



Lucent Retirees Organization

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Via Email (rule-comments@sec.gov)

Jonathan G. Katz
Secretary, Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549-0609.

Proposed Rule File No. S7-12-04

I am writing on behalf of the Lucent Retirees Organization, a voluntary not-for-profit corporation chartered to advance the interests of retirees of Lucent Technologies and its predecessor company, AT&T. Pension funds in the United States are reported to control over three trillion dollars in assets and provide benefits to many tens of millions of Americans. Management investment advisory companies registered with your agency control almost all of these assets.

By this letter, we are asking that the SEC expand the scope of this rulemaking to include registered investment managers of pension and other qualified retiree trust funds.

The public interest in your current rule making derives from recent unsavory disclosures of mutual fund abuses. Although similar disclosures about pension fund abuses have not been publicized, pension funds are notoriously inbred and historically opaque. We are pleased to read in the March 21, 2004 *New York Times* that your agency is beginning an inquiry into the role of pension consultants in pension funds as a step in providing much needed transparency to pension fund operations.

So it is exceedingly timely to extend the SEC's rulemaking to qualified pension trusts, given your conclusion that "increased transparency of information about fund portfolio managers, including their identity, incentives, and potential conflicts of interest, may assist investors in evaluating fund management and making investment decisions." Including the portfolio managers of registered investment advisers of pension funds would offer, in the words of the old adage, "an ounce of prevention...."

The benefits of including pension plans and trusts would accrue to all of your constituencies:

The public at large: because the Pension Benefit Guaranty Corporation, a public agency, insures the pension funds whose assets are managed by portfolio managers selected by registered investment managers. All of your concerns are important to the general public, to give confidence to the tax-paying public by revealing potential conflicts of interest.

Investors at large: because the financial integrity and accountability of pension and benefit trusts are important to cash flows and earnings that drive investor and mutual fund buy-sell decisions.

Employees and retirees: The fiduciary duty to the plan participants and beneficiaries of pension funds is no different from the fiduciary duty of mutual funds to their investors. The Department of Labor urges beneficiaries of pension plans: "*You should care about your plan's investment practices because the amount of your pension benefit can depend on **how well your pension money has been managed over the years.***" Without adding pension funds to your proposed rulemaking, they would be left without the information to carry out the DOL's advice.

The chronology of events at Lucent Technologies clearly demonstrates the importance of including pension investment managers in your ruling:

Lucent's 2001 Annual Report reported an "actual loss on [pension] plan assets" of \$6.830 billion (p.36). In 2002, the Board of Directors, as named fiduciary of the plan, canceled a decades-old benefit paid from the assets of the pension fund. This was announced to retirees early in 2003, with notice from the CEO that this change "...reduces the likelihood that [Lucent] would have to make a contribution to the plan in the near future." (March 5, 2003). Following the advice of the Department of Labor, Lucent retirees/shareholders asked Lucent **who are the investment managers of the trust funds?** On May 2, 2003, Lucent answered: "In keeping with industry practices, **Lucent does not disclose its roster of external managers.**" A follow-up question on the **comparison of Lucent's pension asset performance** to other leading pension funds was answered on Nov 11, 2003: "**We are unable to provide you with the comparison that you asked.**"

The SEC-registered investment manager for these trusts funds is a wholly owned subsidiary of Lucent, the Lucent Asset Management Corporation (LAMCO). The relationship between Lucent's qualified benefit trusts and its registered investment management subsidiary (LAMCO) shares precisely the attributes that form the basis for the SEC's proposed rule to improve the disclosures made by mutual fund sponsors regarding their portfolio managers. In both cases, millions of ordinary participants, with savings at risk, lack the disclosure needed to ascertain whether the fund's fiduciary obligations are being met.

In closing, what we ask is the addition of the following to your proposed rule:

Require a pension fund with an investment adviser registered with the SEC to conform to the same disclosure rules as an investment adviser for a mutual fund relative to its portfolio managers.
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Without such an addition, employees/retirees and financial analysts will not have the tools or information to follow the Department of Labor's advice: "*You often are in the best position to be a watchdog over your pension plan and to catch problems early. Given the large number of private sector pension plans, the federal government can review only a small percentage of these plans each year.*"

If you hold public hearings on this proposal, we ask that we be invited to present our proposal in person.

This is an essential step to assure the public, investors and employees/retirees that corporate fiduciaries sustain "Trustworthy Trusts."

Very truly yours,

Herb Zydney
Acting President