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

Re: Financial Factors in Selecting Plan Investments Proposed Regulation
July 20, 2020
Delivered via web upload at: www.regulations.gov

Dear Sir/Madam

I welcome the opportunity to comment on the "Financial Factors in Selecting Plan Investments Proposed Regulation" (RIN 1210–AB95).

I worked in financial services from 1987 through 2007, and I rose from analyst, to broker, to trader, and finally portfolio manager. The companies for whom I worked included Citicorp, Goldman Sachs, and State Street Global Advisors. After leaving financial services, I taught graduate and undergraduate course on economics and politics for seven years. Most of this teaching was at Columbia University, and I focused particularly on how corporations interact with governments and markets. Recently, I have been managing my own taxable and retirement funds.

Introduction

Except for a concern over the absence of restrictions on proxy voting (please see below), I strongly support the Department of Labor's (the Department's) current amendments to the ''Investment duties'' regulation under Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA). The Department has ample reason to be concerned that environmental, social, and governance (ESG) investing may prompt ERISA plan fiduciaries to make investment decisions for purposes distinct from providing benefits to participants and beneficiaries.

There is an inherent conflict between ERISA fund management as stipulated under the law and the goals of ESG investing. This conflict stems from the fact that the objective of ESG is to broaden corporate behavior beyond narrow profit maximization concerns, while the duty of an ERISA fiduciary is to act "solely in the interest of plan participants and their beneficiaries, with the exclusive purpose of providing benefits to them."[1] This conflict is specific to ERISA designated funds and it does not necessarily extend to other investment vehicles such as college endowments or mission driven foundations. The growing popularity of ESG funds also raises concerns that ESG products "may be marketed to ERISA fiduciaries on the basis of purported benefits and goals unrelated to financial performance."[2]

In the Notice of Proposed Rule Making (the "Notice") published June 30, 2020, the Department reaffirmed existing legislation, as well as multiple court rulings, that fiduciaries must act with ''complete and undivided loyalty to the beneficiaries,'' and that their decisions must ''be made with an eye single to the interests of the participants and beneficiaries,'' and that interests must be understood to refer to ''financial'' rather

[1] Department of Labor. FAQs about Retirement Plans and ERISA. Accessed Jul 10, 2020.
[2] Department of Labor. "Financial Factors in Selecting Plan Investments." June 30, 2020. Federal Register. Vol. 85, No. 126. June 30, 2020. P. 39116.

than ‘‘nonpecuniary’’ benefits.[3] Allowing ERISA fund managers to make investments that are not focused solely on a plan’s financial returns would not meet these high standards and it would be a failure of fiduciary responsibility.

Ensuring that plan fiduciaries select investments solely on financial considerations relevant to the risk adjusted economic value of a particular investment is paramount. The proposed rule makes clear that ERISA plan fiduciaries may not invest in ESG vehicles “when they understand an underlying investment strategy of the vehicle is to subordinate return or increase risk for the purpose of nonpecuniary objectives.”[4] The Department’s reiteration and codification of these long-established fiduciary standards for selecting and monitoring investments clarifies and provides certainty regarding the scope of fiduciary duties surrounding non-pecuniary issues. I am particularly supportive of the rule’s prohibition that an ESG or “similarly oriented alternative is not added as, or as a component of, a qualified default investment alternative (QDIA).” Additionally, I do not believe the proposal impairs a fiduciary’s consideration of ESG factors in circumstances where such consideration is material to the risk-return analysis of an investment.

I think it imperative that the Department stand firm regarding the role of fiduciary responsibility for ERISA plans, and that it limit the role of ESG funds and strategies in so far as they substitute policy or social goals for the plan participants’ financial interest. The basis for my position on the proposed rule, as well as other issues germane to the subject matter of the proposal, is set forth below.

