GROOM LAW GROUP

Publications

The Department of Labor OKs ESG

ATTORNEYS & PROFESSIONALS

George Sepsakos

gsepsakos@groom.com

202-861-0182

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The Department of Labor has again changed the rules regarding how plan fiduciaries are permitted to invest for environmental, social and governance principles. This is in line with trends and changes in administrations. When conservatives have been in office, ESG investing tends to come with additional protections and documentation requirements. When liberal administrations are in control, ESG investing rules suggest a more permissive position. The Biden administration followed this trend when it issued its final rule "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights." This rule permits plan fiduciaries to take into account ESG factors and other, ancillary factors if the fiduciary determines that the investment including the ESG or other factor "equally serve[s] the financial interests of the plan over the appropriate time horizon" without creating "expected reduced returns or greater risk." It also eliminated a recordkeeping requirement that the prior rule, issued under the Trump administration, had imposed.

In the *PLANSPONSOR Magazine* article, "The Department of Labor OKs ESG," Groom principals Stephen Saxon and George Sepsakos discuss recent amendments to ESG regulations made by the latest DOL ESG rulemaking, and how it may permit fiduciaries to more frequently consider ESG investments in the case of a "tie."

To read the article, click here.