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ERISA ADVISORY COUNCIL WORK GROUP REPORTS ON DEFINED CONTRIBUTION PLANS AND PARTICIPANT-DIRECTED INVESTMENTS

January 9, 1995 TO: PENSION COMMITTEE No. 2-95 RE: ERISA ADVISORY COUNCIL WORK GROUP REPORTS ON DEFINED CONTRIBUTION PLANS AND PARTICIPANT-DIRECTED INVESTMENTS

____ Attached is the ERISA Advisory Council's "Report of the Work Group On Defined Contribution Plans With An Emphasis On 401(k) Plans." This Report represents the Work Group's completion of the second phase of a three phase study of defined contribution plans. Phase One was a 1993 study of data on coverage, participation and contribution levels in defined contribution and 401(k) plans. The attached 1994 Report focuses on how assets in defined contribution plans are being invested, particularly participant-directed investments. The Report's major "Findings & Recommendations" are: The Report recommends that, as more investment responsibility is being turned over to often unprepared employees, the Labor Department should support efforts to increase employee education on retirement income needs. This support should include production of generic brochures and other educational materials for employees and employers. The Report notes that although the Work Group received testimony favorable to self- directed investments under the Department's 404(c) regulations, some testified that returns on trustee-directed investments were greater than investments directed by participants. The Report recommends that the 1995 Work Group examine the reasons for that difference. It also recommends that employers receive more specific guidance from the Labor Department "to permit the distribution of basic information." The Report notes that the "minimum 3% employer contribution" nondiscrimination safe- harbor contained in last years pension simplification bill (H.R. 3419), would ensure broad receipt of benefits while providing administrative ease and certainty. The Report states that the Advisory Council does not recommend safe harbor proposals without minimum employer contribution requirements. Lastly, the Report recommends that the Labor Department study additional ways of "keeping retirement money for retirement." A specific recommendation was to study whether "direct rollovers" should be made mandatory. The Report recommends against any increase in the current 10% penalty on premature distributions. The Work Group recommends that Phase Three of the project in 1995 focus on the issue of whether defined contribution plans provide employees with an adequate source of retirement income. We will keep you advised of developments. John J. Canary, Jr. Assistant Counsel - Pension Attachment