

**MEMO# 2245**

October 26, 1990

## **ERISA FIDUCIARY GUIDELINES FOR INVESTMENT ADVISERS**

October 26, 1990 TO: INVESTMENT ADVISERS COMMITTEE NO. 36-90 RE: ERISA FIDUCIARY GUIDELINES FOR INVESTMENT ADVISERS

As you recall, the Institute is concerned with recent federal litigation against investment advisers to ERISA plans (See Institute Memorandum to Investment Advisers Committee No. 18-90, dated June 5, 1990). In addition, the Department of Labor Task Force on Enforcement recently stated that investment management companies (excluding mutual funds) were among the financial institutions which the Department would target for purposes of enforcing ERISA rules and regulations. In response to these developments, attached for your comments are draft fiduciary contractual and procedural guidelines for investment advisers who are ERISA plan fiduciaries. The guidelines focus on ERISA's prudence and diversification requirements, investments in mutual funds, proxy voting and client directed brokerage. They generally do not address the adviser's responsibility to ensure against entering into prohibited transactions or ERISA bonding requirements. Please give me any comments you have on the attached guidelines by November 15, 1990. Since the Department of Labor's Enforcement Task Force Report specifically identifies soft dollar arrangements as an area of significant concern, I would particularly appreciate any suggestions you have on this topic. I look forward to hearing from you. W. Richard Mason Assistant General Counsel Attachments

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