

Law & Policy Group

GRIST

DOL digs deeper into climate change impact on retirement plans

By Margaret Berger and Matthew Calloway

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The Department of Labor (DOL) has issued a wide-ranging [request for information \(RFI\)](#) about the impact of climate-related financial risk on ERISA-covered retirement plans and individual retirement accounts (IRAs). The RFI comes in response to President Joe Biden's May 2021 [Executive Order 14030](#) directing DOL to identify actions it could take under existing laws to protect the savings of US workers and families. Comments are due by May 16.

What's covered by the RFI

The RFI requests input on a variety of topics concerning the threat climate-related financial risk may pose to retirement plans, their fiduciaries and participants.

General questions. The RFI includes two broad questions not specifically related to a particular retirement plan type. First, the agency wants suggestions for actions it could take to protect pensions and retirement savings from climate-related financial risks. DOL also wants to know which of these risks commenters view as the most significant for retirement savings.

ERISA-covered plans. DOL asks whether it should collect data on climate-related financial risk for ERISA plans, and if so, what kind of information, where it may be found, and how DOL should collect it. The RFI floats the idea of collecting information on Form 5500, expanding on a similar question from the agency's abandoned [2016 Form 5500 proposal](#). However, the RFI suggests that DOL may consider other methods like an employer survey. DOL also included the potentially controversial idea of requiring plan administrators to publicly report on any efforts to manage climate-related financial risk and the outcome of those efforts.

Fiduciary issues. For ERISA fiduciaries, the RFI includes questions on the sources of information for evaluating climate-related financial risks when making investment decisions. DOL also wants to know if annuities or other lifetime income products can mitigate the effects of climate-related risk for defined contribution (DC) plans by transferring risk from participants to the insurer. If so, the RFI asks whether DOL should facilitate the inclusion of these products in DC plans.

Federal Thrift Savings Plan. The RFI also encompasses the Thrift Savings Plan (TSP) — the DC plan for federal government employees. DOL has specific TSP responsibilities under the Federal Employees' Retirement System Act (FERSA), including auditing the plan to determine the level of compliance with FERSA fiduciary requirements. The RFI asks 10 questions about the TSP, including how DOL should audit the plan to identify risks and vulnerabilities from climate change, what actions TSP's asset managers should take to assess climate-related financial risk, and whether TSP's passive index investing strategy could fail to adequately account for such risk.

Miscellaneous items. The RFI includes several miscellaneous questions, including one aimed at identifying legal or regulatory barriers preventing managers of IRAs and other non-ERISA plans from mitigating climate-related financial risk. The other questions in this category relate to possible DOL efforts to conduct further research and educate ERISA plan fiduciaries, participants, and IRA owners about these risks. Those efforts might include coordination with the Securities and Exchange Commission on broader investor education about "greenwashing" (when funds make misleading statements about efforts to address climate-related risk).

No more comments on earlier ESG proposal

DOL specifically notes that commenters shouldn't address the agency's October 2021 proposal to clarify when ERISA plan fiduciaries can consider environmental, social and governance factors in investment selection and proxy voting. That proposal arose from the same executive order, but the comment period closed last December.

Related resources

Non-Mercer resources

- [RFI on possible agency actions to protect life savings and pensions from threats of climate-related financial risk](#) (Federal Register, Feb. 14, 2021)
- [A roadmap to build a climate-resilient economy](#) (White House, Oct. 14, 2021)
- [Executive order on climate-related financial risk](#) (White House, May 20, 2021)

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- [DOL proposes to warm the climate for ESG investing](#) (Oct. 26, 2021)

Other Mercer resources

- [Investing in a time of climate change — the sequel](#) (April 5, 2019)

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