

**Statement of  
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Principal  
The Vanguard Group**

**Before the United States Department of Labor**

**April 1, 2008  
Washington, DC**

Good morning. My name is Barbara Fallon-Walsh. I am a principal at The Vanguard Group, based in Valley Forge, Pennsylvania, where I lead the Institutional Retirement Plan Services group. My remarks will be brief, to leave time for discussion or to answer any questions you'd care to ask.

Vanguard is the world's second-largest mutual fund family, managing approximately \$1.3 trillion in assets invested in some 150 U.S. mutual funds. We are also one of the nation's largest full-service providers of investments and recordkeeping services for 401(k) and other retirement savings plans. Vanguard administers more than \$240 billion of retirement savings plan assets on behalf of more than 2000 plan-sponsor clients and more than 3.1 million plan participants.

We have long advocated, and provided, full and candid disclosure of plan and investment fees, and we support the Department's proposal to provide full disclosure of direct and indirect fees paid by retirement plans and their participants to service providers.

For a number of years, Vanguard has regularly provided “All-in” fee reports to our bundled defined contribution plan clients, so that these plan sponsors can easily understand the fees the plan and participants pay. Clients consistently tell us that this report is clear and quite effective at helping them to satisfy their fiduciary duties under ERISA because the report provides a concise breakdown of all indirect or asset-based fees that the plan is paying and a breakdown of all other direct fees paid by the plan. In our comment letter to the Department, we provided a sample of an “All-In Fee Report”, and I’ve brought copies of that report today for submission into the record.

We believe the Department’s proposed disclosure will fulfill its objectives of helping plan sponsors understand:

- The services provided to the plan.
- All fees paid, directly AND indirectly, by the plan and its participants for those services, so that sponsors can determine whether those fees are reasonable.
- Any compensation that third parties receive in connection with the services provided to the plan, so that plan fiduciaries know that the service provider has no hidden or conflicted interests in the services it’s providing.

These disclosures will help plan sponsors fulfill their ERISA responsibilities, which in turn should help participants to better achieve their retirement-savings goals.

Although the 401(k) plan market is extremely price competitive, it’s not always easy for sponsors to compare fees. It can take considerable effort by

sponsors to compare fees among providers because of varying reporting formats, differing service models, and unique fee structures associated with different investment vehicles. We endorse the Department's goal of moving toward a more uniform fee disclosure regime where the onus is on the service provider receiving fees to affirmatively provide regular disclosures to the plan sponsor. This initiative will reduce the effort and time sponsors spend on gathering and comparing price information and, importantly, facilitate apples-to-apples comparisons of different service models and investment products.

The proposed disclosures will be most effective if they are clear, consistent across all investment types, and free of redundant information. To ensure that plan fiduciaries understand their precise legal obligations with respect to the disclosed information, we believe the proposed regulation could be clarified in several respects. The comment letter we submitted to the Department on February 11 covers these recommendations in detail. In the interest of time, I'll highlight only a few of our suggestions in my remarks.

First, we recommend that the Department require service providers for all types of plan investments—whether separate accounts, insurance products, or collective trusts—to provide fee disclosures in a form similar to the expense ratio disclosures required of mutual funds. The expense ratio is a widely understood method of expressing asset-based fees, and sponsors could easily use such ratios to compare varied types of investments and fee structures. What's more, such a simple and uniform disclosure format would provide a level playing field for all types of plan investments. Tens of millions of investors regularly use expense ratio-type disclosure mandated

by the SEC in comparing mutual funds, and we believe the Department could develop standards similar to those required by the SEC to ensure that disclosures for all retirement plan investments are similarly comparable. In practice, Vanguard provides expense ratio-type disclosures for our non-mutual fund products such as separate accounts and collective trusts, and these disclosures are well-received by our plan sponsor clients.

At the same time, we think that it is important for the Department to confirm that plan sponsors are not required to receive mutual fund expense information that goes beyond what the SEC requires today. Today, the SEC requires the disclosure of:

- all “shareholder fees” – fees charged directly to an investor such as a sales load or redemption fee, and
- the disclosure of all “annual fund operating expenses”—the ongoing expenses that are deducted from fund assets, and thus are borne indirectly by investors.

