# Retirement News Highlights

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## DeSantis floats bill to ban Florida Retirement System from considering ESG

**Florida governor looks to keep 'woke' CEOs from investing based on political decisions**

By Rob Kozlowski

***Pensions & Investments***

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Florida Gov. Ron DeSantis is proposing legislation that would prohibit the Florida State Board of Administration from using any managers that consider ESG factors when investing the state's money.

Florida Gov. Ron DeSantis announced he is proposing legislation that would prohibit the Florida State Board of Administration, Tallahassee, from using any managers that consider ESG factors when investing the state's money.

Mr. DeSantis is one of three trustees of the board, which manages $240.1 billion in assets, including the $189.7 billion Florida Retirement System.

In a video posted on Mr. DeSantis' Twitter account Wednesday, he said, "We're going to work … to make sure that we have statutory reforms so that we're putting the people of Florida first. We're going to do what's in their best interest, not whatever the delusion of some wealthy woke CEO wants to do."

"We want to make sure they are not using political factors when investing the state's money. We want them to invest the state's money for the best interest of the beneficiaries of those funds," Mr. DeSantis said.

A news release from Mr. DeSantis' office Thursday said the proposed legislation would amend the state's statute on deceptive and unfair trade practices to "prohibit discriminatory practices by large financial institutions based on ESG social credit score metrics. This 'ESG score' is a framework created to force companies to meet ESG standards and arbitrarily includes metrics based on political affiliation, religious beliefs, certain industry engagement, and ESG benchmarks. Violations will be considered deceptive, and unfair trade practices will be punished according to the law."

Kent Perez, deputy executive director of the Florida SBA, said in an emailed statement: "As fiduciaries, the SBA and its investment managers are required to take all relevant risks into account when making investment decisions. Neither the SBA nor its managers use ESG factors as a way to screen or limit the available investment opportunity set. We do not invest to make social statements."

The news release from Mr. DeSantis' office also adds that "environmental, social, or corporate governance factors will not be included in the state of Florida's investment management practices."

Currently, the Florida State Board of Administration includes a number of corporate governance factors in its investment management practices. According to its website, SBA is "directed by state law to create a 'scrutinized companies' list, composed of companies that participate in a boycott of Israel including actions that limit commercial relations with Israel or Israeli-controlled territories." Also, the board is mandated by state law "to notify publicly traded companies of the SBA's support for the MacBride Principles (and) inquire regarding actions a company has taken in support of or furtherance of the MacBride Principles." The MacBride Principles are a code for U.S. companies doing business in Northern Ireland.

Also, in 2007, the Protecting Florida's Investments Act was signed into law and prohibits the State Board of Administration from acquiring securities from "foreign companies with certain business operations in Sudan and Iran involving the petroleum or energy sector, oil or mineral extraction, power production or military support activities."

Bryan Griffin, Mr. DeSantis' deputy press secretary, could not be immediately reached to comment on whether the proposed legislation is intended to repeal those previous laws.

Mr. Perez said the board follows "all statutory requirements in Florida law that speak to SBA prohibited investments and divestiture."

The state board invests with hundreds of managers across its portfolio, many with varying levels of ESG strategies, considerations and commitments.

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# ESG Investing: The good, the bad and the ugly

By Bob Morgan, Jr.
***The Garden City News***
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The increasing degree to which ESG (environmental, social and corporate governance) factors are being considered in choosing investments raises a number of difficult issues, particularly in the context of retirement funds.

ESG investment is commonly defined as using environmental, social and corporate governance factors to evaluate companies and countries on how far advanced they are with sustainability. Once enough data has been acquired on these three metrics, they can be integrated into the investment process when deciding what equities or bonds to buy.

The debate is not completely new. A half century ago, there was much debate about the "social responsibility" of businesses and conservative economist Milton Friedman stirred considerable controversy by publishing an essay in The New York Times entitled "The Social Responsibility of Business Is To Increase Its Profits" in which he argued that maximization of shareholder value was the highest corporate goal   Basically, Mr. Friedman was opposed to investments unrelated to the direct corporate mission and believed that shareholders should simply decide for themselves what philanthropic causes they wanted to support.

To be clear, no one is saying that individual investors should not take personal moral or ethical values into consideration in making investment choices.  Pro-life investors have every right not to invest in abortion drug providers, vegetarians need not put money in meat producers and gun control advocates can certainly forego weapons manufacturers. And these principles obviously apply to avoiding investment funds which have objectionable companies as components.

