Mr. Jason A. DeWitt
Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Ave., N.W.
Washington, DC 20210

Rule Number: RIN 1210-AB95

Dear Mr. DeWitt:

I appreciate the opportunity to address you about the Labor Department's decision to clarify its guidance around ESG investing. In my opinion, this move is long overdue.

Below you will find an op-ed that I recently published at Newsmax Finance in support of the proposed rule change that I would like to also submit as comment. Thank you for your consideration.

Warmest Regards,

Dan Perkins
Florida-based Registered Investment Adviser with over 40 years of investments experience investing in all asset classes all over the world

How the Trump Administration is "Making Retirement Great Again"

A recent trend in the investing world has alarming implications for the solvency of private pension funds, many of which are already grappling with shortfalls.

The advent of environmental, social, and governance (ESG) themed investing over the last decade has distracted fiduciaries from their primary duty – effectively and efficiently funding the retirement of plan participants. Simply stated, ESG investments are motivated by nonpecuniary goals, and these objectives have diminished returns on investment. That's why I was heartened to hear that the Department of Labor (DOL) is issuing additional guidance around ESG investing.

The newly proposed rule will clarify investment priorities regarding ESG within the context of plans governed by the Employee Retirement Income Security Act (ERISA). Reaffirming the need for fiduciaries to "always put first the economic interests of the plan in providing retirement benefits" and confirming the impropriety of sacrificing returns while accepting additional risk to "promote a public policy, political or any other nonpecuniary goal" will help ensure the solvency of the $10.7 trillion invested in private pension funds moving forward.

As a registered investment advisor with over 40 years of experience investing in asset classes all over the world, I feel I can speak about this issue from a position of authority. For the last 25 years energy – which happens to be one of sectors most often omitted from ESG portfolios – has been a core investment for my clients. Excluding these investments from retirement plans will come at great peril for plan holders over the long term, especially as the beneficiaries reach retirement age.

Research has shown that ESG funds underperform most common index funds. A recent Bloomberg analysis[1] compared ESG funds to standard index funds and found that one of the oldest and largest ESG ETFs on the market, the iShares MSCI USA ESG Select Social Index Fund (SUSA), trailed the S&P 500 index by 37 points over ten years. This is partly due to the fact that some of the best performing stocks over that time period were left out of the fund. Strong performers like Amazon, Mastercard, Netflix, and Ross Stores – which all gained over 1000% during this 10-year period – we're not included in SUSA for failing to meet the unclear and often contradictory standards of ESG funds.

An analysis from the Massachusetts Institute of Technology's Sloan School of Management has found that the methods, approaches and results of ESG rating providers varied greatly.[2] In fact, another comparison of two provider rating systems found that the same company – Facebook – received a top environmental score from one provider and a below-average rating from the other.[3] These kinds of inconsistencies erode investor confidence and make it more difficult for fiduciaries and plan holders to make informed decisions about where their investments should ultimately land.

Higher fees have contributed to underperformance. Blackrock, one of the first firms to pioneer ESG investing, charges over 40% higher fees for its iShares Global Clean Energy ETF (ESG fund) compared with the iShares Core S&P 500 ETF, for example.[4] ERISA fiduciaries have also been actively sponsoring proxy fights on environmental or social issues and engaging in ESG shareholder proposal activity, all on the dime of their plan holders.

While previous guidance in the form of a 2018 DOL field bulletin contained language prohibiting this kind of shareholder activism, the proposed rule, as it currently stands, is silent on the matter. In order to help reduce expenses to plan holders and minimize potential ESG distractions for ERISA fiduciaries, the final rule should provide language prohibiting this kind of activity. The only exception should be made if fiduciaries can prove that ESG-related proxy voting or shareholder activism strengthens monetary value for beneficiaries, which is probably rare in most occasions.

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[1] https://www.bloomberg.com/opinion/articles/2020-01-27/esg-etfs-your-socially-conscious-fund-probably-has-some-holes

[2] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3438533

[3] https://www.researchaffiliates.com/en_us/publications/articles/what-a-difference-an-esg-ratings-provider-makes.html

[4] https://ipfiusa.org/wp-content/uploads/2020/05/Behind-BlackRocks-ESG-Shift.pdf

All that being said, I respect the right of Americans to choose ESG as an investment vehicle. If personal investors would like to prioritize sustainability goals over returns that is their prerogative. But fiduciaries do not have the right to make public policy decisions for the millions of pensioners they represent, nor do they have the right to use other people's money in order to push that agenda. Defaulting investors into funds that may jeopardize their returns, all in the name of promoting a political agenda flies in the face of what it means to be a fiduciary.

This new rule from the Department of Labor will send the message that this kind of activity is no longer tolerated from fiduciaries. If you agree that so-called environmental crusaders have engaged in activism at the expense of retirees and pensioners for too long, I encourage you to submit your own comments on the proposed rule – which are being solicited until July 30th – by clicking here. The savings of many retirees have already been negatively affected in the economic aftermath of the COVID-19 pandemic, and this does not need to be further exacerbated by investments in funds with substandard returns.

Source: https://www.newsmax.com/finance/danperkins/trump-making-retirement-great/2020/07/24/id/978929/