



# The Final Word on QDIA

A summary of what the Department of Labor final regulations means to Participants,  
Plan Sponsors, Advisers and Providers

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## INTRODUCTION

When the Pension Protection Act called for the Department of Labor to define the requirements for stress-free investments for participants, the response was to create the Qualified Default Investment Alternative (QDIA).

The QDIA becomes a reality on December 24, 2007 and opens a new era for defined contribution plans. The stress-free QDIA unburdens the participant from making complex investment choices. It unburdens the plan sponsor from liability.

The QDIA has also created opportunities for the advisers to select, monitor and manage QDIAs on behalf of participants and plan sponsors.

The QDIA is likely to be the single most important investment in defined contribution plans and creates great opportunities for product providers.

Despite all this good news, a number of hurdles must still be vaulted to realize the QDIA benefits.

This report reviews these requirements as an introduction to the *QDIA Guide* that provides in-depth coverage, practices and sample forms.

### *Action Items*

Appendix B provides a recap of the most immediate actions that plan sponsors, advisers and providers need to take in response to the QDIA rules. In brief these are:

- Plan Sponsors & Advisers -Document basis for QDIA selection.
- Plan Sponsors & Providers -Issue QDIA notice to all employees.
- Plan Sponsors & Advisers -Find suitable QDIA by April 24, 2008.
- Advisers -Develop adviser managed QDIA service.
- Providers -Eliminate all restrictions and exit fees from QDIA funds.
- Providers -Document investment theory used in QDIAs.
- Providers -Develop record keeping to transition from parked QDIAs to long term.
- Providers -Add post-retirement features to QDIAs.

## OVERVIEW OF QDIA

The QDIA represents the recognition that it is unrealistic to expect millions of workers to become adept at the management of their retirement investment. It is an official sanction of the wisdom of providing an alternative to teaching investing skills to the nation's workers.

QDIA permits participants to opt out of the investment process, with the assurance that qualified professionals are acting on their behalf. Moreover, opting out of the investment management process is made very simple for the worker... do nothing!

When the worker opts out of the investment process, he/she automatically becomes a participant and the investment strategy selected by the employer takes over.

But benefits are not limited to the participants...

Employers, as plan sponsors, are relieved of associated fiduciary liability when in compliance with regulations. Plan sponsors are also relieved of the burden, time loss and stress of trying to educate millions of workers to become sophisticated investors.

Complying with the QDIA requirements does represent an added burden for the plan sponsors, requiring expert assistance from qualified investment fiduciaries (fiduciary advisers). Advisers who become skilled at QDIA are engaged by plan sponsors to guide them through the intricate process of picking the right type of QDIA, selecting and monitoring the provider and providing the guidance to participants who need advice.

The expanded QDIA acceptance represents growth opportunities for product providers who extend their QDIAs beyond the bare minimums to provide effective investment solutions for participants.

## THE DEPARTMENT OF LABOR SPEAKS

### *No Liability*

“A fiduciary of a plan that complies with this final regulation will not be liable for any loss, or by reason of any breach, that occurs as a result of such investments.”

### *Selection & Monitoring*

“Plan fiduciaries remain responsible for the prudent selection and monitoring of the qualified default investment alternative.”

### *Notice to Participants*

“The regulation conditions relief upon advance notice to participants and beneficiaries describing the circumstances under which contributions or other assets will be invested on their behalf in a qualified default investment alternative, the investment objectives of the qualified default investment alternative, and the right of participants and beneficiaries to direct investments out of the qualified default investment alternative.”

### *No Need to be a 404(c) Plan*

“The relief afforded by section 404(c)(5) is not contingent on a plan being an “ERISA 404(c) plan” or otherwise meeting the requirements of the Department's regulations.”

### *Other Prudent Alternatives*

“... investments in money market funds, stable value products and other capital preservation investment vehicles may be prudent for some participants or beneficiaries even though such investments themselves may not generally constitute qualified default investment alternatives for purposes of the regulation.”

### *QDIAs Have Multiple Applications*

“Nothing in the final regulation limits the application of the fiduciary relief to investments made only on behalf of participants who are automatically enrolled in their plan.”

“Whenever a participant or beneficiary has the opportunity to direct the investment of assets in his or her account, but does not direct the investment of such assets, plan fiduciaries may avail themselves of the relief provided by this final regulation, so long as all of its conditions have been satisfied.”

## QDIA - A PLAN SPONSOR'S VIEW

The motivations for a plan sponsor to adopt the QDIA are:

- The benefit it provides to employees,
- Increased efficiency in providing the benefit and
- The protection from liability.

In the short term, the improved benefit to employees is the reduced stress it provides from the assurance that the retirement investments will be handled by experts. Most important, in the long term, the benefit will be a more secure retirement.

Efficiency is derived from employee time recovery and higher productivity achieved through lower financial stress. Employees need not attend time-consuming investment training until they approach retirement and need to transform their accumulated wealth into income.

QDIA provides plan sponsors with protection from associated liability, subject to certain requirements. The most important requirement is the prudent selection and monitoring of the QDIA since they vary greatly in approach, cost and asset allocation. Plan sponsors must decide which approved approach is most suitable and choose from offerings that may have more than three times the cost of competitors with greatly varying asset allocation strategies.

