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GLOBAL ASSET MANAGEMENT

Navigating the new realities of 401(k) participant education

Prepared by The Wagner Law Group

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All investments involve risk, including possible loss of principal.

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Executive summary

401(k) investment education can be categorized as follows: (1) plan menu disclosures, (2) investment concepts, and (3) allocation decision support. Under current law, plan sponsors have a strong motivation to provide plan menu disclosures to participants, due to the fiduciary liability protection provided under ERISA and recent case law. Plan sponsors also have a strong incentive to educate participants on investment concepts and provide allocation decision support, which can reduce the incidence and severity of poor decision-making by participants.

Under the DOL's new participant-level disclosure regulations, plan sponsors will need to make significant enhancements to their plan menu disclosures, effective with the first plan year that begins after October 31, 2011. Because the enhanced plan menu disclosures must be written in a manner calculated to be understood by the average plan participant, plan sponsors will have an added incentive to provide investment concepts education to improve the financial literacy of the plan's participants. Although there are varying incentives for providing different levels of investment education, plan sponsors should consider providing all three categories in accordance with the following "best" practices:

Education programs should engage participants

Since many participants will not respond to passive education in the form of written materials distributed to them, plan sponsors should consider providing active education through a provider that engages participants and delivers meaningful allocation decision support to participants. (See Appendix A for an illustration of DOL "safe harbor" non-fiduciary education for allocation decision support.)

Investment concepts education should cover enhanced plan menu disclosures

The plan sponsor should tailor its investment concepts education to cover all elements of the DOL's newly enhanced plan menu disclosures, to ensure the average participant will understand them.

Any advice offering should not replace an education program

If a plan sponsor decides to offer fiduciary investment advice, the advice should be in addition to (and not in replacement of) the plan's education program. If the plan's financial advisor is unable to offer advice to all participants, the plan sponsor may engage a separate provider to offer investment advice, but may rely on the financial advisor to provide investment education.

Establish an education policy statement for the plan

Given the importance of a plan's education program, plan sponsors should maintain their programs in accordance with a deliberate and disciplined process. As part of a prudent process, the plan sponsor should adopt an "Education Policy Statement" which addresses program objectives, the categories and areas of investment education to be provided, the frequency of informational meetings, and other relevant information.

Introduction

There is an ongoing debate within the 401(k) plan community that centers on how plan sponsors and their service providers should provide investment assistance to participants. Should they deliver investment education to participants so that they can make informed decisions for themselves, or should they tell participants exactly how to invest their plan accounts through fiduciary investment advice? The "Education vs. Advice" debate may not be as heated as the competition for best-tasting cola or most luxurious automobile, but just about every provider that works with plan participants has a strong preference for one or the other. However, it appears that the debate, at least as we now know it, may be coming to an abrupt end.

Rather than focusing on whether they should adopt an all-or-nothing investment education program for their participants, plan sponsors should be considering what level of investment education is optimal for their participants. In this paper, we will be discussing the following:

1 Incentives for providing participant education

There are a variety of fiduciary liability-related incentives that encourage plan sponsors to provide different categories of investment education to participants.

2 Deciding between "education only" and "education and advice"

Even if plan sponsors elect to offer investment advice to participants, they should consider providing a minimum level of investment education to all participants in the light of recent legal and regulatory developments impacting 401(k)-style plans.

3 Best practices for delivering participant education

Plan sponsors should strongly consider adopting the "best" practices discussed below, for delivering participant education.

1 Incentives to provide participant education

Plan menu disclosures under existing rules

401(k) investment education can take a variety of different forms but, for purposes of this paper, they may be grouped into the following three basic categories:

Plan menu disclosures. This category of education would include summary information and related disclosures regarding the plan's menu of investment options.

Investment concepts. This category would include education on general financial and investment concepts.

Allocation decision support. This education category would provide a suggested decision-making process that is designed to help participants make sound investment allocation decisions under the plan.

Under existing law, there is no affirmative fiduciary duty to provide Plan Menu Disclosures to participants. However, plan sponsors have a strong motivation to provide such disclosures under Section 404(c) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Section 404(c) provides that no plan fiduciary will be liable for any investment loss to the extent such loss results from a participant's exercise of investment control under the plan. To qualify for this fiduciary liability protection, the plan must be operated in accordance with the regulations issued by the U.S. Department of Labor ("DOL") under ERISA Section 404(c). Although compliance with ERISA Section 404(c) is not mandatory, many plan sponsors elect to adhere to its requirements to avoid exposure to liability relating to a participant's investment decisions.

