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Submitter Information

Name: Aryt Alasti

General Comment

I entirely support the following commentary which was sent to you by Lisa Woll, CEO of US SIF: The Forum for Sustainable and Responsible Investment:

"The proposed rule suggests, but without evidence, that the growing emphasis on ESG investing may be prompting ERISA plan fiduciaries to make investment decisions for purposes distinct from providing benefits to participants and beneficiaries and defraying reasonable expenses of administering the plan.

"However, the DOL proposal is out of step with professional investment managers, who increasingly analyze ESG factors precisely because of risk, return and fiduciary considerations. In US SIF's 2018 survey of sustainable investment firms in the United States, 141 money managers with aggregated assets of more than $4 trillion responded to a question on their motivations for incorporating ESG criteria into their investment process. Three-quarters of these managers cited the desire to improve returns and to minimize risk over time. Fifty-eight percent cited their fiduciary duty obligations as a motivation.

"Generating more hurdles to the incorporation of ESG criteria will have a chilling effect, leading to plan participants losing access to ESG options---many of which have outperformed their indices over time and especially during the market shock related to COVID 19.

"The proposal would put a substantial additional burden on fiduciaries who wish to utilize ESG investments by requiring additional investment analysis and documentation requirements in the 'rare circumstances when fiduciaries are choosing among economically indistinguishable investments.'

"The DOL also seeks to limit the universe of plan participants able to access ESG retirement options by prohibiting ESG investments to be 'added as, or a component of, a qualified default investment alternative.'

"US SIF was instrumental in advocating for the 2015 DOL Interpretive Bulletin clarifying that fiduciaries of ERISA-governed pension plans need not treat commercially reasonable investments as inherently suspect or in need of special scrutiny merely because they take into consideration environmental, social or other such factors. That guidance assures fiduciaries that they may incorporate ESG-related tools, metrics and analyses to evaluate an investment's risk or return or choose among otherwise equivalent investments.

"The 2015 guidance reflected the then deep interest in ESG investing---that interest has only grown. The proposed rule acknowledges this noting that 'available research and data show a steady upward trend in use of the term ESG among institutional asset managers, an increase in the array of ESG focused investment vehicles available, a proliferation of ESG metrics, services, and ratings offered by third-party service providers and an increase in asset flows into ESG funds.' A new rulemaking is not only unnecessary but will be damaging to the interests of plan participants."