Climate Economics

I. INTRODUCTION

The fossil fuel and renewable energy industries are both private economic actors who navigate the market incentives, limitations, and procedures established by federal economic policy. Energy is a necessary input to almost all economic activity in 21st-century America, which accounts for much of the fossil fuel industry's economic leverage, and the political leverage which follows from it. Naturally, however, fossil fuels are also susceptible to shifts in economic policy, and the industry relies on certain economic policies for its continued existence.

Many crucial economic policy shifts will require acts of Congress. But shifts in executive branch regulation will play an indispensable role to both clear a path for those heavier lifts in Congress, as well as directly impact economic incentives to favor an energy transition. Put another way, even if President Biden and all of his appointees used all of their existing powers fully and perfectly, those powers alone cannot achieve the mass economic restructuring necessary to preserve our planet — Congress absolutely must act. That said, fully utilizing existing executive branch powers is an indispensable component of achieving that economic restructuring. Though the White House cannot do everything, it must do its part.

It would be beyond the scope of this report to cover every economic policy option available to the Biden administration in granular detail. We strongly recommend the Center for Biological Diversity's "**Climate President's Emergency Powers**" report for some of this legal and technical minutia. Instead, over the following pages, we will discuss two general categories of economic policy conducted by the executive branch, and how it can and must shift toward a climate-oriented, populist lens. The first of these categories relates to the executive branch's key role in conducting cost-benefit analysis and quantifying the financial costs of proposed policies, which we are calling "scoring policy." The second relates to regulation of the financial sector, which naturally has spillover effects on the entire economy. We call this "financial regulatory policy."

Scoring Policy: Rethinking Pay-Fors In A Transitioning World

"Scoring policy" refers to the methods the federal government uses to analyze potential policy options and recommend to both Congress and the executive branch which policies to adopt or avoid. While fiscal policy — how the government actually spends its money — is solely in the legislature's jurisdiction, the process of implementing legislative spending mandates requires the executive branch to determine the costs and benefits of various potential programs.

This is especially thanks to a Clinton-era Executive Order meant to promote government efficiency and reduce waste. This cost-benefit analysis primarily takes place in the powerful **Office of Management and Budget** (**OMB**), and especially in its sub-agency, the **Office of Information and Regulatory Affairs** (**OIRA**). Congress also runs and manages its own Congressional Budget Office (CBO), which assesses the fiscal costs of bills. The CBO is not part of the executive branch, so it is not included in this report for the sake of thematic focus, but we have written an accompanying paper on the topic.

I. OFFICE OF INFORMATION AND REGULATORY AFFAIRS (OIRA)

The Office of Information and Regulatory Affairs (OIRA), which is a sub-agency of OMB, was created by the 1980 Paperwork Reduction Act as a clearinghouse for federal requests for information and public comment periods on proposed regulations. OIRA also had a subsidiary function to provide "cost-benefit analysis" to most agencies, offering advice on whether a given regulation was achieving its goal efficiently. This was initially non-binding: OIRA would just offer its perspective for the actual agency writing a regulation to consider, and whether the agency writing the regulation accepted or rejected any part of the advice was their choice.

That all changed when President Bill Clinton signed Executive Order 12866 in 1993. That Order mandated that "significant regulatory actions" — regulations with a potentially large impact on the economy — receive OIRA's explicit endorsement before they can proceed. This effectively gave one sub-agency with less than 50 staffers total veto power over the policies of most of the executive branch. Subsequent presidents have tweaked the specifics of Executive Order 12866, but OIRA's ability to unilaterally veto regulations which don't pass its particular cost-benefit analysis remains intact.

Regulatory mavens thus frequently refer to OIRA as "**the most powerful government agency you've never heard of**," and **declare it K Street's ace in the hole**: even if a bill which corporate America despises does pass Congress, appealing to OIRA can jam up the process of actually implementing it for so long, and neutralize its most powerful effects so thoroughly, that it would be as if nothing passed at all.

Before President Biden's inauguration, left-of-center economic policy experts **debated heavily** whether he ought to revoke OIRA's review powers at the start of his administration, but no such revocation has occurred. If we are to live under OIRA, then it must jettison the practices that have made it corporate America's ace in the hole, and instead retool its work to favor practices which preserve our planet and serve the public.

