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Via e-mail to rule-comments@sec.gov

August 23, 2010

Ms. Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: Investment Company Advertising: Target Date Retirement Fund
Names and Marketing (File No. S7-12-10)

Dear Ms. Murphy:

The Investment Company Institute¹ appreciates the opportunity to provide its views on the Securities and Exchange Commission's recent proposal to require certain disclosures in target date fund marketing materials.² On behalf of our members, which are entrusted with the retirement savings of 45 million U.S. households, the Institute has been, and continues to be, committed to working with the Commission, the Department of Labor (DOL) and others to assure that the interests of target retirement date fund investors are protected and that their understanding of these useful investment products is enhanced.³ Clear and concise marketing materials that present information in an effective format will help to achieve this goal. We therefore strongly support the spirit and core of the

¹ The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of the ICI manage total assets of \$11.18 trillion and serve almost 90 million shareholders.

² See SEC Release Nos. 33-9126; 34-62300; IC-29301 (June 16, 2010), 75 FR 35920 (June 23, 2010) (hereinafter referred to as "Release" or "Proposal"). We are using the term "marketing materials" in this letter to refer both to advertisements under Rule 482 and sales literature under Rule 34b-1. Rule 156 applies to advertisements and sales literature.

³ See *Statement of Karrie McMillan, General Counsel, Investment Company Institute, at the Target Date Fund Joint Hearing Before the Department of Labor and Securities and Exchange Commission*, (June 18, 2009) ("Institute Testimony"), available at http://www.ici.org/trdf/testimony/091_target_fund_tmny; *Submission of the Investment Company Institute on Target Retirement Date Funds*, (July 20, 2009) (supplementing the Institute Testimony), available at http://www.ici.org/trdf/testimony/09_target_fund_supp_tmny. See also the Institute's resource page on target retirement date funds, available at <http://www.ici.org/trdf>.

Commission's proposal that focuses on communicating key pieces of information about target date funds to investors and uses a glide path illustration to convey the information and allow comparisons among funds.

Many of our recommendations on the Proposal are derived from extensive work that the Institute has conducted⁴ regarding mutual fund disclosure and Institute members have conducted regarding the effectiveness of target date fund marketing materials. Most recently, these efforts culminated in the publication of *Principles to Enhance Understanding of Target Date Funds*.⁵

In the Proposal, the Commission asked a number of questions regarding whether the proposed requirements should be more detailed and also proposed that a tag line follow the first use of the fund's name. As explained in more detail below, we urge the Commission not to adopt measures that would overly prescribe the content of fund marketing materials. Rather, we urge the Commission to continue its long-standing practice of not dictating the specific content of funds' marketing materials.

I. Introduction and General Comments

Target date funds are an important innovation used in defined contribution plans and other individual retirement account savings vehicles. At the end of March 2010, target date mutual funds had \$281 billion in assets, including \$184 billion held in defined contribution plans, and another \$52 billion held in IRAs.⁶ In 401(k) plans that offer target date funds, 42 percent of participants had at least some portion of their account in these funds.⁷ To put these statistics in perspective, about 7

⁴ See, e.g., *Understanding Investor Preferences for Mutual Fund Information*, Investment Company Institute (2006), available at http://www.ici.org/pdf/rpt_06_inv_prefs_full.pdf; and *Shareholder Assessment of Risk Disclosure Methods*, Investment Company Institute (Spring 1996), available at http://www.ici.org/pdf/rpt_riskdiscl.pdf.

⁵ The Institute's working group, ICI Target Date Fund Disclosure Working Group, included representatives from a broad range of member firms, representing more than 90 percent of target date mutual fund assets. The Working Group reviewed existing disclosures applicable to target date funds, determined that the public's understanding of target date funds could be enhanced by identifying key pieces of information that should be prominently conveyed by target date funds, and developed *Principles to Enhance Understanding of Target Date Funds* (ICI Principles) that spell out this key information and provide an illustration of sample disclosure. A copy of the ICI Principles is available at http://www.ici.org/pdf/ppr_09_principles.pdf.

⁶ See *The U.S. Retirement Market, First Quarter 2010*, ICI Fundamentals, vol. 19, no. 3-Q1, available at www.ici.org/pdf/fm-v19n3-q1.pdf.

⁷ In an ongoing collaborative effort, the Employee Benefit Research Institute and the Investment Company Institute collect annual data on millions of 401(k) plan participants as a means to accurately portray how these participants manage their accounts. The EBRI/ICI database includes data on target date funds offered as mutual funds, collective investment trusts, and other investment vehicles. The EBRI/ICI 401(k) database is the largest, most representative repository of information about individual 401(k) plan participant accounts. As of December 31, 2008, the EBRI/ICI 401(k) database included statistical information about 24.0 million 401(k) participants, in 54,765 employer-sponsored 401(k) plans, holding \$1.092 trillion in assets. See *401(k) Plan Asset Allocation, Account Balances, and Loan Activity in 2008*, ICI Perspective, vol. 15, no. 2, and EBRI Issue Brief, no. 335, available at www.ici.org/pdf/per15-02.pdf.

percent of total assets in 401(k) plans in the EBRI/ICI 401(k) database were in target date funds at the end of 2008.

Target date funds provide an efficient way for an investor to invest in a mix of asset classes through a single fund that rebalances its portfolio to become less focused on growth and more focused on income over time. Research confirms that asset allocation is one of the most important factors in long-term portfolio performance. Target date funds invest in multiple asset classes, ranging from domestic and international stocks to corporate and government bonds and cash. To achieve the same benefits with a self-managed portfolio, an investor would have to select and monitor a number of individual funds and regularly transfer money between them. Target date funds also are designed to avoid the extreme asset allocations observed in some retirement accounts. Research shows that, left to their own direction, some young workers invest very conservatively, by allocating all, or almost all, of their accounts to fixed income investments, while some participants nearing retirement invest very aggressively, allocating all, or almost all, of their accounts to equity investments.⁸ Target date funds follow professionally designed asset allocation models to eliminate such extremes.

The Proposal derives from a concern about the degree to which 401(k) plan participants and other investors understand target date funds.⁹ The Proposal addresses this concern by requiring enhanced disclosure in target date fund marketing materials. We agree that it is important that employers selecting target date funds for plan menus, and 401(k) plan participants and IRA investors selecting target date funds for their retirement investments, understand the key features of the funds. The Commission, however, should not start down the path of having detailed and prescriptive requirements for investment company marketing materials.

