

Tricks of the Trade

How companies anonymously influence climate policy through their business and trade associations

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“Trade associations have come to be a permanent and increasingly important factor in the business life of this country,” wrote Hugh P. Baker, executive secretary of the American Pulp and Paper Association, in 1926 (Baker 1926). Nearly a century later, these

words have never been truer. Today trade and business associations are major actors not only in business but also in the policy arena. Such groups rely on the influence and political power of member companies to sway policy on diverse issues affecting their sectors.

Trade and business associations provide many advantages to member companies, including industry standards and agreements, economic services, and access to information and shared resources. Increasingly, trade groups also focus on political activities, with many now considering government relations to be their primary purpose (Boléat 2003). Trade and business associations engage in political activities in numerous ways, including political contributions to candidates, direct lobbying, issue advertising, public support of or opposition to policy proposals, and the mobilization of member companies to take political actions. By bringing together firms with similar interests, these associations allow the business community to speak to decision makers in a more unified and powerful voice.

The broad and complex issue of climate change—both the policies aimed at addressing drivers of climate change and the physical impacts of a warmer planet—has significant implications for the business community. And trade and business associations have been deeply engaged in climate change policy discussions. A 2013 study found that Global 500 companies, when asked how they influence policy on climate change, reported that they do so through their trade groups more than any other policy engagement mechanism, including direct lobbying and the funding of research (Caring for Climate 2013). In the United States, some trade and business associations have promoted policies to help constructively address climate change, but many more have worked to block meaningful climate action—and some even publicly misrepresent climate science (UCS 2013).

Because many trade and business associations do not publicly list their membership or even their board of directors—as tax-exempt organizations, they are not legally required to disclose their sources of funding—the public often

does not know which companies are behind the groups that obstruct progress in addressing climate change. Moreover, given the limited corporate-disclosure laws and loopholes in our campaign finance system, U.S. companies can engage in political activities through their trade and business associations without much scrutiny from the government, their investors, or the public (UCS 2012). As a result, trade groups can use their tremendous resources to influence policy decisions without accountability for the companies and other organizations backing them.

What We Did

Until stronger disclosure laws are in place, voluntary disclosure programs can shed light on the relationship between companies and their trade associations regarding climate-related political activities. CDP, an international not-for-profit organization (formerly called the Carbon Disclosure Project), administers an annual climate reporting questionnaire to more than 5,000 companies worldwide; it does so at the request of 722 institutional investors representing \$87 trillion in invested capital (CDP 2013a). In addition, companies can voluntarily report to CDP even if their participation has not been specifically requested.