By performing and documenting the selection and monitoring of the QDIA, the plan sponsor is not liable for losses that participants might incur.

Most plan sponsors will require the expertise of an adviser to perform the QDIA-related duties and to comply with the regulations.

## QDIA -AN ADVISER'S VIEW

QDIA has added several levels of complexities to the investment selection and monitoring process and compliance with regulations.

These complexities translate to service offerings that an adviser can offer after becoming a QDIA expert.

The QDIA selection process begins with selecting the appropriate type of QDIA for the plan. QDIAs permit three standard types, each of which is suitable in different circumstances. This requires a documented needs analysis and evaluation to determine the appropriate type.

The selection process must then determine what investment supplier will be used. Unlike a traditional fund lineup, QDIA requires an understanding of the asset allocation strategy as well as an evaluation of the underlying investments.

Advisers play a critical role when participants approach retirement and need to transition from work life to enjoying the fruits of their labor. Advisers are needed to help participants transform their QDIAs into a way to achieve their hopes and dreams and replace their income.

After selection, the adviser is obligated to monitor the continued compliance, asset allocation and underlying investments.

These services create an opportunity for advisers to play a key role in meeting the retirement needs of workers and expanding the relationship to include the entire household.

## QDIA -A PROVIDER'S VIEW

Investment managers, recordkeepers and insurers play critical roles in offering QDIAs. Starting with the minimum requirements, these providers have a framework to create innovations that tailor QDIAs to meet the variety of needs and situations and to create a migration to lifetime income for participants.

The success of QDIA will produce greater savings, better investing and a larger population of retirement savers and retirees to be served by retirement providers.

## SUMMARY OF QDIA REGULATIONS

QDIA regulations take the form of a new ERISA section, 404c-5, the subsections of which are referenced in this summary.

### FIDUCIARY RELIEF

- b(1) No fiduciary shall be liable for any loss or by reason of any breach, which results from participant's exercise of control.  
Use of QDIA will be treated as exercising control in the absence of an investment election if invested by the plan in accordance with this regulation.  
A plan need not meet the requirements for an ERISA section 404(c) plan in order for a plan fiduciary to obtain the relief under this section.

### FIDUCIARY DUTIES

- b(2) Prudently select and monitor any qualified default investment alternative

### CONDITIONS FOR RELIEF

- c(1) Assets are invested in a QDIA.
- c(2) The participant had the opportunity to direct the investment but did not.
- c(3) The participant is furnished with a QDIA notice within 30 days in advance of the first investment or concurrent with the date of eligibility but only if participant has the opportunity to make a withdrawal, and 30 days in advance of each plan year.
- c(4) Participant is provided with material required by existing regulation (depends on the type of investment) applicable to the QDIA.
- c(5)(i) Any participant put into a QDIA may transfer to any other investment alternative available as frequently as participants who elected a QDIA, but at least quarterly.
- c(5)(ii) Participants electing to exit a QDIA have a 90-day window to transfer with no penalty.  
Penalties include surrender charges, liquidation or exchange fees, redemption fees and similar expenses charged in connection with the liquidation of, or transfer from, the investment.  
Penalties do not include costs unrelated to the decision to withdraw or transfer, such as investment management fees, distribution and/or service fees, "12b-1" fees, or legal, accounting, transfer agent and similar administrative expenses.

- c(6) The plan offers a broad range of investment alternatives.

### **REQUIRED PARTICIPANT NOTICE**

- d The notice shall be written in a manner calculated to be understood by the average plan participant.
- d(1) Circumstances under which assets may be invested in a QDIA, and the percentage of such contributions, and the right of the participant to elect not to have such contributions made on the participant's behalf (or to elect to have such contributions made at a different percentage)
- d(2) An explanation of the right of participants to direct the investment of assets in their individual accounts.
- d(3) Investment objectives, risk and return characteristics and fees and expenses attendant to the QDIA.
- d(4) Right of participants to direct the investment of QDIA assets to any other investment alternative under the plan, including a description of any applicable restrictions, fees or expenses.

Where participants can obtain investment information concerning the other investment alternatives available under the plan.

### **QDIA PREREQUISITES**

- e(1) Does not hold or permit the acquisition of employer securities, except when:
- A. Held or acquired by a registered investment company that is independent of the plan sponsor.
  - B. acquired as a matching contribution.
- e(2) Does not impose financial penalties or restrict the ability of a participant to transfer investment from the QDIA.
- e(3) Is either managed by an investment manager, as defined in section 3(38) of ERISA, or plan trustee, or plan sponsor who is a named fiduciary or is a registered investment company or a stable value fund under State or federal regulation.

### **ACCEPTABLE QDIA INVESTMENT ALTERNATIVES**

- e(4)(1) An investment fund product or model portfolio that applies generally accepted investment theories, is diversified so as to minimize the risk of large losses and that is designed to provide varying degrees of long-term appreciation and capital preservation through a mix of equity and fixed income exposures based on the participant's age, target retirement date (such as normal retirement age under the plan) or life expectancy.

