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Office of Regulations and Interpretations
Employee Benefits Security Administration
United States Department of Labor
Room N-5655
U.S. Department of Labor
200 Constitution Avenue N.W.
Washington, D.C. 20210
Attention: Financial Factors in Selecting Plan Investments Proposed Regulation

Re: Financial Factors in Selecting Plan Investments
RIN 1210-AB95

This letter is submitted on behalf of the Defined Contribution Institutional Investment Association (DCIIA). We appreciate the opportunity to comment on the Department's Proposed Rule on "Financial Factors in Selecting Plan Investments (RIN 1210-AB95)" (the Proposed Rule).

As a general comment, DCIIA encourages the Department to proceed with caution, care and diligence in revising the Department's long-standing fiduciary duty regulations. It is DCIIA's view that the issues presented by the Proposed Rule changes are significant enough that they warrant withdrawal of the Proposed Rule changes for additional information gathering and input from stakeholders in the industry. DCIIA believes all stakeholders should have additional opportunities to allow for comment, analysis and response to the questions raised. Certainly, allowing for a longer comment period would be prudent and DCIIA also requests that the Department hold hearings on the Proposed Rule. DCIIA further believes that the Department should further consider and stress test its proposed changes to avoid unintended consequences that could adversely impact retirement savings and the financial wellness of working Americans. For this reason, DCIIA also requests withdrawal of the Proposed Rule changes.

Members of the DCIIA community, which include leading record-keepers, investment consultants and advisers, investment managers, education and advice providers, trustees and custodians, law firms, plan sponsors and other industry participants, support initiatives that expand access to retirement savings. As such, our members are well qualified to provide helpful insight for the Department on questions regarding ESG investments in defined contribution (DC) plans. In fact, in 2018 DCIIA established an ESG Subcommittee reporting into DCIIA's Investment Policy & Design Committee based on the strong interest from our members in developing thought leadership and educational information on ESG investing in DC plans. DCIIA's ESG

Subcommittee includes a broad cross-section of more than 125 individuals from DCIIA member organizations and has hosted three educational webinars. The Subcommittee also published an educational white paper in May 2019 entitled *Sustainable Investing in Defined Contribution Plans: A Guide for Plan Sponsors*.[1] In addition to being collaboratively authored by multiple member experts, DCIIA white papers are subject to extensive peer review through our Editorial Review Board prior to being published and are also reviewed by our Executive Committee. As such, we believe our white papers to be a reasonable approximation of an industry consensus around a given topic, insofar as the goals of the papers are generally to educate and prompt further questions and discussion.

DCIIA believes it is important to confirm that the Proposed Rule changes are carefully drafted to track only the scope and intent of the proposed changes, including to avoid unintended, adverse consequences. The Proposed Rule changes should also be stress-tested to verify that the changes will not unnecessarily stifle the growth and efficiency of employer-sponsored retirement plans or lead to an even greater proliferation of costly class action litigation. ERISA-covered defined contribution plans have been besieged with costly litigation in recent years. Our research has found that plan sponsors consider litigation risks a key factor when considering whether to adopt new or innovative solutions. Plan sponsors identified "low risk of litigation" as "needed" to "stimulate/enable innovation."[2] DCIIA also believes that fiduciary rulemaking should promote good actors (those motivated to help plan participants achieve positive outcomes) to take action, including to implement innovative solutions to improve participants' probability of a successful retirement.

DCIIA also encourages the Department to further consider the breadth of academic studies, research, and industry reports which have established that ESG risk factors are pecuniary and have shown that integrating ESG principles in the investment process can improve investment performance and provide other financial-based benefits to plan participants. In fact, evaluating ESG risk factors provides a holistic view that can be a very important part of the fiduciary investment decision-making process.

