



June 3, 2010

The Honorable Dianne Feinstein  
U.S. Senate  
331 Hart Senate Office Building  
Washington, DC 20510

Re: **Defined Contribution Fee Disclosure Provisions in the American Jobs and Closing Tax Loopholes Act**

Dear Senator Feinstein:

The SPARK Institute<sup>1</sup> is writing on behalf of the retirement plan industry to express its concern about, and opposition to, the Defined Contribution Fee Disclosure provisions (the “Fee Disclosure Provisions”) in Sections 321 to 325 of the American Jobs and Closing Tax Loopholes Act that will be considered by the Senate. The SPARK Institute has publicly supported and promoted clear and meaningful disclosure of retirement plan and investment management fees to employers and plan participants. However, we are very concerned that the Fee Disclosure Provisions will delay progress on enhancing fee disclosure, create confusion in the regulated community and not serve the best interests of employers and plan participants.

The Department of Labor has developed and is ready to release regulations to enhance defined contribution fee disclosure. This regulatory effort reflects more than two years of information-gathering and analysis by the Department of Labor in the form of public comments and testimony from plan participants, plan sponsors and providers in an attempt to balance issues raised by these constituencies in establishing appropriate and meaningful disclosure requirements to employers and plan participants. Setting aside for the moment any substantive issues we may have with the Fee Disclosure Provisions, we believe that enacting legislation at this time that is at best duplicative of, and at worst in conflict with, the pending regulations will be disruptive and costly for everyone affected by them, including regulators.

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<sup>1</sup> The SPARK Institute represents the interests of a broad based cross section of retirement plan service providers and investment managers, including record keepers, banks, mutual fund companies, insurance companies, third party administrators and benefits consultants. Members include most of the largest firms that provide record keeping services to employer-sponsored retirement plans, ranging from one participant programs to plans that cover tens of thousands of employees. The combined membership services more than 62 million employer-sponsored plan participants.

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Passage of the Fee Disclosure Provisions will ultimately delay the process of enhancing fee disclosure because the Department of Labor will likely have to start the regulatory development process all over again. As a result, years of time and resources devoted by the DOL and the regulated community will have been wasted.

Additionally, while we are still analyzing the details of the Fee Disclosure Provisions, we are concerned that employers will be required to provide extensive and confusing details to plan participants that they neither want nor will find meaningful. Excessive and complex fee disclosure will ultimately confuse rather than enlighten the vast majority of plan participants about their retirement plans.

Finally, we are concerned about the haste with which the Fee Disclosure Provisions have been added to the proposed legislation and that affected parties have not had adequate time to fully consider and assess their impact and implement in the appropriate time frame. Accordingly, we urge you to allow the Department of Labor to complete its efforts to enhance fee disclosure through the regulatory process before passing the Fee Disclosure Provisions. Congressional action will be more effective after policy makers, employers and the retirement plan and investment management industries have had the opportunity to evaluate the pending regulations.

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The SPARK Institute appreciates your consideration of our views on this important matter. We are available to discuss these issues further at your request. Please do not hesitate to contact us at (704) 987-0533.

Respectfully,



Larry H. Goldbrum  
General Counsel

cc: President Barack H. Obama  
Ms. Hilda Solis, Secretary, U.S. Department of Labor  
Ms. Phyllis C. Borzi, Assistant Secretary of Labor  
Mr. Michael Davis, Deputy Assistant Secretary of Labor  
Mr. Robert Doyle, Director, Office of Regulations and Interpretations, EBSA  
Mr. Lou Campagna, Division of Fiduciary Interpretations, EBSA  
Ms. Lisa Alexander, Division of Coverage, Reporting & Disclosure, EBSA  
Mr. Jeffrey Turner, Division of Regulations, EBSA