shall each be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost of living adjustment determined under section 931(b)(2)(B) for the calendar year in which the taxable year begins, determined by substituting ‘‘calendar year 2009’’ for ‘‘calendar year 1992’’ in subparagraph (B) thereof.

(2) Rounding.—If any amount as adjusted under paragraph (1) is not a multiple of $1,000,000 such amount shall be rounded to the nearest multiple of $1,000,000.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall apply to stock acquired after the date of the enactment of this Act.

(2) LIMITATION; INFLATION ADJUSTMENT.—The amendments made by subsections (c) and (e) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 604. DEDUCTION FOR ELIGIBLE SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

‘‘(1) ELIGIBLE SMALL BUSINESS INCOME.—SMALL BUSINESS INCOME.—Section 199 is applicable for any taxable year beginning after December 22, 2010, which is (i) the year in which the taxable year begins, determined by substituting ‘‘calendar year 2010’’ for ‘‘calendar year 1992’’ in section 2222(c)(1), and (ii) taxable income of the taxpayer for the taxable year, or

(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4), (5), and (6) of subsection (c) shall apply for purposes of this subsection.’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 22, 2010.

SEC. 605. NONAPPLICATION OF CERTAIN LABOR STANDARDS.

Section 1601 of the American Recovery and Reinvestment Tax Act of 2009 shall not apply to any referent described in section 6431(f)(2)(A) of the Internal Revenue Code of 1986 (as added by section 301 of this Act).

SEC. 606. E-VERIFY PROGRAM PARTICIPATION REQUIREMENT FOR EMPLOYERS RECEIVING PAYROLL TAX FORGIVENESS.

(a) IN GENERAL.—Paragraph (2) of section 3111(d), as added by section 101, is amended by adding at the end the following new subparagraph:

‘‘(C) E-VERIFY PROGRAM REQUIREMENT.—The term ‘qualified employer’ shall not include any employer that does not participate in the E-Verify program described in subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 as of the hiring date of any qualified individual.’’.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in section 101 of this Act.

Part II—Pension Funding Relief

Subtitle B—Pension Funding Relief

SEC. 611. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—(2) of section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001(c)) is amended by adding at the end the following new subparagraph:

‘‘(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

‘‘(1) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any plan year (in this subparagraph and paragraph (7) referred to as an ‘election year’), then, notwithstanding subparagraphs (A) and (B), the short-term amortization installment for any plan year in the 30-plan-year period described in clause (ii) of the 15-plan-year period described in clause (iii), respectively, with respect to such elect year, respectively, for any portion of the election year, whichever is applicable, the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over such 30 plan years (using the segment rates under subparagraph (C) for the election year).

(III) 15-YEAR AMORTIZATION.—The short-term amortization installment under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

(IV) ELECTION.—

(1) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply only to more than 2 eligible plan years beginning after December 31, 2009, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

(2) AMENDMENTS TO IRC.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, and the plan sponsor may apply this subparagraph only with the consent of the Secretary of the Treasury.

(b) EFFECTIVE DATE.—This section shall apply with respect to plan years beginning after December 31, 2009.

Subtitle C—Retirement Savings and Security

Subtitle D—Employer Plans
installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

"(B) MINIMUM AMOUNT DETERMINED TO SHORTFALL BASE.—Subject to rules prescribed by the Secretary of the Treasury, if a shortfall amortization installment with respect to any shortfall amortization installment for any election year is required to be increased for any plan year under subparagraph (A)—

"(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

"(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

"(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

"(i) the term ‘installment acceleration amount’ means, with respect to any plan year, the sum of—

"(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

"(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

"(ii) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

"(I) the sum of the shortfalls amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

"(II) the sum of the shortfalls amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any plan year beginning after application of this paragraph).

"(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

"(I) the term ‘installment acceleration amount for any plan year’ (determined without regard to clause (ii)) exceeds the limitation under clause (ii), then, subject to clause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year.

