



February 22, 2022

The Honorable Chuck Schumer
Senate Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Speaker of the House
United States House of Representatives
Washington, DC 20510

The Honorable Hakeem Jeffries
House Minority Leader
United States House of Representatives
Washington, DC 20510

Chairman Bernie Sanders
HELP Committee
United States Senate
Washington, DC 20510

Ranking Member Bill Cassidy
HELP Committee
United States Senate
Washington, DC 20510

Chairwoman Virginia Foxx
Education and the Workforce Committee
United States House of Representatives
Washington, DC 20510

Ranking Member Bobby Scott
Education and the Workforce Committee
United States House of Representatives
Washington, DC 20510

Re: Defend the Department of Labor Rule that Safeguards Workers' Retirement Security

Dear Senate Majority Leader Schumer, Senate Minority Leader McConnell, House Speaker McCarthy, House Minority Leader Jeffries, HELP Committee Chairman Sanders, HELP Ranking Member Cassidy, House Education and the Workforce Committee Chairwoman Foxx, and House Education and the Workforce Committee Ranking Member Scott:

The Interfaith Center on Corporate Responsibility (ICCR) is a broad coalition of institutional investors collectively representing over \$4 trillion in invested capital. ICCR members, a cross-section of faith-based investors, asset managers, pension funds, foundations, and other long-term institutional investors, have over 50 years of experience engaging with companies on environmental, social, and governance ("ESG") issues that are critical to long-term value creation.

We write to urge you to vote against the expected Congressional Review Act (CRA) resolution to overturn the Department of Labor's (DOL's) regulation "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights".

Many environmental and social challenges addressed by ESG investing, such as the climate crisis, present systemic risks that will have long-term economic impacts, both on companies, investment portfolios, and society more broadly. The DOL's current rule recognizes that ESG factors can be particularly relevant to long-term investors, including the retirement plans of pension beneficiaries. The rule does not *require* that pension plans consider ESG, but simply acknowledges that ESG factors like climate change can be relevant to investment returns and, therefore, may be considered. In other words, the rule takes a neutral stance on the consideration of ESG criteria and does not mandate its use, as proponents of the CRA Rule repeal suggest. In fact, the rule re-affirms ERISA's long-standing principle that the duties of prudence and loyalty require ERISA plan fiduciaries to focus on relevant risk-return factors and not subordinate the interests of participants and beneficiaries by sacrificing investment returns or taking on additional investment risk.

The DOL's rule provides helpful clarity on how plan sponsors can factor ESG considerations into investment decisions under ERISA. Following a review of the nearly 900 comments submitted to the proposal in 2021, the DOL published its final rule, which took effect on January 30, 2023. Investor comments overwhelmingly supported the new Rule, which confirms that evaluating ESG factors in investment selection is consistent with fiduciary duty and acknowledges that ESG factors are no different from other material risk-return factors.

The DOL rule also crucially recognizes that the proxy vote is an ownership right. ICCR and its members have engaged in proxy voting for over 50 years and understand its importance and value. In fact, we have watched the rapid expansion of votes on key issues: 37 resolutions on social and environmental issues received majority votes last year and scores of resolutions led to meaningful discussions between management and investors resulting in agreements that facilitated the resolution's withdrawal. We believe that minimizing or limiting the power of the proxy is highly detrimental to the interests of pension fund fiduciaries and long-term investors more broadly; there is abundant empirical evidence on the value of proxy voting and the ESG reforms it makes possible.

The recently enacted DOL rule overturns a 2020 rule enacted during the prior administration that essentially barred ERISA fiduciaries from considering ESG factors in their management of risk. The prior 2020 rule was adopted despite overwhelming opposition: an analysis undertaken by ICCR and several other organizations found that 95% of comments opposed adoption of the 2020 rule. Of the 86 asset managers that commented, only one small firm supported the 2020 rule; opposition was registered not only by socially responsible investment firms but also by large mainstream investors such as BlackRock, State Street, and Vanguard.ⁱ In 2020, we sent a letter vigorously opposing this misguided rule changeⁱⁱ.

As a coalition of long-term institutional investors and fiduciaries, we are deeply concerned that the CRA resolution to un-do the DOL's recent rule-making would 1) reinstate the prior administration's rule that was confusing, unworkable, and strongly opposed by a vast majority of investors; and 2) significantly hamper future rulemaking by the DOL on fiduciary risk.

Overturning the DOL's carefully considered rule-making would restrict the ability of fiduciaries and investment managers to consider important and material risk factors in their

investment decision-making, exposing their portfolios and the returns of their beneficiaries to significant financial risk.

Thank you for this opportunity to provide our views on this important matter. Please feel free to contact Josh Zinner (jzinner@iccr.org) with any questions.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, likely representing the name Josh Zinner.

Josh Zinner
CEO,
Interfaith Center on Corporate Responsibility

CC: Martin J. Walsh, Secretary of Labor;

Lisa M. Gomez, Assistant Secretary Employee Benefits Security, DOL

ⁱ https://www.ussif.org/Files/Public_Policy/DOL_Comments_Reporting_FINAL.pdf

ⁱⁱ https://www.iccr.org/sites/default/files/page_attachments/iccr_comment_letter_-_dol_proxy_voting_proposed_rule.pdf