



October 25, 2023<sup>1</sup>

**Submitted via rule-comments@sec.gov**

Vanessa A. Countryman, Secretary  
Securities and Exchange Commission  
100 F. Street, NE  
Washington, DC 20549

Margaret Byfield  
Executive Director  
American Stewards for Liberty  
P.O Box 801  
Georgetown, Texas 78627

Also joined by:

Craig Rucker  
Founder and President  
Committee for a Constructive Tomorrow  
1717 Pennsylvania Avenue, Suite 1025  
Washington D.C. 20006

Tracey Barton  
Executive Director  
Kansas Natural Resource Coalition  
P.O. Box 22  
Garden City, KS 67846

***Re: Notice of Filing of Proposed Rule Change to Amend the NYSE Listed Company Manual to Adopt Listing Standards for Natural Asset Companies; SR-NYSE-2023-09***

Dear. Secretary Countryman:

American Stewards of Liberty (ASL) is a 501(c)(3) non-profit organization whose mission is to protect property rights and the liberties they secure by defending the use of our land and restoring local control. As part of its mission, ASL issues briefings, including on this subject, to

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<sup>1</sup> ASL notes that comments for this proposed rule are due on October 25, 2023. However, ASL would like to note that a 21-day period, as opposed to the normal 30 or 45 days, is wholly inappropriate and creates an appearance of trying to foreclose the public's opportunity to provide thoughtful comments on such a significant and problematic proposal.

educate state and local officials, and property owners, on federal actions that erode property rights and identify responses that would bring these actions in alignment with full Constitutional protection of these rights.

On October 4, 2023, the Securities Exchange Commission (SEC) issued a proposed rule to approve the creation of a new investment vehicle, the “Natural Asset Company (NAC).” This new vehicle was created by the Intrinsic Exchange Group (IEG) in partnership with the New York Stock Exchange (NYSE). The IEG was founded by the Rockefeller Foundation with supporting partners including international environmental organizations such as the World Wildlife Fund

The purpose of this new investment product is to provide a vehicle for elite investors and governments to profit from the protection of natural resources created by climate crisis policies. It is why these same proponents have been calling for the permanent protection of at least 30 percent of the world’s land and oceans by 2033 - the 30x30 agenda. These same actors are also pushing the net zero and decarbonization policies.

Their objective is not the conservation of the land. They seek total political and financial control of the world’s natural resources particularly in the United States. These ulterior motives, along with the fundamental legal and policy flaws that the Proposed Rule would represent, are why ASL opposes the Proposed Rule, SR-NYSE-2023-09.

### **KEY POINTS:**

1. The Proposed Rule Inappropriately Authorizes Federal Lands, Including National Parks, to be Enrolled into NACs.
2. The Proposed Rule Unconstitutionally Gives “Management Authority” to NACs.
3. This Proposal Charts the Course for the Biden Administration to Systematically and Unlawfully Enroll Federal Lands into NACs.
4. The Proposed Rule Invites Foreign Entities to Use NACs to Undermine National Security and American Foreign Policy.
5. The Proposed Rule Allows Land Trusts to Enroll Conservation Easements for Profit into the NAC Without Opportunity for Public Participation or Congressional Authorization.
6. The Proposed Rule Arbitrarily Monetizes Exclusive Rights to Natural Processes and Authorizes them to be Assigned to Well-Funded and Well-Connected Special Interests
7. The Proposal Fails a Benefit-Cost Analysis By Categorically Prioritizing Protection of Resources over Human Flourishing.
8. The Proposed Rule is Certain to Have a Disparate Impact on Disadvantaged Communities.

### **BACKGROUND:**

The Intrinsic Exchange Group (IEG) claims the new natural asset economy will be \$5000 Trillion economy, four times larger than today’s economy, which is \$105 Trillion. This is because they are creating an entirely new set of values — quantifying and monetizing “natural processes” and “ecosystem services” that every human being must have to live, and no one has a right to own. They are quite literally attempting to profit from, and control, the air we breathe.

The IEG and NYSE state that it is the act of protecting the resources, thereby increasing

ecosystem services from nature, that will give the NAC its value and the shareholders an investment return. It is not the production of traditional consumer goods. In fact, they specifically prohibit a NAC from engaging in “unsustainable extractive activities.”