One influential appellate court has held that ERISA Section 404(c) is not the only way a plan sponsor can insulate itself from liability for participant-directed investment losses. The Seventh Circuit in Jenkins v. Yager, 444 F.3d 916 (7th Cir. 2006), ruled that a plan that fails to comply with the numerous operational requirements of Section 404(c) can still qualify for fiduciary liability protection if the plan sponsor communicates the "material facts" affecting the interests of plan participants, as may be accomplished through annual informational meetings for participants arranged by the plan's financial advisor. This favorable ruling is inconsistent with the position maintained by the DOL, which asserts that a plan sponsor is shielded from liability for a participant's investment losses only if the requirements under Section 404(c) are met. Despite the DOL's opposition, the ruling in Jenkins remains "good law" and is considered binding precedent within the Seventh Circuit.[1] Regardless of whether ERISA Section 404(c) should be viewed as the exclusive means for qualifying for fiduciary liability protection, plan sponsors have a strong legal motivation to provide Plan Menu Disclosures to participants.

[1] The Seventh Circuit Court of Appeals has appellate jurisdiction over the federal district courts in the states of Illinois, Indiana and Wisconsin.

Plan menu disclosures under new rules

The DOL recently adopted a new regulatory requirement that, for the first time, would impose a fiduciary duty on plan sponsors to provide participant-level investment disclosures. Under Section 2550.404a-5 of the DOL regulations (the "Disclosure Regulations"), employers sponsoring 401(k)-style plans must automatically provide detailed disclosures concerning the plan's investment menu to all participants on an annual basis, effective with the first plan year that begins after October 31, 2011.[2]

To satisfy the new fiduciary duty, a plan sponsor must do more than simply "dump" raw investment data and fee information on participants. The required investment information must be organized in a format that is designed to provide participants a comparative analysis of the various investment options under the plan's menu. Specifically, the required disclosure must identify the applicable asset category for each investment option (e.g., large cap stock fund, international stock fund) and identify an appropriate benchmark index (e.g., S&P 500 index, MSCI EAFE). In addition, standardized performance data must also be stated for both the designated investment options and their benchmark indices, meaning that investment returns and benchmark performance must generally be calculated for 1-, 5- and 10-year periods.[3] Each investment option's sales load or commissions, if applicable, and its total annual operating expenses must also be disclosed. A general glossary of terms to assist participants in understanding the investment options must also be integrated into the disclosure or made available at a designated Internet website.

[2] Section 2550.404a-5 of the DOL regulations also requires the sponsoring employer to disclose certain information concerning the plan's operation and administrative expenses on an annual and quarterly basis.

[3] The DOL has acknowledged that the investment performance information required under Section 2550.404a-5 is intended to mirror the standardized format for presenting performance data in fund advertisements and sales literature as contemplated under Rule 482 of the Securities Act of 1933, as amended (the "Securities Act"), and Rule 34b-1 of the Investment Company Act of 1940, as amended (the "Company Act"), respectively.

Investment concepts education

The Disclosure Regulations include a condition governing the format of the information presented to participants. The required disclosure must be "written in a manner calculated to be understood by the average plan participant." This Average Plan Participant standard is substantially similar to the presentation standard adopted by the DOL in its other rules governing participant communication materials.[4] And as noted by the DOL, this presentation standard is pegged to the actual level of education and comprehension by the typical participant in the particular plan. In this regard, the Average Plan Participant standard is significantly more exacting than the "plain English" standard established by the U.S. Securities and Exchange Commission ("SEC"), which merely requires the presentation of information to be made in accordance with six objectively determinable writing principles.[5]

Through its new participant-level disclosure requirement, the DOL has mandated that all employers sponsoring 401(k)-style plans communicate enhanced Plan Menu Disclosures in a way that can be understood by the plan's average participant. But from a policy perspective, the basic assumption that underlies this regulatory requirement is somewhat flawed. Given the very nature of these materials, is it reasonable to assume that the average participant in all plans will have the capacity to understand the investment analysis presented in the required disclosure, even if it is written in the plainest of English? For example, if an elite accounting firm with 500 employees were to sponsor a 401(k) plan, it may be fair to assume that the typical employee with several years experience as a certified public accountant would have the financial savvy to understand the DOL's mandated disclosures on plan investments.

