AMERICAN BENEFITS COUNCIL

INVESTMENT COMPANY INSTITUTE

March 30, 2010

Phyllis C. Borzi
Assistant Secretary, Employee Benefits Security Administration
U.S. Department of Labor, Room S-2524
200 Constitution Avenue, NW
Washington, DC 20210

Dear Assistant Secretary Borzi:

Over the past several months, the member companies of the American Benefits Council (the Council) and the Investment Company Institute (ICI) have worked to develop a tool to assist fiduciaries of defined contribution plans with the selection and monitoring of target date funds (TDFs). Knowing the Department is engaged in a similar endeavor, we wanted to share our thinking on these issues in case it might assist with your own efforts.

The attached tool -- a list of potential items for fiduciaries to consider when selecting and monitoring TDFs -- draws on the strong TDF oversight practices already in use by many plan sponsors and is designed to help fiduciaries of plans of all sizes develop effective practices. It focuses on items that the Council and ICI believe are the most universally applicable to any TDF and would be appropriate whether a TDF is offered as a mutual fund, collective trust, insurance company separate account, or other product. It is important to note that the tool is not intended to identify every item that may conceivably be relevant to TDF selection and oversight, and some fiduciaries weigh additional items that are relevant to their particular plans.

Fiduciaries select and monitor TDFs within the general process plans use to select and monitor defined contribution plan investments. As a result, the attached tool does not address questions that are typically relevant to the selection of any investment in a defined contribution plan. Rather, we identify items likely to be uniquely relevant to a fiduciary's consideration of TDFs. As you know, the fiduciary responsibility under ERISA for selecting and monitoring TDFs is the same as that applicable to the selection and monitoring of other plan investments. Thus, it is critical that tools such as the one we are sharing today (and the guidance the Department is developing) not be read to suggest that the fiduciary obligations surrounding selection and monitoring of TDFs are higher or more exacting than the obligations surrounding selection and monitoring of other plan investments.

We believe the growing prevalence of TDFs in defined contribution plans over the past decade has been a constructive development that has helped improve diversification and asset allocation, and ultimately retirement outcomes, for many plan participants. As you are aware, including

TDFs among the qualified default investment alternatives (QDIAs) under the Department's regulations has contributed to their use by defined contribution plan sponsors, particularly as default investments. We trust that your forthcoming guidance for fiduciaries will build on and be consistent with the existing QDIA regulations rather than signaling any sort of change in regulatory posture regarding TDFs that could inappropriately deter the use of these vehicles by plan fiduciaries and participants.

The attached TDF tool for defined contribution plan fiduciaries is the product of extensive study and review by our organizations, and we hope it will be of assistance to the Department. We would welcome the chance to discuss these important TDF issues with you and your colleagues in person, and we look forward to the Department's forthcoming guidance.

Sincerely,

Jan Jacobson
Mary D. Podesta

Jan Jacobson
Senior Counsel, Retirement Policy
American Benefits Council

Mary Podesta
Senior Counsel – Pension Regulation
Investment Company Institute

cc: Michael L. Davis, Deputy Assistant Secretary for Policy, EBSA
Alan D. Lebowitz, Deputy Assistant Secretary for Program Operations, EBSA
Robert Doyle, Director, Office of Regulations and Interpretations, EBSA

Attachment

AMERICAN BENEFITS COUNCIL & INVESTMENT COMPANY INSTITUTE

Items for Defined Contribution Plan Fiduciaries to Consider When Selecting and Monitoring Target Date Funds

The American Benefits Council (the Council) and the Investment Company Institute (ICI) have identified a number of items that fiduciaries of defined contribution retirement plans may want to consider when selecting and monitoring target date funds (TDFs). These funds, which are geared toward a plan participant's anticipated retirement date, provide an efficient way to invest in a mix of asset classes through a single vehicle that both rebalances its asset allocation periodically and shifts its focus from growth to income over time. TDFs have become increasingly prevalent in defined contribution plans over the past decade. In recent years, TDFs have begun to be used as default investments in these plans, particularly after they were included as a qualified default investment alternative (QDIA) under Department of Labor regulations issued in October 2007.

The Council and ICI believed it would be helpful to develop a tool to assist fiduciaries who have decided to add TDFs to plan investment menus. The resulting list of items to consider, which was developed by members of both organizations, draws on the strong oversight practices already in use by many plan sponsors. It is designed to help fiduciaries of plans of all sizes develop effective practices for TDF selection and oversight. It thereby focuses on items that the two organizations believe are the most universally applicable to TDF selection and oversight. The items to consider are relevant whether a TDF is offered as a mutual fund, collective trust, insurance company separate account, or other product. The list is not intended to encompass every item that may conceivably be relevant to TDF selection and oversight, and indeed some fiduciaries weigh additional items that are relevant to their particular plans. For example, some sponsors may evaluate a customized TDF (i.e., one in which the plan sponsor might customize features such as asset classes, investment managers, and asset allocation and glide path methodologies), but such an evaluation raises a number of more specific considerations that are beyond the scope of this tool.