"(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under clause (I) or this subparagraph with respect any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (II)), exceeds the plan year, the excess limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year.

"(IV) ORDERING RULES.—For purposes of applying such installment acceleration amounts for the plan year (determined without regard to any carryover under this paragraph) shall be applied first against the limitation under this paragraph and then against such plan year shall be applied against such limitation on a first-in, first-out basis.

"(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

"(i) in general.—The term ‘excess employee compensation’ means, with respect to any plan year and any plan sponsor, the excess (if any) of—

"(II) the aggregate amount includable in income under chapter 1 of the Internal Revenue Code for any calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

"(III) $1,000,000.

"(ii) amounts set aside for nonqualified deferred compensation during any calendar year assets are set aside or reserved (directly or indirectly) in a trust or other arrangement as determined by the Secretary of the Treasury, are included in such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A of such Code) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as reconciliation of such excess includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall be taken into account under this paragraph for any subsequent calendar year.

"(iii) ONE REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 4, 2010.

"(iv) Exception for certain equity payments.—

"(I) in general.—Any amount includible in income with respect to the granting on or after February 4, 2010, of an equity interest described in clause (ii) shall not be taken into account under clause (i), but only if all portions of such interest remain subject to a substantial risk of forfeiture (other than in the case of death or disability) at all times before the date which is 5 years after the date on which such interest is granted.

"(II) Equity interests.—An equity interest shall be taken into account under this clause if it is a stock option which is granted at its fair market value on the date of the grant or a stock appreciation right which is granted at its fair market value of the grant.

"(III) Substantial risk of forfeiture.—

"(i) The term ‘substantial risk of forfeiture’ has the meaning given such term by section 83(c)(1) of the Internal Revenue Code of 1986.

"(ii) Secretarial authority.—The Secretary of the Treasury may by regulation provide for the application of this clause in the case of a person other than a corporation.

"(v) other exceptions.—The following amounts includable in income shall not be taken into account under this clause (iv):—

"(I) commissions.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

"(II) Payments under existing contracts.—Any remuneration payable under a written binding contract that was in effect on February 4, 2010, and which was not modified in any material respect before such remuneration is paid. This clause shall not apply with respect to any payment due under such a contract during a calendar year to the extent that the aggregate amount of such bonus payments during such calendar year exceeds $1,000,000.

"(III) Self-employed individual treated as employee.—The term ‘employee’ includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) of such Code for the taxable year ending during such calendar year, and the ‘compensation’ shall include earned income of such individual with respect to such self-employment.

"(vii) Indexing of amount.—In the case of any calendar year beginning after 2010, the dollar amount under clause (i)(II) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) a factor determined under section 1(i)(3) of such Code for the calendar year, determined by substituting ‘calendar year 2009’ for ‘calendar year 1992’ and ‘$1,000,000’ for ‘$1,000,000’.

"(E) Extraordinary dividends and redemptions.—

"(i) in general.—The amount determined under this subparagraph for any plan year is the sum of—

"(I) the aggregate amount of extraordinary dividends declared during the plan year by the plan sponsor and required to be reported under section 4980D(b),

"(II) if the plan sponsor redeems, in any 12-month period ending during the plan year, an aggregate of 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or an aggregate of 10 percent or more of the total value of shares of all classes of stock, of the plan sponsor, the aggregate fair market value of the stock so redeemed.

"(II) only certain post-2009 dividends and redemptions counted.—For purposes of clause (i)—

"(I) dividends shall be taken into account only if declared after February 4, 2010, and

"(II) if clause (I)(ii) otherwise applies for any plan year (determined without regard to this subclause), only the fair market value of redemptions occurring after February 4, 2010, shall be taken into account in determining the amount under such clause for the plan year.

"(III) exception for intra-group dividends and redemptions.—An extraordinary dividend paid by one member of a controlled group (as defined in section 302(d)(3)) to another member of such group shall not be taken into account under clause (i).