America’s Growing Retirement Crises Means ERISA Plans Need to Focus Solely on Investment Returns

In spite of the fact that over the last three decades retirement assets as a share of personal income in the United States have grown substantially, the overwhelming majority of Americans still face a dire retirement crisis. If we look below the aggregate retirement savings numbers, the vast majority of Americans are woefully unprepared to fund their retirement. According to the National Institute on Retirement Security, the retirement savings levels of working age Americans remain “deeply inadequate.” Their analysis reveals that “…the median retirement account balance among all working individuals is $0.00.” Overall, “…four out of five working Americans have less than one year’s income saved in retirement accounts…” and “…57 percent (more than 100 million) of working age individuals do not own any retirement account assets in an employer-sponsored 401(k)-type plan, individual account or pension.”[5] Numerous other studies support those conclusions.[6]

ERISA supported plans are one of the few positive factors in this otherwise bleak retirement landscape. They encourage people to save, they provide a mechanism for employers to contribute to worker retirement, they guard against fraud, and through selective and prudent regulations on such things as “highly compensated employees,” they reduce inequality by incentivizing management to enroll lower paid workers in retirement plans and match their contributions.

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[3] Ibid, 39114.
[4] Ibid, 39116.
[5] Diane Oakley Jennifer Erin Brown Joelle Saad-Lessler. “Retirement in America: Out of Reach for Most Americans?” National Institute on Retirement Security. September, 2019.
[6] See: See Monique Morrissey. “The State of American Retirement Savings.” The Economic Policy Institute. December 10, 2019; Keith Miller, David Madland, and Christian E. Weller. “The Reality of the Retirement Crisis.” Center for American Progress. January 26, 2015; for a general overview, see: Heather Gillers, Anne Tergesen and Leslie Scism. “A Generation of Americans Is Entering Old Age the Least Prepared in Decades.” *The Wall Street Journal*. June 22, 2018.

Over 150 million Americans hold approximately $10.7 trillion in retirement and other plans subject to ERISA rules, and when considered from a household perspective, ERISA's reach is even greater. Schemes that discourage ERISA plans from pursuing maximal economic benefits for participants and beneficiaries undermine the retirement security of millions of Americans. As stated in the Notice: "To the extent that ESG investing sacrifices return to achieve nonpecuniary goals, it reduces participant and beneficiaries' retirement investment returns, thereby compromising a central purpose of ERISA."[7] Consequently, the proposed rule instructing fund managers to prioritize investment returns, as opposed to social and political causes, is both sensible and appropriate.

Poor ESG Fund Performance

While the performance of some ESG funds has improved over the last few quarters, they have substantially underperformed over the longer run. An analysis by Wayne Winegarden of the Pacific Research Institute (PRI) found that of the 18 ESG funds examined that had a full 10-year track record, "a $10,000 ESG portfolio…would be 43.9 percent smaller after 10-years compared to a $10,000 investment into an S&P 500 index fund. Further, only 1 of the 18 funds was able to exceed the earnings of an S&P 500 benchmark investment over a 5-year investment horizon, and only 2 of the 18 funds were able to beat the S&P 500 benchmark over a 10-year investment horizon.[8]

Winegarden further noted that the funds assumed greater concentration risk than the S&P 500 benchmark since the top 10 holdings of the ESG funds on average comprised 37 percent of their portfolios, as compared to only 21 percent of an S&P 500 index fund. The higher ESG concentration means performance is driven by relatively fewer stocks and that diversification benefits are reduced.[9]

The PRI findings are not outliers. A Bloomberg review of the data for the iShares MSCI USA ESG Select Social Index Fund (SUSA), one of the oldest and largest ESG ETFs, finds that the fund has trailed the S&P 500 Index by 37 percentage points during the past 10 years.[10]

After a comprehensive review of sustainable finance strategies in 2019, the best the International Monetary Fund was able to conclude was that: "We don't find conclusive evidence that sustainable investors underperform or outperform regular investors for similar types of investments."[11] Morningstar reaffirmed this conclusion when it stated:

> Historically, there hasn't been a clear link between firms' ESG attributes and performance…. firms across the globe with higher ESG Risk Ratings…did not post significantly better or worse returns than their lower-scoring counterparts over the trailing 10 years through September 2019. ESG leaders and laggards also exhibited similar volatility and downside risk.[12]

[7] Department of Labor. "Financial Factor..." Op. cit., 39121.
[8] Wayne Winegarden. Environmental, Social, and Governance (ESG) Investing: An Evaluation of the Evidence. PRI. May, 2019. P. 5.
[9] Ibid. 5.
[10] Eric Balchunas. "ESG ETFs: Your Socially Conscious Fund Probably Has Some Holes." Bloomberg. January 27, 2020.
[11] Evan Papageorgiou, Deputy Division Chief, Monetary and Capital Markets Department, IMF. Quoted in Elizabeth Schulze, "IMF research finds ESG sustainable investment funds don't underperform." CNBC. October 10, 2019. Full report available at: International Monetary Fund. Chapter 6: "Sustainable Finance: Looking Farther" in *Global Financial Stability Report, October, 2019*.
[12] Alex Bryan. "ESG Investing Is About Long-Term Risk Management." Morningstar. July 14, 2020.

