PUBLIC FAILURE, PRIVATE ORDERING: SUCCESSFUL SELF-REGULATION OF CORPORATE POLITICAL SPENDING

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INTRODUCTION

Corporate political spending has become an integral aspect of business strategy in the 21st century, shaping regulatory landscapes, influencing public policy, impacting corporate reputations, posing heightened risk, and exposing companies to *quid pro quo* exchanges. Companies engage in political spending to advocate for policies favorable to their operations, create a favorable business environment, mitigate regulatory risks, and align legislative and policy outcomes with their business interests. For some, political spending is simply and brazenly the purchase of access to Capitol Hill. However, as corporate political expenditures have grown in scale and complexity, so too have concerns regarding their ethical implications, transparency, legality, corruption, and potential for undue influence over democratic institutions. The intersection of corporate influence and politics raises critical questions about governance, accountability, and risk management—questions that are increasingly relevant as corporations face the threat of intimidation and operate in highly polarized political environments, with little positive law as guidance, and silent regulatory institutions. In recent years, routine failures of public regulation of corporate spending ushered in successful experiments in private ordering.

Corporate political spending encompasses a broad range of financial contributions and advocacy efforts. Recognizing the failure of formal public regulation, this article focuses on election-related spending—direct donations to political candidates and parties; financial support for political action committees (PACs), Super PACs, 527 committees (in particular, the governors associations, state legislative campaign committees, and attorneys general associations); and indirect contributions to trade associations or nonprofit organizations that engage in electoral spending. Each of these mechanisms offers corporations a means of engaging in the political process, whether by shaping public discourse, supporting candidates reshaping the political environment, or working to craft legislation or influence policy that benefits a wide range of willing—if not eager—stakeholders.

The significance of corporate political spending has magnified in recent years due to pivotal decisional law and regulatory changes. The 2010 U.S. Supreme Court ruling in *Citizens United v. Federal Election Commission*[1] changed the landscape of corporate political engagement by allowing corporations to spend unlimited amounts on independent political expenditures.[2] This decision, coupled with subsequent court rulings and regulatory shifts, enabled businesses to exert greater influence over political campaigns and policymaking processes. While proponents argue that such spending is an essential exercise of corporate free speech, critics warn that it fosters corruption, entrenches corporate power, and diminishes the voices of individual voters.[3]

Beyond legal considerations, corporate political spending is increasingly scrutinized from ethical,[4] risk,[5] and governance perspectives.[6] In an era of heightened corporate social responsibility expectations, stakeholders—including shareholders, employees, consumers, and advocacy groups—are demanding greater transparency and accountability regarding corporate political spending. Investors, particularly institutional shareholders and management of sustainability-focused funds, have raised

1. Citizens United v. Fed. Election Comm'n, 558 U.S. 310 (2010).

2. Independent expenditures in presidential elections increased 594% between 2008 and 2012. *See* Wendy L. Hansen, Michael S. Rocca & Brittany Leigh Ortiz, *The Effects of* Citizens United *on Corporate Spending in the 2012 Presidential Election*, 77 J. POL. 535, 535–45 (2015).

3. Richard L. Hasen, Citizens United *and the Illusion of Coherence*, 109 MICH. L. REV. 581 (2011).

4. Miguel Alzola, *Corporate Dystopia: The Ethics of Corporate Political Spending*, 52 BUS. & SOC'Y 388, 426 (2013).

5. Dorothy S. Lund & Leo E. Strine, Jr., *Corporate Political Spending Is Bad Business*, HARV. BUS. REV. (Jan. 14, 2022), https://hbr.org/2022/01/corporate-political-spending-is-bad-business [https://perma.cc/HTJ3-QE3A].

6. Hesham Ali, Emmanuel Adegbite & Tam Huy Nguyen, *Corporate Governance and Corporate Political Responsibility*, 62 BUS. & SOC'Y 1496 (2023).

concerns about the reputational risks associated with undisclosed or opaque political contributions. Many argue that misaligned political spending—where a company's political contributions contradict its stated values or commitments—can lead to consumer backlash, regulatory challenges, long-term brand damage, and other externalities.[7]

This heightened scrutiny has led to a growing demand for transparency and accountability in corporate political spending. A steadily growing number of firms have responded by voluntarily disclosing their political contributions and adopting accountability policies. This is seen with corporations in the S&P 500, those companies that are the largest in size and the dominant political spenders.[8] In this era of *Public Failure, Private Ordering*, the CPA-Zicklin Index of Corporate Political Disclosure and Accountability has been instrumental in making political spending transparency and accountability the norm across many sectors.[9] It is a fine example of the potential power of successful self-regulation in the absence of formal state action. Nevertheless, some companies have resisted calls for increased transparency, citing concerns over competitive disadvantage or regulatory complexity.[10] The debate over disclosure underscores broader tensions in corporate governance—namely, how companies balance strategic business interests with their values and stakeholder expectations.[11]

The debate over disclosure also highlights the fact that reporting political spending is not enough. Transparency and accountability are important, but they must be accompanied by a framework underwritten by ethical principles for companies to effectively and meaningfully manage and oversee their political spending. The addition of a framework and ethical principles gives companies the ability to deal with new and changing pressures that raise concerns about corruption and pose a grave

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7. *See* CTR. FOR POL. ACCOUNTABILITY, CONFLICTED CONSEQUENCES 25 (2021).

8. *See* CTR. FOR POL. ACCOUNTABILITY, CPA AT 20 NORM CHANGER 8 (2023).

9. *Id.* The CPA-Zicklin Index was first proposed to CPA's Board by William S. Laufer in 2009.

10. *See, e.g.*, Maria M. Correia, *Political Connections and SEC Enforcement*, 57 J. ACCT. & ECON. 241 (2014); David M. Primo, *A Political Attack on Shareholder Value*, WALL ST. J. (Sep. 29, 2014), *https://www.wsj.com/articles/david-m-primo-a-political-attack-on-shareholder-value-1412032579* [https://perma.cc/V7MU-L4D7]; Anita B. Bandy, Charles Ricciardelli & Olivia Marshall, *Full Disclosure? Traps for the Unwary in Corporate Political Activity Disclosure Policies* (Sep. 3 2024), https://www.skadden.com/-/media/files/publications/2024/09/full_disclosure_traps_for_the_unwary_in_corporate_political_activity_disclosure_policies.pdf [https://perma.cc/ZM9Q-FJTB]; Kristina Minnick & Tracy Noga, *The Influence of Firm and Industry Political Spending on Tax Management Among S&P 500 Firms*, 44 J. CORP. FIN. 233 (2017).

11. *See* Jill E. Fisch & Jeff Schwartz, *How Did Corporations Get Stuck in Politics and Can They Escape?*, 3 U. CHI. BUS. L. REV. 325 (2024).

threat to the rule of law and a healthy business environment. These pressures are highlighted in a report by Axios on a scorecard developed by the current Executive Branch tracking "how hard" companies and trade associations "worked to support and promote President Trump's 'One Big Beautiful Bill.'"[12]

In addition to its ethical and governance dimensions, corporate political spending also plays a crucial role in corporate risk management.[13] Engaging in political spending is one way in which companies gain access to officeholders and policymakers, allowing them to potentially shape regulatory environments and protect their financial and market interests. However, such engagement also exposes firms to a range of risks, including increased regulatory scrutiny, shareholder activism, reputational harm, consumer blowback, and a host of other challenges.[14] Companies that align themselves too closely with controversial political figures or policies may find themselves the target of consumer boycotts, social media activism, or legal scrutiny. Moreover, as political landscapes shift, previously advantageous political alliances may become liabilities, further complicating the risk calculus for corporate leaders.[15]

The risks associated with corporate political spending are particularly pronounced in today's increasingly polarized political climate. As societal divisions deepen, companies must navigate the challenge of engaging in political advocacy without alienating key stakeholders. Some firms have adopted a neutral stance, avoiding political contributions altogether to minimize reputational risks. Others have sought to engage in bipartisan giving, attempting to balance their support across political parties to "hedge" against shifting political winds. However, even these strategies are not without risks. Companies may still be criticized for appearing opportunistic or inconsistent in their political engagement.[16]

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12. Mike Allen, *Scoop: White House Loyalty Rating for Companies*, AXIOS (Aug. 15, 2025), https://www.axios.com/2025/08/15/white-house-rating-big-beautiful-bill [https://perma.cc/BF6M-PNDW].

13. *See* Daniel Nyberg, *Corporations, Politics, and Democracy: Corporate Political Activities as Political Corruption*, 2 ORG. THEORY (2021).

14. PAUL DENICOLA, BRUCE F. FREED, STEFAN C. PASSANTINO & KARL J. SANDSTROM, THE CONF. BD., HANDBOOK ON CORPORATE POLITICAL ACTIVITY: EMERGING CORPORATE GOVERNANCE ISSUES (2010); Dorothy S. Lund & Leo E. Strine, Jr., *Corporate Political Spending Is Bad Business*, HARV. BUS. REV. (Jan. 14, 2022), *https://hbr.org/2022/01/corporate-political-spending-is-bad-business* [https://perma.cc/Q3AT-QMTU].

15. Bill Snyder, *The Self-Destructive Downside to Corporate Political Spending*, STAN. GRADUATE SCH. OF BUS. (Feb. 2, 2021), *https://www.gsb.stanford.edu/insights/self-destructive-downside-corporate-political-spending* [https://perma.cc/FS8F-2U3J].

16. Rebecca Crosby & Judd Legum, *These 50 Companies Have Donated Over $23*

This article explores corporate political spending and its implications and risks for businesses, stakeholders, and society. It begins by outlining the evolution of corporate political spending in the United States, including the recent prominence of third-party political spending. Next, the article captures the various risks posed by this political spending—legal, reputational, financial, ethical, governance, and regulatory—as well as how each category of risk intersects with and reinforces the others. A key focus of this discussion is the role of corporate political spending in risk management. While political engagement can serve as a hedge against regulatory uncertainty, it can also expose firms to substantial risks. The article examines case studies of corporations that have faced backlash or regulatory or legal challenges due to their political spending activities, illustrating the complex trade-offs businesses must consider when engaging in political spending. Additionally, it explores emerging trends in corporate political spending, including the rise of shareholder activism, the increasing importance of sustainability considerations, and the evolving role of digital and social media in shaping corporate political spending and the environment surrounding it.

Ultimately, this article seeks to provide a nuanced understanding of corporate political spending in the absence of formal, public regulation. Thus, we consider how corporations can navigate the Public Failure, Private Ordering ("PFPO") divide. Successful PFPO initiatives must balance concerns with strategic utility, ethical and governance, and bottom line challenges. As corporate influence in politics continues to grow, businesses must carefully weigh the benefits and risks of political

Million to Election Deniers Since January 6, 2021, POPULAR INFO. (Mar. 28, 2024), *https://popular.info/p/these-50-companies-have-donated-over* [https://perma.cc/WH72-WUV2]; Marc A. Caputo, *Comcast, a Backer of Reproductive Rights, Donates to DeSantis's Anti-Abortion PAC*, THE BULWARK (Sep. 24, 2024), *https://www.thebulwark.com/p/comcast-donation-to-desantis-anti-abortion-pac* [https://perma.cc/PZY5-V4K4]; Martin Pengelly, *Amazon, DoorDash, and CVS Fund Anti-Abortion Republican PACs*, THE GUARDIAN (Oct. 31, 2024), *https://www.theguardian.com/us-news/2024/oct/31/amazon-doordash-cvs-fund-anti-abortion-republican* [https://perma.cc/SV6E-YHZB]; Nick Robins-Early, *Amazon and Google Fund Anti-abortion Lawmakers Through Complex Shell Game*, THE GUARDIAN (June 3, 2023, at 07:00 ET), *https://www.theguardian.com/world/2023/jun/03/anti-abortion-lawmakers-donation-amazon-google-comcast* [https://perma.cc/44VC-KHWX]; Elizabeth Meager, *US Companies Remain with Associations Despite Divergence on Climate*, SUSTAINABLEVIEWS (Nov. 18, 2024), *https://www.sustainableviews.com/us-companies-remain-with-associations-despite-divergence-on-climate-f4e8f959/* [https://perma.cc/7F87-HWFY]; Tessa Stuart, *Blame These Companies for the GOP's Minority Rule*, ROLLING STONE (Feb. 4, 2024), *https://www.rollingstone.com/politics/politics-features/blame-these-companies-for-the-gops-minority-rule-1234959739/* [https://perma.cc/Y7SJ-L2BQ].

engagement, ensuring that their actions align with both their financial interests and the expectations of an increasingly informed and engaged public. By examining these issues from different stakeholder perspectives, this article contributes to the broader discourse on corporate governance during regulatory silence and, ultimately, the enduring but fast changing relationship between business and democracy.

I. EVOLUTION OF CORPORATE POLITICAL SPENDING IN THE UNITED STATES

Corporate involvement in political campaigns in the US has a long and complex history, shaped by evolving legal interpretations and shifting societal attitudes toward the role of business in government. From the early days of the republic, corporations wielded political influence through informal means, including financial contributions, lobbying efforts, and personal relationships between business leaders and politicians.[17] However, as corporate wealth and power expanded in the late 19th and early 20th centuries, concerns about undue influence and corruption grew, prompting calls for legal restrictions on corporate political activity. These concerns led to the first major legislative attempts to curb corporate influence in elections, setting the stage for over a century of legal battles, regulatory shifts, and judicial rulings that have continuously redefined the boundaries of corporate political spending.[18]

A. The Evolution of Corporate Involvement in Political Campaigns

Corporate involvement in political affairs predates the formal campaign finance laws of the 20th and 21st centuries. From the earliest days of commerce, business entities have sought to influence government decisions to protect and expand their economic interests. In the 18th and early 19th centuries, corporate influence primarily took the form of patronage, informal lobbying, and direct relationships between business leaders and government officials. Many corporations, particularly those involved in infrastructure projects such as railroads and canals, secured government contracts and favorable legislation through personal networks

17. Eric Hilt, William J. Novak & Naomi R. Lamoreaux, *Early American Corporations and the State*, *in* CORPORATIONS AND AMERICAN DEMOCRACY 37–73 (Naomi R. Lamoreaux & William J. Novak eds., 2017).

18. ROBERT E. MUTCH, BUYING THE VOTE: A HISTORY OF CAMPAIGN FINANCE REFORM 45–76 (2014).

rather than direct monetary contributions.[19]

During the Gilded Age of roughly 1870–1900, corporate influence in politics became more structured and overt. Industrial titans such as John D. Rockefeller of Standard Oil, Andrew Carnegie of Carnegie Steel, and J.P. Morgan of J.P. Morgan & Co. wielded enormous economic and political power.[20] The rise of these corporate behemoths coincided with an era of minimal government regulation, allowing business leaders to exert significant influence over elected officials and legislative processes. Corporations and wealthy industrialists regularly funded political campaigns, often in exchange for favorable policies, tariffs, and subsidies.[21] The unchecked flow of money into politics during this period led to widespread concerns about corruption, particularly as corrupt donations became essential to political candidates seeking office.[22]

The 19th-century political environment fostered a close relationship between business and government, with corporations supporting political parties that aligned with their economic interests. This era saw the emergence of powerful political machines, such as Tammany Hall in New York, which relied on business contributions to maintain political control.[23] Corporate contributions were often funneled through intermediaries or given directly to party bosses who used the funds to secure votes and influence elections.[24] The resulting political favoritism enabled corporations to amass wealth and power at an unprecedented rate, but it also led to increasing public dissatisfaction with the perceived corruption of American democracy.

By the late 19th and early 20th centuries, public concern over corporate influence in politics had reached a tipping point.[25] The Progressive Era of this period was marked by growing demands for political and economic reform, driven by fears that unchecked corporate power was eroding democratic institutions. Journalists and reformers, often referred to as "muckrakers," exposed the extent of corporate corruption in

19. *Id.* at 25–61.

20. MATTHEW JOSEPHSON, THE ROBBER BARONS: THE CLASSIC ACCOUNT OF THE INFLUENTIAL CAPITALISTS WHO TRANSFORMED AMERICA'S FUTURE (Houghton Mifflin Harcourt 2015) (1934).

21. *Id.*

22. NAT'L BUREAU OF ECON. RSCH., CORRUPTION AND REFORM: LESSONS FROM AMERICA'S ECONOMIC HISTORY (Edward L. Glaeser & Claudia Goldin eds., 2006).

23. MUTCH, *supra* note 18; *see* TERRENCE J. MCDONALD, MACHINE MADE: TAMMANY HALL AND THE CREATION OF MODERN AMERICAN POLITICS (2014).

24. JOSEPHSON, *supra* note 20.

25. NAT'L BUREAU OF ECON. RSCH., *supra* note 22.

politics, further fueling calls for legislative action.[26]

One of the most notable figures advocating for campaign finance reform during this period was President Theodore Roosevelt, who, during his administration, championed efforts to curb corporate influence in elections. In his 1905 State of the Union address, Roosevelt warned against the dangers of corporate money in politics, stating, "All contributions by corporations to any political committee or for any political purpose should be forbidden by law."[27] His administration's push for reform culminated in the passage of the Tillman Act of 1907, the first federal law designed to regulate corporate political contributions.[28]

Despite early legislative victories, corporate political spending continued to evolve, finding new avenues to exert influence in the political sphere.[29] While direct corporate contributions are formally restricted by the Tillman Act, businesses quickly adapted by funding election-related activities through intermediaries such as trade associations and other indirect channels.[30] These strategies laid the foundation for future developments in corporate political spending, including the rise of political action committees (PACs) and, later, Super PACs.[31]

The Progressive Era's efforts to regulate corporate political spending marked the beginning of a long and contentious debate over the role of money in politics that continues well into the 21st century. While early reforms set important legal precedents, they also highlighted the challenges of enforcing campaign finance regulations and the adaptability of corporate interests in finding new ways to maintain political influence. This period serves as a critical foundation for understanding the subsequent legislative milestones and court decisions that have shaped modern corporate political spending practices.

B. Key Legislative Milestones and Court Decisions

The Tillman Act of 1907 was the first major U.S. law aimed at

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26. David M. Chalmers, *The Muckrakers and the Growth of Corporate Power: A Study in Constructive Journalism*, 18 AM. J. ECON. & SOCIO. 295 (1959).

27. Theodore Roosevelt, *Fifth Annual Message*, THE AM. PRESIDENCY PROJECT (Dec. 5, 1905), *https://www.presidency.ucsb.edu/documents/fifth-annual-message-4* [https://perma.cc/2HTU-MMFE].

28. J. Michael Bitzer, *Tillman Act of 1907*, *in* THE FIRST AMENDMENT ENCYCLOPEDIA (John Vile, David L. Hudson & David Schultz eds., 2009).

29. Andee Kaplan, Eric Hare, Heike Hofmann & Dianne Cook, *Can You Buy a President? Politics After the Tillman Act*, 27 CHANCE 20 (2014).

