To amend the Internal Revenue Code of 1986 to provide for reform of public and private pension plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to provide for reform of public and private pension plans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Secure Annuities for Employee Retirement Act of 2013” or the “SAFE Retirement Act of 2013”.

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment
to, or repeal of, a section or other provision, the reference
shall be considered to be made to a section or other provi-

(c) TABLE OF CONTENTS.—The table of contents is
as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—PUBLIC PENSION REFORM

Sec. 101. Annuity accumulation retirement plans of employees of State and
local governments.
Sec. 102. Study of Federal pension systems.

TITLE II—PRIVATE PENSION REFORM

Subtitle A—Enhanced Pension Plan Coverage
Sec. 201. Starter 401(k) plans for employers with no retirement plan.
Sec. 202. Increase in credit limitation for small employer pension plan startup
costs.
Sec. 203. Employers allowed to replace simple retirement accounts with safe
harbor 401(k) plans during a year.
Sec. 204. Modification of automatic enrollment safe harbor.
Sec. 205. Plan adopted by filing due date for year may be treated as in effect
as of close of year.
Sec. 206. Rules relating to election of safe harbor 401(k) status.
Sec. 207. Modifications of rules relating to multiple employer defined contribu-
tion plans.

Subtitle B—Pension Plan and Retirement Savings Simplification
Sec. 211. Modifications of deadlines for adopting pension plan amendments.
Sec. 212. Termination of application of top-heavy plan rules.
Sec. 213. Amendments to safe harbor 401(k) plans during plan year.
Sec. 214. Modification of rules relating to hardship withdrawals from cash or
defered arrangements.
Sec. 215. Individual may roll over insurance contract into individual retirement
account.
Sec. 216. Forfeitures allocated to participant’s account may be treated as em-
ployer matching or nonelective contributions.
Sec. 217. Time for providing explanation of qualified preretirement survivor an-
nuity.
Sec. 218. Modifications of additional participation requirements for defined
benefit plans.
Sec. 219. Treatment of custodial accounts on termination of section 403(b)
plans.
Sec. 220. Secure deferral arrangements.
Sec. 221. Portability of lifetime income options.
Sec. 222. Consolidation of defined contribution plan notices.
Sec. 223. Performance benchmarks for asset allocation funds.
Subtitle C—Longevity Reforms

Sec. 231. Modification of required minimum distribution rules where portion of benefit of defined contribution plan is annuitized.
Sec. 232. Updating of mortality tables for minimum required distributions.
Sec. 233. Minimum required distributions may be rolled over into Roth IRAs.
Sec. 234. Transfer of minimum survivor annuity requirements from plan sponsors to annuity providers.
Sec. 235. Expansion of Employee Plans Compliance Resolution System.

Subtitle D—Modifications to the Employee Retirement Income Security Act of 1974

Sec. 241. Electronic communication of pension plan information.
Sec. 242. Modification of deadlines for summary plan description updates.
Sec. 243. Modification of small plan simplified reporting requirements.
Sec. 244. Fiduciary requirement regarding selection of annuity provider and annuity contract.

TITLE III—INDIVIDUAL RETIREMENT INVESTMENT ADVICE REFORM

Sec. 301. Transfer to Secretary of Treasury of authorities regarding individual retirement plans.

TITLE I—PUBLIC PENSION REFORM

SEC. 101. ANNUITY ACCUMULATION RETIREMENT PLANS OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 is amended by inserting after subpart E the following new subpart:

"Subpart F—Annuity Accumulation Retirement Plans for State and Local Government Employees.

"Sec. 420A. Annuity accumulation retirement plans.

"SEC. 420A. ANNUITY ACCUMULATION RETIREMENT PLANS.

"(a) ANNUITY ACCUMULATION RETIREMENT PLANS.—For purposes of this subpart—
“(1) IN GENERAL.—The term ‘annuity accumulation retirement plan’ means a State or local governmental retirement plan—

“(A) which provides for the purchase, not less frequently than annually, of a qualified individual deferred fixed income annuity contract for each participant which provides benefits based solely on the contributions by an employer to an annuity provider and the actuarial assumptions specified in the annuity contract, and

“(B) which provides that—

“(i) no contributions may be made under the plan other than contributions described in subsection (c),

“(ii) contributions pursuant to the plan on behalf of any eligible employee for any plan year, whether made annually or more frequently, are required to be paid not later than 90 days after the close of the plan year to an annuity provider to purchase a qualified individual deferred fixed income annuity contract for the employee, and
“(iii) no benefits are provided by the employer under the plan other than the purchase of qualified individual deferred fixed income annuity contracts for eligible employees.

Subject to the provisions of subsection (d)(3), nothing in subparagraph (B)(iii) shall prohibit an employer from establishing or maintaining a defined contribution plan or defined benefit plan or providing any form of employee welfare benefit separately from the plan.

“(2) PLAN STRUCTURE.—A plan will not be treated as an annuity accumulation retirement plan unless—

“(A) benefits under the plan are limited to a monthly payment for the life of the participant, commencing at the applicable age under subsection (b)(1)(B), as provided under the qualified individual deferred fixed income annuity contract purchased with the employer contributions described in subsection (c) and issued to the participant, and

“(B) the plan does not accumulate assets in trust or otherwise, and the employer has no ownership interest in any qualified individual
deferred fixed income annuity contract issued to a participant.

“(3) REQUIREMENTS FOR ANNUITY CONTRACT PURCHASING PROCESS.—

“(A) IN GENERAL.—A plan will not be treated as an annuity accumulation retirement plan unless the plan provides that individual deferred fixed income annuity contracts will be purchased through a process by which, with respect to each purchase under paragraph (1)(A), the plan administrator—

“(i) obtains competitive bids pursuant to a formal, public procurement process authorized under State law which requires institutional pricing on a group contract basis from multiple annuity providers verified by the applicable State insurance regulator as properly licensed to meet the specifications in the procurement request,

“(ii) allocates its purchases of individual deferred fixed income annuity contracts among the providers selected under clause (i), with the largest allocation (not to exceed 75 percent of the aggregate purchase amount of all such contracts) pur-
chased from the annuity provider submitting the superior bid,

“(iii) ensures, to the maximum extent possible, that each employee’s entire interest under an individual deferred fixed income annuity contract would be fully guaranteed by a State guaranty association under applicable State law, regulations, and industry standards in effect as of the date of issuance of the contract, and

“(iv) ensures, to the maximum extent possible, that each employee’s entire interest under all contracts provided under the plan by any single annuity provider (and any related parties, within the meaning of such term as applied by the State guaranty association) does not exceed the maximum amount which would be covered by a State guaranty association described in clause (iii) in case of the insolvency of the provider.

“(B) Prohibition on providing benefit in exchange for selection.—An annuity provider shall not be treated as meeting the competitive bid requirements of subpara-
graph (A)(i) if such provider, or any related party to (within the meaning of such term as applied by the State guaranty association) or agent of such provider, on their own or on another’s behalf, provides anything of value to any employee of a State or local government entity, or agency or instrumentality thereof, or to a plan administrator, in connection with the bidding process or the annuity purchase process described in subparagraph (A).

“(C) COMPLIANCE SAFE HARBOR.—A plan shall be deemed to meet the requirements of subparagraph (A) if the plan administrator obtains a determination in writing from the Office of Domestic Finance, Department of the Treasury, that such plan meets such requirements. Authority to issue such a determination shall not be delegated to any entity outside of the Office of Domestic Finance.

“(4) GENERAL EXEMPTION FROM PENSION PLAN REQUIREMENTS.—Notwithstanding any other provision of this subchapter—

“(A) except as provided in this section, no requirement of this subchapter otherwise applicable to a State or local governmental retire-
ment plan shall apply to an annuity accumulation retirement plan, and

“(B) for purposes of this title other than any such requirements, an annuity accumulation retirement plan shall be treated as a defined benefit plan which meets the requirements of section 401(a).

“(b) QUALIFIED INDIVIDUAL DEFERRED FIXED INCOME ANNUITY CONTRACT.—For purposes of this subpart, the term ‘qualified individual deferred fixed income annuity contract’ means, with respect to an employee for any plan year, an individual annuity contract issued by an annuity provider—

“(1) under the terms of which—

“(A) the monthly annuity payments during the period described in subparagraph (B) are in equal installments and are fixed at the time of purchase, and

“(B) except as provided in subsection (e), the entire interest of the employee in the contract will be distributed in the form of monthly annuity payments under a single life annuity, beginning on the later of—

“(i) the date the employee attains age—
“(I) 57, in the case of a public safety employee, and
“(II) 67, in the case of any other employee, or
“(ii) in the case of a contract purchased after the date the employee attains such age, the 1st day of the 1st calendar year beginning after the calendar year in which such contract was purchased.

“(2) the purchase price of which is equal to the contributions described in subsection (e) with respect to the employee for the plan year in which it is purchased,

“(3) under which the employee’s rights are non-forfeitable,

“(4) under which no loan may be made with respect to any portion of any interest in the contract, and

“(5) except as provided in subsection (e), no portion of any interest in the contract may be assigned, alienated, or pledged as collateral.

“(c) CONTRIBUTION REQUIREMENTS AND LIMITATIONS.—For purposes of subsection (a)(1)(B)—

“(1) IN GENERAL.—The plan must provide that the only contributions which may be made pursuant
to the plan for any plan year are nonelective con-
tributions (within the meaning of section
401(k)(11)(B)(ii)) made by the employer for the
purchase of qualified individual deferred fixed in-
come annuity contracts which are—

“(A) made on behalf of each eligible em-
ployee for the plan year, and

“(B) equal to a percentage of the employ-
ee’s compensation which (except as provided in
this paragraph) is determined not later than
the start of the plan year.

An employer shall not be treated as failing to meet
the requirements of this paragraph merely because
the plan allows the employer to elect to reduce the
percentage under subparagraph (B), or not to make
any contributions pursuant to the plan, for any pe-
riod for all employees, and the employer so elects not
later than the start of the plan year.

