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WEB's ***Benefits Insider*** is a bi-monthly member exclusive publication providing the latest developments from Washington, DC, on matters of interest to employee benefits professionals. The content of this newsletter is being provided through a partnership with the American Benefits Council, a premier benefits advocacy organization, which provides its core content, and is edited by Christopher M. Smith, Employee Benefits attorney and Principal of Flexible Benefits Systems, Inc., csmith@fbsi.com.

Articles in this Edition

RECENT LEGISLATIVE ACTIVITY

House Republicans Introduce Legislative Alternative to PPACA

The American Health Reform Act (H.R. 3121) was introduced in the U.S. House of Representatives on September 19 with the backing of the Republican Study Committee (RSC), which includes about three-fourths of the GOP members of the House. The legislation represents the first comprehensive alternative advanced by Congressional Republicans since the passage of the Patient Protection and Affordable Care Act (PPACA).

The measure, introduced by RSC Chairman Steve Scalise (R-LA) and House Education and the Workforce Health, Employment, Labor and Pensions Subcommittee Chairman Phil Roe (R-TX), would fully repeal PPACA and contains many other policy provisions that have long been a part of the Republican platform, including:

- Allowing Americans to purchase health insurance across state lines;
- Enabling small businesses to pool together to create "association health plans;"
- Medical malpractice reform; and
- Expansion of access to Health Savings Accounts (HSAs)

The measure also would permit people with pre-existing conditions to switch to another health plan even if their prior coverage was in the individual market, not just employer-sponsored coverage. Further, the bill provides $25 billion for state high-risk pools and limits the premiums in the pools to twice the average cost of insurance sold in the state.

The legislation proposes a significant change to the current tax treatment of health insurance. Regardless of the actual cost of the health plan, people purchasing their own coverage would receive an above-the-line standard deduction for health insurance (SDHI) of $7,500 for individuals and $20,000 for families, indexed annually for inflation. The SDHI would also be applied against payroll taxes. For those who receive employer-sponsored coverage, the tax exclusion would be capped at the same SDHI level ($7,500/$20,000), with any amount over that threshold taxed as wages. By comparison, the high-cost plan ("Cadillac") tax imposed by PPACA, effective in 2018, taxes amounts in excess of $10,200 for individuals and $27,500 for families, also indexed. The measure would not change the employer deduction for health expenses. However, both employers and employees would be subject to their respective portions of payroll taxes for amounts above the thresholds.

A one-page explanation of the bill's SDHI proposal is also available.

H.R. 3121 is unlikely to receive consideration outside of the House, but will serve as a platform for conservative Republicans in future health care discussions.

House Subcommittee Hears Testimony on SEC Proposed Money Market Fund Rules

The U.S. House of Representatives Financial Services Committee's Capital Markets and Government Sponsored Enterprises Subcommittee held a hearing on September 18 to discuss

the Securities and Exchange Commission's (SEC) proposed rules governing money market funds (MMFs).

For more than a year, the SEC has been contemplating a requirement (supported by the Financial Stability Oversight Council) that a money market fund's net asset value (NAV) "float" on a daily basis or that the fund impose a liquidity fee or liquidity "hold back" on an investor's shares. More recently, on June 5, the SEC voted unanimously to move forward with newly proposed regulations including two alternative options in addition to the initial proposal: The first alternative is a requirement that prime institutional MMFs move to a floating NAV by pricing their shares without penny rounding — i.e., by pricing based on the actual NAV to the fourth decimal place. Government MMFs would be exempt, as would any money market fund that limits each shareholder's redemption to no more than $1 million per business day – a proxy for exempting "retail" MMFs.

MMFs are commonly used by defined contribution and defined benefit retirement plans and are often valued by both plan sponsors and participants for their stability and full liquidity. Additionally, many plan sponsors of participant-directed plans utilize MMFs as the lower risk investment alternative when satisfying the U.S. Department of Labor Section 404(c) regulation, which requires a range of investments on a risk/return spectrum.

As part of the subcommittee hearing, committee staff prepared a memorandum describing the recent history of MMFs and the regulatory rulemaking process.

As Subcommittee Chairman Scott Garrett (R-NJ) noted in his statement opening the hearing, the SEC's initial goal was to make MMFs better able to withstand mass redemptions during a financial crisis. But he called the proposals advanced thus far "wholly inappropriate" and insufficient to prevent another crisis.

