



Benjamin Grosz Interviewed on 401(k) QDIA Fiduciary Red Flags for Plan Sponsors

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Fiduciary liability and best practices for plan sponsors regarding Qualified Default Investment Alternatives (QDIAs) was discussed by Ben Grosz, who was quoted extensively in a Fiduciary News article entitled "QDIA Fiduciary Red Flags 401k Plan Sponsors Must Look Out For" by Christopher Carosa.

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From the Employee's Perspective [Excerpt]

TDFs promise a "one decision" alternative that allows retirement savers to focus on saving rather than investing. Benjamin L. Grosz, a benefits and tax attorney at Ivins, Phillips & Barker in Washington, DC, says, "I think that age-based (target date) funds are more popular for participants, because they are understandable and enable a set it and forget it' investment selection approach. Target date funds may be more popular (and appropriate) as a QDIA for plan fiduciaries who know and understand that many or most of their QDIA-defaulted participants will not update their investment elections regularly. There is a growing body of behavioral economics research indicating that this is a common behavior as you've written about before in 'Plan Sponsor Alert: Behavioral Finance Reframing Future of 401k,' (*FiduciaryNews.com*, October 1, 2013)."

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QDIA Fiduciary Red Flags for 401k Plan Sponsors



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Both TDFs and risk-based funds present fiduciary pitfalls to 401k plan sponsors. These issues are particularly acute for TDFs (see "Are Target Date Funds a Ticking Time Bomb?" *FiduciaryNews.com*, February 10, 2015). We saw how the market crash several years ago exposed the soft underbelly of TDFs. Grosz says, "Many learned during the 2008 financial crisis that risk levels could vary significantly from one 2010 target date fund to another."

While volatile markets cannot be predicted with precision, there are specific warning signs plan sponsors can use when conducting due diligence on TDFs. Grosz counts three: "1) Unreasonably high fees (to investment manager, or others via revenue sharing); 2) Proprietary component funds with unreasonably high fees - (note that even the Department of Labor has suggested that plans consider open architecture or unbundled target-date funds); and, 3) A glide path that is not appropriate or not appropriately communicated." In terms of this latter point, Grosz feels "the onus is really on the plan fiduciary to effectively communicate with participants with regard to their funds' glide path."

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How can plan sponsors best reduce their fiduciary risk when selecting QDIAs? [Excerpt]

Bear in mind this due diligence system can (and should) work with all investment options, not just QDIAs. "The best way for plan sponsors to reduce their fiduciary risk when selecting target date funds (or any investment funds) is to make sure that plan fiduciaries follow a prudent fiduciary process, acting solely in the interests of plan participants, and then document that they did so," says Grosz. "Part of a prudent process will often include consulting with appropriate experts (e.g., investment advisers, legal counsel) depending on the level of expertise of the fiduciary decision makers. Additionally, after the investment funds have been selected, fiduciary risk can also be reduced through good and effective participant communications."

As with most duties involving plan investments, maintaining adequate records is a must. "If there is some special reason why the fiduciaries believe that target risk funds, or target date funds, make sense for their participant population, then they should be sure to document that reasoning, as well as to document if any advisor/consultant made such a recommendation," says Grosz. "I'd also emphasize the point about effective participant communications, particularly with regard to target risk (or target date) funds. Clearly and effectively explaining how these funds work, what they do (and don't do) automatically, and the lack of guarantees is important and can reduce fiduciary risk."