Most of the problems with OIRA circle back to the so-called "cost-benefit analysis" which it employs to determine if a proposed regulation is worth the alleged economic costs it will create. The Center for Progressive Reform, which has closely followed OIRA through an environmental lens for years, **writes** that "since there are no natural prices for a healthy environment [...] Economists create artificial prices for health and environmental benefits by studying what people would be willing to pay for them."

OIRA's methods include surveying the public about how much they'd pay for things like clean air and water (called "contingent valuation"), even though it's as difficult for the public to quantify abstract hypotheticals as it is for OIRA employees. OIRA also studies how existing private markets already price in non-quantifiables, like how physically dangerous jobs may offer a wage premium (though employers always have a stronger incentive to keep labor costs low than to pay a just wage for dangerous work).

These methods are imprecise at best, but even less verifiable is OIRA's main method for determining the "cost" side of the cost-benefit ledger: asking affected industries how much they think it would cost them to comply with new rules. Corporate entities are only too happy to project wildly inflated compliance costs for regulations.

Most worrisome for the climate is OIRA's practice of *discounting* potential benefits that would come years after implementing a regulation. That means that as a matter of mathematics, OIRA artificially reduces the projected benefits of a less polluted world with fewer natural disasters while taking industry at its word as to the short-term costs of switching to renewable power infrastructure. OIRA, in other words, adds factors to the "benefits" side of the cost-benefit ledger to knowingly depress its end result.

There are strong cases for both revoking OIRA's regulatory review powers *and* for eliminating cost-benefit analysis as currently constructed as much as possible. If both precedents continue, however, then OIRA can and must be radically retooled. Several options are laid out below.

Option: Consider Revoking OIRA's Ability To Veto Regulations Based On Its Proprietary Regulatory Review

OIRA only became a veto point for regulation when President Clinton granted it that power via executive order. Another president could just as easily issue an executive order rescinding that power. This would return OIRA to being essentially an archive and clearinghouse for paperwork related to government regulations, instead of a political actor itself. It might still be able to offer cost-benefit analysis of regulations, but these would simply be one agency's opinion, not anything legally binding.

Even progressives are of differing opinion about whether to revoke OIRA's veto powers outright, or to instead reinterpret their implementation. **As Kalen Pruss argued**, the former option is far easier to implement, and runs no risk if corporate interests recapture the organization. This is the most drastic, but ironically perhaps most efficient, means of reforming OIRA.

Option: Consider Eliminating Quantitative Cost-benefit Analysis As Much As Possible

OIRA-style cost-benefit analysis attempts to reduce fundamentally qualitative, political, and even philosophical decisions down to a simple equation, which is impossible to do consistently, ethically, and with accountability.

For example, OIRA believes — due to observing customer behavior in market settings — that people generally prefer when they can purchase something immediately versus only being able to purchase it in the future. Since social benefits are what regulations "purchase" by the market logic of cost-benefit analysis, OIRA applies a "discount rate" to regulatory benefits which only appear in the future, to reflect presumed diminished interest due to the time delay.

There's just no reason to believe that these observations of how people purchase consumer goods apply to how people think about "purchasing" a hospitable planet. The logic behind the discount rate assumes that the revealed preferences of the market are somehow more "honest" than people's stated preferences, but what people do with their limited money in an uncertain world, in which they need to transact to survive, and only have the menu of options that the market happens to offer, is not the only way to gauge what they actually want. If people were presented with an option in which a handful of ultra-wealthy actors would pay for a benefit the whole world needs in order to survive, as is the case for climate policy, there's no reason to think people wouldn't be strongly in favor.

Working through the far more complex, collective problems of things like climate change is what the democratic process — and all of the qualitative arguments and philosophical debates that go along with it — is supposed to be for.

The assumptions of cost-benefit analysis reflect only a narrow circle of facts and assumptions which a small set of unelected officials have subscribed to, not something to which the broader public has consented. Cost-benefit analysis assumes that the epistemology of economists is so obviously optimal that it overrides the logic of any other discipline.

This system is also, conveniently enough for corporate elites, extremely easy to game by market actors who do not have the public's interest at heart: after all, cost-benefit analysis "sets out to do for government what the market does for business," **in CPR's words**.

The Regulatory Right-To-Know Act of 2000 requires OMB to submit an annual cost-benefit analysis report to Congress, a task delegated to OIRA. This statute means that cost-benefit analysis can't be rooted out entirely, but it can be principally eliminated from OIRA's regulatory review work, which is where it has actual policy impact. (Indeed, **OMB's most recent cost-benefit analysis report to Congress** opens with several pages of listing the methodological flaws of cost-benefit analysis, showing that the task put upon the agency by this statute is impossible.)

