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By Electronic Delivery

Alan B. Krueger
Assistant Secretary (Economic Policy)
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Re: *Section 529 College Savings Plans*

Dear Mr. Krueger:

The Investment Company Institute[1] is pleased to provide comments, in connection with a report on section 529 college savings plans being prepared for the Middle Class Task Force chaired by Vice President Biden, on the benefits that these plans provide to middle-class families.[2] Given the many personal, financial and societal benefits of a college education, we support strongly the Task Force's goal of making section 529 plans more effective.[3]

Middle-income Americans rely heavily on mutual funds to meet their long-term savings needs. The average mutual fund-owning household has annual household income of $80,000 and holds four mutual funds, including at least one equity fund.[4] The financial goals of mutual fund investors tend to have a long-term focus; these long-term objectives generally are saving for retirement and education.

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[1] The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). The Institute seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. The Institute members manage total assets of $10.5 trillion and serve over 93 million shareholders. The Institute is the primary source of statistical information on the investment company industry.

[2] The Treasury Department's request for comments was published on July 28. *See* 74 Fed. Reg. 37307 (July 28, 2009).

[3] The Institute has provided comments frequently for improving section 529 plans. *See, e.g.,* Joint letter to the Treasury Department from College Savings Foundation, Investment Company Institute ("ICI"), and Securities Industry and Financial Markets Association ("SIFMA"), dated November 10, 2008; ICI letter to the Internal Revenue Service, dated May 12, 2008; Joint letter to the Treasury Department from ICI and SIFMA, dated June 12, 2007.

[4] *See*, Profile of Mutual Fund Shareholders, 2008, *ICI Research Series* (Winter 2009), available at www.ici.org/pdf/rpt_profile09.pdf.

Section 529 college savings plans, like section 401(k) retirement plans, often utilize mutual funds as the underlying investment vehicles for plan participants. Mutual funds are selected by states for their section 529 programs for the same reasons that employers select mutual funds for their section 401(k) plans -- because they provide investors with diversification of risk, professional management and comprehensive disclosure, all at reasonable cost.[5] These features of funds – as well as daily pricing and redeemability of fund shares, the requirement to use mark-to-market valuation, separate custody of assets, restrictions on complex capital structures and leveraging, and prohibitions or restrictions on affiliated transactions and other forms of self-dealing – have shielded fund investors from problems associated with other financial products and services during these difficult market conditions.

The Growth of Education Savings Plans

Education is an important savings goal for millions of U.S. households. As the cost of higher education has increased dramatically in recent years, growing numbers of families have saved through section 529 college savings plans. Since section 529 was enacted in 1996, college savings plans have become by far the most popular form of these plans. At the end of 2008, the 8.9 million savings plan accounts had balances totaling $89.4 billion; the average balance of these accounts was about $10,000. In contrast, there were 2.3 million prepaid plan accounts holding $15.6 billion in assets; the average value per prepaid account was about $6,800.[6]

Demographics of Households Saving for College

Households saving for college[7] reflect a broad spectrum of American incomes, educational achievement, and age. Of all households investing in mutual funds, 63 percent have income of less than

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[5] Information provided pursuant to the Securities and Exchange Commission's extensive disclosure requirements, including information about mutual fund fees and expenses, help individuals make their investment decisions. Ninety percent of all mutual fund assets, for example, are in funds with below-average fees.

[6] Data on assets and accounts within each state are collected by the College Savings Plans Network. ICI allocated the reported amounts by state plans to the type of section 529 plan (prepaid and savings). The underlying micro data are available at www.collegesavings.org/529PlanData.aspx. ICI's summary tabulations are available at http://www.ici.org/research/stats/529s/529s_12-08.

[7] "Households saving for college," as the term is used in ICI research, are households that own education savings plans (Coverdell ESAs or section 529 plans) or responded in ICI surveys that paying for education was one of the financial goals for their mutual funds. The ICI does not have current data specifically on those saving through section 529 plans. The most recent data we have collected on section 529 plan savers was published in 2003. *See*, Profile of Households Saving for College, *ICI Research Series* (Fall 2003), available at www.ici.org/pdf/rpt_03_college_saving.pdf.

$100,000; most households saving for college (59 percent) also have income of less than $100,000.[8] Thus, households saving for college resemble closely the average mutual fund investor: a middle-class taxpayer.

Importantly, Americans without college degrees recognize the importance of a college education. Almost half (47 percent) of all Americans saving for college are not college graduates.[9]

Moreover, as one would expect, households saving for college also tend to be headed by young individuals (58 percent are younger than 45).[10] Because few children will graduate from college before their 21st birthdays, many families (particularly those with several children) will save for decades for their college-bound children's educations.

