Securities and Exchange Commission
100 F Street NE
Washington, D.C 20549-1090

Re: File Number 4-645, Release Number 34-66164

Thank you for the opportunity to comment on the Study Regarding Financial Literacy Among Investors now underway pursuant to Section 917 of the Wall Street Reform and Consumer Protection Act of 2010.

One comment before digging in – I know the phrase "financial literacy" is faithfully taken from the statute, yet "literate versus illiterate" doesn't seem to capture the complexity that savers and investors face today. Muriel Siebert's comment explains why that is, and does it so powerfully that I won't try to repeat it. I'll just say I took great comfort in seeing an expert articulate with such concrete examples and respect the challenges facing today's investors. Something about "illiteracy" was bothering me, but Ms. Siebert clearly nails why that's a misnomer, so I'll just move on.

I'd like to tackle the questions posed, but in a slightly different order, and as if I were talking directly to somebody looking for a bridge through technical jargon and into the job of "engaging intermediaries" and "purchasing products and services".

What do you need to know?

When do you need to know it?

How is it best presented?

First, What do you need to know?

Some very important **basics** are needed:

Know that **saving isn't investing.**

Saving is good, setting money aside for the future is important – but what you do with it, what you invest it in, is something else and needs more and different attention. Years back, when products seemed simpler and markets seemed to go up more steadily, it was easier – and less dangerous – to ignore that, and to feel as if saving was investing and all you had to do was begin. Not any more.

Know that **investing is a purchase.**

Years ago, in addressing efforts to shorten mutual fund disclosure, the President of Morningstar asked, "Are mutual fund shareholders owners of investment companies or are they consumers of investment advisory services?" Noting that "aspects of both may apply", he observed that "An owner thinks of himself or herself as having rights; a customer thinks `buyer beware.'" The Conference Board expressed a similar concern more recently, saying that "The changing definition of retirement" means "we are asking employees – who should be seen as consumers, not investors – to take on significant risks that they haven't a clue on how to manage."

A "saver" isn't necessarily thinking of himself or herself as a shareholder or a consumer. And an automatically enrolled saver almost certainly isn't.

"Nudging" savings is good; it must be followed and supported by a recognition that saved dollars are buying you products and services.

It's hard enough to buy smart – it's impossible when you don't know that you are buying.

Know that **nothing is free – and cost matters.**

A few years back, AARP found that fewer than 1 in 5 people asked about their 401k plan said they pay fees; almost two-thirds said they do not and 18 percent said they don't know.

That's not a good place to be. When you max out in your 401k or your IRA contribution, you still have more to do to get the most for your money. If, out of that maximum investment, you are giving up more in expenses than you understand and putting less "to work for you" than you realize, then you'll have less to live on in retirement.

Some sellers say people don't rank cost as an important factor when they make investment decisions. That's probably not surprising since so many people don't know how to recognize and evaluate costs yet. But other sellers and experts from many different disciplines are doing the math to show just how important cost is. And in 401k/defined contribution land, spending less on fees means having a bigger "benefit".

In Defined Benefit plans, where you can't change the "benefit", employers work to hold down fees they pay because getting more for the money (theirs and yours) is a way of holding down the "cost" of that benefit. But in DC land, the benefit isn't fixed -- it floats, depending on what goes in to be invested, how much of that remains invested after fees and expenses, and what investment experience happens to that remaining amount.

Are quotable sources or cites needed to help deliver this kind of heads-up about costs? I'm looking at Kiplinger, Forbes, Money Magazine.

Know that **"nothing is free" does not mean "you get what you pay for".**

Be ready to hear "you get what you pay for" – and be ready to ask more anyway. That's a sales slogan. You wouldn't let it stop you from exploring the price and the worth of other big investments or purchases. And none of them has as big an impact on how long your money will last in retirement as this one.

Know that **often you see costs presented in a way that fudges a lot things together – keep digging**, and know that what you can get for your money can increase if you look at each major component separately.

Understand that **Investment cost alone can be a challenge**:

For mutual funds, usually considered one of the simplest options, it seems that the simplest of "vanilla" products is usually a bundle of "product" and "services", that disclosure required is "standardized but not comparable", that price is partly measured and reported and partly "experienced", and that a deeper look at the more complete cost story means looking at different documents, finding different expenses reported in different forms of "measurement", measured over different periods of time, and trying to add them up. Figures can seem inconsistent, incompatible and incomplete. They may seem to fudge price and performance making both are hard to unravel and benchmark.