Option: Massively Re-Weight Health Benefits Of Environmental Regulation

A group co-funded by the EPA and the auto and fossil fuel industries found that even low levels of smoke and exhaust inhalation massively reduces lifespans **in a study this year**. That means OIRA has been undercounting the benefits of stringent Clean Air Act regulations for decades. While, as stated previously, we object to forcing all political judgments into an economic framework, this report indicates that even in purely economic terms, OIRA should radically rethink the benefits of anti-pollution regulations that promote public health. Longer-living people can work, pay taxes, and generally contribute to the economy for more years, leading to greater GDP growth. Factors like these have been systematically under-considered in OIRA analysis. Regulations that promote longer lifespans at short-term costs to industry are thus an excellent tradeoff, even if OIRA remains wedded to its narrow analytical tools.

Option: Stop Discounting Benefits That Accrue Later In A Regulation's Existence

It makes little sense in the first place to discount the benefits of a regulation which only materialize some time after it is implemented. This methodology is particularly short-sighted when considering climate-related regulations, part of the intent of which is to stave off possible futures which could appear 30, 40, or 50 years from now.

OIRA justifies factoring a “discount rate” into its projections to account for two assumptions: that people prefer benefits they can receive today instead of in the future, and that money invested in productive projects instead of being spent on regulatory compliance can reap greater returns in the future, growing the economy and (presumably) benefiting everyone. Neither assumption’s logic applies to climate crisis. The consumption argument, the benefit of a hospitable world applies equally in the present, the future, and any point, rending the consumption argument moot — and as the crisis worsens, the benefits of each environmental protection and restoration initiative will only increase. As to the investment argument, even if a polluting project did grow the economy in an equitable way (no sure thing), that value means nothing if the public is suffering from the effects of a warming world — fleeing storms, scrounging for scarce food and water, etc.

This again speaks to the shortcomings of forcing policies with a fundamentally qualitative intent into quantitative and marketized frameworks. If we are to follow the logic of existing cost-benefit analysis, then the value of a hospitable planet ought to be weighted enormously highly. The first step to a fairer quantification would be undoing methodologies which deliberately shortchange the future for no clear reason.

II. FINANCIAL REGULATORY POLICY: INCENTIVISING THE PRIVATE SECTOR TO SAVE ITSELF

Some of the most muscular economic powers within the executive branch lie in the U.S. financial regulatory apparatus, which collectively set rules for private investment activity and (in theory) punish actors who break these rules. These agencies — including the **Federal Reserve**, **Office of the Comptroller of Currency**, **Securities and Exchange Commission**, **Commodity Futures Trading Commission**, **Consumer Financial Protection Bureau**, and more — collectively determine financial regulatory policy, or “finreg” policy for short.

The role of finance in the economy has expanded dramatically over the last 30 years as deregulation of the New Deal-era system led to a modern age of “financialization,” or shifts in corporate governance to prioritize the desires of the financiers of corporate activity (high short-term dividends and stock prices, etc.) over the needs of the real economy (worker wages, product research and development, etc.) This only exacerbates the role which financial decision-making plays in determining the shape of the real economy. What investors do and don’t choose to fund determines the range of economic choices available to consumers, workers, and communities. So expanding the range of environmentally friendly choices, and more crucially, closing off environmentally destructive activity as a part of the American economy, will necessarily require confronting the financial system.

In this respect, climate-oriented finreg policy is adjacent in some ways to industrial policy. Fighting climate change will require a new and robust industrial policy in the United States to direct resources like capital, labor, and materials to projects which serve the public and planetary good rather than private profit. Creating such policies will require Congressional action outside of the scope of this report, however, and almost assuredly, any U.S. industrial policy will not eliminate the role of private finance as a key driver of U.S. economic activity. It is therefore crucial for financial regulators to adopt new policies to force financiers to properly price the effects of climate change into their investments decisions — according to current estimates, such pricing would quickly precipitate a rapid and far-reaching divestment from climate change-exacerbating investments.