On the other hand, if a 10-person furniture moving company staffed with the youngest of employees were to sponsor a small 401(k) plan, the plan's average participant may be financially illiterate and incapable of understanding the mandatory disclosures. Specifically, they may be confused by the relevant financial labels and concepts included in the enhanced Plan Menu Disclosures, such as the concept of benchmark indices (e.g., Barclays Capital Intermediate Government/Credit Index). Even with the assistance of a detailed glossary, plan participants could easily miss the point of various elements of the required disclosures if they lack a firm grasp of the fundamentals of investing.

One of the few ways in which a plan sponsor can improve the level of financial literacy in its participant population is by providing Investment Concepts education. When the DOL adopted the new participant-level disclosure requirement, it was not necessarily trying to create a "universal" education requirement. However, as a consequence of including a rigid Average Plan Participant presentation standard, the Disclosure Regulations effectively pressure plan sponsors to install broad-based education programs to improve financial literacy.

Broad education program with allocation decision support

Plan sponsors should strongly consider providing Investment Concepts education to improve the financial literacy of plan participants to ensure that they will be equipped with the knowledge necessary to understand the enhanced Plan Menu Disclosures. This education can be integrated into a broader education program that includes Allocation Decision Support to improve the overall quality of investment decisions made by plan participants and to help assure the ongoing success of the plan. Although the Disclosure Regulations themselves do not specifically mandate the delivery of Allocation Decision Support to participants, plan sponsors should bear in mind that Allocation Decision Support may significantly reduce the incidence and severity of poor decision-making by participants.

A broad-based education program that provides all three categories of investment education can serve as a risk mitigation tool for plan sponsors. By reducing the likelihood of imprudent investment decision-making by participants, plan sponsors can reduce the likelihood of legal action against plan fiduciaries for some type of fiduciary breach relating to the plan's investment menu. Even if a plan offers investment advice, it is likely that a significant number of plan participants will decline the offer. Thus, plan sponsors should also consider providing active education in anticipation of assisting those participants that will forgo the offered advice.

[4] For example, the presentation standard for summary plan descriptions ("SPDs") is stated in Section 2520.102-2, which provides that the SPD must be "written in a manner calculated to be understood by the average plan participant" and must be sufficiently comprehensive to apprise the plan's participants of their rights and obligations under the plan.

[5] For example, Rule 421(d) of the Securities Act provides that certain elements of a prospectus must be drafted so that it substantially complies with each of the following plain English writing principles: (1) short sentences; (2) definite, concrete everyday words, (3) active voice; (4) tabular presentation or bullet lists for complex material; (5) no legal jargon or highly technical business terms; and (6) no multiple negatives. The general instructions to Part 2 of Form ADV makes reference to the same six plain English writing principles as required for its new narrative format.

Special considerations for target date funds

Even though the ink is barely dry on the DOL's recently adopted Disclosure Regulations, the DOL has already issued proposed changes that increase and expand the required disclosures for any target date funds ("TDFs") included in the plan's investment menu.[6] As proposed, the required disclosure must include a dedicated appendix that explains the TDF's asset allocation and how it changes over time (i.e., glide path) as well as the point in time when it reaches its most conservative asset allocation (i.e., landing point). In addition, if the TDF's fund name references a specific retirement year (e.g., 2025 target date fund), the required appendix must explain the age group for whom the TDF is designed, the relevance of the year in the fund name, and any assumptions about a participant's contributions and withdrawals after such year.

A chart, table or other graphic representation illustrating the glide path (the "Glide Path Illustration") must also be included in the required appendix. Although all information in the required appendix must be provided in a manner that is calculated to be understood by the average plan participant, the Glide Path Illustration in particular is subject to a further restriction concerning its readability. The Glide Path Illustration must not obscure or impede a participant's understanding of the glide path explanation included in the appendix.

Due to the complicated nature of TDFs, which are typically structured as a "fund of funds" series, plan sponsors should strongly consider providing Investment Concepts education that highlights the unique investment characteristics of TDFs. They should also ensure that any Allocation Decision Support concerning TDFs also enables participants to make informed investment decisions.

[6] 75 Fed. Reg. 73987 (Nov. 30, 2010). Corresponding revisions to the annual notice requirement with regard to a plan's Qualified Default Investment Alternative ("QDIA") were also proposed by the DOL to mandate special enhanced disclosures for any TDF series that is used as a QDIA.

