

MEMO# 27442

August 6, 2013

ICI Comment Letter on DOL Amendments to Class Exemptions to Remove Credit Rating References -- Comments Requested by August 13

ACTION REQUESTED

[27442]

August 6, 2013

TO: PENSION COMMITTEE No. 20-13

PENSION OPERATIONS ADVISORY COMMITTEE No. 19-13 RE: ICI COMMENT LETTER ON DOL AMENDMENTS TO CLASS EXEMPTIONS TO REMOVE CREDIT RATING REFERENCES -- COMMENTS REQUESTED BY AUGUST 13

Attached for your review is a draft comment letter responding to DOL's proposed amendments to several Class Exemptions (PTEs) to remove references to credit ratings pursuant to the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). [\[1\]](#) DOL is proposing the amendments consistent with section 939A of Dodd-Frank, which requires each Federal agency to review any regulation it issued that requires the use of an assessment of the credit-worthiness of a security or money market instrument, modify such regulation to remove any reference to or requirement of reliance on credit ratings and substitute in such regulations a standard of credit-worthiness as each respective agency deems appropriate.

Our draft letter focuses on DOL's proposed amendment to PTE 2006-16, which generally provides relief from ERISA's prohibited transaction provisions (and the taxes imposed by section 4975 of the Internal Revenue Code) for the lending of securities that are plan assets to certain banks and broker-dealers that are parties in interest to the plan and for the payment to a fiduciary of compensation for services rendered in connection with securities lending, if certain conditions are met. Our letter states that in the proposed amendment to PTE 2006-16, DOL considered and relied upon proposed amendments to SEC rules 2a-7 and 5b-3, which have not yet been finalized. Given the comments submitted by the Institute and other financial industry groups on these two proposed SEC rule amendments, the letter recommends that DOL await the SEC's issuance of final amendments to rules 2a-7 and 5b-3 prior to finalizing the amendment to PTE 2006-16.

We would appreciate your comments and feedback on the draft letter. We kindly ask that you provide any comments to the undersigned (howard.bard@ici.org or 202.326-5810) by Tuesday, August 13, 2013, as comments are due to DOL by August 20, 2013.

Howard Bard
Associate Counsel

[Attachment](#)

endnotes

[1] For a description of the proposed Amendments, see Memorandum to Pension Committee No. 17-13, Pension Operations Advisory Committee No. 16-13 [[27367](#)] dated July 10, 2013.

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