While the specific mandates of financial regulatory agencies vary, their general purpose is to maintain the safety and stability of the financial system and protect consumers of financial products — not to force the allocation of capital away from disfavored industries, even ones disfavored because they directly destroy the Earth's ability to sustain life. However, such planetary destruction, and the consequent natural disasters through which it manifests, pose obvious and unprecedentedly enormous risks to the financial system and financial consumers. It is thus both well within regulators' mandates to act on climate-related financial risks, and a duty of the utmost importance. Experts in this field have identified so-called "physical risks" and "transition risks" for the financial system, and laid out the legal and **regulatory** arguments for robust action elsewhere.

It is a fortunate coincidence that most of the measures needed to de-risk the financial system from climate-related risks are also the measures needed to undo neoliberal policies which promoted financialization. If these two goals required different policy regimes they would still be both well worth pursuing, but the fact that they intersect makes it easier to build political alliances and coalitions. That said, the prospect of challenging two of the most powerful industries on earth at the same time — two industries which provide necessary inputs (energy and capital) to most other economic activities — makes the path to greening the financial system that much more challenging. While many major actors on Wall Street have at least **sought to be perceived** as concerned about the climate in their public relations, **few have quite literally put their money where their mouths are** or expressed anything close to support for new regulations. No one ever said saving the planet from fuel emissions or financial capitalism would be easy.

We've also seen in real time that climate-oriented financial regulation provokes the kinds of populist fights which yield political dividends. The mere prospect of climate-related rulemakings in 2021 kicked off a furious and fast-moving reactionary movement from the fossil fuel industry and the right-wing politicians it courts. That coalition has **sought to ban** any financial firms which consider climate in their investment decisions from doing business with right-wing state governments, applying cross-pressures against more progressive government efforts to incentivize this decision-making. The fact that fossil fuels and the right have openly sought to violate their supposed first principle of capitalism — that buyers and sellers shouldn't be pressured by the government — is a relevant point which a better grounded and more aggressive administration might raise in court filings and press briefings.

Here's what is being done — and how it could be done better:

Requiring And Standardizing Climate-Related Risk Disclosures

Most of the federal government's work on climate-related financial regulation so far has focused on requiring firms to disclose climate-related risks in their products to investors. That is, if a company or a project seeking capital would contribute to climate change, regulators are trying to require the capital-seekers to accurately disclose the extent of this to would-be investors, so the investors can understand what their money would be going toward and decide whether it is a sound investment. These include both physical risks (investing in beachfront property which could soon face climate change-driven storms and flooding, for example) and transition risks (investing in coal plants which could soon be banned from the energy grid, for example.)

The Office of the Comptroller of the Currency began **formally gathering information** on identifying climate-related risks in December 2021. More impactfully, the Securities and Exchange Commission **published draft rules** on climate-related risk in March 2022 after over a year of preparation.

Disclosures are a necessary, if unexciting, first step to establishing a climate risk regulatory regime. Legally, much of the American financial system is premised on a “buyer beware” first principle, meaning the system prefers to let a fairly-priced and transparent free market decide if a risky product still has value, rather than having regulators ban it outright. Even if it is already clear that regulators will have to rely on some of the more coercive tools in their toolbox to meet their statutory responsibilities, they must first establish what climate risks are and how to calculate them.

Developing federal disclosures for climate-related risk will standardize the proper metrics for judging and quantifying climate effects in the financial system. In recent years, more and more investors have prioritized so-called environmental, social and governance (ESG) factors when deciding where to put their money. But the ESG “movement” has no uniform metrics, in part because it’s difficult to quantify more qualitative impacts of corporate policies on the environment and human rights, and in part due to unscrupulous actors throwing the acronym on practically any investment product they can. Some gasoline companies even brand themselves as ESG, because investing in gas is technically more environmentally responsible than investing in coal. Regulators can set clear and well-enforced standards for what constitutes a risky or safe investment for the planet, which will allow ESG investors to actually make decisions based on standardized criteria.

Not all regulators have taken an assertive, central position in setting these standards. The Commodity Futures Trading Commission in March 2021 **created** a “Climate Risk Unit” dedicated to “early CFTC engagement in support of industry-led and market-driven processes in the climate—and the larger ESG—space critical to ensuring that new products and markets fairly facilitate hedging, price discovery, market transparency, and capital allocation.” By merely facilitating market-led standardizations and plans, this unit could find itself accepting too lenient of a standard for climate risk in derivatives.

The agencies’ climate disclosure rulemakings have rightly attracted broad media and industry attention. **One poll** found 70 percent of investors support the SEC’s climate disclosure proposal, and strong majorities said they’d factor climate risks into their investment decisions if the data were standardized, audited, and disclosed by the SEC.

