

ICI Urges Congress to Combine House, Senate Investment Advice Provisions, July 2002

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Combined Approach Would Benefit Greatest Number of Employees in 401(k) Plans

Washington, DC, July 22, 2002 - The following is a statement from Investment Company Institute President Matthew P. Fink urging Congress to consider combining elements of legislation approved by the House of Representatives and by the Senate Finance Committee and Health, Education, Labor, and Pensions Committee in order to allow investment advice to reach the greatest number of employees in 401(k) retirement savings plans.

"The Senate Finance Committee on July 11 approved the 'National Employee Savings and Trust Equity Guarantee Act' ([S. 1971](#)), which would make several changes to the nation's pension laws. The Senate is likely to consider both S. 1971 and [S. 1992](#), the 'Protecting America's Pensions Act of 2002'—previously reported by the Senate Health, Education, Labor, and Pensions Committee—this fall. This legislation, along with accounting and auditing reform legislation, addresses many of the issues raised by recent financial reporting irregularities and their impact on defined contribution retirement savings plans.

"The Institute was disappointed that neither Senate bill includes provisions that would offer greater hope of making professional, objective investment advice available to the millions of 401(k) investors who want and need it. The bills address the investment advice issue, but limits its actions to encouraging the use of 'third-party' advice providers. This type of advice, which employers are already free to make available to their employees, has yet to be widely adopted, in part, because it typically is provided through fairly complicated Internet-based programs.

"The limited 'third-party' approach included in the Senate bills does little more than preserve the status quo, and will benefit relatively few employees. Unless amended to include the investment advice provisions of the House legislative counterpart, the Senate bills will leave millions of employees without realistic access to professional investment advice.

"Legislation passed earlier this year by the House will create far more opportunities for employees to obtain professional help with their retirement investments. Under the [House bill](#), retirement plan providers would be permitted to offer advice that 401(k) investors could use as they see fit. Importantly, any provider that offered investment advice to 401(k) investors would be subject to ERISA's strict fiduciary obligations. The House bill requires that investment advice would have to be solely in 401(k) investors' interests, and designed exclusively for their benefit. This tough, unambiguous standard is fully enforceable by federal regulators and by investors. In addition, plan providers would be required to provide full and fair disclosure to 401(k) investors.

"Combining the 'third-party' provisions of the Senate bills with the advice legislation passed by the House would produce the best result for the most investors, and would help ensure that the millions of employees in 401(k) plans receive the investment advice they want and need."