The Commission's long-standing framework for regulating mutual fund advertising works well. Rules 156 and 482 under the Securities Act of 1933 and Rule 34b-1 under the Investment Company Act of 1940 primarily govern investment company advertising.¹⁰ Each of these rules provides general

⁸ See *401(k) Plan Asset Allocation, Account Balances, and Loan Activity in 2008*, ICI Perspective, vol. 15, no. 2, and EBRI Issue Brief, no. 335, *supra*.

⁹ As we testified at the June 18th 2009 joint hearing of the Commission and the DOL, we share that concern. At the same time, we take exception with a survey presented at the hearing (that purports to evaluate investors' understanding of target date funds) and that the Commission cites in the Release. See Release at note 37. We have carefully studied information available about the survey and the reporting of the results by the hearing witness and caution the Commission from drawing conclusions based on this study. The survey was conducted online and covered a very small sample of respondents. Respondents were not exposed to the usual participant education that retirement savers receive and *were not given the actual disclosure material of any specific target retirement date fund*. Instead, they received a composite of pieces of the written materials of three leading providers of target retirement date funds, omitting some material information that funds provide. We therefore believe that this research should not be used to properly evaluate the understanding of this product by *actual* target retirement date fund investors.

¹⁰ Investment companies also are permitted to use generic advertisements under Rule 135a under the Securities Act. Generic advertisements are advertisements which do not specifically refer by name to the securities of a particular investment company or the investment company itself, and are limited in the information they may provide, such as

standards for advertising (supplemented by specific requirements for performance advertising). The design of the advertising rules was not accidental. The advertising rules were preceded by a Commission Statement of Policy (Statement) on investment company marketing material, which was very detailed and prescriptive.¹¹ The Statement contained guidelines designed to help investment companies avoid preparing marketing materials considered false and misleading by the Commission. After administering the Statement for a number of years, however, the Commission questioned its usefulness. In responding to the Commission's request for comment on the matter, the investment company industry stated that the Statement inhibited the use of more helpful and understandable presentations; some provisions were outdated and no longer meaningful; other provisions were too restrictive; and others contained boiler plate language which could be vastly simplified.

Following its own review and its consideration of the industry's views, the Commission withdrew the Statement:

The Statement was intended merely to provide some guidance to the public about what the Commission and the staff thought might be misleading in investment company sales literature. It explicitly neither prescribes the content of sales literature nor proscribes presentations which are not covered by the Statement provided that they are not misleading. Nevertheless, in practice the Statement has taken on the character of a comprehensive and mandatory rule. Investment companies have tended to restrict sales literature to formats explicitly approved in the Statement or, if they wished to deviate from those formats, to seek prior staff approval. ... [T]he staff has experienced significant burdens in administering the Statement.... [In addition], the Statement has operated to limit the flexibility of investment companies in advertising. Yet, at the same time, some may have been led to believe that the use of a format which is included in the Statement or the failure of the staff to object to a particular representation created a "safe harbor." The Commission does not believe that the problems with the Statement can be resolved.... [T]he Commission believes that the fundamental responsibility for protecting investors from misleading sales literature resides with those who prepare and use it."¹²

In addressing target date fund marketing materials, the Commission should not undo the current successful framework of the investment company advertising rules by singling out the marketing materials of a segment of the investment company industry for different treatment based on investment objective and type of investor. Taking this approach is a "slippery slope" that may lead the

explanatory information relating to securities of investment companies generally. The Proposal does not apply to these advertisements, and they are not the subject of our comment letter.

¹¹ See Investment Company Act Release No. 1503 (August 14, 1950), 1950 SEC LEXIS 30.

¹² See Investment Company Act Release No. 10621 (March 8, 1979) (1979 LEXIS 2024). See also Investment Company Act Release No. 26195 (September 29, 2003), 68 FR 57760, 57762 (October 6, 2003) (where the Commission added a note to each of Rule 482 and 34b-1 stating that compliance with the rule does not relieve the fund, underwriter or dealer of any obligations with respect to the advertisement under the antifraud provisions of the federal securities laws).

Commission to develop discrete sets of detailed disclosure requirements tailored for the marketing materials of other types of investment companies based on *their* investment objectives and shareholder base. Regulating investment company advertising in this manner would not be a wise allocation of the Commission's scarce resources and potentially would stifle continued refinement and innovation of marketing materials by the investment company industry. Such an approach to regulating marketing material also would place an enormous burden on the Financial Industry Regulatory Authority (FINRA), the organization responsible for reviewing investment company marketing materials.¹³

Our comments on the Proposal include the following, all of which are discussed in greater detail below.

- The Commission should clarify the marketing material to which the proposed new requirements apply.
- The glide path illustration is the most effective way to communicate the features of a target date fund to investors and is the most important element of the Commission's proposal because it presents all the information about changing asset allocation at a glance.
- The glide path should highlight asset allocation at the fund's target date and landing point. The Commission should eliminate the proposed tag line asset allocation disclosure requirement. The proposed tag line is not necessary, because it focuses on only one key feature, and likely will confuse, rather than enlighten, target date fund investors.
- We agree that the Commission should provide funds with flexibility in illustrating asset allocations by permitting the use of ranges and not prescribing the asset classes.
- The Commission should reexamine the proposed approach of requiring target date funds to disclose the percentage of assets allocated to types of *securities* as opposed to types of *funds*.
- The Commission should eliminate requirements for disclosing actual asset allocations for marketing materials relating to a single target date fund.
- We support the Commission's narrative disclosure, modified in several respects, including that the Commission not apply all of the narrative disclosure requirements to radio, television, or other similar modes of communication. Similarly, we support the Commission's approach of not applying the proposed illustration requirement to radio, television, or other similar modes of communication.

¹³ Most investment company marketing materials are prepared by FINRA member firms. NASD Rule 2210(a) defines "advertisements" and "sales literature" broadly to include among other materials, communications with the public through Web sites, newspapers, periodicals, radio or television. NASD Rule 2210(c)(2) requires investment companies to file marketing materials with FINRA for review within ten days of first use. FINRA reviews that marketing material for compliance with FINRA and Commission rules and may impose sanctions for violation of these requirements.