30. *Id.*

31. *Id.*

regulating corporate political spending, introduced in response to concerns over corporate influence in federal elections. Named after Senator "Pitchfork" Ben Tillman, the act prohibited corporations from making direct financial contributions to federal candidates.[32] However, it lacked enforcement mechanisms, allowing corporations to circumvent the ban by channeling funds through executives or political organizations. Despite its limitations, the Tillman Act set a precedent for future campaign finance regulations, paving the way for greater government oversight of corporate political spending. Decades later, the Watergate scandal exposed widespread abuses, including illegal corporate contributions to political campaigns, leading Congress to amend the Federal Election Campaign Act (FECA) in 1974.[33] These amendments established contribution limits, created the Federal Election Commission (FEC) for enforcement, and mandated public disclosure of campaign contributions. However, businesses adapted by utilizing Political Action Committees (PACs), which allowed them to contribute within legal limits while maintaining political influence.[34]

The legal landscape for corporate political spending shifted further with the Supreme Court's *First National Bank of Boston v. Bellotti* (1978) decision, which ruled that corporations have a First Amendment right to engage in political speech through financial expenditures.[35] This ruling expanded corporate involvement in politics and set the stage for future legal battles, culminating in the Bipartisan Campaign Reform Act (BCRA) of 2002,[36] also known as the McCain-Feingold Act. The BCRA sought to close loopholes by banning soft money contributions to national political parties and restricting corporate- and union-funded electioneering communications. While reformers saw it as a victory for limiting corporate influence, critics argued it infringed on free speech rights, leading to legal challenges. Ultimately, these tensions culminated in the landmark *Citizens United* ruling, which further reshaped corporate political spending

32. ROBERT E. MUTCH, CAMPAIGNS, CONGRESS, AND COURTS: THE MAKING OF FEDERAL CAMPAIGN FINANCE LAW 1–8 (1988); MUTCH, *supra* note 18, at 45–57.

33. Federal Election Campaign Act Amendments of 1974, Pub. L. No. 93-443, 88 Stat. 1263 (codified as amended at 52 U.S.C. §§ 30101–46).

34. Gary J. Andres, *Business Involvement in Campaign Finance: Factors Influencing the Decision to Form a Corporate PAC*, 18 POL. SCI. & POL. 213 (1985).

35. First Nat'l Bank of Bos. v. Bellotti, 435 U.S. 765 (1978); Mark P. Goss, Note, First National Bank of Boston v. Bellotti*: The Reopening of the Corporate Mouth—The Corporation's Right to Free Speech*, 21 ARIZ. L. REV. 841 (1979).

36. Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81 (codified as amended at 52 U.S.C. §§ 30101–45)

regulations.[37]

1. Citizens United v. Federal Election Commission (2010)

The most consequential Supreme Court ruling on corporate political spending came in *Citizens United v. Federal Election Commission*,[38] a 2010 decision that fundamentally reshaped the campaign finance landscape.[39] The case arose when Citizens United, a conservative nonprofit organization, sought to air a documentary critical of then-presidential candidate Hillary Clinton. The FEC ruled that the film constituted electioneering communication and was subject to campaign finance restrictions under the BCRA.

Citizens United challenged the ruling, arguing that restrictions on independent political expenditures violated the First Amendment.[40] In a 5-4 decision, the Supreme Court agreed, striking down limits on corporate and union spending in elections. The majority opinion, authored by Justice Anthony Kennedy, held that:

- **Corporations and unions have a First Amendment right** to engage in unlimited independent political expenditures.
- **The government cannot restrict political speech** based on the identity of the speaker, including corporate entities.
- **The distinction between corporate and individual speech is unconstitutional**, fundamentally altering the balance of power in electoral politics.

The ruling led to an explosion of corporate and union spending in elections, as it allowed for the creation of Super PACs—independent expenditure-only committees that can raise and spend unlimited amounts from corporate and individual donors, as long as they do not coordinate directly with candidates.

37. DIANA DWYRE & ROBIN KOLODNY, THE FUNDAMENTALS OF CAMPAIGN FINANCE IN THE U.S.: WHY WE HAVE THE SYSTEM WE HAVE 64–97 (2024).

38. Citizens United v. Fed. Election Comm'n, 558 U.S. 310 (2010).

39. Hansen, Rocca & Ortiz, *supra* note 2; *see* Justin Levitt, *Confronting the Impact of* Citizens United, 29 YALE L. & POL'Y REV. 217 (2010); Michael S. Kang, *After* Citizens United, 44 IND. L. REV. 243 (2010). The Center for Political Accountability submitted the only amicus brief in the case that dealt with the issue of campaign finance disclosure. *See* Supplemental Brief of the Center for Political Accountability and the Carol and Lawrence Zicklin Center for Business Ethics Research at the Wharton School as Amici Curiae in Support of Appellee, Citizens United v. Fed. Election Comm'n, 558 U.S. 310 (2010) (No. 08-205).

40. Case Comment, Citizens United v. FEC*: Corporate Political Speech*, 124 HARV. L. REV. 75 (2010).

The decision was met with fierce dissent, with Justice John Paul Stevens warning that it would undermine public confidence in democracy and give disproportionate influence to wealthy corporate interests.[41] Critics argue that *Citizens United* has led to the rise of "dark money," as corporations can now funnel funds through opaque nonprofit organizations that are not required to disclose their donors.[42]

Despite ongoing calls for campaign finance reform, efforts to overturn *Citizens United*—whether through legislation or constitutional amendment—have largely failed.[43]

C. *Evolution of the Role of Third-Party Groups in Corporate Political Spending*

As legislative and judicial changes shaped corporate political spending over the decades, corporations adapted by shifting their strategies. Rather than making direct contributions to candidates, they increasingly turned to third-party organizations—such as Political Action Committees (PACs), Super PACs, 501(c)(4) social welfare organizations, trade associations, and 527 groups—to influence elections while maintaining plausible deniability and reducing direct accountability. These entities have become essential tools for corporate political engagement, enabling companies to navigate campaign finance restrictions while continuing to exert significant influence over electoral and policy outcomes.

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41. *Citizens United v. FEC*, 558 U.S. 310 (2010) (Stevens, J., concurring in part and dissenting in part).

42. For an example of this criticism from legal literature, see FLOYD ABRAMS, Citizens United *and Its Critics*, *in* FRIEND OF THE COURT 310 (2013). For an example from nonprofit political advocacy, see Daniel I. Weiner & Tim Lau, Citizens United *Explained*, BRENNAN CTR. FOR JUST. (Jan. 29, 2025), *https://www.brennancenter.org/our-work/research-reports/citizens-united-explained* [https://perma.cc/4ALU-AUCT]. For an example from popular editorials, see Ellen L. Weintraub, *Taking on* Citizens United, N.Y. TIMES: OPINION (Mar. 30, 2016), *https://www.nytimes.com/2016/03/30/opinion/taking-n-citizens-united.html* [https://perma.cc/757S-6SBF]. For an example in congressional proceedings, see *Taking Back Our Democracy: Responding to* Citizens United *and the Rise of Super PACs: Hearing Before the Subcomm. on Const., C.R. & Hum. Rts. of the S. Comm. on the Judiciary*, 112th Cong. 1st Sess. (2012) (Serial No. J–112–89).

43. Ashley Balcerzak, *Study: Most Americans Want to Kill* 'Citizens United' *with Constitutional Amendment*, THE CTR. FOR PUB. INTEGRITY (May 10, 2018), *https://publicintegrity.org/politics/study-most-americans-want-to-kill-citizens-united-with-constitutional-amendment* [https://perma.cc/Q5RE-LXLQ]; Sarah Kleiner, *Democrats Say* 'Citizens United' *Should Die. Here's Why That Won't Happen*, THE CTR. FOR PUB. INTEGRITY (Aug. 31, 2017), *https://publicintegrity.org/politics/democrats-say-citizens-united-should-die-heres-why-that-wont-happen/* [https://perma.cc/2QQN-NQYB].

1. The Emergence of Political Action Committees (PACs) and the Rise of Super PACs and 501(c)(4) Organizations

In response to congressional passage of FECA of 1971 and its 1974 amendments, corporations faced strict limitations on direct contributions to political candidates. To continue influencing elections, businesses turned to Political Action Committees (PACs) that allowed corporate employees and executives to pool their funds and contribute within legal limits. Unlike direct corporate contributions, which were prohibited under the Tillman Act, PACs provided a legal means for corporations to support candidates aligned with their interests.[44]

PACs became a significant force in campaign finance, enabling corporations to strategically allocate funds to candidates who supported favorable policies. By channeling contributions through PACs, companies gained access to lawmakers while maintaining a degree of transparency.[45] However, critics argued that PACs fostered a system in which corporate money continued to play a dominant role in politics, exacerbating concerns about regulatory capture and the erosion of democratic accountability.[46] The passage of the BCRA in 2002 sought to address some of these concerns by restricting the use of soft money by Leadership PACs and limiting corporate-funded electioneering communications, but the law did little to curb corporate influence overall.[47] Instead, it spurred corporations to seek alternative vehicles for political spending, leading to the rise of Super PACs and dark money organizations.[48]

The Supreme Court's 2010 ruling in *Citizens United* ushered in a new era of corporate political spending by striking down restrictions on independent expenditures.[49] In the wake of this decision, two primary third-party entities—Super PACs and 501(c)(4) organizations—emerged as dominant forces in corporate influence over elections.[50]

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44. 11 C.F.R. § 114.5 (2024).

45. Andres*, supra* note 34.

46. Thomas J. Dean, Maria Vryza & Gerald E. Fryxell, *Do Corporate PACs Restrict Competition?: An Empirical Examination of Industry PAC Contributions and Entry*, 37 BUS. & SOC'Y 135 (1998); Edwin M. Epstein, *The PAC Phenomenon: An Overview*, 22 ARIZ. L. REV. 355 (1980).

47. CTR. FOR POL. ACCOUNTABILITY, THE GREEN CANARY: ALERTING SHAREHOLDERS AND PROTECTING THEIR INVESTMENTS 22-24 (2022).

48. HENRIK M. SCHATZINGER & STEVEN E. MARTIN, GAME CHANGERS: HOW DARK MONEY AND SUPER PACS ARE TRANSFORMING U.S. CAMPAIGNS (2020).

49. Case Comment, *supra* note 40.

50. While the decision in *Citizens United* did not directly affect the funding of 527 organizations, certain of these groups, and, in particular, the Republican State Leadership Committee (RSLC) saw a spike in funding between 2008 and 2012 because of the

Super PACs, unlike traditional PACs, are permitted to raise and spend unlimited amounts from corporations, unions, and individuals, provided they do not coordinate directly with candidates. This decision opened the floodgates for corporate-funded political advertising, allowing businesses to finance attack ads, issue-based messaging, and other forms of political advocacy without restriction. In the 2012 presidential election, the first major race following *Citizens United*, Super PACs collectively spent more than $600 million, with a significant portion originating from corporate donors.[51]

At the same time, corporations increasingly turned to 501(c)(4) social welfare organizations to funnel political spending while avoiding public scrutiny. Unlike Super PACs, which must disclose their donors, 501(c)(4) groups are not required to reveal their funding sources, making them a preferred vehicle for corporations seeking to influence elections anonymously. These organizations have been used to fund issue advocacy campaigns that indirectly benefit candidates, further blurring the lines between corporate political influence and electoral integrity.[52] The rise of so-called "dark money" has raised serious concerns about transparency, as it allows corporations to shape policy outcomes without public accountability.[53]

2. The Growing Role of 527 Groups and State-Level Influence

While Super PACs and 501(c)(4) organizations dominate federal elections, corporations have also expanded their influence in state politics through 527 groups—tax-exempt political organizations that engage in issue advocacy without direct coordination with candidates. Unlike 501(c)(4) groups, 527 organizations must disclose their donors, but they remain a key tool for corporate influence, particularly in state legislative, gubernatorial, attorneys general, and, more recently, state supreme court races.

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implementation of Project RedMap, discussed in more detail below. For more information, see DAVID DALEY, RATF**KED: THE TRUE STORY BEHIND THE SECRET PLAN TO STEAL AMERICA'S DEMOCRACY 4-6 (2016).

51. Michael S. Kang, *The Year of the Super PAC*, 81 GEO. WASH. L. REV. 1902, 1914 (2013).

52. CTR. FOR POL. ACCOUNTABILITY, 2024 CPA-ZICKLIN INDEX OF CORPORATE POLITICAL DISCLOSURE AND ACCOUNTABILITY 27 (2024).

53. S. Douglas Beets & Mary G. Beets, *An Absence of Transparency: The Charitable and Political Contributions of US Corporations*, 155 J. BUS. ETHICS 1101 (2019); Bryan Dewan, *What Is Dark Money?*, CAMPAIGN LEGAL CTR. (May 9, 2022), https://campaignlegal.org/update/what-dark-money [https://perma.cc/8HW2-CCF9].

Since 2010, six of the most influential 527 organizations—the Republican Governors Association, Democratic Governors Association, Republican Attorneys General Association, Democratic Attorneys General Association, Republican State Leadership Committee, and Democratic Legislative Campaign Committee—have raised approximately $2.75 billion.[54] Public companies and their trade associations are the dominant category of donors to these groups, having more than $1.1 billion since 2010, nearly 41% of their fundraising total.[55] Roughly 63% ($700 million) of that amount went to Republican groups, while Democratic groups received 37% ($420 million).[56]

One of the most notable examples of corporate-backed 527 influence was Project RedMap, a Republican-led initiative in the 2010 election cycle that targeted state legislatures to reshape state legislative and congressional district maps through partisan gerrymandering.[57] Funded by corporate donors and conservative-leaning groups, Project RedMap successfully secured Republican control of multiple state legislatures, enabling the redrawing of congressional districts to entrench partisan advantages. The long-term impact of this effort was profound, influencing the composition of Congress for more than a decade and illustrating the extent to which corporate-funded third-party groups can shape electoral outcomes beyond the federal level.[58]

The success of initiatives like Project RedMap underscores how corporations have diversified their political spending strategies.[59] By leveraging third-party groups, they have been able to influence not only high-profile federal elections but also down-ballot races, judicial elections, and legislative redistricting efforts, often with greater long-term impact.

As third-party spending has expanded, corporations have increasingly

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54. CTR. FOR POL. ACCOUNTABILITY, CORPORATE CASH & STATE CAPITALS (2025).
55. *Id.*
56. *Id.*
57. DALEY, *supra* note 50.
58. CTR. FOR POL. ACCOUNTABILITY, CORPORATE UNDERWRITERS AND THE DEMOCRACY GAP 21 (2023).
59. In the Foreword to *Conflicted Consequences*, Jacob S. Hacker & Paul Pierson write:

> For corporations pursuing agendas they do not want scrutinized, this type of spending has three big advantages over traditional political spending: it is less likely to attract attention than PAC contributions that go directly from firms to candidates; it is effectively "laundered" by running through the 527 organization so the donor can duck accountability for specific uses of the money; and it allows the resources of many companies to be pooled to achieve maximum impact.

CTR. FOR POL. ACCOUNTABILITY, *supra* note 7, at 2.

relied on indirect political influence rather than direct contributions. The shift toward Super PACs, dark money groups, and 527 organizations reflects a broader corporate strategy to maximize political impact while minimizing regulatory and reputational risks. By channeling funds through third-party entities, corporations can exert influence over electoral outcomes without facing direct scrutiny from consumers, regulators, or shareholders.[60]

At the same time, corporations have increasingly targeted state and local elections, recognizing that legislative battles over tax policy, labor laws, environmental regulations, and other business-related issues often play out at the state level. While federal elections attract the most public attention, corporations have strategically invested in state-level races to shape policy landscapes in ways that align with their business interests.[61]

3. The Profound Effect of Third-Party Groups

The rise of third-party groups has fundamentally transformed corporate political spending.[62] Whereas PACs once served as the primary vehicle for corporate contributions, the post-*Citizens United* era has ushered in a dramatic shift toward Super PACs, 501(c)(4) groups, and 527 organizations, allowing corporations to exert unprecedented influence over elections and policy outcomes.[63] The increasing reliance on dark money and independent expenditures has raised significant concerns about transparency, risk, accountability, and the integrity of democratic processes.

As corporate spending continues to shape electoral and policy landscapes, ongoing debates over campaign finance reform, disclosure requirements, and regulatory oversight will determine the future balance between corporate interests and democratic governance. The evolution of corporate political spending reflects a broader tension between economic power and political accountability, raising critical questions about the role of money in American democracy.

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60. Amanda Shanor, Mary-Hunter McDonnell & Timothy Werner, *Corporate Political Power: The Politics of Reputation & Traceability*, 71 EMORY L.J. 153 (2021).

61. CTR. FOR POL. ACCOUNTABILITY, CORPORATE UNDERWRITERS: WHERE THE RUBBER HITS THE ROAD (2024).

62. *See* SCHATZINGER & MARTIN, *supra* note 48; Kang, *supra* note 51.

63. Shanor, McDonnell & Werner, *supra* note 60.

D. *Impact of These Decisions on Corporate Political Activities*

The landmark Supreme Court decisions and evolving campaign finance laws over the past century have had profound effects on the landscape of corporate political spending. Key rulings, such as *Citizens United* and *First National Bank of Boston v. Bellotti*, have significantly expanded the role of corporations in American politics, enabling them to exercise significant influence over electoral and policy outcomes.[64] These decisions, along with their legal and regulatory ramifications, have spurred a surge in corporate political activity—further amplified by the emergence of third-party organizations and the loosening of restrictions on campaign expenditures.

This section explores the expansion of corporate influence in electoral politics, its impact on policy outcomes and public perception, and the push for reform in response to growing concerns about the role of money in politics. The increasing presence of corporate money in political campaigns has notable implications for policymaking. Corporate donations and expenditures have enabled companies to push for favorable legislative outcomes, secure regulatory advantages, and shape the broader policy agenda to serve their business interests.[65] For example, corporate-backed Super PACs and PACs have financed candidates who support pro-business agendas, including tax cuts, deregulation, and market-oriented policies. These political contributions help influence lawmakers' legislative priorities, often incentivizing them to enact policies that align with the interests of their corporate donors.[66]

Moreover, corporate-backed political spending has contributed to the influence of money over policymaking, leading to an erosion of public trust in democratic institutions.[67] The widespread presence of corporate money in elections has raised doubts about the integrity of the political process,

64. ANN SOUTHWORTH, BIG MONEY UNLEASHED: THE CAMPAIGN TO DEREGULATE ELECTION SPENDING 1–26 (2023).

65. *Supra* note 10.

66. For an example from the cryptocurrency industry, see BENJAMIN SCHAFFZIN & JEANNE HANNA, CTR. FOR POL. ACCOUNTABILITY, RISKY RETURN: THE TRUE PRICE OF CRYPTO'S POLITICAL SPENDING SPREE 10–12 (2025).

67. Jonathan Mendilow & Michael Brogan, *Perceptions of Corruption and Trust in the Government in the United States*, *in* CORRUPTION AND GOVERNMENTAL LEGITIMACY: A TWENTY-FIRST CENTURY PERSPECTIVE 59–92 (Jonathan Mendilow & Ilan Peleg eds., 2016); Manuel Villoria & Fernando Jimenez, *Exploring Citizens' Perceptions of Political Finance and Political Corruption: Lifting the Lid on Legal Corruption in Spain*, *in* CORRUPTION AND GOVERNMENTAL LEGITIMACY: A TWENTY-FIRST CENTURY PERSPECTIVE 93–120 (Jonathan Mendilow & Ilan Peleg eds., 2016).

with many citizens believing that elected officials are more responsive to the interests of corporations and wealthy donors than to the needs of average voters.[68] Polling data consistently shows that voters perceive the influence of money in politics as a major problem, with a majority of Americans expressing concern that corporate donations undermine the principle of political equality.[69]

At the same time, this increased corporate influence has also contributed to a broader public backlash against the role of money in politics. The rise of grassroots movements advocating for campaign finance reform reflects a growing recognition of the risks posed by unchecked corporate spending in elections.[70] In recent years, calls for greater transparency, limits on corporate political spending, and a return to more robust public financing of elections have intensified—particularly in response to high-profile campaigns funded by corporate interests.[71]

The growing concerns over the influence of corporate money in politics have led to calls for reform and efforts to rein in corporate political spending.[72] While the passage of the BCRA in 2002 was a step toward limiting the role of soft money in campaigns, subsequent Supreme Court rulings—most notably *Citizens United*—have undone many of the regulatory gains made by BCRA. As a result, reform advocates have increasingly turned to new proposals aimed at curbing corporate influence

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68. Taylor Giorno, *Nearly Two-Thirds of Americans Say Reducing Influence of Political Spending Is a Top Priority: Poll*, THE HILL (Mar. 1, 2024, at 11:13 ET), https://thehill.com/business/4500593-nearly-two-thirds-of-americans-say-reducing-influence-of-political-spending-is-a-top-priority-poll/ [https://perma.cc/7JBZ-ARJU]; *Drowning Out Democracy*, 137 HARV. L. REV. 2386 (2024).

