

November 13, 2006

Office of Regulations and Interpretations
Employee Benefits Security Administration (EBSA)
E-ORI@DOL.GOV
Department of Labor
Washington, DC 20210

Comments on the Default Investment Alternatives Under Participant Directed Individual Account Plans; Proposed Rule (29 CFR Part 2550)

Submitted by Northwest Capital Management, Inc. Portland, Oregon

Ladies and Gentlemen:

Northwest Capital Management, Inc. is a fee-based investment manager that provides advice and portfolio management services to ERISA retirement plans. We are a Registered Investment Advisor regulated by the SEC who routinely acknowledges its fiduciary status as an investment manager as that term is defined under section 3(38) of ERISA.

As part of our advisory services to ERISA plans, we construct life style and life cycle model portfolios for use by the plan participants. These portfolios employ a "fund of funds" strategy. As an investment manager, we hope that such model portfolios would be an acceptable strategy meeting the requirements of the proposed Qualified Default Investment Alternative (QDIA).

We have two primary concerns with the regulations as proposed. First, though our portfolios do not of themselves impose any financial penalties (as prohibited by the proposed regulation) they may in fact be composed of mutual funds that impose "short term redemption fees" (so-called STRF's) as a means to thwart market timing. Some funds impose a waiting period in lieu of a STRF as an alternative to charging a penalty fee. Such STRF's and waiting periods are becoming more common place in the mutual fund industry, especially now that the SEC has published rules requiring fund companies to impose such fees or explain why the fund does not need to impose them. The regulation as proposed does not appear to accommodate such fund-imposed restrictions.

Our second concern relates to the requirement that "any material provided to the plan relating to a participant's or beneficiary's investment in a [QDIA] ...will be provided to the participant or beneficiary." One concern is the ambiguity of this requirement as it relates to model portfolios because they do not have a prospectus or proxy statement or other materials proffered by a regulated investment company (mutual fund). Another concern relates to the word "provided" in the above sentence. Does this mean automatically provided or provided upon request? A third concern relates to the requirement that the "terms of the plan provide" language that the material will be provided.

Based on the above concerns, we ask that you consider amending the proposed rule in the following ways:

First, we request that the final regulation provide an exception to the financial penalty and time period requirements for fund-imposed STRF's or waiting periods so long as such penalties or waiting periods are not in addition to or more restrictive than any other STRF or waiting period that would be imposed on other participants who make investment decisions and therefore are not placed into the QDIA. We believe this is a technical issue that can be resolved without giving up the underlying notion that participants should be free to change their minds and direct their investments. To continue with this requirement may preclude plans from using a model portfolio solution that otherwise would be in participants' best interests and meet the QDIA standards.

Second, we request that the final regulation provide more clarification on the nature of the materials that need to be provided as they relate to model portfolios. We suggest the Department adopt a list of required materials and allow them to be provided upon request of the participant or beneficiary. Finally, we request clarification of the "terms of the plan" terminology to specify what the Department means by the word "plan". Does it mean the plan document, the SPD, or some other writing?

Though we have expressed the above concerns, we want to add that we applaud the Department's general scheme of the proposed regulation. We specifically agree that age-based strategies are a prudent and rational approach to a default alternative scheme. We further agree with the concept of having an investment manager, who has acknowledged its fiduciary responsibility to the plan and participants, be responsible for the asset allocation and investment implementation decisions for model portfolios and managed accounts.

We look forward to seeing the final regulation and request consideration of the practical concerns we have articulated above.

Respectfully submitted,

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