

COMMENT LETTER

June 1, 2005

ICI Comment Letter on Model Disclosure Schedule for Plan Sponsors to DOL, June 2005

May 26, 2005

Mr. Robert Doyle
Director, Office of Regulations and Interpretations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, NW, Suite N-5669
Washington, DC 20210

Re: Model Disclosure Schedule For Plan Sponsors

Dear Bob:

As discussed during our last meeting, we are submitting for your consideration the [enclosed model schedule](#) that is designed to provide plan sponsors with information about “revenue sharing” arrangements that may present conflicts of interest.

Our proposal builds on the model 401(k) fee disclosure form that the Institute, along with the American Bankers Association and the American Council of Life Insurers, developed a number of years ago under the Department’s leadership. That form is a valuable tool because it provides plan sponsors with detailed information about the total cost of maintaining a plan. The current form does not directly address revenue sharing, however, because the form does not focus on how the total fee for plan services is allocated among various service providers. The enclosed schedule, which addresses these payments, is designed to be part of the current model fee disclosure form.

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Proposed Schedule

The disclosure schedule we have developed, consistent with our testimony before the

ERISA Advisory Council last fall, provides information about a service provider's receipt of compensation, including revenue sharing, in connection with its services to a 401(k) plan. The disclosure schedule is intended to address all service providers that are compensated by unaffiliated parties in connection with a plan. The schedule, for example, indicates whether a plan consultant that recommends a service provider or an investment option to a plan is being compensated by those parties. Firms that provide recordkeeping and administrative services also are covered. In addition, the schedule reports receipts (as opposed to payments) because the recipient of plan-related compensation is the only party with direct knowledge about all of its compensation sources.

Payments among affiliated service providers are not covered by the model schedule because this information is of limited additional benefit to plan sponsors and providing the information entails practical difficulties. This information is not necessary because the sponsor already knows that the entities are affiliated and that their interests are aligned toward ensuring an ongoing relationship with the plan. The plan sponsor knows the critical fee information with respect to the affiliated arrangement: the aggregate compensation actually paid to the affiliates. We are also mindful that providing payment data for affiliates presents practical difficulties. Our members tell us that cost allocations between affiliates (for services such as recordkeeping) are typically bookkeeping estimates of costs. These estimates are based more on accounting methodologies than market rates, and thus may not be particularly useful to plan sponsors.

Preliminary Feedback from Other Trade Groups

The preliminary feedback we have received from other retirement-focused trade associations with which we have shared the draft generally has been positive. We will continue to work with these and other groups to build broad support for a form that enhances disclosure to plan sponsors.

Two comments concerning the schedule's scope were raised during our discussions with these other groups. One comment was that the schedule should address only receipts by pension consultants and other investment professionals that recommend or sell investment products to plans. The second comment was that the schedule should disclose receipts by both affiliated and unaffiliated providers. We believe that our proposal strikes the appropriate balance.

* * *

As we previously discussed, we believe that it would be helpful for the Institute and other interested trade associations to meet with you and your colleagues to discuss the model schedule. In the meantime, if you have any questions or would like additional information, please do not hesitate to contact me at (202) 326-5815, Keith Lawson at (202) 326-5832, or Thomas Kim at (202) 326-5837.

Sincerely,

Elizabeth R. Krentzman

General Counsel

[Enclosure](#)

cc: Ann L. Combs
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