Boston Trust Walden
Principled Investing.

October 5, 2020

<u>VIA</u> ELECTRONIC FILING

Office of Regulations and Interpretations
Employee Benefits Security Administration
U.S. Department of Labor
Room N-5655
200 Constitution Avenue NW
Washington, DC 20210

RE: Proposed rule, *Fiduciary Duties Regarding Proxy Voting and Shareholder Rights* (RIN 1210-AB91)

Dear Assistant Secretary Wilson:

Boston Trust Walden Company is an independent, employee-owned investment management firm with over $10 billion in assets under management. As an investment manager and fiduciary, we seek to ensure our clients' assets are invested in securities positioned to manage risk and produce sustainable returns.

Our firm has been integrating environmental, social, and governance (ESG) factors into investment decisions since 1975—one of the longest track records of any institutional investment manager. ESG considerations are integral to our investment philosophy. Simply stated, we seek to invest in enterprises with sustainable business models, strong financial underpinnings, prudent management practices, and a governance structure that supports these objectives.

As such, we write to express our strong opposition to the Department of Labor's proposed rule, "Fiduciary Duties Regarding Proxy Voting and Shareholder Rights" (RIN 1210-AB91) (the "Proposal"). We believe the Proposal undermines a fundamental principle of our investment approach related to ESG integration.

Fiduciary Responsibility to Integrate ESG Considerations in the Investment Process

The hallmark of Boston Trust Walden's investment approach is our emphasis on identifying higher quality investments in companies with sustainable business models. As noted above, we believe that ESG factors are an appropriate and material part of a comprehensive analysis of long-term investment prospects. We therefore believe it is important to consider a company's ESG performance as part of our fiduciary duty to all our clients. ESG integration describes our belief that companies protect and enhance their long-term profitability if they integrate responsible behavior into the fabric of their business practices. As such, ESG factors figure prominently in our proxy voting policies and practices.

Approximately half of our clients—foundations, academic institutions, state and city pension plans, faith-based investors, among others—select us in part because of our long history of effective engagement with portfolio companies on significant ESG policies and practices. Boston Trust Walden also manages assets for Taft-Hartley and corporate retirement plans who are directly affected by the

Department's proposed rule. Some clients join us in filing resolutions and virtually all expect us to thoughtfully fulfill our proxy voting responsibilities.

Like our clients, we recognize proxy voting as a fiduciary obligation having economic value. Hence, our goal is to represent and vote proxies in their best long-term interests, exercising care, skill, prudence, and diligence. We believe thoughtful incorporation of ESG considerations is fully consistent with this goal.

The Role of the Shareholder-Proposal Process and Proxy Voting

Boston Trust Walden is proud of our decades-long record of constructive engagement with portfolio companies on numerous important ESG topics such as climate risk, board diversity, executive compensation, and disclosure of significant ESG risks and opportunities. While most of our conversations with portfolio companies occur outside of the shareholder resolution and proxy voting process, we have successfully utilized proposals when companies either do not respond to our inquiries or their responses are, in our view, insufficient. Oftentimes just filing a resolution is impetus for productive dialogues.

We have filed over 500 shareholder resolutions since 1987, of which approximately 40% never reached a proxy ballot because of negotiated agreements with companies.[1] Other times it takes multiple years building shareholder support through proxy votes to see positive results such as a company adopting greenhouse gas emissions reduction goals to address climate risk. Beyond our own resolution filings, we have found that votes on key issues such as executive compensation, climate change, and board composition have stimulated meaningful dialogues with top management and board members who care how we vote.

Each year, in an annual impact report, we report publicly on progress associated with company engagement, including through filing shareholder resolutions and voting proxies.[2] Importantly, we believe that these actions and results are consistent with the long-term interests of both companies and shareholders.

Flawed Reasoning by the Department of Labor

As with the Department's June 2020 proposal *Financial Factors in Selecting Plan Investments* updating investment duties regulation in light of ESG investing trends, this Proposal on proxy voting relies on scant evidence and a fundamental misunderstanding of the importance fiduciaries and other investors place on voting proxies to communicate their preferences to company management. Without this avenue, the voice of investors is greatly diminished.

The Department claims the Proposal is needed in part because of "the recent increase in the number of environmental and social shareholder proposals introduced." The implication that companies are overburdened by shareholder proposals is not supported by the evidence. According to Institutional Shareholder Services' Voting Analytics database, on average, only 13 percent of Russell 3000 companies received a shareholder Proposal in any one year between 2004 and 2017. In other words, the average Russell 3000 company can expect to receive a Proposal once every 7.7 years.

