

MEMO# 14552

March 20, 2002

DOL AMENDS PROHIBITED TRANSACTION CLASS EXEMPTION FOR CERTAIN INTEREST FREE LOANS TO EMPLOYEE BENEFIT PLANS

[14552] March 20, 2002 TO: INVESTMENT ADVISER ASSOCIATE MEMBERS No. 8-02 INVESTMENT ADVISER MEMBERS No. 12-02 PENSION MEMBERS No. 11-02 PENSION OPERATIONS ADVISORY COMMITTEE No. 17-02 RE: DOL AMENDS PROHIBITED TRANSACTION CLASS EXEMPTION FOR CERTAIN INTEREST FREE LOANS TO EMPLOYEE BENEFIT PLANS The Department of Labor has adopted amendments to PTE 80-26 that were proposed last fall to address potential liquidity problems faced by employee benefit plans due to the events of September 11, 2001.¹ Under the amendments, which were adopted as proposed, effective September 11, 2001 through January 9, 2002, the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of ERISA (and the taxes imposed by reason of section 4975(c)(1)(B) and (D) of the Internal Revenue Code) do not apply to the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, or to the repayment thereof, under the following conditions: • No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection therewith; • The proceeds thereof are used only for a purpose incidental to the ordinary operation of the plan that arises in connection with difficulties encountered by the plan in liquidating, or otherwise accessing its assets, or accessing its data in a timely manner as a direct or indirect result of the September 11, 2001 disruption; • The loan or extension of credit is unsecured; • The loan or extension of credit is not directly or indirectly made by a plan; and ¹ See Institute Memorandum to Investment Adviser Associate Members No. 16-01, Investment Adviser Members No. 24-01, Pension Members No. 30-01, and Pension Operations Advisory Committee No. 61-01, dated October 1, 2001. ² • The loan or extension of credit begins on or after September 11, 2001, and is repaid or terminated no later than January 9, 2002. Kathy D. Ireland Associate Counsel 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 14552, or call the ICI Library at (202) 326-8304 and request the attachment for memo 14552. Attachment (in .pdf format)