

MEMO# 22487

May 2, 2008

DOL Asks For Information On The Costs Of Its Electronic Delivery Rules

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TO: PENSION COMMITTEE No. 17-08
PENSION OPERATIONS ADVISORY COMMITTEE No. 16-08 RE: DOL ASKS FOR
INFORMATION ON THE COSTS OF ITS ELECTRONIC DELIVERY RULES

The Department of Labor has requested information on the utility and cost of the affirmative consent condition to electronic delivery of ERISA disclosures. [\[1\]](#) Comments are due to the Department by June 2, 2008.

In 2002, the Department established a safe harbor for plans that wish to use electronic media to satisfy disclosure obligations under Title I of ERISA. [\[2\]](#) To fall within the safe harbor, a plan administrator has to satisfy the “affirmative consent” requirement for a participant who does not have access to the employer’s electronic information system in the normal course of his or her duties, or a beneficiary, or other person entitled to documents. In evaluating the costs and utility of this requirement in 2002, the Department did not have specific data to identify the number of plans intending to use electronic delivery, and how much the consent process would cost to establish and maintain. The Department made certain assumptions to estimate the cost at that time and asked for information on the costs and utility of the affirmative consent requirement. [\[3\]](#) Now, the Department has made a renewed request for comments.

We believe this is an important opportunity not only to provide information on the costs and utility of the affirmative consent requirement, but also to encourage the Department to provide greater flexibility in its rules for electronic communications. If there are specific

issues you would like the Institute to address in its comment letter, please let Anna Driggs know at adriggs@ici.org or (202) 218-3573 by May 9, 2008.

The Department has also asked in the attached notices for information on costs and burdens associated with EFAST rules for submitting Form 5500 and the alternative method of compliance for certain SEPs. If there are any issues members would like us to raise on these matters, please let us know.

Anna Driggs
Assistant Counsel

[Attachment](#)

endnotes

[\[1\]](#) 73 Fed. Reg. 18001 (Apr. 2, 2008).

[\[2\]](#) 67 Fed. Reg. 17264 (Apr. 9, 2002).

[\[3\]](#) 67 Fed. Reg. 17264, 17273.

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