May 16, 2022

Ali Khawar
Acting Assistant Secretary
US Department of Labor
Room N-5655
200 Constitution Avenue NW
Washington, DC 20210

RE: Request for Information on Possible Agency Actions to Protect Life Savings and Pensions from Threats of Climate-Related Financial Risk (RIN 1210-ZA30)

Dear Mr. Khawar:

On behalf of *As You Sow*, I appreciate the opportunity to provide comments in response to the Department of Labor's ("DOL") "Request for Information on Possible Agency Actions to Protect Life Savings and Pensions from Threats of Climate-Related Financial Risk" (RIN 1210-ZA30).

As You Sow is the nation's non-profit leader in shareholder advocacy. Founded in 1992, our vision is a safe, just, and sustainable world in which protecting the environment and human rights is central to corporate decision making.

Finalize the ESG and Proxy Voting Rule

DOL should finalize the Proposed Rule "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights" (RIN 1210-AC03). ESG factors, particularly physical and transition risks associated with climate change, are economically relevant and should be considered by a prudent fiduciary. Fiduciaries' ability to consider ESG factors must therefore be restored.

Climate-Friendly Investment Options Should Be the Standard

Given the threat that climate change poses to workers' life savings, to safeguard their financial security, plan participants must have access to investment options that properly account for and mitigate climate change-related financial and economic risks. At a minimum, defined contribution plans should be required to include at least one climate-friendly investment option as part of a prudently constructed lineup of funds to satisfy the duty of managing plans "solely" in the interest of plan participants.

Importantly, the Proposed Rule would remove the prohibition on ESG considerations in qualified default investment alternatives, or QDIAs. But, given the importance of the default option in a plan, and the large amount of participant-directed investment allocated to QDIAs in defined contribution plans, DOL should make clear to fiduciaries that they have a fiduciary duty to address climate-related financial risks in plan QDIAs. Until climate-related financial risks are addressed in plan default options, the majority of plan participants will remain exposed to the physical and transition risks associated with climate change.

Data Collection on Climate-Related Risk

- Employee Benefits Security Administration (EBSA) should use Form 5500 to collect data on climate-related financial risk to pension plans.
  - Specifically, EBSA should use Form 5500 to ask whether and how plan investment policy statements specifically address climate-related financial risk; whether service providers disclose or meet metrics related to such financial risks; whether and how plans have factored climate-related financial risk into their analysis of individual investments; and whether, and how, plan fiduciaries voted on proxy proposals involving climate-related financial risk.
  - Ideally, these disclosures should include data on Scope 1, 2, and 3 greenhouse gas emissions associated with companies invested in by plan investment options, aggregated to the portfolio level.
- Without such additional disclosures from companies and asset managers, the data available to fiduciaries will be limited.
  - The Securities and Exchange Commission (SEC) is currently considering a climate disclosure rule. When these disclosures are in place, they should become the basis of climate-related financial risk disclosures required by the Form 5500.
- Additional disclosure requirements are also needed for asset managers, to ensure fiduciaries have access to necessary information about the climate-related financial risk of investment options. Asset managers should be responsible for providing data on Scope 1, 2, and 3 greenhouse gas emissions associated with companies invested in by their offerings, aggregated to the portfolio level. While the fiduciary should be required to disclose this material to plan participants, the responsibility for collecting and producing the information for each investment option should ultimately rest with the asset managers providing the investment products.
- EBSA should ensure that any climate-related financial risk disclosures required by the Form 5500 are feasible given disclosure requirements in place for companies and asset managers, to avoid the possibility that fiduciary disclosure requirements could have a perverse effect and actually slow the adoption of climate-friendly investment options.

Thrift Savings Plan

- DOL should direct the Federal Thrift Retirement Investment Board (FTRIB) to conduct a rigorous audit of the Thrift Savings Plan's (TSP) climate-related exposure as recommended by the Government Accountability Office's (GAO) 2021 report.
- DOL should remove disincentives from using the self-directed option (“mutual fund window”) by simplifying the fee structure, allowing automatic contributions into fund selections, and lowering the amount plan participants must have accumulated in their accounts before they can use the window.
- The TSP should offer at least one dedicated ESG option that addresses climate and other ESG systemic risks.

- The majority of investors want to be Paris-aligned,[1] but the TSP does not offer a climate-friendly investment option. The self-directed option is a first step, but not sufficient to safeguard the financial security of plan participants from the threat that climate change poses to their life savings.

- DOL should mitigate climate-risk factors throughout the TSP plan by shifting away from passive indices that ignore climate-related financial risk and systematically underestimate risks associated with climate change. TSP plan options should be based on passive indices that seek to manage climate-related financial risk.
- Recent polling found that voters of all parties do not want their retirement account put at risk in oil and gas investments, by a +29-point margin,[2] suggesting that federal employees would prefer the TSP plan take stronger efforts to manage climate-related financial risk.

Education on Climate Change and Other ESG Issues Should be Encouraged

- DOL should partner with organizations with expertise on managing climate-related financial risk to provide materials to help plan participants make better-informed decisions regarding climate-risk investments.

Thank you for considering these comments. Please feel free to reach out to Andrew Behar, CEO of As You Sow, at abehar@asyousow.org or Danielle Fugere, President, at dfugere@asyousow.org, with any questions.

Sincerely,
Andrew Behar, CEO
As You Sow

[1] https://www.barrons.com/articles/future-returns-wealthy-see-a-role-in-investing-to-tackle-climate-change-01632255522

[2] https://www.dataforprogress.org/blog/2022/2/11/voters-dont-want-retirement-funds-invested-in-oil-and-gas-especially-not-their-own