Received: July 29, 2020
Tracking No. 1k4-9i37-4fex
Comments Due: July 30, 2020
Submission Type: Web

PUBLIC SUBMISSION

Docket: EBSA-2020-0004
Financial Factors in Selecting Plan Investments

Comment On: EBSA-2020-0004-0002
Financial Factors in Selecting Plan Investments

Document: EBSA-2020-0004-DRAFT-0986
Comment on FR Doc # 2020-13705

Submitter Information

Name: Gordon Andrews

General Comment

Dear Director Canary:

We believe that the Proposed Rule fundamentally misconstrues the importance and role of ESG integration in reducing risk and increasing returns. Further, the Proposed Rule is likely to lead to confusion and costs for retirement plan fiduciaries. We, therefore, urge you to retain existing guidance and not move forward with a final rule.
Despite the Proposed Rule s stated goal of providing clarity for ERISA fiduciaries, it instead creates confusion due in part to a failure to distinguish ESG integration and Economically Targeted Investing (ETI). ESG integration is the consideration of risk factors as part of prudent fiduciary management and a strategy that takes these factors into account in investment actions. ETIs are investments that aim to provide financial returns as well as collateral, non-financial benefits. For example, ETIs often advertise job creation or climate impact as goals of the investment. [1]

ESG Integration

The Proposed Rule states that ERISA fiduciaries have fulfilled their obligations if they have selected investments and/or investment courses of action based solely on pecuniary factors and that ESG factors and other similar factors may be economic considerations. In fact, there is now an extensive body of research that makes clear that ESG factors are material investment considerations. [2] As such there exists a sound basis for integrating ESG factors into investment actions.

A policy by the DOL that simply clarifies that fiduciaries must integrate material factors into their investment actions, and that ESG factors may be material, would be appropriate. We are concerned, however, that the remaining components of the proposal create confusion and are likely to cause fiduciaries to believe they are not permitted to consider material ESG factors in their investment analysis.

The all else being equal test

We are highly concerned that the Proposed Rule inappropriately creates new burdens for fiduciaries under the all else being equal test that will lead to unnecessary costs for plan participants. It also creates confusion about what activities the DOL is attempting to regulate.

Signed: Gordon Andrews