IEN WEBINAR

The DOL’s New Approach to ESG:
What Does It Mean for the Investment Community

January 18, 2022

The webinar will begin shortly.

www.intentionalendowments.org
THE INTENTIONAL ENDOWMENTS NETWORK (IEN)

A peer-learning network encourages and supports higher education institutions to adopt investment strategies that create an equitable, low-carbon, and regenerative economy.

Network Members

- **Endowments**
  - Presidents
  - CFOs
  - Trustees
  - Students
  - Alumni
  - Donors
  - Faculty
  - Staff
  - Managers
  - Consultants

- **Non-Profit & Advocacy Groups**

- **Investment Firms**

- **Other Institutional Investors**

1. Events and forums
2. Weekly and quarterly news
3. Resources exchange (research, reports, case studies)
4. Fiduciary Education
5. Peer-to-peer facilitated working groups
6. Collaborative Initiatives

www.intentionalendowments.org
In partnership with the Second Nature, we will host the virtual 2022 Higher Education Climate Leadership Summit on **April 5 - 8, 2022**. More informations including registions and the event agenda will be available soon.

- Make 2022 a Transformative Year for Climate Action by becoming a 2022 Summit Sponsor.
• Webinar is being recorded
• Use “Chat” menu or “Q&A” to add questions or comments at any time
Speakers

Michael Kleinman
Principal, PRM Consulting

Bill Slimbaugh
Managing Director, Natixis

Bradford Campbell
Partner at Faegre Drinker Biddle & Reath LLP

Keith Johnson
Former Partner, Head of Institutional Investor Legal Service, Reinhart Boerner Van Deure
(moderator)
Fiduciary Duty versus Political Messaging?

• Tone versus substance
  • Industry & regulatory trend is toward recognition of ESG materiality
  • Understanding of fiduciary duty principles is dynamic
  • Effects of evolution in circumstances and knowledge over time

“There are no universally accepted and enduring theories of financial markets or prescriptions for investment that can provide clear and specific guidance to trustees and courts.” [Restatement (3rd) of Trusts §227, Comment (f)]

"Trust investment law should reflect and accommodate current knowledge and concepts. It should avoid repeating the mistake of freezing its rules against future learning and developments." [Restatement (3rd) of Trusts, §227, Intro]
Same Principles – Different Messaging

• Fiduciary Duty basics
  • Prudence – protects participants from negligence
  • Loyalty – precludes theft, misuse and favoritism

• 2020 Regulations – Discouraged consideration of ESG
  • ESG investing not likely pecuniary - raises heightened concerns
  • All proxies need not be voted – E&S engagement rarely material
  • Extra ESG investment and proxy voting documentation advised
  • Funds that consider ESG factors not appropriate default options
  • However, ESG may be material pecuniary factor that can be considered

• 2021 Proposed Regulations – Climate & ESG often material
  • Should be considered when material for investments, voting or engagement
  • Can be used as a default option – no special documentation needed
  • Voting proxies is a crucial right that should be managed as any plan asset
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Michael Rhim
PRM Consulting

January 18, 2022 12:00 EST
Creation of an ESG Retirement Toolkit Guide

- Modules designed to provide practical information relevant to plan sponsors, HR Officers, CFOs, advocates and others.

Four modules have been completed so far:

**Performance Module**
There is increased data on performance information relative to ESG funds, and fiduciaries may find it easier to incorporate the review in their prudent investment process.

**Plan Sponsor Module**
A module to use in evaluating the addition of ESG Funds, with a step-by-step process for administrators on how to incorporate ESG funds in a retirement lineup.

**Advocates Module**
A how-to process for anyone interested in pursuing the addition of ESG funds to their retirement plan.

**Fiduciary Module**
How Fiduciaries Prudently Evaluate ESGs in the current regulatory environment.
About the Guide

The guide aims to address misconceptions related to the use of ESG funds in retirement plans and contains modules on fiduciary duty concerns with steps outlining how to advocate for ESG integration in retirement plans.
Other Modules

We are considering adding other modules in the future. Stay up to date on the IEN website.
We are more than happy to discuss the key points of the modules.