MEMO# 2571

March 1, 1991

DEPARTMENT OF LABOR PROPOSES EXEMPTION FOR "RELATIONSHIP BANKING" IRA AND KEOGH BENEFITS

- 1 - March 1, 1991 TO: PENSION COMMITTEE NO. 6-91 RE: DEPARTMENT OF LABOR PROPOSES EXEMPTION FOR "RELATIONSHIP BANKING" IRA AND KEOGH BENEFITS ____ The Department of Labor yesterday proposed a class exemption from the prohibited transaction provisions of section 4975 of the Internal Revenue Code for banks which offer services at reduced or no cost ("relationship banking") when IRA and Keogh accounts are included in the relationship banking programs. A copy of the notice of proposed class exemption is attached. The Department of Labor had previously held in ERISA Advisory Opinion No. 89-12A, which addresses an IRA participant's receipt of free checking account services from a bank based upon his maintaining his IRA at the bank, that the receipt of such services would constitute a violation of section 4975(c)(1) of the Code. (See Institute Memorandum to Pension Members No. 36- 89, dated August 1, 1989.) The proposed class exemption would provide that the sanctions resulting from the application of section 4975 of the Code, including the disqualification of an IRA, shall not apply to the receipt of services at reduced or no cost by an individual establishing or maintaining an IRA or Keogh Plan from a bank pursuant to an arrangement in which the deposit balance in the IRA or Keogh Plan is taken into account for purposes of determining eligibility to receive such services, provided certain conditions set forth in the exemption are met. All interested persons are requested to submit written comments or requests for a public hearing by April 15, 1991 to the Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N-5649, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C., 20201, Attention: "Relationship Banking" Exemption. The Department of Labor is also requesting comments, due April 15, 1991, regarding its intent to withdraw a proposal to provide a class exemption from the prohibited transaction provisions of the Code with respect to receipt of certain premiums, gifts, or other consideration paid to an individual in - 2 - connection with a transaction involving a Keogh or IRA account. The Institute previously objected to this proposed class exemption, arguing that the receipt of a gift or premium tends to distort the factors upon which a long-term retirement investment decision should be based. (See Institute Memoranda to Pension Members Nos. 5-83 and 33-83, dated February 8, 1983 and October 3, 1983, respectively.) A copy of the Department's solicitation of comments is attached. Please call me by March 28, 1991 at 202/955-3516 if you have any comments regarding these matters. We will keep you informed of further developments. W. Richard Mason Assistant Counsel - Pension Attachments