

**MEMO# 21963**

November 19, 2007

## **Conference Call on November 30 at 3:00 PM ET to Discuss Draft Comment Letter on Investment Advice**

[21963]

November 19, 2007

TO: PENSION COMMITTEE No. 36-07

PENSION OPERATIONS ADVISORY COMMITTEE No. 37-07 RE: CONFERENCE CALL ON NOVEMBER 30 AT 3:00 PM ET TO DISCUSS DRAFT COMMENT LETTER ON INVESTMENT ADVICE

The Institute will hold a conference call on Friday, November 30 at 3:00 PM Eastern time to discuss the attached draft comment letter to the Department of Labor making recommendations for a class exemption related to investment advice.

If you would like to participate in the call, please complete the attached response form and fax or e-mail it to Brenda Turner at 202/326-5841 or bturner@ici.org by noon on Thursday, November 29. To participate, please dial 1-888-795-2173 and enter passcode 12486. As a reminder, because all lines are open to facilitate discussion, please remember to place your line on mute when not speaking and do not place the call on hold.

Under the Pension Protection Act, DOL must report to Congress by December 31, 2007, whether there is a computer model for IRAs that can take into account the "full range of investments, including equities and bonds" available for investment in IRAs. If DOL determines that there is no computer model that meets the PPA requirements, DOL is required to issue a class exemption that has terms generally consistent with the statutory exemption, but without the computer modeling condition.

DOL officials have indicated informally that the DOL is considering issuing a class exemption or other guidance that could provide more flexibility for investment advice whether or not DOL determines that computer models for IRAs are feasible.

The Institute has drafted the attached letter to DOL suggesting conditions for a class

exemption or other regulatory guidance. The draft letter suggests the following conditions to provide flexibility of advice programs and assure that the advice will be in the best interest of advice recipients:

- The advisory program must objectively assess the risk profile of the individual using generally accepted investment principles, and the specific recommendations must be consistent with the individual's risk profile.
- To the extent the advisory program limits the ability of the financial advisor to recommend investment products, or a computer model is limited in its universe of investments, the limitations would have to be clearly disclosed to the advice recipient.

Jon Breyfogle of Groom Law Group, who has assisted the Institute with issues related to the PPA advice exemption, will join the call.

If you cannot join the call but have comments on the draft letter, please contact the undersigned (202/326-5810 or [mhadley@ici.org](mailto:mhadley@ici.org)) or Mary Podesta (202/326-5826 or [podesta@ici.org](mailto:podesta@ici.org)).

Michael L. Hadley  
Associate Counsel

[Attachment](#)

---

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.