



January 13, 2011

**Submitted via electronic mail to: e-ORI@dol.gov**

Division of Regulations  
Employee Benefits Security Administration  
200 Constitution Avenue NW  
FP Building, Room N-5655  
Washington, DC 20210

Re: Target Date Amendments  
RIN1210-AB38

Ladies and Gentlemen:

AARP appreciates the opportunity to comment on the Department of Labor's (Department) request for comments on the proposed amendment to the qualified default investment alternative (QDIA) regulation to provide more specificity as to the information that must be disclosed to participants. In particular, AARP focuses on questions surrounding the increased use of "target date" or "lifecycle" funds and other similar investments (TDFs), both as investment alternatives for 401(k) plans generally and as QDIAs for participants that do not provide investment direction. AARP agrees with the Department's suggestion that both plan fiduciaries and plan participants would benefit from additional guidance concerning TDFs.<sup>1</sup> Therefore AARP's comments apply to the amendment of sections 2550.404a-5(d)(3), 2550.404c-1(b)(2)(i)(B)(1)(viii) and (ix), and 2250.404c-1(b)(2)(i)(B)(2).<sup>2</sup> Inasmuch as AARP is mindful of the Securities and Exchange Commission's (Commission) requirements as to required disclosures for TDFs, AARP's suggested

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<sup>1</sup> Because fiduciaries must assess whether TDFs, in general and in particular, are prudent for their plans, AARP suggests that the DOL develop a Selection and Monitoring Target Date Tool, similar to other compliance assistance the Department has issued, in order to assist fiduciaries to better meet their fiduciary duties in selecting target date funds. The tool should provide suggested areas of inquiry for evaluation, including but not limited to asset classes, allocation, number and quality of underlying funds, "glide paths," and fees and expense ratios for both the fund itself and any other mutual funds in which the target date fund invests. The DOL may also wish to issue compliance assistance for fiduciaries on best practices. We believe such guidance will be particularly helpful to small and mid-size employers which do not make use of outside consultants.

<sup>2</sup> AARP represents persons age 50 or older, and helps them gain independence, choice and control in ways that are beneficial and affordable to them and to society. Almost half of AARP's members are working. AARP fosters the economic security of individuals as they age by seeking to increase the availability, security, equity, and adequacy of retirement, health, disability, and other employee benefits. AARP also devotes a considerable amount of work to protecting consumers from exploitation in the marketplace, including by advocating for strong and effective state consumer protections.

disclosure enhancements which follow are proposed to supplement Commission-required disclosures, not in any manner to substitute for them.

AARP believes that more extensive disclosure requirements for TDFs would add immeasurably to the confidence and the capacity of investors who frequent the marketplace for such investments to make rational and prudent selection of investments which are best suited to their circumstances. AARP's focus is principally on the disclosures required in connection with TDFs that are geared to retirement planning, but we recognize that the fundamentals which we address may well have application, either directly or with minor modification, to other lifecycle events, such as birth, education, marriage, etc.

AARP submits the following specific comments on the proposed regulations:

**I. The Fund Name Should Clearly Reflect the Meaning of the Fund's Target Date and the Meaning of the Date Used in the Fund Name Should Be Clearly Explained.**

There is no standard across the various TDFs as to the significance of the date used in the fund name. For example, the "target date" which is incorporated in the fund's name could refer to the date by which the fund has liquidated the entire equity portion of its investment portfolio. It could, on the other hand, refer to the date at which the equity portion of the investment portfolio is at its lowest point in the entire life of the fund. Another possibility is that the date in the fund's name indicates the date on or near which it is assumed that the owner(s) of the fund have identified as a probable retirement date. Finally, the date in the fund name may indicate the date upon which the fund assumes that holders of the fund will cease further investment contributions into the fund and will commence gradual withdrawals of their fund holdings. Any one or more of the possibilities mentioned may describe the significance of the target fund name, and other possible significance may attach. Consequently, AARP urges the Department to require that TDFs reflect their purpose in the fund name and fully and clearly state in terms "calculated to be understood by the average plan participant", 29 U.S.C. 1022, the meaning of the date which is used in the fund's name.

The issue as to the meaning of the date in the fund name is generally referred to as the "Target To or Target Through" dichotomy, or the "target date or target death or landing point." Whatever terminology is used to describe the issue, the critical point is that the Fund name and disclosures must make it abundantly clear whether the Fund is designed to take the investor to retirement or to carry the investor through retirement or to another point. Indeed, descriptive (perhaps standardized) fund names that reflect the different objectives would be helpful to consumers, especially those who choose these types of funds for the very reason that they do not want to wade through disclosure documents. Moreover, the Funds should be required to furnish each investor prior to entry by the investor into the Fund adequate notice to permit the average plan participant to identify the Fund's goals on the Target to or

Target through issue, so that the investor will have sufficient opportunity to determine whether the investor and the Fund are well matched. AARP believes that requiring one or two descriptive sentences to accompany each fund name could also serve to effectively communicate essential fund information to the investor. AARP believes that it may be desirable for the Department and the SEC jointly to explore whether more standardized fund names and descriptions would also be efficacious.

