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May 21, 2012

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Investment Company Advertising: Target Date Retirement Fund Names and Marketing (File No. S7-12-10; Release Nos. 33-9126; 34-62300; IC-29301) (the "Release")

Dear Ms. Murphy:

Fidelity Investments ("Fidelity")[1] appreciates the additional opportunity to comment on the Securities and Exchange Commission's ("Commission") proposed amendments to certain rules governing marketing materials used by target date funds in connection with the recently released study by Siegel & Gale LLC (the "Study").

Fidelity generally agrees with the views expressed by the Financial Services Roundtable and Investment Company Institute in their comment letters to the Commission. We submit this letter to provide additional comment on specific issues. Fidelity is the investment manager for 69 target date funds, with aggregate assets in excess of $140 billion. Fidelity previously submitted comments on the Release on August 23, 2010.

Coordinated regulatory initiatives are critical to investor understanding of target date fund products.

Fidelity has a significant interest in investor literacy and disclosure issues, and we have long sought to provide investors the tools they need to make informed investment decisions. It is our view that simply providing information to investors is not enough. Information is most useful if it is provided in a format and context that is understandable and actionable by the average investor. Based on our experience in creating effective investor communications in different media, and the measurements and feedback we have received, we remain concerned that well intentioned regulatory efforts can result in overlapping disclosure requirements on

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[1] Fidelity is one of the world's largest providers of financial services, with assets under administration of $3.7 trillion, including managed assets of $1.6 trillion, as of March 31, 2012. Founded in 1946, the firm is a leading provider of investment management, retirement planning, portfolio guidance, brokerage, benefits outsourcing and many other financial products and services to more than 20 million individuals and institutions, as well as through 5,000 financial intermediary firms.

specific products, which in turn can lead to disconnected investor warnings and advisories instead of clear, simple financial education.

Clear regulatory focus on improving investor education and better coordination among regulators to avoid piecemeal disclosure rules will facilitate better financial literacy. We urge the Commission to continue to work closely with the Department of Labor (the "Department") to ensure that final rulemaking by either agency to facilitate better understanding of target date funds will avoid duplicative and/or conflicting disclosure requirements.[2] To that end, we attach Fidelity's letter regarding the Department's proposed amendments to the qualified default investment alternative and the participant-level disclosure regulations related to target date funds or similar investments ("The DOL Proposal").[3] The DOL Proposal, which was issued after the Commission's Release, would require additional disclosures related to these investments in notices that are required under both regulations. Such notices could also be subject to the Commission's proposed amendments to rules governing marketing materials used by target date funds.

In our view, the Study confirms the principles set forth in our prior comments.

Our review of the Study has not altered the views we expressed in our previous letter regarding the Release. In that letter, we made three points regarding disclosures: 1) we supported a proposal to add a table, chart or graph depicting a fund's glide path, 2) we recommended the elimination of the target date asset allocation adjacent to the first use of a fund's name and 3) we requested that the Commission clarify the scope of application of the proposed rules to marketing materials. In addition, Fidelity believes that the Study shows that the Commission should carefully consider the risk that complex disclosures can diminish investor comprehension.

Glide path disclosure. The Study shows that survey respondents who reviewed marketing materials containing a glide path illustration demonstrated a greater understanding that asset allocation can continue to change after a fund reaches its target date.

Target Date disclosure. The Study appears to demonstrate that survey respondents who reviewed marketing materials containing disclosure of the anticipated target date asset allocation adjacent to the first use of a fund's name were better able to correctly identify the asset allocation at the target date. However, Fidelity believes that investors would be better served by disclosures describing how a target date fund is intended to be managed over time, not simply at a single future point in time. Although the asset allocation on the target date is an important element of a fund's glide path, the special emphasis proposed by the Commission could lead

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[2] In May 2009, the Commission and the Department held joint hearings to examine target date funds. We urge the Commission to continue to work closely with the Department to ensure that final rulemaking by either agency to facilitate better understanding of target date funds by investors (be they retail investors or plan participants) will avoid duplicative and/or conflicting requirements.