“(2) LIMITS BASED ON COMPENSATION.—

“(A) IN GENERAL.—The compensation (as
determined for purposes of section 415(c))
taken into account under paragraph (1)(B)
with respect to an employee for any year shall
not exceed the limitation in effect for such year
under section 401(a)(17).
“(B) PERCENTAGE LIMITATION.—

“(i) IN GENERAL.—The percentage under paragraph (1)(B) for any period shall not exceed—

“(I) 30 percent in the case of a public safety employee, or

“(II) 20 percent in the case of any other employee, and

“(ii) ELECTION OF HIGHER PERCENTAGE FOR EMPLOYEES 50 OR OLDER.—A plan may elect for any plan year to provide a higher percentage under paragraph (1)(B) than that specified under clause (i) for all employees who have attained age 50 before the beginning of a plan year, except that such percentage may not exceed—

“(I) 35 percent in the case of a public safety employee who has attained such age, and

“(II) 25 percent in the case of any other employee who has attained such age.

“(C) AGGREGATION RULE.—All plans of an employer treated as a single plan for pur-
poses of section 415 shall be treated as a single plan for purposes of this paragraph.

“(d) Tax Treatment of Annuity Accumulation Retirement Plans.—

“(1) Taxation of Eligible Employee.—The amount actually paid to a distributee under a qualified individual deferred fixed income annuity contract shall be taxable to the distributee under section 72.

“(2) Treatment of Employer Contributions.—Contributions made by an employer for the purchase of a qualified individual deferred fixed income annuity contract under an annuity accumulation retirement plan shall be excluded from the gross income of the employee.

“(3) Inclusion in Income of Excess Contributions or Contributions for Participants in Another Defined Benefit Plan of an Employer.—

“(A) Excess Contributions.—Except as provided in subparagraph (B), if—

“(i) contributions are made for any plan year by an employer on behalf of an employee in excess of the limit determined after application of subsection (c)(2), the
employee shall include in gross income an
amount equal to such excess, or

“(ii) an employee for whom such con-
tributions are made for any plan year ac-
crues benefits (for any period of service for
which such contributions were made)
under any other defined benefit plan of the
employer which is not an annuity accumu-
luation retirement plan, the employee shall
include in gross income an amount equal
to such contributions.

“(B) EXCEPTION FOR PREMIUMS RE-
funded.—Subparagraph (A) shall not apply
with respect to contributions on behalf of an
employee for any plan year if, not later than 6
months after the last day of the plan year, the
contributions described in subparagraph (A)
used to purchase a qualified individual deferred
fixed income annuity contract for the employee
are refunded to the employer.

“(C) TAXABLE YEAR OF INCLUSION.—Any
amount under subparagraph (A) shall be in-
eludible in gross income of the employee for the
taxable year which includes the date which is 6
months after the last day of the plan year.
“(D) INVESTMENT IN THE CONTRACT.—
Any amount included in gross income shall not
be treated as investment in the contract for
purposes of section 72.

“(e) CERTAIN JUDGMENTS AND SETTLEMENTS.—
Paragraphs (1)(B) and (5) of subsection (b) shall not
apply to any offset of an employee’s benefits payable under
an annuity contract—

“(1) pursuant to—

“(A) the enforcement of a levy under sec-
tion 6331 or the collection by the United States
of a judgment resulting from an unpaid tax as-
se ssment, or

“(B) the enforcement of a fine imposed as
part of a criminal sentence under subchapter C
of chapter 227 of title 18, United States Code,
or an order of restitution made pursuant to
such title, or

“(2) to the extent required under any State tax,
criminal, or domestic relations law.

“(f) DEFINITIONS.—

“(1) STATE OR LOCAL GOVERNMENTAL RETIRE-
MENT PLAN.—For purposes of this section, the term
‘State or local governmental retirement plan’ means
a governmental plan providing for the deferral of
compensation which is established and maintained for its employees by a State, a political subdivision of a State, or an agency or instrumentality of a State or a political subdivision of a State.

“(2) GENERAL DEFINITIONS.—For purposes of this subchapter—

“(A) ELIGIBLE EMPLOYEE.—The term ‘eligible employee’ means, with respect to any State or local governmental retirement plan, any officer or employee (other than a contractor) eligible to participate in the plan.

“(B) ANNUITY PROVIDER.—The term ‘annuity provider’ means any company which is licensed to do business as a life insurance company under the laws of the State in which a qualified individual deferred fixed income annuity contract to which this subchapter applies is to be issued.

“(C) PUBLIC SAFETY EMPLOYEE.—The term ‘public safety employee’ means any employee of a State or political subdivision of a State who provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision.”.
(b) **Limitation on 403(a) Annuity Plans of State and Local Governments.**—

(1) **In General.**—Subsection (a) of section 403 is amended by adding at the end the following new paragraph:

“(6) **Exclusion of Certain State and Local Governmental Plans.**—This subsection shall not apply in the case of annuity contracts purchased under a State or local governmental retirement plan (as defined in section 420A(f)) which was established after July 8, 2013.”.

(2) **Effective Date.**—The amendment made by this subsection shall apply to plans established after July 8, 2013.

(c) **FICA Exemption.**—Paragraph (5) of section 3121(a) is amended by striking “or” at the end of subparagraph (H), by striking the semicolon at the end of subparagraph (I) and inserting “, or”, and by adding at the end the following new subparagraph:

“(J) under an annuity accumulation retirement plan for the purchase of annuity contracts under section 420A;”.

(d) **Inclusion of Amount for the Purchase of Annuity Contracts on W-2.**—Subsection (a) of section 6051 is amended by striking “and” at the end of para-
graph (13), by striking the period at the end of paragraph (14)(B) and inserting “, and”, and by inserting after paragraph (14) the following new paragraph:

“(15) the total amount contributed under an annuity accumulation retirement plan for the purchase of annuity contracts under section 420A.”.

(e) CLERICAL AMENDMENT.—The table of subparts for part I of subchapter D of chapter 1 is amended by inserting after the item relating to subpart E the following new item:

“SUBPART F—ANNUITY ACCUMULATION RETIREMENT PLANS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES.”.

(f) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this section shall apply to years beginning after December 31, 2014.

SEC. 102. STUDY OF FEDERAL PENSION SYSTEMS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of pension systems established by law for employees of the Government of the United States, including an analysis of—

(1) the benefits provided under such systems, particularly in comparison to those offered to private employees, and

(2) whether such systems are adequately funded.
(b) REPORT.—The Comptroller General of the United States shall, not later than 1 year after the date of enactment of this Act, report to Congress the results of the study conducted under subsection (a), including any recommendations for legislative or administrative changes to the pension systems considered in the study.

**TITLE II—PRIVATE PENSION REFORM**

Subtitle A—Enhanced Pension Plan Coverage

**SEC. 201. STARTER 401(K) PLANS FOR EMPLOYERS WITH NO RETIREMENT PLAN.**

(a) IN GENERAL.—Section 401(k) is amended by adding at the end the following new paragraph:

```
''(14) STARTER 401(K) DEFERRAL-ONLY PLANS FOR EMPLOYERS WITH NO RETIREMENT PLAN.—

''(A) IN GENERAL.—A starter 401(k) deferral-only arrangement maintained by an eligible employer shall be treated as meeting the requirements of paragraph (3)(A)(ii).

''(B) STARTER 401(K) DEFERRAL-ONLY ARRANGEMENT.—For purposes of this paragraph, the term ‘starter 401(k) deferral-only arrangement’ means any cash or deferred arrangement which meets—
```
“(i) the automatic deferral requirements of subparagraph (C),

“(ii) the contribution limitations of subparagraph (D), and

“(iii) the requirements of subparagraph (E) of paragraph (13).

“(C) AUTOMATIC DEFERRAL.—

“(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to a qualified percentage of compensation.

“(ii) ELECTION OUT.—The election treated as having been made under clause (i) shall cease to apply with respect to any employee if such employee makes an affirmative election—

“(I) to not have such contributions made, or

“(II) to make elective contributions at a level specified in such affirmative election.
“(iii) Qualified Percentage.—For purposes of this subparagraph, the term ‘qualified percentage’ means, with respect to any employee, any percentage determined under the arrangement if such percentage is applied uniformly and is not less than 3 or more than 15 percent.

“(D) Contribution Limitations.—

“(i) In General.—The requirements of this subparagraph are met if, under the arrangement—

“(I) the only contributions which may be made are elective contributions of employees described in subparagraph (C), and

“(II) the aggregate amount of such elective contributions which may be made with respect to any employee for any calendar year shall not exceed $8,000.

“(ii) Cost-of-Living Adjustment.—
In the case of any calendar year beginning after December 31, 2014, the $8,000 amount under clause (i) shall be adjusted in the same manner as under section
402(g)(4), except that ‘2013’ shall be substituted for ‘2005’.

“(iii) Cross Reference.—For catch-up contributions for individuals age 50 or over, see section 414(v)(2)(B)(ii).

“(E) Eligible Employer.—For purposes of this paragraph—

“(i) In General.—The term ‘eligible employer’ means any employer which, during the first plan year of the cash or deferred arrangement described in subparagraph (B), does not maintain any other qualified plan. An employer treated as an eligible employer under the preceding sentence shall be treated as an eligible employer with respect to the arrangement for any subsequent plan year without regard to whether it maintains another qualified plan.

“(ii) Qualified Plan.—The term ‘qualified plan’ means a plan, contract, pension, account, or trust described in subparagraph (A) or (B) of paragraph (5) of section 219(g) (determined without regard
(b) **Catch-up Contributions for Individuals Age 50 and Over.**—

(1) Section 414(v)(2)(B) is amended by inserting “, 401(k)(14),” after “401(k)(11)” each place it appears.

(2) Section 414(v)(3)(B) is amended by inserting “401(k)(14),” after “401(k)(11),”.

(c) **Simplified Reporting.**—Section 104(a)(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(a)(2)) is amended by inserting “or for any pension plan which is a starter 401(k) deferral-only arrangement described in section 401(k)(14)(B) of the Internal Revenue Code of 1986” before the period at the end.

(d) **Starter Plans Not Treated as Top-Heavy Plans.**—Clause (i) of section 416(g)(4)(H) is amended by striking “or 401(k)(13)” and inserting “401(k)(13), or 401(k)(14)”.

(e) **Effective Date.**—The amendments made by this section shall apply to plan years beginning after December 31, 2013.
SEC. 202. INCREASE IN CREDIT LIMITATION FOR SMALL EMPLOYER PENSION PLAN STARTUP COSTS.