Three categories of lands make up an NAC: Natural (protected), Working (some productive uses highly regulated), and Hybrid (a mix of Natural and Working). They state that the investment return will come from “ecotourism revenue or carbon credit sales on natural lands and commodity crop production on working lands.” (IEG Website)

Ultimately, the NACs must hold rights to fixed assets such as land, water, conservation easements, federally protected lands, and crops to offer exclusive rights to the intrinsic elements they claim will be produced by protecting the area.

With the issuance of this proposed rule, the SEC is approving the final step necessary to rob the American people of their property and natural rights.

## 1. **The Proposed Rule Inappropriately Authorizes Federal Lands, Including National Parks, to be Enrolled into the NAC.**

The SEC rule defines a Natural Asset Company as follows:

“NACs will be corporations that hold the rights to the ecological performance (*i.e.*, the value of natural assets and production of ecosystem services) produced by natural or working areas, such as national reserves or large-scale farmlands, and have the authority to manage the areas for conservation, restoration, or sustainable management. These rights can be licensed like other rights, including “run with the land” rights (such as mineral rights, water rights, or air rights), and NACs are expected to license these rights **from sovereign nations** or private landowners.”<sup>2</sup>

Exhibit 3 of the SEC proposed rule is the IEG “Ecological Performance Reporting Framework,” which describes how NACs are to be created, measured, valued, and reported for investment purposes. The Framework states that “These assets can be areas that are publicly owned, such as a **national park**, or tracts of privately owned property held by individuals or corporations.”<sup>3</sup>

The IEG Website describes the ability to enroll federal land assets into NACs as “a transformational solution whereby natural ecosystems are not simply a cost to manage, but rather, an investible productive asset which provides financial capital **and a source of wealth for governments** and its citizens.”<sup>4</sup>

Another type of publicly owned land that can be enrolled in an NAC is a “conservation lease.”

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<sup>2</sup> Fed. Reg. Vol. 88, No. 191, 10/4/2023, page 68812.

<sup>3</sup> Securities and Exchange Commission, “Self-regulatory Organizations; New York Stock Exchange LLC; Notice of filing of Proposed Rule Change to Amend the NYSE Listed Company Manual to Adopt Listing Standards for Natural Asset Companies,” sec.gov, Sept. 29, 2023, 8, <https://www.sec.gov/files/rules/sro/nyse/2023/34-98665.pdf>. (the “IEG Framework”).

<sup>4</sup> Intrinsic Exchange Group, “Natural Areas,” [intrinsicexchange.com](https://www.intrinsicexchange.com/natural-areas), accessed Oct. 25, 2023, <https://www.intrinsicexchange.com/natural-areas>.

The Bureau of Land Management has recently issued a proposed rule that would prioritize “conservation” over the “multiple-uses” on the federal lands it manages.<sup>5</sup> The rule also creates a new process whereby the agency can issue “conservation leases” that exclude other multiple-uses from those lands and can therefore be enrolled into an NAC.

National treasures like our over 400 national parks should not be sold or even leased to private investors. Our national parks were created to preserve land for the public’s enjoyment and to pass down to future generations. They are not intended to be a cash cow for the federal government, especially at the expense of ceding control of those lands. This is antithetical to their creation by Congress, their founding legislation, and the delegated authority among federal agency officials managing these lands on behalf of the American public.

## 2. **The Proposed Rule Unconstitutionally Gives “Management Authority” to NACs.**

The proposed rule gives the NAC corporate board “management authority” over all the assets within the NAC. This includes those federal lands providing the asset base for the NAC. This raises a fundamental constitutional question: How can a private investment company have management authority over federal lands Congress has the exclusive Constitutional authority to manage — authority it has delegated to the land management agencies.

Nevertheless, the SEC is asked to authorize this action. The plain language of the SEC proposed rule gives the private investment company management authority over the “ecological performance” of the enrolled federal natural assets. This authority is baked into the NAC’s definition set forth in the proposed rules.

