

MEMO# 26270

June 27, 2012

ICI Draft Comment Letter to DOL on the SEC TDF Study -- Comments requested by Friday, June 29, Noon

ACTION REQUESTED

[26270]

June 27, 2012

TO: PENSION COMMITTEE No. 19-12

PENSION OPERATIONS ADVISORY COMMITTEE No. 19-12 RE: ICI DRAFT COMMENT LETTER TO DOL ON THE SEC TDF STUDY -- COMMENTS REQUESTED BY FRIDAY, JUNE 29, NOON

Attached for your comments is a draft comment letter to the Department of Labor ("DOL") on the results of Investor Testing Regarding Target Date Funds ("Survey") [1], which was commissioned by the Securities and Exchange Commission ("SEC") in connection with its Target Date Retirement Fund Names and Marketing Proposal. [2] (Our comment letter to the SEC on the Survey is available at <http://www.ici.org/pdf/26185.pdf> [3]). As you know, the DOL reopened the comment period on its target date fund ("TDF") proposal on May 24, noting the relationship between the two regulatory proposals and that the results of the Survey also may be relevant to the DOL Proposal. [4] Comments to the DOL are due July 9.

Our draft letter to the DOL notes that the Survey did not alter the Institute's views expressed in the January 2011 comment letter to the DOL. [5] In particular, the draft letter explains our position that the Survey results show that: (i) investors who viewed a glide path illustration demonstrated a statistically significantly greater incidence of comprehension of the changing asset allocation in a TDF; and (ii) the addition of a tagline to a glide path illustration does not increase investor comprehension of all key features of a TDF and arguably confused some Survey respondents. Our letter notes that we find the DOL proposal to be more effective than the SEC proposal in several aspects (including the fact that the DOL proposal does not require the tagline disclosure) and we recommend that the DOL retain its TDF data elements, with suggested modifications. Please also note the commentary in footnote 24, in which we ask the DOL to allow the use of a combined notice to satisfy the participant disclosure regulation (29 CFR § 2550.404a-5) and the qualified default investment alternative regulation (29 CFR § 2550.404c-5). [6]

We anticipate that we will file our comment letter prior to the July 9th deadline. Given the upcoming July 4th holiday and vacation schedules, we are asking for your comments by

noon on Friday, June 29th. If you are interested in providing comments but may not be able to do it by June 29th, please advise me at your earliest convenience.

Anna Driggs
Associate Counsel

[Attachment](#)

endnotes

[1] See [Memorandum](#) to Pension Committee No. 10-12, Pension Operations Advisory Committee No. 10-12, SEC Rules Committee No. 21-12, Small Funds Committee No. 10-12, Advertising Compliance Advisory Committee No. 11-12, and 529 Plan Advisory Committee No. 2-12 [26021], dated April 5, 2012.

[2] See [Memorandum](#) to Pension Members No. 26-10, SEC Rules Members No. 57-10, Small Funds Members No. 37-10, and Investment Company Directors No. 13-10 [24390], dated June 25, 2010.

[3] See [Memorandum](#) to Pension Committee No. 17-12, Pension Operations Advisory Committee No. 17-12, SEC Rules Committee No. 33-12, Small Funds Committee No. 16-12, Advertising Compliance Advisory Committee No. 13-12, 529 Plan Advisory Committee No. 3-12, and Bank, Trust and Retirement Advisory Committee No. 22-12 [26184], dated May 23, 2012.

[4] For a description of the DOL announcement, see [Memorandum](#) to Pension Committee No. 17-12, Pension Operations Advisory Committee No. 17-12, SEC Rules Committee No. 33-12, Small Funds Committee No. 16-12, Advertising Compliance Advisory Committee No. 13-12, 529 Plan Advisory Committee No. 3-12, and Bank, Trust and Retirement Advisory Committee No. 22-12 [26184], dated May 23, 2012. For a description of the DOL proposal, see [Memorandum](#) to Pension Members No. 57-10, SEC Rules Members No. 131-10, Small Funds Members No. 79-10, Advertising Compliance Advisory Committee No. 6-10, Transfer Agent Advisory Committee No. 79-10, Bank, Trust and Recordkeeper Advisory Committee No. 51-10, and Operations Committee No. 38-10 [24754], dated December 2, 2010.

[5] See [Memorandum](#) to Pension Members No. 5-11, SEC Rules Members No. 8-11, Advertising Compliance Advisory Committee No. 2-11, Transfer Agent Advisory Committee No. 6-11, Bank, Trust and Recordkeeper Advisory Committee No. 6-11, and Operations Committee No. 3-11 [24878], dated January 14, 2011.

[6] See, respectively, [Memorandum](#) to Pension Members No. 49-10, Transfer Agent Advisory Committee No. 76-10, Bank, Trust and Recordkeeper Advisory Committee No. 49-10, Broker/Dealer Advisory Committee No. 56-10, and Operations Committee No. 37-10 [24702], dated November 11, 2010; and [Memorandum](#) to Pension Members No. 60-07, Money Market Funds Advisory Committee No. 30-07, and Institutional Money Market Funds Advisory Committee No. 33-07 [21886], dated October 24, 2007.

abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.