

MEMO# 19149

September 13, 2005

DRAFT COMMENT LETTER TO IRS ON ELECTRONIC PLAN COMMUNICATIONS

©2005 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. [19149] September 13, 2005 TO: PENSION COMMITTEE No. 30-05 RE: DRAFT COMMENT LETTER TO IRS ON ELECTRONIC PLAN COMMUNICATIONS Attached for your review is a draft Institute letter to the Internal Revenue Service on proposed regulations that would clarify the effect of the Electronic Signatures in Global and National Commerce Act (E-SIGN) on existing IRS rules on electronic plan communications adopted in 2000. The proposal was issued on July 14, 2005 and comments are due by October 12, 2005.¹ The draft letter strongly supports the approach in the proposal to the consumer consent requirement of E-SIGN – to provide an exemption to allow plans to continue using their existing procedures under the 2000 regulations. The letter also supports the proposal to allow electronic notarization of spousal consent under Code section 417 if the individual's signature is witnessed in the physical presence of a plan representative or notary. The letter further supports granting the Commissioner discretion in the future to allow, after notice and comment, electronic notarization without the spouse's presence if technological advances warrant. The proposals do not address IRAs, other than SEPs and SIMPLEs. The draft letter requests that the Service adopt consistent rules for all IRAs and clarify that the proposed regulations will not affect the current rules governing electronic IRA withholding notices and elections under section 3405. Please provide any comments that you may have on the draft letter to me at 202 326 5826 or podesta@ici.org by September 30. Mary S. Podesta Senior Counsel - Pension Regulation Attachment (in .pdf format) ¹ The proposal is available at: <http://www.regulations.gov/fredpdfs/05-13911.pdf>.

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