69. PEW RSCH. CTR., *Money, Power, and the Influence of Ordinary People in American Politics*, *in* AMERICANS' DISMAL VIEWS OF THE NATION'S POLITICS 46 (2023).

70. Peter Overby, *Once Ruled By Washington Insiders, Campaign Finance Reform Goes Grass Roots*, NPR (Apr. 4, 2016, at 16:28 ET), https://www.npr.org/2016/04/04/473005036/once-ruled-by-washington-insiders-campaign-finance-reform-goes-grassroots [https://perma.cc/46DN-GN6F]; Robert Yablon, *Campaign Finance Reform Without Law*, 103 IOWA L. REV. 185 (2017).

71. *New Survey: Voters View the Influence of Money in Politics as a Threat to Democracy, Want Constitutional Amendment to Limit Spending*, AM. PROMISE (Oct. 30, 2024), https://americanpromise.net/new-survey-voters-want-constitutional-amendment-to-limit-spending/ [https://perma.cc/8XPA-MEKV].

72. Simon Lewis, *Democratic Contender Bernie Sanders Vows to Eject Money from U.S. Elections*, REUTERS (Oct. 7, 2019, at 10:03 ET), *https://www.reuters.com/article/us-usa-election-sanders/democratic-contender-bernie-sanders-vows-to-eject-money-from-us-elections-idUSKBN1WM0Y9/* [https://perma.cc/9MNQ-YH76]; Zoe Stern, *Putting a Stop to Corporate Political Spending*, REGUL. REV. (Jan. 19, 2023), https://www.theregreview.org/2023/01/19/stern-putting-a-stop-to-corporate-political-spending/ [https://perma.cc/H8HB-SXN5].

over elections and restoring public trust in the electoral process.

One of the most prominent reform proposals is the Disclose Act,[73] which would have required greater transparency in political spending by corporate entities, including the identification of donors who fund Super PACs and other third-party groups.[74] Proponents of campaign finance reform argued that disclosure is a critical step toward ensuring accountability and preventing corporations from using dark money to influence elections without public scrutiny. However, despite repeated attempts to pass the Disclose Act in Congress, it failed to gain enough bipartisan support to pass into law.[75]

In the absence of legislative reforms, some reform advocates are turning to private sector solutions—such as shareholder pressure, corporate social responsibility (CSR) initiatives, and efforts to create voluntary codes of conduct or frameworks for corporate political spending.[76] Shareholder pressure has emerged as a potentially powerful tool, with individual, religious, and socially responsible investors, several public and union pension funds, and institutional shareholders seeking greater disclosure and accountability over how their companies engage in political activities. Many institutional investors argue that political spending should align with long-term shareholder value, rather than short-term political goals, and they are pushing for more rigorous reporting and decision-making and due diligence processes around political contributions.

In addition to CSR, there is growing support for the creation of voluntary codes of conduct or frameworks specifically designed to govern corporate political spending.[77] These codes or frameworks often emphasize transparency, stakeholder involvement, consideration of the broader impact of and risks from a company's political spending, and alignment with corporate governance best practices. By promoting these initiatives, reform advocates hope to foster a culture of accountability within the corporate

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73. DISCLOSE Act of 2023, H.R. 1118, 118th Cong. (2023).

74. Press Release, Sheldon Whitehouse, Whitehouse, Cicilline Reintroduce DISCLOSE Act to End Corrupting Influence of Dark Money in American Democracy (Feb. 17, 2023), https://www.whitehouse.senate.gov/news/release/whitehouse-cicilline-reintroduce-disclose-act-to-end-corrupting-influence-of-dark-money-in-american-democracy/ [https://perma.cc/J5DP-G42T].

75. Amy B. Wang, *Senate Republicans Block Bill to Require Disclosure of 'Dark Money' Donors*, WASH. POST (Sep. 22, 2022), https://www.washingtonpost.com/politics/2022/09/22/senate-republicans-campaign-finance/ [https://perma.cc/FYD6-Y6XU].

76. Overby, *supra* note 70.

77. Lisa Goh, Xuejiao Liu & Albert Tsang, *Voluntary Disclosure of Corporate Political Spending*, 61 J. CORP. FIN. 101403 (2020).

sector, where companies take proactive steps to avoid conflicts of interest, risk, and undue influence in the political process.

Ultimately, as noted earlier, we see today's constraint on corporate political spending as a function of incentivized self-regulatory efforts—efforts that substitute for failed public regulation or PFPO. Successful PFPO initiatives perfect a nuanced balance between and among concerns with transparency, authenticity, strategic utility, ethics, integrity, good governance, and bottom line challenges. Businesses are more carefully weighing the benefits and risks of political engagement, taking actions that align with financial interests, considering competitors' best practices, and expectations of an increasingly informed and engaged public. These considerations run parallel with explanations for the significant shift in private sector spending on compliance, all in the absence of more formal social controls. This results in some remarkable if not dramatic facts, e.g., there are more audit, legal, compliance, and governance personnel in the private sector ("Fortress Professionals") than municipal police in the United States, and the costs of this kind of private policing now, on average, may exceed twenty percent of many Fortune 500 annual budgets.[78] In short, the private sector does much of the regulatory heavy lifting, especially in periods of significant deregulation.

The key decisions in the history of corporate political spending, from *Tillman* to *Citizens United*, dramatically reshaped the landscape of American electoral politics resulting in PFPO. Corporate money has expanded into every aspect of the electoral process, from federal elections to state-level races, with major implications for policy outcomes, public perception of the political system, and risks facing companies. The ongoing debates over campaign finance reform reflect a deep concern about the growing dominance of corporate interests in politics and the significant risks these issues pose to companies. The following sections explore the nature of those risks in greater detail.

II. LEGAL RISKS OF POLITICAL SPENDING

Corporate political spending presents significant legal risks, given the complex and evolving landscape of campaign finance laws and regulations. These risks, if not managed effectively, can lead to severe penalties, regulatory scrutiny, and reputational harm. This section outlines the key legal risks corporations face when engaging in political spending, with a

78. William S. Laufer, *A Very Special Regulatory Milestone*, 20 U. PA. J. BUS. L. 392 (2018) (highlighting the trend towards fortress professionals assuming a self-regulatory role in the absence of public authorities).

particular focus on compliance challenges, potential penalties for violations, and cases illustrating the consequences of failure to adhere to the law.

A. Campaign Finance Laws and Regulations

Campaign finance laws in the United States regulate the ways in which corporations can contribute to political campaigns, support candidates, and engage in political speech. These laws exist to prevent corruption and undue influence over elected officials while balancing the need for political engagement. However, the application of these laws has become increasingly complex as corporations have sought ways to navigate and influence political landscapes. The Federal Election Campaign Act remains the cornerstone of campaign finance law in the United States.[79] It regulates the contributions that corporations can make to federal political campaigns. Under FECA, corporations are prohibited from making direct contributions to political candidates, political parties, or PACs. Instead, corporations can only contribute through corporate PACs, which collect voluntary contributions from employees and use them to fund political candidates or causes.[80] However, corporations are allowed to engage in independent expenditures, meaning they can spend unlimited amounts of money on political communications that advocate for or against candidates, as long as they do so independently and without coordination with any candidate or political party.[81] While the corporate PAC system offers a regulated pathway for political contributions, the expansion of independent expenditures post-*Citizens United* has significantly altered the playing field.

In addition to federal regulations, corporations must also navigate the diverse, complex, and sometimes conflicting campaign finance laws in individual states. While many states follow similar frameworks to the federal government, each state has its own specific rules governing corporate contributions. Some states impose stricter limits on corporate contributions to state and local candidates, while others allow more latitude.[82] Corporations that operate across multiple states face additional

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79. James E. Trainor, III, Comm'r, Fed. Election Comm'n, Testimony Before the House Judiciary Committee, U.S. House of Representatives (June 13, 2024).

80. 11 C.F.R. § 114.5 (2024).

81. 11 C.F.R. § 114.10 (2024).

82.

> Twenty-three states completely prohibit corporations from contributing to political campaigns. Another five—Alabama, Nebraska, Oregon, Utah and

challenges in ensuring compliance with a patchwork of regulations. Failing to adhere to state-specific contribution limits, reporting requirements, or restrictions on corporate donations can result in penalties and legal action.[83]

B. *Compliance Challenges for Corporations*

Determining whether compliance programs are effective remains an unsettled matter of both law and evaluation science.[84] Conflicting regulations across states add further complexity to an already significant compliance challenge. While federal law provides a baseline for campaign finance rules, states have their own laws regarding corporate contributions to political campaigns. These laws can vary widely in terms of contribution limits, reporting requirements, and permissible forms of political engagement. A corporation that is involved in political spending in multiple states must stay abreast of these variations to avoid costly errors.[85]

For example, a corporation that contributes to a federal Super PAC may also be engaged in making contributions to state-level candidates or committees in several different states. In doing so, the corporation must ensure that each contribution complies with the specific regulations of each state. The difficulty of tracking these variations increases the risk of

> Virginia—allow corporations to contribute an unlimited amount of money to state campaigns. Of the remaining 22 states, 18 impose the same restrictions on corporation contributions as they do for individual contributions. The other four set different limits.

Campaign Contribution Limits: Overview, NAT'L CONF. OF STATE LEGISLATURES (July 9, 2025), *https://www.ncsl.org/elections-and-campaigns/campaign-contribution-limits-overview* [https://perma.cc/T35R-8WFB].

83. For a state-by-state breakdown of civil penalties for campaign finance violations, see *Registration and Reporting Processes*, NAT'L CONF. OF STATE LEGISLATURES (July 22, 2022), *https://www.ncsl.org/elections-and-campaigns/registration-and-reporting-processes* [https://perma.cc/JG8S-PUZS].

84. William S. Laufer, *The Missing Account of Progressive Corporate Criminal Law*, 14 N.Y.U. J.L. & BUS. 71 (2017) (bemoaning the absence of evidenced-based research on effectiveness).

85. The National Conference of State Legislatures keeps a record of all state limits on contributions to candidates and the applicable laws. NAT'L CONF. OF STATE LEGISLATURES, STATE LIMITS ON CONTRIBUTIONS TO CANDIDATES: 2023–2024 ELECTION CYCLE (2023), *https://documents.ncsl.org/wwwncsl/Elections/Contribution-Limits-to-Candidates-2023-2024.pdf* [https://perma.cc/L3YH-UUCD]. The same organization keeps data on state laws governing regulations and disclosure requirements for independent expenditures, including those made by corporations. *Independent Expenditure Disclosure Requirements*, NAT'L CONF. OF STATE LEGISLATURES (July 22, 2022), *https://www.ncsl.org/elections-and-campaigns/independent-expenditure-disclosure-requirements* [https://perma.cc/X5NP-KLMU].

inadvertent violations, which can result in significant penalties.

Consider that Meta Platforms, Inc., was found to have violated campaign finance laws in Washington state, leading to a fine of $24.6 million, the largest campaign finance violation penalty in US history.[86] The maximum fine was leveled in 2022 after the state attorney general sued the company for more than 800 violations committed in 2020. The fine was upheld on appeal in December 2024.[87]

As the *Citizens United* decision allowed corporations to make unlimited independent expenditures, many corporations increasingly turned to third-party organizations like Super PACs, 501(c)(4) groups, 527 committees, and other politically active nonprofit organizations to channel their political spending. These third-party groups offer corporations the ability to engage in political advocacy without directly contributing to candidates or political parties.

These entities, however, often operate under different legal frameworks. For instance, Super PACs can raise and spend unlimited funds but cannot coordinate directly with candidates or political campaigns. 501(c)(4) organizations, which are social welfare organizations, can also engage in political activities, but they are not required to disclose their donors, leading to concerns over transparency and accountability.

Corporations that contribute to these third-party groups face challenges in ensuring that their donations comply with both legal requirements and internal policies.[88] The lack of transparency in the funding of some of these groups can also raise compliance risks, particularly if the corporations are found to be indirectly coordinating with candidates or violating disclosure rules. Corporations that engage in political spending are subject to audits and scrutiny by regulatory bodies, including the FEC, state election commissions, and other oversight agencies.[89]

Corporations that fail to comply with these laws risk being subject to

86. Caitlyn Freeman, *Meta Loses Appeal, Must Pay $24.6M for WA Campaign Finance Violations*, SEATTLE TIMES (Dec. 2, 2024, at 20:51 ET), *https://www.seattletimes.com/seattle-news/meta-loses-appeal-must-pay-24-6m-for-wa-campaign-finance-violations/* [https://perma.cc/L2U4-5RCU].

87. *Id.*

88. Michael Hadani, *See You in Court? The (Un)Intended Legal Consequences of Corporate Political Connections*, 129 BUS. & SOC'Y REV. 450 (2024).

89. For discussion of oversight and regulation from state election bodies, see Ellen C. Seljan, Todd Lochner, Maya Gold & Walker Davis, *I Know What You Did Last Cycle: Improving the Detection of State Campaign Finance Violations*, 15 ELECTION L.J. 197 (2016).

investigations, fines, and other penalties.[90] The FEC, for example, can impose civil fines for violations of campaign finance laws, such as failing to disclose contributions or exceeding contribution limits. In some cases, violations may even result in criminal charges.[91] Given the potential for regulatory oversight, corporations must have strong internal controls and compliance mechanisms in place to mitigate the risk of violations.

C. Potential Penalties for Violations

The most common consequence for violating campaign finance laws is the imposition of civil penalties. The FEC, state election agencies, and other regulatory bodies can impose fines for various violations, such as exceeding contribution limits, failing to file required reports, or making unreported contributions.[92] The severity of the penalty depends on the specific nature of the violation, as well as whether the violation was intentional or accidental.

In more extreme cases, violations of campaign finance laws can lead to criminal penalties.[93] For instance, if a corporation is found to have knowingly violated the law, such as by engaging in fraudulent activity or coordinating directly with a candidate in violation of the law, it may be subject to entity prosecution. Criminal penalties may include significant fines with both entity and non-entity prosecutions.[94] Imprisonment for company employees or representatives involved in the violation is also possible.

Beyond financial penalties, violations of campaign finance laws can lead to significant reputational damage. Regulatory scrutiny, media coverage, and shareholder concerns about the legality of a corporation's political spending can undermine public trust in the company. This

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90. For a list of penalties assessed by the FEC, see FED. ELECTION COMM'N, SELECTED CASES IN WHICH THE CIVIL PENALTIES ARE $50,000 OR GREATER MADE PUBLIC BETWEEN 1980 AND PRESENT (2025), *https://www.fec.gov/resources/cms-content/documents/Civil_Penalties_50k.pdf* [https://perma.cc/RD3G-4XPR].

91. *E.g.*, Drew Scofield & Morgan Trau, *Two Former FirstEnergy Execs Indicted on Federal Racketeering Charges*, OHIO CAP. J. (Jan. 20, 2025, at 11:59 ET), *https://ohiocapitaljournal.com/briefs/two-former-firstenergy-execs-indicted-on-federal-racketeering-charges/* [https://perma.cc/6SLG-2NLP].

92. Seljan et al., *supra* note 89.

93. People v. Trump, Indictment No. IND-71543-23 (N.Y. Sup. Ct. filed Mar. 30, 2023); United States v. D'Souza, No. 14-cr-00034 (S.D.N.Y. 2014); United States v. Edwards, No. 1:11-cr-00161 (M.D.N.C. 2011).

94. Mihailis E. Diamantis & William S. Laufer, *Prosecution and Punishment of Corporate Criminality*, 15 ANN. REV. L. & SOC. SCI. 453 (2019) (describing "parallel" prosecutions).

reputational damage can have far-reaching consequences, particularly if the violation is high-profile or reflects poorly on the corporation's governance and ethics.

1. Case Study: FirstEnergy Corp.

A prominent example of the legal risks associated with corporate political spending is the case of FirstEnergy, a major energy company based in Ohio. In recent years, FirstEnergy became embroiled in a legal scandal related to its political spending. The company was accused of funneling money through a dark money group to influence Ohio's state legislature, including funding efforts to pass a controversial bailout for nuclear plants owned by the company.[95]

The legal fallout from the scandal was significant, leading to investigations by the FBI, the U.S. Department of Justice, and the Ohio Attorney General. In 2021, FirstEnergy agreed to pay $230 million in a settlement to resolve charges that it had engaged in illegal lobbying and political contributions.[96] The scandal also resulted in the replacement of FirstEnergy's C-suite and board of directors, further destabilizing the company. The resulting turmoil significantly impacted FirstEnergy's stock price, illustrating the broader financial risks tied to unethical corporate political spending practices.[97] The case serves as a stark reminder of the legal risks associated with corporate political spending, particularly when companies attempt to circumvent disclosure laws or engage in unethical practices.

D. Looking Beyond Legal Risks

While legal risks associated with corporate political spending are significant and can lead to costly penalties, reputational damage, and regulatory scrutiny, they represent only the tip of the iceberg. The true complexities of corporate political engagement extend far beyond the realm of compliance with campaign finance laws. Reputational risks, financial

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95. "*A Cycle of Corruption": A Timeline of the Householder/HB6 Scandal*, COMMON CAUSE OHIO (July 28, 2025), *https://www.commoncause.org/ohio/resources/a-cycle-of-corruption-a-timeline-of-the-householder-hb6-scandal/* [https://perma.cc/DV82-F6MP].

96. Scofield & Trau, *supra* note 91.

97. Jim Mackinnon, *FirstEnergy Corp. Debt Downgraded Over Disclosures Tied to Householder Bribery Scandal*, AKRON BEACON J. (Nov. 25, 2020, at 16:11 ET), *https://www.beaconjournal.com/story/business/2020/11/25/firstenergy-debt-downgraded-and-stock-price-falls/6425080002/* [https://perma.cc/7UEY-49KC].

risks, and ethical governance concerns can have an even more profound and lasting impact on a corporation's bottom line, public image, and long-term viability.

Legal violations, while important to address, often serve as a warning sign of deeper challenges. As demonstrated by case studies like FirstEnergy, the legal ramifications of political spending can trigger broader reputational crises, eroding consumer trust and shareholder value. In the current business landscape, consumers, employees, and investors are increasingly holding corporations accountable for their political spending practices. The financial impact of a poorly managed political strategy can far outweigh the immediate legal penalties, affecting everything from stock prices to customer loyalty.[98] Moreover, the ethical and governance risks tied to political spending can undermine corporate integrity, leading to internal conflicts and a lack of accountability. As corporations face mounting pressure to balance profit motives with social responsibility, the governance of political contributions is emerging as a key determinant of their long-term success. In this context, legal risks, while important, must be viewed within a larger framework of risk management that considers reputational, financial, and ethical challenges.