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- e(4)(ii) An investment fund product or model portfolio that applies generally accepted investment theories, is diversified so as to minimize the risk of large losses and that is designed to provide long-term appreciation and capital preservation through a mix of equity and fixed income exposures consistent with a target level of risk appropriate for participants of the plan as a whole.
- e(4)(iii) An investment management service in which a fiduciary applies generally accepted investment theories with diversification to minimize the risk of large losses to allocate the assets of a participant's individual account to achieve varying degrees of long-term appreciation and capital preservation through a mix of equity and fixed income exposures, offered through investment alternatives available under the plan, based on the participant's age, target retirement date (such as normal retirement age under the plan) or life expectancy.
- e(4)(iv) Parking Place: For not more than 120 days, a stable value fund designed to preserve principal and provide a reasonable rate of return and under State or federal regulation may be used as a QDIA.
- e(4)(v) Grandfathered QDIAs:  
For existing assets in a stable value fund, which is designed to guarantee principal and a rate of return generally consistent with that earned on intermediate investment grade bonds, while providing liquidity for withdrawals and transfers, providing that:
- (1) There are no fees or surrender charges imposed in connection with withdrawals initiated by a participant; and
  - (2) Principal and rates of return are guaranteed by a State or federally regulated financial institution.
- This QDIA applies only to assets invested before December 24, 2007.

## **QDIA INVESTMENT STRUCTURES & RETIREMENT INCOME**

- e(4)(vi) Variable annuity or similar contracts, common or collective trust funds or pooled investment funds are acceptable forms of QDIAs.
- QDIAs contain annuity purchase rights, investment guarantees, death benefit guarantees or other features ancillary to the investment fund product or model portfolio.

## **PREEMPTION OF STATE LAWS**

- f(2) A State law that would directly or indirectly prohibit or restrict the inclusion in any pension plan of an automatic contribution arrangement is superseded as to any pension plan.



## APPENDIX A-CHANGES MADE TO PROPOSED RULES

The final regulations were issued after comments and debate that lasted more than a year. This section highlights the changes that were made to the proposed regulations.

### PRODUCT REQUIREMENTS

- QDIA notice can be given upon eligibility as long as participant can withdraw.
  - Proposed rules required delivery 90 days in advance.
- QDIA participants come under the same requirements for delivery of materials as other participants.
  - Proposed rules required participants to receive all material that plan sponsor receives on QDIAs.
- Prohibited penalties for participants withdrawing from the QDIA are defined and explicit permission is given for asset based fees.
  - Proposed rules did not define the prohibited penalties.
- QDIA notice must disclose default percentage and offer the ability to elect a different rate.
  - Proposed rules were silent.
- Restrictions and fees for transferring out of the QDIA are permitted but must be disclosed in the QDIA notice.
  - Restrictions and fees were prohibited in proposed rules.
- The PPA preemption of State laws that prohibit automatic enrollment is extended to include all pension plans and is independent of complying with QDIA requirements.
  - Under PPA, only ERISA plans could claim the exemption.

### ADVISER HIGHLIGHTS

- Final regulations recognize that participants will elect to use QDIA.
  - Proposed rules limited to participants who did not make an election.
- Plan sponsors and trustees may to act as investment managers and hire adviser to build QDIAs. Institutions offering stable value products also qualify.
  - Managing of QDIA assets was limited to investment managers in proposed rules.

## INVESTMENT ALTERNATIVES

- The three proposed alternatives now have a requirement to use generally accepted investment theories and to diversify investments.
  - No stipulation requiring generally accepted investment theories was made in the proposed rules. Diversification was a requirement of all investment options in the proposed rules.
- Stable value can be used as a parking place for no more than 120 days. Guarantee of principal is not required, so money market funds are acceptable parking places for QDIAs.
  - There was no stable value provision or transitional mechanism in the proposed rules.
- While existing stable value assets can become QDIA's, additional contributions cannot be put there, even in existing plans. Only stable value funds with principal guarantees and no exit fees will qualify.
  - Proposed rules had no provision to grandfather existing stable value assets.
- New contributions cannot be put into stable value QDIAs, so any plan with stable value default must find a QDIA for contributions by December 24<sup>th</sup> and a long term QDIA 120 days later (April 24, 2008).
  - No transition was provided in proposed rules.
- Insurance and bank products can be used as QDIAs.
  - Proposed rules were silent.
- QDIAs may contain annuities with retirement income options.
  - Proposed rules prohibited options that did not fit the prescribed objectives of capital appreciation and preservation.

## STATE PREEMPTION

- The PPA preemption of State laws that prohibit automatic enrollment is extended to include all pension plans and is independent of complying with QDIA requirements.
  - Under PPA, only ERISA plans could claim the exemption.

