FAQS ABOUT THE CLIMATE RISK ASSESSMENT LETTER

In an effort to support members of public pension funds who are concerned about climate-related financial risk and their retirement future, the Center for International Environmental Law (CIEL) has prepared a Climate Risk Assessment Letter for use by current or future pension fund beneficiaries. The letters can be sent to pension fund trustees, who have a fiduciary duty to act in the best interests of pension beneficiaries by monitoring their funds for financial risk and managing that risk accordingly. This tool is intended to provide beneficiaries the opportunity to open a dialogue with their pension funds' trustees about if and how they are considering climate related financial risk among other financial risks prudent investors must consider in their decision making. The letter may also serve as constructive legal notice to fund trustees who have been silent, and who may be in breach of their fiduciary duty if they fail to demonstrate periodic monitoring and assessments of financial risk more broadly.

What is a Climate Risk Assessment Letter?

A Climate Risk Assessment Letter is intended to promote scrutiny and transparency about whether or not pension fund trustees are meeting their fiduciary duties to monitor and manage climate-related financial risk. Pension fund trustees have an obligation to manage fund assets prudently, and failures to monitor and address climate-related financial risk may be in violation of those obligations. The Climate Risk Assessment Letters contain a set of questions which, if answered by fund trustees, will shed light on whether or not a fund's trustees are adequately considering climate-related financial risk.

These new regulatory and market changes have already spurred some of the largest global pension funds to immediately reassess, evaluate, and remove assets vulnerable to carbon transition risk with the potential to become underperforming and imprudent investments. However, because not all pension funds have been as quick to respond to fundamental changes in the global economy, there are growing concerns that those who fail to act may be breaching their fiduciary duty to act in the best interests of beneficiaries.

What is Climate-Related Financial Risk?

Climate-related financial risk refers to the risk that climate change and the transition to a low-carbon economy will have significant financial impacts on various classes of investments.

The signing of the Paris Agreement in 2015 – which set global temperature targets for the first time and incorporated commitments from nearly every nation to reduce carbon emissions – was a profound market signal. The Paris Agreement has accelerated new regulations, reduced demand for the most carbon intensive fossil fuels and rewritten standard investment assumptions about the future profitability of coal, oil, and gas. Put simply, the nations of the world agreed in Paris that the era of fossil fuels must and will end.

This transition, including changes to laws, customs, values, technologies, and economic and commercial patterns, as well as the emergence of legal liabilities and accelerating physical impacts, comprise climate-related financial risk.

Why Does Addressing Climate Risk Now Matter to Your Retirement Future?

National governments, regulatory agencies, and global financial institutions now consider the need to assess and manage climate related financial risk not as an optional risk management approach but as a current strategic necessity.[1] Regulatory risks, technology risks and litigation risks are all happening now and can have an immediate impact on cash flows.[2] It is not a question whether climate change will impact the value of assets, instead it is a series of questions: when will assets be impacted, will assets be either directly and/or indirectly impacted and, to what extent. Investment advisers like Mercer Investments have designed proprietary climate change scenario models to project how asset performance under a number of circumstances that reflect everything from complete inaction by governments on climate change to the most proactive regulatory and economic responses to transition a low carbon economy.[3] Based on their analysis, experts at Mercer concluded that, regardless of scenario, ***climate change will inevitably have an impact on investment returns*** and that the rate of return impacts from climate change are most pronounced at the sector level. [4]

An investor that has conducted a climate risk assessment, that may include a scenario analysis, will have acted consistently with the fiduciary duty to monitor funds in the context of climate-related financial risk and is more likely to be managing a portfolio that is sufficiently well positioned to withstand a number of different climate scenarios. Alternatively, inaction and a failure to monitor the fund for climate risk raises questions about how thoroughly any financial risk is being addressed and what opportunities may be missed. According to asset owners like BlackRock,[5] climate-aware investing that incorporates climate considerations in the investment process provides an opportunity for investors to avoid return-adverse outcomes and may also open the door to emerging investment opportunities in response to climate change. Institutional investors that delay assessments are acting contrary to their fiduciary duty to deliver the best risk-adjusted returns possible for their

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[1] See for example, BNP Paribas, A Four Step process for Modelling Climate Change," available at https://cib.bnpparibas.com/sustain/a-four-step-process-for-modelling-climate-risk_a-3-946.html.

[2] See BlackRock Investment Institute,"Adapting Portfolios to Climate Change: Implications and Strategies for all Investors," September 2016 available at https://www.blackrock.com/investing/literature/whitepaper/bii-climate-change-2016-us.pdf.

[3] See Mercer Investments, Trillion Dollar Transformation, "A Guide to Climate Change Investment Risk, September 2016 Management for US Public Defined Benefit Plan Trustees," October 2016.

[4] Id.

