



Update on DOL Initiatives

DOL Proposes Rule on Employee Benefit Plan Proxy Voting

On August 31, 2020, the Employee Benefits Security Administration (EBSA), acting on behalf of The U.S. Department of Labor (DOL), issued a proposed rule that it said “address(es) the application of the prudence and exclusive purpose duties under the Employee Retirement Income Security Act (ERISA) with respect to proxy voting and exercises of other shareholder rights.”

The proposal includes provisions that would establish general duties requiring fiduciaries to vote any proxy where the fiduciary “prudently” determines that the matter being voted upon would have an economic impact on the plan. It also prohibits fiduciaries from voting any proxy unless the fiduciary prudently determines that the matter has an economic impact on the plan. The proposal sets forth “permitted practices” under which the plan fiduciary can adopt certain proxy voting policies and parameters reasonably designed to serve the plan’s economic interest. “The proposed proxy rule would ensure that individuals responsible for the retirement savings of millions of American workers are voting proxies only where it is financially in the interest of the plan to do so,” said Secretary of Labor Eugene Scalia. “The proposal would provide clarity and further the prudent management of plan assets and resources.”

“The proposal would clarify Employee Retirement Income Security Act fiduciary duties for proxy voting and monitoring proxy advisory firms,” added Acting Assistant Secretary of the Department’s Employee Benefits Security Administration Jeanne Klinefelter Wilson. “The proposed rule would reduce plan expenses by giving fiduciaries clear directions to refrain from spending workers’ retirement savings to research and vote on matters that are not expected to have an economic impact on the plan.”

The 96-page proposal is expected to be published soon in the Federal Register, followed by a 30-day public comment period.

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