## APPENDIX B -IMMEDIATE ACTION ITEMS

The final QDIA regulations call for the following immediate actions:

- Prepare evidence of prudent selection to comply with DoL requirements for fiduciary relief. (See Appendix D for Sample QDIA Selection Worksheet)
- If current default meets QDIA requirements develop required notice to employees who may be subject to being defaulted into a QDIA by December 24, 2007. (See Appendix C for Sample QDIA Notice.)
- Find a suitable QDIA by April 24, 2008 for any plans that currently use stable value defaults. Stable value QDIAs may only hold new contributions for 120 days after the effective date of December 24, 2007.
- Develop adviser managed QDIA offering, in which advisers are appointed by plan sponsor to create the asset allocations from the existing investment lineup.
- Eliminate any market timing restrictions, loads, redemption fees or CDSCs from any funds that are to be used as a QDIA. Participants have the right to exit the QDIA without a penalty.
- Develop record keeping enhancement to park QDIA contributions until the expiration of the QDIA “free look” period. The maximum parking time is 120 days.
- Document the investment theory used in long term QDIAs and include evidence that the theory is generally accepted.
- Add post retirement feature to QDIAs to permit automatic generation of retirement income. Rules permit annuity contracts within QDIAs and these can be used to produce retirement income.

## APPENDIX C -SAMPLE NOTICE

### [Plan Name] Plan (Plan)

#### Automatic Enrollment Notice

Beginning in 2008, [ ] (Company) is making saving for retirement under our 401(k) Plan even easier. We are offering an automatic enrollment feature, and will make match the contributions you make.

Your contributions to the Plan are taken out of your pay and are not subject to federal income tax at that time. Instead, they are contributed to your Plan account and can grow over time with earnings. Your account will be subject to federal income tax only when withdrawn. This helpful tax rule is a reason to save for retirement through Plan contributions.

The new automatic enrollment feature won't change your contribution level if you already [used the website [www.401kplan.com](http://www.401kplan.com)] [or turned in a [ ] Form] electing the level of your contributions to the Plan or electing not to contribute. Your earlier election will continue to be followed, and matching contributions will be made based on your contribution level. You can change your contribution level by [using the website [www.401kplan.com](http://www.401kplan.com)] [or turning in a new [ ] Form] at any time. Matching contributions will then be based on your new contribution level.

*[For plans that enroll existing employees] If you have not [used the website [www.401kplan.com](http://www.401kplan.com)] [or turned in a contribution election form], you will be automatically enrolled in the Plan starting with your first paycheck in 2008. This means that amounts will be taken from your pay and contributed to the Plan. For pay during 2008, these automatic contributions will be [ ]% of your eligible pay each pay period. But, you can choose a different amount. You can choose to contribute more, less, or even nothing.*

Keep in mind that the Company will contribute one dollar for each dollar you contribute, up to [ ]% of your eligible pay. [The Company will also match [ ] cents for each dollar you contribute above [ ]% up to [ ]%. So, to get the most from these matching contributions, you must contribute at least [ ]% each pay period.

This notice gives you important information about some Plan rules, including the Plan's automatic enrollment feature and Company matching contributions. The notice covers these points:

- Whether the Plan's automatic enrollment feature applies to you;
- What amounts will be automatically taken from your pay and contributed to the Plan;
- What other amounts the Company will contribute to your Plan account;
- How your Plan account will be invested;

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- When your Plan account will be vested (that is, not lost should you leave your job), and when you can get your entire Plan account; and
- How you can change your plan contributions.

You can find out more about the Plan in another document, the Plan's Summary Plan Description (SPD).

### **1. Does the Plan's automatic enrollment feature apply to me?**

*[For plans that enroll existing employees]* The Plan's automatic enrollment feature will not apply to you if you already elected (by [using the website [www.401kplan.com](http://www.401kplan.com)] [or turning in a [ ] Form to the Plan Administrator]) to make contributions to the Plan or to not contribute. If you made an election, your contribution level will not change. But, you can always change your contribution level by [using the website [www.401kplan.com](http://www.401kplan.com)] [or turning in another contribution form].

*[For plans that enroll only new employees]* The Plan's automatic enrollment feature will only apply to employees that qualify for enrollment after January 1, 2008. When you qualify you may elect a contribution level or elect not to contribute [using the website [www.401kplan.com](http://www.401kplan.com)] [or turning in a [ ] Form to the Plan Administrator]

If you have not elected a contribution level, you will be enrolled in the Plan with your first paycheck in 2008 or later depending on when you qualify. This means money will be automatically taken from your pay and contributed to your Plan account. If you do not want to be enrolled, you need to [use the website [www.401kplan.com](http://www.401kplan.com)] [or turn in the enclosed contribution form to the Plan Administrator] by [ ].

### **2. If I do nothing, how much will be taken from my pay and contributed to the Plan?**

If you do not [using the website [www.401kplan.com](http://www.401kplan.com)] [or turn in a completed contribution form] by [ ], [ ]% of your eligible pay for each pay period will be taken from your pay and contributed to the Plan. This will start with your first paycheck in 2008 and continue through the end of 2009. After 2009, your contribution level will increase by [ ]% each year (unless you choose a different level), until it reaches [ ]% of your eligible pay. To learn more about the Plan's definition of eligible pay, you can review the "[ ]" section of the Plan's SPD.

Contributions will be taken out of your pay if you do nothing. But you are in charge of the amount that you contribute. You may decide to do nothing and become automatically enrolled, or you may choose to contribute an amount that better meets your needs. For example, you may want to get the full amount of the Company's matching contributions by contributing at least [ ]% of your eligible pay. You can change your contributions by [using the website [www.401kplan.com](http://www.401kplan.com)] [or turning in a new contribution form to the Plan Administrator at the address listed at the end of this notice].