2 Deciding between *education only* and *education and advice*

After a plan sponsor has decided to establish an education program for its participants, it may also wish to consider offering fiduciary investment advice which may be in the form of non-discretionary advice or discretionary advice. It is important for the plan sponsor to keep in mind that the investment advice program should be in addition to (and not in replacement of) the education program. As discussed above, a well-designed education program provides important fiduciary protections for the plan sponsor and it should cover as many plan participants as possible, including any participants who are offered investment advice but choose to decline it. Thus, the plan sponsor has three basic options:

Education only (no advice)

A plan sponsor may decide against offering any fiduciary advice to its participants. If so, the sponsor should strongly consider maintaining a broad-based education program that includes Allocation Decision Support to help participants make informed investment decisions.

Education and non-discretionary advice

When a participant receives non-discretionary investment advice, the participant retains full control or discretion over his or her account and the participant is free to follow or disregard the offered advice. An advisor who provides non-discretionary advice is sometimes referred to as a "3(21)" plan fiduciary.

Education and discretionary advice

If a participant engages an advisor to provide discretionary investment advice, the advisor will assume the responsibility for actual management of the participant's account. Discretionary advice may be offered by a plan's institutional trustee or by an advisor that has been appointed to serve as the plan's investment manager (also referred to as a "3(38)" plan fiduciary).

Before deciding to offer non-discretionary or discretionary investment advice to participants (on top of the guidance delivered through an education program), plan sponsors should consider the implications of offering any fiduciary advice to participants.

Fiduciary rules for providing investment advice

A professional provider of "investment advice" within the meaning of Section 3(21)(A)(ii) of ERISA is deemed to be a fiduciary to the plan. Once an advisor is deemed to be a fiduciary, it is subject to absolute restrictions on the type of compensation it may receive. A fiduciary advice provider must not receive any type of variable compensation through the plan's investment options (e.g., 12b-1 fees payable at varying rates from a plan's various mutual fund options). Under the prohibited transaction rules of ERISA, it is impermissible for a plan fiduciary to provide advice under any sort of arrangement where the fiduciary has an incentive to make investment recommendations that could increase its own compensation. Although advisors are generally permitted to receive variable compensation for services provided to non-ERISA clients, they are prohibited from doing so under ERISA and there is no relief for providing such advice (even if in good faith) to plan clients.

No provision under ERISA requires a plan sponsor to offer investment advice to plan participants. However, if a plan sponsor chooses to do so, it has a fiduciary responsibility to select a qualified provider of investment advice. Plan sponsors are subject to co-fiduciary liability in the event a provider is imprudently selected and/or maintained and causes participants to suffer investment losses as a result of inappropriate investment recommendations.

It should be noted that the DOL recently issued a set of proposed rules that would substantially broaden the definition of investment advice to include additional categories of non-discretionary advice.[7] However, under both the existing and the newly proposed regulations, if an advisor were to provide non-discretionary advice with regard to how participants should invest their plan accounts in particular investment options, such advisor would clearly be viewed as a plan fiduciary. Similarly, a provider of discretionary investment management services would also be viewed as a fiduciary under both the existing and proposed regulations. Thus, even if the DOL's proposed rules were adopted in their current form, providers of either type of participant advice would continue to be viewed as plan fiduciaries, and they would be subject to fiduciary liability under ERISA to the extent such advice were imprudent and resulted in participant investment losses.

[7] 75 Fed. Reg. 65263 (Oct. 22, 2010).

Non-fiduciary nature of investment education

Unlike a provider of investment advice, an advisor that provides "investment education" within the meaning of DOL Interpretive Bulletin 96-1 (the "DOL Bulletin") is not a plan fiduciary. The DOL Bulletin describes four different safe harbors or categories of investment guidance that are not deemed to be fiduciary advice. These categories are:

- Information about the terms of the plan, the plan's menu of investment options and the benefits of plan participation ("Plan Information");
- General financial and investment concepts, estimating retirement income needs, and determining time horizons and assessing risk tolerance ("Investment Information");
- Asset allocation portfolios of hypothetical individuals with different time horizons and risk profiles ("Asset Allocation Models"); and
- Worksheets and similar materials which assess the impact of different asset allocations on retirement income, and which may also generate asset allocation models ("Interactive Materials").

In light of the broad definition of investment education under the DOL Bulletin, plan sponsors should consider whether an education program (without the addition of an investment advice program) would be sufficient for providing guidance to its participants. Since an education provider is not deemed to be a plan fiduciary, the plan sponsor generally is not subject to co-fiduciary liability for any participant investment losses that are somehow attributed to the educational services provided. It should be noted that the four safe harbors under the DOL Bulletin would not be affected by the DOL's proposal to broaden the investment advice definition. Thus, even if the DOL's proposed rule were adopted in its current form, a participant advisor that limited its guidance to Asset Allocation Models and other safe harbor materials would not be deemed to be a plan fiduciary.