Therefore, the real challenge for corporations is not merely avoiding legal pitfalls but developing a comprehensive strategy that addresses all dimensions of risk in political spending. By doing so, companies can better align their political engagement with their values, enhance transparency and accountability, and safeguard against the broader risks that threaten both their market position and public trust. As the landscape continues to evolve, the most successful corporations will be those that proactively manage political spending not just as a legal necessity, but as a core component of their broader risk management and corporate governance strategies. The following sections explore the additional, more profound, risks and challenges companies face when engaging to political spending.

III. REPUTATIONAL AND FINANCIAL RISKS OF CORPORATE POLITICAL SPENDING

The reputational and financial risks associated with corporate political spending are deeply intertwined, often amplifying each other in ways that can profoundly affect a company's bottom line as well as relationships with key stakeholders. While legal risks from corporate political contributions

98. John C. Coates IV, *Corporate Politics, Governance, and Value Before and After* Citizens United, 9 J. EMPIRICAL LEGAL STUD. 657 (2012).

are frequently in the spotlight, the risks stemming from the reputational and financial dimensions are of equal, if not greater, importance. In today's business landscape, where transparency and stakeholder expectations are at an all-time high, corporate political spending has the potential to trigger a cascade of negative effects that reach far beyond the political realm.

Stakeholders, including employees, consumers, and investors, are increasingly demanding alignment between corporate political actions and broader societal values.[99] If a company's political contributions are perceived as misaligned with these values, the reputational damage can be severe. This damage is not just a matter of public image. It also translates directly into financial consequences.[100] A loss of consumer trust and employee engagement can result in declining sales, a drop in stock price, and long-term financial instability.[101] The intersection of these two risk factors—reputation and financial performance—creates a volatile environment for companies involved in political spending.

A. Reputational Risks: The Fallout From Political Spending

Public perception plays a significant role in how a corporation's

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99. Subodh Mishra, *Shareholder Resolutions in Review: Political Spending*, HARV. L. SCH. F. ON CORP. GOVERNANCE (July 9, 2022), https://corpgov.law.harvard.edu/2022/07/09/shareholder-resolutions-in-review-political-spending/ [https://perma.cc/3GB9-F9J4]; *Corporate Political Influence*, PROXY PREVIEW, https://www.proxypreview.org/2024/report-blog/social-issues/corporate-political-influence [https://perma.cc/CRG8-B2ZG] (last visited Aug. 12, 2025); Stephanie Dhue & Sharon Epperson, *Most Workers Want Their Employer to Share Their Values–56% Won't Even Consider a Workplace That Doesn't, Survey Finds*, CNBC (July 6, 2022, at 10:58 ET), https://www.cnbc.com/2022/07/01/most-workers-want-their-employer-to-share-their-values.html [https://perma.cc/QK6Z-5QXJ]; *CPA Reports*, CTR. FOR POL. ACCOUNTABILITY, https://www.politicalaccountability.net/cpa-reports/ [https://perma.cc/6MUY-N8XA] (last visited Aug. 12, 2025).

100. Woon Leong Lin, Jo Ann Ho & Murali Sambasivan, *Impact of Corporate Political Activity on the Relationship Between Corporate Social Responsibility and Financial Performance: A Dynamic Panel Data Approach*, 11 SUSTAINABILITY 60 (2019), https://doi.org/10.3390/su11010060 (discussing negative effects of high political expenditures on firms' financial standing when expenditures exposed by activists); Cory J. Clark, Calvin Isch & Azim Shariff, *Why Do Organizations Take Political Stances? A Review of Reasons and Risks*, 18 SOC. & PERSONALITY PSYCH. COMPASS, Issue 7, 2024, at 1 (analyzing the costs of organizational politicization).

101. For broader discussions on the business impact of lost employee engagement and diminished consumer trust, see Jiekun Huang, *The Customer Knows Best: The Investment Value of Consumer Opinions*, 128 J. FIN. ECON. 164 (2018); Spencer Barnes & Yingmei Cheng, *Employee Approval of CEOs and Firm Value: Evidence from Employees' Choice Awards*, 78 J. CORP. FIN. 102341 (2023); V. Kumar & Anita Pansari, *Measuring the Benefits of Employee Engagement*, MIT SLOAN MGMT. REV., June 16, 2015, at 67.

political spending is viewed. When companies make political contributions, particularly to controversial candidates or causes, they risk alienating their key stakeholders—customers, employees, and investors. Increasingly, stakeholders are demanding greater transparency and alignment between corporate values and political actions. When a corporation's political donations are seen as inconsistent with its stated values, public backlash can quickly follow. This can erode consumer loyalty, decrease employee morale, and lead to shareholder discontent.

The growing trend of consumer boycotts and shareholder activism, even before the Tesla backlash,[102] is another indication of how reputational risks from political spending can severely harm a company's brand.[103] Recent polling indicates that approximately 25% of U.S. shoppers have ceased patronizing certain favorite stores due to political disagreements.[104] Additionally, about 40% of Americans have adjusted their spending habits in recent months to align with their moral or political views.[105]

Similarly, employees who feel their company's political positions do not align with their own personal values may feel alienated, leading to higher turnover rates and lower employee satisfaction.[106] Corporations that fail to align their political spending with stakeholder expectations risk tarnishing their reputation, which can have long-lasting effects on customer

102. Bernard Condon, *Tesla Sales Tumble as Musk Backlash, Competition and Aging Lineup Turn Off Buyers*, PBS NEWS (Apr. 2, 2025, at 11:56 ET), *https://www.pbs.org/newshour/economy/tesla-sales-tumble-as-musk-backlash-competition-and-aging-lineup-turn-off-buyers* [https://perma.cc/ME8R-V84R].

103. *Boycotts in America*, IPSOS: DATA DROPS (Apr. 2025), *https://www.ipsos.com/en-us/ipsos-data-drops-americans-say-theyre-boycotting-brands* [https://perma.cc/9J9R-WZGW]; Allie Canal, *Foreign Boycotts Could Register Up to $83 Billion Hit to US GDP in 2025, Goldman Sachs Says*, YAHOO!FINANCE (Apr. 2, 2025), *https://finance.yahoo.com/news/foreign-boycotts-could-register-up-to-83-billion-hit-to-us-gdp-in-2025-goldman-sachs-says-203157185.html* [https://perma.cc/M8ZT-4WVN] (analyzing trends in consumer boycotts); Jim Rossman, *Shareholder Activism Surged in 2024*, BARCLAYS (Jan. 29, 2025), https://www.ib.barclays/our-insights/shareholder-activism-surged-2024.html [https://perma.cc/2CVF-A9JM]; Geeyoung Min & Hye Young You, *Active Firms and Active Shareholders: Corporate Political Activity and Shareholder Proposals*, 48 J. Legal Stud. 81 (2019), https://doi.org/10.1086/700846.

104. Lauren Aratani, *A Quarter of US Shoppers Have Dumped Favorite Stores Over Political Stances*, THE GUARDIAN (Feb. 18, 2025, at 07:00 ET), https://www.theguardian.com/us-news/2025/feb/18/shoppers-political-boycotts-spending-patterns-poll [https://perma.cc/4USF-BY7W].

105. *Id.*

106. Angelo Mendoza, *40% of Gen Z and Millennial Workers Would Quit a Job Over Political Differences in the Workplace*, INDEED: CAREER GUIDE (June 9, 2025), *https://www.indeed.com/career-advice/news/political-differences-workplace* [https://perma.cc/896C-JEQR].

loyalty, employee retention, and market competitiveness.[107]

B. *Financial Risks: The Hidden Costs of Political Spending*

While reputational damage is an obvious risk, the financial risks of corporate political spending can often be more subtle and harder to quantify. However, the economic consequences can be serious. Political spending, when not strategically aligned with corporate interests or stakeholder expectations, can lead to reduced investor confidence, market volatility, and declining stock prices. Shareholders who perceive political spending as self-serving or misaligned with long-term business strategies may challenge company leadership or may vote to divest from the company, leading to potential financial losses.[108]

The relationship between reputational and financial risks is not merely additive. These risks can amplify each other, creating a cycle of escalating consequences. For instance, reputational damage often leads to financial loss, which in turn can lead to further reputational harm as investors and consumers lose confidence in the company. Companies that fail to address both risks simultaneously often find themselves trapped in a self-reinforcing loop of declining public trust and financial instability.[109]

The CPA has long been a pivotal organization in advocating for transparency and accountability in corporate political spending, mindful of the failure of formal regulatory rulemaking. The condition precedent to our work is the notion of PFPO. Over the years, its reports have served as informal rulemaking, insights into the financial, business, and reputational risks that corporations face when they engage in political activities, particularly through political donations to candidates, parties, or third-party groups such as Super PACs, 501(c)(4)s, and political trade associations. Through their research, the CPA has highlighted the many risks companies incur from political contributions, emphasizing the growing importance of aligning political spending with corporate values and public expectations.

107. *See, e.g.*, James R. Bailey & Hillary Phillips, *How Do Consumers Feel When Companies Get Political?*, HARV. BUS. REV.: BUS. & SOC'Y (Feb. 17, 2020), https://hbr.org/2020/02/how-do-consumers-feel-when-companies-get-political [https://perma.cc/W8HZ-JLRC]; David Rosenberg, *Goodwill and the Excesses of Corporate Political Spending*, 11 HASTINGS BUS. L.J. 29 (2015).

108. Min, *supra* note 103; *see* W.C. Bunting, *Against Corporate Activism: Examining the Use of Corporate Speech to Promote Corporate Social Responsibility*, 74 OKLA. L. REV. 245 (2022).

109. Nadine Gatzert, *The Impact of Corporate Reputation and Reputation Damaging Events on Financial Performance: Empirical Evidence from the Literature*, 33 EUR. MGMT. J. 485 (2015).

These reports offer iterative self-regulatory guidance from case studies, data-driven analysis, and actionable recommendations to help businesses manage political risks effectively in light of public regulatory silence.[110]

C. *The CPA Reports: A Closer Look at Reputational and Financial Risks*

1. Collision Course

One of the CPA's flagship reports is Collision Course: The Risks Companies Face When Their Political Spending and Core Values Conflict and How to Address Them ("Collision Course"), which evaluates the political spending practices of the largest U.S. companies. The report examines the intersection of corporate political spending, shareholder interests, and public accountability, drawing attention to the reputational and financial risks that arise when political contributions are made without transparency or alignment with corporate values.[111]

a. Key Findings

- **Lack of Transparency:** A significant finding in *Collision Course* is the persistent lack of transparency in how corporations disclose their political spending.[112] Despite growing public demand for transparency, many companies continue to make substantial political contributions without providing sufficient information on the recipients or objectives of these donations. This lack of transparency breeds suspicion and undermines public trust, which can lead to consumer boycotts, investor discontent, and reputational damage.
- **Reputational Backlash:** The report highlights several high-profile companies that faced backlash after their political donations were revealed to be misaligned with their stakeholders' values. For example, Target and Comcast both faced significant criticism when their contributions to political candidates and third-party groups

110. *CPA Reports*, *supra* note 99.

111. *Collision Course: The Risks Companies Face When Their Political Spending and Core Values Conflict and How to Address Them*, CTR. FOR POL. ACCOUNTABILITY (June 19, 2018) [hereinafter CPA, *Collision Course*], https://politicalaccountability.net/hifi/files/Collision-Course-Report.pdf [https://perma.cc/SQC4-VUJK].

112. *Id*. at 12.

became public. The backlash was particularly intense from civil rights and LGBTQ rights groups and consumers who saw the companies as hypocritical, given their public commitment to both racial equity and LGBTQ equality.[113]

- **Financial Consequences:** In 2025, Target is once again facing significant and potentially costly backlash from consumers. In response to the retraction of the company's Diversity, Equity, and Inclusion policies, boycotts are gaining traction among certain consumer groups.[114] These critics argue that Target's shift undermines its commitment to inclusivity and corporate responsibility.[115] These boycotts could have a significant toll on Target's brand loyalty and sales, with some analysts predicting long-term consequences.[116]

2. Corporate Enablers

The *Corporate Enablers, Who Are the Leading Bankrollers of Voter Suppression Legislation?* Report ("*Corporate Enablers*"), another CPA publication, focuses on identifying the top corporate enablers of political spending—companies that provide significant funding to Super PACs, trade associations, and other third-party political groups that often operate in the shadows of direct political contributions. This report focuses on state officials, elected with the support of corporate-funded third-party groups, who took steps to limit or restrict voting access in several U.S. states.[117]

a. Key Findings

- **Indirect Influence and Reputational Risk:** One of the major concerns raised by the *Corporate Enablers* report is the

113. *Id.* at 9–11.

114. Pamela N. Danziger, *Are Target Boycotts Starting to Take Their Toll?*, FORBES (Mar. 4, 2025, at 16:16 ET), https://www.forbes.com/sites/pamdanziger/2025/03/04/are-target-boycotts-starting-to-take-their-toll/ [https://perma.cc/CLQ4-5P7X].

115. Nathaniel Meyersohn & Eva McKend, *Target Was One of the Most Outspoken Supporters of DEI. It's Changed Its Tune*, CNN (Feb. 3, 2025, at 05:00 ET), *https://www.cnn.com/2025/02/03/business/target-dei-walmart-amazon* [https://perma.cc/NQX4-LYT7].

116. Jesse Klein & CFO Brew, *Target Missed Analysts' Sales Expectations by Nearly Half a Billion Dollars in the Aftermath of DEI-Related Boycotts*, FORTUNE (May 28, 2025, at 14:24 ET), *https://fortune.com/2025/05/28/target-missed-analysts-sales-expectations-dei-boycotts/* [https://perma.cc/GD2E-ETD3].

117. CTR. FOR POL. ACCOUNTABILITY, CORPORATE ENABLERS: WHO ARE THE LEADING BANKROLLERS OF VOTER SUPPRESSION LEGISLATION? (2021).

reputational risk that arises from indirect political spending. Although a corporation may not directly donate to a candidate, its contributions to third-party organizations can still reflect its political preferences. This can lead to similar reputational damage if these third-party groups support controversial candidates or causes. For example, NextEra Energy and AT&T were identified in the report as significant contributors to third-party organizations that funded the election of state politicians in 2018 and 2020. Despite the companies' public support for democracy and voting rights, many of the politicians these companies helped to elect went on to support laws that restrict access to the ballot box.[118]

- **Financial Ramifications of Indirect Spending:** While indirect political contributions may seem to carry less immediate risk, they can still have significant financial consequences. Research shows consumers increasingly taking an interest in corporate values and policy positions, including their political spending, when making choices between brands.[119]

3. Hollow Policies

The *Hollow Policies, When Corporation's Political Spending and Emissions Goals/Policies Conflict* report examines conflicts between companies' environmental policies and the effects of these same companies' political spending during the 2016, 2018, and 2020 political cycles. This spending also had the effect of undermining many companies' own goals to reduce carbon emissions and help stop the environmental damage caused by climate change.[120]

a. Key Findings

- **Serious Misalignment:** Many corporations that publicly support climate action continue to fund political organizations opposing environmental policies, undermining their stated goals.
- **Increased Pressure from Shareholders:**[121] The report also

118. *Id.* at 9.
119. Costas Panagopoulos et al., *Partisan Consumerism: Experimental Tests of Consumer Reactions to Corporate Political Activity*, 82 J. POL. 996 (2020).
120. CTR. FOR POL. ACCOUNTABILITY, HOLLOW POLICIES: WHEN CORPORATIONS' POLITICAL SPENDING AND EMISSIONS GOALS/POLICIES CONFLICT (2022).
121. *Id.* at 8 (discussing activist investors' takeover of the Exxon board to compel a clean energy business plan); *see* Svea Herbst-Bayliss & Jennifer Hiller, *Insight: The Little*

documents an increasing trend of shareholder activism demanding greater accountability from companies regarding their environmental policies and political spending. Shareholders are no longer content with vague promises of responsible political engagement. They are pressing for detailed disclosure and clear alignment between political spending and corporate values. Companies that resist these demands risk losing shareholder support, which can have significant financial implications.

4. Practical Stake

The *Practical Stake, Corporations, Political Spending & Democracy* report by the CPA emphasizes the crucial role corporations play in defending democratic institutions. It argues that businesses have a vested interest in maintaining a stable, transparent, and functioning democracy, as political instability and weakened democratic norms can lead to economic uncertainty, regulatory volatility, and reputational harm.[122] The report stresses that companies must take proactive steps to align their political spending with democratic values and be transparent about their contributions to avoid supporting entities that undermine democracy.[123] This report assumes, as do leading international financial institutions and multi-lateral banks, that the reservoir of governance capacity in the private sector may be easily employed to sustain public regulatory *lacunae*, silence, and even failure.[124]

a. Key Findings

- **Corporate Role in Democracy:** Corporate political spending has often contributed to polarization, disinformation, and voter suppression, contradicting many companies' stated commitments to democratic principles. The report highlights how businesses risk backlash when their contributions support politicians or groups that threaten electoral integrity or democratic norms.[125] Shareholders,

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Engine That Could, and the Oil Giant That Couldn't, REUTERS (May 27, 2021, at 19:58 ET), *https://www.reuters.com/business/sustainable-business/little-engine-that-could-oil-giant-that-couldnt-2021-05-27/* [https://perma.cc/MU2Z-393R].

122. Lund & Strine, *supra* note 5.

123. CTR. FOR POL. ACCOUNTABILITY, PRACTICAL STAKE: CORPORATIONS, POLITICAL SPENDING & DEMOCRACY 5 (2022).

124. *See, e.g.*, William S. Laufer, *The Importance of Cynicism and Humility: Anti-Corruption Partnerships and the Private Sector*, 8 DEV. OUTREACH 18, 18–21 (2006).

125. CTR. FOR POL. ACCOUNTABILITY, *supra* note 123, at 37–38.

employees, and consumers are increasingly pressuring corporations to ensure their political engagement reflects their public commitments to democracy and governance stability.[126]

- **Reputational Damage and Investor Confidence:** Companies that publicly advocate for voting rights, fair elections, and democratic institutions benefit from stronger consumer trust and brand loyalty.[127] Businesses that fail to uphold these values risk public criticism, shareholder activism, and long-term financial consequences.[128] The report calls for greater corporate responsibility in political spending, urging businesses to adopt clear policies that align with democratic principles, publicly disclose their contributions, and engage in efforts to strengthen democracy.[129]

5. Conflicted Consequences

Conflicted Consequences provides a deep dive into the risks associated with corporate political spending, particularly when companies contribute to causes or candidates whose positions conflict with the company's values or public messaging. The report identifies instances where corporations have faced significant reputational and financial damage due to the misalignment of political donations with their public commitments.[130]

a. Key Findings

- **The Disconnect Between Corporate Messaging and Political Spending:** The report underscores the risk companies face when their political donations contradict their public stance on social or environmental issues. When companies contribute to candidates or organizations that do not share their values, they expose themselves to reputational damage and alienate key stakeholders, including customers, employees, and investors[131]. This misalignment can erode consumer trust and lead to a drop in sales

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126. *Id.*
127. *Id.* at 37–40.
128. *Id.*
129. *Id.*
130. CTR. FOR POL. ACCOUNTABILITY, supra note 7, at 6–29.
131. *Id.* at 2.

or market share.[132]

- **Outsized Role of Corporate Money:** Beyond the reputational risks, the report highlights the expansive and often opaque role of corporate money in U.S. politics. It reveals that public companies and their trade associations contributed over $750 million to major 527 political groups from 2009 to 2020, accounting for nearly half of those groups' total fundraising.[133] These funds have supported efforts to influence elections for state legislators, governors, and attorneys general—positions that directly shape regulatory and policy outcomes.

