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General Comment

I oppose the proposed rule because it restricts professional investment managers from considering Environmental, Social, and Corporate Governance (ESG) concerns when making ERISA plan investments. The fact of the matter is that including ESG factors in making investment decisions IS one of several ways an fiduciary should analyze risk, return, and other fiduciary considerations.

A 2018 survey of sustainable investment firms in the United States by The Forum for Sustainable and Responsible Investment found that 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.

Making managers jump through more hoops to incorporate ESG criteria will have a chilling effect, leading to plan participants losing access to ESG options -- many of which have outperformed similar indices that do not consider ESG over time and especially during the market shock related to COVID 19.

The 2015 DOL Interpretive Bulletin clarified 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 investments risk or return or choose among otherwise equivalent investments.

The 2015 guidance reflected the 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 investors.

The proposed rule should not be promulgated.

Attachments

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