



Walter Welsh

Executive Vice President, Taxes & Retirement Security
(202) 624-2157 t (866) 953-4149 f
walterwelsh@acli.com

James Szostek

Vice President, Taxes & Retirement Security
(202) 624-2378 t (866) 953-4149 f
jimszostek@acli.com

Shannon Salinas

Counsel
(202) 624-2028 t (866) 953-4149 f
ShannonSalinas@acli.com

Mailed Electronically

February 9, 2011

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: Fiduciary Definition Hearing, Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Subject: Fiduciary Definition Hearing

Dear Sir or Madam:

The American Council of Life Insurers* (“ACLI”) respectfully requests an opportunity to testify at the fiduciary definition hearing. ACLI member companies offer insurance contracts and other investment products and services to qualified retirement plans, including defined benefit pension and 401(k) arrangements, and to individuals through individual retirement arrangements (IRAs) or on a non-qualified basis. ACLI member companies also are employer sponsors of retirement plans for their own employees.

Parties engaged in transactions with ERISA plans and IRAs need clear, unambiguous rules by which to determine their duties and obligations in order for the marketplace to function efficiently and to ensure that plans, plan participants and IRA owners continue to have a broad range of investment products and services available to them, including investment advice and educational services. Our testimony will focus on the following:

- (1) A seller’s limitation on the application of fiduciary status that recognizes that financial institutions such as life insurers and their sales representatives should not be categorized as fiduciaries under ERISA or Code section 4975(e)(3)(B) when they are engaged in selling activities (*approximately 5 minutes*);

* The ACLI represents more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies represent over 90% of the assets and premiums of the U.S. life insurance and annuity industry.

Circular 230 disclosure: This document was not intended or written to be used, and cannot be used, to: (1) avoid tax penalties, or (2) promote, market or recommend any tax plan or arrangement.

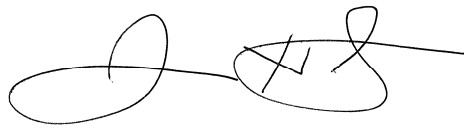
- (2) The determination of fiduciary status should only be based on written representations. Use of written representations will eliminate ambiguity in the understanding of the recipient and provider (*approximately 1 minute*); and
- (3) Separate rule making for individual retirement accounts and Keogh plans that considers the IRA and Keogh marketplace, its regulatory environment, the economic impact of a change to the current rules to this marketplace, a meaningful investment education safe harbor tailored to this marketplace, and that clarifies the application of existing exemptions and/or issued new exemptions tailored to this marketplace (*approximately 4 minutes*).

ACLI would appreciate an opportunity to testify. We believe our testimony would be of value to you. We thank you for your consideration of this request.

Sincerely yours,



Walter C. Welsh
Executive Vice President,
Taxes & Retirement Security



James H. Szostek
Vice President,
Taxes & Retirement Security



Shannon Salinas
Counsel,
Taxes & Retirement Security