

MEMO# 22374

March 26, 2008

Draft Institute Comment Letter to IRS on Employer Stock Diversification Proposed Regulation

URGENT/ACTION REQUESTED

[22374]

March 26, 2008

TO: PENSION COMMITTEE No. 12-08

PENSION OPERATIONS ADVISORY COMMITTEE No. 11-08 RE: DRAFT INSTITUTE COMMENT LETTER TO IRS ON EMPLOYER STOCK DIVERSIFICATION PROPOSED REGULATION

Attached is a draft comment letter to the Internal Revenue Service on the proposed regulation under Code section 401(a)(35). [\[1\]](#) Generally, section 401(a)(35) provides that individual account plans that invest in publicly traded employer securities must allow participants and beneficiaries to divest employer securities in their accounts and reinvest those amounts in certain other diversified investments. Our draft letter makes several recommendations to improve the regulation. First, we explain the difficulties inherent in administering the proposal's exemption for pooled investment funds, which includes a 10 percent limitation on the amount of the fund's investments that may be invested in employer securities. Second, the letter recommends broadening an example in the regulation relating to permissible reinvestment restrictions. Finally, we request clarification of the exception for plan provisions that allow more frequent transfers into a "stable value or similar fund."

Please review the draft letter and provide any comments or suggestions to the undersigned at 202-326-5821 or ebarone@ici.org by Monday, March 31, 2008.

Elena Barone

Associate Counsel

[Attachment](#)

endnotes

[\[1\]](#) See Memorandum to Pension Members No. 3-08 [22101], dated January 8, 2008.

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