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If you want to contribute more to your account than would be provided automatically, there are limits on the maximum amount. These limits are described in the “[ ]” section of the Plan’s SPD.

**3. In addition to the contributions taken out of my pay, what amounts will the Company contribute to my Plan account?**

Besides contributing the amounts taken from your pay, the Company will make other contributions to your Plan account. The Company will match, on a dollar-for-dollar basis, the first [ ]% of eligible pay you contribute each pay period. The Company will also match [ ] cents for each dollar you contribute between [ ]% and [ ]% of your eligible pay each pay period. These matching contributions will be made if you are automatically enrolled or if you choose your own contribution level.

The Company’s matching contributions depend on the amount you contribute out of your pay each pay period.

*[Note: Adjust amounts in examples below to reflect the rates used in the plan]*

*For example: If you earn \$2,000 in eligible pay during a pay period and you contribute 6% of your pay, the Company will deduct \$120 from your pay for the pay period (that is, 6% x \$2,000).*

*The \$120 will be put in your Plan account. The Company will also make matching contributions to your Plan account of \$70 for the pay period. In other words, the Company will make a dollar-for-dollar matching contribution on your contributions up to 1% of eligible pay (100% of 1% x \$2,000, or \$20) plus a 50¢-per-dollar matching contribution on your contributions between 1% and 6% of eligible pay (50% of 5% x \$2,000, or \$50). Or, if you contribute 3% of your eligible pay for the pay period, the Company will take \$60 out of your pay and put it in your Plan account, and will also make \$40 in matching contributions for the pay period. Or, if you choose not to contribute to the Plan for a pay period, you will get no matching contributions for the pay period.*

Remember, you can always change the amount you contribute to the Plan by [using the website [www.401kplan.com](http://www.401kplan.com)] [or turning in a new contribution form].

**4. How will my Plan account be invested?**

The Plan lets you invest your account in a number of different investments. Unless you choose a different investment, your Plan account will be invested in the [ ], a description of which is available from the Plan Administrator at the address listed at the end of this notice..

If you have already made investment selections and would like to use the [ ] instead, you may [use the website [www.401kplan.com](http://www.401kplan.com)] [or complete the [ ] form] to withdraw all earlier elections and your plan account will be invested in the [ ].

If you select another amount to contribute to the plan you may omit an investment election and your plan account will be invested in the [ ].

If an investment that you previously selected is removed from the plan, any money you had in that investment(s) will be transferred into the [ ].

*[Note to plan sponsors: In order for the Plan's default investment to satisfy section 404(c)(5) of ERISA, the default investment must be a qualified default investment alternative ("QDIA") under DOL Reg. § 2550.404c-5. You must describe the Plan's QDIA, including its investment objectives, risk and return characteristics, and fees and expenses, and must describe other circumstances, if any, under which assets may be invested in the QDIA.]*

You can change how your Plan account is invested, among the investments offered by the Plan's , by [using the website [www.401kplan.com](http://www.401kplan.com)] [or turning in the enclosed [ ] Form to the Plan Administrator].

*[Note to plan sponsors: In order for the Plan's default investment to satisfy section 404(c)(5) of ERISA, you must describe any restrictions, fees, or expenses that apply when participants or beneficiaries transfer assets from the QDIA to other investment funds.]*

To learn more about the Plan's investments and procedures for changing how your Plan account is invested you can review the "[ ]" section of the Plan's SPD. Also, you can [use the website [www.401kplan.com](http://www.401kplan.com)] [or contact the Plan Administrator using the contact information at the end of this notice].

#### **5. When will my Plan account be vested and available to me?**

Your own contributions into the Plan will always be fully vested. . Matching contributions will also be fully vested when you complete two years of service. To be fully vested in Plan contributions means that the contributions (together with any investment gain or loss) will always belong to you, and you will not lose them should you leave your job. For more information about years of service, you can review the "[ ]" section of the Plan's SPD.

Even if you are vested in your Plan account, there are limits on when you may withdraw your funds. These limits may be important to you in deciding how much, if any, to contribute to the Plan. Generally you may only withdraw vested money after you leave your job, reach age 59-1/2, or become disabled. Also, there is generally an extra 10% tax on distributions before age 59-1/2.

Your beneficiary can get any vested amount remaining in your account when you die.

*[Applicable for plans with loans and hardship withdrawal features] You also can borrow certain amounts from your vested Plan account, and may be able to take out certain vested money if you have a hardship. Hardship distributions are limited to the dollar amount of your contributions. They may not be taken from earnings or matching contributions. Hardship distributions must be for a specified reason - for qualifying*

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medical expenses, costs of purchasing your principal residence (or preventing eviction from or foreclosure on your principal residence, or repairing qualifying damages to your principal residence), qualifying post-secondary education expenses, or qualifying burial or funeral expenses. Before you can take a hardship distribution, you must have taken other permitted withdrawals and loans from qualifying Company plans. If you take a hardship distribution, you may not contribute to the Plan or other qualifying Company plans for 6 months.

