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Financial Factors in Selecting Plan Investments

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Submitter Information

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General Comment

July 28, 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").

I am a resident of California with investments in a 401k. Science tell us that we must drastically lower carbon emissions within the next several years in order to stave off the worst effects of Climate Change. Taking ESG factors into account when selected funds is a critical part of the due diligence process.

The Department of Labor fails to articulate a rational connection between the relevant facts and the proposed rule. The Proposal reveals a fundamental misunderstanding of how professional investment managers use environmental, social and governance (ESG) criteria as an additional level of due diligence and analysis in the portfolio construction process. Investment managers increasingly analyze ESG factors precisely because they view these factors as material to financial performance.

The proposed rule assumes ESG strategies sacrifice financial returns, but current research findings show ESG strategies' outperformance. Research from 2004 to 2008 on 11,000 mutual funds shows no financial trade-off in the returns of sustainable funds compared to traditional funds, and they demonstrate lower downside risk. Moreover, during a period of extreme volatility, the study found "strong statistical evidence that sustainable funds are more stable."- "Sustainable Reality: Analyzing Risk and Returns of Sustainable Funds, Morgan Stanley Institute for Sustainable Investing, 2019

The proposed rule assumes ESG considerations are not widely applied, but there is a history of effective use of material ESG considerations by mainstream investors. SRI assets have expanded to $12 trillion today, up 38% from $8.7 trillion in 2016. Investors are increasingly realizing that ESG criteria is important when considering material risk. Trends, US SIF, 2020: https://www.ussif.org/files/US%20SIF%20Trends%20Report%202018%20Release.pdf

The proposed rule assumes that ESG considerations are not material to corporate success, but the Business Roundtable Statement on Corporate Purpose demonstrates broad issuer acceptance of materiality as integral to corporate long-term success. The Statement recognizes corporations' role in creating a strong and sustainable economy, environment, and society. In this statement, companies commit to delivering value to customers, investing in employees through fair compensation, development, and DEI initiatives, supporting the communities in which they work by respecting the community and protecting the environment, and generating long-term value for shareholders and committing to transparency and shareholder engagement. - Business Roundtable Statement on Corporate Purpose

The Proposal is likely to have the perverse effect of dissuading fiduciaries, even against their better judgment, from offering options for their plans that consider ESG factors as part of the evaluation of material financial criteria. As a result, it will unfairly, and harmfully, limit plan diversification and perhaps compel plan participants to choose options that are either more risky or less profitable.

I respectfully request that the Proposal be withdrawn. Thank you for your consideration of these comments.

Sincerely,
Serena Zhao
Sr. Engineering Program Manager