THE
SPARK
Institute, Inc.

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THE SPARK INSTITUTE COMMENTS ON SEC REVIEW OF 12b-1 FEES

Group Supports Continued Use of Fees for Retirement Plan Services With Full Disclosure

SIMSBURY, CT, July 17 – In a comment letter submitted to the Securities and Exchange Commission today, The SPARK Institute urged the Commission to continue allowing mutual funds to make payments to retirement plan service providers under 12b-1 programs to compensate them for distribution and other ongoing services. The SPARK Institute also said, however, that any person or entity that receives compensation from a mutual fund under a 12b-1 program in connection with providing services to a retirement plan should fully disclose details of the compensation to the plan sponsor or fiduciary.

"Access to mutual funds from multiple fund companies through a single retirement plan service provider or record keeper has been made feasible and cost effective due, in part, to payments under 12b-1 programs made by mutual funds to plan service providers," said Larry Goldbrum, General Counsel of The SPARK Institute. "In the event that 12b-1 payments are disallowed or limited (e.g., via a maximum payment amount), retirement plan providers would likely be forced to make up any shortfalls by accounting for and trading mutual funds on a unitized basis, pushing the 12b-1 payment amounts outside of the mutual funds," said Goldbrum. As a result, these expenses would not be reflected in the net returns of the funds and it would become much harder to report and explain investment returns to plan sponsors and participants, he noted.

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In the context of maintaining the use of 12b-1 fees for legitimate plan services, Goldbrum said that The SPARK Institute strongly supports fee disclosure as the best way to address any concerns and perceptions regarding the use of the fees as indirect compensation and the related potential conflict of interest issues.

"We believe that all retirement plan service providers should be required to: (1) disclose to plan sponsors the compensation they receive from third parties, (2) provide a description of the services they provide for such compensation, and (3) clearly identify potential conflicts they may have."

The SPARK Institute's complete comment letter may be found on its web site at www.sparkinstitute.org.

The SPARK Institute is the leading voice in Washington for the retirement services industry. Through the combined expertise of its member companies, The SPARK Institute provides research, education, testimony and comments on pending legislative and regulatory issues to members of Congress and relevant government agency officials. This disciplined process and resulting solutions help shape America's retirement future.

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