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Submitter Information

Organization: Systematica Investments Limited

General Comment

We are writing in response to the Department Of Labor's proposed rulemaking "Financial Factors in Selecting Plan Investments". We believe that several aspects of this proposal are ambiguous and therefore, potentially, may cause confusion.

Firstly, we believe that this proposal could make it harder for ERISA trustees to integrate ESG factors as they are only obliged to consider ESG factors if those factors are likely to have a material economic impact on the investment. This could lead to confusion as fiduciaries may be unsure therefore if ESG integration is part of their fiduciary duties.

Secondly, for investments with equivalent risk-return profiles, fiduciaries have to use the standard "all things being equal test" to determine investment decisions. However, in reality, there is a question as to whether fiduciaries would ever have the opportunity to choose between multiple investment options that genuinely present the same risk and return. With adding the new record keeping requirements, this could leave fiduciaries exposed to potential action if afterwards, due to the benefits of hindsight, their decisions are deemed incorrect.