November 13, 2006

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5669
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Attn: Default Investment Regulation

Ladies and Gentlemen:

The Stable Value Investment Association (the "SVIA") hereby submits its comments on the proposed regulation on default investment alternatives under participant-directed individual account plans, published at 71 Fed. Reg. 56,806 (Sept. 27, 2006).

The proposed regulation will create a safe harbor from fiduciary liability for plans that direct participant investments for which no investment instructions have been given to a default investment option. The proposal recognizes the reality that many participants fail to give instructions on the investment of their plan accounts, and that plan fiduciaries should be protected from liability where they have caused those accounts to be invested in a prudent investment alternative.

The SVIA commends the Department for its goal of providing greater certainty to plan fiduciaries by making available a safe harbor from fiduciary liability for default investments. We also endorse the underlying goal of encouraging greater participation in employer-sponsored defined contribution plans.

However, the Department has defined the term "qualified default investment alternative" ("QDIA") too narrowly. A QDIA is limited to three categories that exclude stable value funds as a stand-alone investment choice in the proposed safe harbor. It is in the best interests of plan participants and fiduciaries, and consistent with the purposes of the safe harbor and Congressional intent, to include stable value funds within the scope of the new rule, which would assure that the safe harbor covers products that focus on capital preservation. The SVIA therefore urges the Department to revise the proposed regulation to include such funds as a fourth QDIA category within the safe harbor.

## A. Stable Value Investment Association

SVIA is a non-profit organization dedicated to educating public policymakers and the public about the importance of saving for retirement and the contribution stable value funds can make toward achieving a financially secure retirement. As of December 31, 2005, SVIA members managed over $397 billion invested in stable value funds by more than 25 million defined contribution retirement investors.[1]

SVIA's 100-plus corporate members represent every segment of the stable value investment community, including public and private retirement plan sponsors, insurance companies, banks, investment managers and consultants.

## B. Stable Value Funds

The term "stable value" describes a form of investment vehicle offered in defined contribution retirement plans (and, more recently, 529 college savings plans). Stable value funds provide the following unique combination of benefits:

(1) Safety of principal;

(2) Bond-like returns without the volatility associated with bonds;

(3) Stability and steady growth of principal and earned income; and

(4) Benefit-responsive liquidity, so that plan participants may transact at "book value" – that is, contract value – at any time.

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1 Tenth SVIA Annual Investment and Policy Survey on Stable Value Funds.

Stable value investment options are included in more than two-thirds of employee-directed 401(k) plans,[2] and represent approximately 21% of 401(k) plan assets.[3] Stable value's continued use in defined contribution plans is due to an increasing desire to avoid risk of loss of savings as the population ages; the extended bear market in stocks, which illustrated the volatility of equity assets and coincided with a decrease in equity assets in most defined contribution plans; a long standing concern with the volatility of bonds and associated loss of principal; and a decline in interest rates, which made money market funds less appealing.

Stable value funds are, by their nature, fixed income investments. The funds invest primarily in interest-bearing contracts purchased mainly from insurance companies and banks (guaranteed investment contracts ("GICs"))[4] and in fixed income securities such as intermediate-term investment grade bonds. Where the fund has purchased a GIC, the contract issuer assures that the value of the principal and all accumulated interest is maintained, subject to the terms of the contract. If the fund purchases fixed income securities, it also enters into a benefit responsive contract (a "wrap" contract) with a financially responsible third party issuer that achieves the same effect as a guaranteed contract – to maintain the principal value and accumulated interest.

The result is that, unlike other investments, stable value funds provide investors with preservation of principal and accumulated interest earnings. Plan participants invested in a stable value fund receive interest income comparable to that earned on an intermediate term investment grade bond fund, but without the associated volatility.

While stable value funds are often grouped together with money market funds in surveys and studies, there are significant differences. Both are intended to provide stability of principal, but money market funds invest in shorter term instruments, which results in lower and more variable investment returns. Stable value funds, by investing in GICs and/or intermediate-term

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2 *See, e.g.,* Deloitte Consulting LLP & Pensions & Investments, 2004 Annual 401(k) Benchmarking Survey, at 19 (77% of plans offer stable value as a "core" investment option).

