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"The Impact of the Financial Crisis on Workers' Retirement Security"

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Chairman Miller and Congressman Andrews, thank you for this opportunity to speak before you today on this critical issue facing tens of millions of Americans. My name is Jerry Bramlett, President and CEO of BenefitStreet. BenefitStreet is the nation's premier, independent recordkeeping and plan administration firm with more than 1,500 clients across the country. We are a pioneer in the creation and delivery of innovative 401(k) solutions and leading-edge technology.

Throughout my 25 years of building the largest independent 401(k) plan recordkeeping firms in the country, I have experienced every aspect of the retirement industry up close and have developed a good deal of insight as to how we got to this point and where we should go from here.

401(k) plans have become the retirement foundation for most Americans. In terms of promoting savings they have been immensely successful. Low to moderate income individuals are twenty times more likely to save when they are offered a 401(k) plan at work. However, the current financial crisis has certainly highlighted the fact that 401(k) participants—whose 401(k) account represent their sole retirement savings—bear all the investment risk. This contrasts to defined benefit plans, where the burden of funding, asset allocation and investment selection belong to an employer under the constraints of fiduciary laws. With 401(k) plans, all the risk associated with asset allocation and investment selection is shifted to the ill-prepared worker.

401(k) participants are understandably concerned about their retirement savings. The recent substantial decline in the market impacts almost every one of them. The pain is particularly acute for those participants closer to retirement whose retirement income expectations have been significantly impaired possibly resulting in the need to postpone retirement.

Given that most 401(k) participants are not investment experts, there is a danger that many of them will over react to this market downturn—I want to caution against this. For participants with still many years to retirement, a drastic abandonment of equity positions in their retirement account will only serve to lock-in as of yet unrealized losses. Markets do go up and down and 401(k) participants must try to remember to think long-term. It is important to remember, that as recently as September 1987 the market declined over 25 percent—3,000 points in today's terms. In the following years the market rebounded and reached even higher levels. In fact, according to the economist Jeremy Seigel there has never been a 20-year period where the stock market has yielded negative returns.

Let me emphasize, exchanging the equity investments in your retirement account for Treasury bills is not a sound long-term investment strategy and will subject retirees to substantial inflation risk. This also applies to participants who are nearing or entering retirement who will likely be managing retirement assets for some time – on the average another 15 years or so. Even these close-to-retirement employees can impair their long-term retirement assets by acting precipitously.

To be clear, I am certainly not saying that those with 401(k) accounts should do nothing. Current participants should take the time to evaluate where their new contributions are being invested and perhaps consider less volatile investments that will allow them to better diversify their entire account. By changing where these new contributions are being invested 401(k) participants should seek to have an appropriately diversified allocation of assets with a good balance of both equity and fixed income investments.

Which brings me to another point, I do not believe the 401(k) system is doing an adequate job of educating participants as to how they need to invest their account as they get closer to retirement. The practical impact of a substantial market decline on a 64-year old worker months away from retirement can be very different than the impact on a 50-year old 15 years from retirement. If the retirement account of the 64-year old is heavily invested in equities, the impact of a major market decline on retirement income expectations can be devastating. However, if that same account had been properly diversified with a greater emphasis on fixed income securities, the impact of a major market decline may very well be manageable. Although the advent of target-date investment funds based on a participant's age has greatly helped in this regard we need to do more. I would recommend that Congress instruct the Department of Labor to develop educational materials specifically for 401(k) participants that have reached age 50 to assist them in better managing their account in preparation for retirement.

The current financial crisis has also revealed some fundamental flaws in the 401(k) system that I want to highlight.

- Given how this turmoil is impacting large insurance companies and banks, plan fiduciaries need to make sure that, when offering a so called stable value or fixed interest fund, such funds are diversified across a large number of financial institutions. What we have learned over the last couple of weeks is that very large institutions can fail no matter how stable they may appear on the surface. In other words, just like plan participants need to diversify the investments in their account, plan fiduciaries need to diversify the investment providers used by the plan. As far as I know, the Department of Labor places no emphasis on this.

- You may not be aware that since this recent financial crisis began certain retirement funds—such as real estate investment funds—have announced that they are frozen and not available for distributions to participants due to the illiquid nature of the underlying assets. This means that current participants cannot change their investment and retirees cannot get distributions. Congress should examine whether investments subject to this susceptibility are appropriate.

- You also may not be aware that if a financial institution holding retirement plan assets becomes troubled, a plan fiduciary may practically or even contractually not be able to do anything about it. For example, there are retirement assets invested in insurance contracts that can be subject to significant back-end loads or may even have contractual prohibitions on taking the money out. I have seen contracts with such prohibitions lasting as long as five years. Congress should consider whether such restrictions should be permissible with respect to retirement plan assets.

- You should also be concerned about funds that may be advertized as "low-risk" (such as short term bond funds) but, in reality, contain high-risk assets that cause the fund to perform more like an equity fund in a down market. It is important not only to know how a fund is labeled, but what is actually in a given fund regardless of what it may be called.

- Finally, it is critically important that we not forget the issue of fee transparency. While the market is going down, hidden fees are still being assessed. As this Committee has already heard, hidden 401(k) fees can have an enormous impact on a participant's retirement account. Those opposed to fee transparency argue that only the overall net return on an investment should matter. So what is their argument when the return is a substantial loss compounded with hidden fees? Mr. Chairman, I fully support the bill (H.R. 3185) that you introduced this year enhancing 401(k) fee transparency and very much hope you will continue your quest to shine the light on hidden fees in the new Congress.

Thank you for this opportunity to testify on these important issues. I will be happy to answer any questions you may have.