The historical experience and the current data do not justify arguing that ESG strategies can beat the market for any prolonged period of time in the future. Risking the financial future of scores of millions of ERISA plan members on such an assertion is reckless. As Deputy Labor Secretary Patrick Pizzella said: "With the weight of the saver's future retirement income on the line, ERISA-regulated retirement accounts are not the appropriate vehicle to test nonpecuniary investment strategies nor to enlist funds to drive social and policy change at the expense of financial performance."[13]

Political Activism Reduces ESG's Investment Value

Much of the enthusiasm for ESG investing is based on a sincere desire by some, especially among millennials, to improve the world. Inequality, racial and gender discrimination, labor oppression, pollution, and other grave problems all seem to have become entrenched, and for some, ESG seems a way to bypass a dysfunctional political system and to make a personal contribution to solving global problems. However, this sincere desire has been deeply politicized by activists and some progressive officials and investment managers in order to promote extreme solutions to social and environmental problems.

Over the last few years, climate activists in particular, have expanded their battle against oil companies and other natural resource companies by targeting banks and asset managers. Blackrock, Vanguard, and Fidelity have all been particular targets of these efforts.[14] The logic is to attack the financial institutions that enable these companies to operate, and ESG pressure has become just another tactic in this effort. Media campaigns, petition drives, legislative and regulatory pressure, shareholder proxies, protests in front of office buildings, sit-in occupation of offices, and other such tactics are now common. Some of the more antagonistic groups include: Divest Invest Network, Friends of the Earth, Sunrise Project, and The Sierra Club. Many, if not most of the mainstream environmental groups have, to one degree or another, also joined on to a program of pressuring the asset managers to throttle the companies and industries that have been identified as villains by the activists.

Unfortunately, many of the groups managing activist campaigns prey on people's fear of climate change to motivate engagement and contributions. Assuming the worst about global temperature rise and spreading apocryphal stories of human extinction all contribute to the narrative that ESG is just another way to fix the climate crisis and the Department of Labor should not stand in its way.[15] Climate change is a real problem that needs serious and well thought-out solutions, and these solutions need to weigh the economic costs and benefits of various courses of action. While purposefully trying to terrify people and making people, especially children and young adults, anxious and depressed probably will be self-defeating in the long-run, it seems to help motivate activist supporters in the short-run.[16]

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[13] Patrick Pizzella. In retirement plans, 'social responsibility' can't outweigh financial performance. Fortune. Jul 6, 2020.

[14] See for example: Ben Cushing. Time for BlackRock to Walk the Walk on Climate. Sierra Club. May 6, 2019, and BlackRock's Big Problem. "Making the climate crisis worse." Accessed July 14, 2020.

[15] See, for example, Bhakti Mirchandani. "How To Read The Proposed New ERISA Rule And What It Gets Wrong On Sustainable Investing." *Forbes*. June 25, 2020; for a scientific rebuttal of the 4-5 degree warming scenario see: Zeke Hausfather and Glen Peters. Emissions – the 'business as usual' story is misleading. *Nature*. Jan 29, 2020; for a rebuke of the human extinction frenzy, see: Michael Shellenberger. *Apocalypse Never: Why Environmental Alarmism Hurts Us All*. Harper, 2020.