- We recommend that the Commission consider permitting marketing materials provided through an electronic medium to convey the required information by means of a “one-click away” approach.
- The Commission should not add further requirements to the final rule (beyond those proposed) or make changes to the fund name rule. Overly prescriptive requirements will impede, rather than enhance, investor understanding.
- The Commission should modify or, at a minimum, clarify the scope of the proposed amendments to Rule 156 to permit advertisements to state that target date funds make it easier for investors to invest for retirement, while not permitting advertisements to state that investing in any particular target date fund is a simple decision.
- The Commission should eliminate or revise the proposed amendments to Rule 156 with respect to emphasizing a single factor about a fund in order to address the potentially broad and unintended consequences of the provision on investment companies.
- The compliance date for any final rules should be refined and should apply to all of the proposed amendments.
- We agree that the Commission should not amend prospectus disclosure requirements for target date funds. We recommend, however, that the Commission consider providing target date funds the flexibility to use an integrated format for both the summary section of the statutory prospectus and the summary prospectus.
- We recommend that DOL impose similar rules on non-mutual fund target date funds and arrangements to assure that all retirement investors receive the same basic information about these important retirement savings vehicles.¹⁴

II. Content Requirements for Target Date Fund Marketing Materials

A. Scope of Proposal

None of the rules under the federal securities laws currently contain any requirements specific to target date fund marketing materials. Under the Proposal, marketing materials for target date funds would be subject to a number of new disclosure requirements. Our comments on the proposed new requirements are provided below.

The Proposal would apply to marketing material that places “a more than insubstantial focus” on one or more target date funds. According to the Release, this determination would be based on the

¹⁴ By separate letter, we will be sharing our comments on this proposal with DOL and urging the adoption of rules that are consistent with the Commission’s approach.

particular facts and circumstances.¹⁵ The Release asks if the “more than insubstantial focus” standard is sufficiently clear and whether the Commission should provide further guidance on facts and circumstances that would cause marketing materials to be considered to place a more than insubstantial focus on one or more target date funds.

We are not aware of any precedent for use of the phrase “more than insubstantial focus” in the federal securities laws or elsewhere. Given that and how broadly the federal securities laws define materials that are “advertisements,”¹⁶ we believe that this aspect of the Proposal will lead to unfortunate unintended consequences.

If this part of the Proposal is adopted, FINRA staff likely will, under a literal reading of a newly adopted Commission rule, apply all of the Proposal’s requirements to any filed piece of target date fund material that mentions the name of a target date fund. For example, FINRA presumably might apply the new requirements to each document in a retirement plan participant’s enrollment kit. This enrollment kit may contain a list of target date funds available to plan participants (and other plan investment options) along with generic information about investing and a series of other documents. (Other documents in the enrollment kit may include a fact sheet and a prospectus.)¹⁷ Such a broad application of the Proposal to materials provided to retirement plan participants would be unnecessary to achieve the Commission’s goals, time consuming for funds to prepare and FINRA staff to review.¹⁸

We have not been able to identify other terminology that would achieve the Commission’s goal while not capturing an unnecessarily broad range of materials. The Commission could require in any final rule that the fund would be considered to be in compliance if, at a minimum, one of the

¹⁵ The Release states that materials that relate exclusively to one or more target date funds would be covered. Also, materials that cover a broad range of funds, such as a bound volume of fact sheets that include target date funds or a Web site that includes Web pages for target date funds, would be covered. However, materials that may not be primarily focused on marketing target date funds to investors (*e.g.*, a complete list of each fund within a fund complex, together with its performance) would not be covered.

¹⁶ *See, generally*, Thomas A. Lemke, Gerald T. Lins, and A. Thomas Smith, *Regulation of Investment Companies* at p. 20-15 (generally speaking, every written communication made by a fund or underwriter with the intent of inducing any sale of fund shares must be filed with FINRA).

¹⁷ In addition, FINRA might apply any new requirements to initial and annual Qualified Default Investment Alternative (QDIA) notices required by DOL regulation under section 404(c)(5) of ERISA. The QDIA notice requires plan fiduciaries to inform employees of the default investment into which they will be invested if they fail to affirmatively select an investment option and should not be treated as marketing materials.

¹⁸ The Commission has not issued specific guidance on whether account statements that include performance information are sales literature. Whether an account statement with performance information is considered to be sales literature presumably would depend on the purpose for which such information is included. If including such information is designed to inform and update shareholders as to the status of their investment, it should not be considered to be sales literature. We seek confirmation that account statements for target date funds that include performance information for this purpose would not be sales literature subject to the Proposal’s requirements.

documents delivered in an enrollment kit or other set of materials delivered to retirement plan participants complies with the Proposal provided that this document is presented in a way reasonably calculated to draw investor attention.¹⁹

The Commission requests comment on whether the Proposal should cover any fund with a date in its name.²⁰ We believe this approach may be too broad. For example, certain target maturity date funds typically have a date in their name, use a mix of asset classes that change over time, and are designed to provide shareholders with their principal or the highest net asset value reached during the life of the fund at the target maturity date. Unlike target date funds that are marketed as retirement savings vehicles, however, these funds' asset allocations do not necessarily change over time based on an investor's age, target retirement date, or life expectancy. To avoid uncertainty in the application of any new requirements, we recommend that the Commission clarify, in any adopting release, whether these funds are covered by the Proposal.²¹ Another example of funds with a date in their names is funds used in 529 plans.²²

B. Target Date Tag Line Asset Allocation Disclosure

The Proposal would require a target date fund that includes a target date in its name to disclose, immediately adjacent to the first use of the fund's name, the percentage allocations of the fund among types of investments at the target date.²³ We strongly oppose this requirement. We are concerned that investors will place undue emphasis on a fund's target date asset allocation and be less likely to take into consideration other important information about the fund, including how the asset allocation evolves from the time the investor purchases the fund until the target date or landing point.²⁴ For example,

¹⁹ This issue would be resolved with respect to electronic communications if the Commission adopts our recommended one-click away approach. See *infra* at p. 15.

²⁰ Release at p. 19.

²¹ We understand that these funds cannot make reasonable estimations of the intended percentage allocations throughout the lives of the funds and therefore could not comply with the proposed requirements regarding glide path illustrations.

²² We note, however, that the Commission does not have the authority to regulate marketing materials relating to 529 plans. We would hope that, once the Commission revises its rules to address target date fund marketing materials, the Municipal Securities Rulemaking Board will consider adopting conforming amendments to its advertising rule, MSRB Rule G-21.

²³ The Proposal defines a "Target Date Fund" as an "investment company that has an investment objective or strategy of providing varying degrees of long-term appreciation and capital preservation through a mix of equity and fixed income exposures that changes over time based on an investor's age, target retirement date, or life expectancy." "Target Date" is defined as "any date, including a year, that is used in the name of a Target Date Fund or, if no date is used in the name of a Target Date Fund, the date described in the fund's prospectus as the approximate date that an investor is expected to retire or cease purchasing shares of the fund." We recommend that the Commission clarify that reinvestment of dividends would not be considered "purchasing fund shares" for purposes of this definition.

