



Legal Alert: DOL Guidance Clarifies Issues Relating to QDIA Regulation

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The Department of Labor (DOL) has issued guidance providing clarification on certain aspects of its 2007 Qualified Default Investment Alternatives (QDIA) regulation. The QDIA regulation is part of the DOL's regulation under Section 404(c) of ERISA. Section 404(c) relieves plan fiduciaries from certain responsibilities and liabilities when participants direct the investment of their plan accounts. When a plan participant fails to provide such direction, the fiduciary is still entitled to Section 404(c) relief if the participant's account is invested in a designated "default" investment, provided that the QDIA regulation is followed.

In the six months since publication of the QDIA regulation, however, a number of questions have arisen regarding the scope and meaning of various provisions of the regulation. The guidance, Field Assistance Bulletin 2008-03, is structured in a question and answer format and responds to many of the most frequently asked questions.

The Bulletin addresses the follow issues:

- Scope of the QDIA regulation, including its application to Section 403(b) plans;
- Details concerning both the substantive and procedural notice requirements of the regulation;
- The 90-day limitation on the imposition of fees and restrictions;
- Asset allocation and management of QDIA's;
- Use of a 120-day "capital preservation" QDIA; and
- Grandfather-type relief for pre-existing stable value funds.

If you have any questions regarding the Bulletin, the QDIA regulation or any other benefits related issue, please contact Jeffrey S. Ashendorf, a partner in our New York City office, at 212-453-5926 or jashendorf@fordharrison.com, or any member of Ford & Harrison's Employee Benefits practice group.