

# Treasury Department and IRS Allow Lifetime Annuity Contracts as Investments by Target Date Funds

October 27, 2014

Last week, the IRS issued Notice 2014-66, providing a special rule that allows defined contribution pension plans to give participants a lifetime annuity income option by offering target date funds ("TDFs") that include deferred annuities among their assets, even if certain TDFs are available only to older participants. The TDFs can be offered as either an investment option under a plan or used as the Qualified Default Investment Alternative ("QDIA"). The Department of Labor has confirmed that TDFs serving as QDIAs may include annuities among their fixed income investments. If the special rule is satisfied, the TDF will be deemed to satisfy the IRS nondiscrimination requirements as they apply to rights or features even if one or more of the TDFs, considered on its own, would not satisfy those requirements. To satisfy the rule:

1. The series of TDFs must be designed to serve as a single integrated investment program under which the same investment manager manages each TDF using the same generally accepted investment theories. The only difference between each TDF must be the mix of assets selected by the investment manager resulting solely from the intent to achieve the level of risk appropriate for the participants in that TDF;
2. None of the annuity contracts in the TDFs available to older participants provide a Guaranteed Lifetime Withdrawal Benefit or a Guaranteed Minimum Withdrawal Benefit;
3. None of the TDFs hold employer securities that are not readily tradeable on an established securities market; and

4. Each TDF must be treated in the same manner regarding its rights or features other than the mix of assets, *e.g.*, the fees and administrative expenses for each TDF are determined in a consistent manner and, to the extent those fees and expenses are paid from participants' accounts, they are the same

## Authored By



Stephen W. Kraus

## Related Practices

[Financial Services Regulatory](#)

[Life, Annuity, and Retirement Litigation](#)

[Labor & Employment](#)

[Securities Litigation and Enforcement](#)

[Securities Transactions and Compliance](#)

## Related Industries

[Life, Annuity, and Retirement Solutions](#)

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.