June 23, 2012

C. Greg HarmonChase College of LawNorthern Kentucky UniversityNunn Drive, Highland Heights, KY 41099

Response/Comment to Target Date Fund
DOL/EBSA/SEC

To Whom It May Concern,

The proposal made by the Employee Benefits Security Administration to improve the disclosure of information regarding target date retirement funds (TDF) is a good step towards educating workers on their retirement portfolio. The proposal will amend two existing regulations, the "Qualified Default Investment Alternative Regulation" and the "Participant-level Disclosure Regulation." If adopted, the proposal will: give a simple explanation of the structure and workings of a TDF, provide a graphical representation of the TDF's asset allocation, and give an explanation of the importance of the date. While this proposal is a step in the right direction, further action is still needed.

The proposal is overdue. The research and case study performed by Siegle& Gale LLC reflects the need for the proposed disclosure. While the language used to describe the proposal is "disclosure," it could equally be labeled "education." If this proposal is adopted and the language used is simple and clear, participants will have a better understanding of what is happening with their portfolio, and hopefully, make better decisions going forward. The information conveyed to participants should also contain the pros/cons of TDFs.

The need for disclosure and education

The label placed on this proposal is disclosure; however, it is nothing more than education. The importance of basic education of retirement portfolios cannot be overstated. It is widely known that many employees do not understand, monitor, or in some cases participate in a retirement plan. This point is evident in the findings of Siegle& Gale LLC.

Some important information from the study[1]:

- Only 36% of participants realized that a TDF does not guarantee income post-retirement.
- Over half of the respondents thought different TDFs with the same number had the same mix of stocks and bonds (which is incorrect).

[1] Siegel & Gale LLC.,*Investor Testing of Target Date Retirement Fund Comprehension and Communications.* February 15, 2012.

- 68% of TDF owners and 73% of non TDF owners do not know what the number in the TDF actually signifies.

These figures alone indicate the poor baseline knowledge for participants from the study. The fact that participants do not have this basic knowledge indicates a lack of interest and concern. The information is readily accessible through the website of the brokers. This can be accessed by anyone. Additionally, mutual funds, including TDFs, send out mailings to the owners of the funds. The prospectuses and pamphlets sent out can be difficult for the average person to read. Simplifying the information sent to employees will be the best way to inform participants of their options. Furthermore, it is imperative the information be concise, clear, and easy to understand. If the information is not presented in a quick and easy to understand medium, it will be discarded in the trash.

While also educating the plan participants and beneficiaries, the proposed rule when followed, may lead to a decrease in litigation. The next wave of class litigation under ERISA will be claims for lack of information regarding investing choices.[2] With the large number of investors and the ever increasing amount of money contributed to TDFs, it will become very important for companies to comply with any adopted rule.

Disclose the Good and the Bad of TDFs

Morningstar has proposed a comment, suggesting more graphs, representing the glide scale used by TDFs.[3]This is a good suggestion, which will give employees and participants a visual of what is going on with their investment. However, more basic education needs to be given to the participants.

Participants need to know exactly what a TDF is. However, even more basic than the definition of a TDF, participants need to know some elementary concepts such as stocks, bonds, certificate of deposits, mutual funds, and compounding interest.

When considering what information is disclosed, it is also useful to let plan participants know of certain dangers with TDFs. There is a false sense of security that TDFs are completely safe. Different TDFs have different levels of risk. Fund managers may differ on what is the appropriate level of risk. The 2040 TDF at company A may be more risky than the 2040 TDF offered at company B.

A reliable way to analyze an investment is to look at the history. Past performance can be indicative of future performance. Funds are managed by people. TDFs can be managed by a

---

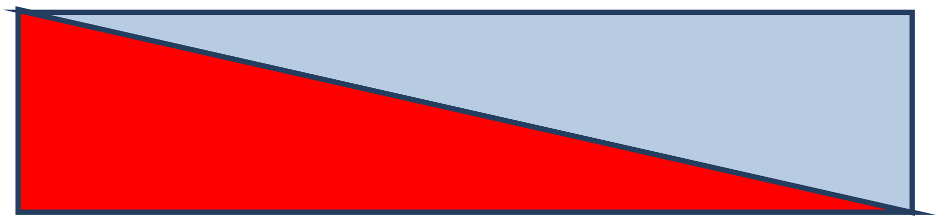
[2] David Brandolph, *Disclosure Claims Likely to Be Next Wave of ERISA Class Litigation,* *http://benefits.bna.com.proxy1.nku.edu/bprc/2229/split_display.adp?fedfid=25980576&vname=pennotallissues&wsn=491766500&searchid=17814104&doctypeid=5&type=oadate4news&mode=doc&split=0&scm=2229&pg=0* , (April 1, 2012).

[3] Dale Mercado, *Morningstar: Not Enough Disclosure in Target-Date Disclosure,* *http://www.investmentnews.com/article/20120521/FREE/120529992*, (May 21, 2012).

single person or multiple people. Participants should be kept apprised of who the fund manager is. Therefore, if the fund manager leaves the company, the participant should be made aware of that information.