“Natural Asset Companies (NACs) — Corporations that hold the rights to the ecological performance of a defined area and have the authority to manage the areas for conservation, restoration, or sustainable management.”<sup>6</sup>

The Rule also defines “Ecological Performance Rights” as follows:

“The rights to the value of natural assets and the production or ecosystem services in a designated area, including the authority to manage the area. These rights are granted to a NAC, from a natural asset owner, as provided through a license agreement.”<sup>7</sup>

This management authority extends to the private lands, conservation easements, and State lands and by extension, all the assets enrolled in and therefore controlled by the NAC.

These definitions make clear that not only will NACs have the controlling management

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<sup>5</sup> See Department of The Interior, “Frequently Asked Questions: Conservation Leasing in Proposed Public Lands Rule,” blm.gov, accessed Oct. 25, 2023, <https://www.blm.gov/sites/default/files/docs/2023-05/Conservation%20Leasing%20fact%20sheet%205-11-23.pdf>.

<sup>6</sup> Fed. Reg. Vol. 88, No. 191, 10/4/2023, page 68814.

<sup>7</sup> Fed. Reg. Vol. 88, No. 191, 10/4/2023, page 68813.

authority over the assets, but that this must be carried out to ensure the assets are conserved and sustainably used under the regulatory scheme's impermissibly narrow purposes. This eliminates any productive uses necessary for human flourishing and runs counter to the law. Broadly speaking, the delegation of management authority exceeds that provided by Congress, which derives from the Constitution. More specifically, the Rule proposes to discard countless federal land management plans, congressionally authorized national park designations, and numerous other requirements in federal land policy that necessitate uses other than an NAC's arbitrary vision of what qualifies as "conservation."

Additional problems with ceding control of lands, both public and private, to companies that form NACs are obvious. For government lands, ceding control to companies to control land is akin to allowing a Fortune 500 company to control, and profit from, the White House or the U.S. Capitol. It is an inappropriate blending of public and private. For private lands, forcing landowners to cede control of their own lands is antithetical to the concept of property rights in the American tradition. Additionally, it could cost the federal government (aka the taxpayer) a fortune in paying landowners eminent domain costs. It should not be done.

### **3. This Proposal Charts the Course for the Biden Administration to Systematically and Unlawfully Enroll Federal Lands into NACs.**

The IEG Framework will be using the "natural capital accounting standards established in the United Nations System of Environmental-Economic Accounting— Ecosystem Accounting Framework ("SEEA EA")."<sup>8</sup> This is the only system that has placed a value on natural processes and ecosystem services. According to IEG, over 90 countries have signed on to use SEEA to "measure and track natural assets, including the United States." This is hardly a basis for asserting its appropriate use in selling off America's national treasures in the form of our natural parks and natural resources to private investors for an arbitrary and little-known foreign accounting system.

The Biden Administration released the "National Strategy to Develop Statistics for Environmental Economic Decisions" in January of 2023.<sup>9</sup> They are creating "Natural Capital Accounts (NACs)" to track the intrinsic values of nature and place these alongside traditional assets on the federal balance sheet.<sup>10</sup>

The report describes the purpose as follows:

"It creates a U.S. system to account for natural assets—from the minerals that power our tech economy and are driving the electric-vehicle revolution, to the ocean and rivers that support our fishing industry, to the forests that clean our air—and quantify the immense value this natural capital provides. This National Strategy will help us understand and consistently track changes in the condition

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<sup>8</sup> IEG Framework 6-7.

<sup>9</sup> Office of Science and Technology Policy, Office of Management and Budget, and Department of Commerce, "National Strategy to Develop Statistics for Environmental-Economic Decisions," whitehouse.gov, Jan. 2023, <https://www.whitehouse.gov/wp-content/uploads/2023/01/Natural-Capital-Accounting-Strategy-final.pdf>.

<sup>10</sup> Ibid. 15.

and economic value of land, water, air, and other natural assets. It will also help the federal government fulfill its responsibility to the American people to provide a fuller understanding of our economy. And it will provide data to guide the federal government and the economy through the transition we need for sustainable growth and development, a stable climate, and a healthy planet.”<sup>11</sup>

Along with adopting the UN accounting system, the Biden Administration has been gathering data on every natural element and process. The American Conservation and Stewardship Atlas initiated under 30x30 is quantifying the natural resources and their protected status. The recent USDA farm survey required landowners to provide more information about their operations than ever before. Failing to do so would be a violation of law.

