

October 5, 2020

Ms. Jeanne Klinefelter Wilson  
Acting Assistant Secretary  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210

Attention: Fiduciary Duties Regarding Proxy Voting and Shareholder Rights [RIN1210-AB91]

Dear Acting Assistant Secretary Wilson:

Thank you for the opportunity to comment on the proposed amendments to the “Investment duties” regulation under Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA), regarding the exercise of shareholder rights, including proxy voting, the use of written proxy voting policies and guidelines, and the selection and monitoring of proxy advisory firms.

Calvert Research and Management (“Calvert”) is an investment management firm based in Washington, DC with \$23.4 billion assets under management (as of June 30, 2020). We cast proxy votes for all equity holdings across global capital markets with the objective of managing our exposure to corporations’ (and other issuers of securities) management of financially material environmental, social, and governance (“ESG”) factors. We do this on behalf of our clients, many of whom could be directly affected by the adoption of the proposed rule.

We respectfully submit this letter to urge the Department of Labor (DOL) to withdraw the proposal. As written, the amendment would create a significant administrative burden without impacting the investment decisions of responsible fiduciaries. This is because the amendment: (1) undervalues proxy voting as a plan asset; (2) offers trivial cost savings that will likely not materialize; and (3) proposes remedies that, in some cases, would fail to achieve the objectives of the rulemaking and undermine the rights of investors to exercise their rights to fulfill their fiduciary duties

***The Proposal undervalues proxy voting, and creates an undue burden for investors exercising judgement about the value of proxy voting.*** Relying on a handful of research reports, the proposal asserts that “research regarding whether proxy voting has reliable positive effects on shareholder value and a plan’s investment in the corporation has yielded mixed results.”<sup>1</sup> This conclusion is not consistent with a much larger body of research indicating the importance of corporate governance factors, including environmental and social issues, on corporate performance.<sup>2</sup>

Reasonable investors can differ on the value of voting proxies. However, the proposal would create unreasonable hurdles for those investors, like Calvert, who conclude that voting all proxies is of significant benefit to beneficiaries. Our rationale for voting proxies does not rely solely on the value for

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<sup>1</sup> Federal Register, Vo 85, No.173, page 55222

<sup>2</sup> See our comment on Proposed Regulation regarding Financial Factors in Selecting Plan Investments [RIN 1210-AB95], letter from John Streur, Calvert Research and Management, July 30, 2020

each individual portfolio company, but on the benefits for our clients' portfolios overall. These benefits include a factors which are difficult to quantify, but are considered of significant value to the long-term performance of our investment portfolios:

Best corporate governance practice is a material factor in investment performance: Based on research Calvert has performed or collaborated on, we conclude that well-governed companies, including those that effectively manage social and environmental issues, are likely to outperform others over the long term.<sup>3</sup> In our experience, our proxy voting activities, combined with those of other investors, can influence companies to adopt best practices that provide material financial benefits to our portfolios.

Calvert integrates ESG factors into investment decision-making: Like a growing number of professional investment managers, Calvert integrates ESG factors that it considers material for financial performance into investment decisions. Combining our votes with other investors, Calvert positively influences companies' corporate governance practices, enabling our increased investment in them. By voting proxies widely, even at companies in which we have small holdings, we increase the pool of investable companies to the benefit of our clients.

Misaligned corporate governance can have broad negative market effects. Under Modern Portfolio Theory, diversified investors are exposed to the performance of both individual companies and the broader market. However, evidence has shown that poor corporate governance practices can have spillover effects on the broader market such as the cases of the accounting scandals of the 1990s or the subprime crisis in 2008. It is Calvert's informed view that such broad social and environmental issues as inequality and climate change can have negative long-term effects on the economy and on the value of financial assets.<sup>4</sup>

By creating an affirmative responsibility to demonstrate and document the economic value of voting proxies on a meeting-by-meeting basis, the DOL reverses the intent of the Avon letter, establishing a presumption that proxy voting is a cost to be minimized rather than an asset to be prudently managed. This presumption directly contradicts Calvert's experience managing portfolios and creates an undue burden in realizing the value of proxy voting as an asset.

***The proposed amendments offer trivial or non-existent cost savings.*** The proposal states that in determining whether to cast a proxy ballot, fiduciaries should "consider the likely impact on the investment performance of the plan based on such factors as the size of the plan's holding in the issuer relative to the total investment assets in the plan, the plan's percentage ownership in the issuer, and the costs involved."<sup>5</sup> The proposal suggests that fiduciaries should avoid voting proxies where the costs of voting exceed the likely benefits.

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<sup>3</sup> See for example "How Corporate Governance Factors Can Influence Financial Performance," Hellen Mbugua and Daniel Rourke, Calvert Institute, September 23, 2020 <https://institutional.eatonvance.com/media/36457.pdf>; Evaluating the Financial Materiality of Gender Diversity Factors, Yijia Chen, Calvert Research and Management, March 2020. <https://www.calvert.com/media/33095.pdf>; "The Financial and Social Benefits of ESG: Focus on Materiality," George Serefeim, et al, Calvert Research and Management, June 2016. <https://www.hvst.com/posts/the-financial-and-societal-benefits-of-esg-integration-focus-on-materiality-X34TPKjd/>

<sup>4</sup> "Universal Ownership: Why Environmental Externalities Matter to Institutional Investors," United Nations Environmental Program – Finance Initiative, October 2010 <https://www.unpri.org/environmental-issues/universal-ownership-why-environmental-externalities-matter-to-institutional-investors/4068.article>

<sup>5</sup> FR Doc 2020-19472 Paragraph (e)(2)(ii)

The DOL has not provided any evidence of the costs involved in voting proxies, but has asked for comment on plan expenditures related to proxy voting. Technological and process improvements over the last several years have enabled investors to vote proxies in an informed and thoughtful manner at minimal cost. We estimate corporate expenses related to proxy voting to be approximately 0.25 basis points per year against approximately \$20 billion in equity assets.<sup>6</sup> Since we vote approximately 4500 shareholder meetings and approximately 50,000 ballot items in a typical year, the cost per ballot approaches zero.<sup>7</sup>

A decision to forgo voting certain securities would present no savings to Calvert or our investors, even discounting the benefits of proxy voting as discussed above. Additionally, we believe that the costs of seeking to determine which votes are worth casting, and documenting these decisions would incur costs without improving our investment decisions.