3 *See* Hewitt Associates LLC, Hewitt 401(k) Index™ (found at http://www.hewittassociates.com/Intl/NA/en-US/OurServices/IndexObservationList.aspx as of Nov. 2, 2006).

4 Banks also issue GIC-like contracts, referred to as bank investment contracts ("BICs"). For purposes of this discussion, the references to GICs include BICs.

investment grade bonds, achieve significantly higher average interest rates and provide consistent, predictable growth over the long term. (More detailed information about stable value investment performance and volatility can be found in Appendix A, "Discussion of Assumptions Underlying the Department's Conclusions Regarding Benefits of Investing Defaulted Funds in Equity Investments," and Appendix B, "Investment Performance and Volatility of Stable Value Compared to Other Investment Categories.")

Many plan sponsors currently use stable value funds as the default investment option under their plans. During 2004, the proportion of plans with automatic enrollment utilizing stable value as the default option was 27%.[5] Approximately one-third of stable value assets are held in bank collective investment funds.

C. Proposed Default Regulation

1. Background

The proposed regulation implements section 624 of the Pension Protection Act of 2006, Pub. L. No. 109-280 (the "PPA"), which amended section 404(c) of ERISA, effective for plan years beginning after December 31, 2006, to add a new section 404(c)(5). The new subsection provides that, if certain notice requirements are met, a participant, even though not having made an affirmative investment election, is to be treated as exercising control over assets that are placed in a designated default investment. The PPA requires the Department to issue regulations within six months after the date of enactment providing guidance on "the appropriateness of designating default investments that include a mix of asset classes consistent with capital preservation or long-term capital appreciation, or a blend of both." PPA, § 624(a) & (b)(2); ERISA § 404(c)(5)(A).

The proposed regulation describes the rules under which a plan participant will be deemed to have exercised control over his or her account where, in the absence of directions

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5 Vanguard Center for Retirement Research, Selecting a Default Fund for a Defined Contribution Plan (June 2005) (27% used "investment contract" funds out of a sample of 1,694 plans administered by Vanguard); Profit Sharing/401(k) Council of America, 48th Annual Survey of Profit Sharing and 401(k) Plans, at 37 (26.9% of 1,052 plans).

from the participant, the account is invested in a "qualified default investment alternative" as defined in the regulation. If the rules are met, then plan fiduciaries are protected from liability for the results of such investments.

Previously, in its 1988 regulation under section 404(c) of ERISA, the Department rejected providing any relief from the ERISA fiduciary responsibility rules for default investments. More recently, in regulations on automatic rollovers by terminated participants (published at 69 Fed. Reg. 58,018) and termination of abandoned individual account plans (published at 71 Fed. Reg. 20,820), the Department provided relief from the ERISA fiduciary responsibility rules for the use of principal-protected funds, such as stable value funds, as default investments. However, the relief is limited to those specific situations, and is not available for investments by active participants in an ongoing plan.

2. Qualified Default Investment Alternative

Under the proposed rule, a fiduciary of a participant-directed individual account plan will not be liable under ERISA for any loss that is the direct and necessary result of the automatic investment of a participant's account where the participant fails to give investment directions. This is the same scope of relief available to fiduciaries of "ERISA section 404(c) plans" that meet the conditions of the Department's section 404(c) regulation.

One of the conditions for this relief is that the assets must be invested in a "qualified default investment alternative," or "QDIA." To constitute a QDIA under the regulation, an investment option must meet a series of requirements, including that it be diversified so as to minimize the risk of large losses and that it fall into one of the following three categories:

i. An investment fund product or model portfolio designed to provide varying degrees of long-term appreciation and capital preservation through a mix of equity and fixed income exposures based on a participant's age, target retirement date or life expectancy, such as a "lifecycle" or "target retirement date" fund.

ii. An investment fund product or model portfolio designed to provide long-term appreciation and capital preservation through a mix of equity and fixed income exposures consistent with a target level of risk appropriate for plan participants as a whole, such as a balanced fund.

iii. An investment management service, such as a "managed account," under which an investment manager allocates assets to achieve varying degrees of long-term capital appreciation and capital preservation through a mix of equity and fixed income exposures based on a participant's age, target retirement date (such as normal retirement age) or life expectancy.