In addition, members of the DCIIA community have identified other concerns with the Proposed Rule. One of these concerns is that the Proposed Rule (and the Department's statements in support of the Proposed Rule) fail to acknowledge the aforementioned academic studies, research and industry reports, and more generally fail to acknowledge that ESG risk factors are financially material (and therefore squarely within the "pecuniary factors" that the Department has proposed as central to meeting ERISA's fiduciary duties). Members of the DCIIA community have also expressed concern that the procedural framework set out in the Proposed Rule, if adopted, is not clearly stated and so could impede proper fiduciary decision-making from good actors. DCIIA members are concerned that the Proposed Rule is overly broad and could have unintended impacts on ERISA

[1] The paper and other publications are available in DCIIA's online Resource Library in the "ESG / Sustainable Investing" topic area.
[2] *The Impact of Litigation on Innovation in DC Plans, A Qualitative Exploration*, as presented by the DCIIA Retirement Research Center at the DCIIA Innovation Forum on January 24, 2019.

fiduciary investment decision-making far beyond the ESG context, upending long-standing legal precedents. Lastly, the rule fails to define what constitutes an "ESG fund," which could potentially cause a negative effect on DC plan sponsors selecting funds as a general matter, including those that incorporate ESG risk factors.

I. Academic Studies, Research and Industry Reports Have Proven ESG Risk Factors are Pecuniary, Improve Investment Performance, and Provide Other Financial Based Benefits. Department Rulemaking (and the Regulatory Record) Should Incorporate The Studies, Research and Reports.

Members of the DCIIA community believe the Proposed Rule fails to acknowledge the many academic studies, research and industry reports that have found ESG risk factors are pecuniary, have shown improved investment performance when ESG risk factors are incorporated in the investment process, and have provided other financial-based benefits. In particular, DCIIA members have expressed concern with the sources cited by the Department in support of the Proposed Rule as being limited, and as such, as failing to comply with the standards that apply to the Department's rulemakings.

Moreover, the Proposed Rule's preamble commentary seems to depict ESG as not pecuniary and as driven by "benefits and goals unrelated to investment performance."[3] Members of the DCIIA community have identified numerous different academic studies, research and industry reports that support the opposite presumption: that ESG risk factors are pecuniary and can be a very important part of fiduciary investment decision making. Based on the short timeframe provided by the Department for comments, DCIIA has not yet been able to collate these resources for this comment letter. DCIIA would be happy to assist the Department to collect and collate additional resources, if requested to do so.

DCIIA itself has published a white paper and produced three webinars with the primary aim of educating plan sponsors and prompting industry conversations around ESG investing aimed at debunking myths, adopting best practices, and learning from global plan sponsors in countries where adoption of ESG is more prevalent. DCIIA also recently issued a statement as an initial

[3] For example, rather than acknowledging the pecuniary benefits of ESG investing, in the Preamble to the Proposed Rule, the Department described ESG as non-pecuniary ("The Department has been asked periodically over the last 30 years to consider the application of these principles to pension plan investments selected *because of the non-pecuniary benefits they may further*, such as those relating to environmental, social, and corporate governance considerations."). Financial Factors in Selecting Plan Investments, 85 Fed. Reg. 39,113, 39,114 (June 30, 2020) (emphasis added). The Department later added: "The Department is concerned that the growing emphasis on ESG investing may be prompting ERISA plan fiduciaries to make investment decisions for purposes distinct from providing benefits to participants and beneficiaries and defraying reasonable expenses of administering the plan. The Department is also concerned that some investment products may be marketed to ERISA fiduciaries *on the basis of purported benefits and goals unrelated to financial performance*." 85 Fed. Reg.at 39116 (emphasis added).

response to the Proposed Rule. These resources have concluded that, at its core, ESG investing (whether referred to as sustainable investing or by some other name or strategy) is a framework for investors to examine companies from the perspective of long-term viability. This framework allows investors to evaluate a company's exposure to, and ability to address, ESG-related risks and opportunities. However, importantly, modern-day ESG investing differs from value-based investing; many modern investment approaches consider ESG risk factors in order to identify companies with the strongest prospect for long-term success, focusing on value, not values.

For example, these resources affirm that ESG risk factors can be financially material and fall squarely within the "pecuniary factors" that the Department has proposed as central to ERISA's fiduciary duties. Members of the DCIIA community believe that numerous academic studies, research and industry reports reject the premise that ESG risk factors are "non-pecuniary." This view is supported by managers and advisers in the investment industry. For example, in a 2017 survey by the CFA Institute on ESG of close to 50,000 CFA Charterholder portfolio managers and research analysts, 65% of respondents identified that they "take ESG issues into consideration to help manage investment risks."[4] As such, members of the DCIIA community have urged that the Department base any regulation of ESG in a framework that clearly acknowledges ESG risk factors can be pecuniary.