Still, ESG investing certainly has its detractors.  In a recent opinion piece in the Wall Street Journal, businessman and investor Andy Kessler points out that some purported funds are not ESG enough (accused of "greenwashing"), while others charge exorbitant fees (5 to 15 times more), while making relatively  few changes in investment mix from standard index funds.  Mr. Kessler cites a report by University of Colorado professor Sanjai Bhagat, writing in the Harvard Business Review, that makes four important points about ESG: 1) ESG funds have underperformed; 2) companies that tout their ESG credentials have worse compliance records for labor and environmental rules; 3) ESG scores of companies that signed the U.N. Principles of Investment didn't improve after they signed, and financial returns were lower for those that signed; and 4) companies publicly embrace ESG as a cover for poor business performance.

But while private investors can decide what they wish to do with  ESG investments, much harder questions arise in the context of retirement plans that are vehicles for retirement savings. Under ERISA, the governing law, these are to be invested for the "exclusive benefit" of participants and beneficiaries. Previous guidance of the Department of Labor, which administers ERISA, has gone back and forth on permissibility of ESG type investments,  but 2020 regulations issued under the Trump Administration stated that only pecuniary factors could be considered in evaluating plan investments and that only in rare instances could a decision be made to break a tie among  investment alternatives in favor of an ESG investment.

The Biden Administration, however, seems to be moving the needle toward ESG investments.  It issued a proposed regulation in 2021 widely viewed as opening the door for more socially conscious investments.  The regulation noted that a fiduciary's considerations may include climate change, governance and enforcement practices.  This year, the Department of Labor issued a request for Information discussing possible required disclosure by plan fiduciaries on climate related risks in their investments.  The obvious implication is that plans might feel pressured to include these type of investments, whether warranted or not.

It is true that nowadays most retirement plan participants are in 401(k) plans, in which the employee chooses among a menu of employment options, unlike the old days when employers made investment decisions for defined benefit plans. Nevertheless, I believe that the primary goal should be maximizing the employee's long term retirement security and a go-slow approach is certainly appropriate for ESG investments.

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## Index industry survey sees ESG in two-thirds of portfolios in 10 years

By Hazel Bradford
***Pensions & Investments***
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Nearly two-thirds of investment portfolios will include ESG within a decade, asset managers said in a global survey conducted by the Index Industry Association and released Thursday.

The survey also found use of ESG principles in fixed-income equaling equities, and improved ESG tools.

The Index Industry Association, based in New York, represents the global index industry and its members administer more than 3 million indexes covering many asset classes, including equities, fixed income, commodities and foreign exchange.

Conducted by independent research agency Opinium, the ESG survey polled 300 CIOs, CFOs and portfolio managers in the U.S., U.K., France and Germany in May 2022.

It is IIA's second annual survey on the topic of ESG in asset management. For 85% of asset managers surveyed, ESG became a priority over the past year.

Over the next 12 months, respondents said they expect 40% of asset management portfolios to include ESG elements, a 13 percentage-point increase from the 2021 survey.

In five years, they expect that to grow to 57% of portfolios, also a 13-percentage point increase from 2021, and to 64% of portfolios in the next decade, up from 52% in the previous year's survey.

For fixed-income managers, the percentage incorporating ESG principles increased to 76% from 42% the previous year, making it the fastest-growing asset class in the survey. For equities, ESG principles increased to 74% from 53%, while for managers of commodities, it grew to 47% compared with 37% in 2021.

By ESG topic, 80% of managers reported prioritization of environmental criteria over social or governance issues, and 78% said that should continue. Among environmental issues, climate change was the dominant focus, and 74% of respondents said that most of their ESG portfolios are climate only.

Most respondents saw improvement in environmental impact tracking methods, with 93% considering them effective, compared to 66% in 2021. They also saw improvement in social sustainability tracking, with 92% rating them effective compared to 66% in 2021, and corporate governance tracking tools considered effective by 93% compared to 69% the previous year.

Areas for improvement included more transparency and disclosure of corporate ESG data and ratings, data standardization across markets and sectors, provider agreement on ratings and methods and quantitative data, survey respondents said.

The need for better integration of geopolitical risk factors was also cited, although respondents said that ESG measures are keeping up with the recent geopolitical and economic turbulence.

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