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May 4, 2007

Bradford P. Campbell
Acting Assistant Secretary
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington DC 20210

Re: Default Investment Regulation

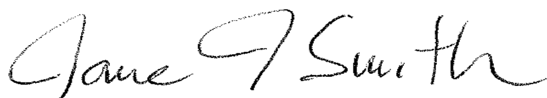
We are writing to supplement our November 13, 2006 comments on the Department of Labor's proposed qualified default investment alternative regulation. We are concerned that the proposed regulation could deter plan fiduciaries from using money market or other low-fee, low-risk, low yield investments as default options for automatically enrolled 401(k) plan participants.

The proposed regulation correctly reflects Congressional concern that conservative default options will not generate adequate retirement savings. However, it overlooks that there are instances where plan fiduciaries might reasonably conclude that conservative investments would better serve the interests of their automatically enrolled participants.

For example, a fiduciary might realistically decide that a workforce consisting primarily of low-income, high-turnover employees would be poorly served by a life cycle fund. If these workers withdraw their 401(k) money in order to meet current expenses or if their employment is terminated after short periods of time, they could lose rather than gain from being automatically enrolled in the 401(k) plan. They would lose if the market were down when they withdrew their money and if they were charged customary life cycle fund investment management fees. Similarly, lower-paid workers remaining in the default investment who see their balances decline may be more inclined to opt-out of the plan, thus defeating the purpose of automatic enrollment.

Although the proposed regulation states that money market and other conservative investments "may" be prudent as default investments, it does not provide the same "fiduciary relief" provided to fiduciaries opting for diversified life cycle and balanced funds and managed accounts.
In the absence of such relief, fiduciaries choosing conservative default investments could be subjected to legal challenges by disgruntled employees unhappy with their low, risk free investment returns. Even though the fiduciaries would likely ultimately prevail in court, few would be willing to assume this risk. For this reason, we urge you to modify the regulation to expressly extend the "fiduciary relief "provided by the regulation to circumstances where the characteristics of a workforce warrant prudent selection of a conservative default investment.

Sincerely,



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