

United States Senate

WASHINGTON, DC 20510

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May 1, 2007

The Honorable Elaine L. Chao
Secretary
Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

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Dear Secretary Chao:

We are writing with respect to the Department's proposed default investment regulations published on September 27, 2006. We understand that you are close to finalizing these regulations, which will play a critical role in the retirement security of millions of Americans, and we wanted to share our views on one essential element of the proposed regulations.

In the Pension Protection Act of 2006 (the "PPA"), we made great strides forward in encouraging employers to adopt automatic enrollment arrangements within their defined contribution plans. Such arrangements can be particularly effective in increasing retirement savings of low and middle-income employees. The Act directed the Department to issue regulations to provide guidance regarding appropriate default investments.

The default investment regulations will have a tremendous effect on how participants' retirement assets are invested. It is therefore essential that the regulations be structured to protect participants' rights, give participants the information they need to understand how their assets have been invested, and provide a range of investment options that may be appropriate for different employee populations. If employers are not able to choose among investment options suited for their workforce consistent with their fiduciary obligations, many will not adopt automatic enrollment arrangements, potentially undermining their workers' retirement security.

For example, capital preservation investment options may be more appropriate for some employee populations and under certain market conditions. In this context, we are concerned that the proposed default investment regulations, which take the approach of enumerating specific investment options that may meet fiduciary obligations, appear to have excluded alternatives designed for capital preservation. Employers, participant groups, and unions have submitted comments noting this shortcoming of the Department's proposed approach. We hope you will take these comments into account.

We appreciate your consideration of our views and look forward to the final default investment regulations.

Sincerely,


Ted Kennedy