²⁴ Under the Proposal, Landing Point is defined as "the first date, including a year, at which the asset allocation of a Target Date Fund reaches its final asset allocation among types of investments."

while two funds from different complexes might have assets allocated identically at the target date (and therefore have identical tag lines), assets may be allocated very differently prior to, or after, the target date. These distinctions would not be apparent from the tag line disclosure. Further, for advertisements for funds within the same complex, the exact same asset allocation would appear for most, if not all, funds and therefore would not assist investors in distinguishing among those funds, because, regardless of the allocations during the preceding years, management's assessment of the appropriate target date allocation is likely to be constant for all funds. Finally, a tag line is unnecessary to alert investors to the existence of investment risk associated with the fund at and after the target date because, as discussed below, the Commission's proposal to require a table, chart, or graph would better communicate this information to investors. This illustration should be sufficient to dispel investor confusion over the use of a target date in a fund's name and would serve to alert investors to the existence of investment risk associated with the fund at and after the target date.²⁵ The recommended approach also has the benefit of avoiding elevating any one piece of information above other pieces of information.

We strongly believe that a glide path illustration is the most effective way to communicate the features of a target date fund to investors, thereby enhancing their understanding of the fund.²⁶ Institute research shows that shareholders prefer graphics and charts to narrative descriptions.²⁷ More than two-thirds of recent fund investors said financial documents that use graphics and charts to describe investments were more helpful than financial documents that have narrative descriptions of investments. The preference for graphics and charts is especially strong among shareholders who generally do not read, or read very little, of the prospectuses they receive. Among this group, nearly three-quarters said financial documents that use graphics and charts were more helpful than those that have narrative descriptions of investments. An earlier Institute study that focused on shareholders' assessment of risk disclosure methods also found that shareholders prefer graphic presentations to describe investments.²⁸ In that study, shareholders selected a graphic presentation as the method they most preferred for portraying a fund's level of risk. Shareholders indicated that a graphic presentation—in that instance, a bar chart of a fund's annual total return—simplified risk disclosure, was something they could use without further study, and provided the right amount of technical information.

²⁵ See discussion of fund names *infra* at p. 25.

²⁶ We believe the key information about target date funds should appear in the illustration, not, as discussed elsewhere in more detail, in a tag line or as part of a fund's name.

²⁷ See *Understanding Investor Preferences for Mutual Fund Information*, Investment Company Institute (2006), available at http://www.ici.org/pdf/rpt_06_inv_prefs_full.pdf.

²⁸ See *Shareholder Assessment of Risk Disclosure Methods*, Investment Company Institute (Spring 1996), available at http://www.ici.org/pdf/rpt_riskdiscl.pdf.

C. Table, Chart or Graph Requirement

The Commission has proposed to require that a print advertisement or an advertisement delivered through an electronic medium include a prominent table, chart, or graph clearly depicting the percentage allocations of the target date fund among types of investments (*e.g.*, equity securities, fixed income securities, and cash and cash equivalents) over the entire life of the fund, at identified periods that are not longer than five years, and also at the fund's inception date, the target date, and the landing point (hereinafter referred to as the "illustration requirement"). The Commission asks whether the proposed illustration requirement would be helpful for investors.

1. *The Glide Path Illustration Is Key to Enhancing Understanding of a Target Date Fund*

The key feature of *any* target date fund is its glide path – the asset allocation path that the fund follows to, and often through, the target date and until it reaches its final asset allocation at the landing point. First and foremost, the glide path illustration alerts the investor to the existence of the glide path and effectively communicates that the asset allocation is not static throughout the life of the fund. Rather, it will change over time, including near, and often after, the target date - until the landing point is reached.

Second, the glide path illustration presents the information about the changing asset allocation at a glance, allowing the investor both a short-term and long-term view of the fund's investment strategy. Significantly, the illustration also effectively distinguishes the target date point from the landing point (if the two points are different).²⁹ The investor typically will see that the target date is identified as a "retirement" point and that the landing point may either follow, or be the same as, the target date.³⁰ The illustration also communicates at a glance what happens to the asset allocations at these two points.³¹

²⁹ The Release asks whether there should be additional disclosure immediately adjacent to a target date fund name indicating whether the glide path extends to the target date or through the life expectancy of the investor. Release at p. 37. All target date funds could be used to take investors through retirement. Generally, a "to" fund means the fund's asset allocation becomes fixed at, or soon after, the target date (*i.e.*, the target date and the landing point are the same), and a "through" fund has an asset allocation that becomes fixed at some point after the target date. This information will be clear in the glide path illustration. There is no need for the Commission to consider "to" and "through" disclosure apart from the glide path illustration.

³⁰ See *e.g.*, Release at pps. 41-43 (where the Commission provides examples of graphic illustrations).

³¹ For example, in funds where the landing point occurs after the target date, the illustration would show clearly that the percentage of equities will continue to decline after the target date until the landing point. In funds where the target date is the same as the landing point, the illustration would show clearly that there is no change in the asset allocation after the target date/landing point.

2. *Specific Recommendations*

In response to the Commission's request for input about the information that should be included in the illustration and the methodology for displaying this information, we recommend the following.

Preserve Flexibility in Illustrating Asset Allocations. In recognition that the Commission's goal is not to require a single metric for comparing target date funds and that asset allocation models are subject to continuing refinement and development, the Proposal does not prescribe the asset classes and allows disclosure of ranges of potential percentages. We support the Commission's flexible approach and believe that the antifraud rules under the federal securities laws, NASD advertising rules and FINRA review of marketing materials provide ample protection for investors from misleading presentations of asset allocations.³²

As the Release notes, today target date funds typically use asset classes such as "equity," "fixed income," and "cash and cash equivalents" in their prospectuses. However, some target date funds currently invest in other asset classes such as real estate and commodities, and funds may choose to invest in additional asset classes in the future for diversification and other purposes. Limiting the fund's glide path illustration to specific asset classes may impede creation of marketing materials by those funds that use other asset classes. Such an approach would not serve fund investors. It is important to continue to permit funds to design their glide paths to include a mix of asset classes.