Second, and relatedly, academic studies, research and industry reports affirm that ESG risk factors can support improved investment performance, and provide other financial-based benefits, and that there is no reason to expect underperformance. This significant body of research, studies and reports concludes that incorporating ESG risk factors into investment decision-making can help strengthen financial performance, which is by definition pecuniary.

Academic studies analyzing the relationship between ESG risk factors and performance have found a strong correlation with alpha, beta, and portfolio value. Again, these studies have demonstrated positive benefits from ESG investing, such as improved net-of-fee performance relative to non-ESG-themed funds, and increased portfolio value, when overweighting a portfolio with high-ESG-rated stocks without incorporating a values-based screening approach.[5]

For example, the 2016 paper entitled "Corporate Sustainability: First Evidence on Materiality," has become one of the most prominent research studies supporting ESG integration in investment decision making, with over 10,000 downloads from the Social Science Research Network (SSRN).[6] Using the Sustainability Accounting Standards Board (SASB) framework to identify

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[4] CFA Institute, "ESG Survey," 2017, https://www.cfainstitute.org/-/media/documents/survey/esg-survey-report-2017.ashx, page 11.

[5] Jedrzej Białkowski and Laura T. Starks, "SRI Funds: Investor Demand, Exogenous Shocks and ESG Profiles," Working Papers in Economics, University of Canterbury, March 2016, https://ideas.repec.org/p/cbt/econwp/16-11.html; Meir Staman and Denys Glushkov, "The Wages of Social Responsibility," December 2008, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1372848.

[6] Mozaffar Khan, George Serafeim and Aaron Yoon, "Corporate Sustainability: First Evidence on Materiality," The Accounting Review (Nov. 9, 2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2575912.

material sustainability issues, the paper's research team found that firms with good performance on material sustainability issues significantly outperform (by measure of alpha) firms with poor performance on these issues.[7] In another study, researchers found that financial performance — as measured by a range of factors, including return on assets and return on equity — is strengthened when banks increase corporate social responsibility activities,[8] an ESG-related business practice. There is also significant industry literature that identifies benefits of ESG risk factors, both in improving investment performance and providing other financial benefits. A 2017 research study by Morningstar found that mutual funds with a 5-globe Sustainability Rating (the highest possible score), when compared to 1-globe funds, have better risk-adjusted returns relative to their category, less volatility, and greater exposure to financially healthy companies.[9]

Another review found that ESG ratings were a strong source of alpha for emerging markets equities.[10] A meta-analysis commissioned by a large bank found positive relationships between ESG risk factors and financial performance.[11] Another report found strong support for ESG risk-factor integration: High-ESG rated companies generally demonstrated higher profitability, higher dividend yield, and lower idiosyncratic tail risks.[12]

An additional documented benefit of ESG usage is that ESG funds can operate as a valuable hedge, including against performance by certain sectors (e.g., energy funds) or against market downturns. For example, according to a comprehensive study by BlackRock, 94% of ESG-themed funds outperformed their benchmarks in the first quarter of 2020.[13] BlackRock found a correlation between sustainability (the core principle of ESG risk factors) and traditional risk factors, such as quality and low volatility, and concluded that "ESG characteristics indicate resilience during market downturns."[14]

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[7] *Id.*

[8] Meng-Wen Wu, Shen, Chuang-Hua Chen and Ting-Hsuan Shen, "Application of multi-level matching between financial performance and corporate social responsibility in the banking industry," Review of Quantitative Finance and Accounting, July 2017, pp. 29-63, https://doi.org/10.1007/s11156-016-0582-0.

[9] Jon Hale, "Sustainability Matters: Sustainability and Quality Go Hand in Hand," Morningstar Research, March 16, 2017, https://www.morningstar.com/articles/798237/sustainability-and-quality-go-hand-in-hand.

[10] Cambridge Associates, "The Value of ESG Data: Early Evidence for Emerging Markets Equities," November 2016, https://www.cambridgeassociates.com/press-releases/esg-factors-have-helped-investors-achieve-significant-outperformance-in-emerging-markets/.

[11] Mark Fulton, Deutsche Bank; Bruce Kahn, Columbia University; Camilla Sharples, Deutsche Bank, "Sustainable Investing: Establishing Long-Term Value and Performance," DB Climate Change Advisors, Deutsche Bank Group, June 2012, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2222740.

