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Submitted Electronically by e-mail to e-ORI@dol.gov
Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW.
Washington, DC 20210
Attention: RIN 1210-AB32, Fiduciary Rules

RE: Target date fund risk near retirement.

- Fiduciaries need to be told how much risk is in these funds because most are way too risky.
- There are two distinct TDF groups: Safe and Risky at the target date.
- Long-term bonds are almost as risky as stocks, and TDFs consist mostly of these two assets.
- Markets are still expensive and could fall much more at a time when near-retirees and recent retirees don't have time to recover

Dear Department of Labor,

If you thought target date fund (TDF) first half losses in the most "conservative" funds were shocking, you haven't seen anything yet! And the impact will fall most heavily on those in or near retirement who were trying to avoid risk As you know, these beneficiaries need to protect their lifetime savings, yet they've lost 15% so far this year, and that's just the beginning.

It's starting to happen again, but this time will be far worse than 2008 because much more money and many more people are at risk, and losses are expected to be substantially worse. TDFs lost more than 30% in 2008, prompting a joint hearing of the DOL and SEC in June 2009. The only thing that has changed since then is bonds have become riskier, with record low yields, so they no longer protect.

There was $200 billion in TDFs in 2008. Today there's $3.5 trillion. In 2008 our 78 million baby boomers were not yet in the Risk Zone, so they've had time to recover. Baby boomers will spend this decade in the Risk Zone, defined as the 5-10 years before and after retirement. Losses suffered in the Risk Zone can irreparably ruin the rest of life and burden a society that aims to help its elderly.

Target Date Funds are 85% Risky at Their Target Date

Most target date funds are the same, ending at the target date with 50% in equities plus 35% in risky long-term bonds. That's 85% in risky assets, explaining why 2020 Funds have lost 15% so far this year.

This is just the beginning of more losses to come because inflation will burst the current bubbles in stock and bond markets. If inflation doesn't do it, something else will because these bubbles have expanded for way too long, reaching absurdly monumental levels.

Two Congressional chairs have asked the Government Accountability Office (GAO) to review TDF risk and explain why the TDF of the Federal Thrift Savings Plan (TSP) is so much safer at its target date, with 70% in Fund G guaranteed by the US government.

Morningstar recently reported **Way Too Much Risk in 401k Target-Date Fund Glide Paths,** echoing the warnings that we have sounded for years.

TDF beneficiaries should be protected as they near retirement, but they're not.

There Are Other Safe Target Date Funds

The TSP is not alone. The Office and Professional Employees International Union (OPEIU), one of the largest AFL-CIO unions, is also safe at the target date, with 70% in Stable Value. And the SMART Target Date Fund Index is 70% in T-bills and intermediate TIPS.

The 2020 Funds of these safe TDFs have lost less than 5% this year, in contrast to the 15% loss of typical TDFs. Similarly, the 2010 Funds of the Safe group lost less than 5% in 2008, versus losses in excess of 30% in the Risky group.

The Safe group has and will protect. The Risky group has and will not.

Recommendation

The joint 2009 hearings generated an important recommendation to include ending equity allocation in the fund name, but that failed to become a requirement because lobbyists argued that risk is more complicated than equity allocation. We believe the spirit of that disclosure is correct and necessary. Fiduciaries need to be told how much risk is in TDFs.

We recommend that the DOL appoint a task force to create rules for a simple classification into Safe or Risky at the target date, and require disclosure of this classification in TDF fund names. We are willing to serve on this task force.

Fiduciaries should make an explicit choice. Safe may be right for some while Risky is right for others.

Demographics and To-Through

DOL's February 2013 TDF tips advises fiduciaries to match their TDF to workforce demographics and to make an explicit choice between To and Through.

A one-size-fits-all vehicle can only match one demographic and it should be the one demographic that all defaulted beneficiaries have in common, namely lack of financial sophistication, because most assets in TDFs are from defaulted beneficiaries. This demographic argues for safety, especially at the target date.

To-Through is a distinction without a difference because some "To" funds are riskier than some "Through" funds at the target date. A better, more important, distinction is Safe or Risky at the target date because risk at the target date is what sets TDFs apart. Also, a U-shaped glidepath is an innovation that is both "To" and "Through" and very low risk at the target date. So "To, Through or U" can be Safe or Risky

Conclusion

Our main concern is the glaring failure of many fiduciaries to vet their TDF selection. It's common knowledge that the three large, bundled service providers have received the lion's share of TDF assets. It's an oligopoly. These are fine companies, but their TDFs are not safe.

Fiduciaries are relying on a safe harbor of procedural prudence: "follow the herd" – "safety in numbers." They don't want to be sued.

Fiduciaries are confused and need enlightenment. The keys to retirement with dignity are to (1) save enough and (2) protect lifetime savings. Auto enrollment and auto escalation support the requirement to save enough. Fiduciaries should also help beneficiaries protect their lifetime savings if they sincerely want them to retire with dignity. Otherwise the mission is incomplete.

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

Incentives modify behavior and come as carrots and sticks. Sticks work best, as we've all observed with excessive fee lawsuits.

Sincerely,

Ronald Surz

Ronald Surz, President