

MEMO# 21080

April 25, 2007

DOL Requests Information on Fee and Expense Disclosure to 401(k) Participants: Conference Call Scheduled for Tuesday, May 1 at 2:30 PM ET

[21080]

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TO: PENSION COMMITTEE No. 11-07

PENSION OPERATIONS ADVISORY COMMITTEE No. 11-07 RE: DOL REQUESTS
INFORMATION ON FEE AND EXPENSE DISCLOSURE TO 401(k) PARTICIPANTS: CONFERENCE
CALL SCHEDULED FOR TUESDAY, MAY 1 AT 2:30 PM ET

The Department of Labor released the attached request for information (RFI) on disclosure of plan administrative and investment-related fee and expense information to participants in participant-directed individual account retirement plans. The DOL is reviewing whether changes should be made in its rules to ensure participants have the information they need to make informed decisions about the management of their retirement savings. Comments on the RFI are due July 24, 2007.

The Institute has scheduled a conference call for Tuesday May 1 at 2:30 PM Eastern Time to discuss the RFI. If you would like to participate in the conference call, please complete the attached response form and fax it to Brenda Turner at 202/326-5841 or e-mail it to bturner@ici.org by noon, Tuesday May 1, 2007. To participate in the call, please dial 1-888-791-5525 and enter passcode 15648.

The RFI solicits information on:

- what fee and expense information participants should consider,
- the manner in which that information should be provided to participants, and
- who should be responsible for providing this information.

DOL will use responses to determine to what extent rules should be developed or modified to improve the information currently provided to participants, recognizing that in many instances the costs of disclosure requirements are borne by participants.

Background

The RFI summarizes the disclosure rules for plans complying with Section 404(c) of ERISA, which require that certain information be provided automatically and other information be made available only upon request. The RFI also summarizes the report of the 2004 ERISA Advisory Council Working Group on Fee and Related Disclosures to Participants [\[1\]](#), which recommended that participants be provided fees and expenses of all options expressed as a ratio and that disclosure take the form of a profile prospectus or include substantially the same information as is provided in a profile prospectus. The working group also recommended that account statements to participants include the expenses of each option expressed as a ratio, and identify expenses paid entirely or in part by the plan sponsor. The RFI notes that a recent GAO report on disclosure in 401(k) plans recommended that DOL require plan sponsors to report a summary of all fees that are paid out of plan assets or by participants. GAO recommended the summary list fees by type, particularly investment fees indirectly incurred by participants. [\[2\]](#)

DOL's Questions

The RFI asks 19 questions divided into three categories: disclosure of information related to plan investment options, disclosure of information related to plan and individual account administrative fees and expenses, and general questions. The questions ask about both current practices regarding disclosure to participants and recommendations for what information participants need. While one question asks broadly what information participants need about the investment options available in their plans, most of the questions focus on disclosure of fee and expense related information. It appears from the questions that DOL is considering, as the Institute has recommended, applying new disclosure requirements to all participant-directed individual account plans, not just those complying with Section 404(c) of ERISA. The RFI asks for examples of any particularly cost-effective (high-value but inexpensive) fee and expense disclosures to participants and for any available estimates of the dollar costs or benefits of these disclosures.

Michael L. Hadley
Assistant Counsel

[Attachment](#)

endnotes

[1] See [Memorandum](#) to Pension Members No. 60-04 [18332], dated December 14, 2004. The Institute testified before the Advisory Council in 2004. See [Memorandum](#) to Pension Members No. 46-04 [18027], dated September 22, 2004.

[2] Although not mentioned in the RFI, GAO also recommended that Congress consider amending ERISA to require plan sponsors to disclose to participants information on each investment option in a way that facilitates comparison among options. See [Memorandum](#) to Pension Members No. 71-06 and Federal Legislation Members No. 6-06 [20649], dated December 1, 2006.

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