

MEMO# 19051

August 1, 2005

INSTITUTE LETTER TO DOL REGARDING POTENTIAL APPLICATION OF LM-10 FILING REQUIREMENTS TO CERTAIN SERVICE PROVIDERS

©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. [19051] August 1, 2005 TO: COMPLIANCE ADVISORY COMMITTEE No. 48-05 INVESTMENT ADVISER MEMBERS No. 14-05 INVESTMENT ADVISER ASSOCIATE MEMBERS No. 12-05 PENSION MEMBERS No. 33-05 RE: INSTITUTE LETTER TO DOL REGARDING POTENTIAL APPLICATION OF LM-10 FILING REQUIREMENTS TO CERTAIN SERVICE PROVIDERS The Office of Labor-Management Standards of the Department of Labor (OLMS) recently posted on its website frequently asked questions concerning certain filing requirements under the Labor-Management Reporting and Disclosure Act of 1959, and the potential application of these requirements to service providers of union-related retirement plans.¹ According to the website posting, investment managers, investment consultants and accounting firms may be required to file Form LM-10 (Employer Report) if the service provider hosts receptions and other entertainment involving more than \$25 that include officials of union-related plans, such as Taft-Hartley plans. The posting also states that the union officials must report such amounts on a corresponding form, Form LM-30 (Labor Organization Officer and Employee Report). The OLMS has established a grace period for 2004 LM-30 filings that will expire on August 15, 2005, and indicated in a recent advisory that an analogous grace period will apply to LM-10 filings.² The Institute, along with the American Bankers Association, the Investment Adviser Association, and the Securities Industry Association, recently met with the Assistant Secretary of Labor for the Employment Standards Administration and the Solicitor of Labor to express the financial industry's concern about the application of the Form LM-10 filing requirements to service providers. In addition, the Institute submitted the attached letter detailing these concerns. First, the letter questions the Department's legal authority to apply the reporting requirement to service providers. Second, the Institute objects to any retroactive application of the requirement, and requests that any prospective application not begin before fiscal years beginning on or after 1 The website posting is available at http://www.dol.gov/esa/regs/compliance/olms/LM30_LM10_Trusts_Info.htm. 2 The advisory is available at http://www.dol.gov/esa/regs/compliance/olms/lm10_advisory.htm. 2 January 1, 2006. Finally, the letter asks that the prospective application not begin without affording interested parties advance notice and the opportunity to comment upon the proposed requirement. Amy B.R. Lancellotta Senior Counsel Attachment (in .pdf format) Note: Not all

recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 19051, or call the ICI Library at (202) 326-8304 and request the attachment for memo 19051.

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