

MEMO# 19608

January 18, 2006

DRAFT JOINT COMMENT LETTER TO DOL ON LM-30 RULEMAKING

©2006 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 [19608] January 18, 2006 TO: COMPLIANCE ADVISORY COMMITTEE No. 2-06 INVESTMENT ADVISERS COMMITTEE No. 1-06 PENSION COMMITTEE No. 4-06 PENSION OPERATIONS ADVISORY COMMITTEE No. 4-06 RE: DRAFT JOINT COMMENT LETTER TO DOL ON LM-30 RULEMAKING Attached for your review is a comment letter to the Department of Labor prepared by outside counsel regarding proposed amendments to Form LM-30.1 The letter will be signed jointly by the Institute with the American Council of Life Insurers, the Investment Advisers Association, and the Securities Industry Association. In its recently published guidance on the filing requirements on Form LM-10 of the Labor-Management Reporting and Disclosure Act of 1959 ("LMRDA"), DOL invited those affected by LM-10 requirements to comment on the LM-30 proposal.2 The letter argues in detail that the DOL does not have authority under the LMRDA to impose LM-10 filing requirements on service providers to union-affiliated plans and that it is against sound public policy to do so. The letter then argues that any new filing requirements under LM-10 should be imposed prospectively and only after notice and comment. Finally, the letter points out a number of deficiencies in the LM-30 proposal and LM-10 guidance.3 1 See Institute Memorandum to Compliance Advisory Committee No. 54-05, Pension Committee No. 36-05, and Investment Advisers Committee No. 12-05 [19309], dated October 31, 2005. 2 See Institute Memorandum to Compliance Advisory Committee No. 55-05, Investment Adviser Members No. 22-05, Investment Adviser Associate Members No. 17-05, and Pension Members No. 53-05 [19361], dated November 11, 2005. 3 In pointing out that LM-30 rulemaking is not the appropriate context to address LM-10 issues, the letter lists a number of the technical issues that the Institute and its members have discovered since the issuance of the LM-10 guidance. See page 12 of the draft letter. 2 The deadline for submission of comments is January 26, 2006.4 Please provide any comments that you may have on the draft letter to me at (202) 326-5810 or mhadley@ici.org by January 23, 2006. Michael L. Hadley Assistant Counsel Attachment (in .pdf format) 4 A prior memo to members incorrectly stated that the deadline was January 28, 2006.