August 23, 2010

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
Washington DC
submitted electronically

RE: File Number S7-12-10
Investment Company Advertising: Target Date Retirement Fund Names and Marketing

I am pleased to provide the comments of the Profit Sharing / 401k Council of America (PSCA) on the proposed rule on advertising and marketing target date funds. Founded in 1947, PSCA is a non-profit association representing companies that sponsor profit sharing and 401(k)-type plans. PSCA speaks for over 1,200 companies who employ approximately five million plan participants throughout the United States. PSCA's members range in size from very small firms to conglomerates with hundreds of thousands of employees. All regard their profit sharing or 401(k)-type plans as vital factors in their business success.

PSCA commends the Commission for its efforts to increase the transparency of target date funds and to ensure that retirement plan participants understand these investments. We are pleased that the Commission's activities are coordinated with the Department of Labor that has direct oversight on private sector employer provided benefit plans. The May 2010 joint Investor Bulletin was well-received within our community. We expect that Department of Labor guidance, pending at the Office of Management and Budget, that addresses communications to plan participants about target date funds is coordinated with this proposed rule. This coordination will benefit employers who sponsor retirement plans, plan participants, and financial services companies who provide investment alternatives and administer these plans.

Automatic enrollment of plan participants and the use of target date funds as a default investment are moving the employer provided defined contribution system to a new level of success in accumulating retirement assets for American workers. Preliminary analysis of PSCA data for 2009 reveals that sixty-three percent of plans offer target date funds; up from fifty-eight percent in 2008, twenty-five percent in 2005 and virtually none in 2000. Fifty-seven percent of plans with automatic enrollment have a target date fund as the default investment. Other research indicates that practically all new automatic enrollment arrangements select a target date fund default investment. Mutual fund products continue to be the product of choice for most qualified plans, and almost the exclusive choice for small and mid-size plans (stable value products are also prevalent in plans of all sizes).

Financial investment experts, by a broad consensus, recommend three basic principles for long-term capital appreciation, the method used to accumulate retirement assets. First, diversification among bonds, equities, and cash-like investments provides the optimal balance between risk and return. Second, once an investment allocation is determined, periodic rebalancing is necessary to preserve the allocation ratio. Finally, the asset allocation ratio should be altered as an investment horizon shortens to favor risk aversion over return volatility. These three principles are the bedrock of a prudent investment policy for a defined contribution plan. Target date funds embrace these principles and apply them automatically to individual plan participants based on the participant's age and assumed retirement date.

The proposed rule is a positive outcome of the Commission's joint study of target date funds with the Department of Labor. We commend the Commission for not prescribing strict parameters for glide paths and choosing, rather, to emphasize increased disclosures about the nature and risks of target date funds.

The proposed changes to Rule 156 raise some unique issues for employer provider plans, especially for default investments that are an integral part of automatic enrollment investments. Selecting a default investment is a critical decision for a plan fiduciary. A participant who accepts a default investment is, by definition, someone with minimal interest in investigating how to invest their account assets or to consider their unique financial situation. There is a significant likelihood that the defaulted participant will remain in the default investment throughout their employment with the plan sponsor. The plan fiduciary, when selecting a default investment, must step into the shoes of the participant and act on their behalf and the behalf of all defaulted participants. That means that the default investment selection must be made on broad assumptions about the entire participant population. Usually, the only known discriminating factor is age. For many plans, the best and "simplest" solution is a target date fund. For the "generic participant," failure to monitor the investment or consider their unique financial situation will not materially inhibit their ability to efficiently and successfully accumulate retirement assets. In fact, an argument can be made that most participants will be better served by remaining in a prudently selected target date fund than by attempting to manage their retirement account by selecting other investment alternatives.

Changes to Rule 156 that result in the rejection of the target date fund could be counterproductive. Some plan participants are knowledgeable and highly engaged in managing their accounts. It's unlikely that this group requires the protections that the proposed changes to Rule 156 will provide. PSCA requests the Commission to consider these factors as it finalizes the amendments to Rule 156.

Thank you for considering our comments. If you have any questions, or if I can be of assistance, please contact me at 202-863-7272 or ferrigno@401k.org

Sincerely,

Edward Ferrigno
Vice President, Washington Affairs