Agencies must treat these rulemakings as only a first step, with both stringent enforcement and bolder regulatory action to follow.

Issuing Reports Which Identify Climate Issues, But Which Don’t Advance Solutions For Them

In May 2021, President Biden issued an initial **executive order** on climate-related financial risk. The order itself had few policy specifics; it mostly required the Treasury, in consultation with the rest of the Financial Stability Oversight Council (FSOC), which is the overarching body made up of the aforementioned individual regulators, to begin researching climate-related risks and prepare a report on the subject for the President and other officials.

The Treasury released its **report** in October to almost no fanfare. As the Revolving Door Project's Jeff Hauser **said at the time**, "The report fails to mention fossil fuels as the key driver of climate risk. It offers no specific timelines for any of its recommendations. And it does not include specific policy recommendations beyond disclosing and assessing risk. A terse summary of the report would read 'it's good to notice that our planet is burning, but we won't do anything to fix it.'"

Other readers raised similar frustrations. Alex Martin of Americans for Financial Reform **said** "it largely avoids laying out specific policy recommendations for U.S. regulators to catch up and surpass our international peers in *mitigating* climate risk — an urgent task needed to protect the financial system." David Arkush of Public Citizen **said** the report "includes only the bare-minimum first steps—ones that should have been taken long ago. One of the report's final recommendations [number 4.7] is that regulators should review existing rules and guidance to consider whether they need to do more. That's what this report should have done."

This is not the only report by federal financial regulators which identifies climate risk as a huge problem, but then fails to recommend steps to actually solve it. The Commodity Futures Trading Commission was the first federal regulator to even begin studying climate risk, and released **a report on the subject** in September 2020. The report was led by Commissioner Rostin Benham, who now chairs the CFTC. **As RDP's Toni Aguilar Rosenthal wrote in December 2021**, "While the report opened with an acknowledgement of climate risk, it did not go far enough in its proposed interventions on the issue." Aguilar Rosenthal noted that the CFTC said nothing about setting speculation limits on fossil fuels or mandating capital and margins requirements for fossil fuel investors and was generally riddled with qualifications and tentativeness toward adopting any actual mitigation strategy for the challenge it rightly identified as existential.

Other Biden administrative actions have been similarly underwhelming (to say the least). For example, in October 2021,Treasury's Financial Literacy and Education Commission (FLEC) **began exploring household-level financial resilience strategies** "in order to help families prepare for climate-related financial risk and assist local governments, philanthropic agencies, and financial intermediaries in building community financial resilience," in the words of Treasury Undersecretary for Domestic Finance Nellie Liang. This is not a proposal for actually undoing climate risks in the system, but instead to "educate" consumers about them. There is **a long and frustrating tradition** of regulators using public education about harmful practices to deflect from actually regulating and banning those harmful practices in the first place.

It's good for the federal government to explore how climate change, and the financial system's fueling of it, affects average people on a household level. But too little is being done to de-risk the largest and most interconnected financial actors, reflecting a bizarre misalignment of priorities, especially since climate risks in one portfolio exacerbate risks across the system as climate change grows steadily worse. Put another way, the most important way to preserve local-level financial networks on a heating planet is to stop the planet from heating, before storms, drought, and disaster wipe the community off the map.

Here's what more should be done:

Overturn Trump's Shift To "Activities-Based Oversight" On FSOC

The **Financial Stability Oversight Council** (FSOC) is a consortium of all major financial regulators which designates and oversees systemically important financial institutions (SIFIs), the largest financial companies which are most economically interconnected with the financial system and economy.

The Trump administration formalized a titanic shift in FSOC's basic approach to its duties, toward a regime of so-called "activities-based oversight." In simple terms, FSOC was created with the goal of *preventing* a repeat of the 2008 financial crisis, and was designed to provide all federal regulators with a holistic view of the most important private financial firms. The idea was for each regulator, which may have only a partial window into a firm's activities (securities trading for the SEC, derivatives for the CFTC, etc.) to come together and swap information to gain a thorough picture of the activities of the most powerful firms, in order to spot and quash any dangerous risk-taking before it got out of hand.

