

113TH CONGRESS
1ST SESSION

S. 1270

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

JULY 9, 2013

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Secure Annuities for Employee Retirement Act of 2013”
7 or the “SAFE Retirement Act of 2013”.

8 (b) AMENDMENT OF 1986 CODE.—Except as other-
9 wise expressly provided, whenever in this Act an amend-
10 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
 2 shall be considered to be made to a section or other provi-
 3 sion of the Internal Revenue Code of 1986.

4 (c) TABLE OF CONTENTS.—The table of contents is
 5 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 contribution 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 deferred 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 employer matching or nonelective contributions.

Sec. 217. Time for providing explanation of qualified preretirement survivor annuity.

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 the Treasury of authorities regarding individual retirement plans.

1 **TITLE I—PUBLIC PENSION**
 2 **REFORM**

3 **SEC. 101. ANNUITY ACCUMULATION RETIREMENT PLANS**
 4 **OF EMPLOYEES OF STATE AND LOCAL GOV-**
 5 **ERNMENTS.**

6 (a) IN GENERAL.—Part I of subchapter D of chapter
 7 1 is amended by inserting after subpart E the following
 8 new subpart:

9 **“Subpart F—Annuity Accumulation Retirement**
 10 **Plans for State and Local Government Employees.**

“Sec. 420A. Annuity accumulation retirement plans.

11 **“SEC. 420A. ANNUITY ACCUMULATION RETIREMENT PLANS.**

12 “(a) ANNUITY ACCUMULATION RETIREMENT
 13 PLANS.—For purposes of this subpart—

1 “(1) IN GENERAL.—The term ‘annuity accumu-
2 lation retirement plan’ means a State or local gov-
3 ernmental retirement plan—

4 “(A) which provides for the purchase, not
5 less frequently than annually, of a qualified in-
6 dividual deferred fixed income annuity contract
7 for each participant which provides benefits
8 based solely on the contributions by an em-
9 ployer to an annuity provider and the actuarial
10 assumptions specified in the annuity contract,
11 and

12 “(B) which provides that—

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

16 “(ii) contributions pursuant to the
17 plan on behalf of any eligible employee for
18 any plan year, whether made annually or
19 more frequently, are required to be paid
20 not later than 90 days after the close of
21 the plan year to an annuity provider to
22 purchase a qualified individual deferred
23 fixed income annuity contract for the em-
24 ployee, and

1 “(iii) no benefits are provided by the
2 employer under the plan other than the
3 purchase of qualified individual deferred
4 fixed income annuity contracts for eligible
5 employees.

6 Subject to the provisions of subsection (d)(3), noth-
7 ing in subparagraph (B)(iii) shall prohibit an em-
8 ployer from establishing or maintaining a defined
9 contribution plan or defined benefit plan or pro-
10 viding any form of employee welfare benefit sepa-
11 rately from the plan.

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

15 “(A) benefits under the plan are limited to
16 a monthly payment for the life of the partici-
17 pant, commencing at the applicable age under
18 subsection (b)(1)(B), as provided under the
19 qualified individual deferred fixed income annu-
20 ity contract purchased with the employer con-
21 tributions described in subsection (c) and issued
22 to the participant, and

23 “(B) the plan does not accumulate assets
24 in trust or otherwise, and the employer has no
25 ownership interest in any qualified individual

1 deferred fixed income annuity contract issued to
2 a participant.

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

5 “(A) IN GENERAL.—A plan will not be
6 treated as an annuity accumulation retirement
7 plan unless the plan provides that individual de-
8 ferred fixed income annuity contracts will be
9 purchased through a process by which, with re-
10 spect to each purchase under paragraph (1)(A),
11 the plan administrator—

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

20 “(ii) allocates its purchases of indi-
21 vidual deferred fixed income annuity con-
22 tracts among the providers selected under
23 clause (i), with the largest allocation (not
24 to exceed 75 percent of the aggregate pur-
25 chase amount of all such contracts) pur-

1 chased from the annuity provider submit-
2 ting the superior bid,

3 “(iii) ensures, to the maximum extent
4 possible, that each employee’s entire inter-
5 est under an individual deferred fixed in-
6 come annuity contract would be fully guar-
7 anteed by a State guaranty association
8 under applicable State law, regulations,
9 and industry standards in effect as of the
10 date of issuance of the contract, and

11 “(iv) ensures, to the maximum extent
12 possible, that each employee’s entire inter-
13 est under all contracts provided under the
14 plan by any single annuity provider (and
15 any related parties, within the meaning of
16 such term as applied by the State guaranty
17 association) does not exceed the maximum
18 amount which would be covered by a State
19 guaranty association described in clause
20 (iii) in case of the insolvency of the pro-
21 vider.

22 “(B) PROHIBITION ON PROVIDING BEN-
23 EFIT IN EXCHANGE FOR SELECTION.—An an-
24 nuity provider shall not be treated as meeting
25 the competitive bid requirements of subpara-

1 graph (A)(i) if such provider, or any related
2 party to (within the meaning of such term as
3 applied by the State guaranty association) or
4 agent of such provider, on their own or on an-
5 other's behalf, provides anything of value to any
6 employee of a State or local government entity,
7 or agency or instrumentality thereof, or to a
8 plan administrator, in connection with the bid-
9 ding process or the annuity purchase process
10 described in subparagraph (A).

11 “(C) COMPLIANCE SAFE HARBOR.—A plan
12 shall be deemed to meet the requirements of
13 subparagraph (A) if the plan administrator ob-
14 tains a determination in writing from the Office
15 of Domestic Finance, Department of the Treas-
16 ury, that such plan meets such requirements.
17 Authority to issue such a determination shall
18 not be delegated to any entity outside of the Of-
19 fice of Domestic Finance.

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

23 “(A) except as provided in this section, no
24 requirement of this subchapter otherwise appli-
25 cable to a State or local governmental retire-

1 ment plan shall apply to an annuity accumula-
2 tion retirement plan, and

3 “(B) for purposes of this title other than
4 any such requirements, an annuity accumula-
5 tion retirement plan shall be treated as a de-
6 fined benefit plan which meets the requirements
7 of section 401(a).

8 “(b) QUALIFIED INDIVIDUAL DEFERRED FIXED IN-
9 COME ANNUITY CONTRACT.—For purposes of this sub-
10 part, the term ‘qualified individual deferred fixed income
11 annuity contract’ means, with respect to an employee for
12 any plan year, an individual annuity contract issued by
13 an annuity provider—

14 “(1) under the terms of which—

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

19 “(B) except as provided in subsection (e),
20 the entire interest of the employee in the con-
21 tract will be distributed in the form of monthly
22 annuity payments under a single life annuity,
23 beginning on the later of—

24 “(i) the date the employee attains
25 age—

1 “(I) 57, in the case of a public
2 safety employee, and

3 “(II) 67, in the case of any other
4 employee, or

5 “(ii) in the case of a contract pur-
6 chased after the date the employee attains
7 such age, the 1st day of the 1st calendar
8 year beginning after the calendar year in
9 which such contract was purchased,

10 “(2) the purchase price of which is equal to the
11 contributions described in subsection (c) with respect
12 to the employee for the plan year in which it is pur-
13 chased,

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

16 “(4) under which no loan may be made with re-
17 spect to any portion of any interest in the contract,
18 and

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

22 “(c) CONTRIBUTION REQUIREMENTS AND LIMITA-
23 TIONS.—For purposes of subsection (a)(1)(B)—

24 “(1) IN GENERAL.—The plan must provide that
25 the only contributions which may be made pursuant

1 to the plan for any plan year are nonelective con-
2 tributions (within the meaning of section
3 401(k)(11)(B)(ii)) made by the employer for the
4 purchase of qualified individual deferred fixed in-
5 come annuity contracts which are—

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

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

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

19 “(2) LIMITS BASED ON COMPENSATION.—

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

1 “(B) PERCENTAGE LIMITATION.—

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

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

7 “(II) 20 percent in the case of
8 any other employee.

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

17 “(I) 35 percent in the case of a
18 public safety employee who has at-
19 tained such age, or

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

23 “(C) AGGREGATION RULE.—All plans of
24 an employer treated as a single plan for pur-

1 poses of section 415 shall be treated as a single
2 plan for purposes of this paragraph.

3 “(d) TAX TREATMENT OF ANNUITY ACCUMULATION
4 RETIREMENT PLANS.—

5 “(1) TAXATION OF ELIGIBLE EMPLOYEE.—The
6 amount actually paid to a distributee under a quali-
7 fied individual deferred fixed income annuity con-
8 tract shall be taxable to the distributee under section
9 72.

10 “(2) TREATMENT OF EMPLOYER CONTRIBU-
11 TIONS.—Contributions made by an employer for the
12 purchase of a qualified individual deferred fixed in-
13 come annuity contract under an annuity accumula-
14 tion retirement plan shall be excluded from the gross
15 income of the employee.

16 “(3) INCLUSION IN INCOME OF EXCESS CON-
17 TRIBUTIONS OR CONTRIBUTIONS FOR PARTICIPANTS
18 IN ANOTHER DEFINED BENEFIT PLAN OF AN EM-
19 PLOYER.—

20 “(A) EXCESS CONTRIBUTIONS.—Except as
21 provided in subparagraph (B), if—

22 “(i) contributions are made for any
23 plan year by an employer on behalf of an
24 employee in excess of the limit determined
25 after application of subsection (c)(2), the

1 employee shall include in gross income an
2 amount equal to such excess, or

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

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

21 “(C) TAXABLE YEAR OF INCLUSION.—Any
22 amount under subparagraph (A) shall be in-
23 cludible in gross income of the employee for the
24 taxable year which includes the date which is 6
25 months after the last day of the plan year.

1 “(D) INVESTMENT IN THE CONTRACT.—

2 Any amount included in gross income shall not
3 be treated as investment in the contract for
4 purposes of section 72.

5 “(e) CERTAIN JUDGMENTS AND SETTLEMENTS.—

6 Paragraphs (1)(B) and (5) of subsection (b) shall not
7 apply to any offset of an employee’s benefits payable under
8 an annuity contract—

9 “(1) pursuant to—

10 “(A) the enforcement of a levy under sec-
11 tion 6331 or the collection by the United States
12 of a judgment resulting from an unpaid tax as-
13 sessment, or

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

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

21 “(f) DEFINITIONS.—

22 “(1) STATE OR LOCAL GOVERNMENTAL RETIRE-
23 MENT PLAN.—For purposes of this section, the term
24 ‘State or local governmental retirement plan’ means
25 a governmental plan providing for the deferral of

1 compensation which is established and maintained
2 for its employees by a State, a political subdivision
3 of a State, or an agency or instrumentality of a
4 State or a political subdivision of a State.

