



**The
ERISA
Industry
Committee**

August 4, 2009

The Honorable Barney Frank
Chairman
House Financial Services Committee
United States House of Representatives
Washington, DC 20515

Dear Chairman Frank:

We are writing on behalf of The ERISA Industry Committee (“ERIC”) to express ERIC’s strong support of your July 22, 2009, statement that the Consumer Financial Protection Agency (“CFPA”) will have no regulatory authority over retirement plans.

ERIC is a nonprofit association committed to the advancement of the employee retirement, health, incentive, and welfare benefit plans of America's largest employers. ERIC’s members provide comprehensive retirement, health care coverage, incentive, and other economic security benefits directly to some 25 million active and retired workers and their families. ERIC has a strong interest in proposals affecting its members' ability to deliver those benefits, their costs and effectiveness, and the role of those benefits in the American economy.

Both traditional defined benefit pension plans and defined contribution (401(k)) plans are subject to strict fiduciary standards under the Employee Retirement Income Security Act (“ERISA”), which federal courts have recognized as being among the highest standards known to the law. Under ERISA, employers sponsoring retirement plans are subject to a comprehensive system of over 4,500 pages of federal regulations administered by the Department of Labor, the Treasury Department, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation.* The creation of a separate regulatory regime for pension plans and 401(k) plans to regulate “consumer issues” would result in yet one more agency – one lacking the expertise of 30 years of complex regulation and litigation of the existing agencies – as well as conflicting regulatory philosophies and ambiguity in interpretation. ERISA itself is a consumer protection statute and the agencies that regulate retirement security have at the core of their mission protection of consumer/participant interests.

We therefore support your statement on July 22, 2009, clarifying that the CFPA would have no authority over pension plans and 401(k) plans. We respectfully request that any legislation creating the CFPA explicitly state that, in light of the existing comprehensive regulation of retirement arrangements, the new agency would not have authority or jurisdiction over retirement plans.

Thank you for your consideration. We would be pleased to discuss this matter with you or your staff.

Very truly yours,

Mark J. Ugoretz
President

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Vice President Retirement Policy

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* The United States Supreme Court has noted specifically that “ERISA is a comprehensive and reticulated statute.” *Nachman Corp. v. Pension Benefit Guar. Corp.*, 446 U.S. 359, 361 (1980).