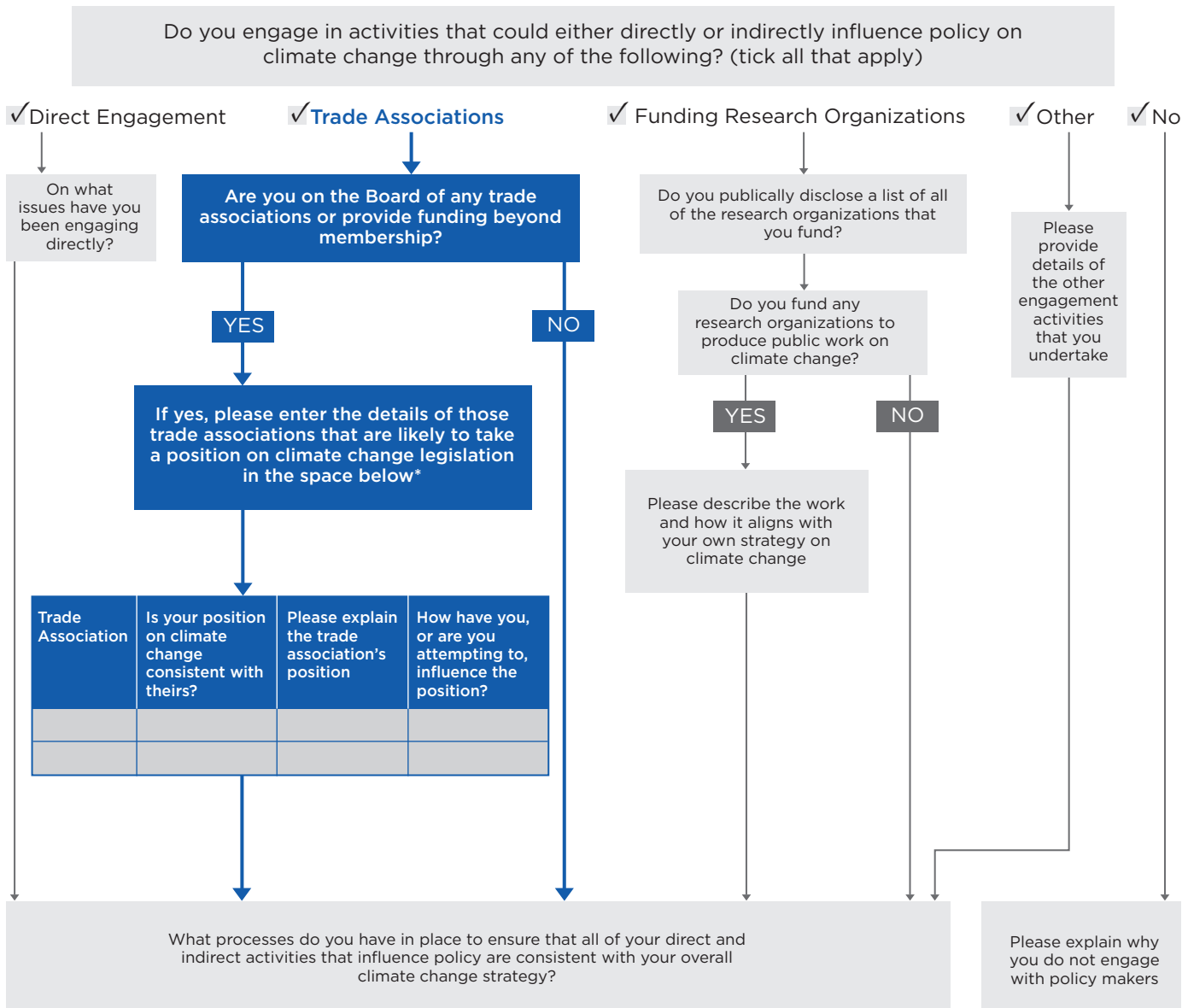
Starting in 2013, the CDP questionnaire asked companies about their climate-related political activities. Among other questions, they were asked whether they were members of trade groups and, if so, whether they agreed with these groups’ climate policy positions (Figure 1) (CDP 2013b). To inform companies on what those policy positions were, the Union of Concerned Scientists (UCS) produced a report, *Assessing Trade and Business Groups’ Positions on Climate Change*, that documented the climate science and policy positions of 14 major trade groups in the United States (UCS 2013). The report was featured in CDP’s questionnaire guidance document for responding companies (CDP 2013c).

In this report, UCS takes an in-depth look at the 1,824 public responses to the questionnaire in order to analyze

what companies had to say about their political influence through trade associations. Our results show that many companies are not yet willing to be transparent about their

political activity. And what companies do disclose raises questions about who trade and business associations truly represent in their policy advocacy around climate change.

FIGURE 1. CDP Climate Reporting Questionnaire: Questions on Corporate Political Influence



In 2013, the annual climate reporting questionnaire administered by CDP asked companies to report their influence on climate policy. If companies reported policy influence through trade associations and stated that they sat on the board of any trade associations or provided funding beyond membership, they were then asked if their position on climate change was consistent with those of their trade groups and how they have attempted to influence their groups' positions. The text here is presented exactly as it appeared in the CDP questionnaire.

*The CDP questionnaire guidance document for companies linked to the UCS report *Assessing Trade and Business Groups' Positions on Climate Change* as a resource for companies to determine their associations' climate science and policy positions.

What We Found

MANY COMPANIES CHOOSE NOT TO REPORT

Many of the queried companies opted out of participating in the CDP questionnaire altogether, despite the fact that CDP was requesting the information with the backing of such a large number of institutional investors representing so much in invested capital.