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

7 “(A) ELIGIBLE EMPLOYEE.—The term ‘eli-
8 gible employee’ means, with respect to any
9 State or local governmental retirement plan,
10 any officer or employee (other than a con-
11 tractor) eligible to participate in the plan.

12 “(B) ANNUITY PROVIDER.—The term ‘an-
13 nuity provider’ means any company which is li-
14 censed to do business as a life insurance com-
15 pany under the laws of the State in which a
16 qualified individual deferred fixed income annu-
17 ity contract to which this subchapter applies is
18 to be issued.

19 “(C) PUBLIC SAFETY EMPLOYEE.—The
20 term ‘public safety employee’ means any em-
21 ployee of a State or political subdivision of a
22 State who provides police protection, fire-
23 fighting services, or emergency medical services
24 for any area within the jurisdiction of such
25 State or political subdivision.”.

1 (b) LIMITATION ON 403(a) ANNUITY PLANS OF
2 STATE AND LOCAL GOVERNMENTS.—

3 (1) IN GENERAL.—Subsection (a) of section
4 403 is amended by adding at the end the following
5 new paragraph:

6 “(6) EXCLUSION OF CERTAIN STATE AND
7 LOCAL GOVERNMENTAL PLANS.—This subsection
8 shall not apply in the case of annuity contracts pur-
9 chased under a State or local governmental retire-
10 ment plan (as defined in section 420A(f)) which was
11 established after July 8, 2013.”.

12 (2) EFFECTIVE DATE.—The amendment made
13 by this subsection shall apply to plans established
14 after July 8, 2013.

15 (c) FICA EXEMPTION.—Paragraph (5) of section
16 3121(a) is amended by striking “or” at the end of sub-
17 paragraph (H), by striking the semicolon at the end of
18 subparagraph (I) and inserting “, or”, and by adding at
19 the end the following new subparagraph:

20 “(J) under an annuity accumulation retire-
21 ment plan for the purchase of annuity contracts
22 under section 420A;”.

23 (d) INCLUSION OF AMOUNT FOR THE PURCHASE OF
24 ANNUITY CONTRACTS ON W-2.—Subsection (a) of section
25 6051 is amended by striking “and” at the end of para-

1 graph (13), by striking the period at the end of paragraph
 2 (14)(B) and inserting “, and”, and by inserting after
 3 paragraph (14) the following new paragraph:

4 “(15) the total amount contributed under an
 5 annuity accumulation retirement plan for the pur-
 6 chase of annuity contracts under section 420A.”.

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

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

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

14 **SEC. 102. STUDY OF FEDERAL PENSION SYSTEMS.**

15 (a) STUDY.—The Comptroller General of the United
 16 States shall conduct a study of pension systems estab-
 17 lished by law for employees of the Government of the
 18 United States, including an analysis of—

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

22 (2) whether such systems are adequately fund-
 23 ed.

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

7 **TITLE II—PRIVATE PENSION**

8 **REFORM**

9 **Subtitle A—Enhanced Pension**

10 **Plan Coverage**

11 **SEC. 201. STARTER 401(k) PLANS FOR EMPLOYERS WITH NO** 12 **RETIREMENT PLAN.**

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

15 “(14) STARTER 401(k) DEFERRAL-ONLY PLANS
 16 FOR EMPLOYERS WITH NO RETIREMENT PLAN.—

17 “(A) IN GENERAL.—A starter 401(k) de-
 18 ferral-only arrangement maintained by an eligi-
 19 ble employer shall be treated as meeting the re-
 20 quirements of paragraph (3)(A)(ii).

21 “(B) STARTER 401(k) DEFERRAL-ONLY
 22 ARRANGEMENT.—For purposes of this para-
 23 graph, the term ‘starter 401(k) deferral-only
 24 arrangement’ means any cash or deferred ar-
 25 rangement which meets—

1 “(i) the automatic deferral require-
2 ments of subparagraph (C),

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

5 “(iii) the requirements of subpara-
6 graph (E) of paragraph (13).

7 “(C) AUTOMATIC DEFERRAL.—

8 “(i) IN GENERAL.—The requirements
9 of this subparagraph are met if, under the
10 arrangement, each employee eligible to
11 participate in the arrangement is treated
12 as having elected to have the employer
13 make elective contributions in an amount
14 equal to a qualified percentage of com-
15 pensation.

16 “(ii) ELECTION OUT.—The election
17 treated as having been made under clause
18 (i) shall cease to apply with respect to any
19 employee if such employee makes an af-
20 firmative election—

21 “(I) to not have such contribu-
22 tions made, or

23 “(II) to make elective contribu-
24 tions at a level specified in such af-
25 firmative election.

1 “(iii) QUALIFIED PERCENTAGE.—For
2 purposes of this subparagraph, the term
3 ‘qualified percentage’ means, with respect
4 to any employee, any percentage deter-
5 mined under the arrangement if such per-
6 centage is applied uniformly and is not less
7 than 3 or more than 15 percent.

8 “(D) CONTRIBUTION LIMITATIONS.—

9 “(i) IN GENERAL.—The requirements
10 of this subparagraph are met if, under the
11 arrangement—

12 “(I) the only contributions which
13 may be made are elective contribu-
14 tions of employees described in sub-
15 paragraph (C), and

16 “(II) the aggregate amount of
17 such elective contributions which may
18 be made with respect to any employee
19 for any calendar year shall not exceed
20 \$8,000.

21 “(ii) COST-OF-LIVING ADJUSTMENT.—

22 In the case of any calendar year beginning
23 after December 31, 2014, the \$8,000
24 amount under clause (i) shall be adjusted
25 in the same manner as under section

1 402(g)(4), except that ‘2013’ shall be sub-
2 stituted for ‘2005’.

3 “(iii) CROSS REFERENCE.—For catch-
4 up contributions for individuals age 50 or
5 over, see section 414(v)(2)(B)(ii).

6 “(E) ELIGIBLE EMPLOYER.—For purposes
7 of this paragraph—

8 “(i) IN GENERAL.—The term ‘eligible
9 employer’ means any employer which, dur-
10 ing the first plan year of the cash or de-
11 ferred arrangement described in subpara-
12 graph (B), does not maintain any other
13 qualified plan. An employer treated as an
14 eligible employer under the preceding sen-
15 tence shall be treated as an eligible em-
16 ployer with respect to the arrangement for
17 any subsequent plan year without regard
18 to whether it maintains another qualified
19 plan.

20 “(ii) QUALIFIED PLAN.—The term
21 ‘qualified plan’ means a plan, contract,
22 pension, account, or trust described in sub-
23 paragraph (A) or (B) of paragraph (5) of
24 section 219(g) (determined without regard

1 to the last sentence of such paragraph
2 (5).”.

3 (b) CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS
4 AGE 50 AND OVER.—

5 (1) Section 414(v)(2)(B) is amended by insert-
6 ing “, 401(k)(14),” after “401(k)(11)” each place it
7 appears.

8 (2) Section 414(v)(3)(B) is amended by insert-
9 ing “401(k)(14),” after “401(k)(11),”.

10 (c) SIMPLIFIED REPORTING.—Section 104(a)(2)(A)
11 of the Employee Retirement Income Security Act of 1974
12 (29 U.S.C. 1024(a)(2)) is amended by inserting “or for
13 any pension plan which is a starter 401(k) deferral-only
14 arrangement described in section 401(k)(14)(B) of the In-
15 ternal Revenue Code of 1986” before the period at the
16 end.

17 (d) STARTER PLANS NOT TREATED AS TOP-HEAVY
18 PLANS.—Clause (i) of section 416(g)(4)(H) is amended
19 by striking “or 401(k)(13)” and inserting “401(k)(13), or
20 401(k)(14)”.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to plan years beginning after De-
23 cember 31, 2013.

1 **SEC. 202. INCREASE IN CREDIT LIMITATION FOR SMALL**
 2 **EMPLOYER PENSION PLAN STARTUP COSTS.**

3 (a) IN GENERAL.—Paragraph (1) of section 45E(b)
 4 is amended to read as follows:

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

8 “(A) \$500, or

9 “(B) the lesser of—

10 “(i) \$250 for each employee of the eli-
 11 gible employer who is not a highly com-
 12 pensated employee (as defined in section
 13 415(q)) and who is eligible to participate
 14 in the eligible employer plan maintained by
 15 the eligible employer, or

16 “(ii) \$5,000, and”.

17 (b) EFFECTIVE DATE.—The amendment made by
 18 this section shall apply to taxable years beginning after
 19 December 31, 2013.

20 **SEC. 203. EMPLOYERS ALLOWED TO REPLACE SIMPLE RE-**
 21 **TIREMENT ACCOUNTS WITH SAFE HARBOR**
 22 **401(k) PLANS DURING A YEAR.**

23 (a) IN GENERAL.—Section 408(p) is amended by
 24 adding at the end the following new paragraph:

1 “(11) REPLACEMENT OF SIMPLE RETIREMENT
2 ACCOUNTS WITH SAFE HARBOR PLANS DURING PLAN
3 YEAR.—

4 “(A) IN GENERAL.—Subject to the re-
5 quirements of this paragraph, an employer may
6 elect (in such form and manner as the Sec-
7 retary may prescribe) at any time during a year
8 to terminate the qualified salary reduction ar-
9 rangement under paragraph (2), but only if the
10 employer establishes and maintains (as of the
11 day after the termination date) a safe harbor
12 plan to replace the terminated arrangement.

13 “(B) COMBINED LIMITS ON CONTRIBU-
14 TIONS.—The terminated arrangement and safe
15 harbor plan shall both be treated as violating
16 the requirements of paragraph (2)(A)(ii) or sec-
17 tion 401(a)(30) (whichever is applicable) if the
18 aggregate elective contributions of the employee
19 under the terminated arrangement during its
20 last plan year and under the safe harbor plan
21 during its transition year exceed the sum of—

22 “(i) the applicable dollar amount for
23 such arrangement (determined on a full-
24 year basis) with respect to the employee
25 for such last plan year multiplied by a

1 fraction equal to the number of days in
2 such plan year divided by 365, and

3 “(ii) the applicable dollar amount (as
4 so determined) for such safe harbor plan
5 on such elective contributions during the
6 transition year multiplied by a fraction
7 equal to the number of days in such transi-
8 tion year divided by 365.

9 “(C) APPLICABLE DOLLAR AMOUNT.—The
10 applicable dollar amount is the amount deter-
11 mined under paragraph (2)(A)(ii) (after the ap-
12 plication of section 414(v)) or section
13 402(g)(1), whichever is applicable.

