

AMENDMENT TO THE RULES COMMITTEE PRINT
117-5
OFFERED BY MS. DELBENE OF WASHINGTON

Add at the end the following:

1 **TITLE VI—FINANCIAL FACTORS**
2 **IN SELECTING RETIREMENT**
3 **PLAN INVESTMENTS**

4 **SEC. 601. SHORT TITLE.**

5 This title may be cited as the “Financial Factors in
6 Selecting Retirement Plan Investments Act”.

7 **SEC. 602. ERISA AMENDMENTS.**

8 (a) IN GENERAL.—Subsection (a) of section 404 of
9 the Employee Retirement Income Security Act of 1974
10 (29 U.S.C. 1104) is amended by adding at the end the
11 following new paragraph:

12 “(3)(A) Provided that a fiduciary discharges the fidu-
13 ciary’s duties with respect to a plan in a manner otherwise
14 consistent with this subsection, a fiduciary may—

15 (i) consider environmental, social, governance,
16 or similar factors, in connection with carrying out an
17 investment decision, strategy, or objective, or other
18 fiduciary act; and

1 “(ii) consider collateral environmental, social,
2 governance, or similar factors as tie-breakers when
3 competing investments can reasonably be expected to
4 serve the plan’s economic interests equally well with
5 respect to expected return and risk over the appro-
6 priate time horizon.

7 “(B) In a case described in clause (i) or (ii) of sub-
8 paragraph (A), a fiduciary shall not be required to main-
9 tain any greater documentation, substantiation, or other
10 justification of the fiduciary’s actions relating to such fi-
11 duciary act than is otherwise required under this part.

12 “(C) Nothing in this part shall preclude an invest-
13 ment selected in accordance with clause (i) or (ii) of sub-
14 paragraph (A) from being treated as a default investment
15 or a component of such a default investment (as described
16 in regulations issued by the Secretary under subsection
17 (c)(5)(A)), if such investment would otherwise qualify for
18 such treatment under such regulations.”.

19 (b) EFFECT ON REGULATIONS.—The rule entitled
20 “Financial Factors in Selecting Plan Investments”, pub-
21 lished by the Employee Benefits Security Administration
22 of the Department of Labor on November 13, 2020 (85
23 Fed. Reg. 72846), shall cease to have force or effect on
24 the date of enactment of this Act.

