

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

Submitter Information

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General Comment

The Proposal rightly returns investment decision-making to fiduciaries and removes additional reporting and analysis requirements for ESG investments. The Proposal sets

out clear guidelines for fiduciaries to abide by when making investment choices, including

consideration of ESG criteria. It does not weigh against certain types of investments (ESG), as the Trump-era rules did.

- The Proposal clears the way for investment managers to consider ESG factors precisely

because of risk, return and fiduciary considerations. The DOL states that “if a fiduciary

prudently concludes that climate change or other ESG factor is material to an investment

or investment course of action under consideration, the fiduciary can and should consider

it and act accordingly.” (Emphasis US SIF’s)

- The Proposal reflects a fundamental understanding of the use of ESG criteria and sustainable investing. The DOL recognizes that material climate change and ESG factors

“are no different than other ‘traditional’ material risk-return factors” and removes

“any
prejudice to the contrary.”

- The Proposal removes the prohibition of ESG consideration in qualified default investment alternatives (QDIAs). By removing this prohibition, the DOL correctly asserts that the fiduciary standards for selecting investments for participant-directed plans (which allow for ESG considerations) should apply to QDIAs as well.

- The Proposal removes the Trump-era rules requiring special documentation for choosing an ESG-oriented alternative from economically equivalent options. There is no reasonable basis for singling out the incorporation of ESG criteria for special and heightened scrutiny, and the Proposal eliminates this requirement.

Please support the Proposal:

- The Proposal recognizes the proxy vote as an ownership right and removes safe-harbor provisions that may have suggested to fiduciaries that they need not vote proxies in certain circumstances.