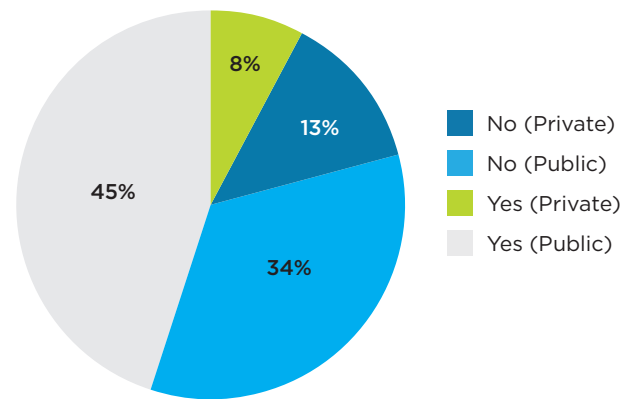
- Of the 5,557 companies that received the climate change questionnaire (through either CDP's request or their voluntary participation), 2,323 responded, and only 1,824 (33 percent) of them replied publicly.
- Ninety-seven Global 500 companies—the top 500 companies in the world by revenue—including Apple, Amazon, and Facebook, did not participate.
- In the Standard & Poor's (S&P) 500—a market value index of large U.S. companies—166 companies, including Comcast and the Southern Company, did not participate.

These results show that a significant number of companies do report to CDP, and the number of responses has grown steadily over the last decade—from 240 companies in 2003 to more than 4,500 companies responding to CDP's investor and supply chain information requests in 2013. However, many companies are still not yet willing to publicly disclose climate change reporting information, even at their investors' request. Indeed, shareholder resolutions filed with U.S. publicly traded companies in recent years have increasingly asked them for better climate-related reporting, including sustainability reports, consideration of climate-related financial risks, and accounts of political activity around climate policy (As You Sow 2013). One-third of the shareholder resolutions filed in 2013 on social and environmental issues were focused on corporate political spending (As You Sow 2013).

LIMITED REPORTING ON INVOLVEMENT WITH TRADE ASSOCIATIONS

Many, if not most, large companies in the United States belong to trade and business associations and nearly all the major groups are involved in public policy. As found in a recent UCS report, 14 major American trade and business associations including the U.S. Chamber of Commerce (COC), the National Association of Manufacturers (NAM), and the Business Roundtable participate in climate policy debates in some ways—e.g., through political contributions, lobbying, public support of or opposition to policy proposals, or the mobilization of member companies to take political action (UCS 2013). Yet many companies surveyed did not

FIGURE 2. Companies Disclosing Policy Influence through Trade Associations



Slightly more than half of all 2,322 responding companies indicated on the CDP questionnaire that they “engage in activities that could either directly or indirectly influence policy on climate change” through their trade associations. In total, 1,824 companies publicly responded, 498 companies responded privately (i.e., to CDP and their shareholders only), and 3,234 did not respond at all.

acknowledge policy influence through these groups—suggesting that many companies may be either unaware of, or unwilling to report, the climate policy influence of their trade associations.

One-third of the shareholder resolutions filed in 2013 on social and environmental issues were focused on corporate political spending.

- Only 57 percent of companies responding publicly to the CDP questionnaire (1,033 companies) indicated that they influence policy on climate change through trade associations (Figure 2). However, this rate may be higher among larger firms, with 72 percent of Global 500 companies reporting policy influence through trade associations (Caring for Climate 2013).
- Seven hundred thirty-four companies (40 percent of publicly responding companies) acknowledged that they “could directly or indirectly influence policy on climate change” through board membership or funding beyond membership in a trade association (CDP 2013b).

COMPANIES FAIL TO REPORT THEIR TRADE GROUP BOARD MEMBERSHIPS

Companies were asked to report their board memberships in groups that may influence climate change policy, but a look at the boards of directors of top U.S. trade and business associations suggests that companies are not disclosing this information, even when directly asked to report it.

For companies asked to complete the CDP questionnaire, their responses (or lack thereof) were compared with publicly available board membership lists of the NAM, the COC, the American Petroleum Institute (API), and the Edison Electric Institute (EEI)—four associations that have tried to influence climate policy both at the federal and state levels (UCS 2013). A majority of publicly responding companies belonging to these four groups' boards failed to acknowledge their seats. Full company board lists can be found in the Research Methods Appendix at www.ucsusa.org/tricksofthetrade.

A majority of publicly responding companies belonging to the NAM, COC, API, or EEI boards failed to acknowledge their board seats.

