

**MEMO# 28240**

July 7, 2014

## **ICI Submits Comment Letter in Response to DOL's Request for Comment on Its Target Date Fund Disclosure Proposal**

[28240]

July 7, 2014

TO: ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 18-14

PENSION MEMBERS No. 28-14

PENSION OPERATIONS ADVISORY COMMITTEE No. 15-14

SEC RULES MEMBERS No. 28-14

SMALL FUNDS MEMBERS No. 17-14 RE: ICI SUBMITS COMMENT LETTER IN RESPONSE TO DOL'S REQUEST FOR COMMENT ON ITS TARGET DATE FUND DISCLOSURE PROPOSAL

Attached is a copy of the Institute's July 2nd letter to the Department of Labor ("Department") filed in response to the Department's request for comments on the recommendation by the Securities and Exchange Commission's Investor Advisory Committee (the "Committee") that the Securities Exchange Commission ("Commission") develop a glide path illustration for target date funds that is based on a standardized measure of fund risk as a replacement for, or supplement to, the asset allocation glide path illustration that was part of a rule proposal issued by the Commission in 2010. [\[1\]](#) The Department sought public comment on the Committee's recommendation in connection with the Department's own proposal ("2010 Proposal"), which would enhance disclosures about target date funds by amending its qualified default investment alternative regulation (29 CFR § 2550.404c-5) and participant-level disclosure regulation (29 CFR § 2550.404a-5) (collectively, the "Regulations"). [\[2\]](#)

The arguments in this comment letter to the Department are substantially similar to those made in our SEC Comment Letter. In this letter, we urge that the Department not adopt amendments to the Regulations that stipulate the use of a risk-based glide path illustration for target date funds. Rather, we urge the Department to continue with its approach to the asset allocation glide path set forth in its 2010 proposal. More specifically, our comment letter includes the following points, all of which are discussed in greater detail in the letter:

- There is no single measure of risk on which the industry has settled. This is due to the complexity and multi-faceted nature of risk and the inherent limitations of any single measure.
- Managers of target date funds attempt to address a variety of risks faced by

individuals investing for retirement. In addition to return volatility risk, target date fund managers also consider longevity or shortfall risk (i.e., the risk of outliving one's assets), inflation risk (i.e., the risk that the purchasing power of one's assets will erode over time), and income replacement risk (i.e., the risk that the income provided for in retirement will not be sufficient).

- Risk metrics can be helpful tools for assessing one of these risks, i.e., the potential return volatility risk of an investment portfolio, but a simplistic use of such measures in the construction of a risk-based glide path will harm, rather than help, plan participants. Widely identified weaknesses include the limitations of historical data on which they are based, the challenges associated with adapting such data to a particular portfolio, and the inability of data to account sufficiently for market events with no historical precedent.
- Commentators have criticized the use of risk ratings in the few foreign jurisdictions in which they are used.
- Plan participants may be confused and misled by a risk-based glide path illustration, because such an illustration:
  - may not be comprehensible to plan participants not familiar with the statistical concepts underpinning the glide path's construction (e.g., standard deviation or beta);
  - would erroneously suggest that future levels of risk in a fund are reasonably predictable;
  - likely would cause plan participants to view the illustration as predictive of future performance;
  - would not accurately reflect how most target date funds are managed; and
  - would cause plan participants to de-value other important investment considerations, such as longevity and inflation risks and return potential, which will make it more difficult for them to realize their retirement goals.
- An asset allocation glide path is an effective proxy for return volatility risk and shows actual intended asset allocations, facilitating comparisons among target date funds.
- The asset allocation glide path illustration and other disclosure requirements contemplated in the 2010 Proposal, together with all of the information that plan participants and plan fiduciaries currently have available, provide an effective and comprehensive picture of fund risk.
- If the Department chooses to pursue some type of risk-based glide path as part of its amendments to the Regulations, it is critical that it first seek comment on a specific proposal and its associated regulatory impact analysis before adopting it.

We will keep you informed of developments in this area.

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[Attachment](#)

## endnotes

[1] See Investment Company Advertising: Target Date Retirement Fund Names and Marketing, SEC Release Nos. 33-9126; 34-62300; IC-29301 (June 16, 2010), 75 FR 35920 (June 23, 2010). In response to the Committee's recommendations, the Commission sought additional public comment related to its 2010 proposal to require certain disclosures in target date fund marketing materials. See Investment Company Advertising: Target Date Retirement Fund Names and Marketing, SEC Release Nos. 33-9570; 34-71861; IC-31004 (April 3, 2014), 79 FR 19564 (April 9, 2014). Our related comment letter to the SEC is attached (it was included as an attachment to our letter to the Department) and is also available at [www.sec.gov/comments/s7-12-10/s71210-114.pdf](http://www.sec.gov/comments/s7-12-10/s71210-114.pdf). ("SEC Comment Letter").

[2] See 75 FR 73987 (Nov. 30, 2010). For the Department's announcement regarding reopening of the comment period, see 79 FR 31893 (June 3, 2014), available at [www.gpo.gov/fdsys/pkg/FR-2014-06-03/pdf/2014-12667.pdf](http://www.gpo.gov/fdsys/pkg/FR-2014-06-03/pdf/2014-12667.pdf). The proposed amendments to the Regulations regarding target date fund disclosures would apply to all target date funds and arrangements, regardless if they are offered as mutual funds or other types of investment products.

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