3. Exclusion of Stable Value Funds from QDIA Definition

a) Department's Position

The definition of a QDIA does not include stable value funds as a stand-alone investment.

In the preamble to the proposed regulation, the Department said that it had considered including "as an additional type of investment product near risk-free fixed income investments," such as, among other things, "stable value insurance products," because "some plan sponsors strongly prefer to use as default investments such instruments rather than any of the three types embraced by the proposed rule." However, the Department said that it decided not to do so for several reasons. First, "[t]he proposed rule, by providing relief from fiduciary liability, is both intended and expected to tilt plan sponsors' default investment preferences away from such instruments and toward the three types it embraces." Second, "many sponsors currently use such instruments as default investments under automatic enrollment programs, and they and others might continue to do so after adoption of the proposed rule." The Department added that the proposed rule "leaves intact the current legal provisions applicable to the use of such investments as default investments," but did not identify or explain those legal provisions. Third, the Department said that adding near-risk-free instruments to the definition could lead to "reducing average investment performance and retirement income for some individuals," so that it could "more likely … erode benefits" rather than "increase them."

The Department's position is not supported by the facts about stable value or the applicable provisions of ERISA.

b) Stable Value is Appropriate as a Default Option

The premise of the Department's emphasis on equity funds is that, in the long run, equity-based products provide a return that is 6.7% higher than short-term, low risk investments.

However, this estimate is based on a comparison of equity returns to returns on U.S. Treasury bills over a period going back to 1926. As stable value returns are more comparable to intermediate corporate bond returns, and more recent equity returns have been lower than the 78-year average, this significantly overstates the potential benefit, if any, of equities over stable value. For a period that more meaningfully represents current market conditions – 15 years – stable value funds had performance that is within three percentage points of pure equity and balanced funds.[6]

Many plan participants are risk averse, particularly those close to retirement age or who plan to spend only a short time at a given company. One of the peer reviewers of the Department's economic analysis in connection with the proposed regulation pointed out that low income workers also may be risk averse, such that any additional expected income from lifecycle funds "may only come with an unacceptable amount of risk."[7] It therefore may be appropriate for plan fiduciaries to choose more conservative default investments, such as stable value, based on the demographics and other facts and circumstances of their particular plans. In fact, surveys show that participants move more of their money into less volatile, more conservative investments such as stable value funds as they age.[8] Plan sponsors should be permitted to take those factors into account in selecting safe harbor default options.

The Department's economic analysis implicitly acknowledges that the principal contributor to savings is increased contributions, not higher investment performance. Research on this subject confirms that the key driver for generating retirement savings is the rate of deferral of income rather than asset allocation.[9] As a result, default fund selections that

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6 These figures are discussed in greater detail Appendix A and Appendix B.

7 Peer Review for Default Investment Safe Harbor Regulation by Nellie Liang, Board of Governors of the Federal Reserve, at 4-5 (June 2006). *See also* Olivia S. Mitchell, Zvi Bodie, P. Brett Hammon & Stephen Zeldes, eds., INNOVATIONS IN RETIREMENT FINANCING, at 23 (University of Pennsylvania Press, 2002) (risk aversion and shorter planning horizon may favor a lower risk investment choice).

8 See the following papers in the Investment Company Institute's Perspective series: (1) *Appendix: Additional Figures for the EBRI/ICI Participant-Directed Retirement Plan Data Collection Project for Year –End 2005*, at 18, Figure A19 (Aug. 2006); and (2) *Appendix: Additional Figures for the EBRI/ICI Participant-Directed Retirement Plan Data Collection Project for Year-End 2004*, at 19, Figure A20 (Sept. 2005).

9 These points are discussed in greater detail in Appendix A.

discourage increased contribution levels due to the risk aversion of participants would do more to decrease retirement savings than the choice of potentially higher-performing funds would increase such savings.

