

The logo is centered within a white square frame. The text 'Fi360' is white and set against a solid orange background.

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Lost at Sea

Popular ERISA safe harbor features may expose defined contribution participants to increased levels of risk and retirement income insecurity.

January 2021



- I. Popular safe harbor features result in participant inattention to goals and risk planning.
- II. Target-date funds are often misunderstood and misused.
- III. Solutions exist and stakeholder next steps.
- IV. Risk management ideas for DC Plans.

I. Popular safe harbor features result in participant inattention to goals and risk planning.

Popular safe harbors produced positive results, but...

- 404(c) allows the participants to make their own investment decisions while relieving plan sponsors of the liability associated with those decisions.
- PPA brought other changes to Qualified Default Investment Alternatives (QDIAs) and auto-enrollment/auto-escalate rules.
- These provisions increased participation and deferral rates by automating the enrollment, deferral and investment election process.
- These were all very positive developments for DC plans – what could possibly go wrong?

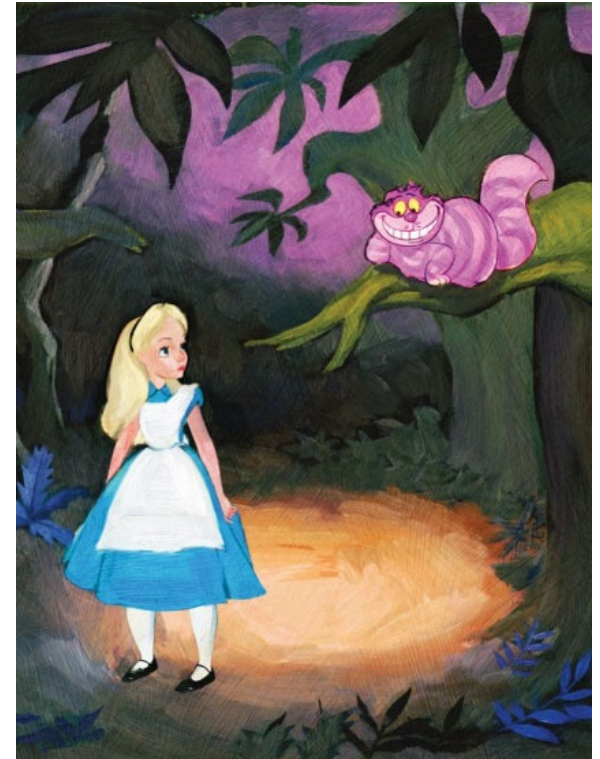


August 17, 2006

President Bush at the signing of PPA

... these safe harbors have had unintended consequences.

- These safe harbors created a lack of participant attention to key elements of retirement planning:
 - setting retirement income goals.
 - understanding appropriately planned levels of risk.



The Cheshire Cat to Alice

"If you don't know where you are going, any road will do."

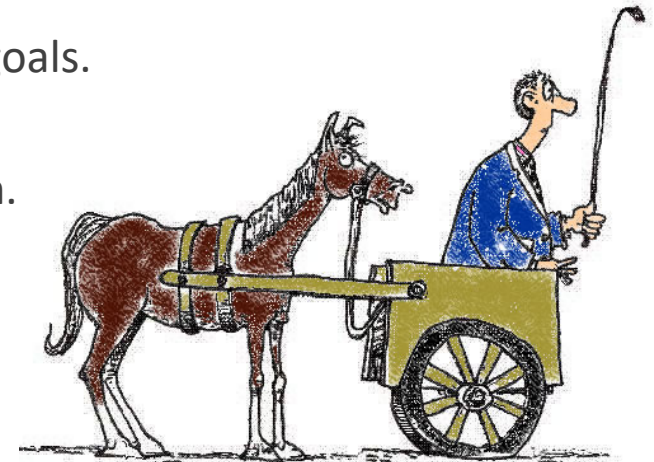
Don't blame participants for their inattention.

The powerful and persistent participant messaging in many plans is very clear:

- Do nothing, and you will be enrolled in the plan.
- Do nothing, and your contribution rate will be decided.
- Do nothing, and your contribution rate will increase each year.
- Do nothing, and your equity allocation will be selected for you.

QDIA defaults lead to investments that are selected *before* the precursors of a good investment strategy are in place:

- Do nothing, and don't develop holistic retirement income goals.
- Do nothing, and don't establish a risk tolerance for losses.
- Do nothing, and don't establish an investment time horizon.
- Do nothing, and don't establish a target rate of return.



Don't put the cart before the horse.

These popular safe harbors create inattention to goals and risk.

- The 404(c) safe harbor only requires that DC plan sponsors provide plan participants “education” to help make investment decisions.
- The education model is not effective in helping participants make appropriate short- and long-term investment decisions.
- “Advice” is rarely offered to address these planning risks – particularly advice from an investment professional held to an ERISA fiduciary standard.
- Too many participants fail to adequately evaluate the investment risks of a plan’s selected QDIA.



