

MEMO# 35971

January 3, 2025

ERISA Advisory Council Provides Recommendations to DOL Regarding QDIAs and Lifetime Income Solutions

[35971]December 31, 2024TO:ICI Members

Pension Committee

Pension Operations Advisory CommitteeSUBJECTS:PensionRE:ERISA Advisory Council Provides Recommendations to DOL Regarding QDIAs and Lifetime Income Solutions

On December 13, 2024, the ERISA Advisory Council (the "Council") met with staff of the Department of Labor (DOL)'s Employee Benefits Security Administration (EBSA) to provide recommendations regarding the topic "Qualified Default Investment Alternatives (QDIAs)—Start to Finish, Default to Payout."[\[1\]](#) The PowerPoint presentation used for the meeting is attached below.

Background

The Council focused on the effectiveness of QDIAs in both the accumulation and decumulation phases of retirement—starting with DOL's issuance in 2007 of final QDIA regulations, through changes made by the Setting Every Community Up for Retirement Enhancement Act (the SECURE Act)[\[2\]](#) and the SECURE 2.0 Act.[\[3\]](#) The Council heard testimony from witnesses during hearings held on July 8-10, 2024 and September 10-12, 2024. The Council met on October 22, 2024 to discuss potential recommendations for the Secretary of Labor.

ICI submitted written testimony in connection with the October 22, 2024 meeting.[\[4\]](#) The primary messages our testimony conveyed are that the QDIA rules are working and are not in need of change at this time, and plan sponsors and financial services firms are innovating to include the option of a variety of retirement income approaches within QDIAs.

The Council's December 13th Meeting with EBSA

The Council described several observations, based on the testimony it received. These include:

- There is general agreement that the current QDIA regulations have been successful and are flexible enough to encourage innovation.
- There does not appear to be a plan design barrier preventing participants from withdrawing their assets in a periodic manner to generate a retirement income stream; however, few participants use distribution options such as installment

payments when they are made available.

- Middleware technology that helps to integrate retirement income solutions with recordkeepers' systems can help to create scalability, increase portability, and keep costs down.
- It appears that several risks form barriers to adoption of guaranteed lifetime income solutions within a QDIA, as an option in the core lineup, or as a payout option (for example, the diversity of participants' needs and the litigation risk plans face when offering income solutions which offer value that is difficult to quantify, and where cost/benefit varies by individual).

The Council then provided the following three recommendations:

- The Council recommends DOL issue guidance in the form of a comprehensive "Tips" document or other form of guidance to serve as a road map for plan fiduciaries when selecting and monitoring both non-guaranteed and guaranteed retirement income options, inside or outside of a QDIA. The guidance should include necessary elements and key substantive considerations that will ensure prudent selection and periodic monitoring processes. The Council believes DOL's guidance should be informed by relevant statutes, regulations, stakeholder input, and case law to build an effective road map.
- The Council recommends DOL provide and update guidance to plan sponsors and other fiduciaries to improve participant education, notices, transparency, and disclosures regarding the actual investments held within the QDIA in all phases of participation (accumulation, transition, decumulation) as well as non-guaranteed and guaranteed retirement income solutions offered within or outside the QDIA.
- The Council recommends DOL amend the safe harbor for automatic, involuntary rollovers to IRAs (29 CFR § 2550.404a-2) to allow use of the same QDIAs (29 CFR § 2550.404c-5) available to employer-sponsored plans as the default investment safe harbor. These alternatives would be in addition to, not in lieu of, the existing capital preservation default for automatic rollovers to IRAs.

Next Steps

The official report from the Council on the topic will be posted to DOL's website early in 2025.

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Notes

[1] See 2024 ERISA Advisory Council Issue Statement, available at <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/about-us/erisa-advisory-council/2024-qdia-issue-statement.pdf>. The Council also studied a second topic, "Claims and Appeals Procedures," not described in this memo.

[2] For a summary of the SECURE Act, see ICI Memorandum No. 32118, dated December 20, 2019, available at <https://www.ici.org/memo32118>. Section 204 of the SECURE Act provides a fiduciary safe harbor for satisfying the prudence requirement with respect to the selection of an insurer for offering guaranteed income contracts under a plan.

[3] For a summary of the SECURE 2.0 Act, see ICI Memorandum No. 34795, dated January

12, 2023, available at <https://www.ici.org/memo34795>. Section 101 of the SECURE 2.0 Act would require newly established 401(k) plans and 403(b) annuity contracts to automatically enroll participants, effective for plan years beginning after December 31, 2024.

[4] For an overview of ICI's testimony, see ICI Memorandum No. 35884, dated October 16, 2024, available at <https://www.ici.org/memo35884>. The Council had requested that ICI submit testimony and requested several specific data points related to plans' QDIA use and target date funds in particular.

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