New Guidance on Economically Targeted Investments in Retirement Plans from US Labor Department



The U.S. Labor Department has issued new guidance regarding economically targeted investments (ETIs) made by retirement plans covered by the Employee Retirement Income Security Act. ETIs are investments that are selected for the benefits they create in addition to the investment return to the employee benefit plan investor.

"Investing in the best interests of a retirement plan and in the growth of a community can go hand in hand," said U.S. Secretary of Labor Thomas E. Perez. "We have heard from stakeholders that a 2008 department interpretation has unduly discouraged plan fiduciaries from considering economically targeted investments. Changes in the financial markets since that time, particularly improved metrics and tools allowing for better analyses of investments, make this the right time to clarify our position."

The Labor Department previously addressed issues relating to ETIs in Interpretive Bulletin 94-1 (IB 94-1) and Interpretive Bulletin 2008-1 (IB 2008-1). IB 94-1 corrected a misperception that investments in ETIs are incompatible with ERISA's fiduciary obligations. On Oct. 17, 2008, the department replaced IB 94-1 with IB 2008-01. However, the department has now concluded that in the seven years since its publication, IB 2008-01 has unduly discouraged fiduciaries from considering ETIs and environmental, social and governance ("ESG") factors under appropriate circumstances.

The financial health of retirement plans and participants

remains paramount under federal law. The new guidance, Interpretive Bulletin 2015-01, confirms the department's longstanding view from IB 94-1 that fiduciaries may not accept lower expected returns or take on greater risks in order to secure collateral benefits, but may take such benefits into account as "tiebreakers" when investments are otherwise equal with respect to their economic and financial characteristics. The guidance also acknowledges that environmental, social, and governance factors may have a direct relationship to the economic and financial value of an investment. When they do, these factors are more than just tiebreakers, but rather are proper components of the fiduciary's analysis of the economic and financial merits of competing investment choices.

Additional information is available at www.dol.gov/ebsa/.

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- Home
- About
- Services
- Careers
- Clients
- Videos
- Blog
- FAQs
- Contact Us
- Privacy Policy
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