[16] For a review of "climate anxiety," just google the term. One can choose from 90. 4 million results; also see Jason Plautz. Eco-anxiety is overwhelming kids. Where's the line between education and alarmism? *The Washington Post*. February 3, 2020. For the counter-productive aspects of climate alarmism, see Oren Cass. "The Problem with Climate Catastrophizing." *Foreign Affairs*. March 21, 2017, and Shellenberger. *Op. Cit.*

One of the most notable aspects about these activist campaigns is the degree of support many of the groups receive from millionaire and billionaire former financial managers. The list is long and it includes such prominent figures as Michael Bloomberg, Jeremy Grantham, Christopher Hohn, Paul Tudor Jones, and Tom Steyer. Blackrock, and its CEO Larry Fink in particular, are favorite targets, not only of these millionaires and billionaires, but also their spouses.[17]

There are many problems with the way activists use ESG to pursue social and political objectives. The largest is that it is fundamentally undemocratic since it bypasses the legislative process and forces a narrow, allegedly enlightened, special interest interpretation of what is in the common good upon ERISA participants. Second, it compels ERISA participants to bear the full cost and assume all the risks of the prescribed social and political solutions. Undoubtedly, many, or perhaps most ERISA participants, would not willingly choose to bear such costs and assume such risks.[18]

Changes to current corporate practices, if they are so desired, should be brought about through the legislative process. Abusing the regulatory process to advance an agenda that cannot be gained legislatively is wrong, and it threatens the financial security of over 150 million people dependent on ERISA plans for their retirement security. As the Department noted: "Providing a secure retirement for American workers is the paramount, and eminently-worthy, 'social' goal of ERISA plans; plan assets may not be enlisted in pursuit of other social or environmental objectives."[19] The proposed rule is necessary to contain the increasingly harmful trend toward politicizing, or really weaponizing ESG strategies to suit a small but vocal minority of activists.

Asset Manager Self-Interest Distorts ESG's Utility

Large asset managers like Fidelity, Vanguard, and particularly Blackrock are in a very difficult competitive position. Fees for asset management and brokerage services have been declining steadily for years, and they are all so big that continuing asset growth is difficult to produce. Also, given low interest rates and

[17] Jeremy Grantham, the investor and legendary founder of GMO has spent millions of dollars to raise climate awareness and asks "…why doesn't BlackRock get out of … all fossil-fuel companies? After all, …oil is the mother and father of all vested interests." (Leslie Norton. "Larry Fink Defends BlackRock's New Emphasis on Climate Change." *Barron's*. January 17, 2020); Christopher Hohn, TCI Fund Management "…lambasted BlackRock for failing to impose equally tough disclosure requirements in their own investments." And said: "Major asset managers such as BlackRock have been shown to be full of greenwash, [he also called] their record on voting for climate-relevant resolutions 'appalling'..." (Leslie Hook and Gillian Tett. "Hedge fund TCI vows to punish directors over climate change." *The Financial Times*. Dec 1, 2019); Kat Taylor (Tom Steyer's wife): "...if companies take a few positive steps to comply with BlackRock's challenge but don't eliminate their negative activities…we will continue to lose sight of the fact that business should serve people and communities, not the other way around… So Fink and I agree: business leadership, especially in finance, needs to hew immediately to much higher standards. But my standards are even higher than Fink's. Until I see real action and accountability, I'm saving my standing ovation." (Kat Taylor. "Beware The Potential Irony Of Blackrock's Letter." *Conscious Comp*any. January 26, 2018.)

[18] According to a report by the wealth management firm Spectrem Group and J.W. Verret, a professor at George Mason University and a member of the Securities and Exchange Commission's Investor Advisory Committee, "…91 percent of retail investors "indicated a preference for wealth maximization over political/social objectives." Spectrum Group. Exile of Main Street. 2019. P. 6. If individual ERISA participants want to shift into specialty investment products pursuing ESG criteria, that is their choice and the proposed rule does not bar plan providers from offering such a choice outside of a QDIA.

[19] Department of Labor. "Financial Factors…". Op. Cit., 39115.

the increasing relative attractiveness of equities, their fixed income franchises, particularly at Blackrock, are at are risk if more investors begin shunning low-yielding fixed income instruments.