"(F) other definitions and rules.—For purposes of this paragraph—

"(i) Bonus payment.—The term ‘bonus payment’ means any payment which is a payment for services rendered and which is in addition to any amount payable to such individual for services performed by such individual at a regular hourly, daily, weekly, monthly, or similar periodic rate. Such term does not include payments to an employee as commissions, contributions, or qualified employee plan (as defined in section 401(c) of the Internal Revenue Code of 1986), welfare and fringe benefits, overtime pay, or expense reimbursements.

"(ii) Plan sponsor.—The term ‘plan sponsor’ means any member of the plan sponsor’s controlled group (as defined in section 302(d)(3)).

"(iii) Elections for multiple plans.—If a plan sponsor makes an election under paragraph (2)(D) with respect to 2 or more plans, the Secretary of the Treasury shall provide rules for the application of this paragraph to such elections, including rules allocating any installment acceleration amount among such plans on the basis of
each plan’s relative reduction in the plan’s short-term amortization installments for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

(iv) Mergers and acquisitions.—The Secretary of the Treasury shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D) and inserting “any shortfall amortization base” which has not been fully amortized under subparagraph (C) (and in the case of any portion of the election year shortfall amortization base that remains unamortized as of the beginning of such plan year, plus paragraph (D) with respect to all employees for the plan year, plus paragraph (D) with respect to all employees for the plan year, plus

(ii) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (B) for the plan year.

(ivii) Limitation to aggregate reduced required contributions.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

(i) the sum of the short-term amortization installments for the plan year and all preceding plan years for which an election is made under subparagraph (2)(D) with respect to the short-term amortization base with respect to such election year determined without regard to paragraph (2)(D) and this paragraph, over

(ii) the sum of the short-term amortization installments for such plan year and any preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, application of this paragraph).

(iii) Carryover of excess installment acceleration amounts.—

(i) in general.—If the installment acceleration amount is not a plan year (determined without regard to clause(i)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year.

(ii) cap to apply.—If any amount treated as an installment acceleration amount under subparagraph (C) (or this subclause with respect to any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (i)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be included in income for the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

1. $1,000,000.

(ii) amounts set aside for nonqualified deferred compensation.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year under which such assets are includible in income for such year. An amount to which this preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

(iii) only remuneration for certain post-2008 services counted.—Remuneration
shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 4, 2010.

"(iv) Exception for certain equity payments.—

"(I) In general.—Any amount includible in income with respect to the granting on or after February 4, 2010, or an equity interest described in subclause (II) shall not be taken into account under clause (i)(1), but only if all of such interest remain subject to a substantial risk of forfeiture (other than in the case of death or disability) at all times before the date on which the amount is granted.

"(II) Equity interests.—Any equity interest is described in this subclause if it is a stock option which is granted at its fair market value on the date of the grant or a stock appreciation right which is granted at its fair market value on the date of the grant.

"(III) Substantial risk of forfeiture.—The term ‘substantial risk of forfeiture’ has the meaning given such term by section 412(c)(1).

"(v) Secretarial authority.—The Secretary may by regulation provide for the application of this clause in the case of a person other than a corporation.

"(vi) Other exceptions.—The following amounts includible in income shall not be taken into account under clause (i)(1):

"(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of services performed by an individual, at a monthly, or similar periodic rate.

"(II) PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration payable under a written binding contract that was in effect on February 4, 2010, which was not modified in any material respect before such reamortization is repaid. This subclause shall not apply to bonus payments payable under such a contract during a calendar year to the extent that the aggregate amount of such bonus payments during such calendar year exceeds $100,000.

"(vii) Indexing of amount.—In the case of any calendar year beginning after 2010, the dollar amount under clause (i)(II) shall be increased by the ‘cost-of-living adjustment determined under section 251(d)(3) for the calendar year 2009 for calendar year 1992’ in subparagraph (B) thereof.

