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January 26, 2007

The Honorable Elaine L. Chao
Secretary of Labor
Department of Labor
Frances Perkins Building
Third Street and Constitution Avenue, NW
Washington, DC 20210

Dear Madam Secretary:

The Pension Protection Act of 2006 was a critical step forward in integrating some of the main findings of behavioral finance and modern portfolio theory into retirement plan design. As part of the implementation of the Act, the proposed QDIA regulation recently circulated by the Department of Labor could have a substantial impact on the ability of many Americans to adequately fund retirement. Historically, many employees who did not select investment options had all their contributions invested in either cash or stable value vehicles. Because of inertia, or the advice that was considered implicit in the choice of a default, many workers never changed this default investment allocation. Given their time horizon to retirement, savings patterns and desire for a comfortable retirement, investing 100% of their money in either of these options does not represent a sound investment choice for the majority of plan participants.

In highlighting which vehicles would be suitable for default investment protection, Congress recognized that auto-enrollment must be paired with strong investment performance. Congress stipulated that only investment strategies which included a mix of asset classes would be eligible for QDIA status. We know from over twenty five years of research in the area of portfolio construction that well diversified portfolios which combine investments in multiple asset classes offer the highest amount of return per unit of risk taken. We also know from the academic work in the field of behavioral finance that an "opt out" approach yields higher 401(k) participation rates. We are therefore strongly supportive of the legislation as enacted both with regard to the protection provided for sponsors who adopt auto-enrollment and with regard to the requirement that all potential QDIAs be multi-asset class portfolios.

We are also strongly supportive of the QDIA regulation as drafted by the DOL which we believe appropriately captures Congressional intent. By including only strategies which are auto-rebalancing or pass a general demographic suitability test, the DOL recognized that most defaulted participants will not shift their investment from that which is selected for them by the plan sponsor as part of the auto-enrollment process. By specifically identifying fund types which have in common some allocation to both equities and fixed income instruments, the DOL has recognized that Americans will not otherwise achieve their retirement objectives.

Sincerely,

Richard H. Thaler
Ralph and Dorothy Keller Distinguished Service Professor
Graduate School of Business, University of Chicago