



Ann Cammack
Senior Vice President, Taxes & Retirement Security

Susan Luken
Senior Counsel, Pensions

Deborah Reichmann
Counsel, Pensions

Filed Electronically

January 30, 2007

Office of Exemption Determinations
Employee Benefits Security Administration (EBSA)
Room N-5700
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Re: IRA Investment Advice RFI

Dear Sir or Madam:

The American Council of Life Insurers (ACLI) appreciates the opportunity to respond to the Request for Information (RFI) issued by the Department of Labor (the Department) regarding investment advice to Individual Retirement Accounts and similar plans (collectively, IRAs). 71 Fed. Reg. 70427 (December 4, 2006).

The ACLI represents three hundred seventy-three (373) member companies accounting for ninety-three (93) percent of the life insurance industry's total assets in the United States. In addition to life insurance and annuities, ACLI member companies offer pensions, including 401(k)s, long-term care insurance, disability income insurance and other retirement and financial protection products, as well as reinsurance. Life insurers are among the country's leaders in providing retirement security to American workers, providing a wide variety of group annuities and other products, both to achieve competitive returns while retirement savings are accumulating and to provide guaranteed income past retirement.

Section 601 of the Pension Protection Act of 2006 (PPA) provides for a prohibited transaction exemption for the provision of investment advice under certain circumstances. With respect to IRAs, section 601(b)(3)(B) of the PPA initially requires the Secretary of Labor to determine whether investment advice provided through a computer model could be feasible for IRAs. Specifically, the Secretary must determine whether there is any computer model investment program that (1) utilizes relevant information about the beneficiary, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments; (2) takes into account the full range of investments, including equities and bonds, in determining the options for the investment portfolios of the beneficiary; and (3) allows the beneficiary, in directing the investment,

sufficient flexibility in obtaining advice to evaluate and select investment options. The RFI seeks information relating to the feasibility of such a program.¹

Our comments are focused on two primary questions in the RFI: whether a computer model investment program exists that can offer a beneficiary advice on the "full range of investment options" (RFI question 1); and, if not, whether a computer model investment program exists that, by design or operation, limits the investments modeled to a subset of the investment universe (RFI question 5). With respect to the first question, ACLI is not aware of the existence of a computer model that could offer advice on an unlimited range of investment choices.

With respect to the second question, computer investment models do exist to assist beneficiaries in choosing funds for an IRA investment where, by design, the program has a finite menu of investment options. Under current Department guidance, computer model investment advice is provided to participant-directed qualified plan holders without resulting in a prohibited transaction. Many IRA programs offer a large, though not unlimited, menu of investment options, that make a computer model for offering advice for allocating among a subset of options possible. However, as noted above, ACLI believes that there are no computer advice models that are feasible under the parameters given in the statutory language of the PPA. Thus, in the event that the Department concludes that a class exemption is appropriate, ACLI recommends that the exemption for IRAs be broad-based and allow financial industry providers, including insurers, to provide advice in person, or through computer-based advisory programs.

Thank you for the opportunity to provide our comments on this important issue. We look forward to continuing to work with the Department on providing the guidance that will allow IRA investors to have access to reliable and extensive investment advice.

Please do not hesitate to contact us if you would like to discuss any of our comments in more detail.

Respectfully submitted,



Ann B. Cammack



Susan J. Luken



Deborah Reichmann

¹ The PPA also required the Secretary to solicit information regarding the feasibility of computer model investment advice programs from at least the top 50 trustees of IRAs, and others. ACLI members have received such letter requests from the Department and will be responding individually.