(a) In General.—Paragraph (1) of section 45E(b) is amended to read as follows:

“(1) for the first credit year and each of the 2 taxable years immediately following the first credit year, the greater of—

“(A) $500, or

“(B) the lesser of—

“(i) $250 for each employee of the eligible employer who is not a highly compensated employee (as defined in section 415(q)) and who is eligible to participate in the eligible employer plan maintained by the eligible employer, or

“(ii) $5,000, and”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2013.

SEC. 203. EMPLOYERS ALLOWED TO REPLACE SIMPLE RETIREMENT ACCOUNTS WITH SAFE HARBOR 401(K) PLANS DURING A YEAR.

(a) In General.—Section 408(p) is amended by adding at the end the following new paragraph:
“(11) Replacement of simple retirement accounts with safe harbor plans during plan year.—

“(A) In general.—Subject to the requirements of this paragraph, an employer may elect (in such form and manner as the Secretary may prescribe) at any time during a year to terminate the qualified salary reduction arrangement under paragraph (2), but only if the employer establishes and maintains (as of the day after the termination date) a safe harbor plan to replace the terminated arrangement.

“(B) Combined limits on contributions.—The terminated arrangement and safe harbor plan shall both be treated as violating the requirements of paragraph (2)(A)(ii) or section 401(a)(30) (whichever is applicable) if the aggregate elective contributions of the employee under the terminated arrangement during its last plan year and under the safe harbor plan during its transition year exceed the sum of—

“(i) the applicable dollar amount for such arrangement (determined on a full-year basis) with respect to the employee for such last plan year multiplied by a
fraction equal to the number of days in such plan year divided by 365, and

“(ii) the applicable dollar amount (as so determined) for such safe harbor plan on such elective contributions during the transition year multiplied by a fraction equal to the number of days in such transition year divided by 365.

“(C) Applicable Dollar Amount.—The applicable dollar amount is the amount determined under paragraph (2)(A)(ii) (after the application of section 414(v)) or section 402(g)(1), whichever is applicable.

“(D) Transition Year.—For purposes of this paragraph, the transition year is the period beginning after the termination date and ending on the last day of the calendar year during which the termination occurs.

“(E) Safe Harbor Plan.—For purposes of this paragraph, the term ‘safe harbor plan’ means a qualified cash or deferred arrangement which meets the requirements of paragraph (11), (12), or (13) of section 401(k).”.
(b) **Effective Date.**—The amendments made by this section shall apply to plan years beginning after December 31, 2013.

**SEC. 204. MODIFICATION OF AUTOMATIC ENROLLMENT SAFE HARBOR.**

(a) **Removal of 10 Percent Cap After 1st Plan Year.**—

(1) **In General.**—Clause (iii) of section 401(k)(13)(C) is amended by striking “, does not exceed 10 percent, and is at least’’ and inserting “and is’’.

(2) **Conforming Amendments.**—

(A) Subclause (I) of section 401(k)(13)(C)(iii) is amended by striking “3 percent” and inserting “at least 3 percent, but not greater than 10 percent, ’’.

(B) Subclause (II) of section 401(k)(13)(C)(iii) is amended by striking “4 percent” and inserting “at least 4 percent”.

(C) Subclause (III) of section 401(k)(13)(C)(iii) is amended by striking “5 percent” and inserting “at least 5 percent”.

(D) Subclause (IV) of section 401(k)(13)(C)(iii) is amended by striking “6 percent” and inserting “at least 6 percent”.
(b) **Effective Date.**—The amendments made by this section shall apply to plan years beginning after the date of enactment of this Act.

**SEC. 205. PLAN ADOPTED BY FILING DUE DATE FOR YEAR MAY BE TREATED AS IN EFFECT AS OF CLOSE OF YEAR.**

(a) **In General.**—Section 401(b), as amended by section 211 of this Act, is amended by adding at the end the following:

"(4) **Adoption of Plan.**—If an employer adopts a stock bonus, pension, profit-sharing, or annuity plan after the close of a taxable year but before the time prescribed by law for filing the return of the employer for the taxable year (including extensions thereof), the employer may elect to treat the plan as having been adopted as of the last day of the taxable year."

(b) **Effective Date.**—The amendments made by this section shall apply to plans adopted for taxable years beginning after December 31, 2013.

**SEC. 206. RULES RELATING TO ELECTION OF SAFE HARBOR 401(K) STATUS.**

(a) **Limitation of Annual Safe Harbor Notice to Matching Contribution Plans.**—
(1) IN GENERAL.—Subparagraph (A) of section 401(k)(12) is amended by striking “if such arrangement” and all that follows and inserting “if such arrangement—

“(i) meets the contribution requirements of subparagraph (B) and the notice requirements of subparagraph (D), or

“(ii) meets the contribution requirements of subparagraph (C).”.

(2) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—Subparagraph (B) of section 401(k)(13) is amended by striking “means” and all that follows and inserting “means a cash or deferred arrangement—

“(A) which is described in subparagraph (D)(i)(I) and meets the applicable requirements of subparagraphs (C) through (E), or

“(B) which is described in subparagraph (D)(i)(II) and meets the applicable requirements of subparagraphs (C) and (D).”.

(b) NONELECTIVE CONTRIBUTIONS.—Section 401(k)(12) is amended by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:
“(F) Timing of plan amendment for employer making nonelective contributions.—

“(i) In general.—Except as provided in clause (ii), a plan may be amended after the beginning of a plan year to provide that the requirements of subparagraph (C) shall apply to the arrangement for the plan year, but only if the amendment is adopted—

“(I) at any time before the 30th day before the close of the plan year, or

“(II) if the requirements of clause (iii) are met, at any time before the last day under paragraph (8)(A) for distributing excess contributions for the plan year.

“(ii) Exception where plan provided for matching contributions.—Clause (i) shall not apply to any plan year if the plan provided at any time during the plan year that the requirements of subparagraph (B) applied to the plan year.
“(iii) 4-PERCENT CONTRIBUTION REQUIREMENT.—Clause (i)(II) shall not apply to an arrangement unless the amount of the contributions described in subparagraph (C) which the employer is required to make under the arrangement for the plan year with respect to any employee is an amount equal to at least 4 percent of the employee’s compensation.”.

(c) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

Section 401(k)(13) is amended by adding at the end the following:

“(F) TIMING OF PLAN AMENDMENT FOR EMPLOYER MAKING NONELECTIVE CONTRIBUTIONS.—

“(i) IN GENERAL.—Except as provided in clause (ii), a plan may be amended after the beginning of a plan year to provide that the requirements of subparagraph (D)(i)(II) shall apply to the arrangement for the plan year, but only if the amendment is adopted—

“(I) at any time before the 30th day before the close of the plan year,

or
“(II) if the requirements of clause (iii) are met, at any time before the last day under paragraph (8)(A) for distributing excess contributions for the plan year.

“(ii) Exception where plan provided for matching contributions.—Clause (i) shall not apply to any plan year if the plan provided at any time during the plan year that the requirements of subparagraph (D)(i)(I) applied to the plan year.

“(iii) 4-percent contribution requirement.—Clause (i)(II) shall not apply to an arrangement unless the amount of the contributions described in subparagraph (D)(i)(II) which the employer is required to make under the arrangement for the plan year with respect to any employee is an amount equal to at least 4 percent of the employee’s compensation.”.

(d) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2013.
SEC. 207. MODIFICATIONS OF RULES RELATING TO MULTIPLE EMPLOYER DEFINED CONTRIBUTION PLANS.

(a) Qualification Requirements.—Section 413 is amended by adding at the end the following:

“(d) Application of Qualification Requirements for Certain Multiple Employer Plans With Designated Plan Providers.—

“(1) In general.—If a plan to which subsection (c) applies is sponsored by employers that have a common interest other than having adopted the plan, or has a designated plan provider, then, except as provided in paragraph (3), the failure of the portion of the plan covering the employees of an employer maintaining the plan to satisfy any applicable qualification requirement under section 401(a) will not affect the qualification of any portion of the plan covering employees of any employer who has satisfied all such requirements.

“(2) Designated plan provider.—For purposes of this subsection—

“(A) In general.—The term ‘designated plan provider’ means the person designated under the terms of the plan as the person responsible to perform all administrative duties which are reasonably necessary to ensure that...
the plan, and each participating employer, meets the requirements described in paragraph (1), including conducting proper testing of such plan and employers.

“(B) Registration, etc. requirements.—A person shall not be treated as a designated plan provider with respect to any plan unless—

“(i) the person registers with the Secretary and provides such identifying information as the Secretary may require, and

“(ii) the person consents to audits by the Secretary at such times as the Secretary determines appropriate to ensure the person is performing the duties described in subparagraph (A).

“(3) Failure by provider to perform duties.—If the designated plan provider of a plan does not perform the duties described in paragraph (2)(A) with respect to any plan year so as to reasonably ensure the plan meets the requirements described in paragraph (1)—

“(A) paragraph (1) shall not apply to the plan for the plan year, and
“(B) the determination as to whether the plan, or any participating employer, meets such requirements shall be made in the same manner as made with respect to a plan without a designated plan provider.

“(4) GUIDANCE.—The Secretary shall issue such guidance as the Secretary determines appropriate to carry out this subsection, including guidance to—

“(A) identify the administrative duties required to be performed under paragraph (2)(A), and

“(B) require, if appropriate, that the portion of the plan attributable to participating employers not meeting the requirements described in paragraph (1) be spun off to plans maintained by such employers.”.

(b) MODIFICATION OF ERISA REQUIREMENTS.—

(1) REQUIREMENT OF COMMON INTEREST.—Section 3(2) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

“(C)(i) A qualified multiple employer plan shall not fail to be treated as an employee pension benefit
plan or pension plan solely because the employers sponsoring the plan share no common interest.

“(ii) For purposes of this subparagraph, the term ‘qualified multiple employer plan’ means a plan described in section 413(c) of the Internal Revenue Code of 1986 which—

“(I) is an individual account plan with respect to which the requirements of clauses (iii) and (iv) are met, and

“(II) includes in its annual report required to be filed under section 104(a) the name and identifying information of each participating employer and each person designated as a designated plan provider under section 413 of the Internal Revenue Code of 1986.

