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April 25, 2008

Sent by U.S. Mail and Electronic Mail

Ms. Elizabeth A. Goodman
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Revisions to Annual Information Return – RIN1210-AB06

Dear Ms. Goodman:

On behalf of members of the Alliance in Support of Independent Research, I write to thank you for speaking with us on March 31, 2008 and to follow up on the issues addressed in our conference call.

As discussed during our call, the Alliance is concerned that certain of the requirements set forth in the DOL's recent amendments to Form 5500 may be implemented in a manner which favors proprietary research arrangements over third party (independent) research arrangements. Specifically, the Alliance believes that the lack of guidance regarding the "eligibility conditions" for proprietary research arrangements that must be disclosed by managers to ERISA plans seeking to take advantage of the exception to the Form 5500 disclosure requirements applicable for "eligible indirect compensation" may result in plans receiving little or no useful disclosure regarding proprietary research arrangements. If market participants believe

that the disclosure obligations applicable to proprietary research arrangements are less onerous than those applicable to third party research arrangements, they will gravitate towards proprietary research arrangements, which we are sure was not the DOL's intention when it amended Form 5500. As discussed in detail below, the Alliance requests that the DOL publish additional guidance regarding the "eligibility conditions" that must be disclosed to plans so that plans, plan managers and broker-dealers to plans understand that proprietary and third party arrangements should be subject to an equal level of disclosure and scrutiny.

Discussion

The Department's recent amendments to the Form 5500 Schedule C reporting requirements require a plan to report on Schedule C plan asset managers who receive directly or indirectly $5,000 or more of research derived from compensation from a plan (*e.g.,* commissions or compensation on certain riskless principal trades paid to brokers on securities transactions for the plan).[1] The DOL considers soft dollar compensation (*e.g.,* research services qualifying under the Section 28(e) safe harbor) received by a plan asset manager to be "indirect compensation" to the asset manager because it is received from a source (a broker-dealer) other than a plan or a plan sponsor in connection with services rendered to the plan and is based upon compensation derived from plan assets. Accordingly, the receipt of soft dollar compensation valued at $5,000 or more by a plan asset manager would trigger a disclosure requirement by the plan on Form 5500. The

[1] 72 Fed. Reg. 64731 (November 16, 2007).

Release makes clear that the reporting requirements encompass both proprietary (bundled) research arrangements and third party research arrangements.

If a plan asset manager receives only research or other permissible services valued at $5,000 or more (falling into the category of "eligible indirect compensation") and the manager makes the required written disclosures to the plan outlined below, the manager need only be identified by name and address on Form 5500, with no specific disclosure required on the form regarding the nature or value of the services received. The DOL has stated that "soft dollar" research received can qualify as eligible indirect compensation.

The written disclosures that must be made to the plan by a plan asset manager who receives "soft dollar" compensation in order for such compensation to qualify for the lower disclosure standard applicable to eligible indirect compensation are as follows:

1. the existence of the soft dollar compensation in the form of research;
2. the reason the asset manager is receiving the research;
3. the amount (or estimate) of the soft dollar compensation or a description of the formula used to calculate or determine the research compensation that the asset manager receives in connection with each securities transaction for the plan; and,
4. the identity of the party or parties paying and receiving the compensation.

However, the Release states that it may not be practicable in making these disclosures to provide a formula or to estimate the value of certain types of "soft dollar" compensation, particularly proprietary soft dollar arrangements. Instead, in these circumstances, in place of the requirement to provide a formula or amount of compensation, plan asset managers may substitute a description of eligibility conditions sufficient to allow a plan fiduciary to evaluate the proprietary soft dollar arrangement for

reasonableness and potential conflicts of interest and that, according to the DOL, would satisfy the "amount of compensation" prong of the disclosure alternative for Schedule C reporting.

