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Office of Regulations and Interpretations
Employee Benefits Security Administration, Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210
Attn: Request for Information on Possible Agency Action

Submitted Electronically

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

Dear Sir or Madam:

Teachers Insurance and Annuity Association of America (“TIAA”) and its asset management arm Nuveen, LLC (“Nuveen”) welcome the opportunity to submit this comment in response to the Request for Information issued by the Employee Benefits Security Administration (“EBSA”) to solicit public input on EBSA’s future work relating to retirement savings and climate-related financial risk (the “RFI”).¹ As the Biden Administration has highlighted to EBSA and other regulators, the risks that climate change poses to the U.S. economy and financial system are increasing, and as a result, there is a growing need to protect the retirement savings of U.S. retirement plan participants from those risks. In light of these concerns, we believe it is appropriate for EBSA to consider the steps it can take to better protect the life savings and pensions of U.S. workers and their families from investment risk, including climate-related financial risk.

As the leading provider of retirement services for employees in the not-for-profit field, as well as an industry leader in responsible investing (“RI”), we are eager to share our perspective on how Americans’ retirement security can be promoted in the face of the significant and accelerating financial risks that can result from climate change. We are also grateful for the chance to provide specific, actionable suggestions for how EBSA can help mitigate the impact of these risks on the retirement savings of plan participants. Specifically, we believe that guaranteed lifetime income products like annuities offer participants a safe, efficient way to transfer investment risk generally – including climate-related investment risk – from themselves to an insurance company. By making it easier for participants to include annuities in their retirement portfolio, EBSA can make a significant contribution in helping American workers safeguard their

¹ *Request for Information on Possible Agency Actions to Protect Life Savings and Pensions from Threats of Climate- Related Financial Risk*, 87 Fed. Reg. 8289 (Feb. 14, 2022), available at: <https://www.govinfo.gov/content/pkg/FR-2022-02-14/pdf/2022-02798.pdf>.

retirement savings from investment risk. One of the most effective steps EBSA can take to accomplish this is to amend the regulations governing the qualified default investment alternative (“QDIA”) safe harbor to make it easier for plan sponsors of employer-provided ERISA retirement plans to include guaranteed annuities within their plan’s QDIA investment offering. We would also urge EBSA to finalize its 2021 proposed rule on Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights (the “Financial Factors Rule”)² as soon as possible to give plan fiduciaries greater clarity and confidence when considering environmental, social, and governance (“ESG”) factors in their selection of investment options for plan menus. We discuss our thoughts on this recommendation, as well as our responses to some of the questions set forth in the RFI, in more detail below.

I. **About TIAA and Nuveen.**

Founded in 1918, TIAA is the leading provider of retirement services for those in academic, research, medical, and cultural fields. Over our century-long history, TIAA’s mission has always been to aid and strengthen the institutions, retirement plan participants, and retail customers we serve and to provide financial products that meet their needs. Our investment model and long-term approach aim to benefit the approximately five million individual customers we serve across more than 15,000 institutions. To carry out this mission, we have evolved to include a range of financial services, including retail and asset management services. However, since our company’s founding in 1918, the core of our product offerings has been the TIAA Traditional Annuity, a fixed annuity whose defining features are the guarantee of principal and minimum interest on contributions, the opportunity for crediting of additional interests in excess of the minimum guarantees, and guaranteed lifetime income after retirement consisting of a floor income amount and the opportunity for payments in excess of those minimums.

As TIAA’s asset management arm, Nuveen and its affiliated investment advisers collectively manage over \$1 trillion in assets. For over 40 years, Nuveen has also been a leader in the RI space. Drawing from its years of experience, Nuveen has implemented RI principles throughout the enterprise that support well-functioning markets in order to preserve and grow financial, social, and environmental capital. We believe responsible ESG business practices reduce risk, improve financial performance, and promote positive social and environmental outcomes. Nuveen is also a top-10 manager among ESG mutual funds, exchange-traded funds, and variable insurance products. Drawing from our experience as a thought leader in the ESG investing space – particularly with respect to how certain investment strategies can incorporate and help mitigate climate-related financial risk – we have provided the comments and suggestions below, which we hope will be useful to EBSA as it considers its role in protecting participants from the risks posed by climate change.

² *Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights*, 86 Fed. Reg. 57272 (Oct. 14, 2021), available at: <https://www.govinfo.gov/content/pkg/FR-2021-10-14/pdf/2021-22263.pdf>.

II. **EBSA can play an important role in protecting the life savings and pensions of U.S. workers and families from the threats of climate-related financial risk.**

Question 1: Please provide your views on how EBSA should address and implement the action items set forth for EBSA in Executive Order 14030 on Climate- Related Financial Risk. Specifically, what agency actions can be taken under ERISA, FERSA, and any other relevant laws to protect the lifesavings and pensions of U.S. workers and families from the threats of climate-related financial risk?

