



714 HOPMEADOW STREET, SUITE 3
SIMSBURY, CT 06070

(860) 658-5058

950 F STREET, NW
THE ATLANTIC BUILDING
WASHINGTON, DC 20004-1404

ROBERT G. WUELFING, PRESIDENT
LARRY H. GOLDBRUM, GENERAL COUNSEL

Submitted Electronically

March 8, 2007

Mr. Robert Doyle
Director of Regulations and Interpretations
Employee Benefits Security Administration (EBSA), Room N-5669
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Pension Protection Act of 2006 – FAB 2006-03

Dear Mr. Doyle:

The SPARK Institute recognizes and appreciates the significant undertakings that the U.S. Department of Labor (the “DOL”) faces in connection with providing guidance and issuing regulations with respect to the Pension Protection Act of 2006 (“PPA”). We commend you for your efforts in providing timely guidance on the changes to pension benefit statement requirements mandated by PPA Section. 508(a), one of the most time critical issues in the statute as outlined in our letter to the DOL dated October 19, 2006 regarding PPA guidance priorities. The guidance provided in Field Assistance Bulletin 2006-03 (the “FAB”) was delivered sufficiently in advance of the first pension benefit statements subject to the new requirements and addresses many of the concerns raised by our members. Based on feedback from our membership, The SPARK Institute requests the DOL give further consideration to the following items when drafting pension benefit statement regulations and model statements.

1. Form of furnishing statements

The SPARK Institute applauds the DOL approach allowing multiple documents to satisfy the pension benefit statement requirements. As is acknowledged in the guidance, there may be multiple service providers delivering services to a plan. Providing one consolidated statement incorporating all of the newly required data elements would delay delivery of the statements, would increase costs to the plan (which costs would ultimately be borne by the participants) and may be cumbersome and confusing. The SPARK Institute requests that the flexibility to meet the requirements through multiple documents be retained in the final regulations. The SPARK Institute further requests that the DOL specify that acceptable cross-referencing would include, without limitation, a reference in the benefit plan statement to other plan documents, forms, materials, and electronic media (e.g., a plan web site) that contain current required information, provided that the participant may request and receive at no charge, a hard copy of any such information, including material available via a web site.

2. Manner of furnishing statements

The SPARK Institute believes the ability to deliver information to retirement plan participants electronically will improve the timeliness and increase the scope of information that can be provided to participants cost effectively. We appreciate the efforts made on the part of the Department of Treasury and the DOL to continually review the methods and means of delivering information electronically to participants.

The FAB provides that “[w]ith regard to pension plans that provide participants continuous access to benefit statement information through one or more secure websites, the Department will view the availability of the pension benefit statement information through such media as good faith compliance with the requirement to furnish benefit statement information, provided that the participants and beneficiaries have been furnished notification that explains the availability of the required pension benefit statement information and how such information can be accessed by the participants and beneficiaries.” (Emphasis added.)

The SPARK Institute requests that the DOL expressly clarify that the requirement to furnish statements would be considered satisfied under the forgoing text if the statement information made available through the website(s) is either (1) an electronic image of the most current quarterly statement that is available, provided that such statement is either replaced or supplemented regularly by subsequent quarterly statements as they are produced and reasonably available (i.e., static electronic images of the statements), or (2) through a web site that allows the participant to view a statement upon request based on the most recent account information available through the web site, provided that such electronic statement otherwise meets the statement requirements.

3. Investment principles

The SPARK Institute commends the DOL for its ongoing focus on educating retirement plan participants about retirement plans and the investments they make in them. We

request that the DOL clarify certain language in the FAB relating to target date retirement, “lifecycle”, and other similar diversified investment vehicles. In warning participants of the risk of investing more than 20% of their savings in any one company or industry, our members have expressed concern that participants may misinterpret the warning statement to apply to target date retirement, “lifecycle”, and other similar investment vehicles which are designed as a stand alone portfolio of diversified investments. The SPARK Institute requests that a further brief explanation of the difference between single securities which are inherently not diversified and certain professionally managed investment vehicles which are designed and managed to diversify risk.

4. Applicability of permitted disparity disclosure to individual account plans

Section 508(a)(2)(ii) of the PPA requires that pension benefit statements include “an explanation of any permitted disparity under section 401(l) of the Internal Revenue Code or any floor-offset arrangement that may be applied in determining any accrued benefits. . .” This portion of the statute makes no distinction between individual account defined contribution plans and defined benefit plans. It appears the purpose of this provision is to alert participants to any potential adjustments to the accrued benefits reported on their pension benefit statement that may occur as the result of the application of the permitted disparity rules. While this may be important information for defined benefit plan participants, accrued benefits reported on a pension benefit statement for an individual account plan cannot be adjusted for permitted disparity once allocated.

Accordingly, The SPARK Institute requests that the DOL confirm that an explanation of permitted disparity need not be included in pension benefit statements for individual account plans if there is no potential for an adjustment in the accrued benefits. If the DOL is unable to reach the conclusion that this provision of the PPA does not apply to individual account plans, The SPARK Institute requests confirmation that the explanation of permitted disparity can be satisfied in the pension benefit statement by directing participants to the SPD or similar document for detailed information regarding the application of permitted disparity to their plan contributions (e.g., the integration level).

Thank you for the opportunity to comment on these matters and your consideration of our views. Please do not hesitate to contact us with questions or requests for additional information. We can be reached at (704) 987-0533 or (860) 658-5058.

Respectfully,

/s/

Larry H. Goldbrum
General Counsel

cc: Lou Campagna (Division of Fiduciary Interpretations & Regulations, EBSA)
Pam O’Rourke (The SPARK Institute Regulatory & Legislative Policy Task Force)