14 “(D) TRANSITION YEAR.—For purposes of
15 this paragraph, the transition year is the period
16 beginning after the termination date and ending
17 on the last day of the calendar year during
18 which the termination occurs.

19 “(E) SAFE HARBOR PLAN.—For purposes
20 of this paragraph, the term ‘safe harbor plan’
21 means a qualified cash or deferred arrangement
22 which meets the requirements of paragraph
23 (11), (12), or (13) of section 401(k).”.

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

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

6 (a) REMOVAL OF 10 PERCENT CAP AFTER 1ST PLAN
7 YEAR.—

8 (1) IN GENERAL.—Clause (iii) of section
9 401(k)(13)(C) is amended by striking “, does not
10 exceed 10 percent, and is at least” and inserting
11 “and is”.

12 (2) CONFORMING AMENDMENTS.—

13 (A) Subclause (I) of section
14 401(k)(13)(C)(iii) is amended by striking “3
15 percent” and inserting “at least 3 percent, but
16 not greater than 10 percent,”.

17 (B) Subclause (II) of section
18 401(k)(13)(C)(iii) is amended by striking “4
19 percent” and inserting “at least 4 percent”.

20 (C) Subclause (III) of section
21 401(k)(13)(C)(iii) is amended by striking “5
22 percent” and inserting “at least 5 percent”.

23 (D) Subclause (IV) of section
24 401(k)(13)(C)(iii) is amended by striking “6
25 percent” and inserting “at least 6 percent”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after the
3 date of enactment of this Act.

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

7 (a) IN GENERAL.—Section 401(b), as amended by
8 section 211 of this Act, is amended by adding at the end
9 the following:

10 “(4) ADOPTION OF PLAN.—If an employer
11 adopts a stock bonus, pension, profit-sharing, or an-
12 nuity plan after the close of a taxable year but be-
13 fore the time prescribed by law for filing the return
14 of the employer for the taxable year (including ex-
15 tensions thereof), the employer may elect to treat
16 the plan as having been adopted as of the last day
17 of the taxable year.”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to plans adopted for taxable years
20 beginning after December 31, 2013.

21 **SEC. 206. RULES RELATING TO ELECTION OF SAFE HARBOR**
22 **401(k) STATUS.**

23 (a) LIMITATION OF ANNUAL SAFE HARBOR NOTICE
24 TO MATCHING CONTRIBUTION PLANS.—

1 (1) IN GENERAL.—Subparagraph (A) of section
2 401(k)(12) is amended by striking “if such arrange-
3 ment” and all that follows and inserting “if such ar-
4 rangement—

5 “(i) meets the contribution require-
6 ments of subparagraph (B) and the notice
7 requirements of subparagraph (D), or

8 “(ii) meets the contribution require-
9 ments of subparagraph (C).”.

10 (2) AUTOMATIC CONTRIBUTION ARRANGE-
11 MENTS.—Subparagraph (B) of section 401(k)(13) is
12 amended by striking “means” and all that follows
13 and inserting “means a cash or deferred arrange-
14 ment—

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

18 “(B) which is described in subparagraph
19 (D)(i)(II) and meets the applicable require-
20 ments of subparagraphs (C) and (D).”.

21 (b) NONELECTIVE CONTRIBUTIONS.—Section
22 401(k)(12) is amended by redesignating subparagraph (F)
23 as subparagraph (G), and by inserting after subparagraph
24 (E) the following new subparagraph:

1 “(F) TIMING OF PLAN AMENDMENT FOR
2 EMPLOYER MAKING NONELECTIVE CONTRIBU-
3 TIONS.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii), a plan may be amend-
6 ed after the beginning of a plan year to
7 provide that the requirements of subpara-
8 graph (C) shall apply to the arrangement
9 for the plan year, but only if the amend-
10 ment is adopted—

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

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

19 “(ii) EXCEPTION WHERE PLAN PRO-
20 VIDED FOR MATCHING CONTRIBUTIONS.—
21 Clause (i) shall not apply to any plan year
22 if the plan provided at any time during the
23 plan year that the requirements of sub-
24 paragraph (B) applied to the plan year.

1 “(iii) 4-PERCENT CONTRIBUTION RE-
 2 QUIREMENT.—Clause (i)(II) shall not
 3 apply to an arrangement unless the
 4 amount of the contributions described in
 5 subparagraph (C) which the employer is
 6 required to make under the arrangement
 7 for the plan year with respect to any em-
 8 ployee is an amount equal to at least 4
 9 percent of the employee’s compensation.”.

10 (c) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—
 11 Section 401(k)(13) is amended by adding at the end the
 12 following :

13 “(F) TIMING OF PLAN AMENDMENT FOR
 14 EMPLOYER MAKING NONELECTIVE CONTRIBU-
 15 TIONS.—

16 “(i) IN GENERAL.—Except as pro-
 17 vided in clause (ii), a plan may be amend-
 18 ed after the beginning of a plan year to
 19 provide that the requirements of subpara-
 20 graph (D)(i)(II) shall apply to the arrange-
 21 ment for the plan year, but only if the
 22 amendment is adopted—

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

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

6 “(ii) EXCEPTION WHERE PLAN PRO-
7 VIDED FOR MATCHING CONTRIBUTIONS.—
8 Clause (i) shall not apply to any plan year
9 if the plan provided at any time during the
10 plan year that the requirements of sub-
11 paragraph (D)(i)(I) applied to the plan
12 year.

13 “(iii) 4-PERCENT CONTRIBUTION RE-
14 QUIREMENT.—Clause (i)(II) shall not
15 apply to an arrangement unless the
16 amount of the contributions described in
17 subparagraph (D)(i)(II) which the em-
18 ployer is required to make under the ar-
19 rangement for the plan year with respect
20 to any employee is an amount equal to at
21 least 4 percent of the employee’s com-
22 pensation.”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to plan years beginning after De-
25 cember 31, 2013.

1 **SEC. 207. MODIFICATIONS OF RULES RELATING TO MUL-**
2 **TIPLE EMPLOYER DEFINED CONTRIBUTION**
3 **PLANS.**

4 (a) QUALIFICATION REQUIREMENTS.—Section 413 is
5 amended by adding at the end the following:

6 “(d) APPLICATION OF QUALIFICATION REQUIRE-
7 MENTS FOR CERTAIN MULTIPLE EMPLOYER PLANS WITH
8 DESIGNATED PLAN PROVIDERS.—

9 “(1) IN GENERAL.—If a plan to which sub-
10 section (c) applies is sponsored by employers that
11 have a common interest other than having adopted
12 the plan, or has a designated plan provider, then, ex-
13 cept as provided in paragraph (3), the failure of the
14 portion of the plan covering the employees of an em-
15 ployer maintaining the plan to satisfy any applicable
16 qualification requirement under section 401(a) will
17 not affect the qualification of any portion of the plan
18 covering employees of any employer who has satis-
19 fied all such requirements.

20 “(2) DESIGNATED PLAN PROVIDER.—For pur-
21 poses of this subsection—

22 “(A) IN GENERAL.—The term ‘designated
23 plan provider’ means the person designated
24 under the terms of the plan as the person re-
25 sponsible to perform all administrative duties
26 which are reasonably necessary to ensure that

1 the plan, and each participating employer,
2 meets the requirements described in paragraph
3 (1), including conducting proper testing of such
4 plan and employers.

5 “(B) REGISTRATION, ETC. REQUIRE-
6 MENTS.—A person shall not be treated as a
7 designated plan provider with respect to any
8 plan unless—

9 “(i) the person registers with the Sec-
10 retary and provides such identifying infor-
11 mation as the Secretary may require, and

12 “(ii) the person consents to audits by
13 the Secretary at such times as the Sec-
14 retary determines appropriate to ensure
15 the person is performing the duties de-
16 scribed in subparagraph (A).

17 “(3) FAILURE BY PROVIDER TO PERFORM DU-
18 TIES.—If the designated plan provider of a plan
19 does not perform the duties described in paragraph
20 (2)(A) with respect to any plan year so as to reason-
21 ably ensure the plan meets the requirements de-
22 scribed in paragraph (1)—

23 “(A) paragraph (1) shall not apply to the
24 plan for the plan year, and

1 “(B) the determination as to whether the
2 plan, or any participating employer, meets such
3 requirements shall be made in the same manner
4 as made with respect to a plan without a des-
5 ignated plan provider.

6 “(4) GUIDANCE.—The Secretary shall issue
7 such guidance as the Secretary determines appro-
8 priate to carry out this subsection, including guid-
9 ance to—

10 “(A) identify the administrative duties re-
11 quired to be performed under paragraph (2)(A),
12 and

13 “(B) require, if appropriate, that the por-
14 tion of the plan attributable to participating
15 employers not meeting the requirements de-
16 scribed in paragraph (1) be spun off to plans
17 maintained by such employers.”.

18 (b) MODIFICATION OF ERISA REQUIREMENTS.—

19 (1) REQUIREMENT OF COMMON INTEREST.—

20 Section 3(2) of the Employee Retirement Income Se-
21 curity Act of 1974 is amended by adding at the end
22 the following:

23 “(C)(i) A qualified multiple employer plan shall
24 not fail to be treated as an employee pension benefit

1 plan or pension plan solely because the employers
2 sponsoring the plan share no common interest.

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

7 “(I) is an individual account plan with re-
8 spect to which the requirements of clauses (iii)
9 and (iv) are met, and

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

16 “(iii) The requirements of this clause are met
17 if, under the plan, each participating employer re-
18 tains fiduciary responsibility for—

19 “(I) the selection and monitoring of the
20 person designated as the designated plan pro-
21 vider and the named fiduciary if different from
22 such provider, and

23 “(II) the investment and management of
24 the portion of the plan’s assets attributable to

1 employees of the employer to the extent not
2 otherwise delegated to another fiduciary.

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

8 (2) SIMPLIFIED REPORTING FOR SMALL MUL-
9 TIPLE EMPLOYER PLANS.—Section 104(a) of such
10 Act (29 U.S.C. 1024(a)) is amended by adding at
11 the end the following:

12 “(7)(A) In the case of any eligible small multiple em-
13 ployer plan, the Secretary may by regulation—

14 “(i) prescribe simplified summary plan descrip-
15 tions, annual reports, and pension benefit state-
16 ments for purposes of section 102, 103, or 105, re-
17 spectively, and

18 “(ii) waive the requirement under section
19 103(a)(3) to engage an independent qualified public
20 accountant in cases where the Secretary determines
21 it appropriate.

