

MEMO# 19114

August 22, 2005

DRAFT LETTER TO DOL ON AUTOMATIC ENROLLMENT DEFAULT OPTIONS

©2005 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. ACTION REQUESTED [19114] August 22, 2005 TO: PENSION COMMITTEE No. 29-05 RE: DRAFT LETTER TO DOL ON AUTOMATIC ENROLLMENT DEFAULT OPTIONS Attached for your review is a draft Institute letter to the Department of Labor on how to define default investments in connection with a safe harbor for plan sponsors offering plans with automatic enrollment features. At a recent meeting with DOL officials, the Institute learned that DOL plans to develop guidance under ERISA Section 404(c) to encourage the use of automatic enrollment by plan sponsors of defined contribution plans. This initiative has high priority. DOL invited the Institute to provide suggestions on how default investments could be described for purposes of a safe harbor. The draft letter suggests that DOL include a specific investment option or model portfolio that is (i) intended to provide diversification by investing in a range of asset classes, and (ii) intended to vary the emphasis and exposure among such asset classes in a manner that is consistent with the expectation that the participant will take distributions on or about an anticipated year of retirement or distribution period. The letter suggests that DOL also include an investment designed to be the complete investment program of a prudent investor. The letter recommends that the safe harbor be available to sponsors in other default investment situations as well. The draft letter also includes recommendations in connection with participant disclosure and opportunity to direct a different investment. Please provide any comments that you may have on the draft letter to me at 202 326 5826 or podesta@ici.org by August 31, 2005. Mary S. Podesta Senior Counsel - Pension Regulation Attachment (in .pdf format)