Federal actors are already collecting data about the natural assets, natural processes, and ecosystem services for a reason — to establish these assets for reasons unlikely to advance the interests of the United States. Quite likely, the assets will be used as collateral to increase the national debt, as new vehicles to tax the American people, and as the asset base for an unlawful investment product. It is wholly irresponsible and inconsistent with the SEC’s statutory obligations to promulgate this scheme upon capital markets and the American people without any basis in American law or generally accepted accounting practices.

Additionally, the land management agencies are clearing the way for our federal lands to be included in the private investment product. As mentioned above, the BLM’s unlawful proposed “conservation” rule would position these lands to be enrolled in NACs.

As the Biden Administration revises the numerous federal resource management plans that govern the federal holdings, they are eliminating the productive uses and increasing the protected areas. This will make these lands eligible for enrollment into NACs.

The U.S. Fish and Wildlife Service is creating large “Conservation Areas” around National Wildlife Refuges, where the private land is targeted for acquisition and conservation easements in perpetuity. Most recently, they announced the creation of a 5.8-million-acre conservation area in Montana: The Missouri Headwaters Conservation Area. This was done without the knowledge of the State, even though 500,000 acres of State land and over two million acres of private land are included within the designated area.

The IEG website uses the example of “conservation areas” to describe how an NAC can be created in “Hybrid Areas” where there is a mix of protected and working lands, as well as small communities within the company’s boundaries.

All the Biden Administration actions are being carried out for the purpose of conserving, restoring, and sustainably managing the lands — the same objectives necessary for the formation of Natural Asset Companies.

#### **4. The Proposed Rule Invites Foreign Entities to Use NACs to Undermine National Security and American Foreign Policy**

It appears that adversarial countries, such as China, can own shares in NACs that hold the rights to our federal lands and profit from its protection while controlling how we use these lands.

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<sup>11</sup> Ibid. iv.

Exhibit 5 of the SEC Proposed Rule is the manual language that will be adopted by the New York Stock Exchange authorizing the listing of NACs. At section 103.00 “Foreign Private Issuers,” it states: “The Exchange welcomes listing inquiries from foreign private issuers.”

This gives foreign investors permission to hold shares in or create an NAC. Importantly, however, there is nothing in the rule, the NYSE manual language, or the IEG Framework that prohibits foreign nations from also holding shares in or creating an NAC.

Given this opportunity, it is not far-fetched to anticipate hostile foreign adversaries creating and investing in NACs for the purpose of locking up America’s bountiful natural resources. Beyond simply making American companies less competitive, this could have substantially harmful effects on American energy independence, economic activity, and soft power abroad – all to the benefit of our foreign adversaries who helped shepherd us through the process of neutering our own economy.

**5. The Proposed Rule Allows Land Trusts to Enroll Conservation Easements for Profit into the NAC Without Opportunity for Public Participation or Congressional Authorization**

The conservation easements held by Environmental and Agriculture Land Trusts, as well as Federal Agencies, can be enrolled into the NAC with or without the landowner’s permission. The NACs stand to gain a huge profit off the backs of America’s landowners, perhaps in violation of their legal or constitutional rights.

Land coming from federal conservation easements such as the Wetlands Reserve Program and the Agriculture Conservation Easement Program funded through the Farm Bill appears to also be potentially up for sale.

Whether it is ultimately appropriate or lawful for federal agencies to transfer management rights or leasing authority over federal lands to NACs does not discard the need to conduct proper environmental reviews, historical preservation consultations, and the panoply of other requirements that exist to ensure key stakeholder and public participation in the decision is part of the Federal decision.

**6. The Proposed Rule Arbitrarily Monetizes Exclusive Rights to Natural Processes and Authorizes them to be Assigned to Well-Funded and Well-Connected Special Interests**

The proposal presumes to arbitrarily monetize natural processes such as clean air, clean water, ecosystem services and other natural functions — those essential processes that are required by every human to live. The price for these assets is certain to be enormous – as intangible nature-derived, God-given assets tend to be – making them off-limits for only the most well-funded special interest organizations and wealthy private actors.

