

# VC + NCLUDE

July 30, 2020

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

RE: Proposed rule on Financial Factors in Selecting Plan Investments (RIN 1210-AB95)

To whom it may concern:

I write to provide comments in response to the Department of Labor's proposed rule, "Financial Factors in Selecting Plan Investments" (RIN 1210-AB95) (the "Proposal").

VC Include supports diverse, Black, LatinX and Women-led funds representing over \$1B in assets under management.

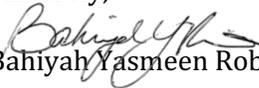
The Department of Labor fails to articulate a rational connection between the relevant facts and the proposed rule. The Proposal reveals a fundamental misunderstanding of how professional investment managers use environmental, social and governance (ESG) criteria as an additional level of due diligence and analysis in the portfolio construction process. Investment managers increasingly analyze ESG factors precisely because they view these factors as material to financial performance.

- A. The proposed rule assumes ESG strategies sacrifice financial returns, but current research findings show ESG strategies' outperformance. Morningstar reported in April 2019 that Sustainable funds outperformed their conventional fund peers in 2019, helped in part by underweighting energy company investments but also by continuing a general trend from recent years of better performance than non-environmental, social, and governance funds.
- B. The proposed rule assumes ESG considerations could violate fiduciary duty, but other jurisdictions' regulatory interpretations support prudent investor consideration of ESG factors as material and within fiduciary duty. The findings of a Harvard Law School asserts that fiduciaries who reasonably conclude that ESG factors will improve portfolio performance, and are solely motivated by this possibility, should have no hesitation in using them.

The Proposal is likely to have the perverse effect of dissuading fiduciaries, even against their better judgment, from offering options for their plans that consider ESG factors as part of the evaluation of material financial criteria. As a result, it will unfairly, and harmfully, limit plan diversification and perhaps compel plan participants to choose options that are either more risky or less profitable.

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

Sincerely,

  
Bahiyah Yasmeen Robinson

CEO & Founder