You can learn more about the Plan's hardship withdrawal and loan rules in the "[ ]" and "[ ]" sections of the Plan's SPD. You can also learn more about the extra 10% tax in IRS Publication 575, Pension and Annuity Income.

#### **6. Can I change the amount of my contributions?**

You can always change the amount you contribute to the Plan. If you know now that you do not want to contribute to the Plan (and you haven't already elected not to contribute), you will want to [use the website [www.401kplan.com](http://www.401kplan.com)] [or turn in a contribution form] electing zero contributions by [ ]. That way, you avoid any automatic contributions.

But, if you do not [use the website [www.401kplan.com](http://www.401kplan.com)] [or turn in the form] in time to prevent automatic contributions, you can withdraw the automatic contributions for a short time, despite the general limits on Plan withdrawals. During the 90 days after automatic contributions are first taken from your pay, you can withdraw the prior automatic contributions by [using the website [www.401kplan.com](http://www.401kplan.com)] [or turning in a [ ] Form to the Plan Administrator].

The amount you withdraw will be increased or lowered for any gain or loss. If you take out your automatic contributions, you lose the matching contributions made because of the automatic contributions. Also, your withdrawal will be subject to federal income tax (but not the extra 10% tax that normally applies to early distributions). If you take out automatic contributions, the Company will treat you as having chosen to make no further contributions. However, you can always choose to continue or restart your contributions by [using the website [www.401kplan.com](http://www.401kplan.com)] [or turning in a contribution form].

If you have any questions about how the Plan works or your rights and obligations under the Plan, or if you would like a copy of the Plan's SPD or other Plan documents, please contact the Plan Administrator at:

[Plan administrator name]

[Address] [Telephone number]

[Email address]

## APPENDIX D - GENERAL FIDUCIARY PRACTICES CHECKLIST

1. Do plan documents provide for the use of a QDIA?
2. Is the plan sponsor aware of their fiduciary duties associated with the evaluation, selection, and monitoring of the QDIA?
3. Is there any indication that the provider of the QDIA is involved in self-dealing, prohibitive transactions, and/or conflicts of interest?
4. Does the advisor's services agreement cover advice associated with the QDIA?
5. Does the QDIA clearly define an investment time horizon?
6. Does the QDIA clearly define a level of risk?
7. Does the QDIA clearly define an expected, modeled return?
8. Are the QDIA's asset classes consistent with the identified risk, return, and time horizon?
9. Is the plan sponsor's IPS sufficiently detailed to define, implement, and manage each QDIA?
10. Can the plan sponsor demonstrate the due diligence process that was followed in the selection of the QDIA?
11. Is the plan sponsor meeting all QDIA "safe harbor" requirements (30-day notice; provided QDIA details, ability to opt out within 30-days without financial penalty)?
12. Is the QDIA consistent with the plan sponsor's implementation and monitoring constraints?
13. Can the record keeper properly administer the QDIA?
14. Is the plan sponsor receiving appropriate performance reports on the QDIA (see following worksheets)?
15. Does the plan sponsor monitor organizational changes that may affect the QDIA provider?
16. Has the plan sponsor documented an analysis of all the fees associated with the QDIA?
17. Is the plan sponsor aware of all parties that are being compensated by QDIA revenue?
18. Does the plan sponsor review the effectiveness of the QDIA on, at least, an annually.

## APPENDIX E -SAMPLE QDIA SELECTION WORKSHEET

### FRAMEWORK

Under the Pension Protection Act of 2006 and rules promulgated by the Department of Labor, a plan participant, who does not give investment directions, will be treated as exercising control over his or her account with respect to assets that the plan invests in a qualified default investment alternative (QDIA).

A fiduciary of a 401(k) plan that meets the conditions of the regulation, 404c-5, shall not be liable for any loss, that is the direct and necessary result of investing all or part of a participant's account in a QDIA, or of investment decisions made in connection with the management of a QDIA. The scope of this relief is the same as that extended to plan fiduciaries in connection with carrying out investment directions of plan participants of an "ERISA section 404(c) plan", although it is not necessary for a plan to be an ERISA section 404(c) plan in order for the fiduciary to obtain the relief accorded by this regulation.

### QDIA NEEDS ASSESSMENT

Plan Name: \_\_\_\_\_

Plan Type: \_\_\_\_\_

		All Employees	Participants	Non-Participants
<b>Total</b>	Number of Employees			
	Assets in Plan			
	Participation Rate			
<b>Averages</b>				
<b>Averages</b>	Average age (est.)	<input type="checkbox"/> 60+ <input type="checkbox"/> 50-59 <input type="checkbox"/> 40-49 <input type="checkbox"/> 30-39 <input type="checkbox"/> Under 30		
	Average income (est.)	<input type="checkbox"/> \$100,000+ <input type="checkbox"/> \$75,000-\$99,999 <input type="checkbox"/> \$50,000-\$74,999 <input type="checkbox"/> \$25,000-\$49,000 <input type="checkbox"/> Under \$25,000		
	Average Balance			
	Contribution Rate			
<b>Targets</b>				
<b>Targets (See next page)</b>	Target Balance			
	Contribution Rate			
	Participation Rate	95%	100%	-5%
<b>Targets minus Average</b>				
<b>Targets minus Average</b>	Plan Balance			
	Contribution Rate			
	Participation Rate			

## COMPUTING TARGET CONTRIBUTION RATE

The target contribution rate is the lower of the:

- Maximum permitted for the plan
- Nominal rate as computed below.