6. The Corporate Underwriters Trilogy

The Corporate Underwriters Trilogy, published by the Center for Political Accountability (CPA), offers crucial insights into the intersection of reputational and financial risks resulting from corporate political spending. By examining how corporate donations to third-party organizations like super PACs, 527 committees, and political action committees (PACs) affect both public perception and financial outcomes, the trilogy highlights the potential consequences companies face when their political contributions are misaligned with stakeholder expectations.[134]

a. Key Findings

1. **Reputational Risks from Misaligned Political Contributions:** Companies that make political donations to candidates or causes that contradict their public values or societal norms expose themselves to significant reputational risks.[135] Public backlash, consumer boycotts, and media scrutiny can erode brand equity and stakeholder trust.[136]
2. **Financial Impact of Reputational Damage:** Reputational harm often translates directly into financial consequences. Companies may experience declines in consumer loyalty, market share, and

132. *Id.* at 6.
133. *Id.*
134. CTR. FOR POL. ACCOUNTABILITY, THE CORPORATE UNDERWRITERS TRILOGY: A THREE-PART SERIES ON THE SCOPE, SCALE, AND IMPACT OF CORPORATE POLITICAL SPENDING 2–4 (2025).
135. *Id.* at 3.
136. *Id.* at 104–12.

investor confidence, which can result in stock price drops and longer-term financial instability.[137] Companies with misaligned political spending can find themselves facing the financial fallout of eroded consumer and investor trust.

3. **Lack of Transparency Increases Both Reputational and Financial Risk:** The trilogy highlights how a lack of transparency in corporate political donations exacerbates reputational and financial risks.[138] A key element of this is tracing the third-party group's use of the company's contribution to the ultimate recipients or consequences it enables.[139] When political contributions are made behind closed doors or without clear communication, stakeholders—including consumers, employees, and investors—may feel alienated, leading to negative publicity and financial repercussions.[140]
4. **A Cycle of Reputational and Financial Damage:** The reports emphasize how reputational damage and financial losses can trigger a feedback loop, amplifying the risks companies face. As public criticism leads to decreased consumer trust and investor confidence, companies may find themselves in a situation where the financial losses perpetuate the reputational harm, creating a vicious cycle that is hard to break.[141]

The Corporate Underwriters Trilogy highlights the profound risks companies face when their political contributions fail to align with their public values or stakeholder expectations. Misaligned political spending not only threatens a company's reputation but also exposes it to significant financial damage.[142] As the case of Home Depot demonstrates, the intersection of reputational and financial risks can create a cycle of harm that compounds over time, with both brand equity and financial performance suffering as a result.[143] Companies that fail to adopt transparent and responsible political spending practices expose themselves to these intersecting risks, underscoring the need for stronger governance, greater transparency, and a strategic alignment between political contributions and corporate values.

The intersection of reputational and financial risks underscores the

137. *Id.* at 3.
138. *Id.* at 3–4.
139. *Id.* at 15.
140. *Id.* at 3.
141. *Id.* at 103.
142. *Id.* at 103.
143. *Id.* at 71.

need for companies to approach political spending with a holistic risk management strategy. By considering the reputational consequences of their political contributions and weighing these against potential financial outcomes, companies can make more informed decisions. Strong governance, transparency, and alignment with stakeholder values are essential to mitigating the complex web of risks that corporate political spending creates. Only by integrating these considerations can companies avoid the damaging consequences that arise when reputational and financial risks collide.

IV. ETHICAL, GOVERNANCE, AND REGULATORY RISKS

A. Internal Decision-Making and Governance Risks

In the realm of corporate political spending, internal decision-making processes play a pivotal role in determining not only the ethical and reputational impact of political contributions but also the company's ability to comply with legal and regulatory frameworks. Governance structures that fail to prioritize transparency, accountability, and informed decision-making can expose corporations to significant risks, both from a regulatory and reputational standpoint.[144] Internal decision-making risks often manifest when political spending decisions are made in silos, without adequate oversight, or when the decision-makers lack a full understanding of the potential long-term impacts of their contributions.[145] This section delves into the critical importance of transparency in political spending decisions, the dangers of fragmented decision-making, the role of shareholders in overseeing political contributions, and the ethical dilemmas surrounding the use of corporate funds for political purposes.

Transparency is the cornerstone of good governance, particularly when it comes to corporate political contributions. Without transparency, stakeholders—be they shareholders, employees, customers, or the public—are left in the dark regarding the motivations and justifications behind a

144. Gábor Szalay, *The Impact of the Lack of Transparency on Corporate Governance: A Practical Example*, 1 CORP. L. & GOVERNANCE REV., no. 2, 2019, at 21, 21–28; Maya Forstater, *Beneficial Openness? Weighing the Costs and Benefits of Financial Transparency* 5 (Christian Michelsen Inst., Working Paper No. 3, 2017).

145. *See* Aishat Jeleel-Ojuade, The Role of Information Silos: An Analysis of How the Categorization of Information Creates Silos Within Financial Institutions, Hindering Effective Communication and Collaboration 4–6 (July 10, 2024) (unpublished manuscript) (available at SSRN), https://dx.doi.org/10.2139/ssrn.4881342 (identifying key risks due to information silos in companies).

company's political spending decisions.[146] This lack of transparency can breed mistrust and alienate key stakeholder groups who expect companies to align their political actions with their publicly stated values and social responsibilities.[147] It can also undermine the due diligence that is even more important for management and boards to conduct today on their company's political spending.[148]

Clear, transparent procedures for political contributions enable stakeholders to evaluate whether a company's political donations are made with integrity and in accordance with its corporate mission. Transparency also helps ensure that the company's political activities do not contradict its values or harm its reputation in the eyes of its stakeholders.[149] Companies can mitigate the risks of reputational damage and public backlash by proactively disclosing political spending and providing a clear rationale for their decisions.[150]

A best practice in this area is the development and implementation of written policies that detail the criteria and procedures for political contributions.[151] These policies should cover who in the organization is responsible for approving political donations, what types of contributions are permissible, and how contributions align with the company's broader social and political values.[152] Furthermore, making these policies publicly accessible allows stakeholders to scrutinize the company's commitment to ethical corporate behavior, helping to safeguard against accusations of undue political influence or hypocrisy.[153]

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146. Patricia L. Nemetz, *The Good, the Bad, and the Ugly of Corporate Personhood and Corporate Political Spending: Implications for Shareholders*, 121 BUS. & SOC'Y REV. 569 (2016).

147. *See, e.g.*, sources cited *supra* note 103.

148. Jeanne Hanna, Bruce Freed & Karl Sandstrom, *Looking Behind the Curtain: Corporate Due Diligence of Political Spending Essential to Protect Companies from Growing Risks*, HARV. L. SCH. F. ON CORP. GOVERNANCE (Apr. 23, 2023), *https://corpgov.law.harvard.edu/2023/04/23/looking-behind-the-curtain-corporate-due-diligence-of-political-spending-essential-to-protect-companies-from-growing-risks/* [https://perma.cc/H4WJ-A3DA].

149. CTR. FOR POL. ACCOUNTABILITY ET AL., CPA-ZICKLIN FRAMEWORK FOR CORPORATE POLITICAL SPENDING 1–2 (2020).

150. CTR. FOR POL. ACCOUNTABILITY, CPA GUIDE TO CORPORATE POLITICAL SPENDING 4–6 (2023).

151. Thomas P. Lyon & Elizabeth Doty, *The ERB Principles for Corporate Political Responsibility*, HARV. L. SCH. F. ON CORP. GOVERNANCE (Apr. 4, 2023), *https://corpgov.law.harvard.edu/2023/04/04/the-erb-principles-for-corporate-political-responsibility/* [https://perma.cc/43FE-QR92].

152. CTR. FOR POL. ACCOUNTABILITY, *supra* note 150, at 4–6.

153. *Id.*; *see* Rob Bauer, Jeroen Derwall & Colin Tissen, Corporate Directors Learn from Environmental Shareholder Engagements 9 (Jan. 21, 2022) (unpublished manuscript)

One of the most significant internal risks in corporate political spending is the knowledge deficit among key decision-makers.[154] As discussed above, political contributions can have far-reaching consequences, not only for a company's reputation but also for its financial stability and legal compliance. However, many companies fail to sufficiently educate their decision-makers on the potential impacts of political spending.[155] For example, finance departments may approve large political donations without considering their effect on the company's public image, while public relations teams may be unaware of the legal restrictions on such contributions, and government relations executives may be overly focused on gaining access to officeholders.

In addition to knowledge deficits, decision-making silos are another major risk.[156] In large organizations, political spending decisions are often made by multiple departments or individuals with insufficient coordination between them.[157] The legal department, for instance, may be unaware of the marketing team's strategy to support a political cause that conflicts with the impact of a company's political spending. This fragmentation of decision-making can lead to inconsistent or poorly thought-out political contributions, potentially damaging the company's reputation or exposing it to legal liability.

To mitigate these risks, companies must prioritize cross-departmental communication and collaboration. By creating a unified approach to political contributions that incorporates legal, financial, and public relations perspectives, companies can ensure that their political spending decisions are well-informed and aligned with the overall strategic objectives.[158] Additionally, training programs for key decision-makers can help bridge the knowledge gap, ensuring that all stakeholders understand the potential

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(available at SSRN), https://dx.doi.org/10.2139/ssrn.3981634.

154. *See* Ulrike Malmendier, *Exposure, Experience, and Expertise: Why Personal Histories Matter in Economics* 1–10 (Nat'l Bureau of Econ. Rsch., Working Paper No. 29336, 2021), *https://doi.org/10.3386/w29336* (discussing the importance of experience in knowledge acquisition and retention).

155. CTR. FOR POL. ACCOUNTABILITY, *supra* note 150, at 7.

156. Jeleel-Ojuade, *supra* note 145, at 4–6; *see* André de Waal, Michael Weaver, Tammy Day & Beatrice van der Heijden, *Silo-Busting: Overcoming the Greatest Threat to Organizational Performance*, SUSTAINABILITY, Dec. 2, 2019, at 1, 3 (discussing the inefficiency of siloed decision-making); Jay A. Conger & Edward E. Lawler, *Addressing the Human Resources Knowledge Gap in Corporate Boardrooms*, 38 PEOPLE & STRATEGY, no. 2, 2015, at 28, 34 (highlighting corporate risks due to a boards' narrow focus on executive compensation and succession).

157. Lucian A. Bebchuk & Robert J. Jackson, Jr., *Corporate Political Speech: Who Decides?*, 124 HARV. L. REV. 83, 87–89 (2010).

158. Lyon & Doty, *supra* note 151.

implications of their political contributions.

The role of shareholders in overseeing corporate political spending is becoming increasingly important as more investors seek to align their financial interests with their ethical beliefs. Shareholders, particularly institutional investors, are increasingly vocal in their demand for transparency and accountability in corporate political activities.[159] These shareholders argue that political spending decisions should be scrutinized carefully, as they can significantly impact the company's financial performance, reputation, and long-term sustainability.[160]

Neglecting to engage with shareholders on the issue of a company's political spending can lead to increased shareholder activism, as investors may seek to challenge the company's political spending policies or even attempt to push for changes in leadership.[161] This underscores the importance of fostering shareholder engagement and ensuring that political spending decisions are made in consultation with those who have a vested interest in the company's long-term success.

B. Findings from a National Shareholder Survey

A recent survey of US shareholders underscores the need for corporations to heed shareholders' desire for more robust oversight and accountability of their political spending practices and their ultimate effects on society. The 2024 National Shareholder Survey, commissioned by the Zicklin Center for Governance & Business Ethics at the Wharton School at the University of Pennsylvania and the Center for Political Accountability, and conducted by Mason-Dixon Polling & Strategy, Inc., interviewed 800 adult investors across the United States. The survey aimed to assess shareholders' perspectives on corporate political contributions and the associated transparency and oversight.[162] The survey revealed several key insights on this topic:

159. Bobo Zhang & Zhou Zhang, *Shining Light on Corporate Political Spending: Evidence from Shareholder Engagements*, INT'L REV. L. & ECON., June 2022, at 1, 11–12, https://doi.org/10.1016/j.irle.2022.106047.

160. Julie N.W. Goodridge & Christine Jantz, *Corporate Political Spending: Why Shareholders Must Weigh In*, J. VALUES-BASED LEADERSHIP, July 2012, at 1, 2.

161. Dan Burch, Bob Marese & Jillian DeMarco, *U.S. Shareholder Activism Review 2024 and a Look Toward 2025*, HARV. L. SCH. F. ON CORP. GOVERNANCE (Mar. 12, 2025), https://corpgov.law.harvard.edu/2025/03/12/u-s-shareholder-activism-review-2024-and-a-look-toward-2025/ [https://perma.cc/4SH8-FM6X].

162. ZICKLIN CTR. FOR GOVERNANCE & BUS. ETHICS & CTR. FOR POL. ACCOUNTABILITY, NATIONAL SHAREHOLDER SURVEY 2–9 (2024).

- **Disclosure Requirements:** A significant majority of shareholders support increased transparency in corporate political spending. Specifically, 94% favor requiring corporations to disclose publicly all political contributions, and 86% support semi-annual disclosures on the company's website.[163] Additionally, 75% advocate for the disclosure of contributions made to trade associations used for political purposes.[164]
- **Board Oversight:** There is strong support for enhanced governance, with 89% of respondents believing that corporate political contributions should require the oversight and approval of the board of directors.[165] Furthermore, 87% think companies should adopt procedures to ensure political contributions are consistent with the company's stated public policies.[166]
- **Confidence in Oversight:** Shareholders express limited confidence in the current oversight of corporate political contributions. Only 4% are very confident that the corporations they invest in have adequate oversight to protect against legal liability and safeguard shareholder value, while 35% are not at all confident.[167]
- **Political Spending Practices:** A majority of shareholders are concerned about corporate political contributions supporting special interest groups unrelated to the company's business. Specifically, 58% find it inappropriate for corporate funds to back groups promoting controversial social agendas unrelated to the corporation's business.[168]
- **Reforms and Accountability:** A substantial portion of shareholders (67%) believe that reforms in corporate political spending are necessary to protect the interests of ordinary public investors.[169] Additionally, 83% would support proxy votes in favor of implementing political spending reforms within the companies in which they hold stock.[170]

These findings indicate a clear demand among shareholders for greater transparency, accountability, and oversight in corporate political

163. *Id.* at 5.
164. *Id.*
165. *Id.* at 7.
166. *Id.*
167. *Id.* at 4.
168. *Id.*
169. *Id.* at 6.
170. *Id.* at 9.

activities to ensure alignment with shareholder interests and corporate values.

C. *External Governance and Regulatory Risks*

While internal decision-making processes are central to mitigating governance risks related to corporate political spending, external governance and regulatory frameworks also play a critical role in shaping corporate behavior.[171] Companies must navigate a complex and ever-evolving landscape of laws, regulations, and public expectations regarding political contributions. The intersection of external regulations, public accountability, and stakeholder interests creates a set of risks that can significantly impact a corporation's ability to engage in political spending without facing legal, financial, or reputational fallout. This section examines the regulatory environment surrounding corporate political contributions, including the challenges of compliance with disclosure requirements, emerging state and federal regulations, and the potential for shareholder activism and public pressure.

As discussed above, the legal landscape for corporate political contributions is shaped by both federal and state regulations, with each jurisdiction imposing its own set of rules governing the disclosure of political spending, the types of contributions allowed, and the mechanisms through which companies can engage in political activities.[172] Federal laws, such as BCRA and FECA, regulate the direct contributions of corporations to federal candidates and political parties and set the framework for the creation of Super PACs and other political action committees.[173]

Since the landmark *Citizens United* decision, corporate political spending has been reshaped by the allowance of unlimited contributions to Super PACs. This decision significantly expanded the scope of corporate involvement in political campaigns, enabling corporations to spend vast sums on political advertisements and other advocacy efforts, raising the stakes in corporate governance.[174] However, this has also triggered concerns about the transparency and accountability of corporate political contributions, particularly in terms of the influence of corporate money on

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171. G. Tyge Payne & Curt Moore, *External Corporate Governance Mechanisms: Linking Forces to Behaviors*, *in* OXFORD RSCH. ENCYC. OF BUS. & MGMT. (2022), https://doi.org/10.1093/acrefore/9780190224851.013.371.
172. *See* sources cited *supra* notes 82, 83, 85, 90.
173. *See* sources cited *supra* notes 33, 36, 37, 44.
174. *See* DWYRE & KOLODNY, *supra* note 37, at 64–97.

the democratic process.[175]

Despite these federal regulations, much of the complexity surrounding corporate political spending arises from the varying state-level rules. Many states have different requirements for reporting corporate political contributions, with some mandating disclosures on a more frequent basis, while others have few or no disclosure obligations.[176] The patchwork nature of state regulations makes it difficult for corporations to maintain compliance across all jurisdictions, particularly when their political contributions involve cross-border donations or contributions to political action committees that operate in multiple states.[177]

One of the most significant challenges for corporations engaging in political spending is navigating the maze of disclosure requirements at both the federal and state levels. Federal regulations require corporations to disclose certain political contributions through reports filed with the FEC, which are made available to the public.[178] However, the FEC's oversight is limited, particularly with respect to independent expenditures by Super PACs and other third-party organizations that may indirectly benefit–or imperil–a corporation's interests.[179] This creates a potential loophole where corporations can indirectly support political candidates or causes through contributions to third-party groups, avoiding direct disclosure of their financial involvement.

State-level disclosure requirements further complicate the issue. While some states have robust reporting mechanisms, others have less stringent or nonexistent requirements, which can make it difficult for companies to track and report their political spending consistently across all jurisdictions. For example, California has some of the strictest requirements for political spending disclosure, including mandates that corporations disclose

175. Nyberg, *supra* note 13, at 1–24; *see* Daniel Nyberg & John Murray, *Corporate Populism: How Corporations Construct and Represent 'the People' in Political Contestations*, J. BUS. RSCH., Mar. 28, 2023, at 1, 1–8, https://doi.org/10.1016/j.jbusres.2023.113879.

176. COAL. FOR INTEGRITY, THE STATE CAMPAIGN FINANCE INDEX 2022, at 13–36 (2022).

177. Several law and public relations firms offer to assist companies in navigating these challenges. For a typical examples, see Nick Warshaw, *A Look Ahead at Political Giving Regulations and Campaign Finance Laws*, LOEB & LOEB LLP (Jan. 23, 2023), https://www.loeb.com/en/insights/publications/2023/01/a-look-ahead-at-political-giving-regulations-and-campaign-finance-laws [https://perma.cc/2CRK-PZF3]; Robert Kelner et al., *Avoiding Corporate Political Activity Pitfalls This Election Year*, LAW360 (Sep. 6, 2024, at 15:54 ET), https://www.cov.com/-/media/files/corporate/publications/2024/09/avoiding-corporate-political-activity-pitfalls-this-election-year.pdf [https://perma.cc/4MAB-56KE].

