

MEMO# 25432

August 24, 2011

DOL Regulation Survey -- Please Respond by September 7

URGENT/ACTION REQUESTED

[25432]

August 24, 2011

TO: PENSION COMMITTEE No. 25-11

PENSION OPERATIONS ADVISORY COMMITTEE No. 19-11 RE: DOL REGULATION SURVEY --
PLEASE RESPOND BY SEPTEMBER 7

As you may know, the Department of Labor (DOL) is finalizing a proposal to re-define the circumstances under which a person is an investment advice fiduciary under ERISA. [1] Beginning with the comment letter on DOL's proposal, the Institute has been urging DOL to repropose the rule to address several key concerns with the rule as proposed. [2] It appears that DOL may move forward with finalizing the rule, without the reproposal.

One of the issues with DOL's fiduciary rule proposal is DOL's analysis of the projected costs of the proposal. It is our understanding that DOL appears to have underestimated the compliance costs for two other major regulatory changes: (1) revisions to Form 5500 (generally effective for plan years beginning with January 1, 2009) [3]; and (2) new service provider disclosure regulation under ERISA §408(b)(2), which will become effective in April 1, 2012. [4]

ICI and other trade associations are collecting information on the compliance costs associated with these two prior regulatory changes. Along with other trade associations, we anticipate sharing this information, in aggregate, with the Office of Management and Budget, which will be reviewing DOL's economic analysis of the fiduciary rule this fall. To download the survey questionnaire, please click here:

http://www.ici.org/info/dol_regulation_survey_2011.xlsx.

We need your help to collect this information. Several trade associations are collecting these data and your firm may receive multiple requests. It is important that you respond only once. We ask that you coordinate within your company to avoid double-reporting of the data.

Please have the completed survey returned to sholden@ici.org by September 7, 2011. Consistent with ICI policy, only aggregated results will be reported and no individual

company responses to the survey will be revealed.

Thank you for your help. If you have any questions about the survey please contact Sarah Holden in ICI's Research Department, at 202-326-5915 or sholden@ici.org; or Anna Driggs in ICI's Law Department, at 202-218-3573 or adriggs@ici.org.

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endnotes

[1] For a description of DOL's fiduciary proposal, see [Memorandum](#) to Pension Members No. 43-10 [24642], dated October 22, 2010.

[2] See [Memorandum](#) to Pension Members No. 8-11 [24941], dated February 3, 2011 (original comment letter); [Memorandum](#) to Pension Members No. 17-11 [25000], dated March 2, 2011 (testimony); [Memorandum](#) to Pension Members No. 21-11 [25084], dated April 12, 2011 (hearing submission follow up); and [Memorandum](#) to Pension Members No. 23-11 [25210], dated May 23, 2011 (reproposal letter).

[3] For background on the new Form 5500 requirements as applied to mutual funds in which plans invest, see [Memorandum](#) to Pension Members No. 69-07 [21958], dated November 19, 2007; [Memorandum](#) to Pension Members No. 40-08, Broker/Dealer Advisory Committee Members No. 19-08, Bank, Trust and Recordkeeper Advisory Committee No. 21-08, Operations Committee No. 10-08, and Transfer Agent Advisory Committee No. 32-08 [22698], dated July 16, 2008; and [Memorandum](#) to Pension Members No. 51-09, Broker/Dealer Advisory Committee Members No. 58-09, Bank, Trust and Recordkeeper Advisory Committee No. 49-09, Operations Committee No. 22-09, Transfer Agent Advisory Committee No. 79-09, and SEC Rules Committee No. 63-09 [23901], dated October 27, 2009.

[4] See [Memorandum](#) to Pension Members No. 40-11, Operations Members No. 14-11, Bank, Trust and Recordkeeper Advisory Committee No. 41-11, and Transfer Agent Advisory Committee No. 55-11 [25330], dated July 14, 2011.