

June 26, 2000

The Honorable John A. Boehner
Chairman, Education & Workforce Subcommittee
on Employer-Employee Relations
2181 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Boehner:

On behalf of the Securities Industry Association (SIA), I am writing to endorse your legislation to modernize ERISA. The Comprehensive ERISA Modernization Act of 2000, and its two companion bills - the Retirement Security Advice Act and the ERISA Modernization Act provide a much needed update of the prohibited transaction rules of ERISA. Increasingly, these rules are preventing pension plans from participating as fully as they might in the capital markets and limit the choices plan participants have in choosing the right investment options. As the lines of separation between banking, insurance, and securities merge, the prohibited transaction rules increasingly interfere with many desirable transactions. As a result, pension plans and participants are experiencing lower returns and higher costs.

The ERISA Modernization Act of 2000 will have a positive impact on pension plans by reducing the costs imposed by the prohibited transaction rules. For example, by narrowing the definition of party in interest, plans and service providers will be able to engage in a variety of benign transactions without going through the time-consuming and costly administrative exemption process. In addition, your legislation will modernize ERISA to permit transactions conducted at arms-length with advance approval by a plan fiduciary. This change will help ensure that the ERISA framework is more responsive to the evolution of capital markets, as well as more consistent with other regulatory activities of federal agencies such as the Securities and Exchange Commission.

The Retirement Security Advice Act (RSAA) will increase access to investment advice for participants in 401(k) plans and Individual Retirement Account (IRAs) owners. Many workers view their 401(k) plan or their IRA as their primary retirement savings vehicle and are beginning to understand that investment advice could be the difference between a more leisurely lifestyle at their pre-retirement standard of living or pinching every penny. Employers would like to address these concerns but are uncertain about potential liability.

RSAA responds to these needs by amending the Employee Retirement Income Security Act (ERISA) to ensure that securities firms and other traditional pension plan service providers do not run afoul of the statute's prohibited transaction provisions if they are asked to provide investment advice. Our members are finding that these provisions prevent

competition and inhibit experienced financial advisers from sitting down with workers in one-on-one sessions as a way to complement Internet-based investment education and advice.

An exemption that permits securities firms to give investment advice on investment options, including their own, solves these problems. Employers and workers will receive disclosure of any potential conflicts, and will always have the discretion as to whether they will accept an adviser's recommendations. This system has been used for more than 50 years under securities laws that regulate the accounts of millions of workers and retirees owning stock or mutual funds in non-ERISA accounts.

If enacted, your bill will help workers meet the challenge of saving for retirement as well as provide increased certainty to employers who wish to make these services available. Please do not hesitate to call on the SIA for any assistance with this legislation.

Sincerely,

Steve Judge
Senior Vice President, Government Affairs