

## **2016 Fiduciary Rule Investment Education Provision (paragraph (b)(2)(iv))**

The Department of Labor stated in the Retirement Security Rule that furnishing the categories of investment-related information and materials described in paragraph (b)(2)(iv) of the 2016 Fiduciary Rule will not result in the provision of fiduciary investment advice (*see* 89 FR 32122, 32167-68 (April 25, 2024)).

Below is the text of paragraph (b)(2)(iv) of the 2016 Fiduciary Rule:

*Investment Education.* Furnishing or making available any of the following categories of investment-related information and materials described in paragraphs (b)(2)(iv)(A) through (D) of this section to a plan, plan fiduciary, plan participant or beneficiary, IRA, or IRA owner irrespective of who provides or makes available the information and materials (*e.g.*, plan sponsor, fiduciary or service provider), the frequency with which the information and materials are provided, the form in which the information and materials are provided (*e.g.*, on an individual or group basis, in writing or orally, or via call center, video or computer software), or whether an identified category of information and materials is furnished or made available alone or in combination with other categories of information and materials, provided that the information and materials do not include (standing alone or in combination with other materials) recommendations with respect to specific investment products or specific plan or IRA alternatives, or recommendations with respect to investment or management of a particular security or securities or other investment property, except as noted in paragraphs (b)(2)(iv)(C)(4) and (b)(2)(iv)(D)(6) of this section.

(A) *Plan information.* Information and materials that, without reference to the appropriateness of any individual investment alternative or any individual benefit distribution option for the plan or IRA, or a particular plan participant or beneficiary or IRA owner, describe the terms or operation of the plan or IRA, inform a plan fiduciary, plan participant, beneficiary, or IRA owner about the benefits of plan or IRA participation, the benefits of increasing plan or IRA contributions, the impact of preretirement withdrawals on retirement income, retirement income needs, varying forms of distributions, including rollovers, annuitization and other forms of lifetime income payment options (*e.g.*, immediate annuity, deferred annuity, or incremental purchase of deferred annuity), advantages, disadvantages and risks of different forms of distributions, or describe product features, investor rights and obligations, fee and expense information, applicable trading restrictions, investment objectives and philosophies, risk and return characteristics, historical return information, or related prospectuses of investment alternatives available under the plan or IRA.

(B) *General financial, investment, and retirement information.* Information and materials on financial, investment, and retirement matters that do not address specific investment products, specific plan or IRA investment alternatives or distribution options available to the plan or IRA or to plan participants, beneficiaries, and IRA owners, or specific investment alternatives or services offered outside the plan or IRA, and inform the plan fiduciary, plan participant or beneficiary, or IRA owner about:

(1) General financial and investment concepts, such as risk and return, diversification, dollar cost averaging, compounded return, and tax deferred investment;

(2) Historic differences in rates of return between different asset classes (*e.g.*, equities, bonds, or cash) based on standard market indices;

(3) Effects of fees and expenses on rates of return;

(4) Effects of inflation;

(5) Estimating future retirement income needs;

(6) Determining investment time horizons;

(7) Assessing risk tolerance;

(8) Retirement-related risks (*e.g.*, longevity risks, market/interest rates, inflation, health care and other expenses); and

(9) General methods and strategies for managing assets in retirement (*e.g.*, systematic withdrawal payments, annuitization, guaranteed minimum withdrawal benefits), including those offered outside the plan or IRA.

(C) *Asset allocation models.* Information and materials (*e.g.*, pie charts, graphs, or case studies) that provide a plan fiduciary, plan participant or beneficiary, or IRA owner with models of asset allocation portfolios of hypothetical individuals with different time horizons (which may extend beyond an individual's retirement date) and risk profiles, where—

(1) Such models are based on generally accepted investment theories that take into account the historic returns of different asset classes (*e.g.*, equities, bonds, or cash) over defined periods of time;

(2) All material facts and assumptions on which such models are based (*e.g.*, retirement ages, life expectancies, income levels, financial resources, replacement income ratios, inflation rates, and rates of return) accompany the models;

(3) The asset allocation models are accompanied by a statement indicating that, in applying particular asset allocation models to their individual situations, plan participants, beneficiaries, or IRA owners should consider their other assets, income, and investments (*e.g.*, equity in a home, Social Security benefits, individual retirement plan investments, savings accounts, and interests in other qualified and non-qualified plans) in addition to their interests in the plan or IRA, to the extent those items are not taken into account in the model or estimate; and

(4) The models do not include or identify any specific investment product or investment alternative available under the plan or IRA, except that solely with respect to a plan, asset allocation models may identify a specific investment alternative available under the plan if it is a

designated investment alternative within the meaning of 29 CFR 2550.404a-5(h)(4) under the plan subject to oversight by a plan fiduciary independent from the person who developed or markets the investment alternative and the model:

(i) Identifies all the other designated investment alternatives available under the plan that have similar risk and return characteristics, if any; and

(ii) is accompanied by a statement indicating that those other designated investment alternatives have similar risk and return characteristics and identifying where information on those investment alternatives may be obtained, including information described in paragraph (b)(2)(iv)(A) of this section and, if applicable, paragraph (d) of 29 CFR 2550.404a-5.

(D) *Interactive investment materials.* Questionnaires, worksheets, software, and similar materials that provide a plan fiduciary, plan participant or beneficiary, or IRA owner the means to: Estimate future retirement income needs and assess the impact of different asset allocations on retirement income; evaluate distribution options, products, or vehicles by providing information under paragraphs (b)(2)(iv)(A) and (B) of this section; or estimate a retirement income stream that could be generated by an actual or hypothetical account balance, where—

(1) Such materials are based on generally accepted investment theories that take into account the historic returns of different asset classes (*e.g.*, equities, bonds, or cash) over defined periods of time;

(2) There is an objective correlation between the asset allocations generated by the materials and the information and data supplied by the plan participant, beneficiary or IRA owner;

(3) There is an objective correlation between the income stream generated by the materials and the information and data supplied by the plan participant, beneficiary, or IRA owner;

(4) All material facts and assumptions (*e.g.*, retirement ages, life expectancies, income levels, financial resources, replacement income ratios, inflation rates, rates of return and other features, and rates specific to income annuities or systematic withdrawal plans) that may affect a plan participant's, beneficiary's, or IRA owner's assessment of the different asset allocations or different income streams accompany the materials or are specified by the plan participant, beneficiary, or IRA owner;

(5) The materials either take into account other assets, income and investments (*e.g.*, equity in a home, Social Security benefits, individual retirement plan investments, savings accounts, and interests in other qualified and non-qualified plans) or are accompanied by a statement indicating that, in applying particular asset allocations to their individual situations, or in assessing the adequacy of an estimated income stream, plan participants, beneficiaries, or IRA owners should consider their other assets, income, and investments in addition to their interests in the plan or IRA; and

(6) The materials do not include or identify any specific investment alternative or distribution option available under the plan or IRA, unless such alternative or option is specified by the plan participant, beneficiary, or IRA owner, or it is a designated investment alternative within the meaning of 29 CFR 2550.404a-5(h)(4) under a plan subject to oversight by a plan fiduciary independent from the person who developed or markets the investment alternative and the materials:

(i) Identify all the other designated investment alternatives available under the plan that have similar risk and return characteristics, if any; and

(ii) Are accompanied by a statement indicating that those other designated investment alternatives have similar risk and return characteristics and identifying where information on those investment alternatives may be obtained; including information described in paragraph (b)(2)(iv)(A) of this section and, if applicable, paragraph (d) of 29 CFR 2550.404a-5.