The shift to "activities-based oversight" overturned this preventative goal. Instead, Trump regulators shifted FSOC to simply monitor the public activities of SIFIs, with a stated intent to intervene if the activity was deemed too risky. In other words, FSOC's approach shifted from *preventing* crises before they happen to *intervening* in ongoing crises or potential crises after at least some damage had already been done. Treasury Secretary Janet Yellen **warned against this shift at the time**, but has failed to reverse it thus far in her tenure. FSOC must return to the preventative approach, which is the only way the Board can carry out its duties in a manner that promotes general welfare by preventing economic cataclysms.

Expand The List Of Systemically Important Financial Institutions

There are currently only eight American banks domestically designated as "systemically important financial institutions" (SIFIs), and no non-banks have the designation at all. The SIFIs are required to hold an extra layer of capital in case of a sudden shock to their finances, and are subject to closer scrutiny and more intense regulations by members of the Financial Stability Oversight Council (FSOC).

As long as we live in a world with globe-spanning multi-trillion dollar banks and financial institutions, whose investment and lending decisions in turn influence a real economy dependent on fossil fuel infrastructure, these institutions must be closely overseen. The fact that only banks, and not any other types of financial firms, are currently designated systemically important leads to a vastly limited window into the current financial health of key economic actors. In particular, asset managers like BlackRock directly manage many times more value in assets than do any of the SIFI banks. Yet more investment decision-making happens on BlackRock's Aladdin computer system, which is not considered a systemically important financial market utility (SIFMU).

SIFI-designated firms know that they face greater scrutiny from regulators and are more likely to both closely check their books for regulatory compliance and avoid riskier bets because of it. That means SIFI-designated large institutions are the most likely to be fully compliant with each agency's eventual full suite of climate regulations. Certainly nothing close to all financial institutions need SIFI designation, because not all banks are massively interconnected with the global economic system. But for deeper insight and prevention of both traditional and climate-related risks, SIFI usage must be dramatically scaled up.

Fully Mobilize The Federal Reserve's Regulatory Powers

Since the passage of the Dodd-Frank Wall Street Reform Act of 2010, the Federal Reserve has wielded **some of the most significant regulatory powers** over the American financial system. This is often overshadowed by the Fed's role as the most powerful central bank in the world, but **among other things**, the Fed can act on climate by implementing climate considerations into its stress-tests on the biggest banks; increasing margin requirements on securities deals for major corporate polluters; capping the overall size of polluting assets in lending and investment portfolios using Section 165 powers; and, **most tantalizing**, mandating that SIFIs divest from fossil fuel assets to protect financial stability under Section 121.

The Biden administration was very much on the right track with this. Biden nominated Sarah Bloom Raskin, a leading voice on climate-related financial regulation, to the Fed's top regulatory position, the Vice Chair for Supervision. Infuriatingly, Republicans and Democratic Senator Joe Manchin **killed Bloom Raskin's nomination** precisely because she would take necessary action (consistent with the Federal Reserve's financial stability mandate) to price climate risks into lending decisions. Biden has since nominated Michael Barr, a former Treasury official and academic ally of the financial technology ("fintech" for short) industry, for the role. Though Barr's overall regulatory views are fairly laissez-faire, his specific views on climate-related regulation are unknown.

Overall, the Fed's highly insular and conservative culture poses a threat to any would-be corporate crackdown on banks and climate risks, which is a serious challenge given the Fed's unique suite of indispensably potent regulatory tools. Even Board of Governors members who have begun to acknowledge the seriousness of climate-related risks, like Vice Chair Lael Brainard, tend toward deference to industry interests. Perhaps most concerning is the tremendous power which **Chief of Staff Michelle Smith**, an unelected and largely known figure, has consolidated for herself over the central bank's policy priorities, staff directives, and public persona. The broad project of making the Fed transparent and democratically accountable inevitably will intersect with the urgent need for the Fed to ramp up its scrutiny of the immensely powerful industry it oversees, including on climate issues.

The massive institutions which the Fed oversees should be prohibited from fossil fuel investment at all stages of the fossil development pipeline. These investments only exacerbate climate instability and the subsequent physical risks and transition risks inherent to it. (If systemically important firms have massive sunk-cost investments in fossil fuels when continued use of fossil fuels finally becomes untenable, their losses could have dangerous impacts.) Moreover, climate concerns must be integrated into stress tests conducted by the Fed. Regulators should impose prohibitive capital requirements on

SIFIs engaged in fossil fuel investment, and should consider similar regulatory requirements for investment in other climate change-exacerbating industries, such as industrial agriculture.

