

MEMO# 1294

July 31, 1989

DEPARTMENT OF LABOR FINAL REGULATION CONCERNING LOANS TO PLAN PARTICIPANTS AND BENEFICIARIES WHO ARE PARTIES IN INTEREST

July 31, 1989 TO: PENSION MEMBERS NO. 35-89 RE: DEPARTMENT OF LABOR FINAL REGULATION CONCERNING LOANS TO PLAN PARTICIPANTS AND BENEFICIARIES WHO ARE PARTIES IN INTEREST _____ Attached is a copy of the final regulation issued by the Department of Labor under section 408(b)(1) of ERISA, which provides that the prohibited transaction provisions of section 406 shall not apply to loans by a plan to parties in interest who are participants and beneficiaries of the plan under certain circumstances. The proposed regulation under section 408(b)(1) was published in January 1988. (See Institute Memorandum to Pension Members No. 8-88, dated January 27, 1988.) The changes to the proposed regulation include the establishment of a cap placing an upper limit on the amount of the participant's vested accrued benefit that the plan administrator may consider for purposes of determining adequate security for participant loans. Under the final regulation, up to 50 percent of the present value of the participant's vested accrued benefit may be used as security for the loan. The final regulations are generally effective for all participant loans granted or renewed after October 18, 1989. The subsection requiring specific plan provisions, however, is effective for participant loans granted or renewed on or after the last day of the first plan year beginning on or after January 1, 1989. We will keep you informed of further developments. Kathy D. Ireland Assistant General Counsel Attachment