From: TobeCB@aol.com [mailto:TobeCB@aol.com]
Sent: Wednesday, June 17, 2009 4:33 AM
To: EBSA, E-ORI - EBSA
Subject: Updated Testimony for June 18 SEC-DOL hearing

TESTIMONY

Good afternoon my name is Chris Tobe, CFA, CAIA a Sr. Consultant for BCAP an Institutional Pension Consulting firm based in Louisville KY

I think the whole Target Date concept is flawed since I believe it was designed to create an oligopoly in the market to dominate market share and maximize fees for a handful of firms. However I think there are specific actions both the DOL and SEC can take to make diversified portfolios including target date funds work better for investors.

The target date structure is a step backwards for transparency of fees, performance and risk. This rebundling restricts plans to one provider lineups of funds letting a conflicted party do manager selection which in many cases may not be the best choice.

The Target Date fund industry is an Oligopoly with 4 or 5 providers dominating the market. Once a plan chooses from one of the oligopolies, they then lose all control of selection of underlying managers for their risk, return and underlying fees. These providers have no effective independent oversight as a few mutual fund trustees may oversee 150 or more plans for the same oligopoly making their oversight ineffective.

DOL's QDIA 2007 mandate has forced defaulted investors, the most vulnerable people in 401ks, from Low Risk, Low Fee, medium return stable value products to High Risk, High Fee, negative return target date products.

All Government employees (including those at the SEC and DOL) participate in the Thrift Savings Plan (TSP). The TSP 2010 fund outperformed the Fidelity 2010 fund in calendar year 2008 by nearly 15%, and almost unheard of amount. While more reasonable lower equity allocations accounted for a majority of the difference the TSP also invested in a stable value product (G fund) that helped its return. Wharton Professor David Babbel has stated that target date mutual funds because they exclude stable value are not on the efficient frontier making them inferior to plans like the TSP who can use non mutual funds. i[i][xii] The 2004 SEC decision to not allow low risk low fee stable value mutual funds has effectively prevented current target date funds from providing the best risk return outcome for participants.

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RECOMMENDATIONS

1. EBSA(DOL) should broaden fee disclosure for all bundled options but especially those of insurance companies and find ways to help plans get out of these “Roach Motel” type plans where you can check in but cannot check out without paying a huge penalty.

2. EBSA(DOL) should redesign its compliance structure around size of plans not just regions. For example of the $4 trillion market – the top 1500 plans make up half the assets, while the other $2trillion is spread among over 650,000 plans. Tiered regulation for plans under $1 million, $1-$20 million, $20mm + etc. would lead to better oversight.

3. EBSA(DOL) and the SEC should put resources where the dollars are. If 80% of DC assets are with 4 or 5 providers they should consider this instead of chasing outliers.

4. EBSA(DOL) should require plans over $20 million to have an independent investment consultant to help select options

5. SEC should require that a majority of mutual fund directors on each fund are both qualified and independent of the management firm. There should be at least two independent directors with a CFA designation as evidence of investment expertise.

6. SEC should limit the number of mutual fund boards independent trustees sit on to 5, since current numbers like the Fidelity Target funds- the trustees oversee 161 funds.

7. EBSA should reinstate stable value as the 4th QDIA option and not force plans to use Target Date funds that are too risky for their populations

8. SEC should lift its ban on low fee low risk stable value mutual funds

9. EBSA (DOL) should broaden its reach to non-profit 403(b) and government 457 plans to cover all target date funds.

10. Both EBSA and SEC should hire more investment professionals and less lawyers as a percentage of their professional staff.

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i[i][xii] A Closer look at Stable Value Performance by David Babbell SVIA. http://www.stablevalue.org