



## Securities Industry Association

1401 Eye Street, NW • Washington, DC 20005-2225 (202) 296-9410 • Fax (202) 296-9775 •  
www.sia.com, info@sia.com

---

June 26, 2002

The Honorable Max Baucus  
Chairman  
Committee on Finance  
U.S. Senate  
Washington, DC 20510

Dear Mr. Chairman:

On behalf of the Securities Industry Association (SIA)<sup>1</sup>, we are writing with respect to the potential consideration of pension reform legislation in your committee that would respond to issues relating to the collapse of Enron.

As you consider reform, the most important issue raised by Enron is the need to increase the availability of investment advice. SIA has supported investment advice legislation for a number of years, long before Enron became a household name. The investment advice gap has been well-documented by studies that demonstrate employee inertia in making good decisions about investment allocation as well as studies that indicate that employees are not saving enough to retire at or near the standard of living they enjoyed when working.

Unfortunately, the prohibited transaction rules of the Employee Retirement Income Security Act (ERISA) prevent most financial services firms who also provide services to employees outside of their 401(k) and 403(b), from offering investment advice on their assets in those plans. These rules ban most transactions between plans and their financial service providers. However, in establishing this outright ban, ERISA also recognizes that many necessary transactions should be permitted to occur – thus, numerous statutory exemptions as well as administrative exemptions granted by the Department of Labor permit transactions otherwise prohibited under ERISA.

As the Committee seeks a bipartisan solution to increase access to investment advice, which many now see as a necessary plan service, we urge you to review any proposal on investment advice in accordance with the following principles:

---

<sup>1</sup> The Securities Industry Association brings together the shared interests of nearly 700 securities firms to accomplish common goals. SIA member firms (including investment banks, broker-dealers, and mutual fund companies) are active in all U.S. and foreign markets and in all phases of corporate and public finance. The U.S. securities industry manages the accounts of nearly 80 million investors directly and indirectly through corporate, thrift, and pension plans, and generates \$358 billion of revenue. Securities firms employ approximately 760,000 individuals in the United States. (More information about SIA is available on its home page:<http://www.sia.com>.)

- Does the proposal enhance protections for participants?
- Is the proposal a market-oriented solution that can be utilized by employers of all sizes?
- Does the proposal enhance competition to result in the best service at the lowest cost?
- Does the proposal encourage all types of advice? Internet-based, telephone, and one-on-one advice should all be encouraged.
- Is the proposal consistent with federal and state regulation of advice providers?

S. 1978, the Retirement Security Advice Act sponsored by Senator Tim Hutchinson would permit firms to offer advice under very strict conditions. The legislation would permit highly regulated advisers to give objective advice in accordance with ERISA's fiduciary standards and stringent disclosure requirements. In addition, the adviser must disclose any potential affiliations with the pension plan that could lead to compensation being paid to him or an affiliated party. S. 1978 is a solution that employers will actually use to offer the investment advice sought by their employees. Competing legislation, such as S. 1677 sponsored by Senator Bingaman, does not meet these objectives.

Again, SIA urges you to support S. 1978 – a bill that offers a real solution to a very real problem. Please do not hesitate to contact Liz Varley at (202) 296-9410 if you have any questions.

Sincerely,

Marc Lackritz  
President

Steve Judge  
Senior Vice President  
Government Affairs

cc: Members, Senate Committee on Finance