Bank's ESG Investment Strategies



By **Jason M. Halper**
Partner | Global Litigation



By **Timbre Shriver**
Associate | Global Litigation

Consumers' Research, a nonprofit organization claiming to challenge "companies that have chosen to put woke politics above consumer interests," [announced](#) in June 2023 that it was launching a publicity campaign against a global U.S.-based financial institution. According to the organization, Bank of America is pursuing an "ideologically driven agenda" and advocating "ESG fanaticism." In a statement supporting the campaign, which includes national television advertisements, billboards in major U.S. cities, including one in New York City's Times Square, and a dummy "Bank of America" website, Will Hild, CEO of Consumers' Research, accused Bank of America of using its access to capital to help force a progressive political agenda. According to Hild, Consumers' Research identifies Bank of America and its CEO as among the most outspoken lenders on climate-related topics, as well as other issues that some lump under the umbrella of ESG, such as gun laws, LGBTQ+ rights, and abortion and reproductive health protections. Hild also took issue with other measures taken by the bank, including calculating greenhouse gas emissions for clients and its internal diversity, equality and inclusion training.

The campaign against Bank of America is the most recent in the group's wider "Consumer First" initiative, which focuses on companies' ESG policies. For instance, it has targeted BlackRock which, as [we reported](#) earlier this year, also received a letter from 19 Republican state attorneys general, critical of the company's ESG position. BlackRock defended its ESG policies, stating, among other things, that climate risk and the economic opportunities from the energy transition are top concerns for many of its clients and that its participation in ESG initiatives is "entirely consistent with our fiduciary obligations."

In a statement, Bank of America said that its focus on "responsible growth is how [it] deliver[s] industry-leading service to [its] 68 million American consumers, being

a great place to work for our employees and supporting communities across the United States while delivering strong returns for [its] shareholders.” The financial institution added resources to its Sustainable Banking Solutions Group in 2022 to advise clients on ESG issues that affect their funding requirements, valuations and strategic decisions as they transition to net zero GHG emissions. According to its [2022 Annual Report](#), Bank of America’s Global Corporate & Investment Banking (GCIB) line of business became number one in the world in ESG debt issuance volumes.

Conclusion

The political divide in the U.S. over ESG issues shows no signs of abating. [We’ve covered](#) efforts by Republican-led state legislatures to impose various types of penalties on financial institutions deemed insufficiently supportive of the energy industry. On March 30, 2023, 21 Republican Attorneys General (AGs) [wrote a letter](#) addressed to over 50 U.S. asset managers citing “concerns about the ongoing agreements between asset managers to use Americans’ savings to push political goals during the upcoming proxy season.” The AGs [state their intent](#) to “enforce [their] states’ civil laws against unfair and deceptive acts and practices and state and federal civil laws prohibiting agreements to restrain competition.”

BlackRock in particular has been a focus of these efforts, with certain state officials [withdrawing state funds](#) it had been managing. While it is difficult to assess whether these efforts are having an impact, [we have observed](#) that last year BlackRock increased assets under management by \$230 billion, while losing approximately \$4 billion AUM as a result of state government reaction to ESG issues. On the other hand, some commentators have claimed that BlackRock’s support for ESG shareholder initiatives dropped over the past year or two and just days ago it appointed to its board of directors the CEO of Saudi Aramco, the world’s largest oil producer. In the insurance industry, in May 2023, 23 Republican state attorneys general [wrote to members](#) of the Net-Zero Insurance Alliance expressing “serious concerns” about whether the NZIA’s requirements comply with state and federal laws. And, several insurers have [withdrawn from the industry group](#) in light of these types of expressed concerns.

Financial institutions in the U.S. have to balance these anti-ESG challenges with calls for greater action to promote net-zero goals and to assure financial resiliency against climate-related risks. [Regulators in Europe](#) and elsewhere are requiring banks to undergo climate risk stress tests as one component of assessing climate risk, while investors have pressured banks in the [U.S.](#) and [elsewhere](#) to cease or curtail financing for fossil fuel projects.

(This article originally appeared in [Cadwalader Climate](#), a twice-weekly newsletter on the ESG market.)
