

Congress of the United States

Washington, DC 20515

September 27, 2024

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Secretary Yellen,

The European Union (EU) has long been known for implementing vague, broadly scoped, and complex regulations that hinder business growth and raise consumer costs. The EU's longstanding regulatory overreach has had deleterious effects on its member states' economies and diminished the competitiveness of their firms on the global stage. According to the International Monetary Fund, the Eurozone economy grew only 6% in the 15-year period ending in 2023, compared to 82% growth for the United States.¹ European companies have been quick to identify overregulation as an impediment to growth; in one study, more than 60% of EU companies deemed regulation to be a barrier to investment, while 55% of small and medium-sized enterprises cited regulatory obstacles and administrative burdens as their greatest challenge.²

Now, the EU is attempting to impose its debilitating regulatory agenda on American companies through its Corporate Sustainability Due Diligence Directive (also known as "CSDDD" or "CS3D"). Formally adopted by the Council of the EU on May 24, 2024, the CSDDD will impose significant legal obligations on U.S. businesses. The directive effectively converts the U.N. Guiding Principles on Business and Human Rights—and the provisions of three international human rights conventions, eight conventions of the International Labour Organization, eleven environmental law conventions, and the climate mitigation targets of the Paris Agreement—into binding laws.³ CSDDD will include governmental enforcement mechanisms, including the possibility of substantial monetary penalties, and will also create private rights of action for those adversely affected by violations. EU member states must implement regulations and administrative procedures required by the directive within two years.

Many U.S. companies will be harmed by this enormous compliance burden. After EU member states incorporate the European Parliament's broad legislation into their own national laws, the CSDDD will ultimately apply to U.S. multinational businesses with annual EU market revenue

¹ Tom Fairless, "Europeans Are Becoming Poorer. 'Yes, We're All Worse Off,'" *Wall Street Journal*, July 17, 2023, <https://www.wsj.com/articles/europeans-poorer-inflation-economy-255eb629>.

² Report, "Investment Barriers in the European Union 2023," European Investment Bank Group, 2024, https://www.eib.org/attachments/lucalli/20230330_investment_barriers_in_the_eu_2023_en.pdf

³ David Lakhdhir, "The EU Due Diligence Directive: Implications for U.S. Companies," *Business Law Today*, July 15, 2024, American Bar Association website (www.americanbar.org/groups/business_law/resources/business-law-today/2024-july/eu-due-diligence-directive-implications-us-companies/), accessed September 4, 2024.

Congress of the United States

Washington, DC 20515

of more than €450 million, regardless of their corporate “footprint” in the EU. While the full effect of CSDDD may not be clear until the member states begin to transpose the regulations into their own laws and the EU provides additional guidance, it is clear that “in-scope” U.S. businesses will be forced to ensure that their supply chains and other business partners are compliant. Companies will need to “identify, prevent, mitigate and account for how they address actual and potential impacts in their operations, supply chains and other business relationships.”⁴ That is neither practical nor realistic—nor does it genuinely constitute “due diligence,” which is generally defined as review and analysis *prior to actions being taken* (e.g., “prevent” and “mitigate”). Notably, American companies will be required to comply with CSDDD even though the U.S. has not ratified many of the international conventions underlying the directive.

The CSDDD’s extraterritorial scope amounts to a serious breach of U.S. sovereignty and a direct threat to the global competitiveness of American companies. Given this, the Biden-Harris Administration must meaningfully respond. Although you acknowledged the issue in your testimony before the House Financial Services Committee,⁵ there has been little evidence that the Administration has an effective strategy for engaging with European officials on the issue. To date, no other senior officials in the Biden-Harris Administration have expressed opposition to CSDDD despite the threat it poses to U.S. interests.

We are deeply concerned that the Administration is surrendering its regulatory responsibilities to European officials, allowing them to dictate draconian social and climate policies to American companies.

The EU is attempting to mitigate the relative damage of its onerous regulatory framework by forcing Americans to bear the burden as well. If implemented in any manner substantially similar to its current form, the CSDDD could force companies to divest or reduce ties with European businesses, causing significant economic harm to both the U.S. and EU.

Any policies impacting U.S. businesses should be debated and determined by the elected representatives of the American people, not overseas bureaucrats advancing their own agendas. Accordingly, we strongly encourage you and your colleagues at the relevant federal agencies to actively and publicly engage with your counterparts in Brussels and EU member-state capitals to delay implementation of CSDDD and work with the new European Parliament to repeal or substantially modify the directive. Such action is necessary to preserve U.S. sovereignty and sustain America’s economic competitiveness.

⁴ Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859 (eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202401760).

⁵ Hearing, “Annual Testimony of the Secretary of the Treasury on the State of the International Financial System,” U.S. House Financial Services Committee, June 13, 2023 (www.congress.gov/118/chrg/CHRG-118hhrg53178/CHRG-118hhrg53178.pdf).

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Sincerely,



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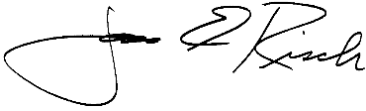
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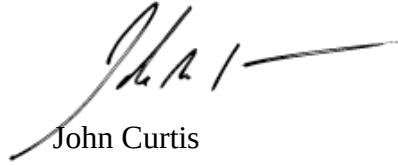
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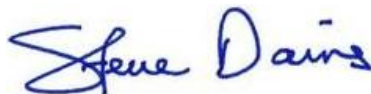
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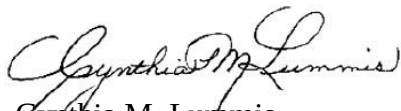
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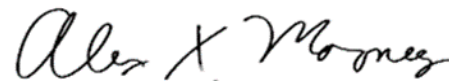
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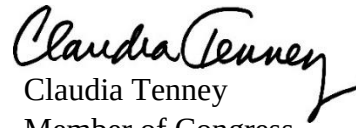
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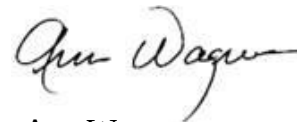
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The Honorable Lloyd Austin, Secretary of Defense

The Honorable Antony Blinken, Secretary of State

The Honorable Lael Brainard, Director, National Economic Council

The Honorable Gina Raimondo, Secretary of Commerce

The Honorable Marisa Lago, Under Secretary of Commerce for International Trade

The Honorable Jake Sullivan, National Security Advisor

The Honorable Katherine Tai, United States Trade Representative