178. Citizens United v. Fed. Election Comm'n, 558 U.S. 310, 366 (2010).

179. Paul S. Herrnson et al., *The Impact of Associational Ties on the Financing of Super PACs*, 13 INT. GRPS. & ADVOC. 43 (2024).

contributions to certain political committees and independent expenditures on a quarterly basis.[180] In contrast, other states may have less frequent or less detailed reporting requirements, leaving corporations with varying levels of accountability depending on where they are operating.[181]

The lack of uniformity in disclosure laws can expose corporations to both legal risks and reputational damage. Failure to comply with these disclosure requirements can result in penalties, fines, or legal action.[182] Moreover, even when companies comply with the letter of the law, inconsistent or incomplete disclosures can erode public trust, leading to questions about the true extent of their political influence. As stakeholders demand greater transparency, companies are increasingly expected to voluntarily disclose more information about their political spending, even beyond what is required by law.[183]

As the public becomes more attuned to the influence of corporate money in politics, shareholder activism has emerged as a significant force driving corporate accountability in this area.[184] Shareholders, particularly institutional investors, are increasingly vocal in demanding greater transparency and more ethical approaches to political spending.[185] This shift in shareholder expectations has placed additional pressure on corporate boards to take a more proactive approach in addressing the risks associated with political contributions.[186]

In some cases, shareholders have proposed shareholder resolutions calling for more stringent disclosure of political spending or for the adoption of policies that restrict corporate political contributions.[187] For example, some institutional investors, such as pension funds, have pushed for companies to adopt policies that require shareholder approval for certain political contributions or that ensure that political donations align

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180. CAL. FAIR POL. PRACS. COMM'N, LIMITED LIABILITY COMPANY CONTRIBUTIONS AND EXPENDITURES (2025).

181. COAL. FOR INTEGRITY, *supra* note 176, at 13–36.

182. *See, e.g.*, Buckley v. Valeo, 424 U.S. 1, 64 (1976).

183. Lund & Strine, *supra* note 5, at 135.

184. *See* Kevin Chuah et al., *Shareholder Activism Research: A System-Level View*, 18 ACAD. MGMT. ANNALS 82 (2024); Ivan Diaz-Rainey et al., *Shareholder Activism on Climate Change: Evolution, Determinants, and Consequences*, 193 J. BUS. ETHICS 481 (2024).

185. Jim Rossman et al., *2024 Review of Shareholder Activism*, HARV. L. SCH. F. ON CORP. GOVERNANCE (Jan. 21, 2025), https://corpgov.law.harvard.edu/2025/01/21/2024-review-of-shareholder-activism/ [https://perma.cc/AD6G-SHBE].

186. CTR. FOR POL. ACCOUNTABILITY, AVERAGE VOTE FOR CPA RESOLUTIONS TOPS POLITICAL-LOBBYING RESOLUTIONS DESPITE DROP IN INSTITUTIONAL INVESTOR SUPPORT (2025).

187. AS YOU SOW, PROGRESSIVE CORPORATION: REPORT ON POLITICAL SPENDING RELATED TO COMPANY VALUES AND POLICIES (2019).

with the company's stated values and long-term goals.[188] Companies that fail to address these concerns may face the risk of shareholder proposals gaining traction, leading to reputational damage and the potential for broader financial consequences.[189]

Public pressure also plays a critical role in shaping corporate political spending decisions. In an era of heightened corporate social responsibility awareness, companies are under increasing scrutiny from consumers, employees, and activists regarding their political contributions.[190] Public outcry over a corporation's political spending can result in boycotts, protests, or negative media coverage, all of which can have significant financial repercussions.[191] For instance, when companies are seen as supporting candidates or causes that are unpopular or perceived as unethical, they risk alienating key consumer segments and damaging their brand image.[192]

In one of the first examples of this outcry seen after the *Citizens United* decision, in August 2010, Target faced backlash after donating $150,000 to MN Forward, a group supporting a gubernatorial candidate with stances against gay and immigration rights.[193] Despite being known

188. OFF. OF THE N.Y. STATE COMPTROLLER, STATE COMPTROLLER DINAPOLI DETAILS PROGRESS ON CORPORATE POLITICAL SPENDING DISCLOSURE (2024).

189. Alexander Dyck et al., *Do Institutional Investors Drive Corporate Social Responsibility? International Evidence*, 131 J. FIN. ECON. 693 (2019); Caroline Flammer, Michael W. Toffel & Kala Viswanathan, *Shareholder Activism and Firms' Voluntary Disclosure of Climate Change Risks*, 42 STRATEGIC MGMT. J. 1850 (2021) (discussing the positive role of institutional investors in driving voluntary disclosure of climate change risks in the absence of mandatory disclosure laws).

190. Francisco Javier Forcadell, Antonio Lorena & Elisa Aracil, *The Firm Under the Spotlight: How Stakeholder Scrutiny Shapes Corporate Social Responsibility and Its Influence on Performance*, 30 CORP. SOC. RESP. & ENV'T MGMT. 1258 (2023); Michael Shribman, *Corporate Social Responsibility: A Strategic Imperative for Modern Businesses*, FORBES (Oct. 11, 2024, at 09:15 ET), *https://www.forbes.com/councils/forbesbusinesscouncil/2024/10/11/corporate-social-responsibility-a-strategic-imperative-for-modern-businesses/* [https://perma.cc/SG8U-WGCL].

191. Julian F. Kölbel, Timo Busch & Leonhardt M. Jancso, *How Media Coverage of Corporate Social Irresponsibility Increases Financial Risk*, 38 STRATEGIC MGMT. J. 2266 (2017) (discussing the effects of negative media coverage on financial success); Herry Mulyono & Benediktus Rolando, *Consumer Boycott Movements: Impact on Brand Reputation and Business Performance in the Digital Age*, MULTIDISCIPLINARY REVS., Mar. 2025, at 1, 1–22 (discussing the effects of consumer dissatisfaction and boycotts on financial success and approaches to mitigation).

192. *See* sources cited *supra* note 103.

193. Martiga Lohn, *Target CEO Defends Minn. GOP Contributions*, NBC NEWS (July 27, 2010, at 17:15 ET), *https://www.nbcnews.com/id/wbna38434618* [https://perma.cc/R3UD-GKM3]; *Target Backtracks on Contribution to GOP Candidate*

for supporting diversity and LGBTQ+ rights, the company's contribution sparked public outrage and boycott threats.[194] In response, Target issued an apology and promised to review its decision-making process for political contributions.[195] However, the controversy resulted in significant short-term damage to the brand's reputation.[196]

Moreover, as consumers and employees increasingly prioritize values alignment with the companies they support, the stakes of political spending have grown.[197] Companies that fail to adequately consider the potential reputational risks of their political contributions risk undermining stakeholder trust, which can translate into lost revenue, employee dissatisfaction, or reduced investor confidence.[198] Given the growing intersection of politics and business, corporations must recognize that their political spending practices are not only subject to legal scrutiny but are also a matter of public interest, which can have far-reaching consequences for their long-term sustainability.

As corporate political spending continues to grow, regulators at the state level are evolving their approaches to address emerging challenges.[199] In addition to increasing calls for corporate political contribution transparency, new forms of regulatory scrutiny are developing around the activities of third-party groups, such as Super PACs and 501(c)(4) organizations, that corporations often use to channel their political contributions.[200] These groups may operate with fewer restrictions than

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Who Opposed Gay Rights, ABC NEWS (July 28, 2010, at 13:28 ET) [hereinafter *Target Backtracks*], *https://abcnews.go.com/Business/target-best-buy-fire-campaign-contributions-minnesota-candidate/story?id=11340189* [https://perma.cc/8KW2-2M4V].

194. Lohn, *supra* note 193.

195. *Target Backtracks*, *supra* note 193.

196. THE CONF. BD., HANDBOOK ON CORPORATE POLITICAL ACTIVITY 7 (2010).

197. *See* sources cited *supra* note 101.

198. Migle Matuleviciene & Jurgita Stravinskiene, *Identifying the Factors of Stakeholder Trust: A Theoretical Study*, 213 PROCEDIA SOC. & BEHAV. SCI. 599 (2015) (discussing the nature of stakeholder trust); Bret Crane, *Revisiting Who, When, and Why Stakeholders Matter: Trust and Stakeholder Connectedness*, 59 BUS. & SOC'Y 263 (2020).

199. Patrick Llewellyn, *Momentum Builds to End Secret Spending in State Elections*, CAMPAIGN LEGAL CTR. (June 22, 2023), *https://campaignlegal.org/update/momentum-builds-end-secret-spending-state-elections* [https://perma.cc/HG5C-H5QA].

200. Caitlin Sievers, *Appeals Court Upholds Core of AZ 'Dark Money' Disclosure Law Voters Approved in 2022*, ARIZ. MIRROR (June 29, 2024, at 09:02 ET), *https://azmirror.com/briefs/appeals-court-upholds-core-of-az-dark-money-disclosure-law-voters-approved-in-2022/* [https://perma.cc/SUW8-RMN8]; Seamus Othot, *Legislative Panel Considers a Trio of Bills that Could Reform Maine's Campaign Finance Laws*, MAINE WIRE (Feb. 3, 2025), *https://www.themainewire.com/2025/02/legislative-panel-considers-a-trio-of-bills-that-could-reform-maines-campaign-finance-laws/* [https://perma.cc/36J5-FSHE].

traditional political committees, creating new avenues for corporate influence in the political process.

While the second Trump administration is unlikely to take steps to tighten federal campaign finance regulations, at the state level, regulators are increasingly focused on addressing the influence of corporate money in local and state races.[201] These potential reforms aim to ensure that political contributions do not unduly sway state-level policymaking.[202] As states continue to refine their own disclosure laws and political contribution regulations, companies will face the challenge of complying with an even more complex regulatory environment, particularly as states enact stricter rules on political spending and campaign finance.[203]

Navigating external governance and regulatory risks is an essential component of managing corporate political spending.[204] Companies must stay attuned to the evolving legal landscape, including varying state and federal regulations, and be proactive in addressing shareholder concerns and public expectations. By fostering transparency, ensuring compliance with disclosure requirements, and considering the potential reputational risks of political contributions, corporations can mitigate the external risks associated with political spending and enhance their ability to manage their long-term sustainability and stakeholder relationships.

D. *Interplay Between Ethical, Governance, Regulatory, Financial, and Reputational Risks*

The intersection of ethical, governance, and regulatory risks can significantly reinforce the financial and reputational risks faced by companies engaged in political spending. As corporate political activity grows in scope and visibility, the financial consequences of mismanaging these risks have become increasingly evident.[205] Ethical lapses, poor

201. *See* sources cited *supra* note 200; *see also* Sarah C. Haan, *Shareholder Proposal Settlements and the Private Ordering of Public Elections*, 126 YALE L.J. 262 (2016) (endorsing public law to further regulate corporate political policies).

202. *Campaign Finance Regulation: State Comparisons,* NAT'L CONF. OF STATE LEGISLATURES (Oct. 24, 2022), https://www.ncsl.org/elections-and-campaigns/campaign-finance-regulation-state-comparisons [https://perma.cc/NXB8-GYQT].

203. *See* sources cited *supra* note 200.

204. *See* CTR. FOR POL. ACCOUNTABILITY, *supra* note 134, at 2–4.

205. *Report: As Corporate Political Activity Becomes Riskier Companies Need a Full-Scale Review of Their Strategy and Relationships*, THE CONF. BD. (May 13, 2022), *https://www.conference-board.org/topics/corporate-political-activity/press/Corporate-Political-Activity-ESG-2022* [https://perma.cc/K6GL-PMAC].

governance, and regulatory violations often lead to financial costs that go beyond immediate legal penalties.[206] These financial risks, compounded by reputational damage, create a feedback loop that can significantly harm a corporation's long-term viability.

One of the most profound intersections of these risks is the impact of ethical failures on consumer trust and loyalty. Ethical lapses in political spending, such as making contributions that contradict a company's publicly stated values, can lead to widespread consumer backlash.[207] In a digital age where information travels quickly, the repercussions of unethical political spending can snowball, leading to a loss of consumer confidence.[208] For example, if a company with a strong commitment to social justice or gay rights makes a political donation to a candidate with a controversial stance on key social issues, consumers may perceive this as a betrayal.

This perceived ethical breach directly feeds into reputational risks, as the company's brand image is tarnished by its actions. With consumers increasingly making purchasing decisions based on a company's values, such ethical missteps can lead to boycotts, protests, and a long-term decline in market share or customer loyalty.[209] Additionally, these reputational hits can translate into direct financial consequences. A loss of customers due to damaged trust can have a measurable impact on revenue, further compounding the financial risks.[210] Furthermore, when these ethical and reputational issues come to the forefront, the company may also face increased scrutiny from investors and analysts, who may downgrade the company's financial outlook in response to its damaged public image.[211]

Inadequate internal governance practices, especially in managing corporate political spending, can lead to both ethical and financial risks. When a company lacks robust governance frameworks for overseeing political contributions, it opens itself to potential conflicts of interest and unaccountable decision-making. These governance failures can result in decisions that are detrimental to the company's financial stability.

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206. *See, e.g.*, Paul Henken & Carson Jennings, *The Bankruptcy of FirstEnergy: You're Too Close to the Sun, Icarus!*, CHAPTER 11 BANKR. CASE STUD., Apr. 2024, at 1.

207. ACCENTURE STRATEGY, TO AFFINITY AND BEYOND: FROM ME TO WE, THE RISE OF THE PURPOSE-LED BRAND 9–10 (2018).

208. *See* sources cited *supra* note 191.

209. Daniel Aronson, *Why It's Good for Business When Customers Share Your Values*, MIT SLOAN MGMT. REV. (Feb. 15, 2024), *https://sloanreview.mit.edu/article/why-its-good-for-business-when-customers-share-your-values/* [https://perma.cc/FM8C-4T9W].

210. Kölbel, Busch & Jancso, *supra* note 191.

211. Russell Spears, *The Impact of Public Opinion on Large Global Companies' Market Valuations: A Markov Switching Model Approach*, 9 J. FIN. & ECON. 115 (2021).

For instance, poor governance may allow corporate leaders to engage in political contributions that are financially ill-advised or misaligned with the company's strategic goals. If these contributions are linked to candidates or causes that fail to generate the anticipated political or business benefits, the company could face substantial financial losses.[212] Additionally, corporate political spending decisions made without proper oversight or understanding of their broader implications may result in strategic missteps that negatively affect the company's financial performance.

Moreover, governance lapses in political spending may lead to increased regulatory scrutiny. Regulatory bodies may impose fines or penalties for violations, further exacerbating financial risks. In some cases, these penalties can be significant enough to affect the company's bottom line or its stock price. The combined effect of governance failures and financial consequences can lead to long-term damage to the company's market position, as investors may lose confidence in the company's leadership and decision-making processes.

As the regulatory environment surrounding corporate political spending becomes more complex, the risks associated with non-compliance are growing. Companies that fail to comply with disclosure requirements or engage in political spending through opaque third-party organizations face significant legal and reputational risks.[213] Regulatory violations often lead to fines, legal actions, and heightened public scrutiny, all of which can severely damage a company's reputation.[214]

For instance, if a company is found to have violated campaign finance laws by failing to disclose its political contributions or by making contributions through a third-party entity to circumvent transparency requirements, it risks public outrage.[215] The media coverage of these violations can amplify reputational damage, turning what might have been

212. *See, e.g.*, Andrew Adam Newman & Retail Brew, *Target Can't Get Its Footing After Its DEI Program Demise and a 40-Day Boycott Against the Retailer. Foot Traffic at Stores Is Down for the Eighth Consecutive Week*, FORTUNE (Apr. 1, 2025, at 08:44 ET), https://fortune.com/2025/04/01/target-dei-demise-boycott-foot-traffic-down-eighth-consecutive-week/ [https://perma.cc/FNT5-SLSE]; Lauren Aratani, *A Quarter of US Shoppers Have Dumped Favorite Stores Over Political Stances*, THE GUARDIAN (Feb. 18, 2025, at 07:00 ET), https://www.theguardian.com/us-news/2025/feb/18/shoppers-political-boycotts-spending-patterns-poll [https://perma.cc/4GGV-U2FF]; Associated Press, *How Politics Are Affecting Musk's Tesla Brand*, PBS NEWS (Mar. 11, 2025, at 13:41 ET), https://www.pbs.org/newshour/politics/how-politics-are-affecting-musks-tesla-brand [https://perma.cc/EDH7-ZKAN].

213. COMMON CAUSE OHIO, *supra* note 95.

214. *Id.*

215. *See, e.g.*, sources cited *supra* notes 95–97, 205.

a minor legal infraction into a public relations crisis. When consumers, employees, or shareholders perceive that a company is acting unethically or failing to comply with the law, trust in the organization erodes. This loss of trust is not only damaging to the company's reputation but also to its financial performance, as consumers may choose to support competitors, and investors may sell their shares, causing a drop in stock prices.

An example of this can be seen in the backlash faced by companies that donated to politicians supporting North Carolina's HB2 bathroom bill, which restricted transgender individuals' access to restrooms matching their gender identity.[216] Several corporations were criticized for their political donations to the Republican State Leadership Committee, which helped elect lawmakers responsible for the bill.[217] In response to public outcry, companies such as PayPal[218] and CoStar Group[219] pulled their operations or canceled expansion plans in the state, while others ceased hosting major events in North Carolina.[220] This public dissociation was a direct result of the widespread perception that these companies were indirectly supporting discriminatory legislation, demonstrating how political involvement can damage corporate reputations and prompt financial and operational consequences.

Moreover, the regulatory risks associated with political spending are increasingly interconnected with ethical concerns. Companies that engage in secretive political activities or fail to provide full disclosure may be seen as dishonest or attempting to manipulate the political process. This perception, combined with the legal violations, can reinforce the reputational damage, making it more difficult for the company to recover

216. 2016-2 N.C. Laws 2d Extra Sess.

217. Paul Blumenthal, *Corporations Opposed to North Carolina's Anti-LGBT Law Helped Elect Its Supporters*, HUFFPOST (Apr. 27, 2016, at 15:57 ET), https://www.huffpost.com/entry/corporations-lgbt-north-carolina_n_5720f5f4e4b0b49df6a9d76d [HTTPS://PERMA.CC/693N-SVW7].

218. *PayPal Pulls North Carolina Plan After Transgender Bathroom Law*, REUTERS (Apr. 5, 2016, at 18:21 ET), https://www.reuters.com/article/technology/paypal-pulls-north-carolina-plan-after-transgender-bathroom-law-idUSKCN0X21XQ [HTTPS://PERMA.CC/QHD2-L7KH].

219. Rick Rothacker, *Charlotte Loses 730-Job Operations Center Over House Bill 2*, THE CHARLOTTE OBSERVER (Oct. 26, 2016, at 11:21 ET), *https://www.charlotteobserver.com/news/business/article110349597.html* [HTTPS://PERMA.CC/R8ZW-SUDM].

220. Jim Morrill et al., *A Year Later, HB2 Has Cost North Carolina Millions. How Much Worse Will It Get?*, THE CHARLOTTE OBSERVER (Mar. 23, 2017, at 19:19 ET), https://www.charlotteobserver.com/news/politics-government/article139129808.html [https://perma.cc/JDH8-ZTJ6].

from both a public relations standpoint and a financial one.

The financial consequences of poor political spending practices can feed directly into reputational risks, creating a feedback loop that exacerbates both challenges. Once a company's financial performance begins to suffer due to ethical or governance failures, negative media coverage and public sentiment often follow. Investors, employees, and consumers may all begin to distance themselves from the company, further amplifying the reputational damage. This, in turn, leads to additional financial losses, as the company's brand value and consumer loyalty are eroded.