The screenshot shows a document with a green header and footer. The header contains the text "Savings Fitness, 2007" and a quote: "You are the one ultimately responsible for the management of your own financial affairs. However, you may want additional help along the way from a professional financial planner." The main body of the document is white with black text. It includes sections for "Long-term care", "Borrow", and "Sell investments". The footer contains the text "Savings Fitness, 2007" and "31".

Long-term care. This insurance can help pay for costly long-term health care either at home or in a health care facility or nursing home. It protects you from draining savings and assets you otherwise could use for retirement.

Borrow
If you must borrow because of a financial emergency, carefully compare the costs of all options available to you.

Sell investments
It's usually advisable to sell taxable investments first. Try not to touch your faster growing retirement accounts. Taking money out of your retirement accounts could trigger income taxes and penalties.

IF YOU CHOOSE TO WORK WITH A FINANCIAL PLANNER
You are the one ultimately responsible for the management of your own financial affairs. However, you may want additional help along the way from a professional financial planner. A professional planner can:

- Provide expertise you don't have.
- Help improve your current financial management.
- Save you time.
- Provide an objective perspective.
- Help you through a financial crisis.
- Motivate you to take action.

For more information, visit CFP Board's **Website** or call **1-800-487-1497** to request free copies of the *Consumer Guide to Financial Planning* and the *Consumer Guide to Financial Self-Defense*. The Website also contains a wealth of information about financial planning and an advanced search function that enables you to find a financial planner who is required to act in your best interest when providing financial planning advice.

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Savings Fitness, 2007 31

Savings Fitness, 2007

"You are the one ultimately responsible for the management of your own financial affairs. However, you may want additional help along the way from a professional financial planner."

Advice solutions are available to address these concerns.

- An often-overlooked advice provision of the PPA was the introduction of an ERISA fiduciary *exclusively* for plan participants – the 408(g) Fiduciary Adviser.
- This “Fourth Fiduciary” is unique.
- It does not replace existing service providers, investment options, recordkeepers and other DC infrastructure.
- It is not subject to co-fiduciary liability rules.



20 seconds later...

*President Bush leaving the signing
of PPA on August 17, 2006*

II. Target-date funds are often misunderstood and misused.

Target-date funds are the predominate QDIA default.

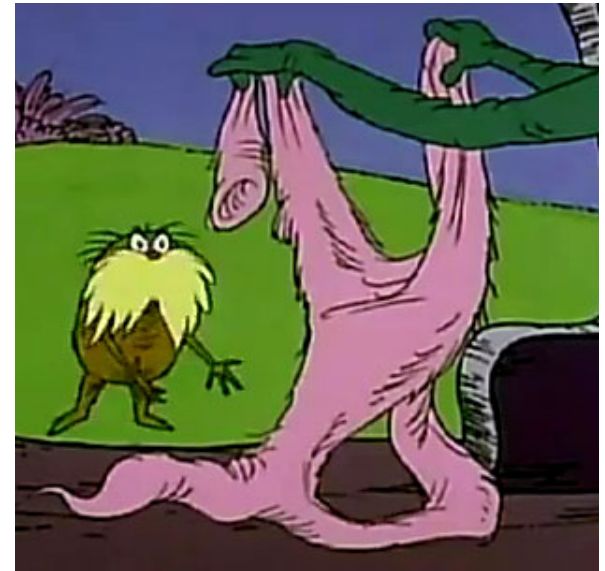
- As originally envisioned, the QDIA was intended to be the investment default if a participant *failed* to make an investment election.
- QDIA defaults are now predominately target-date funds (TDFs), and it is estimated TDFs will comprise over 50% of all DC plan assets in the near future.
- TDFs are rarely used in conjunction with fiduciary level participant advice.



Walking on TDF eggshells

One size does not fit all.

- One-size-fits-all investing is not investing up to a fiduciary standard.
- TDFs assume that all DC participants born in a certain year have the same goals.
- TDFs don't take into account an individual's overall financial picture.
- TDFs don't incorporate other accounts.
- TDFs don't incorporate savings habits.



The Onceler to the Lorax, 1971

"Look, Lorax, calm down. There's no cause for alarm. I chopped just one tree, I'm doing no harm. This thing is most useful! This thing is a 'thneed.' A thneed, a fine something-that- all-people-need!"

DC participants are increasingly using equity-heavy TDFs.

- TDFs lack customization.
- TDFs have higher equity allocations.
 - Higher equity TDF allocations might be advantageous for some investors.
- Participants incorrectly mix and match TDFs with other funds.



“These funds aren’t wimpy.”

Jason Zweig, *The Wall Street Journal*, 2019

Participants are savers, not investors or planners.

