



January 27, 2011

Submitted electronically via email to e-ORI@dol.gov

Attention: Fiduciary Definition Hearing
Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW.
Washington, DC 20210

Dear Sir or Madam,

Subject: Definition of the Term "Fiduciary" (RIN 1210-AB32)

Aon Hewitt requests the opportunity to provide comments to the Department of Labor at its hearing on March 1, and if necessary, March 2, 2011, on the topic of the proposed definition of the term "Fiduciary" under 29 CFR 2510.3-21(c). Aon Hewitt previously submitted comments related to the proposed regulation and would now like to address at the hearing some of the key considerations we raised in our letter.

Who We Are

Aon Hewitt is the global leader in human resource consulting and outsourcing solutions. The company partners with organizations to solve their most complex benefits, talent, and related financial challenges, and improve business performance. Aon Hewitt designs, implements, communicates, and administers a wide range of human capital, retirement, investment management, health care, compensation, and talent management strategies. With more than 29,000 professionals in 90 countries, Aon Hewitt makes the world a better place to work for clients and their employees.

Issue for Aon Hewitt's Testimony

The issue that Aon Hewitt wishes to address is "whether and to what extent the final regulation should define the provision of investment advice to encompass recommendations related to taking a plan distribution." In particular we will discuss:

1. Expansion of the Definition of Investment Advice to Include the Recommendations to a Participant to Take a Plan Distribution. (5 minutes)

As discussed in our comment letter, we believe that the Department should include in the definition of investment advice any recommendation made to a participant to take a plan distribution of the assets in his or her account. We base our comment upon the following:

- A participant's decision to take a plan distribution is comprised of two significant decisions affecting a participant's plan assets, namely: (1) whether to liquidate current investments, and (2) how to manage the distribution of the funds; and

- Failure to include this type of advice under the final regulation may result in the unintended consequence of creating a potential bias toward a recommendation to take a distribution because an adviser could both avoid ERISA fiduciary status and also recommend an investment in which it has a financial interest.

2. Costs and Benefits Related to the Expansion of the Definition of Investment Advice. (5 minutes)

By extending the regulation to include the recommendations to take a distribution from the plan, we believe the associated costs would be minimal and that the benefits to participants and beneficiaries would greatly outweigh those costs. We also anticipate that treating consistently all recommendations relating to the application and management of plan assets will result in more participants having better information on which to base their decision of whether to take the distribution or instead leave their assets in their employer plans with all of the associated benefits of doing so.

Closing

We commend and support the Department's goal of updating this rule for changes in the financial industry and the expectations of plan participants and beneficiaries, as well as the intent to better protect participants and beneficiaries from conflicts of interest and self-dealing. If you have any questions or comments, please contact the undersigned at the telephone number or email address provided below. We are also enclosing professional background information on our roles at Aon Hewitt.

Sincerely,

Aon Hewitt

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Alison T. Borland

Retirement Outsourcing Strategy Leader

Alison leads strategy and product development for Aon Hewitt's retirement outsourcing business. She uses her expertise and knowledge of the marketplace to develop and implement unique solutions to support our clients' in their efforts to help their employees achieve retirement success. Alison also works closely with Aon Hewitt's Retirement Research Team, leveraging Aon Hewitt's data on millions of retirement plan participants and hundreds of plan sponsors to identify and understand trends and opportunities in retirement programs. She has co-authored some of the company's most respected surveys and studies such as *Hot Topics in Retirement* and *Retirement Income Adequacy: The Real Deal*, and was recently a key contributor to *401(k) Plans in Living Color: A Study of 401(k) Savings Disparities Across Racial and Ethnic Groups*, *The Ariel/Hewitt Study*. In 2008, she was recognized as one of the 25 Women to Watch by *Business Insurance*. Prior to this role, Alison was a Principal and the leader of the Defined Contribution Consulting Practice at the former Hewitt Associates.

Retirement and Retirement Income Adequacy: The Real Deal, and was recently a key contributor to *401(k) Plans in Living Color: A Study of 401(k) Savings Disparities Across Racial and Ethnic Groups*, *The Ariel/Hewitt Study*. In 2008, she was recognized as one of the 25 Women to Watch by *Business Insurance*. Prior to this role, Alison was a Principal and the leader of the Defined Contribution Consulting Practice at the former Hewitt Associates.

Alison serves as a spokesperson for Aon Hewitt on retirement issues at conferences, with the government, and with the media. She has testified in front of the HELP Subcommittee of the Education and Labor Committee in the House of Representatives, the Department of Labor and its ERISA Advisory Council, and has testified to the Senate Committee on Aging. She is regularly quoted by publications including the *Wall Street Journal*, *Business Insurance*, *SmartMoney*, *Pensions & Investments*, and *Workforce Management*, and has been published in *Benefits Quarterly*.

Alison is a Fellow of the Society of Actuaries. She graduated *summa cum laude* from Vanderbilt University in Nashville, Tennessee with a Bachelor's degree in mathematics and a minor in French.

Ted Novy

Senior Counsel

Ted is a Senior Counsel in the Outsourcing Legal - Benefits and HR group of Aon Hewitt's General Counsel. He is the lead attorney of Aon Hewitt's Retirement Plans outsourcing practice. Over the years he has supported many of Aon Hewitt's largest outsourcing benefits clients across all services (defined contribution, defined benefit, and health & welfare). Prior to joining Aon Hewitt, Ted was an attorney at a large Chicago law firm in its Employee Benefits & Executive Compensation Department where he consulted clients across all areas of employee benefits law.

Ted earned his law degree from DePaul University College of Law. He is admitted to practice in Illinois and before the United States District Court for the Northern District of Illinois. Ted earned his B.B.A (Accounting) from the University of Notre Dame. He is a Certified Public Accountant.