First determine the target participant balance from the table below.

Then multiply the plan's average contribution rate by this target balance and divide the result by the average participant balance.

### Nominal Rate Formula

$$\text{Nominal Rate} = \frac{\text{Average Rate} \times \text{Target Balance}}{\text{Average Balance}}$$

The result is the nominal contribution rate for the plan.

## TARGET PARTICIPANT BALANCE<sup>1</sup>

Average Employee Income	Average Age of Employees				
	60 +	50 - 59	40 - 49	30 - 39	Under 30
\$100,000 +	\$3,597,075	\$1,565,105	\$323,891	\$114,151	\$22,344
\$75,000 - \$99,999	\$2,865,467	\$1,246,778	\$258,014	\$90,934	\$14,391
\$50,000 - \$74,999	\$2,032,246	\$884,240	\$182,989	\$64,492	\$12,624
\$25,000 - \$49,999	\$1,219,347	\$530,554	\$109,793	\$38,695	\$7,574
Under \$25,000	\$650,319	\$282,957	\$58,556	\$20,637	\$4,040

<sup>1</sup> Target participant balance is based on 45-year history of investment returns, inflation and required contribution rates to produce a replacement of 80% of income for life. See DALBAR's 2003 Quality versus Quantity report for details of methodology.

## SELECTION OF QDIA TYPE

The most suitable type of QDIA for a plan depends primarily on the dispersion or clustering of income<sup>2</sup> and age in the employee base:

1. Life-cycle or Target Date Fund or Model Portfolio<sup>3</sup> when:
  - Employee ages are widely dispersed and;
  - Employee incomes\* are clustered
2. Balanced Fund<sup>4</sup> when:
  - Employee ages and incomes are clustered
3. Managed Account<sup>5</sup> when:
  - Employee ages and incomes are dispersed
4. Other<sup>6</sup> when:
  - Other considerations are shown to be prudent.

The decision of the type of QDIA is most suitable requires estimating or calculating the clustering of age and income segments in the employee base. The following table may be used for making and documenting this assessment.

---

<sup>2</sup> Income is used as a proxy for employee demographics

<sup>3</sup> Investment fund product or model portfolio that is designed to provide varying degrees of long-term appreciation and capital preservation through a mix of equity and fixed income exposures based on the participant's age, target retirement date (such as normal retirement age under the plan) or life expectancy.

<sup>4</sup> Investment fund product or model portfolio that is designed to provide long-term appreciation and capital preservation through a mix of equity and fixed income exposures consistent with a target level of risk appropriate for participants of the plan as a whole.

<sup>5</sup> Investment management service with respect to which an investment manager allocates the assets of a participant's individual account to achieve varying degrees of long-term appreciation and capital preservation through a mix of equity and fixed income exposures, offered through investment alternatives available under the plan, based on the participant's age, target retirement date (such as normal retirement age under the plan) or life expectancy.

<sup>6</sup> Regulation should not be construed to indicate that the use of investment alternatives not identified in the proposed regulation as qualified default investment alternatives would be imprudent.

### AGE & INCOME CLUSTERING ASSESSMENT

Clustering exists when two adjacent segments represent more than 50% of the total employee base. Enter the following in the table below:

- **Representation in Employee Base:** Estimated percentage of employees in each age and income segment listed.
- **Clustered Segments:** Two largest adjacent segments of age and of income.
- **Cluster Size:** Sum of the percentages of the two segments entered in "Clustered Segments".

Segments		Representation in Employee Base	Clustered Segments	Cluster Size
Age Segments	% 60 +			
	% 50 - 59			
	% 40 - 49			
	% 30 - 39			
	% Under 30			
Income Segments	% \$100,000+			
	% \$75,000 - \$99,999			
	% \$50,000 - \$74,999			
	% \$25,000 - \$49,000			
	% Under \$25,000			

	Type	Recommended QDIA Type and Rationale for Choice	Special Considerations
1	Life-cycle or Target Date Fund or Model Portfolio		
2	Balanced Fund		
3	Managed Account		
4	Other		

## SAMPLE SUITABILITY RFP FOR QDIA

Advisers use the responses from this RFP to perform assessment as described above.

Pre-qualified providers of the appropriate type of QDIA are invited to respond to these questions. This is in addition to the investment results and other data required to evaluate the underlying investments and asset allocation.

Item	Response
What is the estimated annual cost of your QDIA with assets of ( <i>adviser to make estimate for this plan</i> )?	
What process is in place for participants to elect another investment option?	
What process is in place to deliver QDIA notice to participants?	
Please provide a sample QDIA notice you recommend for use with employees.	
Can your QDIA be transferred as quickly as plan investments?	
Does your QDIA permit use of employer securities outside of exceptions for registered investment companies and employer match?	
Are there restrictions or fees to transfer out of your QDIA?	
Does the QDIA manager(s) qualify as a registered investment company or an ERISA Section 3(38) investment manager?	
Please provide a recent listing of portfolio contents of your QDIA.	