Understand that **retirement plan cost and investment cost are not the same thing, yet they are often fudged together – and you need to care about each, separately:**

Employers sometimes do – or did? – pay for plan expenses with cash and take a tax deduction for that cost. Increasingly, though, studies and comment letters submitted to DOL have shown how frequent it is for bundled packages to be presented to employers by bank, brokerages, mutual fund companies, insurers or recordkeepers - with the plan and other tools and calculators and services packaged in together and provided for through the fees and expenses that workers in the plan will pay, largely through the cost of the different investment choices they'll make.

Reactions to this practice have been mixed. Some employers say it's simpler for them to compare the "package" and its "total" price to other packages and their total price rather than having to break things down in detail and trying to compare "a la carte". Others have raised a variety of concerns: When somebody says "you are getting a lot for the money here", and it's the workers money, should it be easier for both employers and employees to know how much for how much money? Who

recognizes and plans to use those services, and is it worth it knowing the price paid (and therefore the "investment" forgone)?

Workers are used to hearing that offering a retirement plan is a voluntary, risky, complex and burdensome responsibility for many employers. But in some arrangements, it's hard to tell what the cost of the "plan" is separate from the costs of the different investments. It's hard to tell whether the plan is a rebate, a free gift with purchase – one that the workers are purchasing. It's hard to tell whether the "costs" of the plan – the document, the administration, the web site and calculators and models and communications tools and more – have been recovered many times over since they're hardly invented from the ground up with every additional employer who buys in. If the existence of a plan guarantees steady money in to the provider with every payroll, and the funds can use omnibus accounting to handle aggregated investment orders, is there a way to help employers and employees team up and get the most for the money? For employees right now, understanding a product is hard enough; understanding what's going on when the product and the plan get fudged together is even harder. That means it's hard to have a conversation with your employer and with the firms that sell plans and investment options – it's hard to be clear about who is responsible for what, who is accountable for what, which components cost what and how that cost is shared, and what other choices might be preferable.

If you can't decipher these kinds of things, you'll have a hard time getting the most out of your 401k plan – and an impossible time understanding what it might take to get your employer interested in a DB plan. Too often, the component parts of "plan designs" that get discussed as costs to be lowered are not the real drivers of cost and not the real source of potential savings.

If the presentation – the fudging together – of investment expenses, investment return, plan expenses, and more in the employer plan world skews your understanding of what's what when you look at individual or retail options, that's not good either. And the two worlds have a lot to do with each. After all, the biggest source of money into IRAs has been rollovers from workers leaving retirement plans. And the biggest source of "retail" money ahead is the trillions still to be paid out. It's important to weather the transition well – your rights are different, your remedies are different, you don't get a do-over.

Understand that **investment cost and the cost for "assistance or advice" are not the same thing, yet they are often fudged together, too – and that makes it hard to know what kind of "advice", if any, you're getting, what you paid for it, and what other money is paying your advisor:**

Often an investment product will produce revenue to the company – say, the mutual fund – that it uses then to pay brokers to sell the fund, or platforms to offer the fund. Understanding this money stream, and the conflicts of interest it can involve, has been the source of a lot of different proposed rules and disclosure projects at

different agencies over the years. And often efforts to learn more about the money are frustrated – mutual funds say "get it from the brokers, they receive it." Brokers say "get it from the funds, they pay it." The latest twist seems to be a message to the ERISA agency: "get it from the client, they own it now" – who? the employer? the "plan"?

Maybe one good step forward here is simply helping 401k participants and individual savers and investors know that money you invest often is used to pay agents, representatives, brokers, people who can use dozens of titles. (Sellers will say the money doesn't come from your investment – it comes from their legitimate profit. Those don't seem like unrelated pots of money.) The point is that plenty of people who want to be your trusted advisor are also paid to be the sales force for a variety of different products. You'll want to ask some questions and you don't want a superficial, slogan answer – because:

"We serve our clients as a fiduciary" doesn't necessarily mean you are the client and doesn't mean as an ERISA fiduciary. There is a big difference.