Stable value funds are well suited to serve the role of a conservative default option for a defined contribution plan. They have a proven track record of earning a consistently positive return, higher than money market funds and 30-day Treasuries. Over the past 15 years, their performance has consistently exceeded the rate of inflation. Stable value funds also have less volatility than other investments, including "lifecycle" or "target retirement date" funds and balanced funds.[10] They may, in fact, be better able to preserve future retirement income and prevent erosion of benefits than the types of funds under the proposed QDIA definition.

Another important consideration in selecting investment funds is cost. [11] Stable value funds have relatively low costs compared to "lifecycle," "target retirement date" and balanced funds, particularly those that use a "fund of funds" structure. According to a 2004 study by IOMA, Inc., a business information firm, annual fees for stable value funds average 42 basis points, compared to 74 basis points for "lifestyle" funds (a category that is analogous to lifecycle and target retirement date funds) and 78 basis points for balanced funds.[12]

Plan fiduciaries may thus have a number of reasons for deciding that it is prudent and appropriate to use a stable value fund as the designated default investment option for their plans.

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10 See Appendix B for background information on stable value fund performance and relative lack of volatility as compared to other types of investments.

11 The Department has, in the past, emphasized that cost is an important consideration in selecting investment funds. *See, e.g.,* the Employee Benefits Security Administration publication "Understanding Retirement Plan Fees and Expenses" (May 2004), available at http://www.dol.gov/ebsa/publications/undrstndgrtrmnt.html.

12 Plans in Transition: IOMA's Annual Defined Contribution Survey (2004). Similarly, a more recent study focused on life cycle funds found the total average expense ratio on such funds (including the costs of the underlying funds) to be 71 basis points. Turnstone Advisory Group LLC, Popping the Hood: An Analysis of Major Life Cycle Fund Firms, Appendix B (2006). These studies focused on institutional funds, while plans that use retail classes of balanced or life cycle mutual funds would likely be paying even higher rates of fees.

They should be able to select a stable value fund for this purpose without incurring greater risk of liability because such funds are outside the safe harbor.

c) Exclusion from the Safe Harbor is Unnecessary and Would Unduly Discourage Plans from Using Stable Value

The Department stated that it intended to "tilt" plan sponsors away from using conservative investment options as default investments, to overcome the current inclination toward principal-protected investments. However, the regulation's exclusion of stable value funds would unduly discourage plan sponsors from using stable value as a default option, to the detriment of plan participants.

For some plan sponsors, their inclination toward stable value may have resulted from concerns about potential fiduciary liability in the selection of default investments, due to the Department's previous exclusion of default investments from ERISA section 404(c) relief. Nevertheless, it is clear that a number of sponsors believe that it is appropriate to provide stable value as a default option, for the reasons described in the preceding subsection.

In the preamble, the Department says that the proposal leaves intact the current legal provisions applicable to the use of "near risk-free fixed income instruments" as default investments. There is no discussion in the preamble of what provisions these would be. In the absence of any safe harbor protection for such investments, they are presumably the general fiduciary obligations under section 404(a) of ERISA, which do not provide any special protection for the use of stable value or other principal-protected funds over other investment vehicles.

The Department goes on to say that the limitations in the proposal should not be construed to indicate that the use of other types of investment alternatives not covered by the regulation, such as stable value products, would be imprudent. *See* 71 Fed. Reg. at 56,807 and 56,814. Nevertheless, the effect of the regulation is that plan fiduciaries will likely insist that any default investment option under their plans comply with the regulation, in order to avail themselves of the safe harbor from fiduciary liability.[13] This could cause a dramatic shift away from stable value funds and similar instruments, even if those funds are prudent to use as default investments.[14]

Including products such as lifecycle and balanced funds within the safe harbor should, in itself, accomplish the Department's objective of promoting interest in using such funds as default investment options. Covering higher-risk funds within the safe harbor will protect plan fiduciaries from liability for deciding to use a higher-risk fund. Such a step, combined with the preamble's discussion of the important role of equity investment, will assure plan fiduciaries that there is no legal impediment to using lifecycle or balanced funds for default investment. Consequently, there is no reason to unduly disfavor stable value funds by excluding them from the safe harbor. To the contrary, making stable value funds available in the safe harbor would not promote them over the other three categories but simply place them on an equal footing. This would give the decision about the appropriateness of using stable value as a default to plan sponsors, who are in the best position to make this judgment for their plan participants.

