

**MEMO# 24501**

August 19, 2010

## **ICI Letter to DOL on Form 5500**

[24501]

August 19, 2010

TO: PENSION MEMBERS No. 34-10  
BANK, TRUST AND RECORDKEEPER ADVISORY COMMITTEE No. 27-10  
OPERATIONS COMMITTEE No. 22-10  
TRANSFER AGENT ADVISORY COMMITTEE No. 48-10 RE: ICI LETTER TO DOL ON FORM 5500

The Institute sent the attached letter to the Department of Labor recommending that DOL coordinate the information required by Schedule C of Form 5500 with the information required by the new service provider disclosure interim final regulations under ERISA section 408(b)(2). The letter was sent in response to a request for comment under the Paperwork Reduction Act on the usefulness and burden of the Form 5500 information collection. [\[1\]](#)

The interim final 408(b)(2) regulation [\[2\]](#) and Schedule C of Form 5500 require disclosure of fees incurred by plans investing in mutual funds, but the requirements are not identical. The letter explains why the information required by the interim final 408(b) regulation with respect to mutual funds provides fiduciaries, participants, regulators, and the public with more meaningful information about fund fees than the information currently required by Schedule C. The letter recommends that DOL allow the Schedule C requirements for mutual funds and similar pooled investments to be satisfied by using the information required by the 408(b)(2) regulation, in lieu of the current Schedule C “eligible indirect compensation” disclosure.

Recognizing that mutual fund companies and recordkeepers have invested considerable expense to comply with new Schedule C in effect beginning with 2009 plan year filings, the letter recommends that, for the 2009, 2010, and perhaps 2011 filing years, DOL allow a plan administrator to comply with Schedule C requirements with respect to mutual funds in which the plan invests by using either eligible indirect compensation disclosures described in the Schedule C instructions or the 408(b)(2) disclosures. The letter recommends that longer term, DOL consider using the 408(b)(2) disclosures as the basis for Schedule C reporting of mutual fund fees. This approach will provide more meaningful information to plan administrators, would lower ongoing compliance costs and reduce confusion within the

retirement industry, and enhance Schedule C's effectiveness.

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Associate Counsel

[Attachment](#)

**endnotes**

[1] DOL's request for comment is available here:  
<http://www.dol.gov/federalregister/PdfDisplay.aspx?DocId=23975>.

[2] See [Memorandum](#) to Pension Members No. 29-10, Bank, Trust and Recordkeeper Advisory Committee No. 21-10, Operations Committee No. 18-10 and Transfer Agent Advisory Committee No. 07-10 [24432], dated July 16 2010. The Institute will send a separate comment letter on the interim final 408(b)(2) regulation.

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