

**MEMO# 10519**

November 30, 1998

## **CONFERENCE CALL SCHEDULED TO DISCUSS DOL REVISION OF SMALL EMPLOYER PLAN AUDIT RULES**

[10519] November 30, 1998 TO: PENSION COMMITTEE No. 81-98 PENSION OPERATIONS  
ADVISORY COMMITTEE No. 66-98 RE: CONFERENCE CALL SCHEDULED TO DISCUSS DOL  
REVISION OF SMALL EMPLOYER PLAN AUDIT RULES

As we discussed at the last Pension Committee and Pension Operations Advisory meetings, the Department of Labor is developing new audit regulations for small employer retirement plans. The Institute has scheduled a conference call on Tuesday, December 8, at 4 p.m. to discuss this proposal. Attached to this memorandum is a brief list of open issues that the DOL is considering and which we will discuss on the call. Although precise details are not fully developed, the regulation generally would work as follows: (1) plan assets would be subject to an audit requirement unless held by a regulated financial institution; (2) the financial institution would be required to provide an annual statement of the assets it holds to either the plan's named fiduciary, plan administrator or employer sponsor; (3) upon request, participants would be able to obtain a copy of (and access to the original of) this annual statement; and (4) plans would be required to notify participants of their right to review this annual statement. If you plan to participate in the December 8 call please complete the sign-up form below and fax it to the undersigned at (202) 326-5841 by COB Monday, December 7, 1998. Please note, there is a call-in number for the call. Please call me at (202) 326-5835 or Kathryn Ricard at (202) 215- 3563 if you have questions or comments concerning the call. Russell G. Galer Senior Counsel Attachment

RESPONSE  
FORM FOR CONFERENCE CALL ON SMALL PLAN AUDIT RULES Tuesday, December 8, 1998 - 4:00 p.m. EST Please fax this form by Monday, December 7, 1998 to Russell Galer at (202) 326-5841. Yes, I will participate in the Conference Call regarding Small Plan Audit Rules on Tuesday, December 8, 1998 at 4 p.m. EST. To participate in the call dial (800) 523-5415 and ask for the "Small Employer Plans" call. Committee Member Company

Discussion  
Items for December 8 Conference Call Regarding Department of Labor Revision of Small Employer Audit Rules Based on discussions with the Department of Labor, there are numerous issues that the Department needs to resolve as it drafts a revised audit rule for small plans. Some of the issues the Department is currently considering are enumerated below. We will discuss these issues on the conference call. (1) The definition of "regulated financial institution." Should the definition of which entities may serve as IRA trustee be adopted for purposes of the rule, which would exempt from audit plan assets held at such institutions? Is this definition/standard too narrow? How should the regulation deal with

street name assets? Should broker-dealers and strategic alliance entities, which "hold" assets in omnibus accounts at mutual funds, be included in the definition? (2) Defining the custody requirement. Under the rule, to avoid an audit, plan assets would need to be held at a regulated financial institution. How should the "holding assets" requirement be defined? The Department is seeking a standard short of "trusteeship" or "custody." (3) Delivery of Annual Statement. If small employer retirement plans were required to obtain an annual statement from such institutions - (a) To whom should the institution deliver the statement? Named fiduciary, plan administrator, employer-sponsor? (b) When should the statement be provided: on a calendar year or plan year basis? Should time frames follow the filing deadlines to Form 5500? (4) Exemptions from the rule. Should participant-directed plans and IRAs (SIMPLEs, SEPs) be exempt from the new, annual statement rule if each participant obtains individual account information at least annually from financial institutions that "hold" their assets? Should plans that provide employees with direct 800 number or website access to either plan or participant account balance information be exempt from the rule? (5) Nature of Annual Statement. What information should be included on the annual statement? What information now appears on annual statements that are provide to plan fiduciaries investing for their plans in retail accounts? Should Form 5498s sent to individual participants (in SEPs and SIMPLEs) satisfy the annual statement requirement?