

April 7, 2011

e. christi cunningham
Associate Assistant Secretary for Regulatory Policy
U.S. Department of Labor
200 Constitution Avenue, NW
Room S-2312
Washington, DC 20210

Re: Reducing Regulatory Burden Under E.O. 13563

Dear Associate Assistant Secretary:

The Investment Company Institute, the national association of U.S. investment companies, is pleased to submit these comments on how the Department can improve its regulations and reduce their burdens. Our recommendations focus on enhancing retirement security through the Department's role as primary regulator of the Employee Retirement Income Security Act.

We support the goal of the President's Executive Order 13563 to use "the best, most innovative, and least burdensome tools to achieve regulatory ends." To that end, we have three recommendations to modernize the ERISA regulatory regime to make the delivery of communications that workers receive about their employer-based retirement plans most effective and reduce regulatory costs and burdens.

Streamlining the volume of participant disclosures. Workers who participate in ERISA-governed retirement plans receive a myriad of required disclosures and forms imposed by the Department and the Internal Revenue Service under various provisions of ERISA. The Department should take the lead and work with the IRS to streamline and consolidate these notices. In doing so, they should focus plan participants on the key information they need to make the decisions required of them under the plan; more detailed information could be available to them online when needed.¹

¹ See West and Leonard-Chambers, *Understanding Investor Preferences for Mutual Fund Information*, Investment Company Institute (2006), available at http://www.ici.org/pdf/rprt_06_inv_prefs_full.pdf. See also Sabelhaus, *Investor Views on the U.S. Securities and Exchange Commission's Proposed Summary Prospectus*, Investment Company Institute (Mar. 14, 2008), available at http://www.ici.org/pdf/ppr_08_summary_prospectus.pdf.

Information delivery should center on key decision points including plan enrollment and termination of employment.²

Updating the Department's 2002 electronic disclosure rules. Modernizing the Department's almost 10-year old rule on e-distribution will increase the effectiveness of ERISA's disclosure rules in informing and assisting participants while minimizing the costs and burdens the current paper-based system imposes on administering plans – costs that participants bear. The Department has acknowledged the need to consider possible changes to its 2002 rule in light of changes in technology and the workforce in the past 10 years and has published a request for information. Regulatory reforms to e-delivery rules particularly need to incorporate proven innovations and tools, including the successful use of electronic delivery of quarterly benefit statements under the Department's interim PPA guidance in Field Assistance Bulletin 2006-03. We strongly support reexamining the 2002 rule and urge a comprehensive and expeditious review.

Avoiding regulation in isolation. The “coordination, simplification, and harmonization” across agencies that Executive Order 13563 requires federal agencies to promote especially is important in retirement savings. Both the Department and the IRS regulate retirement plans and individual retirement accounts, while financial regulators oversee the investment products used in plans and IRAs and the persons providing financial services in connection with those products. We applaud the Department for harmonizing required information about plan investment options under new ERISA section 404(a) participant disclosure regulations with similar information required under SEC rules. The Department should make this type of coordination and harmonization a priority going forward. In particular, the Department should work closely with the IRS on streamlining ERISA disclosures because many notices that satisfy Internal Revenue Code requirements overlap with those required by the Department. In addition, as it considers comments on its proposal to revise a 35 year old rule on fiduciary investment advice to ERISA-governed plans and IRAs, the Department should work closely with the SEC and CFTC as they implement related projects required by the Dodd Frank Act. As primary regulator of retirement plans, which use a range of investment products and services, the Department is in a unique position to assure that regulations affecting retirement savings by the Department and the financial services regulators do not operate in isolation.

² The Institute made similar recommendations to the ERISA Advisory Council which endorsed them in its 2009 report to the Department. See Testimony of Lisa Hund Lattan, on behalf of the Investment Company Institute, before the ERISA Advisory Council Working Group on Promoting Retirement Literacy and Security by Streamlining Disclosures to Participants and Beneficiaries (September 15, 2009), available at <http://www.ici.org/pdf/23804.pdf>. Attached to this testimony is a chart showing the extensive disclosures and other forms that apply in a 401(k) plan. The ERISA Advisory Council's final report is available here: <http://www.dol.gov/ebsa/publications/2009ACreport2.html>.

Associate Assistant Secretary for Regulatory Policy
April 7, 2011
Page 3 of 3

We applaud the Department for seeking to use the best, most innovative and least burdensome tools to achieve regulatory ends and for seeking broad input on how to do so. We stand ready to assist the Department in improving the ERISA rulebook to make a worker's experience of joining a retirement plan more effective and rewarding and achieve the goals of the President's Executive Order.

Sincerely,



Mary S. Podesta
Senior Counsel – Pension Regulation

cc: Phyllis C. Borzi, Assistant Secretary, Employee Benefits Security Administration

* * * *

The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of \$13.0 trillion and serve over 90 million shareholders.