The IEG Framework states:

“Natural assets like forests, wetlands, or grasslands, provide a wealth of goods and services to people that not only sustain economic activity but that make life on Earth possible. These goods and services are called ecosystem services and include benefits such as clean air, water, productive soils for agriculture, food,

climate stability, habitat for wildlife, genetic materials, medicines, and food.”<sup>12</sup>

7. **The Proposal Fails a Benefit-Cost Analysis By Categorically Prioritizing Protection of Resources over Human Flourishing.**

The purpose of the NACs is to conserve, restore and sustainably manage the natural assets that make up the corporation. The IEG Website goes further to explain that protecting the resources is more important than securing human wellbeing.

“Yet producing these essential goods and services and managing resources wisely **is as valuable, or perhaps even more valuable, than the food production.**”<sup>13</sup>

Not only is protection of the land placed above producing food for society, extractive uses are specifically prohibited. Exhibit 5, the NYSE Manual Amendment reads:

“The NAC will be prohibited from engaging directly or indirectly in unsustainable activities. These are defined as activities that cause any material adverse impact on the condition of the natural assets under its control, and that extract resources without replenishing them (including, but not limited to, traditional fossil fuel development, mining, unsustainable logging, or perpetuating industrial agriculture). The NAC will be prohibited from using its funds to finance such unsustainable activities.”<sup>14</sup>

Conservation and environmental stewardship are American values that should be cherished. That does not entitle them, however, to be systematically elevated above economic development and the responsible use of public lands across America. This rule does precisely that though, by placing vast amounts of land in the hands of private special interests whose mission eschews responsibility for creating jobs, economic activity or the optimal use of land for all Americans.

This approach violates the requirement that benefits of a federal regulation exceeds its costs. In this instance, the SEC has sought solace in and held up as authoritative an arbitrary and wholly contrived accounting scheme that places a number as close to priceless as their accounting will allow on nature’s most intangible assets. This is Washington (or in this case, United Nations) math at its finest. There is also virtually no attempt to quantify the devastating impact the future transfer to NACs and the effective prohibition on America’s natural resources will have on the country.

To put a finer point on it, if such gimmickry were allowed more generally, another skyscraper would never again be built for any perceived economic benefits could never come close to offsetting the cost of missing the breathtaking sunrise the building would obscure. Fortunately, this is not the law in the United States and neither is the SEC’s accounting crutch embodied in the UN’s SEEA EA.

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<sup>12</sup> Proposed Rule Exhibit 3; IEG Framework 2.

<sup>13</sup> Intrinsic Exchange Group, “Working Areas,” [intrinsicexchange.com](https://www.intrinsicexchange.com/working-areas), accessed Oct. 25, 2023, <https://www.intrinsicexchange.com/working-areas>.

<sup>14</sup> Fed. Reg. Vol. 88, No. 191, 10/4/2023, page 68814



**8. The Proposed Rule is Certain to Have a Disparate Impact on Disadvantaged Communities.**

By intentionally seeking to transfer significant tracts of federal land to the private and foreign ownership of the NACs, the proposal intends to permanently restrict future economic and/or natural resource development for local communities and the American public. If allowed to happen, the proposal is certain to negatively impact domestic energy production, manufacturing, and American families and small businesses. It is also well-known and understood that increases in energy prices and dips in economic productivity disparately impact those communities least able to navigate such downturns. These consequences directly contradict President Biden's stated intention to reduce economic disparities and improve environment justice.

Simply put, cordoning off large swaths of federal land for wealthy and foreign parties to benefit from while American workers and disadvantaged communities suffer the fallout from a higher unemployment rate, rising gas and energy prices, and a weaker American economy is hardly the environmental justice the American people were promised. This proposal must conduct a disparate impact analysis to fully understand the harmful impacts on those least able to participate in the fanciful creation being referred to as a Natural Asset Corporation.

**RECOMMENDED ACTIONS:**

For the above reasons, the SEC should not adopt the NYSE's Proposed Rule. Further, steps should be taken to actively prevent NACs from being recognized as an appropriate or federally recognized form of a public company eligible to be listed on the NYSE. No federal funds should be used to support NACs, nor should federal lands or assets be made available to them.

Margaret Byfield  
Executive Director  
American Steward of Liberty