Clarify Data Points That Should Be Highlighted. The Release sample illustrations show *highlighted* asset allocations at the fund's inception, target date and landing point (and as of the recent calendar quarter for single fund illustrations). The sample illustrations show, but do not highlight, the asset allocations at the five-year intervals. We agree with this approach and recommend that the Commission clarify in the final release that five-year intervals (or other time periods as permitted by the Commission) are required to be marked in some manner for easy viewing and the asset allocations at the target date and landing point must be highlighted. The Commission should not require highlighting of the fund's inception point. The fund's inception point is of little relevance as individual investors purchase shares at different times, and, in any event, it does not have the same significance as the target date and landing point.

Reexamine Proposed Approach for Disclosing Asset Allocations on the Look-Through Basis. The Commission has proposed requiring disclosure of asset allocation among "types of investments" and clarifies that "types of investments" means the underlying asset classes in which the target date fund invests, whether directly or through other funds. Under the Proposal, funds would be required to

³² NASD Rule 2210 requires, among other things, that all mutual fund advertisements and sales literature (as defined in Rule 2210) be based on principles of fair dealing and good faith, be fair and balanced, and provide a sound basis for evaluating the facts in regard to any particular security.

disclose the percentage of assets allocated to equity *securities*, rather than to equity *funds*. The “look-through” requirement would apply to: the tag line; the glide path illustration; and actual and intended asset allocations, as they appear in marketing materials relating to single funds and/or multiple funds.

Many of our members are concerned that requiring funds to use the look-through approach would add little to enhancing understanding of the fund for most investors, and would be difficult to accomplish in marketing material for a variety of reasons. For example, funds that invest in unaffiliated mutual funds and other vehicles will be constricted in their ability to advertise because of lags in the publication of the portfolio holdings of these underlying vehicles.³³ In designing any final rules, we urge the Commission to keep in mind that marketing materials are not the sole source of information for investors in target date funds. Investors typically also receive fund prospectuses and have access to shareholder reports and fund Web sites. All of these typically provide a more fulsome discussion of asset allocation for those investors seeking that level of detail.³⁴ Therefore, we recommend that the Commission reexamine the proposed approach.

Eliminate Requirements for Disclosing Actual/Historical Asset Allocations. For marketing materials relating to a single target date fund, the Proposal would require the glide path illustration to be customized with the fund’s *actual* (historical) percentage allocations among types of investments through the most recent calendar quarter ended prior to the submission of the advertisement for publication.³⁵ It is inappropriate and unnecessary to require actual percentage allocations in

³³ As explained in note 34 below, registered investment companies are required to disclose portfolio holdings quarterly. As a matter of practice, some funds disclose their portfolio holdings more frequently but typically with at least a thirty day lag, depending on the type of the fund’s portfolio holdings. Funds holding more illiquid assets may publish their holdings with a sixty day lag.

³⁴ See e.g., Item 27 of Form N-1A (requiring a registered investment company to provide a tabular or graphic presentation of its portfolio holdings organized into reasonably identifiable categories and either a full or summary schedule of the fund’s investments, and a statement about the availability of the full portfolio schedule for the quarters not covered in the shareholder report. A fund that provides a summary schedule of portfolio holdings must file the complete portfolio schedule with the Commission semi-annually on Form N-CSR and provide it to shareholders for free upon request).

³⁵ The Proposal similarly requires the tag line in marketing materials submitted for publication or use after the date that is included in the fund’s name (*i.e.*, funds that have reached their target dates) to disclose the fund’s actual asset allocations as of the most recent calendar quarter ended prior to submission of the advertisement for *publication* or *use*. If the Commission retains the tag line requirement, we recommend that updating be required as of the most recent calendar quarter ended prior to submission of the marketing materials for *publication*, not *use*. Funds provide plan sponsors with a variety of print materials and the frequency with which those materials are updated varies. While fund marketing materials with performance data are updated quarterly (as currently required), many of the materials provided to plan sponsors for use by plan participants do not contain performance data and, therefore, are not typically updated quarterly. For example, a document containing the complex’s suite of target date funds that includes one target date fund that has reached its target date presumably would be required to be updated quarterly. It would provide investors with sufficient information in a much more cost effective manner if, instead of quarterly updating, the Commission required this information to appear on a fund’s Web site and the relevant marketing materials to provide a statement explaining this along with the Web site address. The recommended approach is consistent with the Commission’s recent initiative regarding summary prospectuses. See SEC Release No. 33-8998 (January 13, 2009).

illustrations for single funds. This information is too detailed for marketing materials and will be costly to produce. In addition, the proposed requirement is so restrictive that it likely would chill funds' future use of such illustrations. Finally, investors already have access to adequate information about a fund's historical asset allocations by means of its portfolio holdings provided in shareholder reports.

While there may be other examples, there are two instances of single fund illustrations used today that provide investors with valuable information that likely would be abandoned in the future because of the additional costs that would be imposed by the Proposal. Some fund Web sites provide a list of pie charts for single target date funds with their respective intended asset allocation through the upcoming calendar quarter. On a separate Web page, a glide path along the lines of that required by the Proposal appears. If the Web page with the pie charts is considered a single fund illustration for each fund listed, it apparently would be required to be accompanied by a series of potentially confusing, asymmetrical graphs that show actual asset allocation through the calendar quarter ended prior to publication and intended asset allocation for future years. Investors would be further confused by the lengthy disclosure likely to be required to explain such a presentation. A graph with all intended asset allocations would provide more symmetrical information that would be easier for investors to understand and be less costly to produce.

Other funds use an interactive approach on their Web sites where an investor can scroll over a graph relating to multiple target funds and see displayed the name of, and asset allocation for, a single fund. It is unclear from the Proposal whether this would be considered a multiple or single fund illustration. If considered to be a single fund illustration, it would have to be substantially revised to comply with the Proposal. Alternatively, funds may cease providing this interactive feature, to the detriment of investors.

We recommend that the Commission adopt the more flexible requirements for single fund illustrations proposed for multiple fund illustrations and to permit the use of the one-click away approach for all electronic communications, as discussed below. The recommended approach will provide funds with the flexibility to design target date fund illustrations in a manner designed to enhance investor understanding.

D. Narrative Accompanying the Glide Path Illustration

We support the Commission's approach of accompanying a glide path illustration with a narrative summarizing the key features of the fund, with a number of modifications.³⁶ The Commission's proposed narrative would state that the fund's asset allocation changes over time and include information about the landing point, including the asset allocation at the landing point. We strongly believe that investors should view the information about the target date and the landing point

³⁶ We also support the additional narrative that would be required in target date marketing materials. *See* Proposed Rule 482(b)(ii).

as an integrated whole. For this reason, we recommend that the narrative also include information about the target date, including the asset allocation at the target date.