[12] Guido Giese, Linda-Eling Lee, Dimitris Melas, Zolton Nagy and Laura Nishikawa, "Foundations of ESG Investing, Part 1: How ESG Affects Equity Valuation, Risk and Performance," MSCI ESG Research, November 2017.

[13] BlackRock, "Sustainable investing: resilience amid uncertainty," May 2020, https://www.blackrock.com/corporate/literature/investor-education/sustainable-investing-resilience.pdf.

[14] *Id.* at 3.

In short, academic studies, research and industry reports affirm that ESG risk factors can support improved investment performance and provide other financial benefits.

In part because of these advantages, there has been a measurable increase in the adoption of ESG investing by the US investment market. According to a 2018 report from US SIF: The Forum for Sustainable and Responsible Investment, $12 trillion in assets are now invested in sustainable strategies in the US, an increase of 38% from 2016.[15]

The Proposed Rule's preamble refers to ESG investing as a "growing threat to ERISA fiduciary standards and . . . to investment returns for plan participants and beneficiaries."[16] Members of the DCIIA community believe the regulatory record should be corrected to clarify that ESG-based investing is not a "threat" but rather can be an appropriate factor in a fiduciary's investment decision-making because of the documented ability for ESG risk factors to improve investment performance and to provide other financial benefits.

II. DCIIA is Concerned about the Potential Adverse Unintended Consequences the Proposed Rule will Have on Fiduciary Decision-Making More Broadly.

Members of the DCIIA community are concerned about the adverse effect the procedural framework set out in the Proposed Rule could have on ERISA fiduciary decision-making. These DCIIA members are concerned that the Proposed Rule, if adopted, could deter prudent fiduciary decision-making as applied to the use of ESG risk factors, but also more broadly beyond ESG investing.

For example, as drafted, it is not clear that the Proposed Rule—or even the rationale behind it—is limited to ESG investing. Some DCIIA members are concerned that, for example, the interpretation of investment duties in 29 C.F.R. Section 2550.404a-1(a) could be read as applying broadly to investment decisions made by ERISA fiduciaries, and that the mandatory framework for "appropriate consideration" in proposed 29 C.F.R. Section 2550.404a-1(b)(2) could create the perception that a mandatory checklist ("appropriate consideration shall include") applies broadly to ERISA fiduciary investment decision-making. While perhaps unintended, one consequence could be that such checklists will be viewed as displacing well-settled jurisprudence (and the Department's past guidance) that frames ERISA's fiduciary standards as facts and circumstance based (and not reduced to mandatory checklists).

Similarly, members of DCIIA's community are concerned that the Proposed Rule may be viewed as limiting the use of any investment strategy that is not expected to perform in line with (or outperform) a broad market index, such as sector-focused or theme-based funds and strategies (including, by way of example, oil and gas energy-focused funds and strategies).

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[15] US SIF Foundation, Sustainable and Impact Investing—Overview, https://www.ussif.org/files/2018%20Infographic%20overview%20(1)(1).pdf.
[16] 85 Fed. Reg. at 39121.

The Department should also take care to confirm that any guidance on ESG investing or other rule changes does not displace existing regulatory interpretations or judicial decisions regarding ERISA Section 404. For example, the Proposed Rule's preamble quotes long-standing legal precedents such as *Donovan v. Bierwirth*, 680 F.2d 263 (2d. Cir. 1982). DCIIA believes the Department should make clear that it is not intending to alter or undermine existing case law precedents interpreting ERISA Section 404 duties broadly.

Another concern of members of DCIIA's community is that, as proposed, 29 C.F.R. Section 2550.404a-1(c) sets a rigid view of fiduciary investment evaluation (again not necessarily limited to ESG risk factors as drafted). This view of fiduciary compliance is contrary to well-settled jurisprudence, relevant Department authority, and current industry practice that establish ERISA fiduciary decision-making as facts and circumstance based, and not a one-size-fits all checklist. Under long-standing interpretations of ERISA by the Department, the Section 404 duty of prudence is facts and circumstance driven, and the Department's interpretations of that standard and judicial precedent interpreting that standard have affirmed this "facts and circumstances" framework. *See* 29 C.F.R. Section 2250.404a-1(b)(1)(i)-(ii). If adopted in its current form, the test in 29 C.F.R. Section 2550.404a-1(c) would appear to depart from—and threaten, or at least muddle—this well-settled "facts and circumstances" standard.[17] This could decrease certainty for ERISA fiduciaries, or worse, paralyze fiduciaries from innovating and trying to move the plan forward in ways that are intended to enable improved participant investment outcomes.