In our experience, this disclosure regime works well for all fund investors—individual investors and retirement plan sponsors alike—and it would be very helpful for plan sponsors and the industry if the DOL would confirm that compliance with the SEC disclosure requirements is sufficient for purposes of ERISA Section 408(b)(2).

Similarly, we believe it is important for the Department to confirm that service providers to mutual funds are not service providers directly to the plans that invest in the mutual fund. In other words, the providers of services to mutual funds—such as fund investment advisers, custodian

banks, auditors who have no direct connection to the plans that invest in the mutual fund—should not be required to provide disclosures that are contemplated under the Department’s proposal.

If the Department were to take a different approach and require a look through to the underlying service providers of mutual funds, plan sponsors would be overwhelmed with disclosures that would be of limited value and completely duplicative. These service costs are already reflected in the fund’s expense ratio. What’s more, these service activities are already governed by existing federal securities laws designed to protect all investors in the mutual fund. Also, in many cases it would be impossible for a mutual fund service provider to know the identity of any specific plan invested in the mutual fund, since the mutual fund service provider does not enter into contracts or arrangements directly with a plan sponsor.

When a plan invests in a Vanguard fund but does not use Vanguard plan recordkeeping services, we will provide fund fee and expense information through the fund prospectus to the plan’s recordkeeper. The recordkeeper will then provide the expense information directly to the plan sponsor. This is exactly what happens when Vanguard is the recordkeeper for a plan that invests in a non-Vanguard fund on our bundled platform. We collect fee and expense information for each of the non-Vanguard funds offered in our clients’ plans and report this information to our plan sponsors. You can see an example of how this disclosure works in the Non-Vanguard Asset-Based Fees section of our All-in Fee Report. We have found that this consolidated disclosure form is reviewed by fiduciary committees, which regularly monitor the reasonableness of fees charged on their plan’s investments.

With regard to revenue-sharing payments, we strongly support the Department's approach that requires a service provider receiving a revenue-sharing payment from a mutual fund or other investment to disclose to the plan sponsor the amount of the payment being received. In that way, the plan sponsor can monitor who is receiving such payments and whether or not such payments are appropriate, given the services being provided. In addition, we would encourage the Department to remind plan sponsors that, to the extent the revenue-sharing payment is coming from a fund under the plan that charges an additional fee, such as a 12b-1 fee, the plan sponsor has a fiduciary responsibility to consider the appropriateness of that fee because it is ultimately being borne by all investors in that fund, including the plan sponsor's participants.

With respect to bundled versus unbundled service delivery and fee disclosure, we strongly support the Department's conclusion that bundled service providers need not artificially "unbundle" services and fees if the services are not delivered in an unbundled package and fees are not charged separately for each service. Bundled service offerings are popular in the marketplace today because they offer an effective, one-stop approach to delivering the ever-expanding breadth of services it takes to provide a top-notch retirement savings package. This approach enables the plan sponsor to partner with a single, central service provider whose core investments, service quality and fees can be monitored without hiring teams of consultants or other experts to oversee multiple providers. This can be especially important to smaller employers with more limited resources. Examples of the types of services Vanguard is capable of offering in our bundled service offerings include:

- The ability for participants to have 24-7 account and transaction access through the web and toll-free telephone lines
- Regular participant account statements and comprehensive investment education and advice programs
- Extensive compliance testing services, such as nondiscrimination testing and excess contribution monitoring
- Plan loan and hardship withdrawal tracking and payment processing
- After-tax and Roth contribution tracking and tax reporting.

To the extent a bundled price is charged, we feel a requirement to separate out components of the bundled fee would result in an artificial and irrelevant allocation of fees. If, however, some of the services are delivered separately with a separate charge associated in an unbundled or quasi-unbundled approach, our view is that it is appropriate to require disclosure of that component price, since it represents a reliable number that is separately negotiated and charged to the plan sponsor. You'll notice in our sample "All-in" fee report that we do provide specific disclosure for service fees that are billed separately.

We agree that plan sponsors need to have a comprehensive list of the services that are included in the bundled offer in order to compare that package's all-in fee with other bundled offers or the aggregate fees associated with a group of unbundled services offered in a more a la carte fashion. To make the comparison manageable, we recommend that the Department's final rule mandate broad descriptions of services provided to

the plan (e.g., investment management, recordkeeping, participant education, web and phone services, brokerage, etc.) rather than a long list of each individual service component provided to the plan. The latter approach could overwhelm fiduciaries and would not be meaningful since plan sponsors do not purchase services on such a granular basis.