[3] Target Date Disclosure, 75 Fed.Reg. 73987 (November 30, 2010).

investors to focus overly much on investment risk at the target date versus other risks relevant to an investment decision (such as the non-guaranteed nature of an investment in a mutual fund).

Scope. The rules as proposed would apply to materials that "place a more than insubstantial focus on one or more target date funds," and could include materials where inclusion of this information is not practicable, such as post cards and materials designed for viewing on mobile communications devices. The sample documents reviewed by survey respondents and included in Appendix 5 of the Study included only target date fund-specific sales materials that would likely be provided in paper form, and not television, print or electronic ads, or sales material covering more than just target date funds. If the broad proposed standard is adopted, we continue to recommend that the Commission exempt specific types of materials, such as marketing materials that do not reference a specific target date fund or funds (e.g., fund family advertisements), communications that are not intended as marketing materials (e.g., shareholder reports and retirement plan enrollment materials), as well as materials where inclusion of this information is not practicable.

Risk of investor confusion due to complex, repetitive disclosures. One interesting finding from the Study was that survey respondents who reviewed the document that contained neither a glide path illustration nor the anticipated target date asset allocation adjacent to the first use of a fund's name were the most likely to understand that target date funds are not guaranteed. This result seems to demonstrate that investors have an easier time understanding clear, simple documents, and that the Commission should carefully consider what new disclosure requirements would be most helpful to investors.[4]

For marketing materials describing a number of funds in a given complex's target date line-up, target date asset allocation disclosure will be the same for each fund that has the same glide path, which would not assist investors in determining which particular fund is the most appropriate investment. The sample document provided in Appendix 5 of the Study, which shows a list of funds with the same target date allocation in an adjacent column, is a useful illustration of this point. We also believe that the disclosure will be of limited use to investors comparing target date funds offered by multiple providers. As the Commission has observed, target date fund asset allocation models used by competing fund complexes differ before and after the target date. As a result, funds may have very similar intended target date allocations but quite different risk profiles over the intended glide path. For these reasons, we believe that disclosure of, or reference to, a fund's glide path in marketing materials provides better information than the proposed target date asset allocation disclosure.

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[4] We note that although Appendices 2, 3 and 4 of the Study show the various responses to questions posed by the survey, the Study does not include a copy of the actual survey respondents saw. It would be beneficial if the Commission could make those materials available, because they could provide additional context for the results of the survey.

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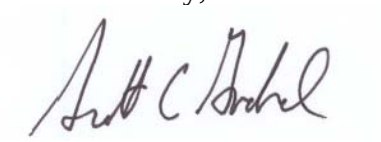
We appreciate the additional opportunity to comment on the Release. Fidelity would be pleased to provide any further information or respond to any questions that the Staff may have.

Sincerely,



cc: Honorable Mary L. Schapiro, SEC Chairman
Honorable Elise B. Walter, SEC Commissioner
Honorable Luis A. Aguilar, SEC Commissioner
Honorable Troy A. Paredes, SEC Commissioner
Honorable Daniel M. Gallagher, SEC Commissioner
Hilda L. Solis, Secretary, Department of Labor
Phyllis Borzi, Assistant Secretary, Department of Labor

Attachment: Comment Letter submitted by Fidelity Investments to the Department of Labor on Target Date Fund Disclosure

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Senior Vice President and
Deputy General Counsel

FMR LLC Legal Department

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January 14, 2011

SUBMITTED ELECTRONICALLY

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Attention: Target Date Amendments

Ladies and Gentlemen:

Fidelity Investments[1] ("Fidelity") appreciates the opportunity to comment on the Department of Labor's ("Department") proposed amendments (the "Proposal") to the qualified default investment alternative ("QDIA") and the participant-level disclosure regulations related to target date funds or similar investments. The Proposal would require additional disclosures related to target date funds or similar options ("TDFs") in notices required under both regulations. Fidelity has a strong interest in these rules because it provides recordkeeping, investment management, and custodial services to thousands of Internal Revenue Code ("Code") Section 401(k), 403(b) and other individual accounts plans covering over 14 million participants. Fidelity also serves as investment manager for 101 target date funds, with aggregate assets in excess of $100 billion.

