

MEMO# 10239

August 28, 1998

DEPARTMENT OF LABOR POSTS QUESTIONS AND ANSWERS ON WEBSITE REGARDING Y2K ISSUES FOR EMPLOYEE BENEFIT PLAN ADMINISTRATORS

1[10239] August 28, 1998 TO: PENSION COMMITTEE No. 56-98 PENSION OPERATIONS
ADVISORY COMMITTEE No. 41-98 RE: DEPARTMENT OF LABOR POSTS QUESTIONS AND
ANSWERS ON WEBSITE REGARDING Y2K ISSUES FOR EMPLOYEE BENEFIT PLAN
ADMINISTRATORS

In July 1998, the Department of Labor's Pension and Welfare Benefits Administration ("PWBA") released a press release on the need for employee benefit plan administrators and service providers to act to protect workers' benefits against the looming year 2000 software problem ("Y2K" problem). The purpose of the July release was two-fold: (1) to reaffirm that plan administrators have a fiduciary responsibility to ensure that the Y2K problem is addressed; and (2) to announce that a series of questions and answers addressing Y2K issues was posted on the PWBA website. In addition, the PWBA noted that the July release was in response to the numerous phone inquiries the Department received as a result of a February 1998 PWBA release on Y2K issues. In February 1998, the PWBA released a press release reminding plan administrators of their fiduciary responsibility to ensure that the Y2K problem is addressed. Specifically, the February release noted that plan administrators should take steps immediately to identify the computer systems needed for plan operations, determine who is responsible for those systems and establish procedures to ensure that workable strategies and contingency plans are in place to address the Y2K problem. The February release noted that computerized tasks requiring date-dependent computations or comparisons, such as computing interest, determining length of service or calculating retirement benefits will be affected. In addition, the PWBA reminded plan administrators that the Y2K problem involves not only plan record-keeping systems, but also such systems as employer payrolls that interface with plans and whose performance is essential to plan operation. The July release announced that a document entitled "Fiduciary-Related Questions and Answers About the Year 2000 (Y2K) Computer Problem" was posted to the PWBA website. This document addresses the following issues: (1) the Y2K problem and how it affects employee benefit plans; (2) a plan fiduciary's potential liability under ERISA with respect to the Y2K problem; (3) what constitutes a prudent procedure for ensuring Y2K compliance; (4) the extent to which plan fiduciaries are responsible for Y2K problems that are caused by unrelated plan service providers; (5) the ability to charge the plan for costs related to the Y2K problem; (6) Department enforcement initiatives with

respect to the Y2K issue; (7) a plan administrator's duty to disclose Y2K issues to plan participants; (8) plan auditor responsibilities with respect to the Y2K problem; (9) information disclosed to the plan administrator by the plan auditor regarding Y2K issues; (10) SAS 70 reports and the Y2K problem; (11) organizations to call with questions on how to address the Y2K problem; and (12) a reference list of PWBA district offices for plan administrators with questions regarding fiduciary liability concerning the Y2K problem. 2Copies of the PWBA's February 1998 and July 1998 press releases as well as the questions and answers document are attached. Kathryn A. Ricard Assistant Counsel Attachments

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