“(iii) The requirements of this clause are met if, under the plan, each participating employer retains fiduciary responsibility for—

“(I) the selection and monitoring of the person designated as the designated plan provider and the named fiduciary if different from such provider, and

“(II) the investment and management of the portion of the plan’s assets attributable to
employees of the employer to the extent not otherwise delegated to another fiduciary.

“(iv) The requirements of this clause are met if, under the plan, a participating employer is not subject to unreasonable restrictions, fees, or penalties by reason of ceasing participation in, or otherwise transferring assets from, the plan.”.

(2) SIMPLIFIED REPORTING FOR SMALL MULTIPLE EMPLOYER PLANS.—Section 104(a) of such Act (29 U.S.C. 1024(a)) is amended by adding at the end the following:

“(7)(A) In the case of any eligible small multiple employer plan, the Secretary may by regulation—

“(i) prescribe simplified summary plan descriptions, annual reports, and pension benefit statements for purposes of section 102, 103, or 105, respectively, and

“(ii) waive the requirement under section 103(a)(3) to engage an independent qualified public accountant in cases where the Secretary determines it appropriate.

“(iii) For purposes of this paragraph, the term ‘eligible small multiple employer plan’ means, with respect to any plan year, a qualified multiple emp-
ployer plan (as defined in section 3(2)(C)) which, for
the preceding plan year—

“(I) did not have more than 2,500 participants, and

“(II) did not have any employer sponsoring
the plan which had more than 500 employees as
participants.”.

(c) Effective Date.—The amendments made by
this section shall apply to years beginning after December
31, 2013.

Subtitle B—Pension Plan and
Retirement Savings Simplification

SEC. 211. MODIFICATIONS OF DEADLINES FOR ADOPTING
PENSION PLAN AMENDMENTS.

(a) Required Amendments.—Section 401(b) is
amended—

(1) by striking all that precedes “stock bonus,
pension, profit-sharing” and inserting:

“(b) Retroactive Amendments to, and Adoption
of, a Plan.—

“(1) Retroactive Changes to Amendments
Causing Plan to Fail.—A”, and

(2) by adding at the end the following:
“(2) Coordination of timing of pension plan amendment adoption, and remedial plan review, requirements.—

“(A) In general.—Except as provided in subparagraph (B), in the case of any required amendment to a stock bonus, pension, profit-sharing, or annuity plan—

“(i) the plan shall be treated as being operated in accordance with the terms of the plan during the remedial period, and

“(ii) except as provided by the Secretary, such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

“(B) Conditions.—Subparagraph (A) shall not apply to any required amendment to a plan unless—

“(i) the required amendment is adopted before the end of the remedial period,

“(ii) the plan is operated as if the required amendment were in effect during the remedial period, and
“(iii) the required amendment applies retroactively for the remedial period.

“(C) REQUIRED AMENDMENT.—For purposes of this paragraph, the term ‘required amendment’ means any amendment to a plan which is required by (or integral to meeting the requirements of) any Federal law or any regulation issued by the Secretary or the Secretary of Labor.

“(D) REMEDIAL PERIOD.—For purposes of this paragraph—

“(i) REMEDIAL PERIOD.—The term ‘remedial period’ means, with respect to any required amendment to a plan, the period—

“(I) beginning on the date the amendment is required under the law or regulation described in subparagraph (C) to take effect, and

“(II) ending on the last day in the remedial plan review period with respect to the plan in which the date determined under subclause (I) occurs (or, if earlier, the date the plan amendment is adopted).
“(ii) Remedial plan review period.—The term ‘remedial plan review period’ means, with respect to any plan, the period established by the Secretary under the authority of section 401(b) as the regular cycle of review by the Secretary for determining whether the plan continues to meet the requirements of this title for treatment as a qualified plan under section 401(a).”.

(b) Retroactive Application of Discretionary Amendments.—Section 401(b), as amended by subsection (a), is amended by adding at the end the following:

“(3) Discretionary Amendments.—In the case of an amendment to which paragraphs (1) and (2) do not otherwise apply, the provisions of paragraph (1) shall apply to such amendment if it is to take effect during a plan year and is adopted by the last day prescribed by law (including extensions) for filing the return of tax for the taxable year of the employer within which such plan year ends.”.

(c) Effective Date.—The amendments made by this section shall apply with respect to amendments taking effect with respect to plan years beginning after December 31, 2013.
SEC. 212. TERMINATION OF APPLICATION OF TOP-HEAVY PLAN RULES.

(a) IN GENERAL.—Section 416 is amended by adding at the end the following:

“(j) Termination.—

“(1) IN GENERAL.—This section shall not apply to any plan year beginning after December 31, 2013.

“(2) Vesting rules applicable to previously accrued benefits.—If a plan was a top-heavy plan for any plan year beginning before January 1, 2014, then, notwithstanding paragraph (1), the vesting rules applicable to the plan under subsection (b) for the plan year shall continue to apply to any accrued benefit derived during the plan year.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2013.

SEC. 213. AMENDMENTS TO SAFE HARBOR 401(K) PLANS DURING PLAN YEAR.

(a) IN GENERAL.—Section 401(k)(12), as amended by section 206 of this Act, is amended by redesignating subparagraph (G) as subparagraph (H) and by inserting after subparagraph (F) the following:
“(G) Amendments to safe harbor plans during plan year.—

“(i) In general.—Except as provided in clause (ii), an amendment to an arrangement to which this paragraph or paragraph (13) applies may take effect during a plan year if it is adopted before the close of the plan year.

“(ii) No reduction in matching contributions.—Clause (i) shall not apply to any amendment which reduces the amount of the matching contributions an employer is required to make under the arrangement as in effect before the amendment.”.

(b) Effective date.—The amendment made by this section shall apply to plan years beginning after December 31, 2013.

SEC. 214. MODIFICATION OF RULES RELATING TO HARDSHIP WITHDRAWALS FROM CASH OR DEFERRED ARRANGEMENTS.

(a) In general.—Section 401(k), as amended by section 201 of this Act, is amended by adding at the end the following:
“(15) Special rules relating to hardship withdrawals.—For purposes of paragraph (2)(B)(i)(IV)—

“(A) Amounts which may be withdrawn.—The following amounts may be distributed upon hardship of the employee:

“(i) Contributions to a profit-sharing or stock bonus plan to which section 402(e)(3) applies.

“(ii) Qualified nonelective contributions (as defined in subsection (m)(4)(C)).

“(iii) Qualified matching contributions described in paragraph (3)(D)(ii)(I).

“(iv) Earnings on any contributions described in clause (i), (ii), or (iii).

“(B) No requirement to take available loan.—A distribution shall not be treated as failing to be made upon the hardship of an employee solely because the employee does not take any available loan under the plan.

“(C) Participation in arrangement not conditioned on whether hardship distribution made.—In determining whether a distribution is made upon the hardship of an employee, the Secretary shall not take into ac-
count whether or not an employee makes elective or employee contributions under the arrangement for any period after the distribution.”.

(b) CONFORMING AMENDMENT.—Subclause (IV) of section 401(k)(2)(B)(i) is amended to read as follows:

“(IV) subject to the provisions of paragraph (15), upon hardship of the employee, or”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after December 31, 2013.

SEC. 215. INDIVIDUAL MAY ROLL OVER INSURANCE CONTRACT INTO INDIVIDUAL RETIREMENT ACCOUNT.

(a) IN GENERAL.—Section 408(a) is amended by adding at the end the following new flush sentence:

“A trust shall not be treated as failing to meet the requirements of paragraph (3) merely because it holds a life insurance contract which was transferred to the trust in a rollover contribution described in paragraph (1).”.

(b) CONFORMING AMENDMENTS.—Section 72(m)(3) is amended—

(1) in subparagraph (A), by striking “or” at the end of clause (i), by striking the period at the
end of clause (ii) and inserting “, or”, and by adding at the end the following:

“(iii) held by a trust described in section 408(a) after being contributed to the trust in a rollover contribution described in section 408(a)(1).”, and

(2) in subparagraph (B), by striking “subparagraph (A)(ii)” each place it appears and inserting “clauses (ii) or (iii) of subparagraph (A)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to rollover contributions after December 31, 2013.

SEC. 216. FORFEITURES ALLOCATED TO PARTICIPANT’S ACCOUNT MAY BE TREATED AS EMPLOYER MATCHING OR NONELECTIVE CONTRIBUTIONS.

(a) IN GENERAL.—Section 401(k)(12), as amended by sections 206 and 213 of this Act, is amended by redesignating subparagraph (H) as subparagraph (I), and by inserting after subparagraph (G) the following:

“(H) TREATMENT OF FORFEITURES ALLOCATED TO EMPLOYEE’S ACCOUNT.—For purposes of this paragraph and paragraph (13), an employer may treat a forfeiture allocated to an employee’s account for any plan year as a
matching or nonelective contribution made by
the employer which is taken into account in de-
termining whether the contribution require-
ments of this paragraph or paragraph (13),
whichever is applicable, are met.”.

(b) EFFECTIVE DATE.—The amendment made by
this section shall apply to plan years beginning after De-
cember 31, 2013.

SEC. 217. TIME FOR PROVIDING EXPLANATION OF QUALI-
IFIED PRERETIREMENT SURVIVOR ANNUITY.

(a) AMENDMENT TO INTERNAL REVENUE CODE OF
1986.—Subparagraph (B) of section 417(a)(3) is amend-
ed to read as follows:

“(B) EXPLANATION OF QUALIFIED PRE-
RETIREMENT SURVIVOR ANNUITY.—Each plan
shall provide to each participant, within a rea-
sonable time after the individual becomes a par-
ticipant (and consistent with such regulations
as the Secretary may prescribe), a written ex-
planation with respect to the qualified preretire-
ment survivor annuity comparable to the expla-
nation required under subparagraph (A). A
plan shall be treated as meeting the require-
ments of this subparagraph if the explanation is
included with each summary plan description
required to be provided to the participant under section 102 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022).”.

(b) Amendment to Employee Retirement Income Security Act of 1974.—Subparagraph (B) of section 205(c)(3) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

“(B) Each plan shall provide to each participant, within a reasonable time after the individual becomes a participant (and consistent with such regulations as the Secretary of the Treasury may prescribe), a written explanation with respect to the qualified preretirement survivor annuity comparable to the explanation required under subparagraph (A). A plan shall be treated as meeting the requirements of this subparagraph if the explanation is included with each summary plan description required to be provided to the participant under section 102.”.

