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Submitter Information

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Organization: Macquarie Infrastructure and Real Assets

General Comment

July 30, 2020

VIA ELECTRONIC FILING

Office of Regulations and Interpretations
Employee Benefits Security Administration, Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Re: RIN 1210-AB95, Financial Factors in Selecting Plan Investments proposed rule

Dear Assistant Secretary Wilson,

I am writing on behalf of Macquarie Infrastructure and Real Assets (MIRA) regarding the Department of Labor Employee Benefits Security Administrations proposed rule, Financial Factors in Selecting Plan Investments, Regulatory Identifier Number (RIN) number 1210-AB95.

MIRA is a division of Macquarie Asset Management, a top-50 global asset manager, and operates a large fiduciary asset management business that serves the union pension community among others with listed securities, alternative investments and other investment products. Union

pensions, some of whom are Macquarie clients, are institutional fiduciaries that seek to manage the savings that belong to union workers for their benefit.

The proposed rule recommends additional and unnecessary regulatory burden on institutional investors and dissuades investors from pursuing the most appropriate investments to meet their fiduciary obligations. By regulating against the consideration of ESG factors in investment decisions, the Departments proposed rule could be introducing more risk in union portfolios, and reducing investment performance of union portfolios, two outcomes that are directly contrary to what fiduciaries both Macquarie and pensions seek to do as professionals.

I urge the Department to withdraw the proposed rule, or at a minimum, extend the comment period and rule making process. The Department should properly incorporate peer reviewed research that demonstrates that (1) ESG issues may in fact pose material short, medium and long term financial impacts and risks; (2) when ESG issues present material risks or opportunities, the fiduciary duties under the U.S. Employee Retirement Income Security Act of 1974, as amended (ERISA), compel qualified investment professionals to treat such ESG issues as economic considerations; and (3) Retain the existing interpretation of the tie-breaker test, which allows for ESG factors to be considered for non-pecuniary reasons.

At Macquarie, we attribute a meaningful amount of investment performance to the successful integration of ESG factors in the companies we own. Pensions Funds should not be dissuaded from capturing these benefits for their retirement security and for the communities in which they work and ultimately retire.

Respectfully submitted,

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