

American Benefits Council Money Market Fund Reform Webinar September 4, 2014

Jan Jacobson, *Moderator*
Senior Counsel, Retirement Policy
American Benefits Council

Michael Hadley
Partner
Davis & Harman LLP

Robert Holcomb
Vice President, Legislative and Regulatory Affairs
Great West Financial



**DAVIS &
HARMAN** LLP



Background of Money Market Funds

- General Characteristics & Tools
 - ❖ **Stability and Liquidity**
 - ❖ **Rule 2a-7 - Investment Company Act of 1940**
 - ❖ **Stable Net Asset Value of \$1 Per Share**
- Important to Plan Fiduciaries & Participants
- 2008 Financial Crisis
 - ❖ **Money Market Fund “Broke the Buck”**
 - ❖ **Pressure for Reforms**



Retirement Industry Position

- Money market funds play a key role in retirement savings and plan administration
- Plans should have access to stable NAV funds
- Liquidity “fees and gates” can create operational challenges
- American Benefits Council filed comment letters with SEC, Treasury and FSOC



Final SEC Rules

Three categories of funds

1. “Government fund”: 99.5% of assets in cash, Treasury securities, etc. (not municipal)
2. “Retail fund”: Has policies to limit beneficial owners to natural persons
3. “Institutional fund”: All other money market funds



Floating NAV & Fees & Gates

- Floating Net Asset Value
 - ❖ **Fluctuating Daily Share Price**
 - ❖ **Tax Implications & IRS Guidance**
- Liquidity Fees (up to 2%)
 - ❖ **30% and 10% Thresholds – Both Permissive**
- Redemption Gates
 - ❖ **Temporary Suspension of Redemptions (10 Days Maximum)**
 - ❖ **30% Thresholds – Permissive**



Summary of Applicability of SEC Reforms

Money Market Type	May Use Stable NAV?	Subject to “Fees & Gates”
“Retail” MMF	Yes	Yes
“Government” MMF	Yes	No*
“Institutional” MMF	No	Yes

*Unless “Government” MMF elects to be covered.



Other Changes

- Enhanced Disclosure
 - ❖ **Liquidity levels**
 - ❖ **Daily website disclosure**
 - ❖ **Material “event” (Form N-CR)**
 - ❖ **Disclosure support of sponsor**
- Enhanced Diversification



Implementation Challenges

- 2 Year Compliance Requirement
 - ❖ **New Form N-CR nine months**
 - ❖ **Diversification, disclosure 18 months**
- Impact of Floating NAV on Plan Sponsors
 - ❖ **Role of MMF in Plan's Investment Lineup**
- Impact of Fees & Gates on Plan Sponsors



Fiduciary Considerations

- Prudence requires considering all relevant facts and circumstances, including role of investment in overall portfolio
- Consideration of alternatives
- Consideration of fees
- Recommended first step: Inquiry about changes at regular investment review



Outstanding Issues

- What plans are retail investors?
 - ❖ See Footnote 697
 - ❖ Others?
- Use of money funds as QDIA, Auto Rollover IRA?
- Participant disclosure considerations
- Others?



Thanks and Questions