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 251(d)(3) for the calendar year.

"(b) Bonus payment.—The term ‘bonus payment’ means any amount which is a payment for services rendered and which is in addition to any amount payable to such individual for services performed by such individual at a rate which is not a fixed monthly, or similar periodic rate. Such term does not include payments to an employee as compensation, contributions to any qualified retirement plan described in section 401(k), welfare benefits, overtime pay, or expense reimbursements. The Secretary may recharacterize a payment that is otherwise included as a bonus payment for purposes of this paragraph.

"(c) Plan sponsor.—The term ‘plan sponsor’ includes any member of the plan sponsor’s controlled group (as defined in section 412(r)(3)).

"(d) Elections for multiple plans.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary shall prescribe rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount under such plans on the basis of each plan’s relative reduction in the plan’s short-term amortization installment for the first plan year in the amortization period described in sub-subparagraph (A) determined without regard to this paragraph.

"(iv) Merger and acquisitions.—The Secretary shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under this paragraph.

"(v) Conforming amendments.—Section 430 is amended—

"(A) in subsection (c)(1), by striking the ‘short-term amortization bases for such plan year and each of the 6 preceding plan years’ and inserting the ‘short-term amortization bases for such plan year and each of the 6 preceding plan years’,

"(B) in section (3), by adding at the end the following:

"(F) Quarterly contributions not to include certain increased contributions. Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7)."

"(vi) Effective date.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 612. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

(a) In general.—Title I of the Pension Protection Act of 2006, as added by section 707 of the Employee Retirement Income Security Act of 1974, plus stock entitled to vote, or an aggregate of 10 percent or more of the total value of shares of all classes of stock, of the plan sponsor, the aggregate fair market value of the stock so redeemed.

"(d) Amortization schedule.—Such election under section 430(d)(1)(A) or under subsection (b) or (c) shall apply to an election year, except that if a plan sponsor elects

"(E) extraordinary dividends and redemptions.—

"(I) In general.—The amount determined under this subparagraph for any plan year is the sum of—

"(II) the aggregate amount of extraordinary dividends declared during the plan year by the plan sponsor and required to be reported under section 4943(c)(11) of the Employee Retirement Income Security Act of 1974, plus stock entitled to vote, or an aggregate of 10 percent or more of the total value of shares

"(F) Quarterly contributions not to include certain increased contributions. Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7)."

"(v) Conforming amendments.—Section 430 is amended—

"(A) in subsection (c)(1), by striking the ‘short-term amortization bases for such plan year and each of the 6 preceding plan years’ and inserting the ‘short-term amortization bases for such plan year and each of the 6 preceding plan years’,

"(B) in section (3), by adding at the end the following:

"(F) Quarterly contributions not to include certain increased contributions. Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7)."

"(vi) Effective date.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PERIODS TO PLANS WITH DELAYED EFFECTIVE DATE.

(a) In general.—If the plan sponsor of a plan to which section 104, 105, or 106 of this Act applies elects to have this section apply for any eligible plan year (in this section referred to as an ‘election year’), section 302 of the Employee Retirement Income Security Act of 1974 and section 412 of the Internal Revenue Code of 1986 (before the amendments made by this subtitle and subtitle B) shall apply to such year in the manner described in subsection (b) or (c), whichever is specified by the plan sponsor.

(b) Application of 2 and 7 rule.—In the case of an election year to which this subsection applies—

"(I) 2-year lookback for determining deficit reduction contributions for certain plans.—For purposes of applying section 302(d)(9) of such Act and section 412(r)(9) of such Code, the funded current liability percentage (as defined in subparagraph (C) thereof) for such plan for such plan year shall be the greater of the funded current liability percentage of such plan for the second plan year preceding the first election year of such plan.

