# ICSWG-US Responds to the Department of Labor's Climate Change RFI

Atlanta, Boston, Chicago, Cincinnati, New York, San Francisco, St. Louis, May 26, 2022 - The Investment Consultants Sustainability Working Group - United States ("ICSWG-US") today announced it submitted a letter in response to the Department of Labor ("DOL") Request for Information on Possible Agency Actions to Protect Life Savings and Pensions from Threats of Climate-Related Financial Risk (the "RFI") on May 16, 2022. The full response can be found at: www.ICSWG-US.org. Below are highlights of the ICSWG-US response.

As background, the ICSWG-US is a collaboration among 17 investment consulting firms, representing more than $33 trillion in assets under advisement. It was established in 2021 to engage with its collective stakeholders and empower asset owners and their ultimate beneficiaries to advance sustainable investment practices across the investment industry. Our market position provides us a unique perspective due to our ongoing interactions with both plan sponsors and asset managers, as we work collaboratively to evaluate the impact of climate-related financial risks on retirement plan investments and how those risks may be evaluated and mitigated.

With the increase in climate-related risks from both physical as well as transition risks, there is clearly a need for increasing access to information, standardization, and transparency. The financial materiality and magnitude of either physical or transition climate risks will vary by asset class, by sector and industry within asset classes, and even by individual company and physical asset. Importantly, as the economy transitions, respect for fundamental labor principles and rights are important to the success of an economy-wide transition and could directly affect ERISA pension plan members.

For investors to assess climate-related financial risks, they require company disclosures including regarding scope 1, scope 2, and scope 3 carbon emissions; governance practices; strategies to address climate-related financial risks; and risk management practices. We believe that these disclosures may be outside the scope of the Employee Benefits Security Administration's (EBSA) authority under the Employee Retirement Income Security Act (ERISA) and the Federal Employees' Retirement System Act (FERSA). However, the Securities and Exchange Commission's (SEC) proposed rule, "The Enhancement and Standardization of Climate-Related Disclosures for Investors," would require these disclosures for public companies. If disclosure is adopted by public companies, this may aid fiduciaries, such as asset managers of investments in ERISA and FERSA plans, to assess climate-related financial risks on behalf of ERISA plan members and beneficiaries. Disclosure of climate-related financial risks directly to individual ERISA and FERSA plan members and beneficiaries should be consistent with communication of other financial risks. Based on EBSA's mission to develop effective regulations that assist and educate workers, plan sponsors, fiduciaries, and service providers and to vigorously enforce the law, we believe EBSA should coordinate with the SEC to inform and protect investors from all forms of misleading statements about an investment manager's adherence to their own investment policies.

EBSA should not collect data from plan sponsors, such as via the Form 5500, on climate-related financial risks for plans at this time. Until disclosure standards are in place, or a standardized framework and data sources, it would be difficult, if not impossible, to require plan sponsors to report on climate-related financial risks. ERISA plan sponsors face a very wide variety of market and economic risks in overseeing retirement assets. It is unclear to us why a single potential risk (climate risk) would warrant special treatment in this regard. Furthermore, we believe this sort of reporting requirement could be overly burdensome to ERISA plans, especially for smaller plans with fewer resources. This requirement may also open up ERISA plans to the risk of litigation.

Participant education on all financial risks, including but not limited to climate-related financial risks, is important to the success of an individual's investment decision-making, especially for those responsible for making their own investment decisions in participant-directed individual account plans. EBSA should continue to promote clear disclosures, as it already does with the Principle Risk disclosures, that include any reasonably predictable financial risk a participant is exposed to, based on the investment policies or objectives of an investment strategy. With that said, we do not believe it is EBSA's role to narrowly focus on any one discrete financial risk over another. EBSA could support the IRS and individual states by providing a consistent and reliable source of education at low/no additional cost that is passed on to the underlying investors. Having a third party provide the education, as opposed to the investment managers, could also help mitigate any conflicts of interest.

**About ICSWG-US *(www.ICSWG-US.org; Contact: info@icswg-us.org)***

The Investment Consultants Sustainable Working Group - United States (ICSWG-US) is a collaboration among investment consulting firms to engage with its collective stakeholders and empower asset owners and their ultimate beneficiaries to advance sustainable investment practices across the investment industry. The ICSWG-US aims to support sustainable investment practices across institutional asset owners and asset managers. Through this effort, ICSWG-US members seeks to provide perspectives from the consultant community and be a resource on activities such as standardization of environmental, social and governance ("ESG") integration and climate-related reporting, regulations, and innovations.