d) <u>Legislation Clearly Requires Principal Protection Funds to be Included in the Safe Harbor</u>

New section 405(c)(5)(A) directs the Department to provide guidance on the appropriateness of designating default investments "that include a mix of asset classes consistent with *capital preservation or long-term capital appreciation*, or a blend of both." (Emphasis

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13 There are already indications that this will be the case. In an article in October 2006 issue of the magazine "Investment Advisor," the president of an investment advisory firm was quoted as saying that plan sponsors should refrain from using money market and stable value funds as default options in 401(k) plans. M. Waddell, "ETFs for 401(k)s Are OK," *Investment Advisor* (Oct. 2006).

14 If the exclusion remains, plan sponsors are likely to shift current default investments out of stable value, which may lead to unfavorable consequences. Those transfers, not being initiated by individual plan participants, may, under the terms typically imposed by stable value funds on non-participant withdrawals, be subject to delays of up to 12 months and/or payout at below book value. The remaining participants in the stable value fund may be exposed to undue risk because there would be fewer assets supporting the fund's obligations, depressing future crediting rates.

added.) "Capital preservation" appears as a separate category, signifying an intent for QDIAs to include investments that focus on capital preservation.

The three categories currently included in the regulation are designed to provide a mix of "capital preservation *and* long-term capital appreciation" – they use the conjunctive "and," as opposed to the disjunctive "or" contained in the statutory language. No category focuses specifically on capital preservation. Adding stable value funds would address this omission by including a type of investment that preserves capital, while still achieving a relatively high rate of return for a fixed-income investment that has generally exceeded inflation (thereby meeting the Department's goal of avoiding long-term erosion of benefits). A failure to include stable value would be inconsistent with the statutory directive to include default investments that provide for capital preservation.

4. <u>Proposed Changes to the Safe Harbor Provision</u>

(a) <u>Adding a Fourth QDIA Category</u>

For the foregoing reasons, stable value funds should be included as a fourth category within the definition of a QDIA, as follows (to be added as an additional paragraph to section 2550.404c-5(e)(5)):

(iv) An investment fund product designed to preserve principal and pay a reasonable rate of return supported by one or more contract(s) with one or more financially responsible third party(ies) that provides for participant-initiated transactions with the fund to occur at contract value.

(b) <u>Condition Regarding the Nature of the Fund</u>

In addition, we note that a change should be made to the condition regarding the nature of the investment fund.

Section 2550.404c-5(e)(3) of the proposed regulation requires that the QDIA be either (i) managed by an investment manager, as defined in section 3(38) of ERISA; or (ii) an investment company registered under the Investment Company Act of 1940. This provision could be interpreted to exclude non-registered collective trust funds from this requirement for a QDIA. Collective funds are a cost effective and well-established investment structure for stable value and many other types of investment options. Therefore, we do not believe that the Department intended such a result. We request the Department to clarify that a common or collective trust fund maintained by a bank or trust company supervised by a State or Federal agency can be a QDIA.

Conclusion

In sum, the Department should revise the default investment regulation to include stable value funds as a fourth category of qualified investment default alternatives, for the following reasons:

1. Stable value funds are well suited to serve as a default investment option for a defined contribution plan, based on their track record of consistent performance above inflation levels, preservation of capital, low volatility and cost effectiveness.

2. Excluding stable value funds from the regulation's safe harbor would unduly discourage plans from using stable value, and is unnecessary to achieve the Department's goal of promoting increased use of equity funds.

3. The statutory language of section 405(c)(5) requires including principal preservation funds in the safe harbor.

Thank you for your consideration of our comments. We are available to work with the Department's staff as it proceeds toward a final regulation, and we will be following up shortly to arrange a meeting to discuss these issues with the staff. Should the staff have any questions, please contact the undersigned at (202) 580-7623 or our outside counsel, Donald Myers of Reed Smith LLP, at (202) 414-9231.