The assertion that the employer is a fiduciary (for certain purposes and responsibilities) doesn't mean anybody is offering the kind of ERISA investment advice that triggers ERISA fiduciary duty. With new products that do more and more for you – enroll you, rebalance you, adjust your glide path – it's probably easier and easier to think somebody is taking on more tailored responsibility for your outcome. But ERISA fiduciary advice is triggered more rarely than most workers imagine; there is a lengthy set of technical rules that catalog the increasing ways in which workers are not getting ERISA advice; there is an extensive set of comments by sellers of products and services listing the additional guidance they want from DOL about what is not advice; and though it's easy to see how ads could convince you that you are getting individual service, you need to know that ERISA fiduciary advice is rare and you don't want to be wrong in thinking you've got it.

Maybe that's a good place to begin in helping people understand how important it is that they figure out what duty does apply when ERISA doesn't. ERISA covers fewer assets than you think, fewer transactions than you think, fewer "intermediaries" than you think. When somebody says "the SEC should back off because ERISA covers this", if often means "ERISA holds the employer accountability for not prudently buying" so to speak, so there is no need to impose a duty directly on the seller's selling. One isn't a substitute for the other – keep asking questions.

ERISA can't get all the relevant facts and figures from different sellers of products and services reported out in comparable ways. DOL can tell employers what they must ask for; and DOL can tell "service providers" – entities "close" to the plan – what they must tell the employer if they want to able to safely assure the employer that doing business with them won't trigger a "prohibited transaction" and resulting penalties. But DOL's ability to require this disclosure from many vendors and to require that it be presented in truly comparable ways is not as strong as you might

think. So 401k participants and other individual savers need SEC work on disclosure to continue and need to understand that DOL's reach can't answer all their appropriate questions.

It might also be easy to assume that an SEC fiduciary is the same as an ERISA fiduciary and that you always are covered by one or the other. No to both. The two kinds of fiduciaries face different disclosure obligations, different standards of care that they owe, different remedies if they breach their duty and cause harm, and different restrictions on what presents a conflict of interest and how you "cure" it, what kind of compensation can be charged, and what rules apply to principal trades and cross-trades. You don't need to master every difference. But you don't want to assume they're the same and you don't want to assume you're dealing with either one, especially if you haven't gotten a yes or no answer up front. If you're making an investment choice on your own, and the person you're paying is doing a great job transacting, executing, and more – but isn't saying he's accountable for giving you advice on what you're choosing, on its price and risk and fit for you -- don't you want to know that up front? You may decide you don't need that level of advice, but you don't want to mistakenly believe you got it.

What other basics could help? "Independent brokers" can still be a sellers' wholly owned subsidiary – you need to ask more. "Open architecture" means the platform provider sells products from different companies; it doesn't mean they aren't paid by the companies to do that – you need to ask more. "Commission-free"? "Fee-based"? Neither is always cheapest; neither is free of the need to ask questions to understand sales incentives you won't otherwise see.

You won't always need or want an advice fiduciary, of either kind. But you should clearly know what you do have, up front. DOL's work to redefine fiduciaries will be important; SEC's work to address investment advice fiduciaries will be important. Both will clarify the facts that trigger an appropriate duty. In the meantime, the right up-front inquiry can prevent misunderstandings you just don't need.

Know that **you need to ask about risk, even where you least expect it.**

"Thanks to collapsing housing prices, collapsing shareholder value, and the collapsing job market, there is a quickly diminishing supply of this commodity ["peace of mind"] in today's economic world. Accordingly, demand is up (and yes price is, too). If you can wrap your product around the "peace of mind" attribute, you will have met the greatest demand of a large and growing generation. Sell less stress. Sell more security. Sell no worries. Sell the *feeling* that comes with knowing at least one corner of their life, the corner your product occupies, is squared away for the long haul." **"What Americans Really Want . . . *Really*"**, Dr. Frank I. Luntz

Amen, security is a hard feeling to come by, and right now savers/consumers face huge challenges genuinely preserving peace of mind by recognizing risk, measuring

it and knowing how serious it could be, how likely or unlikely, who else they can turn to for help assessing it, and what backups are available if the worst happens.