Households saving for college are more risk tolerant than U.S. households generally. Thirty-nine percent of all households saving for college are willing to take substantial or above-average risk for substantial or above-average financial gain; among all U.S. households, only 23 percent are willing to take such risks. Similarly, 46 percent of households saving for college are willing to take on average risk for average financial gain, compared to 38 percent of U.S. households. Only 9 percent of households saving for college are unwilling to take financial risk, compared to 31 percent of all U.S. households.

States Have Designed Their Section 529 Plans to Meet the Needs of Plan Participants

Section 529 plans provide attractive incentives for all American households to save for college. The tax incentives (including tax-free distributions of earnings used for qualified higher education expenses and, in most cases, state tax deductions or credits for contributions by residents to their in-state plans) are valuable. Low- and middle-income Americans struggling to pay for their children's educations receive the greatest benefit of every extra dollar available for college.

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[8] All of the statistics in this section are from the 2008 ICI Annual Mutual Fund Shareholder Tracking Survey, which involved interviews with 4,100 U.S. households in May 2008 to gather demographic and financial information. Households surveyed include those owning mutual funds as well as those not owning mutual funds. All interviews were conducted over the telephone with the member of the household who was the sole or co-decisionmaker most knowledgeable about the household's savings and investments. For additional information on and results from the survey, see Sarah Holden, Michael Bogdan, and Steven Bass, "Ownership of Mutual Funds, Shareholder Sentiment, and Use of the Internet, 2008," *ICI Fundamentals* (December 2008), available at www.ici.org/pdf/fm-v17n6.pdf.

[9] *See* Figure 7.22 in Investment Company Institute, *2009 Investment Company Fact Book* (2009), available at www.icifactbook.org.

[10] *Id.*

In designing their 529 plans, states generally select a range of investment options that provide a broad range of risk and return. Most offer a series of age-based options. These options typically invest predominantly in equities if the child will not be of college age for fifteen years (or more) and invest more heavily in bonds, short-term debt and principal-protected (*e.g.,* cash equivalent) instruments as the child approaches college age. States often offer other choices as well, including equity-only options, bond-only options and principal-protected cash equivalents (such as bank CDs).

College-saving households receive information about these investment options that allow them to choose the section 529 plan(s) that match their needs and risk tolerances. The Municipal Securities Rulemaking Board ("MSRB") consistently has interpreted its rules to ensure disclosure of all material facts concerning these plans.[11] When a plan is recommended by a broker-dealer, the MSRB's rules additionally require that the recommended plan be suitable for the investor based on a variety of factors.[12] In addition, when an investment option in a plan is a mutual fund, the fund's investment objective, principal investment strategies, risks, fees and expenses, performance, and other material information are disclosed in a fund's prospectus and other documents required under Federal law.

The state sponsors of these plans, under the auspices of the College Savings Plan Network ("CSPN"), have led efforts to enhance the quality of disclosure provided to plan investors and potential investors.[13] The Institute, which long has championed more effective disclosure for investors (including investors in taxable accounts, retirement accounts, and college savings accounts), supports CSPN's efforts. Informed investors, we believe, make better investment choices that help them reach their financial goals.

The disclosure principles for section 529 plans should be similar to those used in other contexts when Americans save and invest. Effective disclosure: (1) is concise and focused on information that is useful to investors; (2) allows comparisons among available options; and (3) facilitates use of electronic technologies that present the key information and provide more detailed information to those seeking it. The Institute and its members are committed to working with the Task Force and regulators to make section 529 plans more effective education savings vehicles and to ensure that informed investment decisions are being made by those saving for college and other long-term needs.

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[11] *See Rule G-17 Interpretation – Interpretive Notice Regarding Rule G-17 on Disclosure of Material Facts (Mar. 20, 2002).*

[12] Rules of the MSRB also govern the contents of any sales literature relating to section 529 plans, including any performance information.

[13] In addition, many tools help investors evaluate all aspects, including fees and expenses, of section 529 plans. The Financial Industry Regulatory Authority, for example, has developed a section 529 plan expense analyzer that compares sales loads, management fees, underlying fund fees and other section 529 plan expenses. *See* www.finra.org/529analyzer.

We would be pleased to provide additional information or respond to any questions you may have. Please feel free to contact me, at 202/326-5901, or the Institute's General Counsel, Karrie McMillan, at 202/326-5815.

Sincerely,

/s/ Paul Stevens

Paul Schott Stevens
President and CEO
Investment Company Institute