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Submitter Information

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General Comment

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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 Labors proposed rule, Financial Factors in Selecting Plan Investments (RIN 1210-AB95) (the Proposal).

I am Director of Research of an independent pension consulting firm. Over the years, I have taught investments at two universities, trained and educated public pension trustees from organizations as large as CALPERS and more than 300 public funds, 150 corporate plans, foundations, endowments, unions, family offices and hundreds of industry professionals.

I earned my CFA in 1986. The CFA Institute states that it is the foremost institute promoting investment knowledge in the investment profession. Since I have held mine longer than 90% of the CFA Charterholders, who am I to argue with their wisdom?

This effort is a solution seeking a problem. It is a regulatory action from an administration that prides itself on rolling back regulations, not creating new ones. It is anti-free market and must be defeated.

The Department of Labor fails to understand that evaluating the Quality of Management is a standard element of investment research and analysis. It is articulated by most Wall St. Analysts and such well known investment icons as Warren Buffett, Benjamin Graham and many others. The marketplace has done an excellent job of properly addressing and utilizing ESG concerns, and therefore there is NO need for burdensome regulation

A. The proposed rule seems to assume ESG strategies sacrifice financial returns, but there is no evidence that this is the case. While others seek to illustrate that ESG factors lead to superior returns, as an investment professional, I can only say that the marketplace dictates what investment returns may look like. ESG may UNDERPERFORM in the coming years, but that is NOT for regulators to predict.

If ESG factors lead to underperformance, then the company management will shed those concerns in order to achieve performance. It is what we call a Free-Market.

B. The industry has accepted and even embraced ESG factors as part of the investment decision making process. For example, Morningstar, Reuters, Bloomberg all report ESG factors and make them available to investors. Morgan Stanley, Goldman Sachs, Wells Fargo, Fidelity Investments and others have created an Institute of Sustainability, research reports and numerous investment products. There are countless other examples.

C. The CFA Institute provides ongoing research on the subject. The Journal of Portfolio Management now produces a Journal of ESG Research. ESG is now mainstream, has been for quite a while and is an important part of the investment decision making process.

D. When has choice become Un-American? When has free market needed needless government oversight? Since WHEN does the market need MORE regulation? The market place will weed out the non-performers from the high performers, the high fee providers from the low fee providers.

Replace the word ESG with INDEXING, would this body have regulated against indexing when it was first introduced on the theory that passive management could not perform as well as active management? Would you have said: How could a computer perform as well as a person?

The investment public is interested in ESG options, the industry has delivered them. Evidence shows that they do no worse than traditional offerings and some evidence shows that they may provide superior performance.

Anything that encourages the public to invest more and save more in sound investment vehicles is good for our economy. Why should your group kill the goose that can help lay golden nest eggs for millions?

I request that you withdraw this proposal that is anti-free market, anti- capitalism, and pushes us down a slippery slope of government mandated investment vehicles, in other words, socialist-communist control.

Should you wish, I and my colleagues (from many of the leading universities in the country) are available to provide further information, research, consultation and training to your staff.

Sincerely,
Dorien Nunez
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