In 2022, The Walt Disney Company faced significant backlash from both employees and consumers when the company's then-CEO Bob Chapek, declined to speak out against a controversial law that was passing through the Florida state legislature.[221] The legislation, commonly referred to as the "Don't Say Gay" bill, proposed to restrict discussions of sexual orientation and gender identity in certain grade levels.[222] In response to employee walkouts, Disney reversed course, criticizing the bill and pausing its political giving in Florida.[223] In retaliation, Florida Governor Ron DeSantis encouraged the state legislature to pass significant financial and bureaucratic sanctions against Disney Company operations in Florida.[224] The legal disputes that resulted from this case persisted for two years, finally resolving in March of 2024.[225] This prolonged conflict between Disney and a state government—one it had previously supported through political contributions—highlights how reputational damage from political involvement can create challenge for employee retention and escalate into financial and legal risks.[226]

221. Elizabeth Blair, *After Protests, Disney CEO Speaks Out Against Florida's 'Don't Say Gay' Bill*, NPR (Mar. 10, 2022, at 09:10 ET), https://www.npr.org/2022/03/08/1085130633/disney-response-florida-bill-dont-say-gay [https://perma.cc/JK9P-QXBC].

222. Joe Hernandez, *Disney Workers Walk Out Over the Company's Response to So-Called 'Don't Say Gay' Bill*, NPR (Mar. 22, 2022, at 12:23 ET), https://www.npr.org/2022/03/22/1088048998/disney-walkout-dont-say-gay-bill [HTTPS://PERMA.CC/ZQ6E-HGC7].

223. *Id.*

224. CTR. FOR POL. ACCOUNTABILITY, *supra* note 123, at 35.

225. Greg Allen, *In Florida, There's Détente in the Battle Between Disney and Gov. Ron DeSantis*, NPR (Mar. 28, 2024, at 05:00 ET), https://www.npr.org/2024/03/28/1241296687/florida-governor-ron-desantis-disney-legal-battle-settled [https://perma.cc/TJ78-GTFL].

226. Similar issues have previously prompted other companies to take a proactive approach to managing their political spending. A former senior government affairs executive at a leading U.S. company privately told CPA that he encouraged his company to

This vicious cycle can be particularly damaging in industries where consumer trust and brand reputation are critical to success. For example, consumer goods companies often rely heavily on brand equity and customer loyalty to maintain their market position.[227] If these companies engage in politically charged contributions that alienate their customer base or fail to disclose their political activities transparently, the fallout can be severe. Consumers may not only stop buying products but also share their negative experiences on social media, magnifying the reputational damage.[228] The financial toll of such a situation may take years to reverse, as the company struggles to regain consumer trust and restore its brand image.

The interplay of ethical, governance, regulatory, financial, and reputational risks underscores the importance of an integrated approach to corporate political spending. Companies must recognize that these risks are not isolated but rather interconnected, amplifying each other's effects. A failure to manage one area effectively—whether it be governance, compliance, or ethics—can lead to cascading consequences that impact the company's financial health and public image. As such, corporate leaders must adopt comprehensive risk management strategies that address the full spectrum of political spending risks, ensuring that political contributions align with corporate values, comply with legal requirements, and maintain the trust of key stakeholders. By doing so, companies can mitigate the compounded risks of financial loss and reputational damage, safeguarding their long-term success and sustainability.

V. SYSTEMIC RISKS TO THE BUSINESS ENVIRONMENT

Corporate political spending is not just a matter of individual company strategy. Corporate political spending and its effects carry broad, systemic risks that impact the entire business environment.[229] The growing scale of

strengthen its political spending disclosure and accountability policies out of fear that such spending might deter recent graduates from elite schools from applying for research positions. Personal conversation with author (May 2018).

227. *See* Poh Ling Tan et al., *How Corporate Social Responsibility Affects Brand Equity and Loyalty? A Comparison Between Private and Public Universities*, HELIYON, Apr. 2022, at 1, 2, https://doi.org/10.1016/j.heliyon.2022.e09266 (stating that brand loyalty improves an organization's market outcomes).

228. An official at another company also approached CPA and candidly shared that the company sought to reform its political spending out of concern that if their current practices were made public and sparked controversy, consumers might choose to switch to a competing brand. Personal conversation with author (April 2019).

229. CTR. FOR POL. ACCOUNTABILITY, *supra* note 61, at 13–27.

corporate contributions to political campaigns and third-party groups raises fundamental concerns about market distortion, regulatory unpredictability, and the long-term sustainability of the economic system.[230] As businesses exert greater influence over political outcomes, they inadvertently contribute to structural imbalances that can erode fair competition, increase volatility in regulatory decision-making, and create vulnerabilities that affect not just individual corporations but the entire corporate sector.[231]

A. Risks to Market Competition

One of the most pressing systemic risks associated with corporate political spending is the distortion of market competition.[232] Companies that direct financial resources toward political engagement often seek favorable regulatory treatment, subsidies, or tax incentives that provide them with a competitive edge over rivals. This type of influence can create an uneven playing field in which success is determined not by innovation, efficiency, or product quality but by the ability to shape policy in a way that benefits select corporations.

This distortion of market dynamics can manifest in several ways. First, established industry giants with substantial financial resources can use political spending to entrench their dominance, effectively blocking the entry of new competitors.[233] Emerging companies, startups, and smaller businesses that lack comparable financial resources often struggle to compete against well-funded incumbents that leverage political influence to secure preferential policies. The result is a business environment that discourages entrepreneurship and reduces the level of market dynamism necessary for long-term economic growth.

Second, corporate political spending can lead to regulatory capture, a phenomenon in which policymakers and regulatory agencies prioritize the interests of major corporate donors over broader economic and public welfare concerns.[234] When regulatory agencies are disproportionately influenced by politically active corporations, the enforcement of

230. Lund & Strine, *supra* note 5, at 133–37.

231. Bo Cowgill, Andrea Prat & Tommaso M. Valletti, *Political Power and Market Power* 1–8 (Ctr. for Econ. Pol'y Rsch., Working Paper No. DP17178, 2024), *https://dx.doi.org/10.2139/ssrn.4390776*.

232. Nyberg, *supra* note 13, at 1, 3.

233. Steven Callander et al., *Market Competition and Political Influence: An Integrated Approach*, 90 ECONOMETRICA 2723, 2746–49 (2022).

234. Michael Hadani et al., *Corporate Political Activity and Regulatory Capture: How Some Companies Blunt the Knife of Socially Oriented Investor Activism*, 44 J. MGMT. 2064 (2016).

competition laws, consumer protections, and environmental regulations may be weakened.[235] This creates an economic landscape in which large corporations benefit from less oversight, while smaller businesses and the general public bear the costs of diminished regulatory safeguards.[236]

Finally, market distortion through political spending can contribute to imbalances between and within business sectors, in which certain industries or businesses receive disproportionate levels of government support due to their corporate spending power rather than their economic value or efficiency.[237] While these advantages may yield short-term gains for individual firms, they can lead to misallocation of resources across the economy, where less politically connected industries struggle to receive necessary support despite their potential contributions to innovation, employment, and economic growth.[238]

B. Regulatory Unpredictability and Corporate Intimidation

Another significant systemic risk associated with corporate political spending is the unpredictability it introduces into the regulatory environment. Companies that invest heavily in political contributions do so with the expectation that they can shape policy decisions to their advantage.[239] However, political landscapes are inherently volatile, with shifts in electoral outcomes, changes in legislative priorities, and evolving public attitudes often leading to abrupt and unpredictable regulatory changes.[240]

This unpredictability can be particularly detrimental for industries that

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235. Coates, *supra* note 98, at 663–64 (discussing how firms can use spending to gain political benefits).

236. *See* Pierre-Yves Néron, *Rethinking the Ethics of Corporate Political Activities in a Post-*Citizens United *Era: Political Equality, Corporate Citizenship, and Market Failures*, 136 J. BUS. ETHICS 715, 724–26 (2016) (discussing how firms can use political benefits to entrench monopolistic power).

237. Caroline Flammer, *Competing for Government Procurement Contracts: The Role of Corporate Social Responsibility*, 39 STRATEGIC MGMT. J. 1299, 1311 (2018).

238. Callander et al., *supra* note 233, at 2746.

239. Lee Warren Brown, Abdul A. Rasheed & R. Greg Bell, *How and Why? A Review of Corporate Political Activity Predictors and Actions*, 47 GRP. & ORG. MGMT. 440, 433 (2022).

240. John W. Goodell, Richard J. McGee & Frank McGroarty, *Election Uncertainty, Economic Policy Uncertainty and Financial Market Uncertainty: A Prediction Market Analysis*, J. BANKING & FIN., Oct. 2019, at 1, 2–4; Yadong Luo & Ari Van Assche, *The Rise of Techno-Geopolitical Uncertainty: Implications of the United States CHIPS and Science Act*, 54 J. INT'L BUS. STUD. 1423, 1433 (2023).

require long-term stability to make investment decisions.[241] If companies base their strategic planning on the expectation of continued regulatory favor due to their political contributions, they may be ill-prepared for changes that arise when political power shifts to parties or leaders with different policy priorities.[242]

Moreover, corporate political spending can expose businesses to coercion by policymakers and intermediaries who may exploit the reliance of corporations on political influence. In such scenarios, companies may find themselves under pressure to continuously contribute to political campaigns or advocacy groups in exchange for maintaining regulatory stability or securing favorable treatment.[243] This creates a cycle of dependency in which corporations feel compelled to allocate increasing amounts of financial resources toward political expenditures, diverting funds away from productive investments such as research and development, workforce training, and infrastructure improvements.[244]

This coercion dynamic is further exacerbated by the opaque nature of many corporate political expenditures. Contributions to Super PACs, 501(c)(4) organizations, and other third-party political groups often occur without full disclosure, making it difficult for investors, consumers, and the public to assess the extent to which companies are engaging in politically motivated financial transactions.[245] This lack of transparency heightens regulatory risks, as corporations that engage in undisclosed political spending may face unexpected scrutiny, legal challenges, or public backlash when their contributions become known.

C. Long-Term Business Sustainability Considerations

Beyond the immediate financial and regulatory risks, corporate political spending also raises concerns about long-term business sustainability. As corporate engagement in politics becomes increasingly visible, stakeholders—including consumers, employees, investors, and advocacy groups—are demanding greater accountability and alignment

241. Carlos Chavez, The Macroeconomics Consequences of the Political Instability: Unpacking the Macroeconomic Fallout of Political Turmoil 1 (May 10, 2024) (unpublished manuscript) (available at SSRN), https://dx.doi.org/10.2139/ssrn.4823468.

242. *See* Ari Aisen & Francisco José Veiga, *How Does Political Instability Affect Economic Growth?*, 29 EUR. J. POL. ECON. 151, 162–63 (2013) (discussing how political instability and uncertainty reduces economic growth and productivity).

243. CTR. FOR POL. ACCOUNTABILITY, *supra* note 123, at 27–34.

244. Nyberg, *supra* note 13, at 9–10.

245. Timothy Werner, *Investor Reaction to Covert Corporate Political Activity*, 38 STRATEGIC MGMT. J. 2424, 2424–26 (2017).

between corporate values and political actions.[246] Companies that fail to navigate this evolving landscape risk incurring many of the significant reputational and operational risks already discussed above.

One of the most immediate sustainability risks is the potential for consumer backlash. Studies have shown that modern consumers, particularly younger demographics, are highly attuned to corporate social responsibility initiatives and expect companies to align their political actions with their publicly stated values.[247] When a company's political spending contradicts its branding or social commitments, it can trigger boycotts, negative publicity, and loss of customer trust. For instance, firms that publicly support environmental sustainability while simultaneously funding political candidates who advocate for deregulation of pollution controls may be accused of hypocrisy, leading to reputational damage and decreased customer loyalty.[248]

Similarly, corporate political spending can lead to internal conflicts, particularly among employees who may feel that their company's political actions do not reflect their personal values. In an era where corporate culture and employee engagement are critical components of business success, misalignment between corporate political spending and workforce expectations can result in decreased morale, talent attrition, and difficulties in recruiting new employees who prioritize ethical corporate behavior.[249]

Investor concerns also play a crucial role in shaping the sustainability risks associated with political spending. Large institutional investors, including pension funds, mutual funds, and socially responsible investment groups, have increasingly called for greater transparency and oversight of corporate political expenditures.[250] Shareholder activism has led to demands for disclosure of political spending, with some investors advocating for policies that restrict or eliminate corporate political contributions altogether.[251] Companies that fail to address these concerns

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246. *See* sources cited *supra* note 101.

247. SUBMITTABLE, MILLENNIALS, GEN Z, AND THE RISING DEMAND FOR CORPORATE SOCIAL RESPONSIBILITY 11–17 (2025).

248. CTR. FOR POL. ACCOUNTABILITY, *supra* note 120, at 10.

249. *See* James White et al., Corporate Political Stances and Employee Turnover 2–3 (Jan. 20, 2025) (unpublished manuscript) (available at SSRN), https://dx.doi.org/10.2139/ssrn.5104450 (finding that companies that opposed North Carolina's HB2 had significantly lower employee turnover rates).

250. Ciara Torres-Spelliscy, *More Shareholders Seek Transparency on Corporate Political Spending and Climate Change*, BRENNAN CTR. FOR JUST. (June 16, 2021), https://www.brennancenter.org/our-work/analysis-opinion/more-shareholders-seek-transparency-corporate-political-spending-and [https://perma.cc/9EAR-GQ6T].

251. *Id.*; DENICOLA, FREED, PASSANTINO & SANDSTROM, *supra* note 14, at 18-20; Lund & Strine, *supra* note 5, at 136–37.

may face shareholder resolutions, divestment campaigns, or governance challenges that undermine long-term financial stability.[252]

Finally, excessive corporate political engagement can contribute to broader economic instability by reinforcing cycles of policy uncertainty and government intervention. When businesses play an outsized role in shaping legislation and regulatory frameworks to their immediate advantage, they risk fostering an environment in which short-term corporate gains are prioritized over long-term economic resilience.[253] This can manifest in weakened public infrastructure, widening income inequality, and reduced consumer purchasing power—all of which ultimately harm the overall business environment in which corporations operate.[254]

The systemic risks posed by corporate political spending extend far beyond individual companies, affecting market fairness, regulatory stability, and long-term business viability.[255] The increasing financial influence of corporations in the political sphere has the potential to distort competition, create volatile regulatory conditions, and generate reputational and governance risks that threaten sustainability.[256] Companies must recognize that their political spending decisions do not exist in isolation but contribute to broader economic and societal consequences. To mitigate these systemic risks, businesses must prioritize transparency, adopt robust internal governance mechanisms, and engage in responsible political participation that aligns with corporate values and stakeholder expectations.[257] By doing so, they can protect not only their own interests but also the integrity and stability of the broader business environment. Ultimately, a proactive approach to managing corporate political spending through private ordering and best practices will help ensure that businesses remain resilient in an increasingly complex and scrutinized political landscape.

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252. Jim Rossman, *Shareholder Activism Surged in 2024*, BARCLAYS (Jan. 29, 2025), https://www.ib.barclays/our-insights/shareholder-activism-surged-2024.html [https://perma.cc/2CVF-A9JM]; Yun Shen, Martina Linnenluecke & Tom Smith, *Shareholder Activism, Divestment, and Sustainability*, 65 ACCT. & FIN. 1188, 1188–89 (2024).

253. Lund & Strine, *supra* note 5, at 135.

254. *Id.*

255. *See* Flammer, *supra* note 237, at 1311 (finding that corporate political spending influences procurement of government contracts); Lund & Strine, *supra* note 5, at 135 (noting that companies that spend heavily in politics tend to perform worse).

256. *See* sources cited *supra* note 255; *see also* CTR. FOR POL. ACCOUNTABILITY, *supra* note 7, at 5–6.

257. Lund & Strine, *supra* note 5, at 136–37.

VI. PRIVATE ORDERING AS A RISK MITIGATION STRATEGY

The existing legal framework governing corporate political spending is fragmented and limited in scope.[258] While campaign finance laws impose certain restrictions and disclosure requirements, they do not provide a comprehensive regulatory structure that guides corporate decision-making in political expenditures.[259] The Supreme Court's ruling in *Citizens United* eliminated many restrictions on corporate political spending, granting companies significant freedom to engage in electoral activities.[260] However, as discussed above, this decision also increased the risks associated with unchecked political spending, as corporations became more vulnerable to reputational, shareholder, corruption, internal, and bottom line pressures.

In the absence of a clear regulatory framework, companies must rely on internal mechanisms to manage the risks associated with political spending. Private ordering—the development of voluntary corporate policies and self-regulatory practices—has emerged as a crucial strategy for mitigating these risks.[261] By establishing internal policies and governance structures, corporations can ensure that their political contributions align with their long-term strategic interests and stakeholder expectations.[262] More importantly, by taking the lead in self-regulation and having a critical number of companies take this step, corporations can avoid the imposition of externally mandated laws and regulations that may be more restrictive and less aligned with business needs.[263] This proactive action offers companies an opportunity to shape their own policies in a way that protects them from public backlash and demonstrates their commitment to responsible corporate citizenship.

A. Developing Internal Corporate Governance Standard

Private ordering begins with the implementation of strong internal governance standards that establish how political spending decisions are made, monitored, and disclosed. Companies should adopt formal policies that define acceptable political expenditures, identify decision-making

258. *See* DENICOLA, FREED, PASSANTINO & SANDSTROM, *supra* note 14, at 8–10 (discussing state and local political spending laws).
259. *See id.* at 5–10 (discussing the various limited and fragmented laws in the wake of *Citizens United*).
260. Citizens United v. Fed. Election Comm'n, 558 U.S. 310, 362 (2010).
261. Robert Yablon, *Campaign Finance Reform Without Law*, 103 IOWA L. REV. 185, 229–39 (2017).
262. CTR. FOR POL. ACCOUNTABILITY, *supra* note 150, at 4–6.
263. Yablon, *supra* note 261, at 189–92.

authorities, and outline procedures for evaluating potential risks. These policies should be integrated into broader corporate governance frameworks to ensure consistency with ethical, financial, and reputational objectives. When a critical number of companies adopt the policies, they are transformed from practices to standards via private ordering. They become the norm, and companies that do not follow the standard are seen as outliers.[264]

To enhance accountability, corporations should establish clear oversight mechanisms, such as board-level committees dedicated to reviewing and approving political contributions. These committees should include independent directors who can provide objective assessments of the risks and benefits associated with political spending. Regular internal audits and compliance reviews should also be conducted to ensure adherence to established policies and identify any emerging risks.

Furthermore, companies should implement training programs for executives and employees involved in political spending decisions.[265] These programs should cover legal requirements, ethical considerations, and potential business risks, ensuring that all stakeholders are well-informed and capable of making responsible decisions.[266] A well-structured governance framework does not merely mitigate risks; it allows corporations to exercise their political influence in a way that strengthens their credibility and demonstrates their commitment to responsible corporate citizenship.

Leading corporations are adopting best practices that enhance transparency, accountability, and strategic alignment in political spending.[267] One of the most effective approaches is the voluntary disclosure of all political contributions, including indirect spending through trade associations and nonprofit organizations.[268] By publicly reporting these expenditures, companies can demonstrate their commitment to ethical political engagement and reduce the likelihood of stakeholder backlash. Transparency not only strengthens public trust but also provides a safeguard against unexpected controversies that can emerge from undisclosed contributions.[269]

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264. *Id*. at 229–33.