**II. The Fund Should Be Required to State the Underlying Assumptions Which Are Made by the Fund with Respect to the Intentions of the Average Fund Investor as to the Manner and Timing of the Investor's Withdrawal of Distributions from the Fund.**

The Fund should declare whether it assumes that investors will withdraw their Fund investment in a lump sum, in roughly equal installments so as to constitute a stream of income, or in some other manner. The Fund should also state whether it assumes that investors in the Fund will commence distributions from the Fund at the target date or at some earlier or later time.

**III. The Fund Should Be Required to State the Age and Other Relevant Characteristics of Investors for Whom It Deems the Fund Most Suited.**

The Fund should identify the characteristics of investors for whom it views the Fund most suited. For example, the Fund should state the age and relevant retirement plans, such as anticipated date of retirement, age of retirement, and plans with respect to anticipated timing of Fund withdrawals and distributions of the ideal Fund investor. This will enable the fiduciaries and the participants to determine whether the fund is appropriate for its workforce or for them individually.

**IV. The Fund Should Be Required to Describe the Asset Allocation Path (Glide Path) That the Fund Intends to Follow and to State Whether and to What Extent the Fund's Governing Instruments Permit the Fund to Deviate From Its Planned Allocation.**

The Fund should be required to disclose to the plan participants the asset mix that is contemplated to be held by the Fund at certain time intervals during the Fund's investment life, including, at a minimum the asset allocations projected as of the target date, the Fund's landing point or end date, and at significant measuring points along the path from fund inception to fund termination. Examples of significant points in time are: the respective points in time at which the Fund holds its highest and lowest allocations of equity investments; the respective points in time at which the Fund holds its highest and lowest allocations of fixed income investments; and the respective points in time at which the Fund holds its highest and lowest allocations of cash equivalent investment assets. At each point in time pertaining to which the Fund discloses the Fund's asset mix, the mix should be described in

terms of the total percentage of Fund assets invested in each class of assets mentioned above and such others as may be held by the Fund.

**V. The Fund Should Be Required to Furnish Graphs, Charts, and Tables, as Appropriate, for the Purpose of Graphically Illustrating the Fund's Intended Glide Path.**

The Fund's graphic illustrations of essential data to be disclosed should be designed and intended to inform the average plan participant. AARP believes that a satisfactory example of the graphic illustration chart for which we advocate appears in the mock-up Fund Fact Sheet in the June 18, 2009 Investment Company Institute publication entitled, Principles To Enhance Understanding of Target Date Funds: Recommended by the ICI Target Date Fund Disclosure Working Group.<sup>3</sup> Other examples may be effective as well.

**VI. The Fund Should Be Required to Disclose the Risks and the Expenses Associated with Investing in the Fund.**

The Fund should be required to describe the risks associated with investing in assets drawn from each and every one of the asset classes which comprise the investment assets contemplated to be held by the Fund. Disclosures should also state the extent of any investment returns that are guaranteed by the Fund, and if no such returns are guaranteed, then Fund disclosures should so state. Similarly, the Fund should disclose any protection the Fund offers to maintain the investor's principal investment, and if there is none, then the disclosures should so state, including the possibility that the investor may suffer loss of all or a part of the investor's principal investment.

Participants' expect that their first line of defense against unreasonable fees is the due diligence that their plan fiduciaries take in choosing plan investment options. In 2007 AARP surveyed 401(k) participants to gauge their understanding of fees and investment choices. ["401(k) Participants' Awareness and Understanding of Fees," July 2007]. The survey results emphatically demonstrated that participants look to plan administrators and the plan's service providers to provide plan investment and fee disclosures.

Comprehensive information on plan fees and expenses will enable both plan fiduciaries, participants and other investors to ensure that fees and expenses are reasonable. They need to have access to costs associated with various components, not just total costs. Consequently, TDFs should be required to disclose not only the total fees they are charging, but also the fees of the underlying component funds or other investments that comprise the TDF. The Department

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<sup>3</sup> Available at [http://www.ici.org/pdf/ppr\\_09\\_principles.pdf](http://www.ici.org/pdf/ppr_09_principles.pdf).

could either specify this requirement in this regulation or issue guidance interpreting its fee regulation.

Finally, AARP believes that the Fund should be required to disclose in unambiguous language whether or not the Fund reserves any rights to alter the fee and expense structure of the Fund during the Fund's lifetime, and if it does reserve such a right, whether the Fund anticipates doing so. Moreover, if applicable, the Fund should be required to identify the conditions under which it anticipates an alteration in the Fund's fee and expense structure.

AARP appreciates having the opportunity to provide its views on the proposed rules relating to Target Date Funds. If you have any questions, please do not hesitate to contact Tom Nicholls at 202.434.3765 or Jay Sushelsky at 202.434.2151.

Sincerely,

A handwritten signature in black ink, appearing to read "David Certner", with a long horizontal flourish extending to the right.

David Certner  
Legislative Counsel & Legislative Policy Director

cc: Robert Doyle  
Director, Office of Regulations and Interpretations  
Jeffrey Turner  
Chief, Division of Regulations