AMENDMENT TO THE RULES COMMITTEE PRINT

117–5

OFFERED BY MS. DELBENE OF WASHINGTON

Add at the end the following:

TITLE VI—FINANCIAL FACTORS
IN SELECTING RETIREMENT PLAN INVESTMENTS

SEC. 601. SHORT TITLE.

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

SEC. 602. ERISA AMENDMENTS.

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

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

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

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

“(B) In a case described in clause (i) or (ii) of subparagraph (A), a fiduciary shall not be required to maintain any greater documentation, substantiation, or other justification of the fiduciary’s actions relating to such fiduciary act than is otherwise required under this part.

“(C) Nothing in this part shall preclude an investment selected in accordance with clause (i) or (ii) of subparagraph (A) from being treated as a default investment or a component of such a default investment (as described in regulations issued by the Secretary under subsection (c)(5)(A)), if such investment would otherwise qualify for such treatment under such regulations.”.

(b) Effect on Regulations.—The rule entitled “Financial Factors in Selecting Plan Investments”, published by the Employee Benefits Security Administration of the Department of Labor on November 13, 2020 (85 Fed. Reg. 72846), shall cease to have force or effect on the date of enactment of this Act.