(c) Effective Date.—The amendments made by this section shall apply to—

(1) individuals who become participants after December 31, 2013, and

(2) individuals who became participants before such date but to whom the written explanation
under section 417(a)(3)(B) of the Internal Revenue Code of 1986 and section 205(e)(3)(B) of the Employee Retirement Income Security Act of 1974 (as in effect before such amendments) was not required to be provided before January 1, 2014.

In the case of any individual described in paragraph (2), a plan shall be treated as meeting the requirements of such sections 417(a)(3)(B) and 205(e)(3)(B) (as in effect after such amendments) if the written explanation is provided within a reasonable period after December 31, 2013.

SEC. 218. MODIFICATIONS OF ADDITIONAL PARTICIPATION REQUIREMENTS FOR DEFINED BENEFIT PLANS.

(a) In General.—Section 401(a)(26) is amended by redesignating subparagraph (H) as subparagraph (J) and by inserting after subparagraph (G) the following:

"(H) REQUIREMENTS MAY BE SATISFIED THROUGH MINIMUM CONTRIBUTIONS TO DEFINED CONTRIBUTION PLAN.—"

"(i) In General.—This paragraph shall not apply to a defined benefit plan of an employer for any plan year if—"

"(I) the defined benefit plan is aggregated with a defined contribution plan of the employer for purposes
of subsection (a)(4) and section 410(b),

“(II) the defined benefit plan and the defined contribution plan, when so aggregated, meet the requirements of subsection (a)(4) and section 410(b), and

“(III) the contribution requirements of clause (ii) are met with respect to the defined contribution plan.

“(ii) Contribution requirements.—The requirements of this clause are met with respect to a defined contribution plan if, under the plan, the employer is required to make nonelective contributions for the applicable plan year of at least 7.5 percent of compensation for a number of employees at least equal to the number of employees which the defined benefit plan would have been required to benefit under this paragraph without regard to this subparagraph. No highly compensated employees (within the meaning of section 414(q)) may be taken into account
in determining whether the requirements of this clause are met.

“(iii) Applicable Plan Year.—For purposes of clause (ii), the term ‘applicable plan year’ means the plan year of the defined contribution plan which ends with or within the plan year of the defined benefit plan to which clause (i) applies.

“(I) Special Rules for Frozen Plans.—

“(i) Aggregation permitted to satisfy requirements.—

“(I) In general.—Except as provided in subclauses (II) and (III), if a plan is a frozen defined benefit plan for any plan year, an employer may aggregate the plan with any other defined benefit plan or defined contribution plan of the employer for purposes of determining whether the requirements of this paragraph are met with respect to the frozen defined benefit plan.

“(II) Aggregation for other purposes.—An employer may not
apply subclause (I) unless the employer also aggregates the plans for purposes of subsection (a)(4) and section 410(b).

“(III) BENEFITS OF HIGHLY COMPENSATED EMPLOYEES DISREGARDED.—In the case of any other plan aggregated with a frozen defined benefit plan under subclause (I), accrued benefits of highly compensated employees shall not be taken into account in applying subclause (I).

“(ii) REQUIREMENTS NOT TO APPLY IN CERTAIN CASES.—

“(I) IN GENERAL.—Except as provided in subclause (II), this paragraph shall apply to a frozen defined benefit plan of an employer for any plan year only if the employer maintains any other defined benefit plan during the 6-year period beginning with the first day of the plan year.

“(II) RETROACTIVE APPLICATION.—Clause (i) shall not apply unless the frozen defined benefit plan
provides that if the employer establishes or maintains any other defined benefit plan during the 6-year period under subclause (I), each employee (other than a highly compensated employee) shall retroactively accrue benefits under the frozen defined benefit plan for each year of service the employee would have had under the plan during such period (determined as if the employee were one of the employees required to benefit under the plan under this paragraph).

“(iii) Frozen defined benefit plan.—For purposes of this subparagraph, the term ‘frozen defined benefit plan’ means a defined benefit plan which has in effect an amendment that provides that the plan may not accept any new participants after the effective date of the amendment.

“(iv) Highly compensated employee.—The term ‘highly compensated employee’ has the meaning given such term by section 414(q).”
(b) **Effective Date.**—The amendment made by this section applies to plan years beginning after December 31, 2013.

**SEC. 219. TREATMENT OF CUSTODIAL ACCOUNTS ON TERMINATION OF SECTION 403(B) PLANS.**

(a) **In General.**—Section 403(b)(7) is amended by adding at the end the following:

“(D) **Treatment of Custodial Account Upon Plan Termination.**—

“(i) **In General.**—If—

“(I) an employer terminates the plan under which amounts are contributed to a custodial account under subparagraph (A), and

“(II) the person holding the assets of the account has demonstrated to the satisfaction of the Secretary under section 408(a)(2) that the person is qualified to be a trustee of an individual retirement plan,

then, as of the date of the termination, the custodial account shall be deemed to be an individual retirement plan for purposes of this title.
“(ii) Treatment as Roth IRA.—Any custodial account treated as an individual retirement plan under clause (i) shall be treated as a Roth IRA only if the custodial account was a designated Roth account.”.

(b) Effective Date.—The amendments made by this section shall apply to plan terminations occurring after December 31, 2013.

SEC. 220. SECURE DEFERRAL ARRANGEMENTS.

(a) In General.—Subsection (k) of section 401, as amended by this Act, is amended by adding at the end the following new paragraph:

“(16) Alternative method for secure deferral arrangements to meet nondiscrimination requirements.—

“(A) In General.—A secure deferral arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii).

“(B) Secure deferral arrangement.—For purposes of this paragraph, the term ‘secure deferral arrangement’ means any cash or deferred arrangement which meets the requirements of subparagraphs (C), (D), and (E) of paragraph (13), except as modified by this paragraph.
“(C) QUALIFIED PERCENTAGE.—For purposes of this paragraph, with respect to any employee, the term ‘qualified percentage’ means, in lieu of the meaning given such term in paragraph (13)(C)(iii), any percentage determined under the arrangement if such percentage is applied uniformly and is—

“(i) at least 6 percent, but not greater than 10 percent, during the period ending on the last day of the first plan year which begins after the date on which the first elective contribution described in paragraph (13)(C)(i) is made with respect to such employee,

“(ii) at least 8 percent during the first plan year following the plan year described in clause (i), and

“(iii) at least 10 percent during any subsequent plan year.

“(D) MATCHING CONTRIBUTIONS.—

“(i) IN GENERAL.—For purposes of this paragraph, an arrangement shall be treated as having met the requirements of paragraph (13)(D)(i) if and only if the employer makes matching contributions on
behalf of each employee who is not a highly
compensated employee in an amount equal
to the sum of 50 percent of the elective
contributions of the employee to the extent
that such contributions do not exceed 2
percent of compensation plus 30 percent of
so much of such contributions as exceed 2
percent but do not exceed 10 percent of
compensation.

“(ii) Application of rules for
matching contributions.—The rules of
clause (ii) of paragraph (12)(B) and
clauses (iii) and (iv) of paragraph (13)(D)
shall apply for purposes of clause (i) but
the rule of clause (iii) of paragraph
(12)(B) shall not apply for such purposes.
The rate of matching contribution for each
incremental deferral must be at least as
high as the rate specified in clause (i), and
may be higher, so long as such rate does
not increase as an employee’s rate of elec-
tive contributions increases.”.

(b) Matching Contributions and Employee
Contributions.—Subsection (m) of section 401 is
amended by redesignating paragraph (13) as paragraph
and by adding after paragraph (12) the following new paragraph:

“(13) ALTERNATIVE METHOD FOR SECURE DEFERRAL ARRANGEMENTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions and employee contributions if the plan—

“(A) is a secure deferral arrangement (as defined in subsection (k)(16)),

“(B) meets the requirements of clauses (ii) and (iii) of paragraph (11)(B), and

“(C) provides that matching contributions on behalf of any employee may not be made with respect to an employee’s contributions or elective deferrals in excess of 10 percent of the employee’s compensation.”.

(c) TAX CREDIT.—

(1) IN GENERAL.—Subpart (D) of part IV of subchapter A of Chapter 1 of subtitle A is amended by adding at the end thereof the following new section:

“SEC. 45S. SECURE DEFERRAL ARRANGEMENTS.

“(a) IN GENERAL.—For purposes of section 38, in the case of an eligible employer maintaining a qualified employer plan (as defined in clauses (i) and (ii) of section
the secure deferral arrangement credit determined under this section for any taxable year is an amount equal to 10 percent of all matching and nonelective contributions under a secure deferral arrangement (as defined in section 401(k)(16)) made during the plan year ending with or within the taxable year of the eligible employer by or on behalf of employees other than highly compensated employees (as defined in section 414(q)).

"(b) DOLLAR LIMITATION.—The amount of the credit determined under this section for any taxable year shall not exceed—

"(1) $10,000 for the first credit year and each of the 2 taxable years immediately following the first credit year, and

"(2) zero for any other taxable year.

"(c) FIRST CREDIT YEAR.—The term ‘first credit year’ means—

"(1) the taxable year of the eligible employer with which or within which ends the first plan year during which the secure deferral arrangement was in effect for the entire year, or

"(2) at the election of the eligible employer, the taxable year preceding the taxable year referred to in paragraph (1).

"(d) DEFINITION AND SPECIAL RULES.—
“(1) Eligible Employer.—The term ‘eligible employer’ has the meaning given such term by section 408(p)(2)(C)(i).

“(2) Aggregation.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (m) or (o) of section 414, shall be treated as one person. All qualified employer plans of an eligible employer shall be treated as 1 qualified employer plan.

“(3) Disallowance of Deduction.—No deduction shall be allowed for that portion of the contribution for the taxable year which is equal to the credit determined under subsection (a).

“(4) Election Not to Claim Credit.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year. Any such taxable year shall not be taken into account under subsection (b).”.

(2) Conforming Amendments.—

(A) General Business Credit.—Subsection (b) of section 38 is amended by striking “plus” at the end of paragraph (35), by striking the period at the end of paragraph (36) and
inserting “, plus”, and by adding at the end the following:

“(37) the secure deferral arrangement credit determined under section 45S.”.