The committee heard testimony from the following witnesses:

- Paul Schott Stevens, president and chief executive officer of the Investment Company Institute, noted that the floating NAV proposal, especially when combined with liquidity fees, would render MMFs "entirely unattractive to investors." He also suggested that additional refinements to the proposal were in order, including measures to ease the tax and accounting burden on MMF investors and replacement of the current "retail investor" definition by identifying retail investors through the use of Social Security numbers.

- Steven N. McCoy, treasurer of the state of Georgia, on behalf of the National Association of State Treasurers, described the importance of MMFs as an investment and cash management tool for many state and municipal governments, which are generally prohibited from making investments in variable or floating NAV instruments. In particular, he described serious potential problems for Local Government Investment Pools.

- Sheila Bair, chair of the Pew Charitable Trusts Systemic Risk Council, suggested that a floating NAV for *all* money market mutual funds would be a better approach than the proposed limited floating NAV, but criticized the liquidity fee aspect of the proposal as potentially exacerbating what she called MMF's "existing structural weakness."

- Marie Chandoha, president and chief executive officer of Charles Schwab Investment Management Inc., said that the SEC's proposal "strikes the right balance" between reducing the likelihood of runs while also preserving MMFs as an important tool for

individual investors but there needs to be clarification of the tax issues. She supported combining the floating NAV with the liquidity fees, while also recommending that retail accounts, retirement accounts, educational accounts and municipal MMFs be exempted from the rule.

- James Gilligan, assistant treasurer of Great Plains Energy, on behalf of the U.S. Chamber of Commerce, asserted that a floating NAV would fundamentally undermine the value and utility of MMFs. Consequently, companies would be compelled to fund their day-to-day operations with less efficient and more costly alternatives.

During the question-and-answer period, lawmakers repeatedly asked whether the regulatory proposals advanced by SEC would actually address the perceived likelihood of a "run" on MMF redemptions. Stevens, McCoy and Gilligan and were firm in their responses that the floating NAV proposal could actually accelerate redemptions.

The SEC recently solicited public comment on its MMF proposals and the rulemaking process is expected to continue into 2014.

Senate Aging Committee Discusses Economic Challenges in Retirement

On September 25, the Senate Special Committee on Aging held a hearing, State of the American Senior: The Changing Retirement Landscape for Baby Boomers, to examine the economic difficulties members of the "baby boom" generation are experiencing as they attempt to finance a lengthy retirement.

Both Committee Chairman Bill Nelson (D-FL) and Ranking Committee Republican Susan Collins (R-ME) expressed strong concerns about the various financial pressures facing retirees, including reduced saving levels (partially owing to market losses from the recent recession), rising health care costs, increased longevity and difficulty finding work.

Collins, in particular, cited "the shift from employer-based defined benefit plans to defined contribution pension plans, like 401(k)s" as playing a key role in the changing landscape for baby boomers and other retirees.

The panel heard testimony from the following witnesses:

- Olivia S. Mitchell, professor at the Wharton School at the University of Pennsylvania, testifying on behalf of the International Foundation of Employee Benefit Plans, noted some of the unique characteristics of baby boomers that have made retirement so challenging, including a tendency to acquire debt. She also noted that the current low interest rate environment has made it difficult for seniors to accumulate sufficient savings.

- Paula A. Calimafde, chair of the Small Business Council of America, described the current employer-sponsored system as being "still in pretty good shape." She touted the effectiveness of automatic enrollment programs to improve coverage rates for small business employees.

- Richard W. Johnson, senior fellow and director of the Program on Retirement Policy at the Urban Institute, shared the results of the Institute's research projecting retirement

incomes, concluding that "A benchmark of 75 percent of preretirement income may no longer be adequate." He discussed the significant impact of high health care costs and recommended making annuities more attractive and modernizing the Supplemental Security Income program."

- Joanne Jacobsen, a senior citizen from Florida, described her specific challenges as a recent retiree, including the loss of retiree medical and life insurance benefits. She also criticized what she saw as the failure of employers to live up to their "fiduciary responsibilities" to their employees.

During the question and answer period, the panelists discussed a wide variety of topics, including the Social Security minimum benefit, the role of the Pension Benefit Guaranty Corporation, multiple-employer retirement plans, age discriminatory hiring practices. Most notably:

- Calimafde, asked by Collins about the one policy measure she would recommend to improve retirement savings, urged lawmakers not to cut back on the contribution levels to retirement plans.

