

ICI POLICY STATEMENT

Retirement Plan Disclosure

Adopted by ICI's Board of Governors, January 30, 2007

In 2005, there were 47 million active participants in 401(k) plans, with their retirement savings invested not only in mutual funds but also a wide range of other investment products. As 401(k) plans assume increasing importance for future retirees, plan sponsors must be able to make the right choices in setting up their plans and participants must have the information necessary to make informed investment decisions. To that end, the Institute urges that the Department of Labor clarify the requirements for disclosure of the fees and expenses associated with 401(k) plans to assist plan sponsors in making meaningful comparisons of products and service providers. Similarly, we support action by the Department of Labor to require straightforward descriptions of all the investment options available to participants in self-directed plans. To achieve these important goals:

- » **The Department of Labor should require clear disclosure to employers that highlights the most pertinent information, including total plan costs.**

We believe required disclosure to employers should focus on the total fees paid by the plan to a service provider (in the form of a percentage or ratio) and how expenses are allocated between the sponsor and participants. Required disclosure also should address the various categories of expenses associated with a plan, including arrangements where a service provider receives some share of its revenue from a third party. Under ERISA, the obligation to provide this information should rest with those parties having a direct relationship with the employer.



The Investment Company Institute (ICI) is the national association of the U.S. mutual fund industry, which manages more than half of 401(k) assets and advocates policies to make retirement savings more effective and secure.

In the late 1990s, the Institute, in cooperation with other private-sector organizations, created a Model 401(k) Plan Fee Disclosure Form, which is posted on the Department of Labor website. More recently, the Institute also helped develop a list of service- and fee-related items that plan sponsors should discuss with potential providers. These tools serve to identify what services will be provided for the fees charged, show all forms of expenses, and help employers make meaningful comparisons among the products and services offered to the plan. The tools also can be useful to the Department in crafting regulations and other guidance.

- » **The Department of Labor should require that participants in all self-directed plans receive simple, straightforward explanations about each of the investment options available to them, including information on fees and expenses.**

In making investment elections under a plan, individuals should receive information on:

- » investment objectives,
- » principal risks,
- » annual fees (expressed in a ratio or fee table),
- » historical performance, and
- » the investment adviser that manages the product's investments.

The Department should expand the current disclosure requirements to require plan administrators to provide participants with a concise summary of these five key pieces of information for *each* investment option. One effective way to deliver this information is through email and other forms of electronic communication. Additional information, such as how fees and expenses are allocated among service providers, should be made available to participants (for example, posted on the Internet).

Such disclosure requirements would fill gaps in the information currently required to be provided to participants. The existing disclosure regime does not cover all plans in which participants make investment decisions for their accounts. For plans that are covered, participants must receive full information about mutual funds, in the form of the fund prospectus. For other products, important information – such as operating expenses and historical performance – is available only on request. We support revising current rules to require a summary document for *all* self-directed plans that provides, for *each* investment product, the type of information that investors value and use. This information will empower participants in self-directed plans to manage their accounts effectively.

The mutual fund industry is committed to meaningful disclosure. Over the past 30 years, the Institute has supported efforts to improve the quality of information provided to plans and participants and the way in which that information is presented. Meaningful disclosure is critical to ensuring secure retirements for millions of Americans.

APPENDIX

ICI's Record: 30 Years of Advocating Better Disclosure

The Institute has long acted both in conjunction with other organizations and on its own to enhance the ability of employers to make appropriate choices for their plans. The Institute also has consistently called for effective disclosure to plan participants about investment options. This appendix describes the Institute's efforts over time to improve disclosure for both plan sponsors and participants.

Disclosure to Participants

For more than 30 years, the Institute has provided specific recommendations to the Department of Labor on the disclosure participants in self-directed plans should receive about investment options. Through letters and testimony before the Department and the ERISA Advisory Council, we recommended regulatory measures to ensure that participants and beneficiaries receive adequate information on which to base their investment decisions.

- » In a 1976 letter to the Department, the Institute advocated that when an individual becomes a participant, he or she should receive complete, up-to-date information about plan investment options, and, thereafter, regular and current information as to his or her investments.
- » In 1987, the Institute recommended that under then-proposed 404(c) regulations, participants should receive the kind of information included in a mutual fund prospectus or Statement of Additional Information for all investment options—not just investment options subject to federal securities laws. We repeated this suggestion in 2001 to the Department and in testimony in 2004 and 2006 before the ERISA Advisory Council.
- » In 1992, the Institute recommended that where a 404(c) plan has a limited number of investment alternatives, plan fiduciaries should be required to provide sufficient investment information about each option up front. We urged the Department to specify the investment information that would be deemed sufficient, including information on fees and expenses and investment objectives.
- » In testimony before the Department in 1997, the Institute asked the Department to address gaps in the disclosure regime, especially disclosure of administrative fees charged to participant accounts and information on annual operating expenses, which, for non-mutual fund investment vehicles, are required to be provided only upon request.
- » In 1999, the Institute urged the Department to expand the scope of its proposed rules on electronic delivery to cover a broader range of disclosures and recipients.
- » In testimony before the ERISA Advisory Council in 2004 and 2006, the Institute called for participants to receive clear and concise summaries of each investment option, including the product's investment objective, principal risks, fee/expense ratio (in the form of a fee table), and information about the investment adviser. In 2006, we added historical performance to the list. In the 2006 testimony, we also urged that this disclosure regime should apply to all self-directed plans—not just 404(c) plans—and that the Department update and expand its electronic disclosure rule in light of the increasing role of the Internet.

Disclosure to Plan Sponsors

The Institute likewise has consistently advocated clear rules for disclosure to plan sponsors and has developed various tools for use by sponsors and service providers.

- » In 1999, the Institute published a Uniform 401(k) Plan Fee Disclosure Form, developed jointly with the American Bankers Association (ABA) and American Council of Life Insurance (ACLI). The form, which the Department posted on its website, is designed to help employers identify and monitor 401(k) plan fees and expenses and compare the fees and services of different providers.
- » In testimony before the ERISA Advisory Council in 2004, the Institute called for clear, meaningful, and effective disclosure to plan sponsors. We recommended that plan sponsors be required to obtain complete information about investment options before adding them to the plan menu and obtain information concerning arrangements where a service provider receives some share of its revenue from a third party. The Institute offered to organize a task force to assist the Department in developing a disclosure regime for these compensation arrangements.
- » In 2005, the Institute published a Model Disclosure Schedule for Plan Sponsors that might be used to disclose information on receipt by service providers of revenue from unaffiliated parties in connection with services to a plan. The Institute began discussions with other trade associations on developing an appropriate disclosure regime.
- » In 2006, the Institute published a 401(k) plan fee and expense reference tool, developed jointly with the ACLI, ABA, Securities Industry Association, and American Benefits Council. The tool is a list of fee and expense data elements that plan sponsors and service providers may want to discuss when entering into service arrangements. We have asked the Department to post the tool on its website.



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