As noted above, we believe guaranteed lifetime income products like annuities are one of the best and easiest ways to help participants mitigate investment risk in their retirement savings portfolios – including climate-related investment risk. As a general matter, annuities allow participants the option to transfer various types of risk to an insurer in exchange for the payment of premiums. The risks transferred to the insurer include longevity risk – *i.e.*, the risk that a participant will outlive her savings – as well as inflation risk, interest rate risk, and “cognitive risk,” or the risk that participants’ decision-making abilities may be impaired as their cognitive abilities decline with age. Most of all, annuities offer participants protection against general investment risk in the face of market fluctuations. We believe that climate-related financial risk is an important and increasingly relevant subset of investment risk. The physical and transition risks associated with climate change, which we discuss further below, can deplete the retirement savings of American workers if they are not properly guarded against.

There are many different ways policymakers and market participants can help to mitigate the impacts of climate risk on the retirement savings of plan participants – and TIAA is engaged with a broad range of stakeholders to discuss potential approaches to tackling this issue. One of the most important and effective ways EBSA can contribute to this industry-wide effort is by making it easier for plan participants to include guaranteed lifetime income products as part of their retirement savings portfolio through their employer’s defined contribution retirement plan. Guaranteed lifetime income options can help mitigate all of the risks discussed above, offering participants a more comprehensive retirement security solution that addresses both the need to accumulate assets and the need to ensure those assets last throughout retirement. EBSA can help increase participants’ access to guaranteed lifetime income products by amending the QDIA safe harbor to make it easier for plan sponsors of employer-provided ERISA retirement plans to include guaranteed annuities within their plan’s QDIA investment offering. This single change would significantly expand participants’ access to investment options that help them transfer investment risk – including the investment risks associated with climate change – to insurers. We discuss this recommendation in more detail in response to Question 8 below.

We would also urge EBSA to finalize its proposed amendments to the Financial Factors Rule as soon as possible. As we stated in our 2021 comment letter,³ we believe EBSA’s proposed amendments would give plan fiduciaries much more confidence and clarity about how they can fulfill their fiduciary duties when they select plan investments that appropriately take ESG factors

³ Letter from Amy M. O’Brien, Head of Responsible Investment, and Yves P. Denizé, Division General Counsel, of TIAA to EBSA re proposed amendments to Financial Factors Rule (Dec. 13, 2021), *available at*: <https://www.dol.gov/agencies/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-AC03>.

into account, as well as when they vote plan proxies on ESG-related issues. Making it easier for plan fiduciaries to offer ESG investment options on plan menus will give participants better access to investment products that incorporate ESG factors, including by considering and potentially seeking to mitigate the physical and transition risks associated with climate change. In particular, we applaud the DOL's proposal to eliminate the current Financial Factors Rule's prohibition of certain investment alternatives from being used as a QDIA. We agree with the DOL's statement that if a fund "expressly considers climate change or other ESG factors, is financially prudent, and meets the protective standards set out in the Department's QDIA regulation. . .there appears to be no reason to foreclose plan fiduciaries from considering the fund as a QDIA."⁴ We are broadly supportive of the changes made in EBSA's proposal on the Financial Factors Rule, and believe a final rule reflecting those proposed changes should be issued promptly.

III. **Climate-related risks pose a significant threat to Americans' retirement savings.**

Question 2: Executive Order 14030 uses the phrase "climate-related financial risk" to encompass a wide variety of risks under two broad categories: Physical risks and transition risks. What are the most significant climate-related financial risks to retirement savings and why?

At TIAA, our participants and plan sponsors expect us to be good stewards of their investments as we strive to help them achieve financial security throughout their lifetime. As part of this stewardship, we are aware that the impacts of climate change may pose risks to global financial assets and economic growth. Our primary objective is to protect participants' assets at the direction of the participants or their plan sponsors, in part by working to mitigate the investment risks stemming from climate change. We recognize that long-term investment performance depends on other well-functioning systems, including natural systems that provide clean water, abundant food, and many other resources to the global economy. These systems are threatened by global climate change, which in turn threatens economic growth and investment performance. Our commitment to mitigating the investment risks of climate risk is foundationally built on this understanding.

The physical and transition risks that climate change poses to global financial markets as a whole are meaningful for retirement plan participants because many retirement funds invest in diversified portfolios that reflect the broader economy. While specific climate risks may vary by company or industry, a retirement saver who has invested in a diversified portfolio will be exposed to many of these various climate-related challenges to some extent. Compared to transition risk, the physical risks that climate change poses to participants' retirement savings are in many cases more direct and evident. Increasing occurrences of flooding, extreme weather events, drought, coastal erosion, and significant temperature swings can cause costly damage to the supply chains and physical assets of companies and investments that make up a

⁴ *Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights*, 86 Fed. Reg. 57278 (Oct. 14, 2021), available at: <https://www.govinfo.gov/content/pkg/FR-2021-10-14/pdf/2021-22263.pdf>.

participant's retirement savings portfolio, to the detriment of their financial performance. Given the immediacy of these physical risks, many companies are already working to mitigate their impact, including by preparing for a large-scale transition to a low-carbon economy. In fact, this transition is already occurring, and the related transition risks are significant – and sure to grow over time. Asset prices will react to this shift, though the exact timing is unpredictable.

