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**Submitted Electronically by e-mail to [e-ORI@dol.gov](mailto:e-ORI@dol.gov)**

Office of Regulations and Interpretations  
Employee Benefits Security Administration  
Room N-5665  
U.S. Department of Labor  
200 Constitution Avenue, NW.  
Washington, DC 20210

**Attention:** RIN 1210-AB32, Fiduciary Rules

RE: Proposed Fiduciary Standard as it Applies to Target Date Funds

Dear Department of Labor,

We applaud your proposed fiduciary standard and your efforts to improve target date funds (See February 2013 “Target Date Retirement Funds – Tips for ERISA Plan Fiduciaries.”) This letter specifically addresses certain misunderstandings about target date funds that the DOL may have reinforced, as well as a serious concern about TDFs that has not been addressed.

Here are the misunderstandings:

- “To” funds are less risky at the target date than “Through” funds. The fact is that many “To” funds are riskier than many “Through” funds. The problem is that the definition of “To” is bizarre and leads to gaming. “To” is defined as flat equity allocation beyond the target date. A flat 90% equities is a “To” fund by this definition. See for example “[Will Your Target-Date Fund Work Longer Than You Will?](#)” (<http://news.morningstar.com/articlenet/article.aspx?id=373461&part=2> )
  
- TDFs can be matched to workforce demographics (referred to as “characteristics of participant population” in the “Tips” guidance). A one-size-fits-all vehicle can only match one demographic and it’s the one demographic that all defaulted employees have in common, namely lack of financial sophistication. This demographic argues for safety, especially at the target date. I define “safety” as no risk of loss, i.e. cash. Also, custom TDFs cannot be created to match demographics, as some say, although there are other reasons why sponsors might want to go custom.
  
- Low cost is best. Of course the Department recognizes that there are other factors that matter as well. We believe that there are just two such factors: diversification and risk control. Broad diversification, in theory and practice, provides the best return for the risk taken. Risk control preserves savings, and is aimed toward avoiding another 2008 catastrophe for those near retirement. Note that performance is not one of these key factors. The performance race is always won by the risky in the long run, and sometimes in the short run, as has been the case in the past 5 years. We document this fact, and offer a new alternative rating system, in our [White Paper](http://www.targetdatesolutions.com/articles/Grading-Target-Date-Funds.pdf) (<http://www.targetdatesolutions.com/articles/Grading-Target-Date-Funds.pdf> ) on a new prudence score for TDFs, an alternative to other rating services that rely on performance.

### **Please address this concern**

Our main concern is the glaring failure of many fiduciaries to vet their TDF selection. The DOL has not addressed this concern, but should. It's common knowledge that the three large bundled service providers have received the lion's share of TDF assets. These are fine companies, but their TDFs are not viewed as the best by us or any TDF rating service. Or put another way, fiduciaries appear to be relying on a safe harbor of "follow the herd" – "safety in numbers." Fiduciaries are confused and need education, so we wrote a book.

The [Fiduciary Handbook for Understanding and Selecting Target Date Funds](http://www.amazon.com/gp/product/1633180115) (<http://www.amazon.com/gp/product/1633180115>) is written by myself and two co-authors. One co-author is John Lohr, ERISA attorney and corporate counsel for Lebenthal Wealth Advisors. The other co-author is Mark Mensack, a professional ethicist and former instructor at West Point. I am a registered investment advisor and portfolio manager of target date funds. The book is on the Reading List for the International Foundation of Employee Benefit Plans, sponsor of the Certified Employee Benefit Specialist (CEBS) designation.

Thank you for your interest and consideration. I hope you find these comments helpful.

Sincerely,

*Ronald Surz*

Ronald Surz, President