

American Federation of Labor and Congress of Industrial Organizations



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Submitted by Email to rule-comments@sec.gov

June 9, 2014

Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Request for Additional Comment on Investment Company Advertising:
Target Date Retirement Fund Names and Marketing
File No. S7-12-10
RIN: 3235-AK50

Ladies and Gentlemen:

The American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), on its behalf and on behalf of its 56 affiliated unions, submits these comments in response to the request for additional comment issued by the Securities and Exchange Commission ("Commission")¹ on the recommendations of its Investor Advisory Committee ("IAC") regarding target date mutual fund ("TDF") disclosure. Together with our community affiliate, Working America, AFL-CIO affiliate unions represent more than 12.5 million workers across the country in all sectors of our economy, including manufacturing, construction, transportation, grocery and retail, food processing and meatpacking, health care, education, hospitality, entertainment and all levels of government.

¹ The request for additional comment on the proposed rule on Investment Company Advertising: Target Date Retirement Fund Names and Marketing ("Proposed Rule") was published in the Federal Register on April 9 2014 and is available at <http://www.gpo.gov/fdsys/pkg/FR-2014-04-09/pdf/2014-07869.pdf/>.

Pensions and retirement savings plans are a significant component of the economic package that our affiliates negotiate through collective bargaining with employers. As is the case for most middle-class Americans, union members' retirement money is their biggest investment in the capital markets, and, likely their most important financial asset. While a large majority of union-represented workers have guaranteed pensions, they also participate in, and rely on, defined contribution plans, typically 401(k) plans. Indeed, a greater share of private-sector unionized workers participate in defined contribution plans than do their non-union counterparts.²

Because they are now a qualified default investment alternative under ERISA,³ TDFs are attractive to retirement plan fiduciaries seeking to minimize potential fiduciary liability. They are a fast-growing 401(k) plan investment option, and we have every reason to believe their use will only increase. Given the increasing importance of TDFs, and also because they tend to attract less experienced and less engaged investors, we believe ensuring that plan participants, and retail investors, as well as TDF intermediaries, like retirement plan consultants and plan sponsors, are provided with an appropriate amount of clear information about the potential risks, benefits, and fees associated with these funds should be a Commission priority. We urge the Commission to take up the issues covered by all five of the IAC recommendations.

We strongly agree with the IAC's finding that the asset allocation of a TDF is an unreliable proxy for risk, providing insufficient information to evaluate a fund adequately, and, thus, urge the Commission to adopt the Committee's recommendation that any asset allocation illustration at least be paired with, if not replaced by, a glide path illustration based on a standardized measure of fund risk. Further, the risk assessment must be consistent across TDFs, i.e. based on a standard methodology, so as to enable easy comparison across TDFs and TDF providers.

As to the particular form – whether it be text, table, chart, and/or graph – of the glide path illustration, we urge the Commission to build on, and look to, its August 2012 study which concluded that many U.S. retail investors lack basic financial literacy and included recommendations to improve the timing, content and format of financial disclosures. In order to determine how best to present an easily understood and concise, yet comprehensive, glide path illustration of fund risk, the Commission should conduct focus groups and other appropriate empirical research. The focus groups and other research should reflect the range of users who will be relying on the new risk disclosure – from less experienced plan participants and

² Bureau of Labor Statistics, *National Compensation Survey: Employee Benefits in the United States, March 2013*, Retirement Benefits, Table 2 available at <http://www.bls.gov/ncs/ebs/benefits/2013/ownership/private/table02a.pdf>.

³ The regulations promulgated pursuant to Section 404(c)(5) of ERISA provide for several categories of “qualified default investment alternatives,” including TDFs. 29 CFR §2550.404(c)-5(e)(4).

individual investors most likely to invest in TDFs to plan sponsors and savvy retirement plan consultants.

That is, the goal should be the creation of a tiered or layered risk disclosure regime. The basic information provided should include an illustration of the effect of inflation so that all users understand its impact on the real value of their assets. More detailed information, beyond the basic glide path illustration, should be available for more sophisticated users.

As to the timing of risk disclosures, they should be included in all marketing materials and the TDF prospectus. Furthermore, participants and individual investors should receive notice of the TDF's new, presumably decreased, risk as the portfolio shifts over time.

The AFL-CIO appreciates the opportunity to comment on the Proposed Rule, and we would be happy to provide any additional information or assistance as the Commission develops the final rule.

Sincerely yours,

/s/ Karin S. Feldman
Karin S. Feldman
Benefits and Social Insurance Policy Specialist