**EVALUATION BASED ON DOL GUIDELINES**

(Complete this section for each QDIA being Evaluated)

<b>Name of QDIA Being Evaluated:</b>			
<b>DoL Guideline</b>	<b>Test Performed</b>	<b>Result</b>	<b>Comments</b>
<b>Conditions for the Fiduciary Relief</b>			
Consider investment fees and expenses in choosing a QDIA	Is cost of this QDIA reasonable for a plan of this size?		
Participant has the opportunity to direct the investment	Is there a process in place for participants to elect another investment option?		
Participant is furnished a [QDIA] notice in advance.	Is there a process to deliver notice to participants?		
Material is provided to participant relating to his/her QDIA.	Is material appropriate for participants in this plan?		
Participant has opportunity to transfer assets out of QDIA.	Can QDIA be transferred as quickly as plan investments?		
Participant has a choice of a broad range of investment alternatives.	Does plan have access to typical range of investments?		
Notice must be written in a manner calculated to be understood by the average plan participant.	Can participants in the plan be reasonably expected to understand a sample notice <sup>7</sup> ?		

<sup>7</sup> Sample notice is requested by the adviser for each QDIA being evaluated.

<b>Name of QDIA Being Evaluated:</b>			
<b>DoL Guideline</b>	<b>Test Performed</b>	<b>Result</b>	<b>Comments</b>
<b>Notice must contain:</b>			
Circumstances when QDIA will be used, % of contribution and right to change %.	Does sample notice contain this?		
QDIA description including investment objectives, risk and return characteristics, and fees and expenses.	Does sample notice contain this?		
Right to direct investment to any other investment alternative, without financial penalty.	Does sample notice contain this?		
Source for investment information concerning the other investment alternatives.	Does sample notice contain this?		
<b>QDIA Requirements</b>			
QDIA shall not permit employer securities except as investments within regulated investment companies or as employer match.	Does QDIA permit use of employer securities outside of the exceptions?		
QDIA may not impose financial penalties or restrict the ability of a participant to transfer.	Are there restrictions or fees to transfer out of this QDIA?		
QDIA manager must be section 3(38), trustee, plan sponsor or RIC.	Do this QDIA manager(s) qualify?		
QDIA must be diversified so as to minimize the risk of large losses.	Is QDIA diversified?		

## INVESTMENT ANALYSIS

Name of QDIA Being Evaluated:					
Field	fi360 Threshold	QDIA Threshold	Step 2	Step 3	Step 4
<b>1. Minimum track record</b>					
	Each investment option should have at least three years of history.	The average history for each underlying asset class investment strategy should be at least three years.			
<b>2. Stability of the organization</b>					
	The same portfolio management team should be in place for at least two years.	The average tenure of the portfolio management team for each underlying asset class investment strategy should be at least two years.			
<b>3. Assets in the product</b>					
	Each investment option should have at least \$75 million under management (for mutual funds - can include assets in related share classes).	The average underlying asset class investment strategy should have at least \$75 million under management (can include assets in other funds with the same strategy).			
<b>4. Holdings consistent with style</b>					
	At least 80% of the underlying securities should be consistent with the broad asset class.	Two separate evaluations: (1) The allocation to equities should be evaluated against the peer group - highest allocation to least - the screening threshold being set at the bottom quartile; (2) The allocation to fixed income should be evaluated against the peer group - highest allocation to least - the screening threshold being set at the at the bottom quartile.			



Name of QDIA Being Evaluated:					
Field	fi360 Threshold	QDIA Threshold	Step 2	Step 3	Step 4
<b>5. Correlation to style or peer group</b>					
	Each investment option should be highly correlated to the asset class being implemented.	The number of asset classes that make up the QDIA should be evaluated against the peer group - most asset classes to least - the screening threshold being set at the peer group median.			
<b>6. Expense ratios/fees</b>					
	Fees should not be in the bottom quartile (most expensive) of the peer group.	Two separate evaluations: (1) The wrapper expense should be evaluated against the peer group - cheapest to most expensive - the screening threshold being set at the bottom quartile. (2) The average expense ratio of each underlying asset class investment strategy should be evaluated against the peer group - cheapest to most expensive - the screening threshold being set at the bottom quartile.			
<b>7. Performance relative to assumed risk</b>					
	Risk-adjusted performance (Alpha and/or Sharpe Ratio) should be evaluated against the peer group median manager's risk-adjusted performance.	Two separate evaluations: (1) The risk-adjusted performance (Alpha and/or Sharpe Ratio) of the QDIA should be evaluated against the peer group median; (2) The average risk-adjusted performance of each underlying asset class investment strategy should be evaluated against the peer group's median.			



Name of QDIA Being Evaluated:					
Field	fi360 Threshold	QDIA Threshold	Step 2	Step 3	Step 4
<b>8. Performance relative to a peer group</b>					
	Each investment option's performance should be evaluated against the peer group's median manager return, for 1-, 3- and 5-year cumulative periods.	Two separate evaluations: (1) The QDIA's 1-, 3-, and 5-year performance should be evaluated against the peer group median; (2) The average 1-, 3-, and 5-year performance of each asset class investment strategy should be evaluated against the peer group's median.			