The economic shift to lower greenhouse gas emissions, which may include an increase in use of low-carbon energy sources and new technologies, can have ripple effects throughout a retirement saver's investment portfolio. We have already observed some effects of this transition in TIAA's General Account. As consumer preferences potentially change to favor low-carbon options, and new climate policies and regulations impact the costs and burdens associated with doing business for many companies, it may be difficult for participants to foresee and guard against the ways climate-related risk may impact their retirement savings. One way plan sponsors can help participants contribute to mitigating climate risk is by including on investment menus ESG-specific investment options that utilize strategies aimed at hedging against and/or reducing the impacts of climate change. In addition, plan sponsors can support participants who want to guard their individual portfolios from investment risk, including climate-related investment risk, by incorporating more guaranteed lifetime income products as part of plan menus. Importantly, in addition to allowing participants to shift investment risk to insurers, these products provide the opportunity for participants to receive a guaranteed income stream throughout their lifetime, regardless of the market impacts of climate change.

IV. **EBSA should not seek to collect climate-related data from plan sponsors on Form 5500.**

Question 4: Should EBSA use Form 5500 Annual Return/Report ("Form 5500") to collect data on climate-related financial risk to pension plans?

While we understand that EBSA is interested in potentially collecting climate-related financial data from retirement plans, we urge EBSA to proceed carefully in soliciting climate disclosures from plan sponsors in a way that suggests such disclosures are required. In particular, we are concerned that if retirement plan sponsors are asked to collect and report climate-related financial data on Form 5500, it could make the filing process significantly more costly and complicated – especially for smaller plan sponsors with access to fewer resources. As the Department of Labor states, Form 5500 "is an important compliance, research, and disclosure tool for the Department of Labor, a disclosure document for plan participants and beneficiaries, and a source of information and data for use by other Federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. The Form 5500 Series is part of ERISA's overall reporting and disclosure framework, which is intended to assure that employee benefit plans are operated and managed in accordance with certain prescribed standards and that participants and beneficiaries, as well as regulators, are provided

or have access to sufficient information to protect the rights and benefits of participants and beneficiaries under employee benefit plans.”⁵

By seeking to collect climate-related data on Form 5500, EBSA may lead plan sponsors to believe that they are required to report such data alongside the other information they are mandated to provide on Form 5500 – and that EBSA might seek to use this data for enforcement purposes. We recognize the potential value to both EBSA and participants of gathering climate-related data from plan sponsors, but we do not think it is appropriate for EBSA to use Form 5500 to solicit voluntary disclosure of this data – nor would we support a new requirement for plan sponsors to provide such data. Were plan sponsors required to report climate-related data on Form 5500 – or if they were given the false impression that such a requirement existed – the burdens associated with filing Form 5500 in terms of time, effort, and cost would increase dramatically. This is especially true for smaller plan sponsors, many of whom may lack the resources to comply with such an onerous new reporting requirement, or ensure that the data they report is accurate and reliable. Ultimately, the burdens associated with such a filing requirement could discourage smaller employers from sponsoring their own plans, which would run counter to EBSA’s broader goals. We would also expect that any climate data plan sponsors might be instructed or encouraged to disclose on Form 5500 would be highly subjective, with no clear disclosure framework in place, no formal definitions to rely on, and no universal agreement on what the term “climate-related financial risks” encompasses. By stressing the importance of reporting such data, EBSA might cause plan sponsors to focus too heavily on disclosing climate-related financial risks, to the detriment or exclusion of other types of risks they should be reporting.

We would recommend that if EBSA does wish to establish new requirements for disclosure of climate data by plan sponsors, it should do so thoughtfully over a considered period of time, rather than adding a new reporting item to Form 5500 in the near-term. Ideally, EBSA would wait to impose any new disclosure requirements until the market and other regulators have come to some consensus on universal climate disclosure standards for public operating companies and investment managers.

V. **Guaranteed lifetime income products can help participants mitigate climate-related financial risk, and EBSA should amend the QDIA regulations to make it easier for guaranteed lifetime income products to be used as QDIAs.**

Question 8: Do any guaranteed lifetime income products (e.g., annuities) help individuals efficiently mitigate the effects of at least some climate-related financial risk? If so, what mitigation measures do these products take? Would such products constitute a safe and efficient strategy to transfer climate-related financial risk from the participant/employee to the insurer/guarantor? If so, should EBSA take steps to facilitate the inclusion of these products in ERISA-covered defined contribution plans? If so, what steps should be taken and what products should be considered, and why? Are there climate-focused annuities that plans could offer?