22 “(B) For purposes of this paragraph, the term ‘eligi-
23 ble small multiple employer plan’ means, with respect to
24 any plan year, a qualified multiple employer plan (as de-

1 fined in section 3(2)(C)) which, for the preceding plan
2 year—

3 “(i) did not have more than 2,500 participants,
4 and

5 “(ii) did not have any employer sponsoring the
6 plan which had more than 500 employees as partici-
7 pants.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to years beginning after December
10 31, 2013.

11 **Subtitle B—Pension Plan and** 12 **Retirement Savings Simplification**

13 **SEC. 211. MODIFICATIONS OF DEADLINES FOR ADOPTING** 14 **PENSION PLAN AMENDMENTS.**

15 (a) REQUIRED AMENDMENTS.—Section 401(b) is
16 amended—

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

19 “(b) RETROACTIVE AMENDMENTS TO, AND ADOPT-
20 TION OF, A PLAN.—

21 “(1) RETROACTIVE CHANGES TO AMENDMENTS
22 CAUSING PLAN TO FAIL.—A”, and

23 (2) by adding at the end the following:

1 “(2) COORDINATION OF TIMING OF PENSION
2 PLAN AMENDMENT ADOPTION, AND REMEDIAL PLAN
3 REVIEW, REQUIREMENTS.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), in the case of any required
6 amendment to a stock bonus, pension, profit-
7 sharing, or annuity plan—

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

11 “(ii) except as provided by the Sec-
12 retary, such plan shall not fail to meet the
13 requirements of section 411(d)(6) of the
14 Internal Revenue Code of 1986 and section
15 204(g) of the Employee Retirement In-
16 come Security Act of 1974 by reason of
17 such amendment.

18 “(B) CONDITIONS.—Subparagraph (A)
19 shall not apply to any required amendment to
20 a plan unless—

21 “(i) the required amendment is adopt-
22 ed before the end of the remedial period,

23 “(ii) the plan is operated as if the re-
24 quired amendment were in effect during
25 the remedial period, and

1 “(iii) the required amendment applies
2 retroactively for the remedial period.

3 “(C) REQUIRED AMENDMENT.—For pur-
4 poses of this paragraph, the term ‘required
5 amendment’ means any amendment to a plan
6 which is required by (or integral to meeting the
7 requirements of) any Federal law or any regula-
8 tion issued by the Secretary or the Secretary of
9 Labor.

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

12 “(i) REMEDIAL PERIOD.—The term
13 ‘remedial period’ means, with respect to
14 any required amendment to a plan, the pe-
15 riod—

16 “(I) beginning on the date the
17 amendment is required under the law
18 or regulation described in subpara-
19 graph (C) to take effect, and

20 “(II) ending on the last day in
21 the remedial plan review period with
22 respect to the plan in which the date
23 determined under subclause (I) occurs
24 (or, if earlier, the date the plan
25 amendment is adopted).

1 “(ii) REMEDIAL PLAN REVIEW PE-
2 RIOD.—The term ‘remedial plan review pe-
3 riod’ means, with respect to any plan, the
4 period established by the Secretary under
5 the authority of section 401(b) as the reg-
6 ular cycle of review by the Secretary for
7 determining whether the plan continues to
8 meet the requirements of this title for
9 treatment as a qualified plan under section
10 401(a).”.

11 (b) RETROACTIVE APPLICATION OF DISCRETIONARY
12 AMENDMENTS.—Section 401(b), as amended by sub-
13 section (a), is amended by adding at the end the following:

14 “(3) DISCRETIONARY AMENDMENTS.—In the
15 case of an amendment to which paragraphs (1) and
16 (2) do not otherwise apply, the provisions of para-
17 graph (1) shall apply to such amendment if it is to
18 take effect during a plan year and is adopted by the
19 last day prescribed by law (including extensions) for
20 filing the return of tax for the taxable year of the
21 employer within which such plan year ends.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply with respect to amendments taking
24 effect with respect to plan years beginning after December
25 31, 2013.

1 **SEC. 212. TERMINATION OF APPLICATION OF TOP-HEAVY**
2 **PLAN RULES.**

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

5 “(j) TERMINATION.—

6 “(1) IN GENERAL.—This section shall not apply
7 to any plan year beginning after December 31,
8 2013.

9 “(2) VESTING RULES APPLICABLE TO PRE-
10 VIOUSLY ACCRUED BENEFITS.—If a plan was a top-
11 heavy plan for any plan year beginning before Janu-
12 ary 1, 2014, then, notwithstanding paragraph (1),
13 the vesting rules applicable to the plan under sub-
14 section (b) for the plan year shall continue to apply
15 to any accrued benefit derived during the plan
16 year.”.

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

20 **SEC. 213. AMENDMENTS TO SAFE HARBOR 401(k) PLANS**
21 **DURING PLAN YEAR.**

22 (a) IN GENERAL.—Section 401(k)(12), as amended
23 by section 206 of this Act, is amended by redesignating
24 subparagraph (G) as subparagraph (H) and by inserting
25 after subparagraph (F) the following:

1 “(G) AMENDMENTS TO SAFE HARBOR
2 PLANS DURING PLAN YEAR.—

3 “(i) IN GENERAL.—Except as pro-
4 vided in clause (ii), an amendment to an
5 arrangement to which this paragraph or
6 paragraph (13) applies may take effect
7 during a plan year if it is adopted before
8 the close of the plan year.

9 “(ii) NO REDUCTION IN MATCHING
10 CONTRIBUTIONS.—Clause (i) shall not
11 apply to any amendment which reduces the
12 amount of the matching contributions an
13 employer is required to make under the ar-
14 rangement as in effect before the amend-
15 ment.”.

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

19 **SEC. 214. MODIFICATION OF RULES RELATING TO HARD-**
20 **SHIP WITHDRAWALS FROM CASH OR DE-**
21 **FERRED ARRANGEMENTS.**

22 (a) IN GENERAL.—Section 401(k), as amended by
23 section 201 of this Act, is amended by adding at the end
24 the following:

1 “(15) SPECIAL RULES RELATING TO HARDSHIP
2 WITHDRAWALS.—For purposes of paragraph
3 (2)(B)(i)(IV)—

4 “(A) AMOUNTS WHICH MAY BE WITH-
5 DRAWN.—The following amounts may be dis-
6 tributed upon hardship of the employee:

7 “(i) Contributions to a profit-sharing
8 or stock bonus plan to which section
9 402(e)(3) applies.

10 “(ii) Qualified nonelective contribu-
11 tions (as defined in subsection (m)(4)(C)).

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

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

16 “(B) NO REQUIREMENT TO TAKE AVAIL-
17 ABLE LOAN.—A distribution shall not be treat-
18 ed as failing to be made upon the hardship of
19 an employee solely because the employee does
20 not take any available loan under the plan.

21 “(C) PARTICIPATION IN ARRANGEMENT
22 NOT CONDITIONED ON WHETHER HARDSHIP
23 DISTRIBUTION MADE.—In determining whether
24 a distribution is made upon the hardship of an
25 employee, the Secretary shall not take into ac-

1 count whether or not an employee makes elec-
 2 tive or employee contributions under the ar-
 3 rangement for any period after the distribu-
 4 tion.”.

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

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

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to distributions made after Decem-
 12 ber 31, 2013.

13 **SEC. 215. INDIVIDUAL MAY ROLL OVER INSURANCE CON-**
 14 **TRACT INTO INDIVIDUAL RETIREMENT AC-**
 15 **COUNT.**

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

18 “A trust shall not be treated as failing to meet the require-
 19 ments of paragraph (3) merely because it holds a life in-
 20 surance contract which was transferred to the trust in a
 21 rollover contribution described in paragraph (1).”.

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

24 (1) in subparagraph (A), by striking “or” at
 25 the end of clause (i), by striking the period at the

1 end of clause (ii) and inserting “, or”, and by add-
 2 ing at the end the following:

3 “(iii) held by a trust described in sec-
 4 tion 408(a) after being contributed to the
 5 trust in a rollover contribution described in
 6 section 408(a)(1).”, and

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

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to rollover contributions after De-
 12 cember 31, 2013.

13 **SEC. 216. FORFEITURES ALLOCATED TO PARTICIPANT’S AC-**
 14 **COUNT MAY BE TREATED AS EMPLOYER**
 15 **MATCHING OR NONELECTIVE CONTRIBU-**
 16 **TIONS.**

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

21 “(H) TREATMENT OF FORFEITURES ALLO-
 22 CATED TO EMPLOYEE’S ACCOUNT.—For pur-
 23 poses of this paragraph and paragraph (13), an
 24 employer may treat a forfeiture allocated to an
 25 employee’s account for any plan year as a

1 matching or nonelective contribution made by
2 the employer which is taken into account in de-
3 termining whether the contribution require-
4 ments of this paragraph or paragraph (13),
5 whichever is applicable, are met.”.

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

9 **SEC. 217. TIME FOR PROVIDING EXPLANATION OF QUALI-**
10 **FIED PRERETIREMENT SURVIVOR ANNUITY.**

11 (a) AMENDMENT TO INTERNAL REVENUE CODE OF
12 1986.—Subparagraph (B) of section 417(a)(3) is amend-
13 ed to read as follows:

14 “(B) EXPLANATION OF QUALIFIED PRE-
15 RETIREMENT SURVIVOR ANNUITY.—Each plan
16 shall provide to each participant, within a rea-
17 sonable time after the individual becomes a par-
18 ticipant (and consistent with such regulations
19 as the Secretary may prescribe), a written ex-
20 planation with respect to the qualified preretire-
21 ment survivor annuity comparable to the expla-
22 nation required under subparagraph (A). A
23 plan shall be treated as meeting the require-
24 ments of this subparagraph if the explanation is
25 included with each summary plan description

1 required to be provided to the participant under
2 section 102 of the Employee Retirement Income
3 Security Act of 1974 (29 U.S.C. 1022).”.

4 (b) AMENDMENT TO EMPLOYEE RETIREMENT IN-
5 COME SECURITY ACT OF 1974.—Subparagraph (B) of
6 section 205(c)(3) of the Employee Retirement Income Se-
7 curity Act of 1974 is amended to read as follows:

8 “(B) Each plan shall provide to each par-
9 ticipant, within a reasonable time after the indi-
10 vidual becomes a participant (and consistent
11 with such regulations as the Secretary of the
12 Treasury may prescribe), a written explanation
13 with respect to the qualified preretirement sur-
14 vivor annuity comparable to the explanation re-
15 quired under subparagraph (A). A plan shall be
16 treated as meeting the requirements of this sub-
17 paragraph if the explanation is included with
18 each summary plan description required to be
19 provided to the participant under section 102.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to—

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

24 (2) individuals who became participants before
25 such date but to whom the written explanation

1 under section 417(a)(3)(B) of the Internal Revenue
 2 Code of 1986 and section 205(c)(3)(B) of the Em-
 3 ployee Retirement Income Security Act of 1974 (as
 4 in effect before such amendments) was not required
 5 to be provided before January 1, 2014.

