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Office 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: Revision of Form 5500 (RIN 1210-AB06)

The SPARK Institute, Inc. ("SPARK")¹ appreciates this opportunity to comment regarding the proposed revisions to the Form 5500 Annual Return/Report ("Form 5500"), filed for certain employee benefit plans under the Employee Retirement Security Act of 1974, as amended ("ERISA") and the Internal Revenue Code of 1986, as amended. The SPARK Institute members are the retirement plan service providers that will be responsible for preparing the Form 5500 for the retirement plans they service.

We commend the Department of Labor (the "DOL"), Department of the Treasury, and Pension Benefit Guaranty Corporation for their efforts to reduce and streamline annual reporting requirements for plan sponsors, plan administrators and service providers. Additionally, The SPARK Institute supports the efforts to help educate and inform plan sponsors regarding the costs and expenses associated with retirement plan administration and investments through increased fee transparency. At the outset we note that for the reasons

¹ SPARK represents the interests of a broad based cross section of retirement plan service providers, including members that are banks, mutual fund companies, third party administrators and benefits consultants. SPARK members include most of the largest service providers in the retirement plan industry and the combined membership services more than 90% of all defined contribution plan participants.

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explained more fully below we limited our comments herein to certain high level issues and concerns. We note however, that our members have expressed concerns about certain specific aspects of the proposed revisions that we would be glad to discuss with the DOL upon request.²

The retirement plan industry is awaiting additional regulatory requirements and guidance from the DOL regarding fee disclosure under Section 408(b)(2) of ERISA. The anticipated 408(b)(2) regulations will no doubt require retirement plan providers to make additional and similar fee information available to plan sponsors. The SPARK Institute urges the DOL to coordinate the requirements under the pending 408(b)(2) regulations and the proposed Form 5500 revisions. Such coordination will help to minimize concerns regarding potential duplication of efforts resulting in increased costs, and inconsistencies in the reported information to plan sponsors that could otherwise cause confusion. Accordingly, The SPARK Institute believes that the issues regarding fee disclosure must be considered from a broader perspective taking into account the ultimate changes to 408(b)(2). Because the 408(b)(2) regulations are still pending we do not believe it's possible to evaluate proposed revisions to Form 5500 on a fully informed basis. Accordingly, our comments herein with respect to the proposed revised Form 5500 are preliminary and we request the opportunity to comment further after the 408(b)(2) regulations are released.

Schedule C Revisions

As noted above, The SPARK Institute supports efforts to expand fee disclosure to help plan sponsors better understand plan costs and expenses. Such information should be provided in a cost effective and meaningful manner that does not create additional confusion. Many of our members are concerned about their ability to gather and include some of the required information on a plan level basis. They are also concerned about their ability to make the needed system changes to meet the proposed effective date.

Plan Level Information - As the DOL knows, a substantial majority of retirement plan service providers maintain plan records and investment information at an omnibus account level.³ Our members appreciate that the DOL recognized and anticipated the complexity and potential difficulty that service providers will have in gathering and reporting revenue sharing income and third party payment information. The provisions in the proposed revisions that allow service providers to provide estimates with respect to such amounts are helpful but should be expanded or clarified to include additional items that must be disclosed. For example, the proposed revisions require retirement plan service providers to include information regarding "float or similar earnings on plan assets or plan deposits" and to include certain transactional based compensation and expenses such as brokerage commissions and fees. Many service providers will not be able to determine the amount of float earnings at the plan level because such compensation is extremely difficult to quantify,

² For example, some of our members have raised concerns or have noted the need for clarification regarding the Form 5500 instructions.

³ Omnibus accounts combine the investment of many shareholders in a particular mutual fund into one account. They are used for convenience and as a best practice in the industry so that the daily data exchanges and settlement transactions between fund companies and retirement plan record keepers may be performed efficiently.

especially when float is attributable to amounts held in non-interest bearing accounts (e.g., participant distribution amounts held in a demand deposit account pending the participant cashing a check). Additionally, even if such amounts can be quantified in the aggregate by the service provider it will be extremely difficult and expensive to attribute the earning to specific plans. Float earnings are generally incidental to situations where plan assets are held in certain accounts because such assets are in transition. This practice is common in the industry and developed out of administrative necessity and convenience for all parties involved, including plan sponsors. The amount of float is generally dictated by external factors that the service provider cannot influence (e.g., when a check is cashed). The use of accounts that result in float earnings in order to help simplify and facilitate plan administration should not be complicated by Form 5500 plan level disclosure requirements. The SPARK Institute requests that the proposed revisions to Form 5500 either exclude the float disclosure requirements or allow service providers to provide a reasonable estimate of such amounts.

Many recordkeeping and trust systems are not equipped to cost effectively gather and report transaction based fees and expenses at the plan level. For example, brokerage commissions and fees are generally added to or deducted from the amount of any transaction. Plan service providers may not be able to gather this information from their own systems and from third party brokerage systems in order to report the exact amounts attributable to a plan without extensive and costly systems upgrades. In some instances, providers do not have enough information to calculate a reasonable estimate from the data available to them. Accordingly, The SPARK Institute urges the DOL to allow plan service providers to supply estimates of such amounts for Form 5500 reporting purposes. However, when the service provider cannot readily obtain the information necessary to provide an estimate without incurring significant expenses, we request that the DOL allow the service provider to supply a fee schedule that the plan sponsor can include with the Form 5500.⁴

Effective Date - Many of our members are concerned about their ability to make the necessary system changes in time to for the 2008 reporting period. In order to meet the 2008 reporting period deadline, service providers must modify their systems and change their practices and procedures by December 31, 2007. Depending on when the proposed revisions to Form 5500 are finalized and what disclosure the DOL requires under Section 408(b)(2), service providers may only have a year or less to accommodate the new requirements. These concerns are compounded by the resource demands in connection with the sweeping changes of the Pension Protection Act, anticipated 408(b)(2) regulations, Securities and Exchange Commission Rule 22c-2, and the Fair Funds Settlement Distributions. Our members are already devoting significant information technology and business resources towards responding to challenges resulting from mutual fund industry issues. All of these efforts including the proposed Form 5500 changes put demands on the same resources that are already being stretched to their limits. Additionally, these circumstances and demands detract from the ability of retirement plan service providers to focus on developing products and services that help and encourage plan participants to save for retirement and make better investment choices. Accordingly, The SPARK Institute urges the DOL to extend the

⁴ We note that the costs associated with gathering and reporting this information will likely be passed on to the plan by the service provider if such costs are material.

compliance deadline with respect to the Schedule C requirements to the 2009 reporting period.

Conclusion

Based on the foregoing comments and concerns The SPARK Institute urges the DOL to: (1) coordinate the fee disclosure requirements under the revised Form 5500 with the pending 408(b)(2) regulations and allow for comments with respect to both when the industry can consider both on an informed basis, (2) expand and clarify the use of estimates on Schedule C with respect to float and transaction based compensation such as brokerage commissions and fees, and (3) extend the compliance deadline with respect to the Schedule C requirements to the 2009 reporting period.

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 (860) 658-5058.

Respectfully,

/s/

Robert G. Wuelfing
President

/s/

Larry H. Goldbrum
General Counsel

cc: Ann L. Combs (Assistant Secretary of EBSA)
Robert Doyle (Director of Regulations & Interpretations, EBSA)
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