

Submitted via regulations.gov

October 5, 2020

Office of Regulations and Interpretations
US Department of Labor
Room N-5655
200 Constitution Avenue NW
Washington, DC 20210

RE: Proposed rule on Fiduciary Duties Regarding Proxy Voting and Shareholder Rights (RIN 1210-AB91)

To whom it may concern:

I write to provide comments in response to the Department of Labor's proposed rule, "Fiduciary Duties Regarding Proxy Voting and Shareholder Rights" (RIN 1210-AB91) (the "Proposal"). The Proposal does not describe a problem that needs to be "fixed" and thus should be withdrawn.

NorthStar Asset Management, Inc. ("NorthStar") is an investment firm based in Boston, MA with over \$650 million in assets under management. For 30 years, NorthStar has served individuals, families, and nonprofit organizations that seek to align their investments to their values. Clients often join our firm in part due to our history of productively engaging portfolio companies on a range of issues related to social, environmental, and governance matters that can affect the short- and long-term value of their portfolios as well as the entire ecosystem of their investments.

Critical to our fiduciary duty to our clients are proxy-related activities. To protect our clients' investments, NorthStar files shareholder proposals annually, evaluates proxy items that company management and shareholders put forward, and votes every client proxy on their behalf. NorthStar has its own employee retirement plans, some of which will be subject to this rule change. We are quite certain that our employees would be harmed by the changes in this proposed rule, potentially requiring a decrease in benefits available to our employees given that fiduciaries would be required to calculate the economic impact of every vote on the proxy ballot, including directors, independent auditors, say on pay, and shareholder proposals. In many cases, shareholder proposals and their economic impact are forward-thinking; however, the economic impact of such forward-thinking requests can be difficult to calculate and document. The burden created by the Proposal is costly and an imprudent use of plan assets – exactly what DOL should be protecting against.

As with the Department's ESG Proposal announced June 23rd, the proxy voting Proposal relies on a fundamental misunderstanding of the importance fiduciaries and other investors place on voting proxies in order to communicate their preferences to company management.

DOL states the rule is needed because of “the recent increase in the number of environmental and social shareholder proposals introduced. It is likely that many of these Proposals have little bearing on share value or other relation to plan interests...” Yet, no data is provided to support this. In reality, on average, only 13 percent of Russell 3000 companies received a shareholder Proposal in any one year between 2004 and 2017. In other words, the average Russell 3000 company can expect to receive a Proposal once every 7.7 years.¹

Further, the focus on environmental and social proposals being a particular problem does not align with the direction of the financial markets where the practice of sustainable investment, including engaging in the shareholder process, is increasing rapidly.

As a socially responsible investment firm, proxy voting is a critical element of our responsibility to our clients. Owning shares comes with three primary rights: the right to sell the share, the right to a dividend, and the right to vote a proxy. Disenfranchising fiduciaries from their right to vote a proxy is fundamentally wrong.

Finally, the DOL presents no data that shows plan fiduciaries are using excessive plan resources to research and vote proxies. The Proposal relies on the Business Roundtable’s comment letter to the SEC’s Rule 14a-8 rulemaking and the Washington Legal Foundation. Neither of these can be considered independent sources of research or data.

I respectfully request that the Proposal be withdrawn. Thank you for your consideration of these comments.

Sincerely,



Mari Schwartz
Director of Shareholder Activism and Engagement

¹ CII Letter to Senators Michael Crapo and Sherrod Brown (Dec. 4, 2018), available at https://www.cii.org/files/issues_and_advocacy/correspondence/2018/December%205%202018%20Letter%20to%20Senate%20Banking.pdf