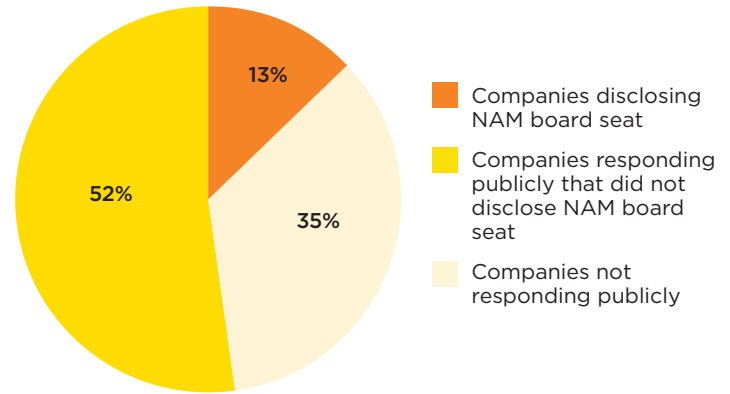
NATIONAL ASSOCIATION OF MANUFACTURERS

Even though 73 of the 206 NAM board-member companies publicly responded to the CDP questionnaire, only one in five acknowledged its NAM board seat.¹ Thirty-one companies on the NAM board did not respond to CDP's request and eight responded privately—i.e., disclosed only to CDP and company shareholders (Figure 3).

U.S. CHAMBER OF COMMERCE

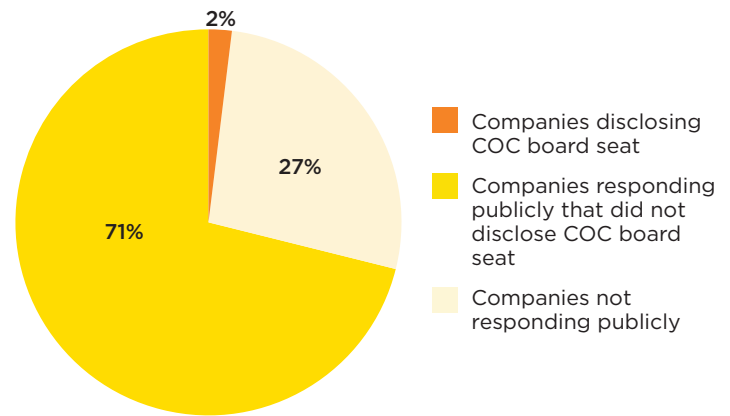
Only one of the 32 companies on the COC's board that responded publicly acknowledged its board seat, though 44 of the COC's 117 board-member companies² were asked to complete the questionnaire (Figure 4).

FIGURE 3. National Association of Manufacturers Board-Member Companies' Disclosure



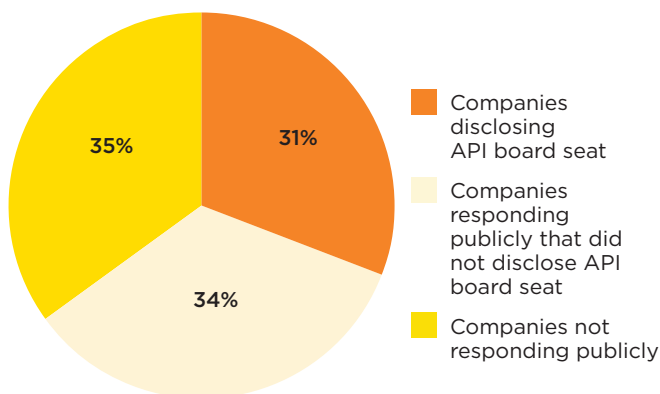
CDP requested information from 112 of the NAM's 206 board-member companies, but only 13 percent of them responded and acknowledged their board seats. A majority of the publicly responding companies did not disclose their NAM board membership.

FIGURE 4. U.S. Chamber of Commerce Board-Member Companies' Disclosure



Of the 32 companies that publicly responded to the CDP questionnaire, only a single company, UPS, disclosed its board seat. The vast majority of the 44 COC board-member companies from which CDP requested information completed the questionnaire but failed to indicate their position on the board.

FIGURE 5. American Petroleum Institute Board-Member Companies' Disclosure

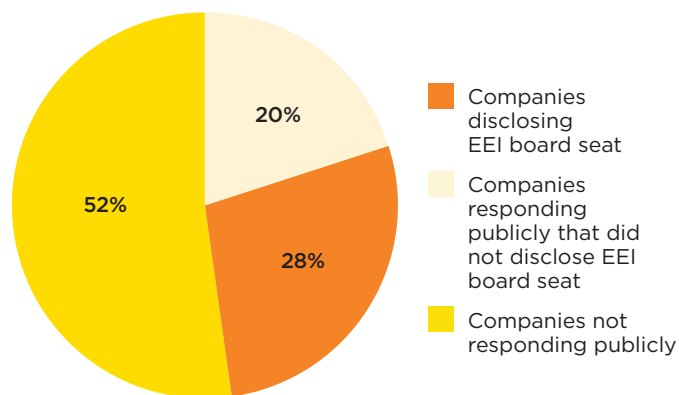


Two-thirds of the 26 API board-member companies from which CDP requested information responded publicly, but only eight companies acknowledged their board seats.