We appreciate the Department's careful consideration of changes in TDF disclosures and believe that, in general, the content of the proposed changes appropriately balances participants' needs for more information about certain aspects of TDFs with the potential harm if the information is too detailed and/or voluminous. However, we recommend that the Department consider the modifications and clarifications outlined below to ensure that participants receive consistent information in the most effective and efficient manner.

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[1] Fidelity Investments is one of the world's largest providers of financial services, with assets under administration of more than $3.3 trillion, including managed assets of $1.5 trillion. The firm is a leading provider of investment management, retirement planning, portfolio guidance, brokerage, benefits outsourcing and many other financial products and services to more than 20 million individuals and institutions, as well as through 5,000 financial intermediary firms.

(1) Consolidate QDIA and Participant Disclosures

The Proposal would replace much of the existing QDIA notice content with disclosure elements set forth in the participant-level disclosure regulation at DOL Reg. § 404a-5(d)(1). We concur with this approach since it would be confusing to participants, as well as inefficient for the production of such disclosures, if the related requirements were not identical. However, given the considerable overlap in the content that will likely be required by the final amendments, Fidelity urges the Department to permit QDIA notices to be combined with disclosures required under the participant-level disclosure regulation. It is not efficient from a participant or cost perspective to send separate notices.

Currently, QDIA notices must be provided as a stand-alone notice (except that it may be combined with notices required under sections 401(k)(13)(E) and 414(w)(4) of the Internal Revenue Code). The Department supported disclosure separate from other lengthy disclosure documents (e.g., summary plan descriptions, summary of material modifications) because of its concern that participants may miss or ignore the information to be disclosed under the QDIA regulation. Combining QDIA notices with the new participant-level disclosures does not create the same risk. Both the QDIA notice and the participant-level disclosures are designed to assist participants in making investment decisions under the plan and inform them of the consequences of failing to provide investment direction. In light of their similar goals and closely related subject matter, it does not make sense to provide this information in separate documents. This is especially true since the investment option serving as the plan's QDIA is almost always included as a designated investment alternative under the plan. Rather, additional information required to be included in the QDIA notice such as the description of when a participant or beneficiary may be invested in a QDIA could appear prominently in the standard participant-level disclosure document.

The benefit of this approach is that it would allow the participant or beneficiary to receive the disclosures simultaneously. This would assist in decision-making because the participant or beneficiary would not have to look to another source for information about other available investment alternatives. Since the investment information is relevant to the participant's or beneficiary's decision to exercise his or her right to direct the investment of assets in their individual accounts to avoid being invested in the QDIA, this should counterbalance the Department's concern that the QDIA information would be lost among other plan information such as vesting or distribution provisions. While the Department does permit QDIA notices to be included with other notices to allow for cost savings if such documents are mailed, there would be even greater cost savings if the disclosures could be combined as the duplicate information contemplated in 404c-5(d) would not need to repeated.

We note that the content requirements for the automatic QDIA disclosures are substantially similar to those for designated investment alternatives, whether the latter disclosure is automatic or accessible via the web. In some cases there are minor differences, such as the omission of references to SEC Forms N-1A and N-3. To avoid confusion, we propose that the content to be delivered under QDIA rules cross-reference the participant disclosure requirements of 404a-5(d).