- In response to a separate question from Collins, Jacobsen raised concerns about the recent trend of "de-risking" by defined benefit plan sponsors – including her former employer – although she admitted that the de-risking did not hurt her personally since she had already taken a lump sum distribution from the plan.

- Senator Elizabeth Warren (D-MA) asked rhetorically if the recent defined contribution plan fee disclosure regulations needed to be "simplified," but did not elaborate on what such simplification would entail.

The Senate Aging committee does not have jurisdiction over employee benefits policy and legislation of this sort is unlikely to be advanced this year, although the testimony could set the stage for lawmakers' future policy agendas. The committee has already scheduled another hearing on long-term care for October 23.

RECENT REGULATORY ACTIVITY

DOL Issues Guidance Adopting 'State of Celebration' Approach for Same-Sex Spouses

With **Technical Release 2013-04**, released on September 18, the U.S. Department of Labor announced that, in general, the terms "spouse" and "marriage" in Title I of ERISA and in related department regulations should be read to include same-sex couples legally married in any state or foreign jurisdiction that recognizes such marriages, regardless of where they currently live (commonly known as the "state of celebration" approach). The August 29 guidance from the U.S. Treasury Department and Internal Revenue Service (IRS) adopted a similar "state of celebration" approach for defining spouse and marriage for purposes of federal tax law in the wake of the U.S. Supreme Court's June 26 decision in *United States v. Windsor*.

Technical Release 2013-04 applies to same-sex marriages entered into in any one of the 50 states, a U.S. territory or a foreign country. The ruling does not apply to registered domestic partnerships, civil unions, or similar formal relationships recognized under state law.

The DOL guidance allows for the uniform administration of plans and benefits across state lines. The Technical Release acknowledged, "A rule for employee benefit plans based on state of domicile would raise significant challenges for employers that operate or have employees (or former employees) in more than one state or whose employees move to another state while entitled to benefits … [and] would be burdensome for employers and would likely result in errors, confusion, and inconsistency for employers, individual employees, and the government."

DOL does not discuss the effective date of the *Windsor* decision or the Technical Release or the retroactivity of the guidance, though the department intends to issue future guidance addressing specific provisions of ERISA and its regulations in addition to the general guidance just released.

IRS Guidance Describes Process for Post-Windsor Refund Claims, Credit Adjustments

The Internal Revenue Service (IRS) issued **Notice 2013-61** on September 23, providing guidance for employers and employees to make claims for refund or adjustments of overpayments of payroll taxes with respect to certain benefits and remuneration provided to same-sex spouses.

Notice 2013-61 follows the prior release of IRS Revenue Ruling 2013-17 on August 29, which set forth the general tax treatment of same-sex marriages in light of the U.S. Supreme Court's June decision in *U.S. vs. Windsor*. That release included a set of Frequently Asked Questions documents on same-sex spouses, including a discussion of how employees may claim refunds for federal income tax paid on the value of health coverage for a same sex spouse, as well as income taxes paid on premiums paid on an after tax basis. That guidance confirmed that employers have the option to claim refunds for payroll taxes paid on such benefits.

"To reduce filing and reporting burdens associated with the optional retroactive application of the holdings of Rev. Rul. 2013-17," Notice 2013-61 outlines a special administrative procedure for employers to correct overpayments of employment taxes for 2013 and prior years.

Specifically, the notice provides two alternative special administrative procedures. Under the first alternative, employers may use the fourth quarter 2013 Form 941, Employer's QUARTERLY Federal Tax Return, to correct these overpayments of employment taxes for the first three quarters of 2013. Under the second alternative, employers may file one Form 941-X, Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund, for the fourth quarter of 2013 to correct these overpayments of FICA taxes for all quarters of 2013.

With respect to these overpayments of FICA taxes for years before 2013, employers can make a claim or adjustment for all four calendar quarters of a calendar year on one Form 941-X filed for the fourth quarter of such year if the period of limitations on refunds under Section 6511 of the Internal Revenue Code (Code) has not expired and, in the case of adjustments, the period of limitations will not expire within 90 days of filing the adjusted return. Under normal procedures, employers are required to file a Form 941-X for each calendar quarter for which a refund claim or adjustment is made.

