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Submitter Information

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General Comment

I am not in favor of the Department of Labor's proposed rule, "Financial Factors in Selecting Plan Investments" (RIN 1210-AB95). This proposal takes us in precisely the wrong direction in terms of regulating investment and fiduciary managers. I am an entrepreneur and impact investor and a firm believer in the way in which investors can help steer our markets toward longer term, more sustainable, more equitable approaches to business.

The Department of Labor's 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. The proposed rule also assumes ESG considerations are not material, but the Sustainability Accounting Standards Board standards adoption process is based on financial materiality legal standard. Finally, the proposed rule assumes ESG considerations could violate fiduciary duty, but other jurisdictions' regulatory interpretations support prudent investor consideration of ESG factors as material and within fiduciary duty.
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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.