

# PUBLIC SUBMISSION

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**Docket:** EBSA-2021-0013

Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights

**Comment On:** EBSA-2021-0013-0001

Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights

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## Submitter Information

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## General Comment

I am writing with concerns about the regulatory burden that this proposal creates.

As the current ERISA regulations establishes a fiduciary duty of plan managers for plan beneficiaries, the additional requirements and "protections" for considerations of ESG matters are unnecessary. In fact, explicitly providing the "safe guards" in paragraph (b)(4) creates regulatory pressure for these matters to be considered as a "fiduciary duty". If the DOL believes clarification is needed, the Department could issue non-regulatory guidance rather than promulgating ERISA amendments.

The proposal also goes too far in requiring some ERISA-covered plan, in the proposed modifications of paragraph (c) of § 2550.404a-1, to begin considering climate change or other ESG factors when selecting investments and the participants in those plans. As the government's own experience of investing in Solyndra and Enerl, considering ESG factors can go badly awry.

Paragraph D of the proposal adds to the regulatory burden of small plan managers as it requires the exercise of shareholder rights. This only further concentrates power in proxy service services such as ISS. This has been a matter which the Securities and Exchange Commission had sought to address in the Obama Administration (<https://corpgov.law.harvard.edu/2014/07/29/sec-guidance-may-lessen-investment->

adviser-demand-for-proxy-advisory-services/)

Thank you for considering these concerns.