

MEMO# 30282

September 29, 2016

ICI Submits Comment Letter on DOL Proposed Rule for Auto-IRAs Established by Municipalities for Private-Sector Workers

[30282]

September 29, 2016

TO:

PENSION MEMBERS No. 32-16

BANK, TRUST AND RETIREMENT ADVISORY COMMITTEE No. 36-16

RE:

ICI SUBMITS COMMENT LETTER ON DOL PROPOSED RULE FOR AUTO-IRAs ESTABLISHED BY MUNICIPALITIES FOR PRIVATE-SECTOR WORKERS

The Institute submitted the attached letter to the Department of Labor responding to its proposal regarding payroll-deduction IRA programs established by state political subdivisions (i.e., cities and counties) for private-sector workers.[\[1\]](#) The proposal would extend the newly final safe harbor rule for state-run payroll-deduction IRA programs[\[2\]](#) to political subdivisions of states, so that such programs would not be considered employee benefit plans under ERISA.

Our letter reiterates and incorporates by reference the views we expressed in our January 19, 2016 comment letter opposing the state-run auto-IRA proposal.[\[3\]](#) We explain that all of the same concerns described therein apply to the new proposal to expand the safe harbor regulation to political subdivisions of states. We further explain that those concerns are magnified in this context, given the likely heightened risks associated with allowing local governments (e.g., cities and counties) to operate retirement savings programs for private-sector workers outside the bounds of ERISA and given the greater risk of overlapping and inconsistent requirements that could be imposed on employers by states, counties, and cities as a result of the safe harbor.

The letter also notes that the proposed expansion of the safe harbor to local governments

raises additional concerns, above and beyond those detailed in our January letter. In particular, we describe several new issues raised by the Department's proposed criteria for determining eligible political subdivisions. Although we agree that limits are necessary so that the safe harbor would not cover thousands of political subdivisions, we explain that these criteria necessitate additional guidance and, more broadly, illustrate the inherent flaws in the concept of allowing even a small group of political subdivisions to operate under the safe harbor.

Elena Barone Chism
Associate General Counsel

[Attachment](#)

endnotes

[1] For a description of the proposal, see [Memorandum](#) to Pension Members No. 24-16 and Bank, Trust and Retirement Advisory Committee No. 30-16 [30172], dated August 25, 2016. The proposal is available here:

<https://www.gpo.gov/fdsys/pkg/FR-2016-08-30/pdf/2016-20638.pdf>.

[2] For a description of the final rule, see [Memorandum](#) to Pension Members No. 24-16 and Bank, Trust and Retirement Advisory Committee No. 30-16 [30172], dated August 25, 2016. The final rule is available here:

<https://www.gpo.gov/fdsys/pkg/FR-2016-08-30/pdf/2016-20639.pdf>.

[3] See [Memorandum](#) to Pension Members No. 2-16 [29661], dated January 21, 2016.