(B) CREDIT CROSS-REFERENCES.—

(i) Subsection (k) of section 401, as amended by subsection (a), is amended by adding at the end the following new paragraph:

“(17) SECURE DEFERRAL ARRANGEMENT CREDIT.—For a general business credit with respect to secure deferral arrangements, see section 45S.”.

(ii) Subsection (m) of section 401, as amended by subsection (b), is amended by redesignating paragraph (14) as paragraph (15) and by inserting after paragraph (13) the following new paragraph:

“(14) SECURE DEFERRAL ARRANGEMENT CREDIT.—For a general business credit with respect to secure deferral arrangements, see section 45S.”.

(d) FACILITATING QUALIFIED AUTOMATIC CONTRIBUTION ARRANGEMENTS AND SECURE DEFERRAL ARRANGEMENTS.—By no later than the date that is twelve months after the date of enactment of this Act, the Secretary of the Treasury shall prescribe rules that facilitate
the administration of qualified automatic contribution ar-
rangements (as defined in section 401(k)(13) of the Intern-
nal Revenue Code of 1986) and secure deferral arrange-
ments (as defined in section 401(k)(16) of such Code).

Such rules shall—

(1) clarify, simplify, and provide safe harbors
with respect to the application of the notice require-
ments described in section 401(k)(13)(E) of such
Code, especially in cases where—

(A) employees become eligible under such
arrangements upon becoming employed or
shortly thereafter, or

(B) the employer has employees subject to
different payroll and administrative systems.

(2) clarify, simplify, and provide safe harbors
with respect to the timing of the increases in the
qualified percentage described in subclauses (II),
(III), and (IV) of section 401(k)(13)(C)(iii) of such
Code and in clauses (ii) and (iii) of section
401(k)(16)(C) of such Code, especially in cases
where the employer has employees subject to dif-
ferent payroll and administrative systems.

(e) EFFECTIVE DATES.—
63

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to plan years beginning after December 31, 2013.

(2) TAX CREDIT.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 2013.

SEC. 221. PORTABILITY OF LIFETIME INCOME OPTIONS.

(a) IN GENERAL.—Subsection (a) of section 401 is amended by inserting after paragraph (37) the following new paragraph:

“(38) PORTABILITY OF LIFETIME INCOME.—

“(A) IN GENERAL.—A trust forming part of a defined contribution plan shall not be treated as failing to constitute a qualified trust under this section solely by reason of allowing—

“(i) qualified distributions of a lifetime income investment, or

“(ii) distributions of a lifetime income investment in the form of a qualified plan distribution annuity contract,

on or after the date that is 90 days prior to the date on which such lifetime income investment is no longer authorized to be held as an investment option under the plan except as may otherwise be provided by regulations.
“(B) DEFINITIONS.—For purposes of this subsection—

“(i) the term ‘qualified distribution’ means a direct trustee-to-trustee transfer to an eligible retirement plan (as defined in section 402(c)(8)(B)), as described in section 401(a)(31)(A),

“(ii) the term ‘lifetime income investment’ means an investment option that is designed to provide an employee with election rights—

“(I) that are not uniformly available with respect to other investment options under the plan, and

“(II) that are to a lifetime income feature available through a contract or other arrangement offered under the plan or under another eligible retirement plan (as defined in section 402(c)(8)(B)) through a direct trustee-to-trustee transfer to such other eligible retirement plan under section 401(a)(31)(A),

“(iii) the term ‘lifetime income feature’ means—
“(I) a feature that guarantees a minimum level of income annually (or more frequently) for at least the remainder of the life of the employee or the joint lives of the employee and the employee’s designated beneficiary, or

“(II) an annuity payable on behalf of the employee under which payments are made in substantially equal periodic payments (not less frequently than annually) over the life of the employee or the joint lives of the employee and the employee’s designated beneficiary, taking into account the rules of clause (iii) of section 401(a)(9)(I), and

“(iv) the term ‘qualified plan distribution annuity contract’ means an annuity contract purchased for a participant and distributed to the participant by a plan described in subparagraph (B) of section 402(c)(8) (without regard to clauses (i) and (ii) thereof).”.

(b) CASH OR DEFERRED ARRANGEMENT.—Clause (i) of section 401(k)(2)(B) is amended by striking “or” at
the end of subclause (IV), by striking “and” at the end of subclause (V) and inserting “or”, and by adding at the end of clause (i) the following:

“(VI) with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii)), the date that is 90 days prior to the date that such lifetime income investment may no longer be held as an investment option under the plan, provided that any distribution under this subclause must be in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)), and”.

(c) Section 403(b) Plans.—

(1) Annuity Contracts.—Paragraph (11) of section 403(b) is amended by striking “or” at the end of subparagraph (B), by striking the period at the end of subparagraph (C), and by inserting “, or”, and by adding at the end the following:

“(D) with respect to amounts invested in a lifetime income investment (as defined in sec-
tion 401(a)(38)(B)(ii)), the date that is 90 days prior to the date that such lifetime income investment may no longer be held as an investment option under the plan, provided that any distribution under this subparagraph must be in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)).”.

(2) CUSTODIAL ACCOUNTS.—Clause (ii) of section 403(b)(7)(A) is amended to read as follows:

“(ii) under the custodial account, no such amounts may be paid or made available to any distributee (unless such amount is a distribution to which section 72(t)(2)(G) applies) before—

“(I) the employee dies,

“(II) the employee attains age 59½,

“(III) the employee has a severance from employment,

“(IV) the employee becomes disabled (within the meaning of section 72(m)(7)),

...
“(V) in the case of contributions made pursuant to a salary reduction agreement (within the meaning of section 3121(a)(5)(D)), the employee encounters financial hardship, or

“(VI) with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii)), the date that is 90 days prior to the date that such lifetime income investment may no longer be held as an investment option under the plan, provided that any distribution under this subparagraph must be in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)).”.

(d) ELIGIBLE DEFERRED COMPENSATION PLANS.—

Subparagraph (A) of section 457(d)(1) is amended by striking “or” at the end of clause (ii), by inserting “or” at the end of clause (iii), and by adding after clause (iii) the following:
“(iv) in the case of a plan maintained by an employer described in subsection (e)(1)(A), with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii)), the date that is 90 days prior to the date that such lifetime income investment may no longer be held as an investment option under the plan, provided that any distribution under this subparagraph must be in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)).”

(c) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2013.

SEC. 222. CONSOLIDATION OF DEFINED CONTRIBUTION PLAN NOTICES.

(a) In General.—

(1) Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor and the Secretary of the Treasury shall adopt final regulations providing that a plan may, but is not required to, consolidate two or more of the notices re-
quired under sections 404(c)(5)(B) and 514(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(e)(3)), sections 401(k)(12)(D), 401(k)(13)(E), and 414(w)(4) of the Internal Revenue Code of 1986, and section 2550.404a–5 of title 29, Code of Federal Regulations (29 C.F.R. 2550.404a–5) into a single notice or, to the extent provided by such regulations, consolidate such notices with the summary plan description or summary of material modifications described in section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)), so long as the combined notice, summary plan description or summary of material modifications includes the required content, clearly identifies the issues addressed therein, and is provided at the time and with the frequency required for each such notice.

(2) The Secretary of Labor and the Secretary of the Treasury may include in such regulations rules to ensure that, to the extent such notices are consolidated with the summary plan description or summary of material modifications, the presentation, placement, or prominence of the information in such notices shall not have the effect of failing to inform
participants and beneficiaries regarding the information in such notices.

(b) Provision of Annual Notices Without Regard to Plan Year.—

(1) Clause (i) of section 404(c)(5)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)(5)(B)) is amended—

(A) in subclause (I) by striking “within a reasonable period of time before each plan year,” and inserting “within a reasonable period before the arrangement described in subparagraph (A) applies to such participant or beneficiary, and thereafter at least once within any 12-month period (without regard to the plan year) during which such arrangement applies,”, and

(B) in subclause (II) by striking “and before the beginning of the plan year”.

(2) Subparagraph (A) of section 514(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(e)(3)(A)) is amended by striking “, within a reasonable period before such plan year, provide to each participant to whom the arrangement applies for such plan year” and inserting “, within a reasonable period before the arrange-
ment applies to a participant or beneficiary, and thereafter at least once within any 12-month period (without regard to the plan year) during which such arrangement applies, provide”.

(3) Clause (i) of section 401(k)(13)(E) of the Internal Revenue Code of 1986 is amended by striking “, within a reasonable period before each plan year, each employee eligible to participate in the arrangement for such year receives” and inserting “each employee eligible to participate in the arrangement receives, within a reasonable period before the employee becomes eligible, and thereafter within a reasonable period before each plan year during which such arrangement applies,.”

(4) Subparagraph (D) of section 401(k)(12) of the Internal Revenue Code of 1986 is amended by striking “, within a reasonable period before any year, given written notice” and inserting “given written notice, within a reasonable period before the employee becomes eligible, and thereafter within a reasonable period before each plan year during which such arrangement applies,”.

(5) Subparagraph (A) of section 414(w)(4) of the Internal Revenue Code of 1986 is amended by striking “, within a reasonable period before each
plan year, give to each employee to whom an ar-
arrangement described in paragraph (3) applies for
such plan year” and inserting “, within a reasonable
period before an arrangement described in para-
graph (3) applies to an employee, and thereafter at
least once within any 12-month period (without re-
gard to the plan year) during which such arrange-
ment applies, give to each such employee”.

SEC. 223. PERFORMANCE BENCHMARKS FOR ASSET ALLO-
CATION FUNDS.

Not later than six months after the date of enactment
of this Act, the Secretary of Labor shall modify the regula-
tions under section 404 of the Employee Retirement In-
come Security Act of 1974 to provide that, in the case
of a designated investment alternative that contains a mix
of asset classes, a plan administrator may, but is not re-
quired to, use a benchmark that is a blend of different
broad-based securities market indices if—

(1) the blend is reasonably representative of the
asset class holdings of the designated investment al-
ternative;

(2) for purposes of determining the blend’s re-
turns for 1-, 5-, and 10-calendar year periods (or for
the life of the alternative, if shorter), the blend is
modified at least once per year to reflect changes in
the asset class holdings of the designated investment
alternative; and
(3) each securities market index that is used for
an associated asset class would separately satisfy the
requirements of such regulations for such asset
class.