If the notices are combined, the Department would need to resolve an inconsistency in the rules regarding the time when annual notices are provided. Currently, the QDIA regulation requires a notice at least 30 days in advance of each plan year after the delivery of the initial notice. The participant-level disclosure regulation contemplates an annual notice once within any 12-month period. The Department should address this inconsistency in the final regulations to allow for a combined notice by aligning the current QDIA requirement with the participant-level disclosure requirement that permits delivery once within any 12-month period.

(2) Clarify Managed Account Disclosure Requirements

The proposed alignment of the QDIA disclosure requirements with the participant-level disclosure rules raise an ambiguity with respect to the handling of managed accounts. The participant-level regulation requires disclosure of information with respect to each "designated investment alternative". It also requires disclosure of any "designated investment manager". While the term "designated investment alternative" is defined in the regulation, there is no specific definition of what constitutes a "designated investment manager". However, based on the structure of the regulation, it appears that a managed account offering that is associated with a specific investment manager is an investment offering separate and distinct from a "designated investment alternative". Accordingly, the specific disclosure requirements applicable to designated investment alternatives, including performance data and expense ratios, are not required for managed account offerings. This is consistent with the approach under DOL Reg. §2550.404c-1 where a "designated investment manager" is not treated as a "designated investment alternative" but, when selected by a participant, represents an exercise of control by the participant over plan assets entitled to protection under ERISA § 404(c). See example at DOL Reg. § 404c-1(f)(8).

As drafted, the proposed changes to the QDIA notice would require details related to managed account offerings that are QDIAs that would differ from the disclosures required under the participant-level disclosure regulation. This results in an inconsistency that was likely not intended. More importantly, performance and operating expense information is not usually relevant in the context of a managed account service. For example, an investment manager might make very different selections for different participants which would make it impossible to provide meaningful information about the account to be managed. So long as the investment

objectives and principal strategies of the managed account to be used as a QDIA are identified, and any specific account level charge for the management service is disclosed, the Department should not require additional information on performance or expense ratios of the managed account offering.

(3) Modify Target Date Fund Disclosures

The amendments would require three additional disclosures relating to TDFs as an appendix to the investment chart required under the participant-level disclosure regulation and in notices mandated under the QDIA regulation. As the proposed amendments to each regulation are substantially identical, our comments on each are addressed collectively below.

Asset Allocation. The first requirement is an explanation of how the asset allocation of the TDF will change over time and the point in time in which it will reach its most conservative asset allocation. A chart, table or other graphical illustration must be included and such illustration must not "obscure or impede a participant's or beneficiary's understanding of the information". Fidelity agrees with the Department's proposal that the intended asset allocation of the fund should be specifically disclosed as well as with the requirement for an illustration of such asset allocation. As the Department is aware, the Securities and Exchange Commission included a similar requirement in its proposed rule amendments issued in June 2010 (the "SEC Rules"). However, the Department's requirement that the illustration must not "obscure or impede a participant's or beneficiary's understanding" is unclear and represents a new standard. There are well-developed standards governing required communications. For example, under the participant-level disclosure regulation, notices must be written in a manner calculated to be understood by the average plan participant. As this standard is established, Fidelity recommends that the Department eliminate this proposed requirement in the final amendment.

In addition, because the final SEC Rules may include a graphical illustration requirement for registered products (i.e. mutual funds), the Department's final regulations should provide a safe harbor if the SEC Rule's graphical illustration is utilized in the QDIA notices or under the participant-level disclosure regulation. For non-registered products, the same safe-harbor could be afforded if the graphical illustration adheres to the same requirements as outlined in the SEC Rules. This would provide a clear standard for plan fiduciaries as well as result in consistent disclosures being provided to plan participants as well as investors outside retirement plans. The Department requested comments on whether its final rule should include concepts contained in the SEC's rulemaking. Fidelity believes that where the requirements are similar, as is the case with the graphical illustration of the TDF's asset allocation, the same requirements should apply.