265. *See* CTR. FOR POL. ACCOUNTABILITY, *supra* note 150, at 7–8 (discussing the need to better understand contribution recipients' spending and for the corporation to speak with one voice).

266. *Id.*

267. CTR. FOR POL. ACCOUNTABILITY ET AL., *supra* note 52, at 7–35.

268. *Id.* at 18–35.

269. *See id.* at 21–36 (discussing the benefits of transparency and disclosure of political spending).

Another best practice is the establishment of pre-approval processes for political donations, requiring justification for each contribution and alignment with corporate policies, positions, and values. Companies should also develop mechanisms for assessing the long-term impact of political spending, considering factors such as regulatory shifts, consumer perceptions, the overall business environment, and financial stability. By integrating political spending policies into corporate risk management strategies, firms can proactively address potential challenges before they escalate.

Additionally, companies should engage in periodic reviews of their political spending policies to ensure they remain relevant in an evolving regulatory, business, and political landscape. Conducting benchmark analyses against industry peers and seeking input from external experts can help corporations refine their approaches and adopt emerging best practices. By leading the charge in responsible political spending, corporations can create industry-wide precedents that reduce the need for intrusive governmental intervention.[270]

Private ordering is most effective when it incorporates input from key stakeholders, including investors, employees, customers, and advocacy groups. Companies should actively engage with these stakeholders to understand their concerns and expectations regarding political spending.

Companies should consider incorporating political spending policies into their broader social and environmental governance frameworks, aligning their political contributions with sustainability and corporate responsibility initiatives.

Employee engagement is equally important, as internal dissent over political spending decisions can lead to reputational damage and decreased morale.[271] By fostering open dialogue with employees and providing avenues for feedback, corporations can ensure that their political activities align with internal values and company culture. Encouraging a culture of ethical political engagement strengthens employee loyalty and trust, reducing the risk of internal resistance and employee attrition.

Beyond internal engagement, companies should participate in industry-wide discussions on responsible political spending. Collaborating with peer organizations and public policy groups can help establish best practices and create a more standardized approach to corporate political engagement. By proactively engaging in these discussions, companies can help shape industry norms and demonstrate their commitment to ethical

270. Yablon, *supra* note 261, at 229–33.

271. Barnes & Cheng, *supra* note 101, at 1; DENICOLA, FREED, PASSANTINO & SANDSTROM, *supra* note 14, at 4.

business practices. This is an element of private ordering.

In the absence of legislation or regulation, private ordering has become an essential tool for managing the risks associated with corporate political spending.[272] By developing internal governance standards, implementing best practices, and engaging with stakeholders, companies can mitigate reputational, financial, and governance risks while ensuring alignment with long-term strategic goals. More importantly, private ordering presents an opportunity for corporations to establish their own best practices and standards in a way that is both effective and business-friendly, ultimately reducing the likelihood of burdensome government intervention.

As public and investor scrutiny of corporate political activity continues to grow, companies that proactively adopt strong self-regulatory measures will be better positioned to navigate the complexities of political engagement. A commitment to transparency, accountability, and responsible decision-making will not only protect corporate integrity but also contribute to a more stable and predictable business environment. Moving forward, private ordering will remain a critical strategy for companies seeking to balance their political interests with the expectations of a diverse and evolving stakeholder landscape. By taking decisive action now, companies can secure their ability to engage in political spending responsibly and protect themselves in a challenging business and political environment.

VII. POLICY RECOMMENDATIONS TO MITIGATE RISKS

In light of the discussion above, we now offer four specific policy recommendations to company executives and industry leaders seeking to proactively address both the internal and external risks incurred by unchecked corporate political spending. We also endorse a ready-made framework, The CPA-Zicklin Framework for Corporate Political Spending, which companies can follow to address these risks.

A. Strengthen Transparency and Disclosure Requirements

One of the most effective ways to mitigate risks associated with corporate political spending is to enhance transparency and disclosure policies. Companies should move beyond minimal compliance with legal

272. Bruce F. Freed, William S. Laufer & Karl J. Sandstrom, *Targeting Private Sector Influence in Politics: Corporate Accountability as a Risk and Governance Problem*, *in* CORPORATE POLITICAL RESPONSIBILITY 30 (Thomas P. Lyon ed., 2023).

requirements and proactively adopt robust disclosure frameworks.[273] Publicly disclosing all political contributions, including direct donations and third-party expenditures, ensures stakeholders have clear and accessible information. Implementing real-time or periodic reporting, providing detailed rationales for political contributions, and creating a centralized transparency portal on corporate websites can enhance trust and accountability. Transparency also enables senior management, directors and investors and other stakeholders to assess whether a company's political spending aligns with its publicly stated values and long-term strategic objectives.

Enhanced transparency can also serve as a mechanism for risk mitigation by allowing companies to demonstrate their commitment to ethical political engagement. By voluntarily disclosing expenditures and proactively addressing potential conflicts, corporations can reduce the likelihood of regulatory scrutiny or public backlash. Furthermore, transparency enables firms to engage in informed dialogue with shareholders, employees, and consumers, fostering trust and reinforcing the legitimacy of corporate political participation. Companies should consider implementing third-party audits or independent reviews of political spending practices to further enhance credibility.

B. Enhance Board-Level Oversight and Decision-Making Structures

Corporate political spending should be subject to rigorous board-level oversight to ensure alignment with business objectives and stakeholder expectations. Establishing a dedicated board committee to review and approve all political expenditures, requiring pre-approval for significant contributions, and conducting regular policy reviews will strengthen governance. Integrating political spending oversight into broader governance frameworks, including corporate social responsibility and sustainability initiatives, further reinforces corporate integrity and reduces exposure to regulatory and reputational risks.

To enhance accountability, companies should require explicit justifications for political contributions and ensure that these expenditures align with their stated policies, positions, and values. Regularly scheduled board reviews should include detailed assessments of past contributions, their intended strategic outcomes, and any emerging risks associated with

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273. THE CONF. BD., NAVIGATING AN ELECTION YEAR AT THE PEAK OF POLARIZATION 17 (2024).

future political spending engagements.

Additionally, board members should receive specialized training on the complexities of corporate political activity, including the legal, ethical, and financial implications of political donations. By strengthening board-level oversight, corporations can establish clearer decision-making frameworks that minimize potential governance failures, conflicts, and risks.

C. Strengthen Internal Compliance and Risk Management Programs

Given the reputational, financial, and governance risks associated with political spending, companies must integrate comprehensive compliance and risk management programs into their political engagement strategies. Developing clear internal guidelines, conducting regular risk assessments, and implementing whistleblower protections will help ensure corporate contributions align with ethical standards and business objectives. Periodic internal or external audits of political expenditures will further strengthen compliance and accountability.

Corporate compliance teams should work closely with legal and public affairs departments to assess potential risks and ensure that political spending aligns with overall corporate policies. Organizations should also implement clear procedures that allow employees to raise concerns about political spending decisions without fear of retaliation. Furthermore, companies should conduct regular scenario analyses to evaluate potential financial, business, and reputational risks associated with various political spending strategies. These analyses can help corporations anticipate potential fallout from controversial donations and make more informed decisions about their political engagement.

D. Expand Stakeholder Engagement and Corporate Accountability

Modern corporate governance requires meaningful engagement with stakeholders, including investors, employees, consumers, and advocacy groups, to ensure that political spending aligns with broader corporate values. Soliciting input from shareholders, developing clear communication strategies regarding political contributions, and responding proactively to stakeholder concerns will maintain trust and credibility. Encouraging employee involvement in shaping political spending policies can also enhance internal alignment and reduce organizational friction.

By actively engaging with stakeholders, companies can gain valuable insights into the broader societal impact of their political activities. Indeed, several companies have told the Center for Political Accountability that shareholder resolutions have flagged new and important issues for the company to address. Investor coalitions and consumer advocacy groups have increasingly pushed for greater corporate accountability in political spending, making stakeholder engagement a critical component of effective governance. Companies should adopt structured mechanisms to provide transparency and facilitate dialogue. Proactively addressing stakeholder concerns can also help mitigate reputational damage and reinforce the company's commitment to ethical business practices and proactive risk management.

We will now turn to a discussion of an existing framework that can aid businesses strengthening their corporate accountability agendas.

E. The CPA-Zicklin Framework for Corporate Political Spending

1. Overview of the CPA-Zicklin Framework

The CPA-Zicklin Framework for Corporate Political Spending provides a structure for companies to engage in responsible political spending while mitigating associated risks. Developed by the Center for Political Accountability in collaboration with The Wharton School's Zicklin Center for Governance and Business Ethics, investors, and governance experts in both academia and multiple business sectors, the Framework is designed to enhance transparency, accountability, and alignment of corporate political contributions with company values and stakeholder expectations.[274]

The Framework is premised on the idea that corporate political spending should be governed by clear policies that are publicly disclosed, subject to rigorous oversight, and aligned with both short- and long-term business interests. By committing to follow the Framework, companies can establish a standardized approach to political engagement that reduces reputational, financial, and governance risks.[275] The Code provides

274. The CPA-Zicklin Framework (formerly the Model Code of Conduct) is also the first action item of the *Erb Principles for Corporate Political Responsibility*, an initiative of the Corporate Political Responsibility Taskforce at the University of Michigan's Erb Institute. ERB INST., THE ERB PRINCIPLES FOR CORPORATE POLITICAL RESPONSIBILITY 2 (2022). The four Principles—Legitimacy, Accountability, Responsibility, and Transparency—provide a nonpartisan framework designed to guide companies in responsibly engaging with civic and political affairs. *Id.* at 3–6. Developed by the University of Michigan's Erb Institute, these principles aim to foster an environment where businesses can thrive, contribute to societal prosperity, and strengthen trust in civic institutions. *Id.*

275. CTR. FOR POL. ACCOUNTABILITY, GUIDE TO BECOMING A FRAMEWORK COMPANY

guidance on decision-making processes, risk assessment, internal controls, and reporting mechanisms, ensuring that political spending is conducted in a manner consistent with corporate governance best practices.

At its core, the CPA-Zicklin Framework emphasizes three primary principles:

1. **Transparency** – Companies should publicly disclose their political contributions, including direct donations to candidates and payments to third-party political groups that engage in election-related spending, including the ultimate recipients of the company's payments.
2. **Accountability** – Corporate political spending should be subject to board-level oversight, with clear policies and approval mechanisms in place to ensure alignment with business objectives, stakeholder interests, and consideration of the broader impact of the company's political spending. Identification of and addressing risks are a key part of this. These are essential elements of robust due diligence.
3. **Integrity** – Political spending should reflect the company's stated values and commitments to corporate social responsibility, avoiding conflicts that could undermine credibility and stakeholder trust.

2. Implementation Strategies for Corporate Leaders

For corporate leaders, committing to follow the CPA-Zicklin Framework requires a multi-faceted approach to integrating responsible political spending practices into existing governance structures. This process involves policy development, internal training, oversight mechanisms, and stakeholder engagement. The process directly reflects the layered and interconnected challenges, discussed above, that the Code is designed to assist companies in overcoming.

a. Policy Development and Documentation

One of the first steps in implementing the Framework is drafting and formalizing a corporate policy on political spending. This policy should clearly outline:

- The types of political contributions the company is willing to make, including any prohibitions on certain types of spending (e.g., contributions to SuperPACs, 527 committees, or dark money

2–10 (2024).

groups or trade association use of the company's money for political spending).

- The approval process for political expenditures, specifying which executives or committees have decision-making authority.
- Disclosure requirements, including the frequency and format of reporting political contributions to stakeholders.
- Criteria for assessing the alignment of political spending with corporate values and long-term business goals and the impact of the company's political spending on the wider business environment.

b. Internal Training and Awareness

To avoid the aforementioned pitfalls of knowledge deficits and siloed decision-making, corporate leaders must ensure that key personnel, including executives, legal teams, and public affairs departments, are well-versed in the principles of the Framework. Regular training sessions should be conducted across departments to educate employees on the importance of responsible political spending and the risks associated with non-compliance. Internal communications should emphasize the ethical and strategic rationale behind committing to follow the Framework, reinforcing its role in protecting the company's reputation and financial stability.

c. Board-Level Oversight and Approval Mechanisms

Effective oversight is critical to ensuring adherence to the Framework. The board of directors should play an active role in reviewing and approving political contributions, with a designated committee responsible for monitoring political spending activities. Key oversight measures include:

- **Regular board reviews** of corporate political expenditures, including an assessment of potential risks and benefits.
- **Pre-approval requirements** for significant political contributions, ensuring that spending aligns with corporate policies and stakeholder expectations.
- **Annual disclosure reports** summarizing all political contributions and explaining their strategic rationale.

3. The Role of the Framework in Broader Corporate Due Diligence Practices

Following the CPA-Zicklin Framework extends beyond political spending policies. It is an integral part of broader corporate due diligence practices. By embedding responsible political spending principles into their governance frameworks, companies can enhance overall risk management and strengthen their corporate social responsibility initiatives and ethical underpinning.

Transparent political spending policies foster trust among key stakeholders, including employees, consumers, and investors. Companies that proactively disclose their political contributions and engage in dialogue with stakeholders about their political engagement strategies are more likely to maintain strong reputations and avoid public relations crises.

As political spending practices come under increasing scrutiny from the media and advocacy groups, companies that commit to following the Framework can mitigate legal risks by demonstrating compliance with best practices. Voluntary transparency measures may also help stave off potential regulatory interventions by showcasing corporate responsibility in political engagement.

The CPA-Zicklin Framework for Corporate Political Spending provides a structured approach for companies to engage in political spending responsibly while mitigating associated risks. By prioritizing transparency, accountability, and integrity, the Framework helps corporations align their political contributions with their business values and stakeholder expectations. Successful implementation requires clear policy development, board-level oversight, and ongoing stakeholder engagement. Companies that integrate the Framework into their governance frameworks not only protect themselves from reputational and financial risks but also demonstrate responsible corporate citizenship and contribute to a more ethical and stable business environment. As corporate political activity continues to evolve, adherence to structured governance principles like the Framework will be essential for maintaining corporate credibility and sustainability.

VIII. CONCLUSION

Corporate political spending presents a complex interplay of strategic utility, risk management, and governance challenges. As explored throughout this article, businesses engage in political spending to advance their interests, influence policy outcomes, and safeguard their financial position. However, these engagements are fraught with potential risks, including legal liability, reputational damage, and stakeholder discontent.

In a climate of growing scrutiny and shrinking regulatory guidance, the CPA-Zicklin Index has emerged as a groundbreaking experiment in corporate self-regulation. What the SEC could not, would not, and did not do, the Index accomplished: it established a voluntary, market-based mechanism that has reshaped expectations for transparency and accountability in corporate political spending. Over more than a decade, it has catalyzed a shift in norms, inspired reforms among major corporations, and revealed a deep and growing appetite—for structure, for oversight, for a principled framework in a policy vacuum.

The evolving landscape of corporate political spending underscores the need for companies to adopt comprehensive risk management strategies that align political engagement with core corporate values and stakeholder expectations. Transparency and accountability are key. Firms that voluntarily disclose their political contributions, implement robust internal controls, and adopt clear governance frameworks are better positioned to navigate the risks associated with political spending. Moreover, businesses that align their political activities with their stated policy commitments can build stronger relationships with consumers, employees, and investors.

To mitigate the risks inherent in political spending, corporations should develop clear policies that govern their contributions. These policies should identify who within the organization has authority to approve political contributions, what types of spending align with the company's values, and how contributions will be reported to stakeholders. By embedding these protocols into their corporate governance frameworks, companies can demonstrate their commitment to ethical behavior while ensuring consistency in decision-making processes. Establishing dedicated oversight committees or assigning responsibility to board members further enhances accountability and ensures that political spending decisions are carefully vetted.

This experience demonstrates that companies are responsive to clear standards and reputational incentives. The widespread adoption of the Index signals a broader interest within the corporate sector in aligning political activity with stated values and long-term strategy. It suggests that voluntary mechanisms—when well-designed and widely adopted—can promote accountability and encourage more thoughtful, principled approaches to political engagement.

Building on this foundation, the Framework for Corporate Political Spending offers a path forward. It draws on the credibility and lessons of the Index to provide companies with additional guidance on managing political risk and maintaining consistency between policy positions and political spending. If the Index demonstrated the feasibility of voluntary transparency, the Framework aims to support companies in applying that same discipline across a broader set of political spending practices.

To that end, corporations should continue developing clear, enforceable policies governing political contributions, embedding them into their governance structures, and disclosing them openly. By aligning political activity with internal values and stakeholder expectations, and engaging with tools like the CPA-Zicklin Index, companies can reduce exposure to risk, strengthen stakeholder trust, and play a more responsible role in the public sphere.

In an environment where social and political dynamics are constantly shifting, the success of the CPA-Zicklin Index underscores the value of credible, transparent, and adaptive governance strategies. It offers a compelling example of how voluntary standards can meaningfully shape corporate conduct—even in the absence of formal regulation.

A. *Future Research Directions on Corporate Political Activity and Governance*

The landscape of corporate political spending is continuously evolving, necessitating ongoing research and adaptation of governance strategies. Key areas for future research include examining the long-term financial impact of political spending on corporate performance, analyzing the role of artificial intelligence and big data in tracking corporate political expenditures, and assessing the effectiveness of voluntary transparency initiatives. Additionally, exploring cross-national comparisons can help identify best practices from jurisdictions with stricter corporate political spending regulations.

Further academic and industry research should also focus on the intersection of political spending and broader societal factors. Given the growing emphasis on corporate social responsibility, understanding how political contributions align—or conflict—with environmental and societal commitments will be critical for investors and regulators alike. Moreover, studies assessing consumer perceptions of corporate political spending could provide valuable insights into the broader implications for brand reputation and customer loyalty.

B. *The Navigating Political Scrutiny in a Changing Landscape*

While regulatory and legislative reforms continue to face significant hurdles, the increasing influence of shareholder activism and consumer advocacy highlights the growing demand for corporate accountability. In this climate, proactive steps by companies to enhance political spending transparency are not only ethically sound but also crucial for protecting corporate reputation and long-term financial stability. This is captured in the title of this article: "Public Failure, Private Ordering."

Looking forward, corporations must recognize that political spending is no longer a behind-the-scenes tactic—it is a public and highly scrutinized practice. Companies that fail to adopt transparent, values-driven approaches to political engagement risk alienating stakeholders and suffering financial consequences. Conversely, those that embrace responsible political spending practices can enhance public trust, mitigate risk, and reinforce their standing as ethical corporate citizens.[276]

Ultimately, corporate leaders must balance the strategic benefits of political engagement with the long-term risks it may entail. By committing to transparency, accountability, and alignment with stakeholder values, corporations can ensure that their political activities support both their business objectives and the broader democratic principles that sustain a fair and just society and a healthy business environment.

But corporations need to go further. They face the reverse situation where they need to provide the leadership to reshape the relationship between government and corporations. This is even more important today given the pressure that government is putting on universities, law firms, and corporations. Companies have contributed to this through who their political spending helps elect and what it enables. It is the other side of public failure, private ordering and is the next phase of political accountability that needs to be recognized and addressed by academics and corporate and political leaders. The success of the Index underscores that even in the absence of formal regulation, meaningful accountability is possible.

276. Allen, *supra* note 12.