

STATE CAPITOL BUILDING
200 E. Colfax Ave
Denver, CO 80203



COLORADO GENERAL ASSEMBLY

September 30, 2020

The Honorable Eugene Scalia
U.S. Department of Labor
200 Constitution Ave., N.W.
Washington, DC 20210

Rule Number: RIN 1210-AB91

Dear Secretary Scalia:

Through proposed rule 1210-AB91 the Department of Labor is in a position to solidify the pecuniary interests of pension holders as the sole priority of fund managers through proxy voting and shareholder activity. By finalizing the proposed rule, millions of Coloradans and many more Americans will be protected from the ever-growing threat posed by ESG investing, proxy voting, and accompanying robo-voting practices that chip away at investor returns.

As a Colorado State Senator, I have been tasked with protecting the well-being of my constituents. Moreover, with an MBA and MS in finance I have been afforded the opportunity to offer my skills and expertise to the Senate Business, Labor and Technology Committee and Senate Finance Committee. In the latter, concerns have been raised to me that some investing strategies are straying from maximizing returns, particularly concerning environmental, social, and governance funds.

Fund managers who push these types of funds are not honoring their commitment to maximizing returns for investors, and leave the impression that social causes dictate decision making, rather than evidence of worthwhile performance. It is encouraging that the Department addressed this in earlier rulemaking this year and the Department is right to target proxy voting in its latest proposal.

Proxy voting is detrimental to investors for a number of reasons.

First, fund managers should not be required or obligated to participate in proxy votes. When fund managers execute those votes on investors' behalf, without consultation, they are taking steps counter to investors' best interests. Language must be incorporated in the final rule clarifying that shareholder voting is not mandatory.

Second, fund managers must conduct the proper due diligence on the vote at hand and in turn present evidence to investors that participating in the vote will materially benefit them (i.e. better fund performance). Otherwise, fund managers should abstain from voting. I would also like to see this be included in the final rule. Without presenting evidence on the benefit of the vote, opportunities for conflict of interests arise quickly.

Lastly, robo voting practices – where proxy advisory firms automatically direct fund managers on how

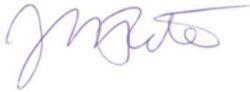
to cast shareholder votes – needs to be prohibited. Prohibiting these firms from having a role in public and private pensions will protect investors from the concentrated power of said firms, who have something of a duopoly on the industry. With two firms controlling the proxy advising space there is a great risk for groupthink, which financial advisors are aware can spell disaster for returns.

Coloradans need to be assured that their retirement savings are in the hands of fund managers who are trustworthy and committed to maximizing their returns. By finalizing the proposed rule, important guardrails will be enacted to provide this assurance and protect Americans retirement benefits.

Sincerely,

Jack Tate
Colorado State Senator

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Colorado Senate