6 In the case of any individual described in paragraph (2),
 7 a plan shall be treated as meeting the requirements of
 8 such sections 417(a)(3)(B) and 205(c)(3)(B) (as in effect
 9 after such amendments) if the written explanation is pro-
 10 vided within a reasonable period after December 31, 2013.

11 **SEC. 218. MODIFICATIONS OF ADDITIONAL PARTICIPATION**
 12 **REQUIREMENTS FOR DEFINED BENEFIT**
 13 **PLANS.**

14 (a) IN GENERAL.—Section 401(a)(26) is amended by
 15 redesignating subparagraph (H) as subparagraph (J) and
 16 by inserting after subparagraph (G) the following:

17 “(H) REQUIREMENTS MAY BE SATISFIED
 18 THROUGH MINIMUM CONTRIBUTIONS TO DE-
 19 FINED CONTRIBUTION PLAN.—

20 “(i) IN GENERAL.—This paragraph
 21 shall not apply to a defined benefit plan of
 22 an employer for any plan year if—

23 “(I) the defined benefit plan is
 24 aggregated with a defined contribu-
 25 tion plan of the employer for purposes

1 of subsection (a)(4) and section
2 410(b),

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

8 “(III) the contribution require-
9 ments of clause (ii) are met with re-
10 spect to the defined contribution plan.

11 “(ii) CONTRIBUTION REQUIRE-
12 MENTS.—The requirements of this clause
13 are met with respect to a defined contribu-
14 tion plan if, under the plan, the employer
15 is required to make nonelective contribu-
16 tions for the applicable plan year of at
17 least 7.5 percent of compensation for a
18 number of employees at least equal to the
19 number of employees which the defined
20 benefit plan would have been required to
21 benefit under this paragraph without re-
22 gard to this subparagraph. No highly com-
23 pensated employees (within the meaning of
24 section 414(q)) may be taken into account

1 in determining whether the requirements
2 of this clause are met.

3 “(iii) APPLICABLE PLAN YEAR.—For
4 purposes of clause (ii), the term ‘applicable
5 plan year’ means the plan year of the de-
6 fined contribution plan which ends with or
7 within the plan year of the defined benefit
8 plan to which clause (i) applies.

9 “(I) SPECIAL RULES FOR FROZEN
10 PLANS.—

11 “(i) AGGREGATION PERMITTED TO
12 SATISFY REQUIREMENTS.—

13 “(I) IN GENERAL.—Except as
14 provided in subclauses (II) and (III),
15 if a plan is a frozen defined benefit
16 plan for any plan year, an employer
17 may aggregate the plan with any
18 other defined benefit plan or defined
19 contribution plan of the employer for
20 purposes of determining whether the
21 requirements of this paragraph are
22 met with respect to the frozen defined
23 benefit plan.

24 “(II) AGGREGATION FOR OTHER
25 PURPOSES.—An employer may not

1 apply subclause (I) unless the em-
2 ployer also aggregates the plans for
3 purposes of subsection (a)(4) and sec-
4 tion 410(b).

5 “(III) BENEFITS OF HIGHLY
6 COMPENSATED EMPLOYEES DIS-
7 REGARDED.—In the case of any other
8 plan aggregated with a frozen defined
9 benefit plan under subclause (I), ac-
10 crued benefits of highly compensated
11 employees shall not be taken into ac-
12 count in applying subclause (I).

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

15 “(I) IN GENERAL.—Except as
16 provided in subclause (II), this para-
17 graph shall apply to a frozen defined
18 benefit plan of an employer for any
19 plan year only if the employer main-
20 tains any other defined benefit plan
21 during the 6-year period beginning
22 with the first day of the plan year.

23 “(II) RETROACTIVE APPLICA-
24 TION.—Clause (i) shall not apply un-
25 less the frozen defined benefit plan

1 provides that if the employer estab-
2 lishes or maintains any other defined
3 benefit plan during the 6-year period
4 under subclause (I), each employee
5 (other than a highly compensated em-
6 ployee) shall retroactively accrue bene-
7 fits under the frozen defined benefit
8 plan for each year of service the em-
9 ployee would have had under the plan
10 during such period (determined as if
11 the employee were one of the employ-
12 ees required to benefit under the plan
13 under this paragraph).

14 “(iii) FROZEN DEFINED BENEFIT
15 PLAN.—For purposes of this subpara-
16 graph, the term ‘frozen defined benefit
17 plan’ means a defined benefit plan which
18 has in effect an amendment that provides
19 that the plan may not accept any new par-
20 ticipants after the effective date of the
21 amendment.

22 “(iv) HIGHLY COMPENSATED EM-
23 PLOYEE.—The term ‘highly compensated
24 employee’ has the meaning given such term
25 by section 414(q).”

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section applies to plan years beginning after Decem-
3 ber 31, 2013.

4 **SEC. 219. TREATMENT OF CUSTODIAL ACCOUNTS ON TER-**
5 **MINATION OF SECTION 403(b) PLANS.**

6 (a) IN GENERAL.—Section 403(b)(7) is amended by
7 adding at the end the following:

8 “(D) TREATMENT OF CUSTODIAL AC-
9 COUNT UPON PLAN TERMINATION.—

10 “(i) IN GENERAL.—If—

11 “(I) an employer terminates the
12 plan under which amounts are con-
13 tributed to a custodial account under
14 subparagraph (A), and

15 “(II) the person holding the as-
16 sets of the account has demonstrated
17 to the satisfaction of the Secretary
18 under section 408(a)(2) that the per-
19 son is qualified to be a trustee of an
20 individual retirement plan,

21 then, as of the date of the termination, the
22 custodial account shall be deemed to be an
23 individual retirement plan for purposes of
24 this title.

1 “(ii) TREATMENT AS ROTH IRA.—Any
 2 custodial account treated as an individual
 3 retirement plan under clause (i) shall be
 4 treated as a Roth IRA only if the custodial
 5 account was a designated Roth account.”.

6 (b) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to plan terminations occurring
 8 after December 31, 2013.

9 **SEC. 220. SECURE DEFERRAL ARRANGEMENTS.**

10 (a) IN GENERAL.—Subsection (k) of section 401, as
 11 amended by this Act, is amended by adding at the end
 12 the following new paragraph:

13 “(16) ALTERNATIVE METHOD FOR SECURE DE-
 14 FERRAL ARRANGEMENTS TO MEET NONDISCRIMINA-
 15 TION REQUIREMENTS.—

16 “(A) IN GENERAL.—A secure deferral ar-
 17 rangement shall be treated as meeting the re-
 18 quirements of paragraph (3)(A)(ii).

19 “(B) SECURE DEFERRAL ARRANGE-
 20 MENT.—For purposes of this paragraph, the
 21 term ‘secure deferral arrangement’ means any
 22 cash or deferred arrangement which meets the
 23 requirements of subparagraphs (C), (D), and
 24 (E) of paragraph (13), except as modified by
 25 this paragraph.

1 “(C) QUALIFIED PERCENTAGE.—For pur-
2 poses of this paragraph, with respect to any
3 employee, the term ‘qualified percentage’
4 means, in lieu of the meaning given such term
5 in paragraph (13)(C)(iii), any percentage deter-
6 mined under the arrangement if such percent-
7 age is applied uniformly and is—

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

15 “(ii) at least 8 percent during the
16 first plan year following the plan year de-
17 scribed in clause (i), and

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

20 “(D) MATCHING CONTRIBUTIONS.—

21 “(i) IN GENERAL.—For purposes of
22 this paragraph, an arrangement shall be
23 treated as having met the requirements of
24 paragraph (13)(D)(i) if and only if the em-
25 ployer makes matching contributions on

1 behalf of each employee who is not a highly
2 compensated employee in an amount equal
3 to the sum of 50 percent of the elective
4 contributions of the employee to the extent
5 that such contributions do not exceed 2
6 percent of compensation plus 30 percent of
7 so much of such contributions as exceed 2
8 percent but do not exceed 10 percent of
9 compensation.

10 “(ii) APPLICATION OF RULES FOR
11 MATCHING CONTRIBUTIONS.—The rules of
12 clause (ii) of paragraph (12)(B) and
13 clauses (iii) and (iv) of paragraph (13)(D)
14 shall apply for purposes of clause (i) but
15 the rule of clause (iii) of paragraph
16 (12)(B) shall not apply for such purposes.
17 The rate of matching contribution for each
18 incremental deferral must be at least as
19 high as the rate specified in clause (i), and
20 may be higher, so long as such rate does
21 not increase as an employee’s rate of elec-
22 tive contributions increases.”.

23 (b) MATCHING CONTRIBUTIONS AND EMPLOYEE
24 CONTRIBUTIONS.—Subsection (m) of section 401 is
25 amended by redesignating paragraph (13) as paragraph

1 (14) and by adding after paragraph (12) the following new
2 paragraph:

3 “(13) ALTERNATIVE METHOD FOR SECURE DE-
4 FERRAL ARRANGEMENTS.—A defined contribution
5 plan shall be treated as meeting the requirements of
6 paragraph (2) with respect to matching contribu-
7 tions and employee contributions if the plan—

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

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

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

17 (c) TAX CREDIT.—

18 (1) IN GENERAL.—Subpart (D) of part IV of
19 subchapter A of Chapter 1 of subtitle A is amended
20 by adding at the end thereof the following new sec-
21 tion:

22 **“SEC. 45S. SECURE DEFERRAL ARRANGEMENTS.**

23 “(a) IN GENERAL.—For purposes of section 38, in
24 the case of an eligible employer maintaining a qualified
25 employer plan (as defined in clauses (i) and (ii) of section

1 4972(d)(1)(A)), the secure deferral arrangement credit
2 determined under this section for any taxable year is an
3 amount equal to 10 percent of all matching and nonelec-
4 tive contributions under a secure deferral arrangement (as
5 defined in section 401(k)(16)) made during the plan year
6 ending with or within the taxable year of the eligible em-
7 ployer by or on behalf of employees other than highly com-
8 pensated employees (as defined in section 414(q)).

9 “(b) DOLLAR LIMITATION.—The amount of the cred-
10 it determined under this section for any taxable year shall
11 not exceed—

12 “(1) \$10,000 for the first credit year and each
13 of the 2 taxable years immediately following the first
14 credit year, and

15 “(2) zero for any other taxable year.

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

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

22 “(2) at the election of the eligible employer, the
23 taxable year preceding the taxable year referred to
24 in paragraph (1).

