DC 20036
www.jwj.org

1616 P Street NW, Suite 150 | Washington,

tel: 202.393.1044 | fax: 202.822.2168 |

Submitted electronically via www.regulations.gov

July 29 2020

Office of Regulations and Interpretations US Department of Labor
Room N-5655
200 Constitution Avenue NW Washington, DC 20210

RE: Proposed rule on Financial Factors in Selecting Plan Investments (RIN 1210-AB95)

To whom it may concern:

I write to provide comments in response to the Department of Labor's proposed rule, "Financial Factors in Selecting Plan Investments" (RIN 1210-AB95) (the "Proposal").

Jobs With Justice is a 33-year old non-governmental organization, that exists to serve a network of 36 independent community coalitions made up of labor, faith-based and community organizations. Jobs With Justice Education Fund provides its employees with an ERISA-governed retirement account that offers socially responsible and ESG options.

We fully support and agree with the comment on the proposed regulation submitted by Jon Lukomnik (Sinclair Capital) and 26 others.

The Department of Labor proposed rule is full of inaccurate assumptions and a failed understanding of the manner in which professional money managers utilize ESG criteria as a tool for addressing both stock-specific risk and the systemic risks of the overall market when externalities are mispriced.

If ever there was a moment in time for federal regulators to reflect on systemic risk, this age of the COVID-19 pandemic and the widespread protests over racial justice would be such a time. Millions of Americans increasingly realize that the deadly impacts of climate change and the unchecked growth of inequality, much of this the result of corporate policies, have exacerbated social harms and devastated the U.S. economy. The bill for all of this mispriced risk has come due all at once. The result is record numbers of unemployed Americans and an impending crisis of business failure and subsequent taxpayer bailouts--money that should instead be addressing the systemic risks left to fester. Rather than robbing investors by removing a vital tool to address these market failures by adopting the proposed rule, the Department of Labor should instead mandate that all investors incorporate ESG analysis as a proven practice of prudent investing.

The Department of Labor's assertion the investment portfolios using ESG criteria underperform on a risk-adjusted return basis is simply false. While ESG products, like all investment vehicles, perform along a continuum, ESG portfolios often outperform portfolios not utilizing ESG criteria. One large academic meta-analysis of 2,200 studies found that in 63 percent of cases use of ESG was positively associated with higher value creation. The Department of Labor should more closely examine this issue of performance and consider mandating ESG analysis for all ERISA portfolios as a means of maximizing the long-term financial and social well-being of all ERISA beneficiaries.

ESG principles are widely embraced by the market, including by issuers of securities as demonstrated by the recent Business Roundtable Statement on Corporate Purpose which states that social, environmental and governance practice is integral to long-term corporate success. We concur with the Business Roundtable that the purpose of business includes: "foster[ing] diversity and inclusion, dignity and respect;" and "respect[ing] the people in our communities and protect[ing] the environment by embracing sustainable practices across our businesses." ESG tools are critical to holding businesses accountable to these positive commitments.

The proposed rule violates the Office of Management and Budget's cost-benefit principles, given that ESG delivers superior portfolio performance; can help highlight, address and reduce systemic risks not currently well priced, and because ESG criteria have been widely adopted by about 10 percent of the value of investable securities. The rule would require ESG investment managers to incur high transaction costs (including those from illiquid securities) in order to undo a proven and effective investment technique that has both reduced portfolio risk and boosted the returns enjoyed by ERISA beneficiaries.

Jobs With Justice therefore respectively requests that the Department of Labor withdraw the proposed rule.

Sincerely,

Erica Smiley
Executive Director
Jobs With Justice