- Participants use an overly simplified approach to financial planning while taking on higher levels of equity risk.
- This illustrates the critical need for TDFs to be used in conjunction with more-professional investment advice, especially advice providers held to an ERISA fiduciary standard.
- Plan sponsors should encourage participants to hire an investment professional held to the ERISA fiduciary standard.



The Cheshire Cat to Alice

"If you don't know where you are going, any road will do."

III. Solutions exist and stakeholder next steps.

Future retirees will rely on DC plans for a substantial amount of their retirement income.

- The ultimate test for DC plans remains:
 - Can DC plans, given their current structure, deliver adequate retirement income to participants?
 - Or will DC plan participants remain *lost at sea*, heavily influenced by ERISA safe harbors, and without proper planning and goals to help manage investment and retirement income risk?

Participants are Lost at Sea when they are under the influence of a combination of safe harbor rules like 404(c) and QDIA, along with automatic plan provisions and target date funds.

Participants deserve professional investment advice held to the ERISA fiduciary standard.



- Plan sponsors generally retain investment professionals held to the ERISA standard – why not provide participants with the same level of support?
- The ERISA standard is a high bar and we believe it offers the best opportunity for effective planning and investment decision-making.



Javier Sotomayor

Holds the record for the high jump set in 1993. Born on October 13.

Stakeholders should advocate for the 408(g) Fiduciary Adviser.



- The 408(g) Fiduciary Adviser:
 - Does not need to supplant or replace any plan service provider.
 - Does not replace investment options.
 - Does not create and, in fact, removes liability for DC plan sponsors for the advice given to participants by a 408(g) Fiduciary Adviser, provided the sponsors follow a prudent selection and monitoring process.
- Advice can be delivered through a registered investment adviser, a broker-dealer, a trust department of a bank or an insurance company.
- Well positioned to work with DC plan sponsors to support the growth of financial wellness programs.

Clearly, not all participants will utilize participant advice.



- Support participants without professional investment guidance indirectly through changes in the plan-level asset evaluation and selection process.
- Additional risk screens can help limit the potential for large losses.
- In addition, we believe more alternative asset classes, customized-model portfolio options and annuities have the potential to help participants manage volatile or down-market conditions.

IV. Risk management ideas for DC Plans.

1. Complete an Advice Availability Worksheet.

- Estimate plan assets invested through various advice arrangements.
- DC plan participant advice options include:
 - Managed accounts
 - Packaged Collective Investment Trusts (CITs)
 - Tradable models
 - Robo-advisers
 - Self-directed accounts (SDAs) with an investment adviser representative (IAR)
 - 408(g) Fiduciary Adviser

Sample Advice Availability Worksheet:

	Assets	Accounts	
Plan Totals:	\$10,000,000	500	← Insert data points
Assets/Accounts with advice:			
Tradable Models:			
Provider:	\$0	0	← Insert data points
408(g) Fiduciary Adviser:			
Provider:	\$0	0	← Insert data points
SDBA with IAR:			
Provider: ABC Fiduciaries	\$100,000	1	← Insert data points
Provider:	\$0	0	← Insert data points
Provider:	\$0	0	← Insert data points
Packaged CITs:			
Provider:	\$0	0	← Insert data points
Robo-advisor			
Provider:	\$0	0	← Insert data points
Managed Account			
Provider: XYZ Advisers	\$400,000	4	← Insert data points
Other:			
Provider:	\$0	0	← Insert data points
Total advice assets/accounts:	\$500,000	5	
Total assets without advice:	\$9,500,000	495	
Total participant level advice:	5% of assets	1% of accounts	

2. Perform an Advice RFP.

- Executing an advice request-for-proposal (RFP) process is the first step in offering advice.
- Identifying and vetting advice providers might be a new experience for many plan sponsors.
- Advisers and consultants can help with a prudent, thorough and insightful RFP process.
- The RFP process should be clearly documented, and the rationale for the final decision articulated and archived in plan records.

Appendix B: Sample Advice RFP Questions

Experience and Qualifications

- (FAB-2007-1) Describe the adviser's regulation in accordance with applicable federal and/or state securities law.
- How long has the firm provided ERISA fiduciary-level advice?
- What are current assets under management?
- How many plan sponsors utilize your services?
- How many plan sponsors dropped your service in the prior 12 months and why?
- How many participants utilize the advice?
- What percent of all participants in your plans utilize the advice?
- What are the training, background and licensure of individuals providing the advice?
- What differentiates you from other advice providers?

Fees and Documentation

- (FAB-2007-1) – What is the utilization of the service of the investment advice services by the participant in relation to the cost of the services of the plan?
- What are the fees and how are they paid?
- Provide a copy of the service agreement for legal review.
- Provide copies of errors and omissions (E&O) and fidelity bond coverage.

