

July 29, 2020

via Federal eRulemaking Portal www.regulations.gov

Jason A. DeWitt
Office of Regulations and Interpretations
Employee Benefits Security Administration
U.S. Department of Labor
Room N-5655
200 Constitution Avenue NW
Washington, D.C. 20210

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

Dear Mr. DeWitt:

Parnassus Investments (“Parnassus”) appreciates the opportunity to comment on Release No. RIN 1210-AB95, Financial Factors in Selecting Plan Investments (the “Proposal”), published by the Department of Labor (the “DOL”) regarding environmental, social and corporate governance (“ESG”) considerations by employee benefit plan fiduciaries under Title I of the Employee Retirement Income Security Act of 1974 (“ERISA”). Parnassus is a registered investment adviser and has been a leader in ESG investing since the firm was founded in 1984. Parnassus is one of the largest investment firms dedicated to ESG investing, managing over \$30 billion across mutual funds and separately managed accounts for institutional investors. Every strategy offered by Parnassus is managed using ESG criteria. Parnassus opposes the Proposal because we believe it misconstrues how investment managers use ESG criteria and would unfairly limit plan participants’ access to investment strategies that incorporate ESG. Accordingly, Parnassus urges the DOL to withdraw the Proposal.

Summary of Proposal

The Proposal is designed to ensure that plan fiduciaries focus solely on economic considerations in selecting plan investments and do not “promote non-pecuniary benefits” while sacrificing investment returns, taking on additional risk or paying higher fees. The Proposal provides that the loyalty and prudence requirements of ERISA are satisfied if, among other requirements, the fiduciary selects a plan’s investments based solely on their pecuniary factors and not on the basis of any non-pecuniary factor. The proposed regulation states that it is unlawful for a fiduciary to sacrifice return or accept additional risk to promote a public policy, or a political or other non-pecuniary goal, and that ESG factors may be economic factors “only if they present economic risks or opportunities that qualified investment professionals would treat as material economic considerations under generally accepted investment theories.” With respect to participant-directed plans, an ESG investment fund could be added on a 401(k) plan platform only under certain circumstances, including if the fiduciary uses objective risk-return criteria in selecting and monitoring all investment options for the plan and maintains documentation of compliance

with such criteria and the ESG alternative is not added as a qualified default investment alternative (“QDIA”) into which participants are automatically defaulted.

Analysis of Proposal

Parnassus disagrees with the “Need for Regulation” discussion in the Proposal that “this proposed rule is necessary to interpret ERISA and to provide clarity and certainty regarding the scope of fiduciary duties surrounding non-pecuniary issues.” We believe the Proposal is based on a misinterpretation of what ESG is and how it is used in the investment process, and the Proposal will add further uncertainty for retirement plan fiduciaries by creating the assumption that ESG investments do not promote economic interests, causing fewer investment alternatives to be available to retirement plans that would ultimately benefit retirement plan investors.

Parnassus also opposes the Proposal because we believe investment managers can and do appropriately use ESG criteria to improve investment returns and minimize risk over time. The Proposal is based on the premise that ESG investing seeks to pursue social, environmental and other “non-pecuniary” objectives by subordinating return and increasing risk. Parnassus disagrees with this premise. We believe that incorporating ESG criteria into our investment process allows our portfolio managers to better understand the risk and opportunity in front of a company and is part of how we determine the quality of a business. Few would argue that the structure and composition of a board of directors or the factors that contribute to the compensation of a CEO are not relevant to the company’s future performance. It’s also become accepted practice across both ESG and the broader investment community to evaluate the potential impact of climate change on a business. This could include risk of stranded assets, risk of asset impairment due to extreme weather events, or the change in cost structure due to a carbon tax or other government intervention. These are just a few examples of considerations that are linked to ESG, but also could be impactful to stock returns. As an active manager, being able to extend beyond traditional financial metrics simply provides more information to drive better investment decisions. There are many examples of strategies that incorporate ESG and also deliver strong performance. Three Parnassus Funds have outperformed the market over the long term, using ESG as a key process element. The Parnassus Core Equity, Parnassus Mid Cap and Parnassus Endeavor Funds have performed in the top 1% of funds in their respective categories over the last 15 years according to Morningstar (as of 7/17/2020). By casting a broad brush and assuming the ESG factors are almost always “non-pecuniary factors,” the Proposal will lead many fiduciaries to exclude any investment that involves ESG considerations from retirement plans and thus deprive plan participants and beneficiaries of the diversification, risk mitigation and financial benefits these investments can offer. The elimination from ESG strategies from potential inclusion in QDIA offerings will have the same effect. Under the Proposal, an ESG fund could have a better risk/return profile than other non-ESG funds, but the ESG fund would be prohibited as a default investment, which seems nonsensical.

The Proposal also requests comment on whether the DOL should consider the “all things being equal” or the “tie-breaker” standard set forth in prior DOL guidance, which provides that a fiduciary may rely on a non-pecuniary factor to “break the tie” between investment alternatives that are economically indistinguishable. Because Parnassus requests that the Proposal be

withdrawn, we also encourage that the current guidance's "all things being equal" test be retained.

Conclusion

Parnassus requests that the DOL withdraw the Proposal due to the concerns we have addressed above.

We hope our comments will assist the DOL as it considers the Proposal. If we can be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Benjamin Allen".

Benjamin E. Allen
President and CEO