

# NEWS RELEASE



American Society of Pension Professionals & Actuaries / Council of Independent 401(k) Recordkeepers

FOR IMMEDIATE RELEASE

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## ASPPA & CIKR Comment on Proposed DOL Regulations

Arlington, VA – Feb. 11, 2008 – The American Society of Pension Professionals & Actuaries (ASPPA) and the Council of Independent 401(k) Recordkeepers (CIKR) submitted comments and recommendations about proposed ERISA Section 408(b)(2) regulations by the U.S. Department of Labor (DOL), which provide clarification on what constitutes a reasonable contract or arrangement between employee benefit plans and service providers to plans to assist plan fiduciaries in assessing the reasonableness of the compensation or fees paid for services rendered to plans.

*“While we support the Labor Department in its initiatives to improve disclosure, there are a number of issues that warrant a closer look that will enable the fiduciaries to provide plan participants with the information they should have,”* said Brian Graff, executive director and chief executive officer at ASPPA. *“We believe the department can provide greater clarity about disclosure requirements and obtain consistent information from service providers,”* said Tommy Thomasson, chairman of CIKR.

Among the recommendations, ASPPA and CIKR encouraged DOL to require disclosure of compensation for all service providers into three general categories: (1) investment-related fees and expenses; (2) transaction-related fees and expenses, and (3) record keeping and administrative fees and expenses. ASPPA and CIKR also recommended DOL require a consolidated form of disclosure for all service providers that would be more readily usable by a fiduciary.

Mutual fund companies under these proposed regulations also should be subject to these new disclosure rules. While mutual fund investment advisors are not considered a party in interest under ERISA (except where the record keeper, trustee, or other service providers to the plan are affiliated with the fund manager), when plans invest in mutual funds, such advisors are providing indirect services to a plan. ASPPA and CIKR therefore request clarification that both the direct and indirect compensation of fund managers be disclosed as a result of these indirect services.

With regard to disclosing conflicts of interest, ASPPA and CIKR advises that DOL provide clarity about relationships it believes should be disclosed regarding conflict-of-interest issues to help those covered service providers meet requirements to obtain an exemption. Consequently,

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service providers would sufficiently understand how to make an informed decision regarding compliance in this area.

Read the [submitted comments](#). For additional information, or to speak with CIKR chairman Tommy Thomasson or ASPPA executive director, Brian Graff, contact Chris Robichaux, director of media relations at ASPPA – [robichaux@asppa.org](mailto:robichaux@asppa.org) or call 703-963-0293.

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ASPPA is a national organization of more than 6,400 retirement plan professionals who provide consulting and administrative services for qualified retirement plans covering millions of American workers. ASPPA members are retirement professionals of all disciplines including consultants, administrators, actuaries, accountants, and attorneys. The large and broad-based ASPPA membership gives it unusual insight into current practical problems with the Employee Retirement Income Security Act and qualified retirement plans with a particular focus on the issues faced by small- to medium-sized employers. ASPPA membership is diverse and united by a common dedication to the private retirement plan system.

CIKR is a national organization of 401(k) plan service providers. CIKR members are unique in that they are primarily in the business of providing retirement plan services as compared to financial services companies who primarily are in the business of selling investments. As a consequence, the independent members of CIKR offer plan sponsors and participants a wide variety of investment options from various financial services companies without an inherent conflict of interest. By focusing their businesses on efficient retirement plan operations and innovative plan sponsor and participant services, CIKR members are a significant and important segment of the retirement plan service provider marketplace. Collectively, the members of CIKR provide services to approximately 68,000 plans covering 2.8 million participants and holding in excess of \$120 billion in assets.