Members of the DCIIA community also believe that other relevant facts and considerations have not been addressed in the Department's enumerated checklist for compliance. For example, the Proposed Rule commentary fails to discuss the long-term time horizon of returns. These members point out that some fiduciaries invest in strategies they believe will outperform over time for various reasons, including based on ESG risk factors that have been shown to have a long term economic benefit to ERISA plan participants, even if such strategies may not be designed to beat the market over the short term. Other fiduciaries may select strategies that are designed to perform differently in different markets. In this way, when the market is roaring, these strategies may by design underperform but they play an important role in protecting participants from extreme downside events that can cause large losses in other markets. The Proposed Rule does not address how prudent fiduciary decision making could result in the adoption of differing policies and strategies, given appropriate consideration and a review of the specific facts and circumstances.

Additionally, members of the DCIIA community encourage the Department to clarify any use of the term ESG or ESG fund as used in any rulemaking. The Proposed Rule makes generic references to ESG without conveying the precise intended usage of ESG for the purposes of the Proposed Rule. This is problematic. As a singular term, ESG is used to refer to strategies and approaches along a wide spectrum of financial and social benefits: from one end of the spectrum,

[17] The Department has previously issued guidance that adopts process-based tests for fiduciary compliance, but those checklists and similar tests have been positioned as safe harbors, rather than as a singular interpretation of the statutory fiduciary standard. *See, e.g.* 29 C.F.R. Section 2550.404a-4 (Selection of Annuity Providers - Safe Harbor for Individual Account Plans).

of seeking strategies that integrate ESG risk factors from a risk/return perspective to the explicit targeting of specific social or environmental goals for impact. Precision in drafting is important, as the usages of ESG along the spectrum are materially different. For example, the use of ESG risk factors or the implicit usage of ESG is materially different than "economically targeted investment" or impact investing. These DCIIA members believe that, if not carefully defined, the use of the term ESG (or ESG fund) in the Proposed Rule is likely to make fiduciary compliance more challenging and raise questions of whether it will be possible to draw meaningful distinctions as to which funds or investment strategies actually trigger (or do not trigger) the presumption requiring additional scrutiny and documentation by plan fiduciaries.

III. DCIIA is Concerned that the Proposed Rule's Discussion of the "All Things Being Equal Test" is Inconsistent with Long-standing Industry Practices.

Members of DCIIA's community have also expressed concern with the Proposed Rule's preamble discussion of the "all things being equal test."

Members of the DCIIA community are concerned that the "all things being equal test" set out in 29 C.F.R. Section 2550.404a-1(c) is inconsistent with long-standing industry practice. For example, the Proposed Rule endorses an "all things being equal test" as necessary to use non-pecuniary factors to "break the tie" when investments are "economically indistinguishable" from other alternatives. Moreover, the Department proposes to set a standard that "guides application of the 'all things being equal' test." The Department has also requested comment on this "all things being equal test" including "whether true ties exist and how fiduciaries appropriately break ties."[18]

On the latter point, DCIIA members can agree with the Department that "true ties rarely, if ever, occur" based on how rigidly the Department seems to have defined this "all things being equal test."[19] As the Department itself recognized, "[s]eldom . . . will an ERISA fiduciary consider two investment funds, looking only at objective measures, and find the same target risk-return profile or benchmark, the same fee structure, the same performance history, same investment strategy, but a different underlying asset composition" and "[e]ven then, moreover, those two alternatives would remain two different investments that may function differently in the overall context of the fund portfolio, and which going forward may perform differently based on external economic trends and developments."[20] In the experience of many DCIIA members, true ties do not exist and should not be presumed to be the basis on which fiduciary decision-making occurs.