25 “(d) DEFINITION AND SPECIAL RULES.—

1 “(1) ELIGIBLE EMPLOYER.—The term ‘eligible
2 employer’ has the meaning given such term by sec-
3 tion 408(p)(2)(C)(i).

4 “(2) AGGREGATION.—All persons treated as a
5 single employer under subsection (a) or (b) of sec-
6 tion 52, or subsection (m) or (o) of section 414,
7 shall be treated as one person. All qualified employer
8 plans of an eligible employer shall be treated as 1
9 qualified employer plan.

10 “(3) DISALLOWANCE OF DEDUCTION.—No de-
11 duction shall be allowed for that portion of the con-
12 tribution for the taxable year which is equal to the
13 credit determined under subsection (a).

14 “(4) ELECTION NOT TO CLAIM CREDIT.—This
15 section shall not apply to a taxpayer for any taxable
16 year if such taxpayer elects to have this section not
17 apply for such taxable year. Any such taxable year
18 shall not be taken into account under subsection
19 (b).”.

20 (2) CONFORMING AMENDMENTS.—

21 (A) GENERAL BUSINESS CREDIT.—Sub-
22 section (b) of section 38 is amended by striking
23 “plus” at the end of paragraph (35), by strik-
24 ing the period at the end of paragraph (36) and

1 inserting “, plus”, and by adding at the end the
2 following:

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

5 (B) CREDIT CROSS-REFERENCES.—

6 (i) Subsection (k) of section 401, as
7 amended by subsection (a), is amended by
8 adding at the end the following new para-
9 graph:

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

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

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

21 (d) FACILITATING QUALIFIED AUTOMATIC CON-
22 TRIBUTION ARRANGEMENTS AND SECURE DEFERRAL AR-
23 RANGEMENTS.—By no later than the date that is twelve
24 months after the date of enactment of this Act, the Sec-
25 retary of the Treasury shall prescribe rules that facilitate

1 the administration of qualified automatic contribution ar-
2 rangements (as defined in section 401(k)(13) of the Inter-
3 nal Revenue Code of 1986) and secure deferral arrange-
4 ments (as defined in section 401(k)(16) of such Code).

5 Such rules shall—

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

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

13 (B) the employer has employees subject to
14 different payroll and administrative systems,
15 and

16 (2) clarify, simplify, and provide safe harbors
17 with respect to the timing of the increases in the
18 qualified percentage described in subclauses (II),
19 (III), and (IV) of section 401(k)(13)(C)(iii) of such
20 Code and in clauses (ii) and (iii) of section
21 401(k)(16)(C) of such Code, especially in cases
22 where the employer has employees subject to dif-
23 ferent payroll and administrative systems.

24 (e) EFFECTIVE DATES.—

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

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

7 **SEC. 221. PORTABILITY OF LIFETIME INCOME OPTIONS.**

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

11 “(38) PORTABILITY OF LIFETIME INCOME.—

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

16 “(i) qualified distributions of a life-
17 time income investment, or

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

21 on or after the date that is 90 days prior to the
22 date on which such lifetime income investment
23 is no longer authorized to be held as an invest-
24 ment option under the plan except as may oth-
25 erwise be provided by regulations.

1 “(B) DEFINITIONS.—For purposes of this
2 subsection—

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

8 “(ii) the term ‘lifetime income invest-
9 ment’ means an investment option that is
10 designed to provide an employee with elec-
11 tion rights—

12 “(I) that are not uniformly avail-
13 able with respect to other investment
14 options under the plan, and

15 “(II) that are to a lifetime in-
16 come feature available through a con-
17 tract or other arrangement offered
18 under the plan or under another eligi-
19 ble retirement plan (as defined in sec-
20 tion 402(c)(8)(B)) through a direct
21 trustee-to-trustee transfer to such
22 other eligible retirement plan under
23 section 401(a)(31)(A),

24 “(iii) the term ‘lifetime income fea-
25 ture’ means—

1 “(I) a feature that guarantees a
2 minimum level of income annually (or
3 more frequently) for at least the re-
4 mainder of the life of the employee or
5 the joint lives of the employee and the
6 employee’s designated beneficiary, or

7 “(II) an annuity payable on be-
8 half of the employee under which pay-
9 ments are made in substantially equal
10 periodic payments (not less frequently
11 than annually) over the life of the em-
12 ployee or the joint lives of the em-
13 ployee and the employee’s designated
14 beneficiary, taking into account the
15 rules of clause (iii) of section
16 401(a)(9)(I), and

17 “(iv) the term ‘qualified plan distribu-
18 tion annuity contract’ means an annuity
19 contract purchased for a participant and
20 distributed to the participant by a plan de-
21 scribed in subparagraph (B) of section
22 402(c)(8) (without regard to clauses (i)
23 and (ii) thereof).”.

24 (b) CASH OR DEFERRED ARRANGEMENT.—Clause (i)
25 of section 401(k)(2)(B) is amended by striking “or” at

1 the end of subclause (IV), by striking “and” at the end
 2 of subclause (V) and inserting “or”, and by adding at the
 3 end of clause (i) the following:

4 “(VI) with respect to amounts in-
 5 vested in a lifetime income investment
 6 (as defined in section
 7 401(a)(38)(B)(ii)), the date that is 90
 8 days prior to the date that such life-
 9 time income investment may no longer
 10 be held as an investment option under
 11 the plan, provided that any distribu-
 12 tion under this subclause must be in
 13 the form of a qualified distribution (as
 14 defined in section 401(a)(38)(B)(i))
 15 or a qualified plan distribution annu-
 16 ity contract (as defined in section
 17 401(a)(38)(B)(iv)), and”.

18 (c) SECTION 403(b) PLANS.—

19 (1) ANNUITY CONTRACTS.—Paragraph (11) of
 20 section 403(b) is amended by striking “or” at the
 21 end of subparagraph (B), by striking the period at
 22 the end of subparagraph (C), and by inserting “,
 23 or”, and by adding at the end the following:

24 “(D) with respect to amounts invested in a
 25 lifetime income investment (as defined in sec-

1 tion 401(a)(38)(B)(ii)), the date that is 90 days
2 prior to the date that such lifetime income in-
3 vestment may no longer be held as an invest-
4 ment option under the plan, provided that any
5 distribution under this subparagraph must be
6 in the form of a qualified distribution (as de-
7 fined in section 401(a)(38)(B)(i)) or a qualified
8 plan distribution annuity contract (as defined in
9 section 401(a)(38)(B)(iv)).”.

10 (2) CUSTODIAL ACCOUNTS.—Clause (ii) of sec-
11 tion 403(b)(7)(A) is amended to read as follows:

12 “(ii) under the custodial account, no
13 such amounts may be paid or made avail-
14 able to any distributee (unless such
15 amount is a distribution to which section
16 72(t)(2)(G) applies) before—

17 “(I) the employee dies,

18 “(II) the employee attains age
19 59½,

20 “(III) the employee has a sever-
21 ance from employment,

22 “(IV) the employee becomes dis-
23 abled (within the meaning of section
24 72(m)(7)),

1 “(V) in the case of contributions
2 made pursuant to a salary reduction
3 agreement (within the meaning of sec-
4 tion 3121(a)(5)(D)), the employee en-
5 counters financial hardship, or

6 “(VI) with respect to amounts in-
7 vested in a lifetime income investment
8 (as defined in section
9 401(a)(38)(B)(ii)), the date that is 90
10 days prior to the date that such life-
11 time income investment may no longer
12 be held as an investment option under
13 the plan, provided that any distribu-
14 tion under this subparagraph must be
15 in the form of a qualified distribution
16 (as defined in section
17 401(a)(38)(B)(i)) or a qualified plan
18 distribution annuity contract (as de-
19 fined in section 401(a)(38)(B)(iv)).”.

20 (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—
21 Subparagraph (A) of section 457(d)(1) is amended by
22 striking “or” at the end of clause (ii), by inserting “or”
23 at the end of clause (iii), and by adding after clause (iii)
24 the following:

1 “(iv) in the case of a plan maintained
2 by an employer described in subsection
3 (e)(1)(A), with respect to amounts invested
4 in a lifetime income investment (as defined
5 in section 401(a)(38)(B)(ii)), the date that
6 is 90 days prior to the date that such life-
7 time income investment may no longer be
8 held as an investment option under the
9 plan, provided that any distribution under
10 this subparagraph must be in the form of
11 a qualified distribution (as defined in sec-
12 tion 401(a)(38)(B)(i)) or a qualified plan
13 distribution annuity contract (as defined in
14 section 401(a)(38)(B)(iv)),”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to plan years beginning after De-
17 cember 31, 2013.

18 **SEC. 222. CONSOLIDATION OF DEFINED CONTRIBUTION**

19 **PLAN NOTICES.**

20 (a) IN GENERAL.—

21 (1) Not later than 18 months after the date of
22 the enactment of this Act, the Secretary of Labor
23 and the Secretary of the Treasury shall adopt final
24 regulations providing that a plan may, but is not re-
25 quired to, consolidate two or more of the notices re-

1 required under sections 404(c)(5)(B) and 514(e)(3) of
2 the Employee Retirement Income Security Act of
3 1974 (29 U.S.C. 1144(e)(3)), sections
4 401(k)(12)(D), 401(k)(13)(E), and 414(w)(4) of the
5 Internal Revenue Code of 1986, and section
6 2550.404a-5 of title 29, Code of Federal Regula-
7 tions (29 C.F.R. 2550.404a-5) into a single notice
8 or, to the extent provided by such regulations, con-
9 solidate such notices with the summary plan descrip-
10 tion or summary of material modifications described
11 in section 104(b) of the Employee Retirement In-
12 come Security Act of 1974 (29 U.S.C. 1024(b)), so
13 long as the combined notice, summary plan descrip-
14 tion or summary of material modifications includes
15 the required content, clearly identifies the issues ad-
16 dressed therein, and is provided at the time and with
17 the frequency required for each such notice.

18 (2) The Secretary of Labor and the Secretary
19 of the Treasury may include in such regulations
20 rules to ensure that, to the extent such notices are
21 consolidated with the summary plan description or
22 summary of material modifications, the presentation,
23 placement, or prominence of the information in such
24 notices shall not have the effect of failing to inform

1 participants and beneficiaries regarding the informa-
2 tion in such notices.

3 (b) PROVISION OF ANNUAL NOTICES WITHOUT RE-
4 GARD TO PLAN YEAR.—

5 (1) Clause (i) of section 404(c)(5)(B) of the
6 Employee Retirement Income Security Act of 1974
7 (29 U.S.C. 1104(c)(5)(B)) is amended—

8 (A) in subclause (I) by striking “within a
9 reasonable period of time before each plan
10 year,” and inserting “within a reasonable pe-
11 riod before the arrangement described in sub-
12 paragraph (A) applies to such participant or
13 beneficiary, and thereafter at least once within
14 any 12-month period (without regard to the
15 plan year) during which such arrangement ap-
16 plies,” and

17 (B) in subclause (II) by striking “and be-
18 fore the beginning of the plan year”.