Sincerely,

Gina Mitchell

Gina Mitchell
President

APPENDIX A

Discussion of Assumptions Underlying the Department's Conclusions Regarding Benefits of Investing Defaulted Funds in Equity Investments

In the "Discussion of Economic Impacts" section of its proposed regulation (pages 56,817 through 56,822), the Department concludes that, as a result of the proposed regulation, in the long run aggregate 401(k) account balances are estimated to increase by $45 billion to $89 billion, with approximately $7 billion to $9 billion of that amount attributable to the change from very low-risk default investments to higher-performing equity portfolios. Based on a review of the assumptions described in this section, the SVIA believes that the estimated increase due to use of equity investments is significantly overstated relative to use of stable value investments, and therefore does not provide any basis to promote equity funds over stable value funds.

The Assumed Equity Risk Premium is Too High Relative to Stable Value Investment

The estimated return on the types of funds covered in the proposed regulation's QDIA definition is based on return assumptions over a 78-year period, from 1926 to 2004 (from the Ibbotson Associates Stocks, Bonds, Bills and Inflation 2005 Yearbook). There have been many changes to the markets during this period.

The SVIA has determined that a 15-year period would be more meaningful for purposes of comparing the performance of market indices with stable value. The past 15 years is more representative of current market conditions, including for stable value funds, which underwent changes in their early years.

The long-term equity return number for the 78-year period, 10.40%, is above the last 15 years of S&P 500 return, which averaged 8.59%. This suggests that the 78-year return may be higher than the current norm. A similar concern was raised by the peer reviewers of the Department's economic analysis model. Prof. David Laibson commented that a 6.5% premium is not expected by most economists in the near future and recommended a smaller premium.[1] Ms. Nellie Liang stated that "the equity premium that has been realized since 1926 is higher than

1 Peer Review for Default Investment Safe Harbor Regulation by Prof. David Laibson, Harvard University, Department of Economics, at 1 (June 5, 2006)

can be justified by reasonable levels of investor risk aversion or risk under many asset pricing models." Ms. Liang went on to suggest an equity premium around 2.00%.[2] The Department's response to the peer reviewers acknowledged this criticism, but responded only by indicating that these comments "underscore the importance of caution in interpreting the PENSIM estimates of the proposed rule's effects," and that the Department would account for the possibility of a smaller equity premium in connection with the final regulation.[3] Despite this acknowledgement, no change was made to the proposed regulation on the basis of this concern.

The 78-year 3.70% average Treasury bill rate, which appears to have been used as the basis for comparing equity investment performance with the returns on low-risk instruments, is significantly lower than the 15-year Hueler Stable Value Pooled Fund Index of 5.92% (the 15-year average Treasury bill rate was 3.91%.) Consequently, the conclusions regarding the benefits of equity-oriented investments are driven by comparing an unduly high level for equity returns with a return significantly lower than stable value performance, resulting in an equity risk premium level of 6.70%. The actual difference between equity and stable value performance over the past 15 years has been only 2.67%.

Comparing stable value to balanced funds over the past 15 years also yields a result favorable to stable value funds. For example, a balanced fund of 70% equity and 30% fixed income would have averaged a 7.91% annual return with a standard deviation of 10.33%, compared to stable value with an annual return of 5.92% and a standard deviation of only 0.43%.[4] (Standard deviation is a measure of investment risk – the lower the standard deviation, the lower the risk.)

2 Peer Review for Default Investment Safe Harbor Regulation by Nellie Liang, Board of Governors of the Federal Reserve, at 3 (June 2006)

3 EBSA Response to Peer Reviews, at 8-9 (Sept. 12, 2006).

4 Apart from the Hueler Stable Value Pooled Fund Index, the data forming the basis for this discussion was compiled from Bloomberg information on market indices. Equity returns were based on the S&P 500 Index, and balanced fund returns on a proportionate combination of the S&P 500 Index and the Lehman Intermediate Government Credit Index.