The Release does not specify the "eligibility conditions" sufficient to allow a plan fiduciary to evaluate the reasonableness of a proprietary soft dollar arrangement. Also, "eligibility conditions" is a newly introduced concept, not present in the DOL's proposing release and therefore was not subject to public comment. Could, for example, an asset manager be told that it is receiving proprietary research as a "good customer" or that the proprietary research is being provided at no additional cost (*e.g.,* 5¢ per share whether execution or bundled)? Contrast this with the provision of independent research where the value of the research (or a formula) is explicitly laid out by the parties to such an arrangement and required to be disclosed to the plan by the plan manager.

The Alliance is concerned that this disparate treatment of independent research and proprietary research under DOL reporting requirements will result in an anti-competitive environment and be disadvantageous to independent research. This result would be contrary to the DOL's stated position that it is important for plans to receive information concerning both proprietary and third party arrangements. It would also be inconsistent with the U.S. Securities and Exchange Commission's position that both proprietary and third party independent research are to be viewed comparably for regulatory purposes.

To begin, it is unclear how a plan or asset manager would determine whether $5,000 or more of research compensation had been rendered to it in the instance where

proprietary research is all or part of the research being received by the asset manager as a result of the deployment of plan commissions. As the "eligibility conditions" are permitted in lieu of an amount with the understanding that the value of bundled research cannot be quantified, the focus of those required to disclose may well turn on the value of quantifiable, independent research which would produce an inaccurate and misleading impression. Moreover, by requiring the reporting of the quantifiable value of independent research, but permitting proprietary research to be provided without quantification, other serious adverse consequences occur. For one thing, an incentive arises for an asset manager to subscribe to proprietary research to avoid having to quantify the value of the research they receive. This is contrary to recent efforts by the industry and regulators to enhance the role of independent research and achieve regulatory parity of proprietary and independent research arrangements. Also, when looking at the numbers resulting from this disparity, the overall result would be a misimpression as to how the asset manager has deployed plan commissions and what actual value has been obtained with plan commissions.

The Alliance believes that some members of the investment community view this alternative disclosure standard applicable to proprietary research arrangements as less comprehensive than that applicable to third party arrangements. Permitting proprietary research arrangements to be subject to a less burdensome disclosure regime would, in our view, be anti-competitive and harmful to the dissemination of independent research to the investment community.

Therefore, we request that the DOL provide additional written guidance with respect to the "eligibility conditions" that must be described to plan fiduciaries to allow them to evaluate proprietary research arrangements for reasonableness and potential conflicts of interest. For example, if managers are expected, formally or informally, to meet a minimum annual, monthly or other commission targets to receive proprietary research, or to receive access to additional levels of research services, such targets should be disclosed to the plan. We also believe that in order for a plan to determine the reasonableness of a proprietary research arrangement, the plan should receive some estimate of the value of the research received through such arrangement. If the value can truly not be estimated, we suggest that the manager be required to disclose that the proprietary research is being received, but that the value of such research, or the percentage of commissions used to pay for such research, cannot be determined. In instances where the value of the proprietary research cannot be estimated, we believe that in order for the plan fiduciary to evaluate the proprietary soft dollar arrangement for reasonableness and potential conflicts of interest, the plan fiduciary should be required to compare the average commission rate paid by the plan to the broker-dealer offering proprietary research with the average "execution only" commission rate paid by the plan to this broker-dealer or to other broker-dealers used by the manager to execute trades for the plan.

Finally, we ask that the DOL provide guidance to plans on the manner in which the $5,000 level is determined when an asset manager uses plan commissions to obtain proprietary research which is not quantified.

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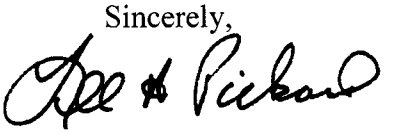
We believe that in addition to leveling the playing field between proprietary and third party research arrangements the suggestions set forth above will allow plan fiduciaries to perform a more meaningful review of the use of plan commissions by asset managers to the plan. We would be pleased to further discuss the issues raised in this letter. Please contact Lee A. Pickard or William D. Edick if you wish to discuss any aspect of this letter.

Sincerely,



Lee A. Pickard

cc: Lisa Alexander
Michael I. Baird