19 (2) Subparagraph (A) of section 514(e)(3) of
20 the Employee Retirement Income Security Act of
21 1974 (29 U.S.C. 1144(e)(3)(A)) is amended by
22 striking “, within a reasonable period before such
23 plan year, provide to each participant to whom the
24 arrangement applies for such plan year” and insert-
25 ing “, within a reasonable period before the arrange-

1 ment applies to a participant or beneficiary, and
2 thereafter at least once within any 12-month period
3 (without regard to the plan year) during which such
4 arrangement applies, provide”.

5 (3) Clause (i) of section 401(k)(13)(E) of the
6 Internal Revenue Code of 1986 is amended by strik-
7 ing “, within a reasonable period before each plan
8 year, each employee eligible to participate in the ar-
9 rangement for such year receives” and inserting
10 “each employee eligible to participate in the arrange-
11 ment receives, within a reasonable period before the
12 employee becomes eligible, and thereafter within a
13 reasonable period before each plan year during
14 which such arrangement applies,”.

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

23 (5) Subparagraph (A) of section 414(w)(4) of
24 the Internal Revenue Code of 1986 is amended by
25 striking “, within a reasonable period before each

1 plan year, give to each employee to whom an ar-
2 rangement described in paragraph (3) applies for
3 such plan year” and inserting “, within a reasonable
4 period before an arrangement described in para-
5 graph (3) applies to an employee, and thereafter at
6 least once within any 12-month period (without re-
7 gard to the plan year) during which such arrange-
8 ment applies, give to each such employee”.

9 **SEC. 223. PERFORMANCE BENCHMARKS FOR ASSET ALLO-**
10 **CATION FUNDS.**

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

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

22 (2) for purposes of determining the blend’s re-
23 turns for 1-, 5-, and 10-calendar year periods (or for
24 the life of the alternative, if shorter), the blend is
25 modified at least once per year to reflect changes in

1 the asset class holdings of the designated investment
2 alternative; and

3 (3) each securities market index that is used for
4 an associated asset class would separately satisfy the
5 requirements of such regulations for such asset
6 class.

7 **Subtitle C—Longevity Reforms**

8 **SEC. 231. MODIFICATION OF REQUIRED MINIMUM DIS-** 9 **TRIBUTION RULES WHERE PORTION OF BEN-** 10 **EFIT OF DEFINED CONTRIBUTION PLAN IS** 11 **ANNUITIZED.**

12 (a) IN GENERAL.—Section 401(a)(9) is amended by
13 redesignating subparagraph (F) as subparagraph (G) and
14 by inserting after subparagraph (E) the following:

15 “(F) EXEMPTION FOR CERTAIN
16 ANNUITIZED AMOUNTS.—This paragraph shall
17 not apply to the portion of an employee’s entire
18 interest under a defined contribution plan which
19 is invested in a qualified deferred annuity in ac-
20 cordance with the requirements of subsection
21 (o).”.

22 (b) INVESTMENT IN QUALIFIED ANNUITY.—Section
23 401 is amended by redesignating subsection (o) as sub-
24 section (p) and by inserting after subsection (n) the fol-
25 lowing:

1 “(o) RULES AND DEFINITIONS RELATING TO IN-
2 VESTMENTS IN QUALIFIED DEFERRED ANNUITIES.—

3 “(1) IN GENERAL.—Subparagraph (F) of sub-
4 section (a)(9) shall apply to the portion of an em-
5 ployee’s entire interest under the plan invested in a
6 qualified deferred annuity only if—

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

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

14 “(2) EXCEPTION APPLIES ONLY TO 1 ANNU-
15 ITY.—Subparagraph (F) of subsection (a)(9) shall
16 apply only with respect to 1 qualified deferred annu-
17 ity purchased with a portion of an employee’s inter-
18 est in any plan.

19 “(3) QUALIFIED DEFERRED ANNUITY.—For
20 purposes of subsection (a)(9)(F) and this subsection,
21 the term ‘qualified deferred annuity’ means an an-
22 nuity contract—

23 “(A) which is a commercial annuity (as de-
24 fined in section 3405(e)(6)) which provides ben-
25 efits in the form of either—

1 “(i) a single annuity for the life of the
2 employee under which the annuity pay-
3 ments are substantially equal periodic pay-
4 ments made not less frequently than annu-
5 ally, or

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

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

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

15 “(A) an employee dies before the distribu-
16 tion of the employee’s interest has begun in ac-
17 cordance with subsection (a)(9)(A)(ii) and be-
18 fore the employee has invested in a qualified de-
19 ferred annuity in accordance with this sub-
20 section, and

21 “(B) the designated beneficiary is the sur-
22 viving spouse of the employee,
23 the surviving spouse may invest any portion of the
24 entire interest in a qualified deferred annuity in ac-
25 cordance with this subsection in the same manner as

1 the employee but the required beginning date shall
2 not be earlier than, and the deferral period of the
3 annuity shall be based on, the dates the employee
4 would have attained the age of 70½ or 85, respec-
5 tively.

6 “(5) SPECIAL RULE FOR IRAS AND 403(b)s.—
7 In the case of individual retirement plans and annu-
8 ity contracts to which the requirements of subsection
9 (a)(9) apply by reason of subsections (a)(6) and
10 (b)(3) of section 408 and section 403(b)(10), the
11 employee may elect to treat all such plans and ac-
12 counts with the same required beginning date as 1
13 plan for purposes of applying this subsection.”.

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

17 **SEC. 232. UPDATING OF MORTALITY TABLES FOR MINIMUM**
18 **REQUIRED DISTRIBUTIONS.**

19 Section 401(a)(9), as amended by section 231, is
20 amended by redesignating subparagraph (G) as subpara-
21 graph (H) and by inserting after subparagraph (F) the
22 following:

23 “(G) MORTALITY TABLES.—

24 “(i) INITIAL UPDATE.—Not later than
25 1 year after the date of the enactment of

1 this subparagraph, the Secretary shall ei-
2 ther update, or provide new tables to re-
3 place, the mortality tables used as of such
4 date for purposes of this paragraph.

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

12 “(iii) EFFECTIVE DATE.—Any table
13 prescribed under this subparagraph shall
14 apply to plan years beginning after the
15 date which is 1 year after publication of
16 the final table.”.

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

19 (a) IN GENERAL.—Section 408A(e) is amended by
20 adding at the end the following:

21 “(3) ROLLOVER OF MINIMUM REQUIRED DIS-
22 TRIBUTIONS ALLOWED.—Section 408(d)(3)(E) shall
23 not apply in determining whether a rollover con-
24 tribution is a qualified rollover distribution under
25 paragraph (1).”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to distributions for taxable years
 3 beginning after December 31, 2013.

4 **SEC. 234. TRANSFER OF MINIMUM SURVIVOR ANNUITY RE-**
 5 **QUIREMENTS FROM PLAN SPONSORS TO AN-**
 6 **NUITY PROVIDERS.**

7 (a) AMENDMENT OF 1986 CODE.—Section 417 is
 8 amended by adding at the end the following:

9 “(h) TRANSFER OF MINIMUM SURVIVOR ANNUITY
 10 REQUIREMENTS FROM PLAN SPONSORS TO ANNUITY
 11 PROVIDERS.—

12 “(1) IN GENERAL.—If a defined contribution
 13 plan to which the requirements of section 401(a)(11)
 14 and this section apply has a designated annuity pro-
 15 vider, then, except as provided in paragraph (3), the
 16 designated annuity provider (and not any plan spon-
 17 sor or administrator) shall be liable for any failure
 18 to meet any such requirement.

19 “(2) DESIGNATED ANNUITY PROVIDER.—For
 20 purposes of this subsection, the term ‘designated an-
 21 nuity provider’ means a person licensed under the
 22 laws of any State to issue annuity contracts which
 23 has entered into a contract with the plan sponsor or
 24 other person who is a fiduciary with respect to the
 25 plan to—

1 “(A) provide annuity contracts to partici-
2 pants and beneficiaries under the plan, and

3 “(B) meet all requirements under this sec-
4 tion and section 401(a)(11) with respect to the
5 providing of such annuities, including providing
6 such annuities in the proper form, providing
7 any notice or written explanations during any
8 applicable notice period, and providing the op-
9 portunity for participants and their spouses or
10 beneficiaries to make appropriate elections dur-
11 ing any applicable election period.

12 “(3) REQUIREMENT FOR PRUDENT SOLICITA-
13 TION AND RETENTION OF PROVIDER.—This sub-
14 section shall apply to a plan with a designated annu-
15 ity provider only if the plan sponsor or other person
16 who is a fiduciary with respect to the plan met all
17 requirements for the prudent selection and periodic
18 review of the annuity provider with respect to whom
19 a contract described in paragraph (2) was entered
20 into.

21 “(4) AUTHORITY TO CHARGE FEES TO PARTICI-
22 PANTS.—A plan shall not be treated as failing to
23 meet the requirements of this subsection merely be-
24 cause plan assets are used to pay for reasonable ex-

1 penses of the designated annuity provider in meeting
2 the requirements described in paragraph (2)(B).

3 “(5) ELECTRONIC NOTIFICATION.—The Sec-
4 retary shall, to the maximum extent practicable, en-
5 sure that notices and explanations provided by the
6 designated annuity provider are provided in elec-
7 tronic form.”.

8 (b) AMENDMENT OF ERISA.—Section 205 of the
9 Employee Retirement Income Security Act of 1974 (29
10 U.S.C. 1055) is amended by adding at the end the fol-
11 lowing:

12 “(m) TRANSFER OF MINIMUM SURVIVOR ANNUITY
13 REQUIREMENTS FROM PLAN SPONSORS TO ANNUITY
14 PROVIDERS.—

15 “(1) IN GENERAL.—If an individual account
16 plan to which the requirements of this section apply
17 has a designated annuity provider, then, except as
18 provided in paragraph (3), the designated annuity
19 provider (and not any plan sponsor or adminis-
20 trator) shall be liable for any failure to meet any
21 such requirement.

