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From: espici\_2@att.net [[mailto:espici\\_2@att.net](mailto:espici_2@att.net)]  
Sent: Tuesday, October 10, 2006 4:26 PM  
To: EBSA, E-ORI - EBSA  
Subject: Default Investment Regulation

October 10, 2006

Dept of Labor

RE: Default Investment Regulation

Dear Sirs:

In numerous online, print, and broadcast media, I have seen, what I preceive to be, a great misunderstanding of the DIR, in regard to participation.

There are many, including financial maven, Michelle Singletary, who state that the DIR will \*force\* employees into investing. I certainly hope this is not the case.

Given the following excerpt from your website  
(<http://www.dol.gov/ebsa/newsroom/fsdefaultoptionproposalrevision.html>)

'  
the part between the angle brackets seems to indicate that employees have a choice to select their desired investment options, if not the ability to entirely avoid participation entirely:

"The proposed regulation deems a participant to have exercised control  
over assets in his or her account if, <<<in the absence of investment  
direction from the participant>>>, the plan fiduciary invests the assets  
in a qualified default investment alternative (QDIA)."

However, it may need to be added that employees do not need to invest at all, as I hope is the intent of the DIR. So, at the very least, a line could be added to the effect of the following:

"Upon advance of the first investment, the employee shall be given the ability to opt out of the plan, and shall be given the opportunity to opt in with the same frequency available for other plan investments but no less frequently than quarterly."

Also, I have a problem with having beneficiaries contacted for any changes that the employee makes during his/her participation in the employer's retirement plan: it is the employee's money to do with as he/she sees fit. As such, the beneficiaries should not be given any notice for any reason (n.b., would a newborn be given notice?). Presumably, this part of the act is to protect against employees who would seek to close-out their company-held retirement assets, and abscond, leaving the beneficiaries with nothing.

Again, it is the employee's money to do with as he/she sees fit (i.e., if the employee is going to do such a contemptible thing, then no law is going to prevent him/her from doing so).

It should not be in the government's or employers' purview to act as intermediary in this regard (n.b., if notice is not given to the beneficiaries, say, perhaps by lost mail, would the beneficiaries then have a right to sue the government and/or the employer over lack of notification? Should the gov't or employer pay extra to ensure that such notifications reach the beneficiaries?

What happens if the beneficiaries are simply beyond contact?).

In conclusion, there should be a clear statement indicating that employees are NOT required to participate in employer-based retirement plans, and the beneficiary-notification clauses should be removed as being intrusive and unnecessary, given the above explanation.

Thank you for your time and attention.

Sincerely,

Steven P. Cohen  
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