Ultimately, this guidance should be an incremental approach to plan sponsor disclosure. The issuance of comprehensive benchmarking data in the future, derived from the additional plan expense disclosure on the Form 5500 Schedule C, holds the potential to provide plan sponsors with a meaningful comparison of the fees associated with their plan as compared to plans of similar size, type and complexity. If these final regulations provide uniform, consistent summary information, regardless of the service provider or type of investment, then plan sponsors will have the data that they need to benchmark their plans against a national standard. To this end, simplicity and uniformity will serve the purpose of fiduciary prudence.

I appreciate this opportunity to present Vanguard's views today, and I'm pleased to answer any questions you may have about my remarks or the comments Vanguard provided in our letter dated February 11.

## **Exhibit A**



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### **Vanguard All-In Fee Report XYZ Company 401(k) Plan February 2008**

**Client Name:** *XYZ Company*

**Plan Name:** *XYZ Savings Plan*

**Plan Number:** *000000*

#### **Asset-Based Fees**

<b>Vanguard Fund Name</b>	<b>Assets</b>	<b>Operating Expense</b>	<b>Total Cost</b>
		<b>Ratio</b>	
Vanguard Windsor II Fund Investor Shares	\$20,000,000	0.35%	\$70,000
Vanguard PRIMECAP Fund Investor Shares	\$15,000,000	0.46%	\$69,000
Vanguard 500 Index Fund Investor Shares	\$12,000,000	0.18%	\$21,600
Vanguard Wellington Fund Investor Shares	\$5,000,000	0.29%	\$14,500
Vanguard Retirement Savings Trust	\$3,000,000	0.30%	\$9,000
Vanguard Total International Stock Index Fund	\$2,000,000	0.31%	\$6,200
Vanguard Explorer Fund Investor Shares	\$1,000,000	0.51%	\$5,100
Vanguard Target Retirement 2025 Fund	\$1,000,000	0.20%	\$2,000
<b>Vanguard Total</b>	<b>\$59,000,000</b>	<b>0.33%</b>	<b>\$197,400</b>

#### **Non-Vanguard Asset-Based Fees**

<b>Fund Name</b>	<b>Assets</b>	<b>Operating Expense</b>	<b>Asset-Based Fee</b>	<b>Total Cost</b>
		<b>Ratio</b>		
Non-Vanguard Value Fund <i>Portion of Asset Based Fee Paid by Fund Company to Vanguard</i>	\$1,000,000	0.81%	0.35%	\$8,100
Non-Vanguard International Growth Fund <i>Portion of Asset Based Fee Paid by Fund Company to Vanguard</i>	\$1,000,000	1.47%	0.25%	\$14,700
<b>Non-Vanguard Total</b>	<b>\$2,000,000</b>	<b>1.14%</b>		<b>\$22,800</b>

#### **Service Fees**

<b>Service Fee Description</b>	<b>Service Cost</b>
Annual Recordkeeping Per Participant Fee (1168 Participants @\$10)	\$11,680
Compliance Testing Package B	\$5,000
<b>Total Service Fees</b>	<b>\$16,680</b>

<b>Additional Service Fees</b>	
Annual Administrative Fee For Each Loan (Paid by Participant)	\$25 Per Loan Maintenance
Origination Fee Per Participant Loan (Paid by Participant)	\$40 Per Loan Origination
<b>Total Fees</b>	
Vanguard Fund Fees	\$197,400
Non-Vanguard Asset Fees	\$22,800
Service Fees	\$16,680
Additional Service Fees	Variable
<b>Total Fees</b>	<b>\$236,880</b>
<b>Total Expense Ratio</b>	
	Total Fees \$236,880
	Total Assets \$61,000,000
	<b>Plan Expense Ratio 0.39%</b>

\* Vanguard expense ratios are as of each fund's latest fiscal year. If applicable, outside fund expense ratios were obtained from Lipper, Morningstar or the fund company and are only as current as the information supplied to these entities by third parties. Vanguard is not responsible for the accuracy of data provided by third parties.