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Financial Factors in Selecting Plan Investments

Comment On: EBSA-2020-0004-0002
Financial Factors in Selecting Plan Investments

Document: EBSA-2020-0004-DRAFT-1517
Comment on FR Doc # 2020-13705

Submitter Information

Name: Loreto Tessicini

General Comment

I am writing dissent of the proposed rulemaking entitled “Financial Factors in Selecting Plan Investments” (“Proposal”).

There is merit in having environmental, social, and governance (ESG) funds. And, there is evidence that well-managed ESG funds can outperform the market as a whole; which gives argument to having ESG funds that can maximize returns as options in institutional plans. To that end, I do not believe it is proper for a government agency to determine what private companies can or cannot list as a default option, so long as consumers are aware of what is happening and can opt into different investments.

ESG utilizes a risk management strategy aimed at integrating factors such as climate change and human capital management; that evidence shows have a material economic impact on asset prices, especially when taking into account the risks that long-term, universal investors like pension plans face.

The Proposal mischaracterizes ESG integration and is likely to lead to confusion for ERISA fiduciaries and cost to plan savers. If the Proposal is passed in its current form, I am concerned that fiduciaries will struggle to realize their obligations to integrate all material risk factors while also trying to respond to the language in the Proposal that appears aimed at preventing fiduciaries from taking account of these same risks.

Additional confusion would be generated due to the complexity of having over 700 institutional investors, utilizing approximately \$16 trillion in assets under management, across Europe, North America, Latin America and Asia, who make use of ESG considerations (from CoreData Research). Many, of which, are inter-related.

In the United States, the Department of Labor (DOL) has long issued guidance surrounding the consideration of ESG factors when making investment decisions for plans subject to the fiduciary obligations set by the Employee Retirement Security Act of 1974 (“ERISA”). In an attempt to unite ESG considerations with fiduciary duties, the DOL in 1994 issued interpretive guidance conveying that — assuming all other fiduciary considerations are met — ERISA fiduciaries could seek the collateral benefits of ESG strategies if the expected returns were consistent with alternative investments of comparable risk (Interpretive Bulletin 94-1, 29 CFR §

2509.94-1, 59 FR 32607 (June 23, 1994)).

Many would believe that no further regulation is required given the 2018 DOL field assistance bulletin on the matter (Field Assistance Bulletin 2018-01, 29 CFR § 2509.2015-1 (April 23, 2018)). Additionally, sustainability-focused funds have proven to be resilient during times of market turmoil. The chart below shows the trailing performance (as of May 31st, 2020) of 1,175 U.S. large-cap strategies, distinguishing between those that identify as integrating ESG factors into the traditional financial analysis and those that do not.

(chart included in attached document)

Over the trailing three-year period, ESG integration funds have outperformed their non-sustainable counterparts by nearly 100 basis points. It's also worth noting that on average, the standard deviations of these two strategy types have been roughly the same; meaning, investors in these ESG integration funds have benefited from higher returns without taking on additional risk. The trend is similar for global and non-U.S. large-cap funds.

The data begs the question – “Where’s the harm?”

Thank you for taking my views into consideration.

Attachments

Dissent Regarding FRN 2020-13705_CFR 29 CFR Part 2550

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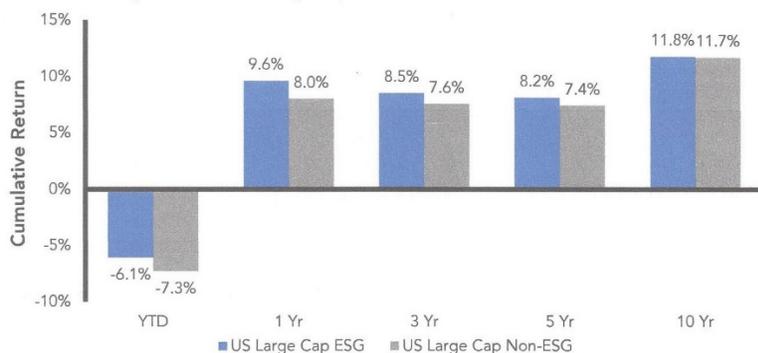
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