The Department Failed to Consider the Implications of Using More Volatile Funds on Participant Contribution Behavior

The SVIA believes that the comfort of protecting principal and assured returns leads many participants to contribute more to plans than they would if they were limited to more volatile investment options.[5] Ignoring this real world behavior of participants could lead to decreased participation.

This point was also raised by one of the peer reviewers. Ms. Liang stated that "The presentation of risk results does not consider risk aversion" and that "For low income workers, it could be the case that the additional expected income from the life-cycle fund may only come with an unacceptable amount of risk."[6]

In describing only a small part of the estimated increase in participant investments as coming from equity-level returns, the Department's analysis implicitly acknowledges that the principal contributor to savings is increased contributions, not higher investment performance. This is confirmed by the research on the subject. According to Putnam Investments' study "DC Plans Missing the Forest for the Trees" (Aug. 2004), the key driver for generating retirement savings is the rate of deferral of income – much more so than asset allocation. As a result, fund selections that may discourage increased contribution levels would do more to decrease retirement savings than the choice of potentially higher-performing funds would increase such savings.

5 Over the past 15 years, a 70% equity/30% fixed income balanced portfolio would have had 18 quarters with negative returns, while stable value would have had none.

6 Peer Review for Default Investment Safe Harbor Regulation by Nellie Liang, Board of Governors of the Federal Reserve, at 4-5 (June 2006).

APPENDIX B

Investment Performance and Volatility of Stable Value Compared to Other Investment Categories

The following charts illustrate the performance and limited volatility of stable value funds compared to money market funds, bond funds and the S&P 500 index funds (as a proxy for equity funds) for the period from 1990 to the present. (This is consistent with the 15-year time period used in the analysis in Appendix A.) They demonstrate that stable funds have had performance that is higher than money market funds and equivalent to intermediate term bond funds, and volatility far less than bond or equity funds.

The underlying data in the graphs is derived from the following benchmarks:

For stable value funds – Hueler Pooled Funds Index and Wrapped Lehman Intermediate Aggregate Bond Index

For bond funds – Lehman Intermediate Aggregate Bond Index

For S&P 500 index funds – S&P 500 Index

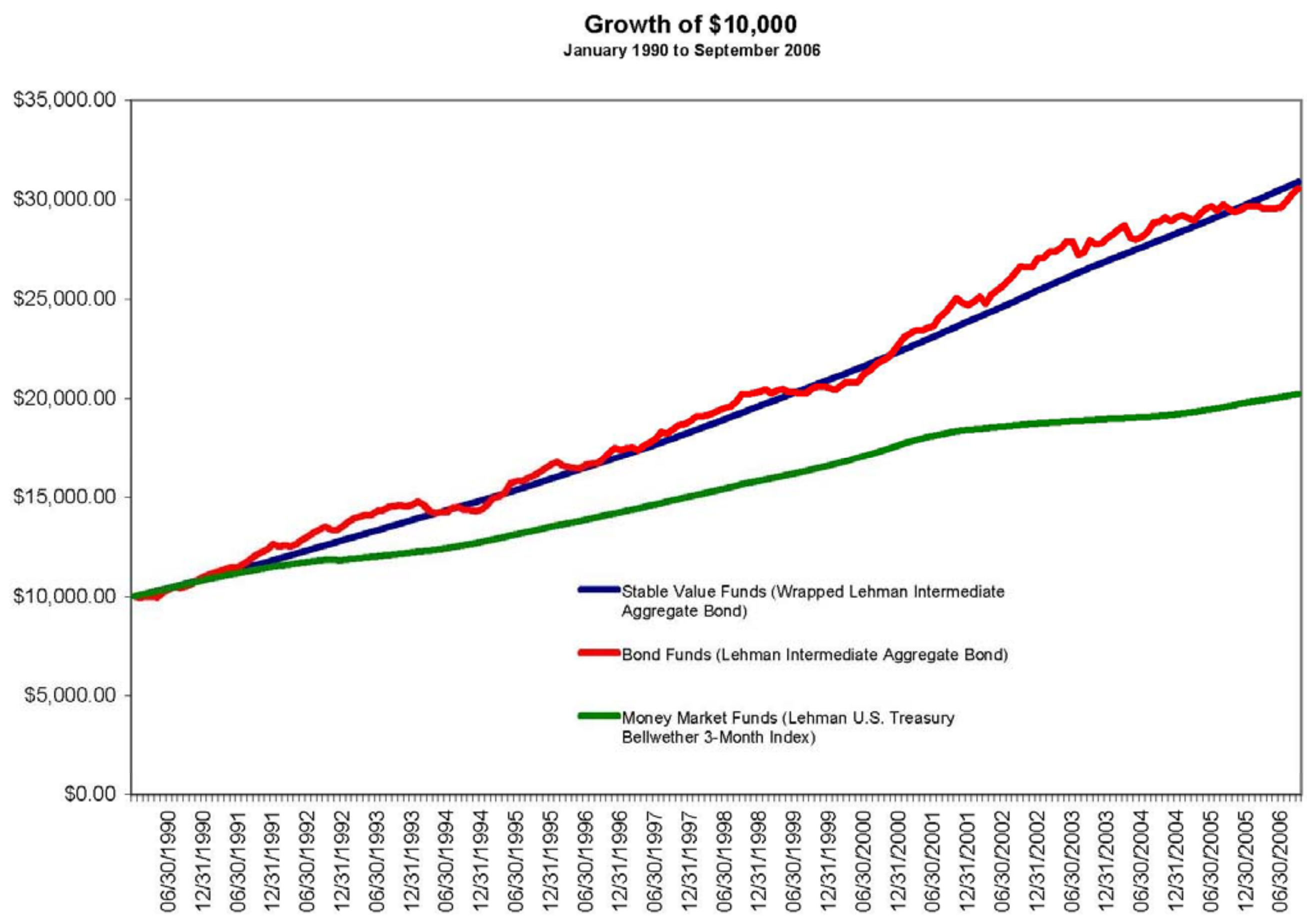
For money market funds – Lehman U.S. Treasury Bellwether 3-Month Index

