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Sent: Friday, July 13, 2007 6:10 PM
To: Campagna, Lou - EBSA
Cc: Sweeney, Erin - EBSA; Alexander, Lisa - EBSA; fredreish@REISH.com
Subject: QDIA Regulation

Lou:

We wanted to point out another issue in the proposed regulation regarding the definition of managed investment service.

There are a number of new products and investment management services emerging in the marketplace that are based on a targeted replacement income at retirement -- say 70% of current income. These services take into account the participant's age, account balance, deferral rate and projected retirement date to determine how to manage the participant's account during the participation, or accumulation, years. They manage to a rate of return based on these factors rather than just considering age or projected retirement date or taking into account only levels of risk. Further, depending on the size of the participants' account balances and their rates of deferral, the risk level of the managed account for two participants of the same age will vary. As a result, these services may or may not manage a participant's account more conservatively as the participant gets older.

As such, these new approaches to retirement investment management would not appear to fit within any of the three investment alternatives spelled out in the proposed QDIA regulation.

Consider an example: one participant has deferred a lot into his/her account (either because of a higher deferral rate or starting to defer at a younger age) while another, the same age, has not. The second participant needs a higher rate of return on his/her account in order to achieve the target replacement income than does the first. So the investment manager could be viewed as doing the second participant a disservice by investing more conservatively as he/she gets older.

Also, if the first participant's account is already being managed conservatively, how can the investment manager invest the account more conservatively as he/she gets older?

We believe the impact the QDIA regulation will have on the 401(k) marketplace will be great -- and will extend beyond defaults. Any provider that does not offer an investment approach that qualifies as a QDIA will be at a significant competitive disadvantage. In other words, the ability to say that the product fits within the "safe harbor" of DOL regulations will be enormously powerful.

We point this out because there are a host of new products and services that use approaches like the target rate of return or others that do not fit within the structures outlined in the proposed regulation but that are nevertheless appropriate for managing funds for retirement. But these products and services may be forced out of the marketplace unless they fall within the definition of a QDIA. It has been our understanding that the DOL did not want to so severely limit the definition as to prevent innovative approaches that might be beneficial to participants.

Accordingly, we suggest that the requirement for investment management services that they have the objective of becoming more conservative with increasing age either be eliminated or that an approach that targets rates of return in order to manage to a specified level of replacement income at retirement be added as a 4th alternative.

Thanks for your consideration.

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