



**James Szostek**  
Vice President, Taxes & Retirement Security

June 9, 2014

Kevin M. O'Neill, Deputy Secretary  
Securities and Exchange Commission  
100 F Street, NE.  
Washington, DC 20549-1090

RE: Target Date Retirement Fund Names and Marketing in Investment Company Advertising; [Release Nos. 33-9570; 34-71861; IC-31004; File No. S7-12-10]

Greetings:

The American Council of Life Insurers submits this letter in response to the SEC's request for additional comment on its proposed initiative on target date fund retirement names and marketing.<sup>1</sup> The SEC seeks comments on recommendations of the Investment Advisory Committee regarding the proposed amendments to the SEC's sales literature, disclosure, and marketing requirements. We greatly appreciate the opportunity to share our views on this significant initiative.

The American Council of Life Insurers represents more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies represent over 90% of the assets and premiums of the U.S. life insurance and annuity industry. ACLI member companies offer insurance contracts and other investment products and services to qualified retirement plans, including both defined benefit pension and 401(k) arrangements, and to individuals through individual retirement arrangements (IRAs) or on a non-qualified basis. ACLI member companies also are employer sponsors of retirement plans for their own employees.

### **Summary of Proposal**

The SEC has proposed amendments to Rule 482 under the Securities Act of 1933 and Rule 34b-1 under the Investment Company Act of 1940 that would require a target date retirement fund that includes the target date in its name to disclose the fund's asset allocation at the target date immediately adjacent to the first use of the fund's name in marketing materials. The initiative also includes amendments to Rule 482 and Rule 34b-1 that would require marketing materials for target date retirement funds to include a table, chart, or graph depicting the fund's asset allocation over time, together with a statement that would highlight the fund's final asset allocation.

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<sup>1</sup> The request for additional information was published on April 9, 2014 in [79 Fed Reg. 68 at 19564](#). The coordinated releases were published on June 23, 2010 in [75 Fed Reg. 120 at 35920](#).

The proposal would also require a statement in marketing materials that a target date retirement fund should not be selected based solely on age or retirement date, is not a guaranteed investment, and the stated asset allocations may be subject to change. Additionally, proposed amendments to Rule 156 under the Securities Act would provide additional guidance regarding statements in marketing materials for target date retirement funds and other investment companies that could be misleading.

In April 2013, the Investor Advisory Committee recommended the Commission develop a glide path illustration for TDFs that is based on a standardized measure of fund risk to either replace or supplement the proposed asset allocation glide path illustration. The Committee did not recommend a particular risk measure or methodology for a risk-based glide path for target date funds. The Committee suggested a focus on factors such as volatility of returns or maximum exposure to loss.

### **Statement of Position**

In light of changes in the law and regulations governing retirement arrangements subject to the Employee Retirement Income Security Act of 1974 (“ERISA”), growing numbers of plan participants have their plan contributions invested in target date funds on a default basis. We believe that the Commission’s proposed rule amendments will help these and other investors better understand target date funds’ investment strategy and asset allocation plan.

As we noted in our August 2010 letter to the Commission, many of these target date funds are described as “retirement” funds to be used throughout “retirement.” As the release to the proposed amendments noted, investors typically cease purchasing shares of target date funds at retirement. At that time, investors typically shift to orderly withdrawals to support their retirement income needs. In order to develop or evaluate a retirement income plan, an investor needs to understand longevity, market, and other risks that can affect the retirement income potential of their investment in the target date fund.

As for an illustration of these risks, ACLI recommends that the risks be explained through text rather than illustrated. Such text should address market risk with a statement that a fund is not guaranteed and that it is possible to lose money. Longevity risk should be addressed with a statement that advises the investor that, in the absence of an insurance guarantee, the fund does not guarantee that the investor could support a particular rate of redemptions from the fund over the investor’s life or for any other period, i.e., the fund does not guarantee income in retirement. A survey conducted by Siegle + Gale found that only 36% of respondents correctly indicated that a TDF does not provide guaranteed income in retirement.<sup>2</sup>

The proposed asset allocation glide path would illustrate a fund’s intended investment allocation over time. This is feasible because the allocation plan is objectively known in advance. However, the questions raised in the SEC’s request indicate the subjective nature of a risk-based illustration. Given this subjectivity and the variables involved, it is likely not possible to portray the risks in a way that would permit a meaningful apples to apples comparison of risks. Nevertheless, if the Commission is to make changes to its glide path proposal to require an illustration of risks, we ask that the Commission issue a proposal for public comment.

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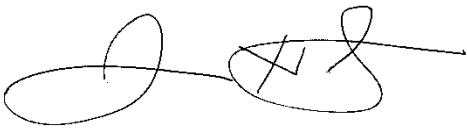
<sup>2</sup> “Investor Testing of Target Date Retirement Fund(TDF) Comprehension and Communications,” Siegle + Gale report submitted to The U.S. Securities and Exchange Commission February 15, 2012

**Conclusion**

ACLI supports the general objectives of the proposed rule amendments: to clarify sales literature, marketing and disclosure used in target date funds. Through these initiatives, consumers will have enhanced information on which to make an informed purchase decision. We strongly encourage the expansion of the proposal as suggested in our 2010 letter, to address the fact that, in the absence of an insurance guarantee, a target date fund does not guarantee income in retirement. In this way, the initiative will be even more functionally and equitably useful to investors.

We greatly appreciate your attention to our views. If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'James H. Szostek', with a long horizontal line extending to the right.

James H. Szostek  
Vice President, Taxes & Retirement Security

Pc: Matthew DeLesDernier, Senior Counsel, Division of Investment Management  
Kristen Zarenko, Senior Pension Law Specialist, Office of Regulations and Interpretations,  
Employee Benefits Security Administration, U.S. Department of Labor