Target Date References. The second TDF proposal would require a fund that includes a date in its name or is otherwise similarly described, to describe the age group for whom the

investment is designed, the relevance of the stated date and any assumptions about the participant's or beneficiary's contribution and withdrawal intentions on or after such date be included. Fidelity supports the Department's desire to provide participants and beneficiaries with information to help them understand the meaning of the stated date in order to assist them with evaluating the investment. As the Department is aware, there are many different investment methodologies used in the construction of TDFs and these requirements could help participants and beneficiaries understand the fund's investment approach. However, we strongly urge the Department to provide that this information may be general in nature. For example, it should be sufficient for a fund to state its assumptions about the relevance of the target date to contributions and withdrawals without referencing a specific schedule of contributions and withdrawal rates. If disclosure of specific assumptions were required, the disclosure would be complex and detailed and more likely confuse rather than aid participants and beneficiaries. Also, if specific disclosure is required, any minor changes in the assumptions would require updating the disclosure even though the change is not likely to affect decision to invest in such TDFs.

Statements Regarding Losses and Guaranteed Income. The final disclosure requirement related to TDF's is a statement that the participant or beneficiary could lose money by investing in such a fund including losses near and following retirement, and that there is no guarantee that investment will provide adequate retirement income. Fidelity believes this disclosure should not be required specifically for TDFs. While Fidelity does not disagree that the statement is accurate, it is misleading to require such disclosure only with respect to TDFs because it applies to all QDIAs and virtually all designated investment alternatives. Participants and beneficiaries could conclude that since the disclosure is specific to TDFs, it is not applicable to other options. Further, the disclosure related to "adequate retirement income" is also misleading as it could imply that adequate retirement income could be obtained solely by choice of investment alternative. To the contrary, in order for any investment to provide adequate retirement income, adequate and consistent contributions must be made. As this disclosure is misleading if only required for TDFs, it should be eliminated. If the Department does require this statement to be included, it should be modified to include language that indicates that these principles apply to the other designated investment alternatives as well so participants and beneficiaries do not inaccurately conclude that these concepts only apply to TDFs.

(4) Facilitate Electronic Delivery

The Department has indicated that it will be reviewing the safe harbor applicable to the use of electronic media for furnishing information to plan participants and beneficiaries (DOL Reg. § 2520.104b-1(c)) and will be seeking public comments on this question. This is a critical initiative as the cost of delivering paper notices greatly exceeds the cost of electronic delivery and, ultimately, a portion of these costs are likely to be borne by participants. More importantly,

participants and beneficiaries have embraced the use of technology to manage their financial affairs, including their employee benefit plans. It is the preferred channel for many but, unfortunately, the current DOL regulatory framework does not permit these technologies to be leveraged to the greatest extent that plan sponsors, service providers and most importantly participants and beneficiaries desire. Fidelity and its clients wish to develop a socially responsible framework that permits notice of the availability of materials in an electronic format as the primary distribution method with paper copies only being available upon request at no charge.

(5) Effective Date

The Department proposes that the amendments included in the Proposal will be effective 90 days after publication of the final rule in the Federal Register. Given that the amendments will require new TDF disclosures, additional time is necessary for investment managers to develop the required content and for service providers to enhance their systems to gather and store this content to facilitate its inclusion in required notices and disclosures. Currently, service providers and investment managers are devoting considerable resources to prepare for the participant-level disclosure regulation. Given these efforts, Fidelity urges that the effective date be at least one year after publication of the final rules. Further, given that the proposed amendment to the QDIA regulation incorporates disclosure elements that will be required for the first time under the participant-level disclosure regulation, such amendments should not be effective until the later of one year after the publication of the final rules or the plan's applicability date under the participant-level disclosure regulation.

We appreciate the opportunity to submit these comments for your consideration. Fidelity would be pleased to provide any additional information or respond to any questions that the Department may have.

Sincerely,

Ralph C. Derbyshire
Senior Vice President
and Deputy General Counsel