



May 16, 2022

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Attention: Request for Information on Possible Agency Actions
Re: Z-RIN 1210-ZA30

The U.S. Impact Investing Alliance (“the Alliance”) writes in support of the Department of Labor’s (“the Department”) commitment to addressing the financial-related risks and impacts of climate change.

The Alliance is an organization committed to catalyzing the growth of impact investing in the United States. We define impact investing broadly to include those investments that create financial returns alongside measurable and positive social, economic or environmental impacts across asset classes. Members of our boards and councils include individual and institutional investors collectively owning hundreds of billions of dollars of invested assets, in addition to asset and fund managers collectively managing over one trillion dollars in assets.

Climate change poses significant and systemic risks to financial stability and the capital markets,¹ and there is growing evidence that failing to act on climate change will have profound financial consequences for the U.S. economy.² The Department is right to consider how this will impact the retirement savings and economic wellbeing of American workers.

The Department has already made strides toward addressing these considerations. We were supportive of the Department’s 2021 guidance to the managers of 401(k)s and private pension plans, governed under the Employee Retirement Income Security Act (“ERISA”) clarifying they can and should consider material environmental, social and governance (“ESG”) factors in their investment decisions on behalf of beneficiaries.³

¹ Report on Climate-Related Financial Risk, Financial Stability Oversight Council, 2021, <https://home.treasury.gov/system/files/261/FSOC-Climate-Report.pdf>

² Deloitte Report, Inaction on Climate Change Could Cost the US Economy \$14.5 Trillion by 2070, January 2022, <https://www2.deloitte.com/us/en/pages/about-deloitte/articles/press-releases/deloitte-report-inaction-on-climate-change-could-cost-the-us-economy-trillions-by-2070.html>.

³ U.S. Impact Investing Alliance Comments to Department of Labor re RIN 1210-AC03, December 2021, <https://static1.squarespace.com/static/539e71d9e4b0ccf778116f69/t/61b8ad72b902a9773fadaafa/1639492979075/U.S.+Impact+Investing+Alliance+Comments+RIN+1210AC03.pdf>.

We believe the Department should go further still, including through issuing new guidance requiring ERISA-regulated fiduciaries to outline and disclose their sustainable investment policies, including their use of ESG factors, their assessment of climate-related financial risks for plans, and their shareholder engagement practices. Such policies should address both transition risk and physical risk across plan assets, and they should be designed to specifically address the investment objectives and horizons of plan participants. This would help promote both clarity and flexibility for fiduciaries under ERISA, while better ensuring that they are prudently considering material ESG factors.

Research by JUST Capital shows that overwhelming majorities of Americans support mandatory disclosure by companies about their business practices and their impacts on society.⁴ In fact, there has been a steady and significant increase in retail ESG investing and overall interest in ESG over the past several years.⁵ Additionally, the market itself has advanced – with improved accessibility, efficiency and consistency across ESG standard setters, providers and tools – a trend that will only continue as global regulators pursue mandated, standardized ESG reporting by companies, investors and asset managers.⁶ Incorporating ESG analysis into retirement plan investment decision making is thus responsive to the preferences of plan participants and would be likely to increase participation over time.

Relatedly, we encourage the Department to explore what further research the Employee Benefits Security Administration (“EBSA”) should sponsor to better enable ERISA plan fiduciaries to evaluate climate-related financial risks and craft prudent sustainable investment policies, per the recommendation above. At a minimum, EBSA could look into the state or landscape of data and analytics available to plan fiduciaries. This could include existing data providers, with a breakdown of how that data is being evaluated and interpreted against industry accepted climate-related metrics, standards or benchmarks.

The Alliance would also echo the Government Accountability Office’s (“GAO”) 2021 recommendation that the Federal Retirement Thrift Investment Board (“FRTIB”) conduct a study into the climate-related financial risks that could jeopardize the savings of the six million participants with collectively \$700

⁴ JUST Capital, Survey Analysis: Americans Want to See Greater Transparency on ESG Issues and View Federal Requirements as a Key Lever for Increasing Disclosure, February 2022, <https://justcapital.com/reports/americans-want-transparency-on-esg-and-federal-requirements/>

⁵ GlobeScan, Retail Investors Shows Strong and Growing Interest in ESG, December 2021, <https://globescan.com/2021/12/14/retail-investors-show-strong-and-growing-interest-in-esg/>; Natixis Investment Managers, Values alignment is only the tip of the iceberg for ESG, 2021, <https://www.im.natixis.com/us/research/esg-insights-from-2021-individual-investors-survey>

⁶ S&P Global Market Intelligence, Consolidation among ESG data providers continues amid COVID-19 pandemic, April 2021, <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/consolidation-among-esg-data-providers-continues-amid-covid-19-pandemic-58306410>; Breckinridge Capital Advisors, Updated Global ESG Reporting Standards Move Toward More Consistency, January 2022, <https://www.breckinridge.com/insights/details/updated-global-esg-reporting-standards-move-toward-more-consistency/>

billion in assets.⁷ Financial experts are increasingly concerned that investors in index funds are overly exposed to climate-related financial risks,⁸ meaning the costs associated with physical and transition risks are likely to disproportionately fall on retirement savers and retail investors. The FRTIB should examine these concerns and consider how index creation and selection processes could better address them. Both the Securities and Exchange Commission⁹ (“SEC”) and the Financial Stability Oversight Council¹⁰ (“FSOC”) have acknowledged the significant risks posed by climate change to financial stability, which the FRTIB specifically referenced in its response to the GAO’s recommendation, meaning there is a broader evidence base upon which the FRTIB can act.

Lastly, a whole-of-government approach is needed to meaningfully combat the systemic risks that climate change poses to our economy and global financial stability. The Department should seek to coordinate its efforts with other federal agencies also exploring the intersection of climate change and financial risk, such as the SEC and others. While each agencies’ remit and focus may vary, the ideal outcome would be a cohesive, coordinated approach to measure, manage and mitigate the harmful effects of climate change on American companies, investors, workers, consumers and communities.

Thank you for the opportunity to provide comments. We are encouraged by the Department’s leadership on this important issue and hope to stay engaged in future conversations and rulemakings.

Sincerely,



Fran Seegull
President
U.S. Impact Investing Alliance

⁷ U.S. Government Accountability Office (GAO), Retirement Savings: Federal Workers’ Portfolios Should Be Evaluated For Possible Financial Risks Related to Climate Change, May 2021, <https://www.gao.gov/products/gao-21-327>

⁸ Jahnke, Patrick, Holders of Last Resort: The Role of Index Funds and Index Providers in Divestment and Climate Change (March 9, 2019). Available at SSRN: <https://ssrn.com/abstract=3314906> or <http://dx.doi.org/10.2139/ssrn.3314906>; Sunrise Project, The Passives Problem and Paris goals: How Index Investing Trends Threaten Climate Action, 2020, <https://sunriseproject.org/wp-content/uploads/2020/01/Sunrise-Project-Report-The-Passives-Problem-and-Paris-Goals.pdf>; Jeff McMahon, Stanford Law, Index Funds Face Heightened Risk from Climate Change, September 2019, <https://law.stanford.edu/press/index-funds-face-heightened-risk-from-climate-change/>

⁹ U.S. Securities and Exchange Commission (SEC), SEC Proposes Rules to Enhance and Standardize Climate-Related Disclosures for Investors, March 2022, <https://www.sec.gov/news/press-release/2022-46>

¹⁰ U.S. Department of Treasury, Financial Stability Oversight Council Identifies Climate Change as an Emerging and Increasing Threat to Financial Stability, October 2021, <https://home.treasury.gov/news/press-releases/jy0426>