



FIDUCIARY PLAN GOVERNANCE, LLC™

July 10, 2014

Office of Regulations and Interpretations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue NW
Room N-5655
Washington, DC 20210

Submitted to: e-ORI@dol.gov

Re: Target Date Disclosure
RIN 1210-AB38

Ladies and Gentlemen:

Fiduciary Plan Governance, LLC and its affiliates (collectively, “FPG”) appreciate the opportunity to respond to the Department of Labor’s (Department) request for comments on the proposed regulatory amendments requiring enhanced disclosures for target date or similar investments (TDFs).

FPG is an ERISA plan fiduciary risk and consulting firm with offices and affiliates in New England, greater-Philadelphia, Atlanta, Nashville, and the Great Lakes region. Our staff is comprised of attorneys, accountants, investment advisers and consultants with many years employee benefits experience. Our client mission is to improve plan management and governance, reduce exposure to fiduciary risk, and to reduce plan fees to enhance retirement income security. Over the last several years we have had the opportunity to consult with many clients regarding the challenges of TDFs.

Comments Summarized. The purpose of this comment letter is to recommend that the Department require in the new rule that target date disclosures include information about the dangers of equity exposure in target date funds in the five-year period prior to the target date. As explained below, these exposures are significant and not necessarily known to participant-investors.

The Risks of TDFs to Uninformed Plan Participants are Significant. FPG recognizes that the use of TDFs has grown significantly and will become the dominant form of investment in defined contribution plans. Just six years ago, when the “great recession” hit, TDF assets were around \$200 billion. In that year, 2008, the S&P 500 Index lost 37 percent. Particularly hard hit

“The first rule for fiduciaries is to put their interests last.”

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were participants invested in target date funds that had recently retired or were nearing retirement. Many 2010 TDFs lost between 25 and 35%. For many, retirement dreams were deferred or crushed as a result.

Today TDF assets are \$1 trillion and represent 25% of all 401(k) plan assets. Some expect this percentage to grow to 40% within the next several years. Consequently many more assets are at risk. Many more participants will be hurt in the next downturn *unless* participants understand the risks inherent in current, commonly provided TDF strategies.

These risks are particularly acute when participants reach their target dates, the point at which they are most vulnerable to market downturns. As is pointed out in the recently published book, *Fiduciary Handbook for Understanding and Selecting Target Date Funds*, by John Lohr, Mark Mensack, and Ron Surz, whether the TDF is a “to” or “through” fund many TDFs have significant equity exposure at or near their target date. They argue that TDFs are *more exposed* now than they were in 2008.

In other words, many TDFs have significant exposure to equities near their target date and fail to protect participants against significant losses when these participants are most vulnerable. The danger is that participants are not aware of this risk.

There is another danger. Many participants misunderstand the implications of reaching their target date. Some might believe, for example, that a TDF with 2020 target date is the date at which they can retire comfortably. Also, a given TDF is only *potentially* effective *if* (emphasis added), the participant is on track for retirement, which is rarely the case. That is, other factors have great significance in reaching retirement goals such as the rate of participants’ contributions and when they begin contributing.

There is also a need for explanatory clarifications of the fund’s investment strategy or glide path. These are often generically described as:

- 1) Conservative or To,
- 2) Moderate or Hybrid or To & Thru
- 3) Aggressive or Thru.

Without additional clarifying disclosures of the risks inherent in each strategy or glide path, these “labels” and the numbers associated with them will be of very little value to participants.

The Nature of the Problem is Demographic. Participants are invested in TDFs mostly because they have been defaulted there, either because they can’t make a decision or would rather have someone manage their investments. These individuals tend to be unsophisticated and are more likely to be conservative investors. They trust that their employers have put them in an investment that cannot lose money, without really understanding the nature of the risk.

The SEC commissioned Siegel & Gales study supports this notion. It found that there is a considerable lack of understanding in TDF and non-TDF investors of the fundamental riskiness

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of TDFs. Even glide path information given to these investors, according to the study, did not raise participant awareness of changes in the percentage of investments in equity and non-equity investments. Thus, these participants are not protected under existing disclosure rules.

Suggested Disclosure Regime under Proposed Regulatory Amendments. FPG urges the Department to include in the regulatory amendments the following:

1. Beginning in the tenth year preceding the target date of the fund and annually each year thereafter the participant receives a written notice.
2. The notice must:
 - Disclose the specific percentage of fund assets exposed to equities and other investments subject to market loss in that year;
 - Provide information concerning the inherent weaknesses of glide path projections;
 - Provide a warning that a loss in the fund's value near target date could significantly reduce the participant's benefit at target date or retirement.
 - Inform participants that if they have concerns about losses in the value of their investments, that other, safer investments are available, such as money market, stable value/GIC or short-term bond funds.

FPG believes that the ten years preceding the target date are a danger zone that most TDF investors are not aware of. Annual communications that provide the information described in the bullets are the best way, short of personalized investment advice, to inform them of the risk.

Support of Department's Efforts. FPG is encouraged by the Department's efforts to bring education and understanding to TDF investors. We urge the Department to stand by its proposed regulatory amendments and to seek ways to improve them for the protection of plan participants and beneficiaries.

Fiduciary Plan Governance appreciates the opportunity to provide its views on the proposed amendment of rules relating to Target Date Funds. If you have any questions, please do not hesitate to contact Charles Humphrey at 978-662-1608 or via email a chumphrey@fiduciaryplangovernance.com.

Thank you for consideration of our comments.

Sincerely,



Charles G. Humphrey
Employee Benefits & ERISA Counsel

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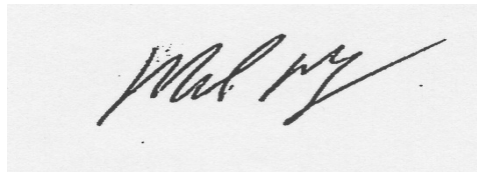
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cc: Joe Canary, Director, Office of Regulations and Interpretations
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