AMERICAN PETROLEUM INSTITUTE

Eight of the 17 API board companies that publicly responded to the questionnaire acknowledged their API board seats, even though CDP requested information from 26 of the API's 40-company board³ (Figure 5).

FIGURE 6. Edison Electric Institute Board-Member Companies' Disclosure



More than half of the 54 companies on the EEI board that were asked to complete the CDP questionnaire (28 companies) did not respond. Only 15 of the 26 responding companies acknowledged their board seats.

EDISON ELECTRIC INSTITUTE

Among the 54 companies of the 71 on the EEI's board of directors⁴ that were asked to complete the questionnaire, 26 responded publicly and only 15 acknowledged their board memberships (Figure 6).



The U.S. Chamber of Commerce has been active in national climate policy discussions in recent years and the association publicly lists its board membership, yet many companies did not list their board seat when asked to name their board positions that may directly or indirectly influence climate policy. Only a single company, UPS, disclosed its Chamber of Commerce board membership on the 2013 CDP questionnaire.



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API-sponsored advertisements in a Metro station near the U.S. Capitol promote the oil and gas industry. Of companies that did disclose their memberships on the boards of the COC, NAM, API, or EEI, the majority indicated their positions on climate change were “inconsistent” or “mixed” with that of the trade group.

INCONSISTENCY BETWEEN COMPANY AND TRADE GROUP POSITIONS ON CLIMATE CHANGE

Many companies do not agree with the climate policy positions of their trade associations. When companies responding to CDP’s questionnaire did acknowledge board membership or funding beyond membership for a trade association, the questionnaire asked, “Is your position on climate change consistent with [that of the trade association]?” (CDP 2013b). In response, some companies checked “inconsistent” or “mixed” rather than “consistent.”

Ninety-five companies noted that at least one of their trade groups had a climate policy position that was partially or wholly inconsistent with their own, for a total of 172 such responses across all trade groups.

The two most often-mentioned trade associations with which companies expressed mixed or inconsistent positions were the NAM (nine companies) and the EEI (eight companies).

- Nine of the 15 NAM board-member companies reporting (60 percent) stated that their positions on climate

policy were mixed or inconsistent with that of the NAM. The Clorox Company, for example, stated that its position was inconsistent with the NAM and provided the following explanation:

NAM maintains a neutral position on climate change. The Clorox Company, on the other hand, is on record as believing that rising GHG [greenhouse gas] emissions have a significant impact on climate change and the environment. Clorox therefore supports congressional action on comprehensive national climate change legislation aimed at reducing aggregate emissions of greenhouse gas over time without causing undue hardships for the U.S. economy. The NAM has challenged the U.S. EPA’s [Environmental Protection Agency’s] GHG regulation, and our position is not consistent with theirs.

- Eight of the 15 EEI board-member companies reporting (53 percent) stated that their positions on climate change were mixed relative to the EEI’s. One such company, Con Edison, noted that:

Protecting the environment and curtailing our carbon footprint are top priorities for Con Edison. On the board[s] of associations we advocate for them to recognize the importance of environmental stewardship as well as the impact on costs for customers.

Two other major U.S. trade associations with several inconsistent or mixed responses were the API (four companies) and the American Chemistry Council (ACC) (four companies). Air Products & Chemicals, Inc., explained some of the ACC's actions and their relationship to the company:

The ACC has challenged certain aspects of legislation and regulations related to climate change[.] . . . The members of ACC, like most large trade associations, have a wide range of views, and we do not always agree with all the positions [that the] ACC chooses to support.

The only board-member company that publicly acknowledged COC board membership, UPS, listed its positions as “mixed” and noted:

UPS does not support all [of the] board's positions on issues. The Chamber opposes efforts to regulate greenhouse gas emissions through existing

environmental statutes, including the Clean Air Act, the Clean Water Act, the Endangered Species Act, and the National Environmental Policy Act.

