

February 11, 2011

The Honorable Tom Harkin
Chairman
Committee on Health, Education,
Labor and Pensions
United States Senate
428 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Michael B. Enzi
Ranking Member
Committee on Health, Education,
Labor and Pensions
United States Senate
428 Senate Dirksen Office Building
Washington, DC 20510

Dear Chairman Harkin and Ranking Member Enzi:

I am writing about the recently introduced Lifetime Income Disclosure Act (S. 267), which would require 401(k) plans to estimate for participants the amount of monthly annuity income that would be generated by their plan account balances. The Investment Company Institute¹ has consistently stated that disclosure translating 401(k) account balances into estimated income streams is useful to help workers determine whether their retirement savings are on track. We stand ready to work with the Committee and the bill's sponsors on crafting an effective approach. This bill, however, needs significant improvement in that it excludes effective disclosure methods used today to provide lifetime income estimates to millions of plan participants. For this reason, we regrettably must oppose S. 267 in its current form.

Any amendment to ERISA to require plans to give participants lifetime income estimates should:

- Allow plans the option to project future contributions and investment experience of the account to give participants, especially those far from retirement, a more realistic estimate of monthly income.
- Allow plans to express the estimate as an annuity payment, a percentage of the account balance designed to spread payments over the participant's retirement, a life expectancy calculation based on IRS minimum distribution rules, or to use other appropriate methods. This approach recognizes, as the Departments of Treasury and Labor have stated, that there is no single way to obtain a lifetime income stream from a retirement account. If a single method is to be specified, it should not be an annuity calculation but rather a simpler, more understandable calculation.

¹ The 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 \$12.68 trillion and serve over 90 million shareholders.

To provide a useful lifetime income estimate, a plan must first make a reasonable estimate of the account balance a participant might hold at retirement age and then express what monthly income the participant could receive from that account balance in retirement. With that in mind, we see two flaws in the approach of S. 267.

First, the bill does not allow projections of future contributions and is unclear on whether projections of account growth are allowed. In order to come up with a reasonable estimate of the account balance, plans should be able to project future contributions and earnings in the account. There is ample precedent for this. For example, in estimating the monthly Social Security payment a worker might receive in retirement, Social Security assumes the worker will continue to work and contribute until retirement. Moreover, in requiring mutual funds to provide an illustration of the amount of fees an account pays over time, the SEC requires funds to assume a 5 percent growth in the account balance. In each case, including growth projections results in a more realistic illustration for the user than not including projections. This shortcoming must be fixed or the bill will not achieve its objective of encouraging workers to save adequately. Because the current accounts of new workers just beginning to make contributions will be small (even if the workers contribute the maximum) using this amount to generate a monthly income estimate does not provide a realistic picture of future retirement preparedness. As a result, it may well discourage plan participants from saving or encourage them to cash out their accounts when they change jobs.

Second, the legislation requires a plan to express the estimate only based on the amount of annuity income the account balance would buy. We strongly urge that the legislation allow plans also to satisfy the new disclosure requirement through other methods, including very simple and easy to understand systematic withdrawal calculations. Although we appreciate that the bill speaks in terms of providing “lifetime income streams,” specifying that the lifetime income stream must be an annuity suggests a government endorsement of annuity products as the only way to obtain lifetime income. There are other respected ways to generate income streams in retirement, such as the 4 percent method (a spend-down approach widely recommended by financial planners) and the government’s method for taking required minimum distributions from retirement accounts. Moreover, singling out annuities is problematic given public comments responding to the Treasury and Labor Departments’ Request for Information on lifetime income options, which indicate many Americans oppose government promotion of annuities. Institute research also shows that Americans are overwhelmingly against being required to annuitize some portion of their 401(k) plan accounts and do not want the government taking away their ability to make decisions about retirement assets and income.²

² Questions were asked in a series of national telephone surveys that GfK Custom Research North America fielded every other weekend from November 20, 2009, through December 20, 2009, covering a total sample of 3,000 U.S. households. Survey results are described in Holden, Sabelhaus, and Reid, *Enduring Confidence in the 401(k) System: Investor Attitudes and Actions*, available at www.ici.org/pdf/ppr_10_ret_saving.pdf.

Chairman Harkin and Ranking Member Enzi

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Lifetime income estimates, although not required, already exist in the marketplace. Many plans provide on benefit statements or participant websites estimates of the monthly income an account might generate using non-annuity calculations. The efforts of these plan service providers to develop effective lifetime income disclosure have met with great success and they should be allowed to continue. Witnesses at the February 3, 2011 Committee hearing ("Simplifying Security: Encouraging Better Retirement Decisions") recognized the good work being done in this area, with one witness emphasizing that the bill should include these existing methods in its fiduciary safe harbor. We urge that the bill be broadened to allow plans to use either an annuity calculation or one of these other calculations in meeting any lifetime income disclosure requirement.

If, on the other hand, it is necessary to require that all plans use the same type of calculation, we strongly believe the simplest and most understandable method is to use the dollar amount equivalent to 4 percent of the account balance figure and divide that amount by 12. This calculation is much simpler and more straightforward than the annuity equivalent. Annuity pricing involves a number of complex assumptions, including assumptions for mortality and pooling, and greatly depends on prevailing interest rates, which could lead to varying results from year to year. In addition, the bill would allow plans to base the estimate on an actual annuity product offered in the plan, instead of standard assumptions prescribed by the Department of Labor, which seems inconsistent with the bill's intent to require uniformity in the disclosure across plans. The simple percentage calculation would be uniform across plans, easier for participants to understand, and easier for Labor to write implementing rules about.

The Institute shares the goal of the sponsors of S. 267 to help plan participants make informed judgments on their retirement preparedness and we would welcome the opportunity to work with the Committee and bill sponsors to craft appropriate and effective legislation that addresses the problems we have described with the current bill.

Sincerely,



Paul Schott Stevens

President & CEO

Investment Company Institute

CC: Sen. Jeff Bingaman (D-NM)

Sen. Johnny Isakson (R-GA)

Sen. Herb Kohl (D-WI)