We recommend that the DOL undertake a more detailed cost analysis before proceeding with this amendment.

***The proposed remedies would be ineffective or leave shareholders exposed to risks.*** Recognizing that the requirement to document the decision about whether to vote each individual proxy would be burdensome for shareholders, the proposal offers several alternatives.

#### Types of ballot issues

The DOL recommends that investors refrain from voting, or vote automatically with management, on ballot issues or types of issues that are unlikely to be financially material.

Our proxy voting guidelines detail our carefully informed views of the materiality of individual ballot items.<sup>8</sup> Calvert's existing voting guidelines, like those of most institutional investors, recognize that boards and management are often in the best position to make decisions in the interests of shareholders. Our policies are intended to identify those circumstances where the actions or incentives of management may not be aligned with the best interests of shareholders. Currently, it would be the practice under Calvert's voting guidelines, and most other institutional investors, to defer to boards or management except in cases where we believe that the long-term financial best interests of beneficiaries requires a vote against management recommendations.

We believe that most investors would conclude that all common ballot voting items, including director elections, say on pay, and auditor ratification are potentially significant for shareholder value. For example, on average, 77% of shareholders support annual say-on-pay votes when given the alternative to choose less frequent votes,<sup>9</sup> indicating that most shareholders believe this vote topic to be of value. Majority voting in uncontested director elections came about because of broad support from shareholders

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<sup>6</sup> These include costs related to staff (2 full time equivalent), and fees for third party data sources and voting administration. This total somewhat overstates the cost of voting proxies, since estimated costs also include non-ballot related items such as reporting and direct engagement with issuers.

<sup>7</sup> The release seeks to estimate the labor costs involved in voting a single proxy. In our experience, the time required varies widely: a routine item may require virtually no time at all, while a novel shareholder proposal on a significant issue may require substantial time and the involvement of senior staff to ensure that a vote is cast in the best interest of our clients. Therefore, the best method for estimation is simply to divide the annual proxy expenses by the number of votes cast.

<sup>8</sup> "Calvert Research and Management Global Proxy Voting Guidelines," March 1, 2020  
<https://www.calvert.com/media/25798.pdf>

<sup>9</sup> Per Proxy Insight

who believed that the ability to remove directors, even in the absence of a proxy contest, was an important corporate accountability mechanism. Auditor ratification votes are usually routine, but can become very important in the event material conflicts of interest arise.

Moreover, as noted elsewhere, we have found that many shareholder proposals on environment, social and governance issues raise material concerns for shareholders. Academic research supports our view that shareholder engagement on these issues can result in material benefits to shareholders.<sup>10</sup>

For these reasons, we conclude that, even if they implemented this proposed alternative, most investors would elect to continue voting most proxy ballots under their current policies.

### Lower Threshold

The DOL's Proposal offers an alternative of establishing a lower threshold of ownership in a single issuer, relative to the overall assets of the plan, below which fiduciaries would conclude that their vote would unlikely have a material impact on the value of the portfolio. The proposal suggests a 5% threshold.

Most of the holdings of a well-diversified investor would typically fall well beneath the 5% threshold. The vast majority of Calvert holdings are below 1% of our overall portfolio. Following this alternative, we would leave most of our portfolio companies unvoted. Widespread adoption of this alternative could have multiple unintended consequences for investors and the capital markets overall.

First, the failure to vote a majority of the portfolio would in aggregate expose the investor to material risk, even if the risk associated with each individual issuer is small. Second, because most large companies are widely held by diversified investors, adoption of the proposal could result in a significant number of companies with substantial proportion of unvoted ballots. This would distort and diminish the information about investor sentiment that proxy voting provides to boards, and increase the power of corporate insiders whose interests may not be aligned with all shareholders. Finally, quorum requirements may go unmet, requiring an awkward and costly process to solicit votes.

**Conclusion.** The proposal contradicts the informed judgement of market participants in establishing a presumption that the costs of voting proxies outweighs the value. It creates an undue burden on investors by requiring them to demonstrate the value of these votes, rather than relying on their judgement as responsible fiduciaries. It fails to provide evidence that the costs of proxy voting are material, and proposes a number of unworkable solutions that would either have little impact on investor behavior or create unintended harm to both investors and issuers. We therefore respectfully urge that the proposal be withdrawn.

Sincerely,

John Streur  
President and Chief Executive Officer  
Calvert Research and Management

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<sup>10</sup> See for example, "Does CSR lead to superior financial performance? Evidence from a Regression Discontinuity," Caroline Flammer, *Strategic Management Journal*, October 10, 2016; "Active Ownership," Elroy Dimson, Oğuzhan Karakaş, Xi Li, , *The Review of Financial Studies*, Volume 28, Issue 12, December 2015, Pages 3225–3268