As proposed, the narrative also would be required to include a statement indicating whether asset allocations may be modified without a shareholder vote. We agree with the Commission that an investor should understand the flexibility a fund manager has in managing the fund. However, we believe it is more important for investors to know *whether* a manager may deviate from the glide path illustration than to know whether those changes may be accomplished without a shareholder vote. For this reason, we recommend that the narrative state, when applicable, that the fund manager has the flexibility to deviate from the glide path and the applicable parameters.

As proposed, the narrative would be required to *precede* the illustration. We support requiring the narrative to accompany the illustration but oppose mandating that the narrative *precede* the illustration. Given the diversity of marketing material formats and sizes, the Commission should leave it up to the funds to create an effective communication that is not misleading.

E. Radio, Television and Other Similar Modes of Communication

We support the Commission's decision not to apply the illustration requirement to radio or television advertisements. It would be difficult, if not impossible, to convey this information effectively in those media and could result in substantially increased costs for additional advertising time. Similarly, requiring the same lengthy narrative proposed to be required in radio, television and other forms of communication (both that accompany the glide path and the additional risk disclosure) would substantially increase costs for additional advertising time. More importantly, the sheer volume of these required disclosures, taken together with those already required by Rule 482, would overwhelm, rather than assist, investors, and, therefore should be significantly modified.³⁷

Our members report that being required to provide the proposed narrative along with narrative disclosures already required would eliminate their ability to have fifteen second radio advertisements for target date funds. Because Rule 482 requires narrative disclosures to be given emphasis equal to that used in the major portion of the advertisement, it also would significantly increase the length of, and

³⁷ Rule 482 currently requires, among other things, all advertisements to include a statement that advises the investor to consider the investment objectives, risks, and charges and expenses of the investment company carefully before investing, explains that the prospectus and, if available, the summary prospectus contain this and other information about the investment company; identifies a source from which the investor may obtain a prospectus and, if available, the summary prospectus; and states that the prospectus and, if available, the summary prospectus should be read carefully before investing. Marketing materials that include performance information additionally must include a legend disclosing that the performance quoted represents past performance; that the past performance does not guarantee future results; that the investment return and principal value of an investment will fluctuate so that an investor's shares when redeemed may be worth more or less than the original cost; and that current performance may be lower or higher than the performance data quoted. The legend also must identify a toll-free (or collect) telephone number or a website where an investor may obtain performance data current to the most recent month-end unless the advertisement includes total return quotations current to the most recent month ended seven business days prior to the date of use.

consequently the costs for, television advertisements.³⁸ To carry out the Commission's intent of informing potential investors of certain risks and considerations that are important when deciding whether to invest in a target date fund, we recommend that target date funds disclose in radio and television advertisements: that asset allocation changes over time; the intended asset allocation at the target date and landing point respectively; that asset allocation becomes fixed at the landing point; and that additional information about the fund can be found on the fund's Web site.

We also recommend that the Commission apply these modified requirements not only to radio and television advertisements, but also to other types of communications that cannot convey graphic or lengthy narrative information effectively and in a cost-efficient manner. Because it is impossible to identify every means of communication that exists today and may be created in the future, we recommend that the Commission state in any final release its intention to apply the same requirements to radio, television, and other similar means of communications, and that it expects FINRA to apply any new rules in this manner in its review of fund marketing material.

F. One-Click Away

The Institute recommends that the Commission permit a "one-click away" approach for electronic communications. Through this approach, an investor could click on a hyperlink in close proximity to the name of a target date fund to access the information required by the Proposal. Internet users are well-acquainted with and adept at using these features. Electronic media offer unique opportunities for presenting and highlighting information. As a result there may be many effective approaches to conveying important information to investors. Successful approaches might well differ depending on the nature of the particular communication. Investors are well-served by allowing funds the flexibility to devise appropriate ways to present disclosure, including using a "one-click away" approach.³⁹ This approach is even more essential for electronic communications with space limitations, such as Twitter and banner advertisements.

G. Requests for Comment on Additional Disclosure and Fund Names

1. *Longevity and Inflation Risks*

The Commission requests comment on whether disclosure regarding longevity and/or inflation risks should be required in target date marketing materials. The absence of specific requirements would not compromise investor protection because as with any disclosure contained in marketing materials,

³⁸ See SEC Release No. 33-8294 (September 29, 2003), 68 Fed. Reg. 57760, 57766 (October 6, 2003) (making clear that if the major portion of a television advertisement is spoken, the required narrative also must be spoken).

³⁹ There is precedent for this approach. The NASD (now FINRA) has permitted funds to disclose standardized performance information, maximum sales charge, and total annual fund operating expenses through the use of a hyperlink, provided that the required disclosures are prominent and consistent with the standards of Rule 482. See SEC Release No. 34-54103 (July 5, 2006), 71 FR 39379 (July 12, 2006) (order approving proposed rule changes relating to disclosure of fees and expenses in mutual fund performance sales material).

disclosure of these risks already is subject to the antifraud provisions of the federal securities laws. Further, this information already appears in other materials typically provided to plan participants, such as prospectuses and plan materials.

2. *Risk Ratings*

The Commission asks whether target date fund marketing materials should be required to disclose a risk rating based on a scale or index that could be compared to other target date funds. Creating such a rating is an enormous undertaking with questionable benefit that is significantly beyond the scope of this Proposal. The Institute urges the Commission first to study comprehensively the utility of any such measure.⁴⁰ In conducting any such analysis, the Commission also should take into account the risk information already being provided to fund investors in the risk/return section of prospectuses and summary prospectuses.⁴¹

3. *Fund Names*

The Commission does not propose any changes to Rule 35d-1 under the Investment Company Act, the fund name rule, but asks if it should be amended to prohibit the use of a date in target date fund names and whether it should permit target date funds to use the landing point in its name, rather than the target date. The Institute has extensively considered these issues.

When the Commission adopted Rule 35d-1, the fund name rule, it explicitly recognized that a mutual fund's name does not tell the investor all that he or she needs to know about the fund. In particular, the Commission stated that "[t]he Commission believes that investors should not rely on an investment company's name as the sole source of information about a company's investments and risks. An investment company's name, like any other single piece of information about an investment, cannot tell the whole story about the investment company."⁴² Like the terms "balanced" fund, "growth" fund, or "value" fund, the target date fund name does not, and is not intended to, explain to investors all they need to know about the fund.