Over the last three years, ESG strategies have been seen as a solution to these problems. If, as Larry Fink said, even 5-10% of global investors adopt ESG investing strategies, the capital shifts will be "massive."[20] And so will be the fees. As another fund manager put it: "Asset managers for a long time had a crisis of purpose..." but then they recognized "…a huge commercial opportunity…ESG…."[21]

Sadly, parts of the asset management industry are not putting the interests of their clients first; they are venally embracing ESG as a way to raise fees and increase client revenue. As one commentator said specifically about Blackrock:

> No doubt Fink and his colleagues believe in the critical importance of a sustainability screen in their active management, but that explanation is insufficient to explain a change of this magnitude. Instead, the driving force may be simple economics. BlackRock can charge higher fees with both actively and passively managed ESG funds than it can with conventional index funds.[22]

ESG products are inherently more expensive because of the additional investigation and monitoring necessary to run these strategies, and as the global head of research at Willis Towers Watson (an advisory and brokerage company) noted, some firms do "charge a premium for ESG funds."[23] While the fee differential between ESG and non-ESG products has narrowed a bit recently, fees are still higher for the categories that contain most of the ESG assets (i.e., U.S. Large Cap Equity and Foreign Large Cap Equity).[24] The fee for the largest (by far) Blackrock ESG EFT (the iShares ESG MSCI USA ETF) is 15 basis points; the comparable Blackrock S&P 500 fee is 3 basis points. That is a huge difference. Higher fees --or at least an ability to not have to lower fees as rapidly, is clearly a factor motivating asset management companies to launch and mange ESG strategies.

Another way this industry-wide fee motivation is evident is through "rebrandings." In this case, rebranding means the "formal adoption of a sustainable investing strategy or approach by an existing mutual fund or ETF in the form of an amendment to the fund's offering document."[25] While in some cases there can be real strategy changes associated with a rebranding, in most case it is usually a very modest alteration that then allows the management company to reposition the fund and improve its marketing.

According to Michael Cosack (Principal at ImpactWise) and Henry Shilling (Director of Research at Sustainable Research and Analysis), "…fund re-brandings represent the most significant contributor to the 2019 increase in sustainable investment fund assets in the United States…This activity involved 47 separate firms and 460 funds or 2083 funds/share classes that added $1.05 trillion in assets, or 86% of the increase

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[20] Christine Williamson. "BlackRock is all in on firmwide sustainability *Pensions & Investments*. Jan. 27, 2020

[21] John Hoeppner, head of U.S. stewardship and sustainable investments at Legal & General Investment Management America, in Hazel Bradford, Greenwashing' potential tarnishes growth: Marketing ploys feared to be masking true rate of sustainable progress. *Pensions & Investments*. June 1, 2020.

[22] Christopher Burnham. "BlackRock's ESG Strategy Is Gambling with Public Pensions." *Barron's*. May 28, 2020.

[23] Luba Nikulina quoted in Danielle Walker, "Firms see embrace of ESG as way to garner more fees." *Pensions & Investments*. February 24, 2020.

[24] Charles McGrath. "Some ESG funds challenge broad universe peers on fees." *Pensions & Investments*. June 16, 2020.

[25] Michael Cosack and Henry Shilling. "Sustainable Investing Growth – We've Made It! ....or Have We?" *SustainableInvesting.com*. February 2020.

recorded in 2019."[26] Cosack and Shillng also point out that *"…in most instances re-branded funds have adopted ESG integration strategies to supplement all other applicable forms of investment decision making."*[27] (Emphasis added.)

While rebranding seems to adhere to the letter of the law, one can only suspect that a great deal of it is based on unsubstantiated or disingenuous claims about the fund or strategy's environmental, social, or governance benefits. It is a form of "greenwashing" whereby companies "pretend to be environmentally friendly, when in fact they are not."[28] But this serves the management companies' competitive purpose since, as Michael Novogratz, formerly a Goldman Sachs partner and President of Fortress Investment Group recently and sarcastically noted: "Almost every fund wants to be an ESG fund."[29]

The competitive dynamics of the asset management business are pushing fund companies to create and sell ESG products which are not necessarily in the best interest of their ERISA clients. The Department's proposed rule will put a brake on this inappropriate and potentially unsafe conduct. As U.S. Deputy Secretary of Labor Pizzella said, the rule "…makes clear that trustees must keep savers' retirement income at front of mind, and not use workers' and retirees' savings for nonpecuniary purposes." This includes not recommending and managing investment strategies for clients primarily because they will provide higher fees to the management company itself.

