GREAT LAKES ADVISORS

MANAGER COMMENTARY

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DOL GUIDANCE ON ESG INTEGRATION

On April 23, the Department of Labor issued a Field Assistance Bulletin focusing on environmental, social, and governance (ESG) integration and shareholder engagement issues that were addressed in the ERISA Interpretive Bulletins published in 2015 and 2016. The new bulletin provides some minor additional guidance, but it does not alter the key points from the earlier bulletins.

The Field Assistance Bulletin reiterates points made in 2015, namely that there could be instances when ESG issues are financially relevant to companies and those issues should therefore be considered by fiduciaries alongside economic factors when evaluating the risk and return profiles of investment options. From the Field Assistance Bulletin:

"In making that observation [in 2015], the Department merely recognized that there could be instances when otherwise collateral ESG issues present material business risk or opportunities to companies that company officers and directors need to manage as part of the company's business plan and that qualified investment professionals would treat as economic considerations under generally accepted investment theories. In such situations, these ordinarily collateral issues are themselves appropriate economic considerations, and thus should be considered by a prudent fiduciary along with other relevant economic factors to evaluate the risk and return profiles of alternative investments. In other words, in these instances, the factors are more than mere tie-breakers."[1]

The "tie-breaker" framework with respect to collateral ESG issues remains unchanged: only when the risk and return profiles of investment options are equivalent can collateral ESG considerations be used to make an investment decision.

The Field Assistance Bulletin also reaffirms guidance on shareholder engagement including proxy voting that was provided in 2016: proxy voting is part of a fiduciary's obligations, and proxy voting and shareholder engagement undertaken at reasonable cost and with the intent to enhance the economic value of the plan's investment is acceptable.

In conclusion, **if ESG considerations and shareholder engagement activities are tied to the economic value of an investment**, there should be no concerns about including them as part of the responsibilities of ERISA fiduciaries.

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1. *Field Assistance Bulletin 2018-01*, US Department of Labor