



EMPLOYEE BENEFITS SECURITY ADMINISTRATION
U.S. DEPARTMENT OF LABOR

33 Whitehall Street
Suite 1200
New York, NY 10004
212-607-8600

Via Certified Mail – Return Receipt Requested

May 5, 2020

[REDACTED]

[REDACTED]

Re: [REDACTED]

[REDACTED]

[REDACTED]

The Employee Benefits Security Administration (EBSA) of the Department of Labor is responsible for the administration of private sector employee benefit plans subject to Title I of the Employee Retirement Income Security Act of 1974 (ERISA). ERISA mandates that plan fiduciaries discharge their duties “solely in the interest” and “for the exclusive purpose” of providing benefits to participants and their beneficiaries.

Based on information available to EBSA, it appears that the Plan has environmental, social, and governance (ESG) themed funds in its investment options. Accordingly, the Department seeks to better understand the Plan fiduciaries’ selection of ESG funds for inclusion in the Plan’s investment options and compliance with their duty to administer the Plan prudently and solely for the purpose of providing benefits to participants and beneficiaries, and defraying reasonable expenses of administering the Plan. To that end, EBSA requests the following information.

Please email us copies of the materials listed below for the period January 1, 2017 to present **by no later than May 19, 2020**:

1. All investment policies or guidelines currently in effect for the Plan, specifically including, but not limited to, any policies or guidelines concerning the use of ESG factors (or any similar factors) in selecting investment funds for inclusion in the Plan’s fund lineup, or monitoring the performance of Plan investments or funds;
2. Any policies or guidelines relating to the Plan’s compliance with the principles set forth in previous applicable guidance¹ relating to ESG during the relevant period;

¹ For example, Field Assistance Bulletin 2018-01 (<https://www.dol.gov/sites/dolgov/files/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2018-01.pdf>).

3. All proxy voting policies currently in effect for the Plan;
4. All documents² relating to the fiduciaries' use or consideration of ESG factors (or any similar factors) in connection with the investment options for the Plan, selection of investment funds for inclusion in the Plan's fund lineup, or monitoring the performance of Plan investments or fund;
5. Documents sufficient to show the names, addresses, and responsibilities of all persons or entities with responsibility for making investment decisions, or providing investment advisory or consulting services, that take into account ESG factors (or any similar factors) in connection with the Plan's investments;
6. Documents sufficient to identify any investment holdings or transactions which were based in whole or part on the consideration of ESG factors (or any similar factors);
7. Asset listings or portfolio statements for any investment holdings included in the Plan's portfolio in whole or part based on the consideration of ESG factors (or any similar factors);
8. For each investment which was based in whole or part on the consideration of ESG factors (or any similar factors):
 - i. Any documents reflecting calculations or disclosures of gains or losses on the Plan's investments;
 - ii. All reports or summaries of investment performance or investment returns;
 - iii. All financial statements or audits provided to or prepared for the Plan, and any documents relating to any such audit or financial statement; and
 - iv. All disclosures, communications or other documents describing the operation, investment risks, management, or performance of each of the investments in which the Plan invested or with which it conducted business;
9. Prohibited transaction exemption(s) relied on for the Plan's investment in proprietary funds. Documents sufficient to demonstrate compliance with any applicable exemption;
10. Any meeting notes or minutes relating to the consideration of ESG factors by Plan fiduciaries;
11. Any statements furnished to participants of the Plan by the plan administrator (or by a designated service provider) in accordance with ERISA 404(c), ERISA Reg. 2550.404a-5 and ERISA Reg. 2550.404c-1 relating to funds or investments covered by any of the preceding requests. Such statements should include information regarding (i) the investments of the plan (including applicable benchmarks and

² As used herein, the term "documents" should be read broadly to include any communication or record, however prepared or transmitted including, but not limited to, paper and electronic records, such as emails.

- performance data), and (ii) the fees and expenses associated with such Plan investments;
12. Any statements furnished to the participants of the Plan related to the Plan's or Plan fund's use of ESG factors (or any similar factors); and
 13. Any documents furnished to participants of the Plan by the plan administrator (or by a designated service provider) describing the investment lineup for the Plan.

Please note that we are working remotely and are not able to receive and review paper mail. Accordingly, rather than mailing documents, we ask that you email or call to arrange for the electronic delivery of documents to us.

If you have any questions, please feel free to call [REDACTED]
[REDACTED] [REDACTED] [REDACTED]

Thank you in advance for your cooperation.

Sincerely,

Handwritten signature of Thomas Licetti in cursive script, with a small 'ms' written above the end of the signature.

Thomas Licetti
Regional Director
New York Regional Office