Biden Admin Now Interfering in Retirement Investments to Push Green New Deal - What You Need to Know

May 18, 2022 - If you work for a company that offers a retirement savings plan (such as a 401K) and you participate in that plan, the you have the right to expect that whoever is managing that plan will do everything possible to maximize your investments. You may not be aware of it, but plan managers have a legal obligation to do this. It's what's called a "fiduciary duty." And the law says that this duty means that plan managers have a legal obligation to manage funds without including immaterial or speculative risks in their investment decisions. But last week, the president issued an executive order that would change that by including the impact on "climate change" to their investment decisions.

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When people make investments, they expect to have a reasonable chance of making money. This is especially true then investing in managed retirement accounts. Funds such as these are run by professional investment managers. Most people just assume that these managers have their best interests in mind when making investment decisions. Under the current rules that is the case.

Biden's executive order would upend that. The order would require investment managers to prioritize climate change issues when making investment decisions. A fairly easy example of how this rule could work to hurt investors can be seen simply by looking at energy sector stocks over the past year.

Over the past 12 months, the Russel 1000 Index had a total return of 4.4% going into May. Over the same period, the Energy Select Sector SPDR ETF (exchange traded fund) was up 71%. That ETF is made up of companies largely involved in fossil fuels. Such investments would be discouraged or even forbidden in Biden's executive order ever take effect.

Even today, with the market down more than 1,200 points as I'm writing this, the fund mentioned above (which trades using the symbol XLE) is up in price. Every other stock on my personal watch list is down for the day.

The problem with Biden's order is that the government is now looking to force fund managers to make investments that have nothing to do with the returns on those investments. Instead, the administration is trying to push certain social engineering goals using an investment strategy that is more likely than not going to hurt investors. If the administration gets away with this, there is nothing to prevent other such orders in the future. Any market sector that has the potential to upset an administration that is in power could be at risk. Very frankly, that isn't government's role... or it shouldn't be. And investors, who are also US Citizens, shouldn't be used as pawns by the government... but in this case, they are.

Fortunately, State Treasurers and Attorney Generals in 24 states have written to oppose the rule. It is quite likely that if the rule does go into effect, that the federal government will get sued by these states to stop it. At this point it is far from a "done deal." But with that said, investors who participate in managed plans should keep an eye on it. And if the rule does go into effect, those same investors should probably start looking for alternative investment strategies.

Many 401K plans allow investors to make their own investment decisions. Others allow investors to roll-over all or a portion of their investments to self-administered IRA's. All of these options are more attractive as an investment strategy than being forced in to "Green New Deal" investments; many of which are likely to fail.
by Jim Malmberg
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