The target date in a fund's name refers to an investor's expected retirement date. That is the date an investor is assumed to stop making contributions to the fund—a key event that is taken into

⁴⁰ When the National Association of Securities Dealers, Inc. (currently FINRA) proposed permitting the use of bond fund risk ratings in sales literature, the Institute conducted substantial empirical research. The Institute's extensive investor research regarding the use of a single risk measure demonstrated that investors do not favor and are not as confident of their ability to use risk information presented in the form of standardized measurements; instead, investors prefer simple narrative or graphic presentations of risk information. *See, e.g.*, Letter to Joan Conley, Office of the Corporate Secretary, NASD Regulation, Inc. from Paul Schott Stevens, Senior Vice President and General Counsel, Investment Company Institute, dated February 24, 1997 (describing, among other things, the results of our research), available at http://www.ici.org/policy/comments/97_NASD_VOLATILITY_RTGS_COM.

⁴¹ *See* Item 4 of Form N-1A.

⁴² *See* SEC Release No. IC-24828 (Jan. 17, 2001).

account in the design of *all* target date funds. We acknowledge that the reference to expected retirement date does not convey all the information that an investor needs to evaluate a target date fund. For example, it does not state what the fund's allocation might be at that date.

Accordingly, we considered whether target date fund names should refer, instead, to the landing point. After reflection, however, the ICI Target Date Fund Disclosure Working Group did not endorse this approach for two reasons: it will not convey what the asset allocation is at that point, and it also will not inform the investor how the landing point corresponds to the target date and what the differences are between the two points. Given these weaknesses, we believe that including the landing point in the fund name will not do a better job of telling the investor all he or she needs to know about the fund than does the current target date naming convention.

We also considered the possibility of not including any date in a target date fund name. Working Group members strongly believe, however, that omitting this reference point would provide investors with less information than they have today, particularly because the expected retirement date that is used in names today is a point in time to which investors easily can relate.

Finally, we considered adding descriptors to the name that would identify the fund as "moderate," "conservative" or "aggressive." Ultimately, the Working Group rejected this approach. There are no objective standards to determine whether a fund is "aggressive" or "conservative" or "moderate," and the Commission has never mandated such standards. We do not believe there is any justification for the Commission to create these labels. Rather, we support the illustration requirement, as discussed above, and are pleased that the Commission's treatment of target date funds is consistent with how other types of funds are treated under the fund name rule. We believe that funds have an obligation to provide clear and accurate materials to fund investors, but that those investors also have a responsibility to inform themselves about their investment choices.

III. Proposed Amendments to Rule 156

The Commission has proposed revising Rule 156 to provide that a statement suggesting that securities of an investment company are an appropriate investment could be misleading because of: representations, whether express or implied, that investing in the securities is a simple investment plan or requires little or no monitoring by the investor; or the emphasis it places on a single factor (such as an investor's age or tax bracket) as the basis for determining that the investment is appropriate. The proposed amendment would apply to *all* investment companies, including target date funds.

The proposed amendment of Rule 156 relating to statements that "investing in securities is a simple investment plan" could be overly broad. As the Commission recognized, target date funds are designed "to make it easier" for investors to hold a diversified portfolio of assets that is rebalanced automatically among asset classes over time.⁴³ There is nothing false or misleading about marketing

⁴³ See Release at pps. 6 and 57.

materials that make this or other similar points. This is an important distinction that, while set forth in the Release, is not captured by the current wording of the proposed rule amendment.⁴⁴ Accordingly, the Institute recommends that the Commission clarify this point in any final rule.

The Institute is similarly concerned about the potentially broad and unintended consequences of limiting funds' ability to emphasize a single factor as the basis for determining the appropriateness of an investment. The selection of a target date fund primarily on the basis of an investor's age or planned retirement date is common, and marketing materials that emphasize that as a basis for a particular investor's choice should not be universally pre-judged to be *per se* misleading and prohibited. In fact, if these key features are not communicated to investors, then investors will not receive important information about these funds.

Further, under the proposed standard, the use of a term such as "tax-exempt" in a fund's name would open the fund to criticism that it is emphasizing a single factor, and, therefore, has violated Rule 156. However, it is difficult to understand why the Commission would so limit disclosure with respect to tax-exempt funds when it requires these funds to have a *fundamental* policy of investing: (i) at least 80% of the value of its assets in investments the income from which is tax-exempt; or (ii) its assets so that at least 80% of the income it distributes is tax-exempt. As the Commission previously has recognized, the tax-exempt status of a fund "is of ... critical importance ... to the [fund's] investors."⁴⁵ This aspect of the Proposal also is at odds with the risk/return summary in Form N-1A, which requires funds to identify the principal investment strategies and principal risks of investing in the fund. In connection with that requirement, the Commission specified that a fund "may describe the types of investors for whom the Fund is intended or the types of investment goals that may be consistent with an investment in the Fund."⁴⁶ It will be difficult, if not impossible, in the context of marketing materials for funds (and FINRA staff in the review process) to draw a line between marketing materials that sufficiently highlight critical information *without* violating Rule 156 and those that do so in violation of Rule 156.

While we have provided an example with respect to tax-exempt funds, we are concerned about other types of funds such as target date funds that emphasize asset allocation, index funds that emphasize diversification, and money market funds that emphasize stability of principal. Also, we believe that current Rule 156's provision that a statement could be misleading due to the "absence of explanations, qualifications, limitations, or other statements necessary or appropriate to make such

⁴⁴ The Release states that target date funds are designed "to make it easier" for investors to hold a diversified portfolio of assets that is rebalanced automatically among asset classes over time but that "the selection of an appropriate fund does not entail a simple decision." Release at p. 57.

⁴⁵ See Investment Company Act Release No. 24828 (January 17, 2001), 66 FR 8509, 8511 (February 1, 2001) (adopting Rule 35d-1).

⁴⁶ See Item 4 of Form N-1A.

statement not misleading⁴⁷ should be sufficient to protect against misleading marketing materials. We therefore recommend eliminating this aspect of the Proposal.⁴⁸

IV. Compliance Date

The Commission would require fund marketing materials that are used 90 days or more after the effective date of the amendments to comply with revised Rules 482 and 34b-1. The Commission asked for comment on whether 90 days is an appropriate transition period for compliance. While a time period of approximately 90 days appears to be a sufficient amount of time to implement those changes, we recommend that the compliance date be refined to be based on a calendar quarter-end rather than requiring updating in an arbitrary number of days (but in no event less than 90 days).⁴⁹ This approach would recognize that, based on the currentness provisions of Rule 482, marketing materials that are used on an ongoing basis normally are updated after each quarter end.