The IRS notes in the notice that the special administrative procedures provided are optional. "Employers that prefer to use the regular procedures for correcting employment tax overpayments related to same-sex spouse benefits and remuneration paid to same-sex spouses, instead of the special administrative procedures, may do so."

IRS Releases Proposed Regulations for Employer PPACA Information Reporting

On September 5, the Internal Revenue Service (IRS) released two long-awaited proposed regulations addressing employer reporting under the Patient Protection and Affordable Care Act (PPACA).

Reporting of Health Insurance Coverage under "Shared Employer Responsibility" Provisions
The Notice of Proposed Rulemaking (NPRM) on Information Reporting by Applicable Large Employers on Health Insurance Coverage Offered Under Employer-Sponsored Plans provides guidance under Section 6056 of the Internal Revenue Code.

Under Section 6056, every applicable large employer (those with 50 or more full-time employees) that is required to meet the "shared employer responsibility" requirements of PPACA Section 4980H during a calendar year must file a return with the IRS that reports the terms and conditions of the health care coverage provided to the employer's full-time employees during the year. The return is also required to include and certify detailed and specific information on the employer's full-time employees, including those who received the coverage and when they received it. This information will be also used to administer the premium tax credit for eligible individuals.

The proposed regulations for Section 6056 set out a general method for the content, manner and timing of information required to be reported to the IRS and to full-time employees. Potential simplified reporting methods are also included in the proposed regulations and would be optional reporting alternatives to the general method, if adopted in final regulations.

Reporting of Minimum Essential Coverage

The NPRM on Information Reporting of Minimum Essential Coverage provides guidance implementing Section 6055 of the tax code.

Under Section 6055(a), as amended by PPACA, every entity that provides minimum essential coverage (including health insurance issuers and sponsors of a self-insured health plan) is required to file annual returns reporting specific information for each individual for whom minimum essential coverage is provided. The information reported under Section 6055 can be used by individuals and the IRS to verify the months (if any) in which they were covered by minimum essential coverage. This reporting facilitates compliance with and administration of PPACA provisions related to individual responsibility requirements and premium tax credits.

The deadline for comments for both sets of proposed regulations is November 8. The IRS will also hold a public hearing on the proposed regulations.

The Section 6055 and 6056 reporting requirements have been delayed for 2014 under previously issued Notice 2013-45 transition relief and will not be effective until 2015. As stated in the prior Notice and the proposed regulations, the IRS encourages voluntary reporting for coverage in 2014.

New PPACA FAQ Guidance on Exchange Notices, 90-Day Limits

On September 4, the U.S. departments of Treasury, Labor (DOL) and Health and Human Services (HHS) released Frequently Asked Questions (FAQ), Part XVI regarding implementation of the Patient Protection and Affordable Care Act (PPACA). FAQ Part XVI includes just two questions, one related to the provision of the notice of coverage options available through the exchanges (or "marketplaces") and one related to 90-day waiting period limitations.

Exchange Notices

PPACA amended the Fair Labor Standards Act (FLSA) Section 18B to require employers to provide each employee with a written notice providing information regarding coverage options available in the Health Insurance Marketplaces, the availability of a premium tax credit (if applicable) and implications for the employee if they choose to purchase a qualified health plan through an exchange instead of accepting coverage offered by his or her employer. The notice must be provided by October 1, 2013, for current employees and at the time of hiring for new employees beginning October 1, 2013. DOL issued Technical Release 2013-02 on May 8, providing temporary guidance and model notices for implementing the notice requirements.

Q1 of the new FAQ guidance clarifies that an employer will have satisfied its notice obligation if another entity (such as an issuer, multiemployer plan, or third-party administrator) provides a timely and complete notice on behalf of the employer. The guidance notes, however, that as explained in Technical Release 2013-02, FLSA Section 18B requires employers to provide notice to *all employees*, regardless of whether an employee is enrolled in, or eligible for, coverage under a group health plan. Accordingly, an employer is not relieved of its statutory obligation to provide notice under FLSA Section 18B if another entity sends the notice to only participants enrolled in the plan, if some employees are not enrolled in the plan. The guidance further states that when providing notices on behalf of employers, multiemployer plans, issuers, and third party administrators should take proper steps to ensure that a notice is provided to all employees regardless of plan enrollment, or communicate clearly to employers that the plan, issuer, or third party administrator will provide notice only to a subset of employees (e.g., employees enrolled in the plan) and advise of the residual obligations of employers with respect to other employees (e.g., employees who are not enrolled in the plan).

