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February 28, 2008

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: 408(b)(2) Hearing
Room N-5655
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Re.: Request to Testify at the March 20, 2008, Public Hearing On Reasonable Contracts or Arrangements Under Section 408(b)(2) – Fee Disclosure

The American Society of Pension Professionals & Actuaries (ASPPA) and the Council of Independent 401(k) Recordkeepers (CIKR) respectfully request the opportunity to testify before the Department of Labor at the public hearing scheduled for March 20, 2008 and March 21 (if necessary) on the proposed rulemaking entitled: *Reasonable Contracts or Arrangements Under ERISA Section 408(b)(2)*.

Bruce Ashton of the Reish Lufman Reichter & Cohen law firm will be testifying on behalf of ASPPA and CIKR. If at all possible, we request that Bruce Ashton be scheduled to testify on Thursday, March 20, 2008.

ASPPA and CIKR will also be filing an outline of topics to be discussed for your consideration by the March 10, 2008, deadline.

Sincerely,

Brian H. Graff, Esq., APM
Executive Director/CEO



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March 13, 2008

VIA EMAIL e-ORI@dol.gov

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: 408(b)(2) Hearing
Room N-5655
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Re.: *Outline of Topics for Testimony at the March 31, 2008, Public Hearing On Reasonable Contracts or Arrangements Under Section 408(b)(2) – Fee Disclosure*

This letter supplements the February 28, 2008, request by The American Society of Pension Professionals & Actuaries (ASPPA) and the Council of Independent 401(k) Recordkeepers (CIKR) to testify before the Department of Labor at the public hearing scheduled for March 31, 2008 and April 1 (if necessary) on the proposed rulemaking entitled: *Reasonable Contracts or Arrangements Under ERISA Section 408(b)(2)*.

Attached is an outline of topics we anticipate addressing at the hearing. Bruce Ashton from the Reish Lufman Reichter & Cohen will be speaking on behalf of ASPPA and CIKR.

We respectfully request an allocation of a full 10 minutes for our comments. We will also be prepared to answer questions regarding the written comments we submitted on February 11, 2008.

Sincerely,

Brian H. Graff, Esq., APM
Executive Director/CEO

**OUTLINE OF TOPICS TO BE ADDRESSED
BY ASPPA and CIKR AT THE HEARING
ON PROPOSED REGULATION UNDER SECTION 408(b)(2)**

I. Retention of separate disclosure of transaction fees in bundled service arrangements:

While it is critical that the responsible plan fiduciary understand the aggregate cost being borne by the plan, it is equally critical for them to understand the transaction fees, such as commissions, finder's fees and the like, being paid to a third party in connection with the plan's investments.

II. The impact of the proposed regulation on investment managers of mutual funds:

Even though investment managers of mutual funds in which a plan invests are not considered parties in interest to a plan (except where the recordkeeper, trustee or other service providers to the plan are affiliated with the fund manager), they are providing an indirect service to the plan, and direct and indirect compensation of the fund manager should have to be disclosed.

However, covered service providers (such as independent recordkeepers) should be permitted to rely on information provided by the mutual funds. In this connection, we suggest that the Department issue a prohibited transaction class exemption, similar to that proposed for responsible plan fiduciaries, exempting the recordkeeper from excise taxes under Internal Revenue Code section 4975 if the fund manager fails to provide accurate or complete information.

III. Establishment of a uniform disclosure requirement:

ASPPA and CIKR encourage the Department to require compensation disclosure in three general categories: investment related fees and expenses; transactions related fees and expenses (e.g., commissions); and recordkeeping and administrative fees and expenses.

IV. Establishment of a consolidated disclosure requirement:

ASPPA and CIKR encourage the Department to require a consolidated form of disclosure for all service providers, even where other forms of disclosure are provided and additional documents are incorporated by reference.

V. The effective date of the proposed regulation for new arrangements and for existing arrangements:

ASPPA and CIKR request an effective date no sooner than January 1, 2008 for new, extended or renewed arrangements and January 1, 2009, for existing arrangements.

VI. Inclusion of a materiality or substantial compliance requirement to avoid harsh results of an inadvertent or immaterial failure to comply:

Failure to satisfy any of element of the final regulation would appear to cause a prohibited transaction. ASPPA and CIKR urge the Department to consider including a materiality standard for disclosures or a substantial compliance exception. Further, we urge the Department to provide for a “cure” period for inadvertent failures and clarification that correction of a failure would only apply to compensation related to missing information and not to all compensation received by a service provider.

VII. Exclusion of payments by the plan sponsor from coverage of the proposed regulation:

ASPPA and CIKR encourage the Department to restrict the application of the Proposed Regulation to situations in which costs are borne by the plan, and not by the plan sponsor.

VIII. Clarification of conflict of interest disclosure requirements:

ASPPA and CIKR recommend that the Department provide greater clarity regarding the types of relationships that it believes should be disclosed in order to assist covered service providers in meeting the requirements of the exemption.