Subtitle C—Longevity Reforms

SEC. 231. MODIFICATION OF REQUIRED MINIMUM DIS-
TRIBUTION RULES WHERE PORTION OF BEN-
EFIT OF DEFINED CONTRIBUTION PLAN IS
ANNUITIZED.

(a) IN GENERAL.—Section 401(a)(9) is amended by
redesignating subparagraph (F) as subparagraph (G) and
by inserting after subparagraph (E) the following:
“(F) EXEMPTION FOR CERTAIN
ANNUITIZED AMOUNTS.—This paragraph shall
not apply to the portion of an employee’s entire
interest under a defined contribution plan which
is invested in a qualified deferred annuity in ac-
cordance with the requirements of subsection
(o).”.

(b) INVESTMENT IN QUALIFIED ANNUITY.—Section
401 is amended by redesignating subsection (o) as sub-
section (p) and by inserting after subsection (n) the fol-
lowing:
“(o) Rules and Definitions Relating to Investments in Qualified Deferred Annuities.—

“(1) In General.—Subparagraph (F) of subsection (a)(9) shall apply to the portion of an employee’s entire interest under the plan invested in a qualified deferred annuity only if—

“(A) the annuity contract is purchased on or before the required beginning date, and

“(B) the investment in the contract does not exceed 25 percent of the employee’s entire interest under the plan as of the close of the calendar year preceding the calendar year in which the purchase occurs.

“(2) Exception Applies Only to 1 Annuity.—Subparagraph (F) of subsection (a)(9) shall apply only with respect to 1 qualified deferred annuity purchased with a portion of an employee’s interest in any plan.

“(3) Qualified Deferred Annuity.—For purposes of subsection (a)(9)(F) and this subsection, the term ‘qualified deferred annuity’ means an annuity contract—

“(A) which is a commercial annuity (as defined in section 3405(e)(6)) which provides benefits in the form of either—
“(i) a single annuity for the life of the employee under which the annuity payments are substantially equal periodic payments made not less frequently than annually, or

“(ii) a qualified joint and survivor annuity (as defined in section 417(b)) which is the actuarial equivalent of an annuity under clause (i), and

“(B) under which payments are deferred but must commence no later than the date on which the employee attains the age of 85.

“(4) EMPLOYEE DYING BEFORE DISTRIBUTIONS BEGIN.—If—

“(A) an employee dies before the distribution of the employee’s interest has begun in accordance with subsection (a)(9)(A)(ii) and before the employee has invested in a qualified deferred annuity in accordance with this subsection, and

“(B) the designated beneficiary is the surviving spouse of the employee,

the surviving spouse may invest any portion of the entire interest in a qualified deferred annuity in accordance with this subsection in the same manner as
the employee but the required beginning date shall not be earlier than, and the deferral period of the annuity shall be based on, the dates the employee would have attained the age of 70½ or 85, respectively.

“(5) SPECIAL RULE FOR IRAS AND 403(B)S.—In the case of individual retirement plans and annuity contracts to which the requirements of subsection (a)(9) apply by reason of subsections (a)(6) and (b)(3) of section 408 and section 403(b)(10), the employee may elect to treat all such plans and accounts with the same required beginning date as 1 plan for purposes of applying this subsection.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to investments in annuity contracts after December 31, 2013.

SEC. 232. UPDATING OF MORTALITY TABLES FOR MINIMUM REQUIRED DISTRIBUTIONS.

Section 401(a)(9), as amended by section 231, is amended by redesignating subparagraph (G) as subparagraph (H) and by inserting after subparagraph (F) the following:

“(G) MORTALITY TABLES.—

“(i) INITIAL UPDATE.—Not later than 1 year after the date of the enactment of
this subparagraph, the Secretary shall ei-
ther update, or provide new tables to re-
place, the mortality tables used as of such
date for purposes of this paragraph.

“(ii) Periodic Revision.—The Sec-
retary shall (at least every 5 years) make
revisions in, or provide new tables to re-
place, any table in effect under this sub-
paragraph to reflect the actual experience
of pension plans and projected trends in
such experience.

“(iii) Effective Date.—Any table
prescribed under this subparagraph shall
apply to plan years beginning after the
date which is 1 year after publication of
the final table”.

SEC. 233. MINIMUM REQUIRED DISTRIBUTIONS MAY BE
ROLLED OVER INTO ROTH IRAS.

(a) In General.—Section 408A(e) is amended by
adding at the end the following:

“(3) Rollover of minimum required dis-
tributions allowed.—Section 408(d)(3)(E) shall
not apply in determining whether a rollover con-
tribution is a qualified rollover distribution under
paragraph (1).”.

(b) Effective Date.—The amendment made by this section shall apply to distributions for taxable years beginning after December 31, 2013.

SEC. 234. TRANSFER OF MINIMUM SURVIVOR ANNUITY REQUIREMENTS FROM PLAN SPONSORS TO ANNUITY PROVIDERS.

(a) Amendment of 1986 Code.—Section 417 is amended by adding at the end the following:

“(h) Transfer of Minimum Survivor Annuity Requirements From Plan Sponsors to Annuity Providers.—

“(1) In general.—If a defined contribution plan to which the requirements of section 401(a)(11) and this section apply has a designated annuity provider, then, except as provided in paragraph (3), the designated annuity provider (and not any plan sponsor or administrator) shall be liable for any failure to meet any such requirement.

“(2) Designated annuity provider.—For purposes of this subsection, the term ‘designated annuity provider’ means a person licensed under the laws of any State to issue annuity contracts which has entered into a contract with the plan sponsor or other person who is a fiduciary with respect to the plan to—
“(A) provide annuity contracts to participants and beneficiaries under the plan, and

“(B) meet all requirements under this section and section 401(a)(11) with respect to the providing of such annuities, including providing such annuities in the proper form, providing any notice or written explanations during any applicable notice period, and providing the opportunity for participants and their spouses or beneficiaries to make appropriate elections during any applicable election period.

“(3) Requirement for Prudent Solicitation and Retention of Provider.—This subsection shall apply to a plan with a designated annuity provider only if the plan sponsor or other person who is a fiduciary with respect to the plan met all requirements for the prudent selection and periodic review of the annuity provider with respect to whom a contract described in paragraph (2) was entered into.

“(4) Authority to Charge Fees to Participants.—A plan shall not be treated as failing to meet the requirements of this subsection merely because plan assets are used to pay for reasonable ex-
expenses of the designated annuity provider in meeting
the requirements described in paragraph (2)(B).

“(5) **Electronic notification.**—The Secretary shall, to the maximum extent practicable, ensure that notices and explanations provided by the designated annuity provider are provided in electronic form.”.

(b) **Amendment of ERISA.**—Section 205 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055) is amended by adding at the end the following:

“(m) **Transfer of minimum survivor annuity requirements from plan sponsors to annuity providers.**—

“(1) **In general.**—If an individual account plan to which the requirements of this section apply has a designated annuity provider, then, except as provided in paragraph (3), the designated annuity provider (and not any plan sponsor or administrator) shall be liable for any failure to meet any such requirement.

“(2) **Designated annuity provider.**—For purposes of this subsection, the term ‘designated annuity provider’ means a person licensed under the laws of any State to issue annuity contracts which
has entered into a contract with the plan sponsor or other person who is a fiduciary with respect to the plan to—

“(A) provide annuity contracts to participants and beneficiaries under the plan, and

“(B) meet all requirements under this section and section 401(a)(11) of the Internal Revenue Code of 1986 with respect to the providing of such annuities, including providing such annuities in the proper form, providing any notice or written explanations during any applicable notice period, and providing the opportunity for participants and their spouses or beneficiaries to make appropriate elections during any applicable election period.

“(3) Requirement for prudent solicitation and retention of provider.—This subsection shall apply to a plan with a designated annuity provider only if the plan sponsor or other person who is a fiduciary with respect to the plan met all requirements for the prudent selection and periodic review of the annuity provider with respect to whom a contract described in paragraph (2) was entered into.
“(4) Authority to charge fees to participants.—A plan shall not be treated as failing to meet the requirements of this subsection merely because plan assets are used to pay for reasonable expenses of the designated annuity provider in meeting the requirements described in paragraph (2)(B).

“(5) Electronic notification.—The Secretary of the Treasury shall, to the maximum extent practicable, ensure that notices and explanations provided by the designated annuity provider are provided in electronic form.”.

(c) Effective date.—The amendments made by this section shall apply to plan years beginning after December 31, 2013.

SEC. 235. EXPANSION OF EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM.

(a) In general.—Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall modify the Employee Plans Compliance Resolution System (as described in Revenue Procedure 2013–12) to achieve the results specified in the succeeding subsections of this section and to further facilitate corrections and compliance in such other means as the Secretary deems appropriate.

(b) Loan error.—
(1) In the case of plan loan errors for which corrections are specified under the voluntary compliance program, self-correction shall be made available by methods applicable to such loans through the voluntary compliance program.

(2) The Secretary of Labor shall treat any loan error corrected pursuant to paragraph (1) as meeting the requirements of the Voluntary Fiduciary Correction Program of the Department of Labor.

(c) 457(b) PLAN CORRECTION.—The Secretary of the Treasury shall update the Employee Plans Compliance Resolution System to provide the same type of comprehensive correction program that is available under such system to retirement plans qualified under section 401(a) of the Internal Revenue Code of 1986 to plans maintained pursuant to section 457(b) of such Code by an employer described in section 457(e)(1)(A) of such Code.

(d) EPCRS FOR IRAS.—The Secretary of the Treasury shall expand the Employee Plans Compliance Resolution System to allow custodians of individual retirement plans to address inadvertent errors for which the owner of an individual retirement plan was not at fault, including (but not limited to)—
(1) waivers of the excise tax that would otherwise apply under section 4974 of the Internal Revenue Code of 1986,

(2) under the self-correction component of the Employee Plans Compliance Resolution System, waivers of the 60-day deadline for a rollover where the deadline is missed for reasons beyond the reasonable control of the account owner, and

(3) rules permitting a nonspouse beneficiary to return distributions to an inherited individual retirement plan described in section 408(d)(3)(C) of the Internal Revenue Code of 1986 in a case where, due to an inadvertent error by a service provider, the beneficiary had reason to believe that the distribution could be rolled over without inclusion in income of any part of the distributed amount.