There are misimpressions to set straight. A lot of people think target date funds are "guaranteed" to reach a certain . . . target date. A lot of people think money market funds are guaranteed. No. Governments the world over are reestablishing the way in which it will be determined how different kinds of financial institutions can hold enough capital, post enough margin, set aside enough collateral, keep enough "skin in the game" in securitization, use credible methodologies to measure risk for accounting, hedging and other purposes, provide additional sources of stability if they are found to be systemically significant, and more. A lot of financial firms of different kinds – banks, insurers, asset managers, more – are selling safety, especially retirement safety available for 401k rollovers but it's not yet clear which industries, which companies, which products will have what new safeguards applied.

That was a 60,000 foot comment; let me take it down to 30,000 for something a bit more concrete. If a financial firm is offering you a guarantee, you want to know more about who exactly is extending you that commitment and what exactly it promises to "guarantee". Many of the firms offering guarantees are using derivatives to back them up, either in the product itself or in the company's own investments to back up its commitments. Consumers don't know yet – and insurers and others don't know yet – what new rules will apply, to the firms or their use of derivatives.

Credit ratings are often referred to as signposts on safety, but with their overhaul still underway and the caution from the agencies themselves about the degree to which consumer should rely on them, it's unclear just what role they can be expected to play. Testimony about the limited meaning the credit rating agencies themselves would have consumers attribute to their ratings is hardly consistent with the "yes or no" signal most consumers would be looking for.

Workers often look to employers to take a first cut at assessing which guaranteed products and providers are solid enough to be included in a retirement plan, but right now many employers are reluctant to play that role – at least not without greater legal comfort from DOL regarding the responsibility that would involve.

Clearly, a lot of the safety factors people typically look to are undergoing change and still in the design phase. But people can't wait to save and invest and retire, so they can't wait for helpful information on how to ask valuable questions and make the best decisions possible.

SEC and FINRA have put out a number of investor alerts reporting on disastrous experiences with complex products sold to the "wrong" buyers and other materials flagging questions to ask before committing. Consumers may want to help construct new tools, new pre-purchase alerts that help them evaluate both new products they

are considering and "traditional products" they need to evaluate differently. Tools of this kind might present another opportunity for flagging the possibility of retaining an advisor to help – and tips for knowing how to approach that task, too.

Next, When do you need to know key information?

When do you need to know key information about "engaging a financial intermediary or purchasing a financial product or service"? Before you do it.

The time to maximize your learning, to avoid misplaced reliance, doubt and uncertainty, to ask questions while you have options, to get a second opinion or a third before you pay fees, take risks, and incur taxes, is BEFORE you act.

You want to know something about the doctor before the operation, about the mortgage before you commit, about the car before you drive off the lot. Here, too.

Finally, What format? How should key information be presented?

Brief is good, so long as brevity helps focus attention on what matters and clears away confusion and disclaimers that provide more legal defense than disclosure or comprehension.

But **"less isn't always more"** – sometimes it's just less. Or worse, sometimes it's just one more document, one more step between you and what you need to find but are less and less likely to look for with every additional step it takes to find it. If a summary becomes a sales pitch, and not a meaningful tool that facilitates comparison and informed decision-making, then it may be a lovely ad but it shouldn't be allowed to short circuit what consumers really need revealed and not buried.

Summaries are tricky to get right: FINRA noted an issue that may merit more attention in its comment of June 21, 2011 to the SEC responding to the Request for Comment on Existing Private and Public Efforts to Educate Investors. FINRA noted that although the SEC had hoped that the mutual fund summary prospectus "would improve investors' ability to make informed investment decisions and, therefore, lead to increased efficiency and competitiveness of the U.S. capital markets", the National Bureau of Economic Research instead "found that the Summary Prospectus did not help investors think about loads, and therefore did not help investors make informed investment decisions. The researchers believe that the results demonstrate that the Summary Prospectus does not change, let alone improve, portfolio choices. While the shorter format of the Summary Prospectus does save paper and investors' time, more change is necessary to help investors understand loads."

Saving paper is good, saving time is good – comprehension about loads is better. It goes to what services you think you need to buy, what compensation you think you need to pay, how you learn what it gives you for the money, what kind of comparison you understand to be possible, when you'd stop paying an ongoing trailer, and more. As discussions continue around developing a similar summary for variable annuities and other similar products that would often involve fund subaccounts, perhaps this and other prior research - and ongoing consumer testing or less formal input - can help tackle this again.