Despite pressures to quietly agree with one's trade groups, these and many other companies acknowledged disagreements with one or more of the associations to which they belonged. In fact, results of the CDP questionnaire suggest that when companies did choose to consider the role their trade groups play in climate policy, there was a good chance they would disagree with some the groups' positions. Thus trade associations' claims that they represent the views of their member companies may be exaggerated.

CHALLENGES IN INFLUENCING TRADE GROUPS' POSITIONS ON CLIMATE CHANGE

Many companies reported challenges in working with their trade and business associations, particularly those groups with which they don't always agree. Companies were asked on the questionnaire, “How have you, or are you attempting to, influence the position [of the trade associations]?” (CDP 2013b). The answers that some companies gave to this question suggest it may be difficult even for board members to sway or mitigate trade associations' positions on climate change.



API President Jack Gerard addresses a crowd at an event for Energy Tomorrow, an API project focused on promoting oil and gas production. The API describes itself as “the only national trade association that represents all aspects of America's oil and natural gas industry” and the group has been very politically active in national climate change discussions.

BOX 1

The Role of the Securities and Exchange Commission in Corporate Political Disclosure

Since the Supreme Court's 2010 ruling in *Citizens United v. Federal Election Commission* removed restrictions on corporate political spending, there has been a drastic increase in political spending by companies, largely through outside groups such as trade associations and "social welfare" organizations (CRP 2013). This indirect funding allows for anonymity on the companies' part, as trade associations and other politically active organizations are not required to disclose their donors to the public. Corporations can thereby influence political debates without accountability.



The U.S. Securities and Exchange Commission can use its authority to issue a rule requiring publicly traded companies to disclose their political activity. Such a rule would create more transparency and accountability for companies that use trade groups to influence climate policy.

But the demand for greater corporate disclosure on political spending has been mounting (Editorial Board 2013), and the Securities and Exchange Commission (SEC)—the federal agency responsible for protecting investors and overseeing publicly traded companies in the United States—can address this new political landscape through its rule-making process. In 2011, a group of 10 high-profile law professors filed a petition with the SEC arguing that the agency should issue a rule

that would require publicly traded companies to disclose both their direct and indirect political activities (SEC 2011). By December 2013, the petition had more than 640,000 signatures—more than the agency has ever received on a rule—with most comments, about 99 percent, in favor of the measure (SEC 2013a).

Despite this proposed rule's overwhelming public support, many trade and business associations mobilized in opposition. A letter submitted to the SEC by 29 such groups—including the COC and NAM—urged the SEC not to consider the rule (CRP 2013b). The letter claimed that it is not "grounded in any rational policy justification" and would violate First Amendment rights. The letter further argued that because business leaders already act in the interest of investors, no disclosure is necessary (SEC 2013b).

Following this opposition by major trade and business associations, in December 2013 the SEC removed consideration of the rule from its rule-making agenda for 2014, thereby signaling that the agency did not plan to make this issue a 2014 priority.

The Supreme Court's decision in *Citizens United* relied on the assumption of "prompt disclosure of expenditures," which would allow shareholders to hold companies accountable (Editorial Board 2013). In the absence of an SEC rule, however, such disclosure is nonexistent, given that companies can legally remain nameless donors to trade groups and other outside organizations that are politically active.

More transparency in corporate political activities is needed. The public deserves to know who is influencing decisions on issues such as climate change policy that will affect its health and safety. Accordingly, the SEC should revise its rule-making agenda and develop a rule in response to the law professors' widely supported petition.



SEC Chair Mary Jo White should make corporate finance reform a priority and put the consideration of the rule on enhancing corporate political disclosure back onto the Commission's 2014 rule-making agenda.

With respect to the API's climate positions, for example, board member Statoil stated that it is "a relatively small company in the United States and is usually not in a position to direct the API's position on climate. However, we inform [the] API when we disagree [with] positions they are taking." Similarly, Royal Dutch Shell reported that it "attempt[s] to mitigate negative [API] positions when necessary" but that the company has "little scope for major positive advocacy work on climate change legislation."

In other instances of disagreements between companies' and trade groups' positions, companies reported that influencing the groups' climate positions was not productive for them. Instead, such companies chose to remain in trade groups for their work on non-climate issues and advocate their climate policy elsewhere.

The fact that many board-member companies do not agree with trade groups' climate positions raises the question of who is actually shaping their policy agenda.

