

**MEMO# 21757**

October 5, 2007

## **Institute Statement on H.R. 3185, the 401(k) Fair Disclosure for Retirement Security Act of 2007**

[21757]

October 5, 2007

TO: PENSION MEMBERS No. 55-07

FEDERAL LEGISLATION MEMBERS No. 7-07

BANK, TRUST AND RECORDKEEPER ADVISORY COMMITTEE No. 39-07

BROKER/DEALER ADVISORY COMMITTEE No. 62-07

OPERATIONS COMMITTEE No. 26-07 RE: INSTITUTE STATEMENT ON H.R. 3185, THE 401(K) FAIR DISCLOSURE FOR RETIREMENT SECURITY ACT OF 2007

The Institute submitted the attached statement for the record at a hearing of the House Education and Labor Committee on H.R. 3185, the “401(k) Fair Disclosure for Retirement Security Act of 2007.” [\[1\]](#)

The Institute’s statement recommends that the requirements of H.R. 3185 regarding disclosure to plan fiduciaries from service providers be streamlined, to focus on what services will be delivered, the fees that will be charged, and whether and to what extent the service provider receives compensation from other parties in connection with providing services to the plan. The Institute also recommends that a service provider that offers a number of services in a package be required to identify each of the services and total cost but not to break out separately the fee for each of the components of the package.

The statement recommends that participant disclosure be concise and focused on the key information that participants need to make informed decisions in allocating their accounts. The Institute recommends that any ERISA requirement to disclose trading costs follow the SEC’s approach by using the portfolio turnover rate, and any ERISA requirement to translate asset-based fees into dollar terms use a hypothetical example similar to what mutual funds provide in shareholder reports.

Finally, the statement expresses concern with a provision in H.R. 3185 that would mandate that 401(k) plans offer an index fund meeting requirements specified in the bill.

The Institute and the American Council of Life Insurers also joined a statement submitted for the record by the American Benefits Council, which makes additional comments regarding H.R. 3185. [\[2\]](#)

Michael L. Hadley  
Assistant Counsel

#### [Attachment](#)

#### **endnotes**

[\[1\]](#) For a description of the requirements of H.R. 3185, see [Memorandum](#) to Pension Members No. 44-07, Federal Legislation Members No. 4-07, Bank, Trust and Recordkeeper Advisory Committee No. 25-07, Broker/Dealer Advisory Committee No. 43-07, and Operations Committee No. 19-07 [21396], dated July 27, 2007.

[\[2\]](#) For a copy of the joint statement, see [http://www.americanbenefitscouncil.org/documents/hr3185\\_statement\\_abc-acli-ici100407.pdf](http://www.americanbenefitscouncil.org/documents/hr3185_statement_abc-acli-ici100407.pdf).

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