



July 30, 2020

Office of Regulations and Interpretations
Employee Benefit Security Administration
U.S. Department of Labor, Room N-5655
200 Constitution Avenue N.W.
Washington, D.C. 20210

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

To Whom it May Concern:

On behalf of the Small Business and Entrepreneurship Council (SBE Council), I write to express strong support for the Department of Labor's (DOL's) proposed rule to help boost the financial security of retirement savings plans. Specifically, I am pleased to submit comments on "Financial Factors in Selecting Plan Investments" in relation to Environmental, Social and Governance (ESG) investing.

[SBE Council](#) is an advocacy, research and education organization dedicated to protecting small business and promoting entrepreneurship. For more than 25 years our organization has worked on a range of public policy and private-sector initiatives to strengthen the ecosystem for startup activity, investment, innovation and small business growth.

The proposed codification of core tenets of the Employee Retirement Income Security Act (ERISA) is timely, as the federal government looks for ways to help Americans feel more financially secure and protect their hard-earned dollars. Of course, small businesses have been hit very hard in the COVID-19 economy, but their resourcefulness and resilience have helped drive economic recovery and growth through other disruptions faced by our nation, particularly over the last 25 years, and they will do it again in response to the current crisis. The global pandemic represents perhaps our greatest challenge to date, and government policies that help our small businesses succeed will directly support American workers and the broader economy.

During the COVID-19 crisis, more Americans have come to understand the importance of small businesses to the U.S. economy and local communities. Their collective contribution is tremendous, having [employed](#) 58.9 million workers (47.5% of the private workforce) and

generating [nearly \\$6 trillion](#) in economic activity prior to COVID-19. Small business success means more workers will be successful in fulfilling financial security through both wages and retirement plans.

Business owners and operators must now focus primarily on generating revenue and navigating more uncertainty to come during COVID-19. Again, the success of small businesses – especially surviving COVID-19 - will help many Americans live more financially secure lives, now and into the future. As a way to help their employees and attract and retain workers, [a fair percentage of small businesses offer retirement plans](#), and many fund their own retirement. Offering retirement plans can be challenging and complex, so regulatory approaches that provide certainty and security will help to make these plans more appealing and successful.

For small businesses that offer retirement plans, they empower their employees to make informed decisions regarding the allocation of contributions among investment funds with different levels of risk and reward based on each employee’s personal circumstances. With direct-benefit pension plans or the more common direct contribution plans, such as 401(k) plans, business owners and their employees place trust in seasoned professionals to make decisions with a key goal in mind: maximum return on investment.

ESG investing has become a popular way to bring about social or political change across many policy areas. While ESG investing might reflect popular sentiment on some issues, SBE Council believes it is essential for fiduciaries to determine a plan’s investment mix based on soundness and growth. Without clear rules governing how contributions in retirement plans can be invested, individuals could unknowingly forgo growth opportunities; replaced instead with the policy priorities of a small number of activist investors, regardless of whether employees share these views. Therefore, it is fitting and timely that the DOL is acting to strengthen this leg of our retirement system and preserve the peace of mind of business owners and their employees.

The DOL is wisely acting now to prevent shortfalls in retirement savings that may occur many years from now. The 2008-2009 financial crisis caught many Americans nearing retirement off guard and prompted younger workers to prepare for market fluctuations that could come when they reach retirement. The churn and flux in the marketplace since that crisis and today’s coronavirus emergency reinforce the importance of having secure, consistent and reliable options for achieving a financially secure retirement. To that end, the DOL is serving the best interests of workers and retirees by establishing clear limits on ESG investing.

To be clear, the availability of stock and mutual funds geared toward issues people care about, from climate change to the ethical treatment of animals to social justice, is a positive development and consistent with entrepreneurial innovation and consumer choice. People should be able to invest in the causes they believe in that align with their political views and priorities. Indeed, the alignment of personal vision with where an individual puts their time and resources is integral to entrepreneurship, where there are countless success stories of individuals pursuing their passion and addressing emerging needs.

Capacity for risk is an individual matter. Entrepreneurial and small business success depends on pursuing smart and informed risks. Having the right idea at a time where there is need and/or

opportunity in the marketplace, and then experiencing commercial success is more than just “dumb luck.” Entrepreneurs that are successful back up an idea with hard work, agile decision-making, and a strategy to scale and succeed over the long-term. Obviously, there is no guarantee of success. The people who put their money on the line for a new business’s success do so for a variety of personal reasons. Even after a company goes public, its investors are making individual statements about their risk capacity and other values.

But personal views and capacity for risk must not influence retirement plans that include holdings in dozens of companies and in which thousands of workers participate. Investment decision must adhere strictly to the fiduciary’s obligation to generate the best returns on investment possible.

The DOL’s proposed rules will not discourage ESG investing or deny capital to risk-takers in fields such as sustainable agriculture or renewable energy. The market will continue to channel capital to good ideas and reward innovators that show they are filling a need in the market, have traction in the marketplace and demonstrate there is opportunity for returns. The new rules proposed by DOL will give business owners more confidence in the soundness of retirement plans they offer to employees and in turn give workers more confidence that their contributions will grow as much as possible.

Retirement plans under ERISA serve the financial interests of many individuals with an infinite variety of personal financial circumstances and political views. By making the fiduciary duty clearer and “neutral,” and limiting encroachment on this principle by ESG investing, the DOL will strengthen retirement savings plans. This will protect the interest of the millions of Americans who work in small and mid-sized companies and the businesses that America’s entrepreneurs will one day create.

Please feel free to contact me or SBE Council if you have questions about our support of the proposed rule.

Sincerely,



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