

July 30, 2020

Office of Regulations and Interpretations
US Department of Labor
Room N-5655
200 Constitution Avenue NW Washington, DC 20210
Online submission - <https://www.regulations.gov/comment?D=EBSA-2020-0004-0002>

Re: Financial Factors in Selecting Plan Investments
Proposed Regulation (RIN 1210-AB95)

Dear Secretary Scalia,

On behalf of Nordea Asset Management¹, I am writing to respectfully submit the following comments on the Department of Labor's proposed rulemaking entitled "Financial Factors in Selecting Plan Investments" (the "Proposal").

In order to fulfil its fiduciary duty to investors, Nordea Asset Management is committed to integrating all financially material factors, including ESG factors, into investment processes. More specifically, our risk management strategy aims to integrate issues such as climate change, human capital management and other "ESG" themes, as evidence shows that these can have a material impact on asset prices, both directly at the holding level, and indirectly across portfolios, especially when taking into account the risk horizon that long-term, universal investors like pension plans face.

Against this background, we are concerned that the Proposal can be understood as mischaracterizing ESG integration, and we fear that it may create confusion for ERISA fiduciaries, and levy unnecessary costs on plan beneficiaries. Below follows a few examples of issues we find with the Proposal, and why we urge it be withdrawn or amended.

Firstly, the Proposal sends mixed signals around the factors that are and are not to be considered financial material in investment decisions. On the one hand, the Proposal rightly acknowledges the potential materiality of some ESG factors, citing for instance "a company's improper disposal of hazardous waste" or "dysfunctional corporate governance." On the other hand, however, the Proposal confusingly expresses concern over that ERISA fiduciaries under a "growing emphasis on ESG investing" carry out investment decisions "on the basis of purported benefits and goals unrelated to financial performance" and that "ESG investing raises heightened concerns under ERISA".

Secondly, the Proposal creates an unfavorable environment for ESG investing, both by requiring of plan sponsors to prepare special documentation for choosing an ESG-oriented alternative among economically equivalent options and by prohibiting a 401(k) plan from providing a qualified default

¹ Nordea Asset Management is the largest asset manager in the Nordic region with EUR 235 bn in assets under management (as at 31.12.2019).

investment alternative with an ESG component. This is unhelpful, both because it creates roadblocks to a fully integrated risk management, and because it would mean that the default alternative could not be the one with the best possible risk/return relationship.

Finally, as ESG factors are increasingly integrated into portfolio management across all investment products, the dividing line between an “ESG-oriented” portfolio and a “regular” one is becoming more and more blurry. This makes the singling out of “ESG-oriented portfolios” for specific regulatory limitations impractical, especially for any regulation aimed at securing the best risk-adjusted returns for plan participants.

If the Proposal is finalized in its current form, we fear that fiduciaries will struggle to take all financially material factors into consideration in investment decisions, and ultimately it will be the plan beneficiaries that bear the costs for such oversight.

We appreciate your consideration of our comments, and urge that the Proposal be withdrawn or amended.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Nils Bolmstrand". The signature is fluid and cursive, with a prominent initial "N" and a long, sweeping underline.

Nils Bolmstrand
CEO, Nordea Asset Management