

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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WASHINGTON, DC 20515-6216

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June 14, 2023

Mr. Matthew E. Miller  
Foley Hoag LLP  
155 Seaport Boulevard  
Boston, MA 02210

Re: Ceres

Dear Mr. Miller:

The Committee on the Judiciary is conducting oversight of the adequacy and enforcement of U.S. antitrust laws. Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning the “[p]rotection of trade and commerce against unlawful restraints and monopolies” to inform potential legislative reforms, such as whether existing civil and criminal penalties and current antitrust law enforcement efforts are sufficient to deter anticompetitive collusion in the investment industry.<sup>1</sup>

Corporations are collectively adopting and imposing progressive environmental, social, and governance (ESG)-related goals, and Ceres appears to facilitate collusion through Climate Action 100+ that may violate U.S. antitrust law. To advance our oversight and inform potential legislation related to collusive ESG policies, the Committee must understand how and to what extent Ceres and Climate Action 100+ facilitate collusion to promote ESG-related goals.

As a part of the Committee’s oversight to inform potential legislative reforms, the Committee wrote to Ceres on May 5, 2023, to renew requests, first made in December 2022, for documents and communications related to how Ceres and Climate Action 100+ advance ESG policies, in addition to other information.<sup>2</sup> Although Ceres has voluntarily made productions to the Committee since January 2023, it has only produced a total of 299 documents. These productions included a number of duplicative documents, many documents that are publicly

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<sup>1</sup> Rules of the House of Representatives R. X (2023).

<sup>2</sup> See Letter from Rep. Dan Bishop et al. to Mindy S. Lubber & Simiso Nzima (Dec. 6, 2022) [hereinafter December 6 Letter]. Ceres initially responded that it would not voluntarily cooperate with our oversight efforts. See Letter from Mindy S. Lubber to Rep. Dan Bishop et al. (Dec. 20, 2022). As a result, on December 31, 2022, the Committee reiterated its requests and asked for Ceres’s prompt voluntary compliance with them. See Letter from Rep. Dan Bishop & Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Mindy S. Lubber (Dec. 6, 2022).

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available, and several documents with excessive redactions. In our letter dated May 5, the Committee sought Ceres's voluntarily compliance by May 19, 2023.<sup>3</sup>

On May 10, 2023, the Committee staff spoke with you. In this conversation, you suggested that you had not even begun to review potentially responsive e-mails. In fact, you suggested that the only step you had taken to identify potentially responsive e-mails was to run searches, and that these searches were limited to a single custodian, Mindy S. Lubber, and a single set of keyword search terms ("Climate Action 100+" and derivations of that term). In particular, you suggested that you had not searched for obvious keyword search terms suggested on the face of our requests, such as ESG, BlackRock, State Street, Vanguard, ISS, Glass Lewis, or PayPal.<sup>4</sup> Further, you indicated that you could not speak to additional categories of potentially responsive documents beyond e-mails, which suggests that Ceres has made only limited progress in searching for and reviewing these materials.

Ceres's response without compulsory process has been inadequate. To date, and despite your repeated assurances of Ceres's cooperation, Ceres has produced just 299 documents.

Accordingly, please find enclosed a subpoena.

Sincerely,



Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member  
Ms. Mindy S. Lubber, Ceres, Chief Executive Officer and President  
Investor Network Representative, North America, Climate Action 100+

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<sup>3</sup> See Letter from Rep. Dan Bishop & Rep. Jim Jordan, Chairman, Comm. on the Judiciary, to Mindy S. Lubber (May 5, 2023).

<sup>4</sup> See December 6 Letter, *supra* note 2, at 4–5.