After all, discussion of imposing a fiduciary duty on broker-dealers who provide personalized investment advice quickly gets into a debate about paying with this commission-based model or paying with that asset-based comp. Consumers could use some help with a different kind of information – before we narrow in on how to pay for it, let's talk about paying FOR WHAT? For "near advice", for access to a web site of models, tools, calculators? for access to a non-advice call center? Consumers should know what the service is, when and how you pay for it, and when you stop – especially in 401k plans. Is this B shares, R shares, 12b-1 fees? In auto-deferral land, how much is paid for advice that isn't advice, for "access" to service that is never called upon? When we're worried about making inadequate savings stretch, this seems worth digging into.

Maybe it's best to start with a core set of things consumers want to know – how much am I paying, to whom, for what, with what kind of accountability to me?

One more question might be this – who else is paying you?

And the timing seems right to test that core set of 4 or 5 questions since they seem like common elements in a number of important investor protections ahead: for example. the FINRA guidance on revenue sharing, "know your customer" and "suitability" requirements that have been put forward but delayed; the 12b-1 and Point of Sale efforts that are . . . pending; DOL's proposal on defining a fiduciary that was put forward and withdrawn for modifications, and now is reported to be undergoing revisions along with development of companion guidance addressing revenue sharing, 12b-1 fees and principal trading. Each could be opened to a discussion from the consumers' perspective about what they will help to effectively communicate regarding advice, non-advice services, costs, comp and conflicts. Public comment periods on proposed rules may have been legally adequate but are not yet educationally sufficient when it comes to involving savers and consumers in what the sellers' comments and visits are all about. This looks like a good time to do that.

It also seems like an important time to talk about how performance is shown to savers and consumers, both in retirement plans and out. There is a steady stream of information showing how different any worker's experience is from the benchmark he or she will commonly see in the paper or on the website of his investment provider. What happens to fee data if steady contributions in don't obscure the

statistics? What happens if the data isn't asset-weighted? What happens if Vanguard is carved out given its unusual "not-for-profit structure" for investment management? Morningstar is reported to be working again on a new way to present rolling returns data, something more helpful that trailing returns. Is that another way to disclose performance without obscuring trends or being late to flag issues? Several different regulatory actions are underway to improve disclosure and "benchmarking". And many in the academic world have been interested in these issues in the past. This may be a good time to reexamine different presentation issues that have arisen over time and explore together the presentation possibilities invited by this request for comment.

* * *

Thank you for allowing me to add my comments. After spending time at the Department of Labor's ERISA agency from 1998 to 2001, I have come to see just how often questions about the intersection of ERISA and other laws and regulations challenge efforts to tackle saving and investing challenges. Of course I defer to DOL to opine on ERISA, and to other regulators to speak to their jurisdiction, and the views I've expressed here – and of course any mistakes! – are my own.

Though I have been lucky enough to have a variety of ERISA and non-ERISA experiences with the investing world, the ERISA interplay with other rules remains challenging and my comment is both suggestion and open invitation for comment and correction in return.

I have most likely fallen into the use of jargon I'd hoped to avoid, but let me try to summarize simply. The key concepts I'd suggest that consumers of financial products and services need to know – in advance and clearly – are these:

- You can exert more control over money invested, advisors hired, and products and services wanted, than you may have thought.

- You are making a series of purchases, whether with your employer in a plan or entirely on your own, and you can and should ask questions – it's not rude, it's not unsophisticated, it's your money, and ultimately the security of your retirement at stake.

- This idea isn't a cause, a fad or a passing partisan agenda – it's basic common sense, it's what Money Magazine, Forbes, and Kiplinger have been advising people of every income for years. Compounding interest over time is hugely powerful – compounding unnecessary costs, when you can do better, is to be avoided by rational, responsible, budget-minded people. It's thrift, it's about making markets work, and making products and service-people deliver.

- It can be hard to know that you paid fees, what you paid, who you paid, and what you were entitled to. It can be hard to know how to compare, how to evaluate, how to shop. Keep working at it. People are out there who want and deserve your business.

- You are arming yourself by recognizing up front prices you can't and needn't pay, risks you can't and needn't bear, trust and reliance you shouldn't place. Being aware doesn't relegate you to a "buyer beware" status – you can make choices that strengthen what you can expect, not lessen it.

  Thanks, SEC.

  Leslie Kramerich