(c) REQUIRED MINIMUM DISTRIBUTION CORRECTIONS.—The Secretary of the Treasury shall expand the Employee Plans Compliance Resolution System to allow plans to which such system applies and custodians of individual retirement plans to self-correct, without an excise tax, any inadvertent errors pursuant to which a distribution is made no more than 180 days after it was required to be made.
(f) **Automatic Feature Error Correction.**—In order to promote the adoption of automatic enrollment and automatic escalation, the Secretary of the Treasury shall modify the Employee Plans Compliance Resolution System to establish specific correction methods for errors in implementing automatic enrollment and automatic escalation features.

**Subtitle D—Modifications to the Employee Retirement Income Security Act of 1974**

**SEC. 241. ELECTRONIC COMMUNICATION OF PENSION PLAN INFORMATION.**

(a) **Amendment to Employee Retirement Income Security Act of 1974.**—Part 1 of subtitle B of title 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021 et seq.) is amended by adding at the end the following new section:

```
“SEC. 112. ELECTRONIC COMMUNICATION OF PENSION PLAN INFORMATION.

“(1) the system for furnishing such a docu-
```
“(A) is designed to result in access to the document by the participant, beneficiary, or other specified individual through electronic means, including—

“(i) the direct delivery of material to an electronic address of such participant, beneficiary, or individual,

“(ii) the posting of material to a website or other internet or electronic-based information repository to which access has been granted to such participant, beneficiary, or individual, but only if proper notice of the posting has been provided (which may include notice furnished by other electronic means if the content of the notice conveys the need to take action to access the posted material), and

“(iii) other electronic means reasonably calculated to ensure actual receipt of the material by such participant, beneficiary, or individual, and

“(B) protects the confidentiality of personal information relating to such participant’s, beneficiary’s, or individual’s accounts and benefits;
“(2) the participant or beneficiary has not elected to receive a paper version of such document;

“(3) notice is provided to each participant or beneficiary, in electronic or non-electronic form, before a document is furnished electronically, that apprises the individual of the right to elect to receive a paper version of such document; and

“(4) the electronically furnished document—

“(A) is prepared and furnished in a manner that is consistent with the style, format, and content requirements applicable to the particular document; and

“(B) includes a notice that apprises the individual of the significance of the document when it is not otherwise reasonably evident as transmitted.

For purposes of this section, the term ‘document’ includes reports, statements, notices, notifications, and other information.”.

(b) Amendment to Internal Revenue Code of 1986.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(y) Electronic Communication of Pension Plan Information.—Any document that is required or
permitted under this title to be furnished to a plan participant, beneficiary, or other individual with respect to a pension plan may be furnished in electronic form if—

“(1) the system for furnishing such a document—

“(A) is designed to result in access to the document by the participant, beneficiary, or other specified individual through electronic means, including—

“(i) the direct delivery of material to an electronic address of such participant, beneficiary, or individual,

“(ii) the posting of material to a website or other internet or electronic-based information repository to which access has been granted to such participant, beneficiary, or individual, but only if proper notice of the posting has been provided (which may include notice furnished by other electronic means if the content of the notice conveys the need to take action to access the posted material), and

“(iii) other electronic means reasonably calculated to ensure actual receipt of
the material by such participant, beneficiary, or individual, and

“(B) protects the confidentiality of personal information relating to such participant’s, beneficiary’s, or individual’s accounts and benefits;

“(2) the participant or beneficiary has not elected to receive a paper version of such document;

“(3) notice is provided to each participant or beneficiary, in electronic or non-electronic form, before a document is furnished electronically, that apprises the individual of the right to elect to receive a paper version of such document; and

“(4) the electronically furnished document—

“(A) is prepared and furnished in a manner that is consistent with the style, format, and content requirements applicable to the particular document; and

“(B) includes a notice that apprises the individual of the significance of the document when it is not otherwise reasonably evident as transmitted.

For purposes of this subsection, the term ‘document’ includes reports, statements, notices, notifications, and other information.”.
(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to documents furnished with respect to plan years beginning after December 31, 2013.

**SEC. 242. MODIFICATION OF DEADLINES FOR SUMMARY PLAN DESCRIPTION UPDATES.**

(a) **IN GENERAL.**—Paragraph (1) of section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended to read as follows:

“(1)(A) The administrator shall furnish to each participant, and each beneficiary receiving benefits under the plan, a copy of the summary plan description, and all modifications and changes referred to in section 102(a)—

“(i) within 90 days after becoming a participant, or in the case of a beneficiary, within 90 days after first receiving benefits, or

“(ii) if later, within 120 days after the plan becomes subject to this part.

“(B)(i) Except as provided in clause (ii), the administrator shall furnish to each participant, and each beneficiary receiving benefits under the plan, every fifth year after the plan becomes subject to this part an updated summary plan description described in section 102 which integrates all plan amendments made within such five-year period, except that in a case where no amendments have
been made to a plan during such five-year period, this sentence shall not apply. Notwithstanding the foregoing, the administrator shall furnish to each participant, and to each beneficiary receiving benefits under the plan, the summary plan description described in section 102 every tenth year after the plan becomes subject to this part.

“(ii) In the case of a pension plan, the administrator shall furnish to each participant, and each beneficiary receiving benefits under the plan, 210 days after the end of each remedial plan review period, an updated summary plan description described in section 102 which integrates all plan amendments made during such period, except that if no amendments have been made to a plan during such period, an updated summary plan description shall be furnished not later than 210 days after the end of the subsequent remedial plan review period (without regard to whether plan amendments were made during such subsequent period).

“(C)(i) If there is a modification or change described in section 102(a) (other than a material reduction in covered services or benefits provided in the case of a group health plan (as defined in section 733(a)(1))), a summary description of such modification or change shall be furnished not later than 210 days after the end of the plan year in which the change is adopted to each participant,
and to each beneficiary who is receiving benefits under the plan.

“(ii) For purposes of clause (i), any amendment to a pension plan adopted during a remedial plan review period shall be treated as adopted in the plan year in which the amendment took effect.

“(D) If there is a modification or change described in section 102(a) that is a material reduction in covered services or benefits provided under a group health plan (as defined in section 733(a)(1)), a summary description of such modification or change shall be furnished to participants and beneficiaries not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days.

“(E) In this paragraph, the term ‘remedial plan review period’ means, with respect to any pension plan, the period established by the Secretary of the Treasury under the authority of subsection (b) of section 401 of the Internal Revenue Code of 1986 as the regular cycle of review by the Secretary of the Treasury for determining whether the pension plan continues to meet the requirements of such Code for treatment as a qualified plan under subsection (a) of such section 401.”.
(b) Effective Date.—The amendments made by this section shall apply with respect to summary plan descriptions furnished under section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)), and modifications or changes described in section 102(a) of such Act (29 U.S.C. 1022(a)), with respect to plan years beginning after December 31, 2013.

SEC. 243. MODIFICATION OF SMALL PLAN SIMPLIFIED REPORTING REQUIREMENTS.

(a) In General.—Section 104(a)(2) of the Employee Retirement Income Security Act of 1974, as amended by section 201(c) of this Act, is amended by striking “100 participants” and inserting “100 participants who have an accrued benefit under the plan”.

(b) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2013.

SEC. 244. FIDUCIARY REQUIREMENT REGARDING SELECTION OF ANNUITY PROVIDER AND ANNUITY CONTRACT.

(a) In General.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following:

“(e) Ability of Annuity Providers to Make Payments.—In the case of the selection of an annuity
provider and annuity contract in connection with the payment of benefits under a defined contribution plan, the fiduciary requirement under subsection (a)(1)(B) is deemed satisfied with respect to determining the ability of the annuity provider to make all payments due under the contract to the extent that such payments are guaranteed by a State guaranty association under applicable State law in effect as of the date of issuance of the contract.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to annuity contracts purchased after the date of enactment of this Act.

TITLE III—INDIVIDUAL RETIREMENT INVESTMENT ADVICE REFORM

SEC. 301. TRANSFER TO SECRETARY OF TREASURY OF AUTHORITIES REGARDING INDIVIDUAL RETIREMENT PLANS.

(a) In General.—Section 102 of Reorganization Plan No. 4 of 1978 (ratified and affirmed as law by Public Law 98–532 (98 Stat. 2705)) is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of clause (ii),
(B) by striking “and” at the end of clause (iii), and

(C) by inserting “(iv) regulations, rulings, opinions, and exemptions relating to individual retirement accounts described in section 408(a) of the Code and individual retirement annuities described in section 408(b) of the Code, including simplified employee pensions under section 408(k) of the Code and simple retirement accounts under section 408(p) of the Code; and

(v) regulations described in section 103(b) of this Plan; and” at the end of clause (iii) (as amended by subparagraph (B)), and

(2) by adding at the end the following new flush sentence:

“The Secretary of the Treasury shall consult with the Securities and Exchange Commission in prescribing regulations, rulings, opinions, and exemptions under subsection (a)(iv) that provide guidance of general application as to the professional standards of care (whether involving fiduciary, suitability, or other standards) owed by brokers and investment advisors to owners and account holders of accounts and annuities described in such subsection.”.

(b) JOINT AUTHORITY.—Section 103 of such Plan is amended—
(1) by striking “In the case of” and inserting:

“(a) In the case of”; and

(2) by adding at the end:

“(b)(1) The Secretary of the Treasury and the Secretary of Labor shall have joint authority to issue regulations described in this subsection, and any such regulations shall be issued jointly by such Secretaries.

“(2) A regulation is described in this subsection if

(i) the regulation is not described in clause (i), (ii), (iii), or (iv) of section 102(a) of this Plan and (ii) defines or interprets a term or requirement that is included in section 4975 of the Code or section 406 of ERISA. The determination of whether any regulation is described in this subsection shall be made without regard to whether any such term or requirement is also used or defined in any other provision of the Code or ERISA.”.

(c) **EFFECTIVE DATE.**—

(1) IN GENERAL.—The amendments made by this section shall apply to regulations, rulings, opinions, and exemptions which have not been finalized as of July 8, 2013.

(2) TRANSITION.—Any final regulation, ruling, opinion, or exemption described in section 102(a)(iv) or 103(b) of Reorganization Plan No. 4 of 1978 (as added by the amendments made by this section)
which was issued by the Secretary of Labor before July 9, 2013, shall apply until such time as such regulation, ruling, opinion, or exemption is revoked or modified pursuant to such amendments.