The Institute requests that the same compliance date apply for any amendments to Rule 156 instead of immediately on the date of the amendments as proposed. This will permit all changes to target date fund marketing materials to be made as part of the same updating process, which will be most cost-effective for fund shareholders.

V. Prospectus Disclosure

We support the Commission not amending prospectus disclosure requirements for target date funds. Target date funds already are required to provide investors with the right mix of information in response to existing disclosure requirements (*e.g.*, investment objective, principal investing strategies, and principal risks of investing in the fund).⁵⁰ We recommend, however, that the Commission consider providing target date funds with the option to use an integrated format for each of the

⁴⁷ See Rule 156(a)(1)(i).

⁴⁸ If the Commission is not amenable to eliminating the proposed requirement in its entirety, we alternatively recommend that it modify the requirement to state that marketing materials that emphasize a single factor to the degree that it obfuscates other information could be misleading under Rule 156. This change might marginally improve any new requirement, facilitating administration and compliance.

⁴⁹ The proposed revisions to Rules 482 and 34b-1 will require funds to undertake substantial efforts to meet the new requirements. While the precise impact will vary depending on the nature of the final requirements, any changes will need to be incorporated not only in all existing marketing materials for target date funds, but also in all of the systems, policies, and processes associated with the design, production, internal review, approval, filing distribution and use of the materials. Changes to fund Web sites, in particular, involve substantial commitments of time and resources, as well as coordination with other initiatives affecting those sites.

⁵⁰ We note that the Commission has periodically reexamined investment company prospectus disclosure with the most recent examination concluding with final rule amendments in 2009. These amendments were adopted following extensive study and analysis. See Investment Company Act Release No. 28584 (January 13, 2009), 74 FR 4546 (January 26, 2009).

summary sections of the statutory prospectus and the summary prospectus.⁵¹ This format may benefit fund investors who wish to compare the variety of target date funds offered by a fund complex.⁵² In addition, the ability to use this format likely will lead to more widespread use of summary prospectuses for target date funds. However, we would oppose making such a requirement mandatory, given that funds should retain the flexibility to choose the format for presenting to investors information regarding target date funds.

VI. Advertising by Non-Mutual Fund Target Date Funds

The financial crisis of 2008 prompted a number of policymakers, including the Commission and DOL, to focus on target date funds and express concern about whether retirement investors understood these products. As testimony at the joint Commission-DOL hearing showed, mutual fund companies are not the only entities offering target date funds to retirement plans. While many non-mutual fund target date funds used in plans are organized as bank collective trusts, they also can be offered in other forms, including as insurance company separate accounts and customized arrangements put together by consultants for plans.

The Commission's proposal covers only one segment of the target date fund industry – mutual funds subject to the Commission's jurisdiction under the Securities Act and the Investment Company Act. Bank collective trusts and insurance company separate accounts are exempt from securities law regulation if they meet the conditions of the exemptions in those laws. The result is that mutual funds used as investments in 401(k) plans or other defined contribution plans are subject to far more detailed substantive requirements and regulation of their disclosure and advertising than any other retirement investment providers.⁵³ Plan participants who invest in mutual funds are well-served by this regulatory regime.

⁵¹ There may be other types of funds that lend themselves to side-by-side investor comparison that merit the same consideration (e.g., lifestyle funds). See Letter from Karrie McMillan, General Counsel, Investment Company Institute to Nancy M. Morris, Secretary, United States Securities and Exchange Commission, dated February 28, 2008 at p. 33.

⁵² Because ERISA plan fiduciaries pre-select 401(k) plan investment options, 401(k) participants can invest their 401(k) accounts only in target date funds that are included in their plans. Typically, when a 401(k) plan offers a target date fund as an investment option to its participants, the entire target date fund family of funds comes from the same fund company. However, within this family of funds, investors may choose to purchase target date funds with dates other than the investor's presumed retirement date. An investor who expects to retire in 2035, for example, might select a 2030 fund (to be more conservative) or a 2040 fund (to be more aggressive), or a combination of the two.

⁵³ The mutual fund regulatory regime is designed to protect and meet the needs of all Americans who invest in funds on their own or through plans. It has strict rules on capital structure, custody, and how funds value their portfolios. It holds advisers and fund boards of directors to high fiduciary standards, strictly regulates conflicts of interest and imposes disclosure and advertising rules designed with the needs of ordinary investors in mind.

Given the robust system of investor protection provided for retirement savers under the federal securities laws, the Institute supports the examination that Commission staff has undertaken concerning whether all collective trust providers properly rely on the exemption from the Investment Company Act. Remarks of Andrew "Buddy" Donohue, Director, Division of

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If understanding of target date funds is to be enhanced, non-mutual fund target date funds and arrangements should be subject to the same kinds of new advertising rules as the Commission imposes on mutual fund target date funds. Only in this way will all retirement investors be assured of receiving the same basic information about these important retirement savings vehicles. We recommend that DOL impose similar rules on collective trust funds, insurance company separate accounts and other non-mutual fund arrangements. We urge the Commission to continue working closely with DOL on target date fund issues with the goal of coordinating the concurrent issuance of comparable target date fund advertising rules.

* * * *

We strongly support the Commission's proposal and hope that our comments will help the Commission enhance disclosure for target date fund investors without being overly prescriptive regarding the presentation of the information. We strongly support requiring target date fund marketing materials to include glide path illustrations. This presents investors with critical information about target date funds in an easily understood format, and is the most important element of the Commission's proposal. We also recommend that any new rules for target date mutual funds apply equally to target date funds that are not mutual funds. To accomplish this, we strongly urge the Commission to encourage the DOL to impose similar rules on collective funds and other non-mutual fund target date funds. This will help to ensure that all retirement savers are provided with key information about target date funds – an important retirement savings vehicle.

If you have any questions or need additional information, please contact me at (202) 326-5815, Mary Podesta at (202) 326-5826, Dorothy Donohue at (202) 218-3563, or Anna Driggs at (202) 218-3573.

Sincerely,

/s/ Karrie McMillan

Karrie McMillan
General Counsel

cc: The Honorable Mary L. Schapiro, Chairman
The Honorable Kathleen L. Casey, Commissioner

Investment Management at the Practicing Law Institute's Investment Management Institute 2010 (April 8, 2010), available at <http://www.sec.gov/news/speech/2010/spch040810ajd.htm>.

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The Honorable Luis A. Aguilar, Commissioner

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Andrew J. Donohue, Director

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