

## Publications

# Practical Tips for Plan Sponsors and ESG Investments

## PUBLISHED

09/08/2022

## SOURCE

Bloomberg Law

## SERVICES

[Employers & Sponsors](#)

- [Fiduciary & Plan Governance](#)
- [Retirement Programs](#)

[Retirement Services](#)

- [Investment of Plan Assets](#)

Regulatory and legislative developments continue to accelerate around investments incorporating environmental, social, and governance factors into retirement plans. Plan sponsors and fiduciaries should take note of the fast-changing landscape when selecting and monitoring investment options.

In late 2020, the Department of Labor under the Trump administration [finalized a rule](#) that seemingly questioned whether ESG investing could be compatible with the duty of prudence outlined in the Employee Retirement Income Security Act of 1974 (ERISA).

After President Joe Biden was elected, DOL announced it would not enforce this rule, and presented a [new proposed rule](#) in October 2021 that would remove barriers to plan fiduciaries' ability to consider ESG factors more permanently. However, since the comment period for the proposed rule closed on Dec. 13, 2021, it has been unclear when DOL will issue a final rule.

Meanwhile, Republican legislators introduced bills in the US Senate and House that would discourage use of ESG factors. Eighteen Republican state attorneys general issued a letter warning about use of ESG factors, and several state governments have taken steps to limit ESG investing.

In this fast-changing environment, to minimize the risk of lawsuits and DOL investigations based on ERISA's duty of prudence, plan sponsors and fiduciaries considering ESG investments may wish to consider the issues outlined here.

In the *Bloomberg Law* article, "Practical Tips for Plan Sponsors and ESG Investments," Groom associate [Jacob Eigner](#) provides plan sponsors and fiduciaries exploring potential ESG investments with an outline of issues to consider in order to minimize the risk of lawsuits and DOL investigations.

To read the article, [click here](#).