# PUBLIC SUBMISSION

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## Submitter Information

**Organization:** Institute for the American Worker

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## General Comment

As an organization that focuses on workforce issues, protecting pensions is absolutely critical. The U.S. Department of Labor's Notice of Proposed Rulemaking to prohibit private pension fund advisors from investing in any funds focused on goals other than maximizing financial returns achieves this goal. It should be a breach of fiduciary duty for financial advisors to invest in "ESG" funds that prioritize environmental and humanitarian goals.

Given the significant amount of funds ($10.7 trillion) that are invested in private pension plans governed under the Employee Retirement Income Security Act (ERISA), this issue should be addressed. Also note that this is a growing investment strategy; from 2018 to 2019 the number of funds considering ESG rose from 81 to 564.

The proposed rule still allows the proper amount of flexibility to consider ESG if those factors could impact the value of an investment. For example if a company is known to pollute then there could be a lawsuit impacting its value. Additionally if a fiduciary is considering two investments that have the same projected returns then ESG criteria can be considered to break the tie.

Investors should be able to choose their long-term goals with their own money. For some, that means prioritizing social or environmental goals. But for pensions where individual investors do not have control of the investment strategies, fund returns should be prioritized over all other goals.

Choosing ESG funds over those that maximize returns impact retirees' investments. The Pacific Research Institute compared the record of ESG funds against the S&P Index fund and found that a $10,000 ESG portfolio would be 43.9 percent smaller compared to an investment in a broader, S&P 500 index fund.

Although the rule does not impact public sector pensions, the spread of ESG investing is extremely worrisome. Politically-driven use of public pension dollars is harmful to the purpose of transparent, clean state governance. When public pensions pursue ESG investment strategies, they fail to maximize pension investment returns. Taxpayers (and sometimes retirees) are ultimately responsible for the shortfall. Meanwhile, ESG strategies can create a cycle of political favors between governments that allocate pension dollars in a politically-driven manner and the companies that receive such pension dollars as investment capital.

This new regulation places safeguards on the "all things being equal" test because it "could invite fiduciaries to find ties without a proper analysis, in order to justify the use of non-pecuniary factors in making an investment decision." In other words fiduciaries that want to invest for ESG causes could put their thumb on the scales and risk the retirement security of participants by making riskier investments or ones with less potential for return.