

New Rules Concerning Qualified Default Investment Alternatives

The Pension Protection Act of 2006 (PPA) created the Qualified Default Investment Alternative (QDIA) to provide protection for plan fiduciaries where participants fail to direct the investment of their accounts. The QDIA provides employers a safe harbor from fiduciary risk when selecting an investment for a participant or beneficiary who fails to elect their own investment. Employers following the QDIA regulations will have no legal liability for market fluctuations when providing a QDIA for employees who do not choose their own investments. New regulations setting forth the rules for QDIA's are effective December 24, 2007.

Qualified Default Investment Alternatives

The final regulations provide four QDIA investment alternative mechanisms, rather than specific products.

- **Managed Account.**
Professionally managed accounts that allocate an individual's contributions among existing plan options based on his age or retirement date.
- **Life Cycle or Target Date Fund.**
A product with a mix of investments that take into account an individual's age, retirement date, or life expectancy.
- **Balanced Fund.**
Product that has a mix of investments that takes into account the characteristics of the group of employees as a whole.
- **Capital Preservation Fund.**
Allows for stable value funds to be used as a short-term capital preservation option for the 1st 120 days of participation. Then it will be redirected into one of the other 3 choices.

Safe Harbor Conditions

EBSA clarified that, in order to obtain the safe harbor relief from fiduciary liability for investment outcomes, plan sponsors must satisfy the following conditions:

- Assets must be invested in a QDIA.
- Participants and beneficiaries must have been given an opportunity to provide investment direction, but have not done so.
- A notice generally must be furnished to participants and beneficiaries in advance of the first investment in the QDIA and annually thereafter.
- Materials, such as investment prospectuses, provided to the plan for the QDIA must be furnished to participants and beneficiaries.
- Participants and beneficiaries must have the opportunity to direct investments out of a QDIA as frequently as from other plan investments, but at least quarterly.
- The rule limits the fees that can be imposed on a participant who opts out of participation in the plan or who decides to direct their investments.
- The plan must offer a "broad range of investment alternatives" as defined under section 404(c) of ERISA.

EIP Comments

- The best fiduciary method with employee investment direction is to obtain an Enrollment form on each employee
- Please remind employees to review their investment direction on line
- The QDIA is a new ruling due to potential Participant law suits regarding misdirection of investments
- Take this opportunity to review your employee files.