

MEMO# 35724

May 30, 2024

GAO Releases Report on Guidance for Target Date Funds

[35724]

May 30, 2024

TO: ICI Members

Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: GAO Releases Report on Guidance for Target Date Funds

The US Government Accountability Office (GAO) recently published a report (Report) focused on guidance for Target Date Funds (TDFs) offered as investment options in 401(k) plans.[\[1\]](#) As detailed below, the Report recommended that the US Department of Labor (DOL) update its 2010 and 2013 guidance[\[2\]](#) with more recent information to help plan sponsors and plan participants better understand fund disclosures and the risks associated with these funds. DOL disagreed with GAO's recommendations.

GAO was asked to examine the performance and risk of TDFs.[\[3\]](#) The Report examines the extent to which 401(k) plans and participants use TDFs; how asset allocations, risk, performance, and fees vary across TDFs; and how DOL, the Office of the Comptroller of the Currency (OCC), and the Securities and Exchange Commission (SEC) oversee TDFs, among other topics.

GAO found that differences in TDF designs affect their performance and risk. Based on GAO's analysis of Morningstar Direct data, GAO found that differences in the mix of assets held by TDFs varies more within 10 years of TDFs' target dates. Looking to guidance from the various agencies noted above, GAO found that "DOL's guidance has not been updated and lacks detail." Among other things, DOL guidance does not include recent developments such as the increasing prevalence of CITs as a TDF structure. Without such guidance, GAO found that "plan sponsors and participants may experience challenges identifying and understanding disclosures for collective investment trust TDFs."

GAO recommended that DOL update both its 2013 guidance for plan sponsors and its 2010 guidance for plan participants on selecting TDFs. Specific to plan sponsor guidance, GAO recommended DOL update its 2013 guidance for plan sponsors to provide information that reflects recent TDF developments, including the use of collective investment trusts and differences between "to" and "through" TDF glide paths. With respect to plan participant guidance, DOL should—in consultation with the SEC and OCC as appropriate—update its

2010 guidance for plan participants to provide information that reflects recent TDF developments, including the use of CITs.

DOL largely disagreed with GAO's recommendations.^[4] DOL states its view that current guidance documents are "balanced, accurate, and appropriately highlight the general issues and processes that plan fiduciaries and plan participants should consider." DOL further commented that the guidance documents GAO referenced above were not intended to provide detailed guidance on every relevant issue. Moreover, DOL commented that it is not aware of widespread confusion about "longevity risk" (a phrase not included in the Report). In response, GAO observed that the Report was more concerned about insufficient awareness of inflation risk differences between "to" and "through" TDFs.

DOL further noted that, as part of its review of the effectiveness of all disclosures under section 319 of the SECURE 2.0 Act, it "will give special attention to any of ERISA's disclosure requirements specific to [TDFs], in light of [GAO's] recommendations."^[5]

David Cohen
Associate General Counsel, Retirement Policy

Notes

^[1] US Government Accountability Office, 401(k) Retirement Plans: Department of Labor Should Update Guidance on Target Date Funds, GAO 24-105364 (2024), available at <https://www.gao.gov/products/gao-24-105364> ("Report").

^[2] DOL and SEC, Investor Bulletin: Target Date Retirement Funds (May 6, 2010), available at <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/fact-sheets/investor-bulletin-target-date-retirement-funds.pdf>; DOL, Target Date Retirement Funds - Tips for ERISA Plan Fiduciaries (Feb. 2013), available at <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/fact-sheets/target-date-retirement-funds.pdf>.

^[3] The Report was requested by Patty Murray, Chair of the US Senate Committee on Appropriations, Bernard Sanders, Chair of the US Senate Committee on Health, Education, Labor and Pensions, and Robert Scott, Ranking Member of the US House of Representatives Committee on Education and the Workforce.

^[4] Report, p.66.

^[5] For a summary of the SECURE 2.0 Act, see [ICI memorandum no. 34795](https://www.ici.org/memo34795), dated January 12, 2023, available at <https://www.ici.org/memo34795>. For a discussion of the RFI issued pursuant to section 319, see [ICI memorandum no. 35597](https://www.ici.org/memo35597), dated January 24, 2024, available at <https://www.ici.org/memo35597>. For ICI's response to the RFI, see ICI Memorandum No. 35714, dated May 23, 2024, available at <https://www.ici.org/memo35714>.

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