

MEMO# 22922

September 26, 2008

Institute Statement to Senate Health, Education, Labor and Pensions Committee on 401(k) Disclosure

[22922]

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TO: PENSION MEMBERS No. 58-08
FEDERAL LEGISLATION MEMBERS No. 12-08
BANK, TRUST AND RECORDKEEPER ADVISORY COMMITTEE No. 30-08
BROKER/DEALER ADVISORY COMMITTEE No. 33-08
OPERATIONS COMMITTEE No. 18-08 RE: INSTITUTE STATEMENT TO SENATE HEALTH,
EDUCATION, LABOR AND PENSIONS COMMITTEE ON 401(k) DISCLOSURE

The Institute submitted the attached statement for the record for a recent hearing of the Senate Health, Education, Labor and Pensions Committee on 401(k) fee disclosure. The hearing was held on September 17 and was entitled “401(k) Fee Disclosure: Helping Workers Save for Retirement.” [\[1\]](#) Senator Tom Harkin (D-IA), who previously introduced 401(k) fee legislation, [\[2\]](#) chaired the hearing in Chairman Ted Kennedy’s (D-MA) absence.

The statement largely tracks the statements the Institute filed for previous Congressional hearings before the House Education and Labor Committee and the Senate Special Committee on Aging. [\[3\]](#)

The Institute’s statement recommends that disclosure to plan fiduciaries from service providers 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 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 statement describes the Department of Labor's comprehensive regulatory disclosure projects and states that in light of these projects the Institute does not see the need for Congressional action at this time.

Michael L. Hadley
Associate Counsel

[Attachment](#)

endnotes

[1] The witnesses at the hearing were: Bradford P. Campbell, Assistant Secretary, Employee Benefits Security Administration; Olena Berg Lacy, on behalf of the Pension Rights Center; R. Theodore Benna, Founder, The 401(k) Association; and Paul Hunt, President, Millenium Advisory Services, on behalf of the US Chamber of Commerce. Copies of witnesses' statements are available here:

http://help.senate.gov/Hearings/2008_09_17/2008_09_17.html.

[2] See Memorandum to Pension Members No. 1-08, Federal Legislation Members No. 1-08, Bank, Trust and Recordkeeper Advisory Committee No. 1-08, Broker/Dealer Advisory Committee No. 1-08 and Operations Committee No. 1-08 [22086], dated January 2, 2008.

[3] See Memorandum 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 and Operations Committee No. 26-07 [21757], dated October 5, 2007.