

# THE FINANCIAL SERVICES ROUNDTABLE

*Impacting Policy. Impacting People.*



1001 PENNSYLVANIA AVE., NW  
SUITE 500 SOUTH  
WASHINGTON, DC 20004  
TEL 202-289-4322  
FAX 202-628-2507

E-Mail [info@fsround.org](mailto:info@fsround.org)  
[www.fsround.org](http://www.fsround.org)

April 16, 2007

Members of the Committee on Education and Labor  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative:

The Financial Services Roundtable urges you to oppose H.R. 3185, *the 401(k) Fair Disclosure for Retirement Security Act of 2007*. The Roundtable supports clear and meaningful disclosures for both plan participants and plan sponsors, however H.R. 3185 would increase costs for plans and participants and have other unintended consequences. Dictating pricing models for service providers, requiring disclosures that would overwhelm plan participants, and mandating a government sanctioned investment option would have a negative impact on Americans' retirement planning. In addition, the bill ignores the significant ongoing efforts of the U.S. Department of Labor (DOL) to improve disclosures.

## **Unbundling Requirement**

H.R. 3185 would require plan sponsors receive a "service disclosure statement" breaking out the costs of providing services to the plan into several categories, including investment and administrative costs. This provision is of significant concern for full service providers, which provide all services to a plan for one price.

Full service providers would be forced to breakout the cost of the services, even if these services are not offered separately. Requiring a pricing regime that ignores the business model of the service provider could require the disclosure of proprietary information and artificial numbers that serve of no use to plan fiduciaries.

Plan sponsors have the ability to select, in a highly competitive market, among full service providers and unbundled service providers. Multiple factors, including cost, go into selecting a service provider. The aggregate cost and an understanding of the plan services is key to a fiduciary fulfilling their duty of insuring services are provided at a reasonable cost. Mandating a pricing regime that requires the disclosure of arbitrary numbers will complicate, not aid, a fiduciary's decision making process and could ultimately work against the goal of expanding workplace savings plans.

## **Plan Participant Disclosures**

H.R. 3185 requires a host of new disclosures to participants on plan fees, including fees that most participants will never encounter. Overwhelming participants with irrelevant information will confuse or discourage the participation of the average plan participant. These new disclosures would also increase costs and there is also a potential cost associated with imprudent investment decisions rooted in the complexity of these disclosures

April 16, 2007

Page 2

Plan participants can be better equipped to make informed decisions through straightforward and simplified disclosures, when provided in conjunction with other information associated with investment options, including historical performance, the investment's objective, risk, and the identity of the adviser or provider. Should a plan participant seek additional information, providing access through the Internet or upon request makes better sense.

### **Government Mandated Investment Option**

H.R. 3185 would create a government mandated investment option for all 401(k) plans by requiring the inclusion of an "appropriate broad-based securities market index fund" in all plans. This provision would override a plan fiduciary's responsibility to ensure plan options are suitable for their retirement plan, as well as the judgment of investment professionals. Congress should not mandate the sale of particular investment products. This would set a bad precedent.

More troublesome is our concern that this government mandated investment option, could lead to the belief that this investment option is sanctioned by the government, thereby leading people to select this investment option over other options that may be more appropriate for an individual's retirement planning requirements.

### **Efforts by the U.S. Department of Labor**

Achieving the appropriate level of disclosure is a challenging task given the complexity of today's plans and investment options. The approach taken by H.R. 3185 through its broad new mandates and requirements will come with unintended consequences, including additional cost for plan participants.

The DOL has already completed one of three rulemaking processes to provide enhanced plan sponsor and plan participant disclosures. The regulatory process is better equipped to take into consideration the complexity of the market with less risk of unintended consequences, and has the flexibility to address concerns that arise as plans and investment options continue to evolve.

The Roundtable, and other interested parties continue to be engaged as the DOL creates new disclosure requirements for plan participants and sponsors. The DOL regulations address many of the same issues considered by H.R. 3185; although the approach taken by this bill has the potential to significantly delay DOL's efforts and enhanced disclosures for both sponsors and participants.

Based on the aforementioned concerns, we would urge you to oppose H.R. 3185. This legislation will have a harmful effect on Americans' retirement security.

Best regards,

A handwritten signature in blue ink, appearing to read "S Bartlett", with a horizontal line underneath.

Steve Bartlett  
President and CEO