Please note that this list of items to consider is not intended to replace the general process plans use to select and monitor defined contribution plan investments (nor is it intended as a substitute for any professional investment or legal advice that a plan fiduciary might seek). As a result, it generally does not address questions that are typically relevant to the selection of <u>any</u> investment in a defined contribution plan, even though such considerations are likely to be relevant to the consideration of TDFs. For instance, in selecting and monitoring any plan investment, a plan fiduciary may consider its own objectives in adding the investment to the plan's menu of options, any relevant provisions of the plan document relating to plan investment options, the qualifications of the entity managing the investment, the investment's expected risk, return and liquidity characteristics, whether the investment's fees are reasonable in light of the services provided as compared to other similar investment products, whether the investment's fees help pay costs of plan administration (e.g., through revenue sharing), and the resources the sponsor will use and the steps it will take to carry out its selection and monitoring duties.

Rather, the attached list identifies particular items that are likely to be uniquely relevant to a fiduciary's consideration of TDFs. Of course, under the Employee Retirement Income Security Act of 1974, the fiduciary responsibility of plan sponsors for selecting and monitoring TDFs is the same as that applicable to the selection and monitoring of other plan investments. Lists such as these should not be read to suggest that the fiduciary obligations surrounding selection and monitoring of TDFs are somehow higher or more exacting than the obligations surrounding selection and monitoring of other plan investments. Such a suggestion is inaccurate as a legal matter and could deter plan sponsors from considering these useful investment vehicles.

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Items for Defined Contribution Plan Fiduciaries to Consider When Selecting and Monitoring Target Date Funds

DEFINITION OF TERMS: The terms used below have the following meanings:

- "Asset Class" means a group of securities with similar characteristics (stocks, bonds, cash or cash equivalents, etc.).

- "Asset Allocation" means the combination of types of securities, or asset classes, which make up a TDF's underlying portfolio.

- "Glide Path" means the change over time in a TDF's asset allocation mix to shift from a focus on growth to a focus on income. Each family of target date funds has a glide path that determines how the asset mix changes over time.

- "Target Retirement Date" means the year in which participants in a TDF are expected to retire and cease making contributions.

ITEMS FOR CONSIDERATION

ASSET ALLOCATION AND GLIDE PATH

- What asset classes are used in the TDF to achieve diversification?

- What is the glide path used by the TDF?
  - What is the TDF's asset allocation when it is most focused on growth?
  - Over what time period and at what pace does the asset allocation become more focused on income?
  - What is the asset allocation at the target retirement date?
  - At what point in time does the glide path reach its final asset allocation? Is this at the target retirement date (sometimes referred to as a "to retirement" fund) or after the target retirement date (sometimes referred to as a "through retirement" fund)?

- What is the TDF's objective and what are the asset class, asset allocation and glide path assumptions and methodologies reflected in the TDF? Are these consistent with the plan fiduciary's objectives?

- Under what circumstances, if any, does the TDF have discretion to vary from the stated asset classes, asset allocations and glide path? Does the TDF have discretion to replace underlying investments? Does the TDF provide disclosure to the sponsor and/or participant when these variations occur?

FEES

- What are the total fees associated with the TDF? Are there fees charged to the sponsor or participant in addition to the investment fees of the underlying investments?

DISCLOSURES AND EDUCATIONAL MATERIALS

- Does the TDF provider offer clear and sufficient disclosures to the sponsor and the participant about the fees associated with the TDF?

- Are the disclosures the TDF provider makes available about the fund clear and sufficient to convey the basic approach and features of the TDF, including its glide path?

- Does the TDF provider offer materials that will assist the plan sponsor in communicating to participants about TDFs and how they should (and should not) be used?

ASSET MANAGEMENT/STRUCTURE

- What will be the retirement date increments between the offered TDFs (e.g., 10 years, 5 years)?

- Does the TDF make use of active investment management techniques, passive investment management techniques that track indices, or a blend of both?

- Does the TDF use its own asset managers, third-party asset managers, or a combination of both? How and by whom is the performance of these asset managers reviewed?

PERFORMANCE/BENCHMARKING

- What has been the investment performance not only of the TDF but also of its component investments?

- What benchmarks are available to evaluate and monitor the TDF's investment performance? Do these benchmarks address the performance of the underlying investments as well as the performance attributable to asset allocation?

PLAN AND PARTICIPANT CHARACTERISTICS

- Does the sponsor have benefit plan offerings (e.g., a defined benefit plan) or defined contribution plan features (e.g., an employer stock component, the plan's distribution options) that will be considered in evaluating a TDF's asset classes, asset allocation and/or glide path?

- Will plan participant demographics or preferences be considered in evaluating a TDF's asset classes, asset allocation and/or glide path?

- If the plan offers access to an investment advice service or managed account program, will recommendations about investments in TDFs be made within that service or program?

COMPLIANCE

- If the TDF is intended to be a QDIA, does it comply with the criteria in the Department of Labor's QDIA regulations? Does the TDF provider offer services to assist with QDIA compliance?