INVESTMENT COMPANY INSTITUTE

MEMO# 11860

May 5, 2000

ICI COMMENT LETTER ON DOL INDIVIDUAL EXEMPTION FOR INVESTMENT ADVISORY SERVICE

1 A copy of the proposed exemption was previously provided. See Institute Memorandum to Pension Committee No. 22-00 and Ad Hoc Committee on Investment Advice, dated March 28, 2000. 2 See Institute Memorandum to Pension Committee No. 30-00 and Ad Hoc Committee on DOL Individual Exemption, dated April 26, 2000. 3 See Institute Memorandum to Pension Committee No. 19-00 and Pension Operations Advisory Committee No. 18-00, dated March 17, 2000, for the Institute's testimony, and Institute Memorandum to Pension Committee No. 17-00 and Ad Hoc Committee on Investment Advice, dated February 23, 2000, for the Institute's legislative proposal on the provision of investment advice to plan participants. [11860] May 5, 2000 TO: PENSION COMMITTEE No. 32-00 AD HOC COMMITTEE ON DOL INDIVIDUAL EXEMPTION RE: ICI COMMENT LETTER ON DOL INDIVIDUAL EXEMPTION FOR INVESTMENT ADVISORY SERVICE ____ The Institute today filed the attached comment letter on the Department of Labor's proposed individual exemption regarding the provision of investment advisory services by Standard & Poor's Investment Advisory Services, an independent advice provider.1 The comment letter was developed based on discussions from an April 13th conference call and member comments on a circulated draft.2 The letter makes the broad point that the Department's approach to the provision of investment advice in this and prior individual exemptions severely restricts the availability of such advice — to the detriment of retirement plan participants. The letter also notes that the Department does not explain why an exemption is necessary in this case, and that absent the identification of a prohibited transaction, the exemption will have a chilling effect on advisory activities. To expand the availability of advisory services to participants, the letter urges the Department to adopt a disclosure-based approach to the provision of investment advice — as described in the Institute's recent testimony before the House Subcommittee on Employer-Employee Relations.3 This approach would enable participants to obtain advisory services from a greater number of financial institutions, including those already providing services to their plans. Thomas T. Kim Assistant Counsel Attachment