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Submitted Electronically

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Internal Revenue Service

1111 Constitution Avenue, NW

Washington, DC 20044

Re: Proposed Regulation on Notice to Participants of Consequences of Failure to Defer Receipt of Qualified Retirement Plan Distributions

The Investment Company Institute¹ is pleased to comment on the Internal Revenue Service's proposal implementing section 1102 of the Pension Protection Act, which instructed the Secretary of the Treasury to modify the regulations under Code section 411(a)(11) to require disclosure of the consequences of failing to defer receipt of a distribution from a defined contribution plan. The Institute supports the proposal's notice requirements regarding plan investment options.

The proposed regulations significantly improve upon the interim guidance that the Service issued in 2007 by providing participants who are deciding whether to leave their retirement accounts in the plan with key information, without overloading them in a way that obscures the key information or duplicates information they have already received. The interim guidance, Q&A-33 of Notice 2007-7, appeared to require that participants receive upon termination of employment detailed information about the investment options available to them (the extent of which was unclear) – information provided in the ordinary course by the plan administrator.

The proposed regulations would require instead a generic notification that:

- some investment options in the plan may not be generally available on similar terms outside the plan, and
- fees and expenses (including administrative or investment-related fees) outside the plan may be different from fees and expenses that apply to the participant's account.

¹The 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 \$9.86 trillion and serve over 93 million shareholders.

Participants would be provided contact information for obtaining additional information on the availability of the plan's investment options outside the plan and the fees and expenses that apply to participant accounts.

We strongly recommend that the Service retain the proposed requirement in lieu of the rule in Notice 2007-7. Participants routinely receive information on the investments available to them (including information regarding fees) upon enrollment, and have this information available upon request, often online continuously.² Participants would not be best served by receiving, at the time of termination of employment or retirement, a folder of information rivaling the enrollment packet. Individualized packets of this kind, especially if provided in paper, also would add unnecessary administrative cost.

The proposal strikes the right balance by alerting the participant that the plan may have investments, or fee structures, different from those obtainable in an IRA, and alerting the participant that more information is available. This approach will not overwhelm the participant with information that obscures the key information while also assuring the participant has access to information consequential to the decision whether to take or defer a distribution from the plan.

If you have any questions, please contact the undersigned at 202-326-5810 or Mary Podesta at 202-326-5826.

Sincerely,

/s/ Michael Hadley

Michael Hadley
Associate Counsel – Pension Regulation

² Participant-directed defined contribution plans covered by ERISA typically provide the information necessary to satisfy the Department of Labor's regulation under ERISA section 404(c). DOL has proposed a regulation to require that participants in all participant-directed plans receive key investment and fee information upon enrollment and annually thereafter. See 73 Fed. Reg. 43014 (July 23, 2008). The Institute strongly supports this proposal.