90-Day Waiting Period Limitation

PPACA added Section 2708 to the Public Health Service Act to require, in plan years beginning on or after January 1, 2014, a group health plan or group health insurance issuer not apply any waiting period that exceeds 90 days. The three agencies issued proposed regulations in March 2013, indicating that they will consider compliance with the proposed rules as compliance with PHS Act 2708 at least through 2014.

Q2 also reiterates that, under the proposed rules, to the extent plans and issuers impose substantive eligibility requirements not based solely on the lapse of time, these eligibility provisions are permitted if they are not designed to avoid compliance with the 90-day waiting period limitation. Q2 further states that, for example, if a multiemployer plan operating pursuant to an arms-length collective bargaining agreement has an eligibility provision that allows employees to become eligible for coverage by working hours of covered employment across multiple contributing employers (which often aggregates hours by calendar quarter and then

permits coverage to extend for the next full calendar quarter, regardless of whether an employee has terminated employment), the Departments would consider that provision designed to accommodate a unique operating structure, (and, therefore, not designed to avoid compliance with the 90-day waiting period limitation).

IRS, DOL Release Guidance Applying PPACA to HRAs, Employer Payment Plans and Health FSAs

On September 13, the Internal Revenue Service (IRS) issued Notice 2013-54 and the Department of Labor (DOL) issued Technical Release 2013-03. Both sets of guidance are substantially identical and address market reform and other PPACA provisions with regard to health reimbursement arrangements (HRAs), including HRAs integrated with group health plans; health Flexible Spending Arrangements (health FSAs); and employee assistance programs (EAPs).

Highlights of this guidance include:

- Affirmation of prior agency guidance clarifying that an employee cannot use funds from a stand-alone HRA to purchase individual health insurance on a tax-favored basis.

- Clarification that other types of tax-favored financing vehicles, such as employer payment plans under Rev. Rul. 61-146, are considered health plans and cannot be ACA-compliant on a standalone basis because they would violate the market reforms.

- Clarification that a standalone-retiree only HRA will be considered an eligible employer-sponsored plan and minimum essential coverage under the ACA, and as a result, a retiree covered by such an HRA will not be eligible for premium tax credits through an Exchange; and

- Clarification that benefits under an employee assistance program will generally be considered excepted benefits and therefore not subject to the ACA market reforms, provided that the EAP does not provide significant benefits in the nature of medical care or treatment.

The new agency guidance applies for plan years beginning on and after January 1, 2014, but may be applied for all prior periods.

IRS Guidance Clarifies Preventive Care Coverage for Purposes of HSAs, PPACA

In **Internal Revenue Service (IRS) Notice 2013-57**, issued on September 9, the agency clarified that a health plan will not fail to qualify as a high-deductible health plan (HDHP) for use with a Health Savings Account (HSA) merely because it provides, without a deductible, the preventive health services required under Section 2713 of the Public Health Service Act (PHS Act) as amended by the Patient Protection and Affordable Care Act (PPACA).

Generally, Section 223 of the Internal Revenue Code provides that for an HDHP to qualify for use with an HSA, it may not provide benefits for any year until the minimum deductible is satisfied. Prior HSA implementation guidance (Notice 2004-23 and Q&As 26 and 27 of Notice 2004-50)

clarified that certain preventive care benefits may be provided under a HDHP without satisfying the minimum deductible requirement for HSAs.

Section 2713 of the PHS Act, as amended by PPACA, requires group health plans and health insurance issuers offering group and individual health insurance coverage to provide a range of benefits for certain preventive health services without imposing cost-sharing requirements.

Notice 2013-57 clarifies that "preventive care" for the purposes of section 223 (HSA qualification) is defined as anything that is preventive care under prior Notice 2004-23 and Notice 2004-50, without regard to whether it would constitute preventive care for purposes of PHS Act Section 2713. It further states that preventive care for purposes of HSA qualification also includes services required to be provided as preventive health services under Section 2713 of the PHS Act.

SEC Moves to Propose Pay Ratio Rules

In a divided vote at a September 18 public meeting, the Securities and Exchange Commission (SEC) moved to proceed with the proposal of **regulations implementing the "pay ratio" reporting requirements** under the Dodd-Frank Wall Street Reform and Consumer Protection (Dodd-Frank) Act.