Some members of the DCIIA community are concerned that the proposed "all things being equal test" creates a decision point that does not reflect the practical realities of manager and fund selection decisions made across our broad-based investment management and investment funds industries. Thus, it is typically the case that, following a prudent review and process, such as an RFI or RFP, fiduciaries (often based on recommendations from their professional consultants or

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[18] 85 Fed. Reg. at 39117.
[19] *Id.*
[20] *Id.*

advisers) will identify multiple managers or funds as finalists any one of which would be prudent to select, even if the finalists are not "equal" and emphasize different investment philosophies and strategies. For that reason, it is typically not the case that one manager or fund will be determined to be the only acceptable, or even the "best," selection, or that those presented as finalists would be considered "equal" based on some mathematical calculation. Moreover, non-pecuniary factors, such as alignment around investment philosophy, can appropriately guide the decision making/selection process, including if a prudent fiduciary decided to select a fund or manager that emphasizes transparency from a list of finalists proposed by an independent 3(21) fiduciary consultant as part of a procedurally prudent RFP process. In that way, the selection criteria and process is structured to give appropriate consideration based on long-standing Department authority and case law precedents to identify managers and funds that are considered prudent without determining that "all things" are "equal" or evaluating only strictly pecuniary selection criteria.

Further, regarding whether the "all things being equal test" is the appropriate test for applying non-pecuniary factors, many DCIIA members have expressed that this test is too rigid and too impracticable to be a workable fiduciary standard (or to comport with established ERISA fiduciary standards). Several DCIIA members have commented, based on their considerable experience, that this "all things being equal test," as proposed, requires process and documentation that cannot be realistically satisfied. The effect of this disconnect is that fiduciaries may struggle to ever satisfy the test. For example, it is not practicable for fiduciaries to consider "all" possible investment alternatives (given the many thousands of different funds and strategies). Rather, fiduciaries evaluate investment alternatives based upon selected criteria, factors, and considerations that are prudently developed based upon the plan's investment policy statement and the intended strategy.

IV. DCIIA Does Not Agree with the Department that Options Should be Disqualified as QDIAs on the Basis Only of ESG Risk Factors.

Another concern expressed by some members of the DCIIA community is that the Department's statement in the Proposed Rule's preamble that it does not believe "investment funds whose objectives include non-pecuniary goals—even if selected by fiduciaries only on the basis of objective risk-return criteria consistent with paragraph (c)(3)—should be the default investment option in an ERISA plan."[21] The problem with this prohibition is that it does not reflect that all manner of investment funds, including funds that are well suited to be default options, incorporate ESG risk factors in many different ways to help achieve the fund's stated goals and strategy. For example, as discussed in Section I of this letter, ESG risk factors can be used in manager selection, such as to assess manager risk. If the selected fund otherwise has objectives and/or strategies that make it perfectly well suited as a default option, it is not clear why usage of an ESG risk factor would render the option no longer appropriate for default investment as a QDIA. The Department's proposal also fails to reflect that there are QDIAs that include multi-strategy solutions. In such strategies, the QDIA may incorporate ESG principles, after appropriate

[21] 85 Fed. Reg. at 39119.

consideration, when prudent to do so in some strategies but not others. Again, if the overall QDIA multi-strategy solution is well suited as a default option, it is not clear why an ESG component would render the option no longer appropriate for default investment as a QDIA.

For similar reasons, members of the DCIIA community would discourage the Department from extending the test in 29 C.F.R. Section 2550.404a-1(c)(2) to individual account plans.

V. DCIIA is Concerned that the Cost Benefit Analysis Does Not Meet Rulemaking Standards and Fails to Accurately Estimate the Costs of the Requirements of the Proposed Rule.

Finally, some members of the DCIIA community have expressed concern with the cost benefit analysis included with the Proposed Rule as not meeting the standards that apply to the Department's economic analysis of rulemakings. Specifically, the Proposed Rule is silent as to the potential cost impact that would apply for the analysis and reporting requirements of the Proposed Rule, which DCIIA's members expect will be costly and burdensome to plan administration. Further, if the impact of the proposed rule extends beyond ESG investing, as some fear it could, the economic analysis does not reflect that cost impact at all. DCIIA can provide a more detailed commentary on the expected cost of the Proposed Rule, with additional time, and suggests that the Department withdraw and/or reexamine its cost benefit analysis to take into account the comments provided in this letter and allow for an additional comment period so that stakeholders can supplement this analysis.

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Thank you for considering DCIIA's position. Please do not hesitate to reach out if DCIIA can offer more direct assistance. As stated above, DCIIA believes a longer comment period and an opportunity to testify in front of the Department to provide more comprehensive information is appropriate here and welcomes both opportunities.

Sincerely,

Lew Minsky

President and CEO