The Department further states, "It is likely that many of these proposals have little bearing on share value or other relation to plan interests." To the contrary, the actions of investors and corporate

[1] https://www.bostontrustwalden.com/investment-services/impact-investing/resources/

[2] https://www.bostontrustwalden.com/insight-cat/impact-investing/

leaders appear to contradict this assertion, which is provided with no evidence. A vast share of asset owners and investors now incorporate ESG factors in investment decisions precisely because they believe ESG performance contributes to long-term value creation. For example, PRI, a leading global network of responsible investors, accounts for greater than US$100 trillion in assets under management as of March 2020[3]. Countless companies globally that strive to be leaders in sustainability also make the case that good management of ESG risks and opportunities is simply good business and contributes to long-term success. This was also evident in the Business Roundtable's August 2019 release of a new Statement on the Purpose of the Corporation signed by 181 CEOs.[4] The Statement pledged their commitment to multiple stakeholders—customers, employees, suppliers, communities, and shareholders—describing these constituencies as essential "for the future success of our companies, communities, and our country."

Systemic, Long-Term ESG Risks can be Material Business Risks

With its focus on proxy votes that can be demonstrated to produce short-term value generation, the Proposal misses the materiality of longer-term systemic risks to investor returns. Climate risk is the obvious example. A recent report by U.S. Commodities Futures Trading Commission, *Managing Climate Risk in the U.S. Financial System*, drives this point home with its conclusion that climate change poses systemic risks to the U.S. financial system through its profound impacts on multiple sectors and assets.[5] The report states: "The disclosure by corporations of information on material, climate-related financial risks is an essential building block to ensure that climate risks are measured and managed effectively." Yet the Department's Proposal would make it more difficult for investors to support such disclosure through the proxy process.

Climate change is but one example of systemic risk of concern to investors. Rising U.S. and global economic inequality threatens political stability, social cohesion, and financial systems. A PRI report *Why and How Investors Can Respond to Income Inequality* states: "Institutional investors have increasingly begun to realise that inequality has the potential to negatively impact institutional investors' portfolios, increase financial and social-system level instability; lower output and slow economic growth;..."[6] Concerned investors may seek to address this risk at the company level through proxy votes on numerous associated themes such as human capital management, corporate tax policy, and executive compensation.

Investigation and Documentation Expectations Stifle the Proxy Process

The Proposal requires fiduciaries exercising their right to vote proxies to 1)"investigate material facts that form the basis for *any* [emphasis added] particular proxy vote or other exercise of shareholder rights (e.g. the fiduciary may not adopt a practice of following the recommendations of a proxy advisory firm or other service provider without appropriate supervision..."; and 2)"maintain

[3] https://www.unpri.org/climate-change/pri-climate-snapshot-2020/6080.article#:~:text=The%20PRI%20is%20the%20world's,the%20end%20of%20March%202020
[4] https://www.businessroundtable.org/business-roundtable-redefines-the-purpose-of-a-corporation-to-promote-an-economy-that-serves-all-americans
[5] https://www.cftc.gov/sites/default/files/2020-09/9-9-20%20Report%20of%20the%20Subcommittee%20on%20Climate-Related%20Market%20Risk%20-%20Managing%20Climate%20Risk%20in%20the%20U.S.%20Financial%20System%20for%20posting.pdf
[6] https://www.unpri.org/download?ac=5599

records…that demonstrate the basis for particular proxy votes and exercises of shareholder rights…" These expectations are simply overly burdensome and costly for a firm of our size.

In addition, we note the Proposal provides three examples of "permissible" proxy voting policies—the first focused on adopting management's perspective, the second on voting only particular types of proposals, and the third on refraining from voting based on quantitative thresholds.

Taken together—onerous requirements for investigation and documentation of proxy votes alongside examples of "permissible" policies—the Proposal appears to be a recipe for discouraging proxy voting on ESG matters altogether. Hence, Boston Trust Walden does not believe the Proposal represents the best interests of our clients or ERISA plans more generally.

We thank you for considering our comments and respectfully request that the Proposal be withdrawn.

Sincerely,

Bill Apfel

William H. Apfel, CFA
Chief Investment Officer

Amy D. Augustine

Amy D. Augustine
Director, ESG Investing