| Historical Performance Statistics of Various Indexes[1]<br>1991 through September 30, 2006 | | | | | | |
|---|---|---|---|---|---|---|
| | Five Year Period | | Ten Year Period | | Fifteen Year Period | |
| Index | Annualized Return | Standard Deviation | Annualized Return | Standard Deviation | Annualized Return | Standard Deviation |
| Equity Funds | 5.12% | 15.52% | 6.87% | 17.44% | 8.59% | 14.81% |
| Bond Funds | 4.33% | 3.56% | 5.59% | 3.38% | 6.30% | 3.73% |
| Money Market Funds | 2.22% | 0.64% | 3.68% | 0.87% | 3.91% | 0.79% |
| Stable Value Funds | 4.81% | 0.27% | 5.59% | 0.43% | 5.92% | 0.43% |

This table illustrates the performance and volatility of stable value relative to equity, bond and money market investments over a five, ten and fifteen year period. The performance is shown by the annualized return column. Volatility is shown by standard deviation, which is an indication of the variability of investment returns from year to year. The higher the standard deviation, the higher the volatility (and therefore the risk of investment).

As this table demonstrates, the performance of stable value funds closely approximates that of bond funds, but with a volatility level closer to (and actually less than) that of money market funds.

1 Apart from the Hueler Pooled Fund Index, which represents stable value funds, the underlying data for this presentation was compiled from Bloomberg information on market indices. Equity Fund returns were based on the S&P Index; Bond Fund returns, on the Lehman Intermediate Government Credit Index; and Money Market returns, on the Lehman U.S. Treasury Bellweather Three Month Index.


Growth of $10,000
January 1990 to September 2006
$35,000.00
$30,000.00
$25,000.00
$20,000.00
$15,000.00
$10,000.00
$5,000.00
$0.00
Stable Value Funds (Wrapped Lehman Intermediate Aggregate Bond)
Bond Funds (Lehman Intermediate Aggregate Bond)
Money Market Funds (Lehman U.S. Treasury Bellwether 3-Month Index)
06/30/1990
12/31/1990
06/30/1991
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**Volatility of Returns**

**January 1990 - September 2006**