General Electric (GE), for example, noted that its position on climate change is different from that of many of its associations—including the COC, NAM, and Business Roundtable—but that "GE remains a member nonetheless because the associations . . . do represent GE's views on other issues." The company explained that it chooses to advance its climate position "through coalitions of business interests and public-interest groups or think tanks, as we believe these types of groups [are] where progress can be made on building the necessary consensus for climate policy action."

This finding based on the CDP questionnaire—that many board-member companies do not agree with trade groups' climate positions—raises the question of which actors are actually shaping the policy positions and setting the agendas of major associations. Trade associations are active in climate policy debates and claim to represent the views of their member industries, yet our analysis suggests that this may not always be the case.

Conclusion

Companies often choose not to be transparent about their political activities related to climate change. Among those serving on the boards of directors of trade and business associations that are active in climate policy debates, a significant number refuse to acknowledge their board seats. Without greater transparency on how companies support their trade and business associations, it is impossible to know who is funding the groups' political activities. As a result, companies are able to fund attacks on policy proposals that seek to address climate change—without being overtly affiliated with these practices.

When companies do choose to disclose their trade group affiliations, some disagree with the groups' climate change policy positions. Frequently, companies claim, it is difficult or unproductive to influence these policies and related political activities. Thus trade associations may be wielding enormous resources on climate policy discussions without the public support of all of their member companies.

This lack of transparency in corporate political influence has escalated in recent years. Since the U.S. Supreme Court's 2011 decision in *Citizens United v. Federal Election Commission* opened the floodgates for virtually unlimited corporate political spending through trade groups and other politically active tax-exempt organizations, the influence of these groups has skyrocketed. This vast and anonymous funding of political activity to influence public policy is nothing less than a threat to our nation's democracy. It prevents decision makers, investors, and the public from understanding who hinders progress toward an urgently needed national climate policy.

SOLUTIONS

More transparency in the business community's political activities is needed. Especially on issues such as climate change, the public deserves to know who is influencing policy decisions that will affect its health and safety. To bring such transparency to climate policy making, the Securities and Exchange Commission, the president, Congress, investors, and companies should take several actions.

The Securities and Exchange Commission should issue a rule that requires publicly traded companies to disclose both their direct and indirect political activities. This has already been shown to be a popular idea. In 2011, a group of 10 high-profile law professors filed a petition on such a rule; by December 2013 the petition had more than 640,000 signatures—more than the agency has ever received on a rule (SEC 2013a).



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To address the complex issue of climate change, decision makers need to focus on policies that prioritize public health and safety. Shedding light on who is influencing policy making can help hold actors accountable for blocking policy actions that address global warming. There are several steps the Securities and Exchange Commission, the president, Congress, investors, and companies should take to guide us toward more transparent and fact-based decision making around climate change.

The Obama administration should support a proposed Treasury rule to illuminate the political activities of tax-exempt “social welfare” groups; it should also develop a rule to address the increased use of trade and business associations for political activities.

Congress should approve the Democracy Is Strengthened by Casting Light on Spending in Elections (DISCLOSE) Act, or similar legislation, to enhance disclosure of indirect political contributions, such as those to trade and business associations.

Investors and their representatives should pressure companies, through letters, shareholder resolutions, and other mechanisms, to:

- Disclose all direct and indirect political spending, including trade group membership and support for outside organizations
- Disclose whether or not they agree with the climate policy positions of their trade and business associations
- Attempt to influence the policy positions of the trade groups or leave groups that do not align with the climate policy positions of the company

Companies should:

- Insist that their associations accept climate science and urge them to adopt policy positions that reflect this acceptance
- Push their associations to take stronger and more public positions in support of policies that will result in meaningful carbon emissions reductions
- In cases of differences between company and trade group positions,
 - publicly state such differences;
 - attempt to influence the group’s climate position from the inside; or
 - leave the group if differences are irreconcilable (Caring for Climate 2013)

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The Center for Science and Democracy at the Union of Concerned Scientists works to strengthen American democracy by advancing the essential role of science, evidence-based decision making, and constructive debate as a means to improve the health, security, and prosperity of all people.

ENDNOTES

- 1 The NAM board membership list analyzed was the one reported by the NAM website on September 20, 2013 (NAM 2013).
- 2 Board members as reported on the COC website October 1, 2013 (COC 2013).
- 3 Board membership as identified in the API's 2011 Tax Form 990 (API 2011).
- 4 Board membership as identified in the EEI's 2011 Tax Form 990 (EEI 2011).

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