



AFL-CIO

AMERICA'S UNIONS

**American Federation
of Labor and
Congress of Industrial
Organizations**

815 16th St. NW
Washington, DC 20006

202-637-5000

aflcio.org

EXECUTIVE COUNCIL

RICHARD L. TRUMKA
PRESIDENT

ELIZABETH H. SHULER
SECRETARY-TREASURER

TEFERE A. GEBRE
EXECUTIVE VICE PRESIDENT

Michael Sacco
Robert A. Scardelletti
Harold Schaitberger
Clyde Rivers
Cecil Roberts
Fred Redmond
Matthew Loeb
Randi Weingarten
Fredric V. Rolando
Baldeemar Velasquez
Bruce R. Smith
Lee A. Saunders
Terry O'Sullivan
Lorretta Johnson
James Callahan
DeMaurice Smith
Sean McGarvey
D. Taylor
Kenneth Rigmaiden
Stuart Appelbaum
Harold Daggett
Bhairavi Desai
Paul Rinaldi
Mark Dimondstein
Cindy Estrada
Sara Nelson
Marc Perrone
Eric Dean
Joseph Sellers Jr.
Christopher Shelton
Lonnie R. Stephenson
Richard Lanigan
Robert Martinez
Gabrielle Carteris
Mark McManus
Elissa McBride
John Samuelson
George E. McCubbin III
Vonda McDaniel
Gwen Mills
Charles Wowkanech
Bonnie Castillo
Paul Shearon
Warren Fairley
Ernest A. Logan
Capt. Joe DePete
James Slevin
Tom Conway
John Costa
Tim Driscoll
Rory Gamble
Everett Kelley
Anthony Shelton

June 30, 2020

Submitted electronically to www.regulations.gov

Mr. Joe Canary, Director
Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Re: Financial Factors in Selecting Plan Investments
Proposed Regulation (RIN 1210-AB95)

Dear Director Canary:

On behalf of the American Federation of Labor and Congress of Industrial Organizations (the "AFL-CIO"), I am writing to request an extension of the comment period from 30 days to 120 days for public comments on the notice of proposed rulemaking entitled "Financial Factors in Selecting Plan Investments" (RIN 1210-AB95). The Employee Benefits Security Administration ("EBSA") announced its proposed regulation on June 23, 2020.

A 30-day comment period is an unreasonably short amount of time for working people and their pension plans to provide comments to EBSA. Many of the pension plans and their investment advisors who will be impacted by the proposed regulation are small entities with limited staff resources. An abridged 30-day comment period is particularly challenging in light of the continuing economic impact of COVID-19 on both pension plans and workplaces.

We also request that EBSA schedule a public hearing on the proposed rulemaking to be conducted virtually to follow COVID-19 public health guidelines. As is customary for U.S. Department of Labor rulemakings, the public hearing should be accompanied by the opportunity for the submission of post-hearing comments by participants and observers. Accordingly, the comment period on the proposed rulemaking should be open after the public hearing.

The proposed rulemaking addresses longstanding issues regarding the fiduciary duties of pension plans when making investments. As noted by the proposed rulemaking, the U.S. Department of Labor first issued interpretive guidance on

Mr. Joe Canary, Director
June 30, 2020
Page 2

this subject in 1994. Given that this matter has been the subject of EBSA interpretive guidance for over 25 years, a hastily finalized rulemaking is neither warranted nor likely to result in a successful rulemaking.

Working people deserve a genuine opportunity to have their voices heard in EBSA's rulemaking process. Extending the comment period to 120 days and scheduling a public hearing on the proposed rulemaking will provide a more reasonable opportunity to provide substantive comments to EBSA. For these reasons, we respectfully request that EBSA extend the comment period from 30 days to 120 days and provide a public hearing for the proposed rulemaking.

Thank you for taking the AFL-CIO's views into consideration. If the AFL-CIO can be of further assistance, please contact me at 202-486-2187 or brees@aficio.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. J. Rees', written in a cursive style.

Brandon J. Rees
Deputy Director,
Corporations and Capital Markets