Overturn OCC Rule Requiring Big Banks To Lend To Big Oil

The Office of the Comptroller of Currency needs to throw out its so-called "Fair Access to Financial Services" rule, which was finalized in January 2021. This rule was **rushed through the regulatory process** inappropriately by Trump-era figures wholly captured by the financial services and fossil fuel industries. The rule, which is currently **paused** but has not been tossed out, essentially pressures and, in some cases, requires national banks to lend to the fossil fuel industry under the thin justification that "banks should not terminate services to entire categories of customers without conducting individual risk assessments."

As the OCC and other agencies finalize their metrics for assessing climate risk, it should be beyond debate that propping up the fossil fuel industry, which is the industry most directly responsible for the climate crisis, not only adds to an individual bank's climate risk portfolio but agitates all other climate risk factors the bank faces, as well as *risks that the entire world economy faces*. In other words, continued lending to fossil fuels always and inescapably makes climate-related financial risks for the entire world economy greater. Therefore, such risks should not require detailed individual assessments.

Set Speculation Limits On Fossil Fuel-Heavy Industries Via CFTC Authorities

Public Citizen and Americans for Financial Reform have **argued** for the Commodity Futures Trading Commission to set limits or bans on speculative positions in fossil fuel firms since "excessive speculation distorts prices and interferes with effective price signaling, contributing to market failures and making solutions more difficult to implement." In other words, the more derivatives traders bet that the price of oil or fossil fuel stocks will rise, the more other traders assume such prices will rise and that they should join the speculative rush, making continued fossil fuel investment a self-fulfilling prophecy unrelated to actual market fundamentals and risks. **Speculation is currently rampant across the American economy**, but if there is one sector in which it must be clamped down upon with particular urgency, that sector is fossil fuels.

Address Key Capacity Limitations

The Revolving Door Project has released a series of reports on how limited staffing, funding, and overall capacity at the financial regulators has impacted climate ambitions and could pose long-term threats to the system's ability to handle these new threats. Some key insights from these reports include:

- **The Office of Financial Research**, the Treasury Department's in-house think tank for financial policy and particularly FSOC-related policy, should significantly expand use of its broad subpoena authority. OFR subpoenas can acquire documents that will both help climate-related financial regulations stand up to inevitable court challenges, and better target and direct climate-related enforcement capacity.

- **The Office of the Comptroller of Currency** not only needs dedicated climate risk sections and experts in its operations, it also needs to push back against its decades-long history of industry capture. Though independently funded, the OCC's internal culture has long tilted away from independent scrutiny and toward back-scratching with Wall Street, which is part of what drives many banks to seek a national bank charter. This must be fought against.
- **The Securities and Exchange Commission**'s staff only increased by 16 percent in the last decade, a period in which the market it regulates grew by 108 percent. Tremendous staff attrition during the Trump years, exacerbated by artificial hiring freezes, only exacerbated this problem. SEC Commissioner Gary Gensler has pleaded with Congress for additional funding, particularly as the SEC conducts vital rulemakings on climate risk, among other risks, and requires extra capacity to handle these new responsibilities.
- **The Commodity Futures Trading Commission** has gained just 113 new full-time staffers since the passage of Dodd-Frank, while the derivatives market it regulates has more than octupled in size. The agency itself was an early climate risk leader, but it has taken an approach heavy on industry collaboration — including directly staffing bankers at JPMorgan Chase and Citigroup, two major fossil fuel financiers, on its sub-committee exploring climate risk. The agency needs to toughen its approach and staff up to support it.

III. GENERAL ASSESSMENT —

Authorship

Max Moran is the Research Director of the Personnel Team at the Revolving Door Project. He was previously a communications intern at Americans for Financial Reform, and has interned for several journalism and international advocacy organizations. Max studied International Relations and Journalism at Brandeis University. His prior work has included research, writing, and advocacy around financialization, systemic risk, international criminal law, and the role of money in politics.

Project Information

The **Corporate Crackdown Project** series of reports documents the power of the executive branch to pursue vigilant enforcement against corporate lawbreakers. Beginning in November 2022, the Corporate Crackdown Project has produced three full-length reports and one polling memo produced in conjunction with Data for Progress.

About the Revolving Door Project

The **Revolving Door Project** (RDP) is a project of the Center for Economic and Policy Research (CEPR), a progressive think tank focused on economic policy. RDP scrutinizes executive branch appointees to ensure they use their office in the public interest, not to serve entrenched corporate power or achieve personal advancement.