Many plans have a significant number of participants who do not want the day-to-day responsibility of making investment allocation decisions for their own plan accounts. To address the needs of this segment of participants, rather than offering investment advice, the plan sponsor could add lifestyle fund or TDF options to the plan's menu, which would relieve such participants from the responsibility of making investment allocation decisions for their own plan accounts. Of course, from a participant's perspective, there is no downside to being offered investment advice. Even if a plan offers lifestyle funds or TDFs as investment options, some participants may prefer an alternative that allows them to invest in the plan's designated investment options with the convenience of an expert's advice.

3 Best practices for delivering investment education

As discussed above, there are varying incentives for providing different types of investment education. In light of the fiduciary protections available, plan sponsors should strongly consider providing all three categories of investment education (including Investment Concepts and Allocation Decision Support) in accordance with the suggested practices described below.

Education programs should engage participants

Many participants will not respond to passive education or written materials that have been distributed or otherwise been made available to them. Accordingly, plan sponsors should consider providing active education through a provider that engages participants and provides meaningful decision-making assistance to participants.

A common complaint voiced by participants who attend unsatisfactory education sessions is that the guidance provided was too "generic" and lacked any meaningful instructions on making allocation decisions. Such complaints may lead to low attendance rates at future informational meetings, and can even result in the program's failure. Unfortunately, in many instances, an education provider may be reluctant to provide more meaningful guidance to participants, out of a fear that the guidance may somehow cross the "line" from education to advice.

So that the education program can be as effective as possible, plan sponsors and their education providers should consider delivering Allocation Decision Support to participants in a meaningful way by taking advantage of the various safe harbors included in the DOL Bulletin.

One suggested approach for providing non-fiduciary Allocation Decision Support is as follows:

- Use a questionnaire to help participants determine their investment time horizons and assess risk tolerance (as permitted under the Investment Information safe harbor);
- Introduce participants to various asset allocation portfolios of hypothetical individuals with different time horizons and levels of risk tolerance (as permitted under the Asset Allocation Models safe harbor);
- Use a worksheet to guide participants to the sample asset allocation portfolio that is the closest fit with their time horizon and risk tolerance (as permitted under the Interactive Materials safe harbor).

Although the education provider cannot give definitive advice to plan participants, the educational materials would allow the provider to do some "hand holding" with participants (e.g., providing personalized guidance on deciding time horizons and risk tolerance), and it should give participants a reasonable idea of how they can use these investment concepts to determine their portfolio allocations. The Asset Allocation Models may reference particular menu options available under the plan, so long as certain disclaimers are included in the materials. The attached Appendix A, Sample Asset Allocation Models Under DOL Interpretive Bulletin 96-1, includes an illustration of how plan sponsors may provide Allocation Decision Support education to participants with the required disclaimers under the DOL Bulletin (see page 14-15).

Investment concepts education should cover enhanced plan menu disclosures

To help ensure that all elements of the required disclosure under the Disclosure Regulations will be understood by a particular plan's average participant, the plan sponsor should tailor its education to review all relevant Investment Concepts necessary to understand the enhanced Plan Menu Disclosures. For example, the education program should provide an overview of asset classes and investment categories, the significance of an investment's risk and return characteristics, the basics of benchmarking and the relevance of historical returns. In anticipation of the DOL's proposed rule change for TDF disclosures, the education provider should highlight the fundamental characteristics of any TDFs included in the plan's investment menu. A review of the TDF's Glide Path Illustration should also be included, to ensure that the Glide Path Illustration does not impede a participant's understanding of the TDF as required under the proposed changes to the Disclosure Regulations.

Ideally, the education provider should make reference to the actual Plan Menu Disclosures (which will customarily be prepared by the plan's recordkeeper) and make participants comfortable with its format and content. Although it is not critical to have every single participant attend the educational sessions, the sponsor should encourage as many participants as possible to participate in an effort to improve the financial literacy and understanding of the "average" participant.

Any advice offering should not replace education program

As discussed above, if a plan sponsor decides to offer fiduciary investment advice to its participants, it is important for the plan sponsor to keep in mind that the investment advice program should be in addition to (and not in replacement of) the plan's education program. A plan's financial advisor would be well-positioned to serve as the plan's education provider. However, in certain instances, the financial advisor may be unable to offer personalized fiduciary advice on a regular basis to all plan participants. In this situation, the plan sponsor should consider engaging a separate provider to offer investment advice, and rely on the plan's financial advisor to run the education program. The plan's financial advisor may be able to assist the plan sponsor with the selection and monitoring of the plan's advice provider.