DOL Field Assistance Bulletin (FAB) 2007-1 offers assistance when selecting a 408(g) Fiduciary Adviser¹⁷

Service

- (FAB-2007-1) Incumbents only – Have there been any changes in the information that served as the basis for initial selection of the investment adviser, including whether the adviser continues to meet applicable federal and state securities laws requirements?
- (FAB-2007-1) Incumbents only – Is the investment advice provider complying with the contractual provisions of the engagement?
- (FAB-2007-1) Is the advice being furnished to participant and beneficiaries based upon generally accepted investment theories?
- (FAB-2007-1) How will you help gather participant comments and complaints about the quality of the furnished advice?
- Is advice offered under the 408(g) Fiduciary Adviser provisions? If not, explain the type of ERISA advice provided.
- What is the educational/marketing process used to alert participants to the availability of the service?
- Explain the marketing campaign and timeline.
- How frequently are participant meetings conducted?
- Describe the participant experience over a 12-month period.
- Describe your process to accumulate and integrate all household financial accounts.
- Describe your data security process.
- Have you experienced data breaches in the last 24 months? If yes, describe your remediation process.
- Under your model, who executes trades?
- Will the advice work with our current TDF and core lineup?
- Will the advice help determine if annuities are prudent in asset allocation decisions?
- Will the advice help manage emergency savings accounts or other liquidity requirements?
- Will the advice help with HSA coordination?
- Will the advice be provided at the household level across participant accounts in and out of plan?

3. Deploy the 408(g) Fiduciary Adviser Model.



408(g) Fiduciary Adviser Fact Check:

A DC plan sponsor can hire a 408(g) Fiduciary Adviser and:

- provide participants with holistic investment advice held to the ERISA fiduciary standard;
- retain the plan's 3(38) fiduciary;
- retain the plan's financial adviser and recordkeeper;
- continue to offer the existing investment menu including TDF, SDA and annuity providers;
- deliver financial wellness and 404(c) education programs;
- support the integration of Health Savings Accounts (HSA);
- and support participants in implementing emergency savings accounts.

4. Introduce in-plan annuity options.



- The SECURE Act provided DC plan sponsors additional safe harbors in the annuity-provider selection process.
- As participants transition from accumulation to distribution phase, annuities will become increasingly prevalent.
- Recordkeeping and advisory firms have already embraced annuities.
- DC plans will provide tens of millions of baby boomer participants institutional pricing and add economies of scale.
- Look for integrated recordkeeping technology along with participant advice.

5. Expand the use of risk-centric screens with investment selection.

- DC plans can help participants not using advice arrangements to better minimize the risk of large losses.
- Risk-based assessment approaches can be applied to more-traditional DC menu asset classes such as TDFs and core menu options, as well as any new products such as annuities and customized models.
- There are a variety of tools available to help plan sponsors and advisers better screen DC investment menus for risk.

Sample Riskalyze DC Investment Menu Scoring Chart

Sample Fund / Asset Class	Risk	GPA
TDF 2020	RISK 56	3.8
TDF 2030	RISK 68	3.7
TDF 2040	RISK 74	3.6
TDF 2050	RISK 75	3.6
Large Blend	RISK 77	3.8
Large Growth	RISK 75	4.0
Core-Plus Bond	RISK 31	4.3
Large Value	RISK 74	3.8
Stable Value	RISK 1	4.3
Mid-Cap Blend	RISK 86	3.7
Foreign Large Blend	RISK 83	3.6
Foreign Large Growth	RISK 87	3.7
Small Blend	RISK 89	3.6
Prime Money Market	RISK 1	2.7
Diversified Emerging Markets	RISK 90	3.5
Real Estate	RISK 92	3.3
Short-Term Bond	RISK 7	4.3
Model - Growth and Income	RISK 63	3.9
Model - Growth	RISK 75	3.9
Model - Capital Preservation	RISK 10	4.3
Annuity - Fixed	RISK 1	4.3
Buffered Annuity	RISK 66	3.3

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Summary and next steps.



- Thanks for listening!
- Please request any of our *Lost at Sea* supporting materials at Retirement@DoubleLine.com:
 - 408(g) Fiduciary Adviser – FAQs for advisers and plan sponsors
 - White Paper
 - CE presentation for advisers and plan sponsors
 - Advice Availability Worksheet
 - Sample Advice RFP Questions
 - Sample Riskalyze DC Investment Menu Report

Artwork citations



Page 4: <https://www.institutionalinvestor.com/article/b14z9njb762/ten-years-after-the-pension-protection-act-falls-short-of-promises>

Page 5: <https://www.pbpc.gov/about/who-we-are/pg/president-ford-signing-erisa-of-1974>

Page 6: <https://www.forge-rx.com/uncategorized/dont-put-the-cart-before-the-horse>

Page 7: <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/savings-fitness.pdf>

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