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Sent: Wednesday, March 31, 2004 3:36 PM
To: 'e-ori@dol.gov'
Subject: Comment on Proposed Regulations on Automatic Rollovers

This comment is in regards to Proposed Regulations relating to Fiduciary Responsibility Under the Employee Retirement Income Security Act of 1974 Automatic Rollover Safe Harbor.

Specifically, we are concerned with the fourth safe harbor relating to permissible fees and expenses. The account balances that will be subject to the automatic rollover procedures will in most cases be amounts that are between \$1,000 and \$5,000. The fee relating to the establishment of the IRA seems reasonable as it is commensurate with fees and expenses assessed against comparable individual retirement plans established for rollover distributions that are not subject to the automatic rollover provisions of section 401(a)(31)(B) of the Code.

However, the restriction on the fees on an ongoing basis that limits such fees to not greater than the income earned by the plan may be an impediment to issuers of IRAs to establish accounts for such IRAs. We believe that the fees that can be generated in such IRAs will be minimal because of the required conservative nature of investments permitted in such IRAs. In addition, the amounts transferred will normally be small and it is unlikely that there will be additional contributions made to these accounts. We are concerned that the fees that such IRAs may generate may be so small that IRA vendors may determine that it is not cost effective for them to issue such IRAs. It would seem that there should be no limit on these annual fees, as the market will tend to control the costs associated with these IRAs. If these limits are retained and there are no vendors willing to offer such IRAs or a very limited number of organizations willing to offer such IRAs, this could make it difficult for plan fiduciaries to comply with this regulation.

We recommend that the annual fees be subject to the same limits for the establishment of such IRAs. Such fees should not exceed the fees and expenses assessed against comparable individual retirement plans establish for rollover distributions that are not subject to the automatic rollover provisions of section 401(a)(31)(B) of the Code.

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