

**MEMO# 18046**

September 29, 2004

## **DEPARTMENT OF LABOR PROPOSES AMENDMENTS TO PROHIBITED TRANSACTION EXEMPTION 84-24**

[18046] September 29, 2004 TO: PENSION COMMITTEE No. 45-04 RE: DEPARTMENT OF LABOR PROPOSES AMENDMENTS TO PROHIBITED TRANSACTION EXEMPTION 84-24 The Department of Labor has proposed the attached amendments to Prohibited Transaction Exemption 84-24, a class exemption that addresses, among other things, the receipt of sales commissions by principal underwriters in connection with plan purchases of fund shares, and the principal underwriters' effecting of the purchase transactions. Section V(a) of PTE 84-24 includes as a condition to this exemptive relief that neither the principal underwriter nor any of its affiliates may be "a trustee of the plan (other than a nondiscretionary trustee who does not render investment advice with respect to any assets of the plan) . . . or a fiduciary who is expressly authorized in writing to manage, acquire or dispose of the assets of the plan on a discretionary basis." Under the proposed amendments, a principal underwriter that was affiliated with a trustee or investment manager could qualify for the exemption if the trustee or investment manager had no discretionary authority or control over the plan assets involved in the transaction other than as a nondiscretionary trustee. The proposed amendments would also modify the definition of "nondiscretionary trust services" to specifically include services performed as a directed trustee. Comments on the proposed amendments are due by November 15, 2004. Please contact me by telephone at (202) 371-5432, by fax at (202) 326-5841, or by email at [kireland@ici.org](mailto:kireland@ici.org) by Monday, November 1, 2004, if you have any comments that the Institute should consider including in a comment letter concerning the proposed amendments. Kathy D. Ireland Senior Associate Counsel Attachment (in .pdf format)