[5] BlackRock, Adapting Portfolios to Climate Change https://www.blackrock.com/institutions/en-axj/insights/climate-change_en_AXJ

beneficiaries. As a result, delaying assessments may undermine the ability for fund Trustees to deliver benefits to beneficiaries in full and on time.[6]

What will a Climate Risk Assessment Accomplish?

As the saying goes, 'you can't manage what you don't measure.' A Climate Risk Assessment is intended to encourage pension fund Trustees to not only commit to a process of monitoring portfolios for climate related financial risk but, in keeping with their fiduciary duties, to manage assets and possibly remove any asset that is no longer performing according to plan documents or the investment strategy.

To date, religious institutions, pension funds and other financial institutions in more than 70 countries controlling more than $6.24 trillion in assets have reached the conclusion that fossil fuel assets are inconsistent with their investment strategy and have committed to divesting some portion of their fossil fuel holdings.[7] For example, in November 2017, the Norwegian Central Bank, which manages Norway's $1 trillion sovereign wealth fund, announced that it will consider divesting holdings in international petroleum companies in a move that suggests that the bank is uncertain about the future demand for oil.[8] The announcement follows the fund's 2015 decision to sell off its investments in coal mining companies and utilities that depend on burning coal. And, as recently as July 2018, the Republic of Ireland announced it would divest the Ireland Strategic Investment fund from fossil fuels.[9]

As a pension fund beneficiary, you are in a position to demand that your Trustees also safeguard your future. A Climate Risk Assessment Letter is one way to begin that conversation and ensure your Trustees are meeting their fiduciary duties.

Aren't there Investment Professionals Who are Making these Decisions?

Yes. Pension fund Trustees will often retain the expertise of investment professionals like brokers, advisors and private equity firms, to take your hard earned money and make it grow, so that when the time comes, your pension is paying you on time and in full. But this relationship between your fund trustee and investment professional is not always perfect.[10] First, those investment professionals will only act in accordance with the directions that the pension fund Trustees provide. As a result, the approach to investing may not always align with present concerns of beneficiaries

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[6] See, "The Cost of Inaction: Recognizing the Value at Risk From Climate Change," The Economist Intelligence Unit, (2015).

[7] See DivestInvest, https://www.divestinvest.org/

[8] See Clifford Kraus, "Norway's Wealth Fund Considers Divesting From Oil Shares,"NYTIMES, November 16, 2017 available at https://www.nytimes.com/2017/11/16/business/energy-environment/norway-fund-oil.html?_r=0

[9] *See* Damian Carrington, *Ireland becomes world's first country to divest from fossil fuels*, THE GUARDIAN (July 12, 2018), https://www.theguardian.com/environment/2018/jul/12/ireland-becomes-worlds-first-country-to-divest-from-fossil-fuels.

[10] See Public Pensions and Fiduciary Law: A View from Equity, T.L. Anenson, 50 U.Mich.Law, 2016 available at https://repository.law.umich.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1171&context=mjlr;

unless the Investment Advisors receive a directive from the Fund Trustees to factor in those considerations. Second, recent years have witnessed a growing number of controversies and court cases in which investment advisors, including broker dealers, and executives were motivated by profit for fees charged to the fund rather than the best interest of the funds' beneficiaries.[11]

This is where you, as a pension fund beneficiary, come in. You have a right to express your concerns to your fund Trustees and ask that they be held accountable to make sure that they are monitoring the investment activities of the fund and act in the best interest of your retirement future.

Is this a request to Divest from Fossil Fuels?

No. The Climate Risk Assessment Letter is intended to begin a discussion about how pension fund Trustees are meeting their fiduciary obligations. The questions in the assessment letter are intended to determine whether the fund is monitoring its climate related financial risk and how well the fund is managing those risks. Public pension fund Trustees have a fiduciary duty to monitor and manage material financial risks, including the uncertain rates of return on investments associated with the physical impacts of climate change, the risks of climate regulation and litigation and the risks associated with transitioning to a low carbon economy. For some investors, divestment is one approach to safeguarding the future wealth and stability of funds. Certainly, pension funds like the Irish Strategic Investment Fund which is divesting from all fossil fuels, and the Norwegian Pension fund that has divested its holdings from coal, have made the decision to divest billions of dollars in fossil fuels as one way to manage investment assets in a manner that addresses the best interests of the fund's beneficiaries.

Am I signing up to participate in a lawsuit?

No. By sending a Climate Risk Assessment letter, you are initiating a conversation with your Pension Fund Trustees and letting them know that you are concerned about the financial risks climate change may place on your retirement future. Your letter demonstrates that your trustees have your support to begin a process for evaluating the exposure of the fund's assets to a rapidly changing world.

How do I find out more information?

For more information, please contact Amanda Kistler at AKistler@ciel.org

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Also see https://www.reuters.com/article/us-usa-sec-fraud/sec-charges-atlanta-firm-over-public-pension-funds-idUSKBN0O620D20150521 ;