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June 10, 2014

Office of Regulations and Interpretations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, N.W.
Room N-5655
Washington, D.C. 20210

Re: RIN 1210-AB53: Amendment Relating to Reasonable Contract or Arrangement
Under Section 408(b)(2) – Fee Disclosure

Dear Sir/Madam:

On behalf of our members, the Insured Retirement Institute (“IRI”)¹ appreciates the opportunity to provide comments to the U.S. Department of Labor (the “Department”) and the Employee Benefits Security Administration (“EBSA”) regarding the proposed amendment (the “Proposal”) to the Department’s service provider disclosure regulation (the “Regulation”) under which covered service providers would be required to furnish a cross-reference guide (a “Guide”) to enable retirement plan fiduciaries to “quickly and easily find” the information required to be disclosed under the Regulation.

IRI and its member companies have long supported efforts designed to provide meaningful and effective disclosures to plan fiduciaries. However, consistent with the feedback you have received or will be receiving from several other stakeholders representing the financial industry, we have significant concerns about the Proposal. Our purpose in submitting this letter is not to duplicate the legal analysis and conclusions set forth in those other stakeholders’

¹ The Insured Retirement Institute (IRI) has been called the “primary trade association for annuities” by U.S. News and World Report. IRI proudly leads a national consumer coalition of more than 20 organizations, and is the only association that represents the entire supply chain of insured retirement strategies. IRI members are the major insurers, asset managers, broker-dealers/distributors, and 150,000 financial professionals. As a not-for-profit organization, IRI provides an objective forum for communication and education, and advocates for the sustainable retirement solutions Americans need to help achieve a secure and dignified retirement.

letters, but rather to emphasize their analysis and express our agreement with and support for their conclusions. In particular, we believe:

- IRI members and other covered service providers have invested significant time and monetary resources into designing and delivering required disclosures and related educational materials to comply with the Regulation, which has been in effect in its current form for less than two years;
- The Department has not demonstrated a compelling public need for the Proposal (as required under Executive Order 12866 and Circular A-4);
- The Department has its own reservations about the need for this Proposal, as evidenced by its intention to engage focus groups to obtain “information about the need for a guide, summary or similar tool...”;
- The Department’s intent to limit its focus group project to “small plan sponsors” suggests that the Department has already concluded – with no apparent basis – that large plan sponsors actually need a Guide;
- The compliance costs and challenges to covered service providers and plan fiduciaries in order to establish and maintain a Guide would far exceed the Department’s estimates, and far outweigh any potential benefits of the Proposal;
- Even if the Department could demonstrate a compelling need for action on this subject, the Department could achieve its regulatory goals without the costly and burdensome guide requirement included in paragraph (1) of the Proposal by requiring that covered service providers identify a point of contact to help plan fiduciaries locate any of the information required to be disclosed under the Regulation (as would be required under paragraph (2) of the Proposal);
- The Proposal lacks the specificity and clarity necessary to frame meaningful comments on either the compliance implications or the costs, as requested by the Department; and
- The effective date included in the Proposal would not provide adequate time for our members to develop and implement the systems and process changes that would be required to comply with the Proposal.

For more detailed information about these views and concerns, please review the comment letters referenced above.

In light of these issues and concerns, we respectfully request that the Department withdraw the Proposal and take the steps necessary to meet the long-established procedural requirements applicable to the publication of agency rules. Specifically, we believe the Department must ascertain whether a compelling public need exists for action by the Department and, if so, whether a cost-effective solution – regulatory or non-regulatory – exists to address that defined need.

* * * * *

Thank you for considering our views on the Proposal. Please feel free to contact me at (202) 469-3014 if you have any questions or would like to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Berkowitz". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jason Berkowitz
Vice President, Regulatory Affairs and
Compliance
Insured Retirement Institute (IRI)

- cc: Phyllis Borzi, Assistant Secretary, Employee Benefits Security Administration
Timothy Hauser, Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration
Joe Canary, Director of Regulations and Interpretations, Employee Benefits Security Administration
Jeff Turner, Deputy Director of Regulations and Interpretations, Employee Benefits Security Administration
Joseph Piacentini, Director of Policy and Research, Employee Benefits Security Administration
Howard Shelanski, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget