Mr. Jason A. DeWitt
Office of Regulations and Interpretations
Employee Benefits Security Administration, Room N-5655
U.S. Department of Labor
200 Constitution Ave., N.W.
Washington, DC 20210

Attention: Financial Factors in Selecting Plan Investments Proposed Regulation
RIN 1210-AB95

Dear Mr. DeWitt:

I am the executive director of Energy Fairness, an educational organization that, for more than a decade, has brought together consumers, policymakers, and other stakeholders to discuss what it takes to maintain an affordable and reliable supply of energy in a fact-based, non-partisan manner.[1]

Previously, I served as a senior legislative assistant to U.S. Rep. Greg Walden, negotiating significant legislation in areas of conservation and energy, and as a government affairs representative for the National Rural Electric Cooperative Association (NRECA). During my tenure at NRECA and my subsequent tenure at Tri-State Generation and Transmission Association, Inc. I was a beneficiary of the association's defined-benefit pension plan known as the Retirement Security Plan.

As someone who has dedicated his working life to energy and conservation policy, I support the Department of Labor's recent proposal to clarify its position on ESG investing. You have managed to remove all doubt that pension plan fiduciaries must make decisions solely based on enhancing returns for beneficiaries. Ideological, political, and social causes have no place in pension investments.

Recently, I have been especially concerned that pension fiduciaries were carrying out a particular environmental agenda through, for example, excluding fossil fuel producers from their portfolios. I know from my own experience that a diversified portfolio must include representative stocks from all sectors of the U.S. economy, as, for instance, the Standard & Poor's 500 index does.

Energy and utilities, for instance, represent about 6% of the S&P 500.[2] Two integrated energy companies alone represent 1.3%.[3] Leaving out the fossil fuel sector from a pension portfolio amounts to nothing less than speculation – a severe danger for plan members. Over the past ten years, iShares MSCI KLD 500, the most popular ESG exchange-traded fund, returned an

[1] https://energyfairness.org/about-energy-fairness/
[2] https://www.morningstar.com/funds/xnas/vfinx/portfolio
[3] https://www.slickcharts.com/sp500

annual average of 0.56 percentage points less than iShares Core S&P 500, BlackRock's fund linked to the large-cap benchmark. That is a significant difference.

Are there risks involved in energy exploration and production – or in the use of certain kinds of energy in generating electricity? Of course. But those risks are reflected in the prices of energy stocks. There are risks as well in the favorite stocks of ESG advocates. Good stewardship asks not whether risk exists but whether the market price of the stock reflects the risks. As an example, the KLD 400 fund's number-one holding, by far, is Microsoft, with a price-to-earnings (P/E) ratio of 34. The P/E ratio of Duke Energy, by comparison, is 16. Investors are paying twice as much for every dollar of Microsoft's profits. That's risky in itself.

Turning to another subject, I was surprised that the Department did not include in its proposal some language about proxy advisory firms, which have served as a kind of conduit between the most avid advocates of ESG investing and the pension plans. I hope you will revise your proposal to clarify that these firms have the same fiduciary duty as the plan advisors who select stocks and bonds. Proxy advisory firms must not recommend proxy votes based on the kind of nonpecuniary ESG factors you cite in your current proposed rule.

I would like to draw your attention to a study headed by Joseph Kalt of Harvard University. The researchers looked at one of the favorite ESG activists' tactics, which is forcing shareholder resolutions on companies that require climate-related disclosures that are not material. The study concluded, "We do not find statistical support for the proposition that the adoption of shareholder resolutions seeking greater disclosure affects company returns one way or the other."[4]

They found that such proposals can "often cost millions of dollars for the company" and that "such activism may open the door to the diversion of resources toward goals besides shareholder returns."

And this is the point: The actions of ESG advocates and activists are a drain on the attention and the resources of companies that want to provide excellent products and services to their customers and significant returns to their shareholders. In my opinion, ESG is only the latest fad to come our way in the world of business and investing. If an investor wants to bias her portfolio in an ESG direction, be my guest. But, as you have noted, fiduciaries of pension funds have obligations not merely to themselves but to thousands of current and future retirees. They can't play ideological games with other people's money.

My congratulations on the proposed changes and I hope you will follow my suggestions for improvement.

Sincerely,

[4] https://corpgov.law.harvard.edu/wp-content/uploads/2018/06/ESG-Paper-FINAL_reduced-size-002.pdf

Paul Griffin
Executive Director
Energy Fairness