Section 953 of the Dodd-Frank Act includes a provision that requires all public companies to calculate the median compensation of all employees other than the CEO and disclose that number and the ratio of the median employee's compensation to total compensation of the CEO as part of the companies' filings with the SEC. Compliance with this requirement may be difficult for many companies to satisfy, in part because compensation of non-U.S. employees must be included in the calculation.

In a review of the proposed regulations at the public meeting, speakers indicated that the regulations would allow the reporting entity some measure of flexibility to choose its statistical methodology, including the use of statistical sampling to identify the median employee's compensation. However the proposed rule mandates disclosure based not only on each "registrant" and its own employees, but "enterprise-wide" (including the registrant and its subsidiaries) and to all employees. This calculation would include employees in all subsidiaries and apply to part-time, temporary and seasonal workers on the payroll as of the end of the fiscal year. Annualization of workers' compensation would not be permitted. One commissioner observed that the reports will inevitably incorporate currency assumptions and pay variations due to governmental social benefits programs that change from country to country.
The three Democratic commissioners voted for the proposal, while the two Republican commissioners voted against it. Commissioner Daniel M. Gallagher was outspoken in his opposition to the proposal, noting that it will "impose unnecessary costs on issuers, reducing their international competitiveness while providing no benefits to investors" and urging "investors, public companies and others directly affected by the proposal to submit detailed, data-heavy comments" to help guide the SEC's ongoing rulemaking process.

DOL Advisory Opinion: Mutual Fund Summary Prospectus Meets PTE 77-4 Requirement

The U.S. Department of Labor (DOL), in a September 9 Advisory Opinion, has concluded that the delivery of a mutual fund summary prospectus is generally sufficient to meet the requirement to deliver a "prospectus" under Prohibited Transaction Exemption (PTE) 77-4.

PTE 77-4 allows a plan's investment manager to invest plan assets in a mutual fund also managed by that fiduciary, which would otherwise be a prohibited transaction under ERISA, under a number of conditions. The most important of these conditions is that the plan may not pay both the investment advisory fee of the mutual fund *and* a separate management fee at the plan level. Another condition is that a second independent fiduciary receive a current prospectus issued by the mutual fund. Advisory Opinion 2013-04A formally confirms that the summary prospectus is sufficient to satisfy the prospectus delivery requirement under PTE 77-4 if delivered to the second independent fiduciary.

The Securities and Exchange Commission currently allows mutual funds to deliver to participants a "summary" prospectus with key information rather than the full prospectus. DOL also currently permits the summary prospectus to be used to satisfy certain defined contribution plan participant fee disclosure requirements.

IRS Proposes Rules for Electronic Filing

On August 30, the Internal Revenue Service (IRS) issued a notice of proposed rulemaking (NPRM) on filing certain employee retirement benefit plan statements, returns, and reports (such as the Form 5500 Annual Return/Report) on "magnetic media" – including electronic filing.
The Form 5500 is used to fulfill annual reporting requirements under the Internal Revenue Code and ERISA. The IRS, U.S. Department of Labor and Pension Benefit Guaranty Corporation use the Form 5500 to perform oversight, including audit activity, of employee benefit plans.

The NPRM states that "Requiring that employee retirement benefit plan statements, returns, and reports be filed electronically improves the timeliness and accuracy of the information for both the public and the employee retirement benefit plan

Under Section 6011(e)(1) of the Internal Revenue Code, the U.S. Treasury Secretary is authorized to determine which returns must be filed on magnetic media or in other machine-readable form, taking into account "the ability of the taxpayer to comply at reasonable cost" with such requirements. Only entities that file at least 250 returns during the calendar year would be required to file electronically. Among the specific forms and filings cited in the NPRM are:

- The Form 5500 series, including the Form 5500–SF, "Short Form Annual Return/Report of Small Employee Benefit Plan," and Form 5500–EZ, "Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan,"

- Form 8955–SSA, "Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits;" and

- Schedule SB, “Single-Employer Defined Benefit Plan Actuarial Information” and Schedule MB, “Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information,” which are required to be filed as part of the Form 5500 or Form 5500–SF.

Electronic filing of the Form 5500 and 5500-SF through the ERISA Filing Acceptance System (EFAST2) has been required since final regulations were published in 2006, applicable to plan years beginning on or after January 1, 2009.

Comments on the NPRM will be accepted through October 29.