INVESTMENT COMPANY INSTITUTE

MEMO# 25949

February 29, 2012

Institute Submits Another Response to DOL Request on IRA Data

[25949]

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TO: PENSION COMMITTEE No. 7-12
PENSION OPERATIONS ADVISORY COMMITTEE No. 7-12 RE: INSTITUTE SUBMITS ANOTHER RESPONSE TO DOL REQUEST ON IRA DATA

On February 24, the Institute submitted the attached letter in response to the Department of Labor's letter dated February 10, 2012 requesting assistance identifying data or data sources "that could help the Department evaluate the impact, if any, of conflicts of interest faced by brokers or others who advise IRA investors." The Department's letter is a follow-up to its request of December 15, 2011 and relates to the economic analysis the Department is preparing for the re-proposal of the fiduciary definition rule. [1] The attached letter supplemented the information the Institute provided at the meeting with the Department on January 24, 2012 and the Institute's response of January 13, 2012 — both in response to the Department's December 15th request for data. [2]

As you know, the Department's December 15, 2011 letter asked for comprehensive information about individual IRA accounts and their owners, including detailed data on all the investments held in a particular IRA and their performance over time; the characteristics and transaction history of the IRA account and whether transactions resulted from specific recommendations and whether the recommendations were solicited; and demographics of the IRA holder including his or her risk tolerance, financial literacy and investment strategy preferences.

In this most recent letter, we again explained that the Institute conducts regular research on the 401(k) and IRA markets but, at the same time, does not collect the kind of detailed investment data on returns, investment strategies, advice, trades, and investor characteristics identified by specific individual investors that would allow the Department to assess the impact of a particular recommendation made to an IRA customer. The letter also provided additional information about the IRA Investor DatabaseTM, the Institute's reports related to the database, the Institute's research on distribution channels and research on expenses investors incur in mutual funds when invested through 401(k) plans and IRAs. [3] The letter explained that this information may be helpful to the Department's effort to evaluate the impact, if any, of conflicts of interest faced by brokers and others who advise IRA investors.

The Institute letter expressed concerns about the “practical utility” of using the kind of data the Department was seeking to draw conclusions about broker-dealer behavior. In this respect, our letter emphasized the need to ensure that the Department’s analysis was based on valid sampling techniques and suggested that the Paperwork Reduction Act’s guidelines for “collection of information” by an agency may be particularly instructive and helpful to the Department’s efforts to collect relevant information.

The Institute concluded the letter with encouraging the Department to—

- Determine whether the data exist in a format readily obtainable and/or whether differences in how brokers and others maintain their records will impact the Department’s ability to obtain a valid sampling of data derived from a proper cross-section of firms.
- Evaluate whether the costs associated with the collection of trading and client data, much of which is likely found only in hard copy or pdf format, can be justified in light of the likely utility of such data and the availability of existing research providing relevant findings.
- Consider whether there will be gaps in the data sampling (e.g., the data show a single investment in one account, but not the investor’s total portfolio) and how such gaps might impact how a researcher could measure the extent to which a broker or investment professional did or did not act in the interests of clients.

Anna Driggs
Associate Counsel

Attachment

endnotes

[1] For Institute’s materials in connection with the DOL fiduciary definition proposal, see Memorandum to Pension Members No. 8-11 [24941], dated February 3, 2011 (original comment letter); Memorandum to Pension Members No. 17-11 [25000], dated March 2, 2011 (testimony); Memorandum to Pension Members No. 21-11 [25084], dated April 12, 2011 (follow up hearing submission); and Memorandum to Pension Members No. 23-11 [25210], dated May 23, 2011 (reproposal letter).

[2] See Memorandum to Pension Committee No. 3-12, Pension Operations Advisory Committee No. 3-12 [25799], dated January 13, 2012.

[3] We discussed in the letter that the Institute’s research shows that IRA investors invest their IRA account assets in much the same way as they invest their 401(k) account assets and that differences in investment patterns among IRA holders are more likely to be based on demographic differences, such as age, than some other factor.