Proxy Voting: The Missing Element in the Proposal

The Department's 2018 field bulletin contained language relevant to proxy voting and shareholder proposals. Consideration of this issue and the language contained in the Bulletin was helpful because it is in the best interest of ERISA plan members if their fiduciaries do not incur expenses to actively sponsor proxy fights on environmental or social issues, or more generally engage in ESG shareholder proposal activity, unless such engagement enhances financial value for plan members.[30]

Activists with no fiduciary responsibilities and undisclosed conflicts of interest are abusing the proxy system, especially when it comes to environmental issues. The rise of ESG has just provided activists with an even larger arena for trying to force extreme solutions on American corporations and the public.

Currently, Institutional Shareholder Services (ISS) and Glass Lewis control over 90% of the proxy voting adviser market. Studies have found that the two firms can swing 20% of votes in proxy elections.[31] As part of their service, ISS also produces "specialty reports" on among other subjects, Socially Responsible Policy. These reports are supposed to respond to the values and agenda of different investors. The theory is that the reports give investment managers recommendations based on their predetermined preferences while at the same time allowing them to claim fulfillment of their fiduciary responsibility.

The problem is that both proxy voting firms tend to make recommendations on principles that promote environmental and social causes, not maximize investment returns. They advance political and social causes; they do not focus on the financial performance that is critical to security of ERISA plan members or their other public pension fund and institutional investor clients. Prohibiting ERISA fiduciaries from

[26] Ibid.
[27] Michael Cosack and Henry Shilling. "SEC Rule Request for Comment on Fund Names Response." May 5, 2020.
[28] UrbanDictionary.com.
[29] Bloomberg Television. July 10, 2020.
[30] Department of Labor. "Field Assistance Bulletin No. 2018-01." April 23, 2018. Pp. 4-5.
[31] Chester S. Spatt. "Proxy Advisory Firms, Governance, Market Failure, and Regulation." Milken Institute. 2019. Pp. 5

incurring expenses to actively sponsor proxy fights on environmental or social issues, or more generally engage in ESG shareholder proposal activity, unless such engagement enhances financial value for plan members, would go a long way in rectifying this principal-agent failure. I propose the final Department of Labor rule address this issue since it would update the sound guidance from the 2018 field bulletin.

Conclusion

As the Department stated in its Notice, there is no consensus about what constitutes a genuine ESG investment, and ESG rating systems are often vague and inconsistent.[32] ESG has become a "catch-all" phrase for a range of disparate and often conflicting strategies. In contrast to something like value investing, there is no generally accepted methodology, and even the sources of data and other metrics are problematic. But this has not stopped ESG investing from growing rapidly,[33] and this growth is now beginning to threaten the financial future of millions of ERISA plan members and their beneficiaries.

The very vagueness of the term ESG helps political activists take advantage of corporate activity and financial flows to push their narrow agenda. After all, almost anything can be justified on environmental grounds, if one does not have to care about financial returns. The vagueness also helps asset managers launch or rebrand strategies to maximize fee revenue. It does not matter that ESG returns have not been, or are not in the future likely to be particularly good. The incentive is for some managers to proliferate these products with little regard for client interests. And given how dysfunctional the proxy voting process already is, resisting ESG labeled political activism is even less appealing to asset managers.

ERISA is important because it "…protects retirement savings from mismanagement and abuse, and clarifies that those in charge of those savings be held to a high standard – that is, they must act in the best interests of plan participants."[34] The proposed rule reminds ERISA plan fiduciaries that they may not invest in ESG vehicles "when they understand an underlying investment strategy of the vehicle is to subordinate return or increase risk for the purpose of nonpecuniary objectives."[35] This long-established fiduciary standard for selecting and monitoring investments is worth upholding. The Department's reiteration of this in the proposed rule is appropriate and necessary. Fund managers must remain focused on maximizing returns, not promoting a public policy, political or any other nonpecuniary goal.

Thank you for your consideration.

Sincerely,

Jonathan A. Chanis

Jonathan A. Chanis, Ph.D.

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[32] Op. Cit. Department of Labor. "Financial Factors…". Pp. 39114, 39120-39121.

[33] According to the Callan Institute's 2019 ESG Survey: "Overall, incorporation of ESG factors into the investment decision-making process nearly doubled to 42% [of 89 Institutional managers surveyed] in 2019 compared to 22% in 2013." P. 2.

[34] U.S. Department of Labor. Fact Sheet: What is ERISA? Accessed July 10, 2020.

[35] Department of Labor. "Financial Factors…" op. cit. 39116.