⁵ Form 5500 Series, Department of Labor, *available at*: <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500>.

As discussed above, guaranteed lifetime income products like annuities offer participants a way to efficiently and effectively transfer general investment risk – including the investment risks posed by climate change – to insurers in exchange for the payment of premiums. Regardless of the impacts climate change has on individual companies, industry sectors, or the economy as a whole in the future, participants who purchase annuities have the opportunity to receive a guaranteed income stream that will last throughout their lifetime. The financial risks associated with the investments underlying those annuities are transferred to the insurer – meaning the participant’s income stream will never change, regardless of the ways in which climate risk, or any other risk, impacts the performance of their underlying investments. In this way, annuities are a powerful tool that participants can leverage to protect their retirement savings from the physical and transition risks posed by climate change – both those that are easily foreseeable, and those that are harder to predict.

We believe a crucial step in enhancing retirement security for all Americans – particularly in the face of investment risk, including climate-related financial risk – is for regulators to help facilitate participants’ increased access to guaranteed lifetime income products like annuities. The best way that EBSA can contribute to this important effort, in our view, is to amend the QDIA safe harbor to make it easier for plan sponsors of employer-provided ERISA retirement plans to include guaranteed annuities within their plan’s QDIA investment offering. Spurred by the Pension Protection Act of 2006, the QDIA safe harbor provides plan sponsors with parameters they can follow when designing the investments into which participants will be defaulted when they are automatically enrolled in a plan. The safe harbor is intended to ensure these default investments are diversified and appropriate for each participant’s investment time horizon.

Given that the majority of retirement savers are placed in, and remain in, the plan’s default investment, the QDIA rules have had a powerful shaping effect on the retirement market. Unfortunately, certain requirements within the QDIA rules discourage the use of guaranteed lifetime income products within plan default investments, despite the growing recognition that such products should be included in retirement plans. EBSA has the power to address this by amending and modernizing the QDIA rules in a way that will expand the choices plan sponsors have when designing default investments. This would allow (but not require) plan sponsors to provide retirement plan participants with solutions that both help them accumulate savings and ensure those savings will be guaranteed to last them the rest of their lives. This is especially important in the face of growing climate-related financial risk, and we believe the time is right to take this step. TIAA and others in the retirement industry stand ready to engage with EBSA to help facilitate this change.

In general, annuities offer participants an easy and efficient way to transfer investment risk, including climate-related financial risk, to insurers. But annuities backed by general accounts that have set specific climate-related targets offer climate-conscious participants an even better opportunity to pursue both their financial goals and environmental values. For example, TIAA has set a goal of achieving net zero carbon emissions in our General Account, which supports the TIAA Traditional annuity product, by 2050. Our decision to adopt this target was a risk-based one, resulting directly from our analysis of the threats that climate change poses, and will continue to pose, to our participants’ retirement savings. As responsible stewards of our participants’ investments, we are committed to managing and mitigating investment risk – including the financial risks of climate change – on their behalf. We believe this type of forward-

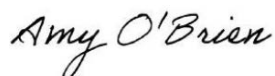
thinking, risk-adjusted approach to managing our participants' investments, coupled with active issuer engagement, is a much more effective way to guard against the financial risks of climate change than simple divestment, which is not the best way to produce long-term value for our participants.

Annuities like TIAA Traditional that are backed by a General Account pursuing specific, actionable climate emissions targets offer participants a way to not only shield their retirement savings from climate risk, but incorporate climate considerations and goals in their underlying investments. We urge EBSA to consider taking the steps we have outlined in this letter to facilitate participants' access to these valuable investment options in their retirement plans.

VI. **Conclusion.**

We appreciate EBSA's thoughtfulness and diligence as it seeks to better understand the threats that climate change poses to Americans' retirement savings, and the role it can play in helping participants protect their investments against climate-related financial risk. As we've explained above, we believe there are concrete, actionable steps EBSA can take to help participants safeguard their investments from the growing threat of climate change: namely, by finalizing its proposed amendments to the Financial Factors Rule, and, more importantly, amending the QDIA safe harbor to make it easier for plan sponsors of employer-provided ERISA retirement plans to include guaranteed annuities within their plan's QDIA investment offering. With greater access to annuities, participants will be better able to transfer climate-related investment risk to insurers, thus ensuring that their retirement savings last them a lifetime. We hope the comments we have offered are helpful as EBSA considers how best to address this important issue, and we welcome further engagement at EBSA's convenience.

Sincerely,



Amy M. O'Brien



Yves P. Denizé