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Request for Information on Possible Agency Actions to Protect Life Savings and Pensions from Threats of Climate-Related Financial Risk

Comment On: EBSA-2022-0002-0001

Request for Information on Possible Agency Actions to Protect Life Savings and Pensions from Threats of Climate Related Financial Risk

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General Comment

I would like to comment in response to the Department of Labor's Request For Information regarding possible DOL action to address the requirements of Executive Order 14030. As I understand that order, DOL, like all government agencies, must take steps to mitigate any climate-related financial risk workers might face in relation to their retirement accounts. In the context of DOL's RIF, the relevant risk is to employee ERISA accounts.

It's my understanding 29 U.S. Code § 1104 governs a fiduciaries' actions with respect to those accounts. The fiduciary must handle the accounts and their investments with "... the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;". The fiduciaries must also diversify the investments to minimize risks.

There has been substantial investigation as well as reporting on the effect of investment in fossil fuels. Reports indicate fossil fuel investment is detrimental to the goal of enhancing and increasing fund values. See study (<http://bit.ly/corporate->

knights-pers-strs) showing that, in the 10 years between 2009 and 2019, CalSTRS would have gained \$11.9 billion and CalPers would have gained \$5.5 billion had they been invested in other than oil/gas production. Corporate Knights found similar results for Colorado and earlier for New York. In February 21,2022 FFI Solutions released a study showing Maryland State Retirement and Pension System (SRPS), sacrificed 15% percent of profit over 10 years by retaining investments in fossil fuel production. These studies show investment in fossil fuels isn't just a climate issue. It's also a financial issue.

In light of that information, it's doubtful whether a fiduciary could meet the required standard of prudently investing employees' ERISA funds by investing in fossil fuel companies. In light of that information, I wouldn't want my fiduciary to invest in fossil fuel industries when that investment would diminish my account or cause my account to not increase in value with different investments.

For that reason, the DOL should require fiduciaries to report how they considered the value of a fossil fuel investment to be in the best interest of the account beneficiaries. More specifically, a fiduciary should have to justify any continued investment in fossil fuel industries.

Requiring this would be consistent with and facilitated by proposed SEC climate-related financial risk disclosures. The SEC's proposed required disclosures would include a company's vulnerability to climate change and current greenhouse gas emissions. It would also require companies to reveal plans to protect investors (and their retirement savings) from these risks. If those disclosure requirements are adopted, ERISA fiduciaries would have the information to enable them to decide whether a fossil fuel investment is sound and to justify their investment decisions to DOL.

DOL should also require fiduciaries to inform their beneficiaries when they invest in fossil fuel industries. Information to beneficiaries should also include the justification the fiduciaries provide to DOL. That would give the beneficiaries information to determine whether a fiduciary is investing as a prudent person would.

There is scientific consensus the climate danger is from continuing to burn fossil fuels. Fossil fuel industries require funding and investment to continue. Any regulatory limitation on continued unchecked investment in industries that pose a danger to the climate will move us as a nation forward to achieving the necessary GHG reductions. Any action will also help protect workers' investments as well as the environment. It's a double win.

We are on the cusp of the last opportunity to take action to prevent the worst and most

devastating effects of climate change. The effort requires all hands on deck, as President Biden's Executive Order contemplates. The DOL has a role to play through its oversight of ERISA fiduciaries.