MEMO# 10895

April 16, 1999

INSTITUTE CONFERENCE CALL ON RMD REFORM, ROTH 401(K) ISSUES, CATCH-UP CONTRIBUTIONS AND HARDSHIP DISTRIBUTIONS - APRIL 26, 1999

1 See Institute Memorandum to Pension Committee No. 19-99 and Pension Operations Advisory Committee No. 19- 99, dated March 22, 1999. 2 See Institute Memorandum to Pension Committee No. 14-99 and Pension Operations Advisory Committee No. 14- 99, dated March 16, 1999. 3 See Institute Memorandum to Pension Committee No. 23-99 and Pension Operations Advisory Committee No. 23- 99, dated April 5, 1999. [10895] BY FACSIMILE April 16, 1999 TO: PENSION COMMITTEE No. 25-99 PENSION OPERATIONS ADVISORY COMMITTEE No. 27-99 RE: INSTITUTE CONFERENCE CALL ON RMD REFORM, ROTH 401(K) ISSUES, CATCH-UP CONTRIBUTIONS AND HARDSHIP DISTRIBUTIONS - APRIL 26, 1999 ____ As you are aware, a number of bi-partisan pension reform bills have been introduced in Congress including S. 646, the "Retirement Savings Opportunity Act of 1999," introduced by Senators Roth (R-DE) and Baucus (D-MT)1, H.R. 1102, the "Comprehensive Retirement Security and Pension Reform Act of 1999," introduced by Representatives Portman (R-OH) and Cardin (D-MD)2 and S. 741, the "Pension Coverage and Portability Act," introduced by Senators Graham (D-FL) and Grassley (R-IA)3. With respect to certain of these legislative proposals, the Institute requests member input regarding technical issues and legislative priorities as follows: I. Required Minimum Distribution Reform. Both H.R. 1102 and S. 741 contain provisions that would reform section 401(a)(9) of the Code with respect to required minimum distributions ("RMDs") from employer-sponsored plans and IRAs. H.R. 1102 would require Treasury to "simplify and finalize" regulations relating to RMDs and would exclude $100,000 accumulated in an individual's defined contribution plans and $100,000 accumulated in an individual's IRAs from the rule. S. 741 includes similar provisions, but would also raise the age at which the RMD rules apply to 75. The Institute requests member input regarding the industry's preference with respect to "simplification" of the RMD rules. Would the industry prefer to simplify the rule through a dollar amount exclusion from the RMD rules, and if so, should the exclusion be greater than $100,000? Would the industry prefer to increase the age at which the RMD rules apply? Or would the industry prefer a combination of the proposals, much like that contained in S. 741? In addition, the Institute would like member input on the technical aspects of "simplification" methods proposed, including the provision requiring that the RMD not decrease over a participant's life expectancy. 4 See Institute Memorandum to Pension Members No. 80-98 dated December 28, 1998. II. Roth 401(k) Issues. S. 646 and H.R. 1102 would create "Roth 401(k)" plans, which are based on the Roth IRA concept and involve the contribution of after-tax dollars to

plans with the potential of tax-free distributions after 5 years. The Institute requests member comment on the technical and administrative issues associated with such a product, including the potential impact on nondiscrimination testing applicable to the traditional 401(k) plan. III. Catch-up Contributions. S. 646 would allow taxpayers aged 50 and older to make additional or “catch- up” contributions to their defined contribution plans and IRAs. Under S. 646, these additional contributions to plans would not be subject to nondiscrimination testing. H.R. 1102 would limit such “catch-up” contributions to participants aged 50 and older in defined contribution plans. However, under H.R. 1102, these catch-up contributions would be subject to nondiscrimination testing. The Institute requests member comments on the technical aspects of these proposals. IV. Hardship Distributions. At the end of 1998, the Treasury Department released transition relief and guidance relating to hardship withdrawals (Notice 99-5).4 Under the Internal Revenue Restructuring and Reform Act of 1998, certain hardship distributions are no longer eligible for rollover to an IRA and not subject to withholding. The notice delayed the effectiveness of this statutory provision from after December 31, 1998 to after January 1, 2000. In addition, the notice provided guidance on certain other issues related to hardship distributions, including distributions made upon separation from service, distributions to individuals aged 59 ½ or older and hardship distributions that include basis. This guidance raised certain compliance issues, including issues related to qualified nonelective contributions (QNECs) and qualified matching contributions (QMACs). Therefore, the Institute requests member comment with respect to the feasibility of the Treasury guidance on distributions related to hardship distributions. In order to facilitate member comment on these issues, a conference call has been scheduled to discuss the issue of RMD reform, Roth 401(k) issues, catch-up contributions and hardship distributions on Monday, April 26, 1999 at 2:00 p.m. EST. If you would like to participate on this call, please fill-out the response form attached below and send it to Melanie Washington by COB Friday, April 23. If you have any questions or comments concerning the conference call please call myself at (202) 218-3563 or Russ Galer at (202) 326-5835. Kathryn A. Ricard Assistant Counsel

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Attendance Form for Institute Conference Call Monday, April 26, 1999 – 2:00 EST Please fax this form by Friday, April 23, 1999 to Melanie Washington at (202) 326-5841. Yes, I will participate on the Conference Call on Monday, April 26, 1999 at 2:00 p.m. EST. To participate in the call, dial 1-800-523-5415 and ask for the Investment Company Institute call, confirmation number # 1469220. Committee Member Company Phone

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