Establish an education policy statement for the plan

Given the important fiduciary protections available for providing investment education, plan sponsors should design and maintain their education programs in accordance with a deliberate and disciplined process. As part of a prudent process, the plan sponsor could adopt an "Education Policy Statement" which addresses the objectives of the education program, the frequency of the informational meetings that will be held for participants, the educational investment topics to be covered, and other relevant information. Plan sponsors can also use the Education Policy Statement, and the program parameters that are reflected in it, as an objective way to evaluate the provider's performance and as a guide to assess whether the program is achieving its stated objectives.

Conclusion

Both plan participants and plan sponsors can benefit greatly from a robust investment education program. As the new Disclosure Regulations become effective for plan years beginning after October 31, 2011, plan sponsors should strongly consider providing education on Investment Concepts to supplement the enhanced Plan Menu Disclosures that must be delivered to participants.

Allocation Decision Support can also help a plan sponsor reduce its exposure to fiduciary liability for participant-directed investment losses by improving the quality of participants' investment decisions. The education program should engage participants, and the plan sponsor should maintain a financial education program even if it also elects to offer fiduciary advice. To ensure its financial education program is well-designed and appropriately managed, plan sponsors should also consider adopting an Education Policy Statement.

Appendix A

Sample asset allocation models under DOL intepretive bulletin 96-1

Sample asset allocation models for the [ABC plan]

Conservative allocation strategy

Name of fund	Allocation target
ABC Large Cap Stock Fund	12.0%
DEF Small Cap Stock Fund	6.3%
HIJ International Equity Fund	4.9%
NOP All Cap Stock Fund	0.0%
TUV Intermediate Bond Fund	66.8%
XYZ Money Market Fund	10.0%

Moderate allocation strategy

Name of fund	Allocation target
ABC Large Cap Stock Fund	24.5%
DEF Small Cap Stock Fund	13.5%
HIJ International Equity Fund	9.8%
NOP All Cap Stock Fund	5.7%
TUV Intermediate Bond Fund	46.5%
XYZ Money Market Fund	0.0%

Aggressive allocation strategy

Name of fund	Allocation target
ABC Large Cap Stock Fund	40.3%
DEF Small Cap Stock Fund	21.6%
HIJ International Equity Fund	19.7%
NOP All Cap Stock Fund	6.5%
TUV Intermediate Bond Fund	11.9%
XYZ Money Market Fund	0.0%

For illustrative purposes only.

Required disclosures for sample asset allocation models

Material assumptions disclosure

These sample asset allocation models were designed for hypothetical individuals with different time horizons and risk profiles.

- The **Conservative Allocation Strategy** model assumes that the individual is nearing or in retirement, needs current income and capital preservation, has a low tolerance for risk and is not concerned with growth.
- The **Moderate Allocation Strategy** model assumes that the individual is a long-term investor, prefers some growth potential, has a moderate tolerance for risk and can accept some fluctuations in value.
- The **Aggressive Allocation Strategy** model assumes that the individual is a long-term investor, prefers high growth potential, has a high tolerance for risk and can accept substantial fluctuations in value.

Alternative funds disclosure

Other investment alternatives having risk and return characteristics that are similar to those named in the asset allocation models may be available under the Plan, and information on those investment alternatives can be obtained from the Plan's administrative service provider by telephone at [insert phone number] or through the Internet at [insert website address].

Other assets disclosure

When applying a particular asset allocation model to your individual situation, you should consider your other assets, income and investments (e.g., equity in a home, IRA investments, savings accounts, and interests in other retirement plans) in addition to your interests in the Plan.

About Legg Mason

Since its founding in 1899 as a brokerage firm in Baltimore, Maryland, Legg Mason has evolved into one of the largest asset management firms in the world, serving individual and institutional investors in 190 countries on six continents.

Today's Legg Mason is a diversified group of best-in-class global asset management firms ("affiliates"), including Legg Mason Global Asset Allocation, who are recognized for their proven investment expertise and long-term performance. The principal investment affiliates of Legg Mason are among the industry leaders in their respective areas of specialization, with unique investment approaches that have been developed over decades. The distinctive Legg Mason "multi-affiliate" business model provides clients with a broad spectrum of Equity, Fixed Income, Liquidity and Alternatives solutions, from mutual funds to college savings plans to variable annuities to separately managed accounts.

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