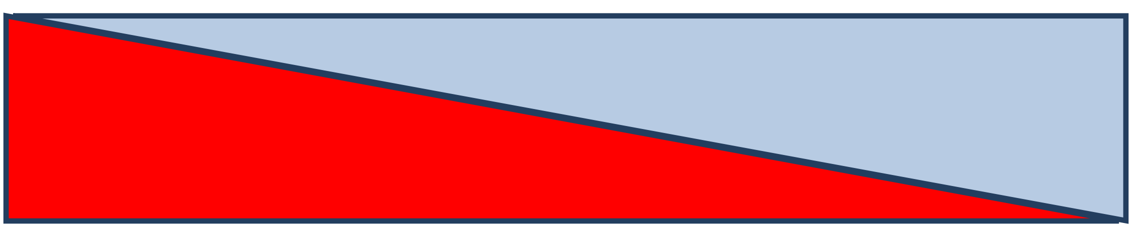
Volatility and risk are not terms generally associated with TDFs. However, the average TDF with a 2010 date lost 22% of value in 2008.[4] For the employee retiring in 2010, this is a significant change of circumstances that may delay plans of retiring. While the rest of the market was also retracting, investors in the TDF likewise awoke to find 1/5 of their savings gone.

Picking the wrong retirement date projection may cause a significant difference in savings. If an employee projects that he or she will retire in 2030, they may pick a TDF with that number. However, if the employee later decides to work until 2040, they have made a mistake in choosing the 2030 TDF.



2000 (risk and growth)2030 (less risk and less growth)

The employee who decided not to retire in 2030, and is now working until 2040 may not realize the potential mistake in picking the wrong target date.



2000 (risk and growth)2040 (less risk and less growth)

The employee who did not retire at the intended date of 2030 has now misallocated his or her investing. The effects of compounding interest will have major effects on minor changes in investing over a long period.

The investor should be apprised of all fees. Fees are a cost many investors do not consider when contributing to their retirement. TDFs are generally composed of other funds, not shares of companies. These funds will hold a variety of stocks and bonds. In addition to any fees

[4] Jim Cramer, *The Three Troubles With Target Date Funds,*[*http://www.dailyfinance.com/2012/06/11/jim-cramer-explains-the-3-troubles-with-target-date-funds/*](http://www.dailyfinance.com/2012/06/11/jim-cramer-explains-the-3-troubles-with-target-date-funds/) (June 2012).

associated with buying a TDF, the investor may actually be hit with subsequent fees of the funds which comprise the TDF. The investor is hit with two layers of fees, one for the TDF and another for the underlying funds. With this proposed rule, the investor should not only be made aware of the investments within the TDF, but also any associated fees contained within the investments of the fund. Investors may look at a fund's history and decide to make monthly or annual contributions to that fund, incurring fees at every purchase. If the fund charges a fee, that money is taken straight off the top and puts the investor at a loss from the inception of purchase.

There are thousands of mutual funds which are classified by the type of investment strategy. Investing companies will generally compose a TDF from funds within house. While an investment company may have high performing funds in some areas, it will not necessarily have higher performing funds in every asset class or investment strategy, yet those are the funds contained within the TDF. The ideal portfolio would contain top performing funds, regardless of what company the funds come from. [5]

All Investors, Not Just Participants:

The proposal does mention that all participants and beneficiaries will receive the information, whether or not they own a TDF. This will be beneficial to employees who need more information on where to place their money. Some investors have not done enough research on investing. Employees often guess where to place their money, some allow the employer to direct their money into a default plan, or the employee simply does not participate at all. Vanguard, one of the largest investment companies holding TDFs, claims 82% of its 401(k) plans have TDFs. 64% of new employees place all of their contributions into the TDF.[6]

With the large number of employees placing their contributions into TDFs, the monetary amount invested in this type of fund is growing exponentially. In 2002, the total value invested in TDFs was about $15 billion dollars. In 2011, this grew to nearly $400 billion dollars and is projected to reach $2 trillion dollars by 2020.[7]Proper investing among the population will have a positive snowball effect, just as poor investment decisions among the population will have a negative snowball effect. If plan participants become more educated and direct their investments into higher returning funds, those participants will have more money for their retirement years. Additionally, more money will be invested into better performing companies which can improve the overall economy.

Overall:

---

[5] Adam Bold, *Why Target-Date Funds May Not Be Your Best Option,*http://money.usnews.com/money/blogs/the-smarter-mutual-fund-investor/2011/04/12/why-target-date-funds-may-not-be-your-best-option , (April 12, 2011).
[6]Chris Taylor, *Why Bother With Target-Date Funds?,*http://www.reuters.com/article/2012/03/26/us-retirement-funds-idUSBRE82P0TE20120326 , (March 26, 2012).
[7] Bruce Shutan, *Time for a Twist on TDFs,*http://ebn.benefitnews.com/news/target-date-funds-tdf-wharton-brightscope-equity-asset-allocation-2723287-1.html , (April 15, 2012).

The proposed rule is overdue and a step in the right direction. However, due to the large number of participants, the extremely large amount of money involved, and the aggregate impact on the economy, it is imperative to give more baseline knowledge to the participants. Along with visual charts suggested by Morningstar, the information needs to give basic terminology, pros/cons of the investment, and implications of investment choices.