"(ii) Calculation of deficit reduction contribution.—For purposes of applying section 302(d)(9) of such Act and section 412(r)(9) of such Code to a plan to which such sections apply (after taking into account paragraph (I))—

"(A) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(r)(4)(C) of such Code shall be the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, and

"(B) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

"(III) Elections for multiple plans.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary shall prescribe rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount under such plans on the basis of each plan’s relative reduction in the plan’s short-term amortization installment for the first plan year in the amortization period described in sub-subparagraph (A) determined without regard to this paragraph.

"(iv) Merger and acquisitions.—The Secretary shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under this paragraph.

"(v) Conforming amendments.—Section 430 is amended—

"(A) in subsection (c)(1), by striking the ‘short-term amortization bases for such plan year and each of the 6 preceding plan years’ and inserting the ‘short-term amortization bases for such plan year and each of the 6 preceding plan years’,

"(B) in section (3), by adding at the end the following:

"(F) Quarterly contributions not to include certain increased contributions. Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7)."

"(vi) Effective date.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.
to have this section apply to 2 eligible plan years, the plan sponsor must elect the same rule for both years.

(5) OTHER RULES.—Such election shall be made in such manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

(6) DEFINITIONS.—For purposes of this section—

(A) ELIGIBLE PLAN YEAR.—For purposes of this section, the term ‘eligible plan year’ means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year beginning in 2008 shall only be treated as an eligible plan year if the due date for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this clause.

(B) PRE-EFFECTIVE DATE PLAN YEAR.—The term ‘pre-effective date plan year’ means, with respect to a plan, any plan year prior to the first year in which the amendments made by this subtitle and subtitle B apply to the plan.

(3) INCREASED UNFUNDED NEW LIABILITY.—The term ‘increased unfunded new liability’ means, for any plan year, the greater of—

(A) the amount of unfunded new liability over the amount of unfunded new liability determined as if the value of the plan’s assets determined as if the value of the plan’s assets at the valuation date for the plan year decreased by the amount of actual returns for the plan year; or

(B) the amount of unfunded new liability over the amount of unfunded new liability determined as if the value of the plan’s assets at the valuation date for the plan year decreased by the amount of actual returns for the plan year plus the amount of change in such method described in clause (i) shall be allowed under subsection (d) of such Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

(A) such percentage, as determined without regard to this subparagraph, or

(B) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

(2) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year beginning after October 1, 2007, and before January 1, 2010, and

(3) APPLICATION.—For purposes of this subparagraph, the term ‘applicable provision’ means—

(A) paragraph (3), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary of the Treasury, is a payment under a social security law which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits; or

(B) paragraph (4).''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 436(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

‘‘(4) SPECIAL RULE FOR CERTAIN YEARS.— Solely for purposes of any applicable provision—

(A) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

(i) such percentage, as determined without regard to this paragraph, or

(ii) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary.

(B) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

(i) subparagraph (A) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

(ii) subparagraph (A)(ii) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary.

(C) APPLICABLE PROVISION.—For purposes of this paragraph, the term ‘applicable provision’ means—

(i) subsection (d), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary, is a payment under a social security law which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments before and after such benefits are received, and

(ii) paragraph (4).''.

(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

(i) IN GENERAL.—A plan sponsor may elect to amortize any plan asset loss attributable to any criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary of the Treasury and section 195 of the Internal Revenue Code of 1986.

(ii) EXPANDED SMOOTHING PERIOD.—

(i) IN GENERAL.—A plan sponsor may elect to apply the solvency test under subparagraph (C) of this subsection to such method.

(ii) NO EXTENSION ALLOWED.—If such subparagraph applies for any plan year, no extension of the amortization period under clause (i) shall be allowed under subsection (d) of such Code.

(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

(A) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary of the Treasury on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

(B) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary of the Treasury and section 195 of the Internal Revenue Code of 1986.

(C) EXPANDED SMOOTHING PERIOD.—

(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the plan as reaching substantially similar aggregate payments before and after such benefits are received, and

(ii) subparagraph (C)(ii) shall be allowed under such method.