22 “(2) DESIGNATED ANNUITY PROVIDER.—For
23 purposes of this subsection, the term ‘designated an-
24 nuity provider’ means a person licensed under the
25 laws of any State to issue annuity contracts which

1 has entered into a contract with the plan sponsor or
2 other person who is a fiduciary with respect to the
3 plan to—

4 “(A) provide annuity contracts to partici-
5 pants and beneficiaries under the plan, and

6 “(B) meet all requirements under this sec-
7 tion and section 401(a)(11) of the Internal Rev-
8 enue Code of 1986 with respect to the providing
9 of such annuities, including providing such an-
10 nuities in the proper form, providing any notice
11 or written explanations during any applicable
12 notice period, and providing the opportunity for
13 participants and their spouses or beneficiaries
14 to make appropriate elections during any appli-
15 cable election period.

16 “(3) REQUIREMENT FOR PRUDENT SOLICITA-
17 TION AND RETENTION OF PROVIDER.—This sub-
18 section shall apply to a plan with a designated annu-
19 ity provider only if the plan sponsor or other person
20 who is a fiduciary with respect to the plan met all
21 requirements for the prudent selection and periodic
22 review of the annuity provider with respect to whom
23 a contract described in paragraph (2) was entered
24 into.

1 (1) In the case of plan loan errors for which
2 corrections are specified under the voluntary compli-
3 ance program, self-correction shall be made available
4 by methods applicable to such loans through the vol-
5 untary compliance program.

6 (2) The Secretary of Labor shall treat any loan
7 error corrected pursuant to paragraph (1) as meet-
8 ing the requirements of the Voluntary Fiduciary
9 Correction Program of the Department of Labor.

10 (c) 457(b) PLAN CORRECTION.—The Secretary of
11 the Treasury shall update the Employee Plans Compliance
12 Resolution System to provide the same type of comprehen-
13 sive correction program that is available under such sys-
14 tem to retirement plans qualified under section 401(a) of
15 the Internal Revenue Code of 1986 to plans maintained
16 pursuant to section 457(b) of such Code by an employer
17 described in section 457(e)(1)(A) of such Code.

18 (d) EPCRS FOR IRAS.—The Secretary of the Treas-
19 ury shall expand the Employee Plans Compliance Resolu-
20 tion System to allow custodians of individual retirement
21 plans to address inadvertent errors for which the owner
22 of an individual retirement plan was not at fault, including
23 (but not limited to)—

1 (1) waivers of the excise tax that would other-
2 wise apply under section 4974 of the Internal Rev-
3 enue Code of 1986,

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

9 (3) rules permitting a nonspouse beneficiary to
10 return distributions to an inherited individual retire-
11 ment plan described in section 408(d)(3)(C) of the
12 Internal Revenue Code of 1986 in a case where, due
13 to an inadvertent error by a service provider, the
14 beneficiary had reason to believe that the distribu-
15 tion could be rolled over without inclusion in income
16 of any part of the distributed amount.

17 (e) **REQUIRED MINIMUM DISTRIBUTION CORREC-**
18 **TIONS.**—The Secretary of the Treasury shall expand the
19 Employee Plans Compliance Resolution System to allow
20 plans to which such system applies and custodians of indi-
21 vidual retirement plans to self-correct, without an excise
22 tax, any inadvertent errors pursuant to which a distribu-
23 tion is made no more than 180 days after it was required
24 to be made.

1 (f) AUTOMATIC FEATURE ERROR CORRECTION.—In
 2 order to promote the adoption of automatic enrollment
 3 and automatic escalation, the Secretary of the Treasury
 4 shall modify the Employee Plans Compliance Resolution
 5 System to establish specific correction methods for errors
 6 in implementing automatic enrollment and automatic es-
 7 calation features.

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

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

13 (a) AMENDMENT TO EMPLOYEE RETIREMENT IN-
 14 COME SECURITY ACT OF 1974.—Part 1 of subtitle B of
 15 title 1 of the Employee Retirement Income Security Act
 16 of 1974 (29 U.S.C. 1021 et seq.) is amended by adding
 17 at the end the following new section:

18 **“SEC. 112. ELECTRONIC COMMUNICATION OF PENSION**
 19 **PLAN INFORMATION.**

20 “Any document that is required or permitted under
 21 this title to be furnished to a plan participant, beneficiary,
 22 or other individual with respect to a pension plan may be
 23 furnished in electronic form if—

24 “(1) the system for furnishing such a docu-
 25 ment—

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

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

8 “(ii) the posting of material to a
9 website or other internet or electronic-
10 based information repository to which ac-
11 cess has been granted to such participant,
12 beneficiary, or individual, but only if prop-
13 er notice of the posting has been provided
14 (which may include notice furnished by
15 other electronic means if the content of the
16 notice conveys the need to take action to
17 access the posted material), and

18 “(iii) other electronic means reason-
19 ably calculated to ensure actual receipt of
20 the material by such participant, bene-
21 ficiary, or individual, and

22 “(B) protects the confidentiality of per-
23 sonal information relating to such participant’s,
24 beneficiary’s, or individual’s accounts and bene-
25 fits;

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

3 “(3) notice is provided to each participant or
4 beneficiary, in electronic or non-electronic form, be-
5 fore a document is furnished electronically, that ap-
6 prises the individual of the right to elect to receive
7 a paper version of such document; and

8 “(4) the electronically furnished document—

9 “(A) is prepared and furnished in a man-
10 ner that is consistent with the style, format,
11 and content requirements applicable to the par-
12 ticular document; and

13 “(B) includes a notice that apprises the in-
14 dividual of the significance of the document
15 when it is not otherwise reasonably evident as
16 transmitted.

17 For purposes of this section, the term ‘document’ includes
18 reports, statements, notices, notifications, and other infor-
19 mation.”.

20 (b) AMENDMENT TO INTERNAL REVENUE CODE OF
21 1986.—Section 414 of the Internal Revenue Code of 1986
22 is amended by adding at the end the following new sub-
23 section:

24 “(y) ELECTRONIC COMMUNICATION OF PENSION
25 PLAN INFORMATION.—Any document that is required or

1 permitted under this title to be furnished to a plan partici-
2 pant, beneficiary, or other individual with respect to a pen-
3 sion plan may be furnished in electronic form if—

4 “(1) the system for furnishing such a docu-
5 ment—

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

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

13 “(ii) the posting of material to a
14 website or other internet or electronic-
15 based information repository to which ac-
16 cess has been granted to such participant,
17 beneficiary, or individual, but only if prop-
18 er notice of the posting has been provided
19 (which may include notice furnished by
20 other electronic means if the content of the
21 notice conveys the need to take action to
22 access the posted material), and

23 “(iii) other electronic means reason-
24 ably calculated to ensure actual receipt of

1 the material by such participant, bene-
2 ficiary, or individual, and

3 “(B) protects the confidentiality of per-
4 sonal information relating to such participant’s,
5 beneficiary’s, or individual’s accounts and bene-
6 fits;

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

9 “(3) notice is provided to each participant or
10 beneficiary, in electronic or non-electronic form, be-
11 fore a document is furnished electronically, that ap-
12 prises the individual of the right to elect to receive
13 a paper version of such document; and

14 “(4) the electronically furnished document—

15 “(A) is prepared and furnished in a man-
16 ner that is consistent with the style, format,
17 and content requirements applicable to the par-
18 ticular document; and

19 “(B) includes a notice that apprises the in-
20 dividual of the significance of the document
21 when it is not otherwise reasonably evident as
22 transmitted.

23 For purposes of this subsection, the term ‘document’ in-
24 cludes reports, statements, notices, notifications, and
25 other information.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to documents fur-
3 nished with respect to plan years beginning after Decem-
4 ber 31, 2013.

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

7 (a) IN GENERAL.—Paragraph (1) of section 104(b)
8 of the Employee Retirement Income Security Act of 1974
9 (29 U.S.C. 1024(b)(1)) is amended to read as follows:

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

14 “(i) within 90 days after becoming a partici-
15 pant, or in the case of a beneficiary, within 90 days
16 after first receiving benefits, or

17 “(ii) if later, within 120 days after the plan be-
18 comes subject to this part.

19 “(B)(i) Except as provided in clause (ii), the adminis-
20 trator shall furnish to each participant, and each bene-
21 ficiary receiving benefits under the plan, every fifth year
22 after the plan becomes subject to this part an updated
23 summary plan description described in section 102 which
24 integrates all plan amendments made within such five-year
25 period, except that in a case where no amendments have

1 been made to a plan during such five-year period, this sen-
2 tence shall not apply. Notwithstanding the foregoing, the
3 administrator shall furnish to each participant, and to
4 each beneficiary receiving benefits under the plan, the
5 summary plan description described in section 102 every
6 tenth year after the plan becomes subject to this part.

7 “(ii) In the case of a pension plan, the administrator
8 shall furnish to each participant, and each beneficiary re-
9 ceiving benefits under the plan, 210 days after the end
10 of each remedial plan review period, an updated summary
11 plan description described in section 102 which integrates
12 all plan amendments made during such period, except that
13 if no amendments have been made to a plan during such
14 period, an updated summary plan description shall be fur-
15 nished not later than 210 days after the end of the subse-
16 quent remedial plan review period (without regard to
17 whether plan amendments were made during such subse-
18 quent period).

19 “(C)(i) If there is a modification or change described
20 in section 102(a) (other than a material reduction in cov-
21 ered services or benefits provided in the case of a group
22 health plan (as defined in section 733(a)(1))), a summary
23 description of such modification or change shall be fur-
24 nished not later than 210 days after the end of the plan
25 year in which the change is adopted to each participant,

1 and to each beneficiary who is receiving benefits under the
2 plan.

3 “(ii) For purposes of clause (i), any amendment to
4 a pension plan adopted during a remedial plan review pe-
5 riod shall be treated as adopted in the plan year in which
6 the amendment took effect.

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

16 “(E) In this paragraph, the term ‘remedial plan re-
17 view period’ means, with respect to any pension plan, the
18 period established by the Secretary of the Treasury under
19 the authority of subsection (b) of section 401 of the Inter-
20 nal Revenue Code of 1986 as the regular cycle of review
21 by the Secretary of the Treasury for determining whether
22 the pension plan continues to meet the requirements of
23 such Code for treatment as a qualified plan under sub-
24 section (a) of such section 401.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to summary plan de-
3 scriptions furnished under section 104(b) of the Employee
4 Retirement Income Security Act of 1974 (29 U.S.C.
5 1024(b)), and modifications or changes described in sec-
6 tion 102(a) of such Act (29 U.S.C. 1022(a)), with respect
7 to plan years beginning after December 31, 2013.

8 **SEC. 243. MODIFICATION OF SMALL PLAN SIMPLIFIED RE-**
9 **PORTING REQUIREMENTS.**

10 (a) IN GENERAL.—Section 104(a)(2) of the Em-
11 ployee Retirement Income Security Act of 1974, as
12 amended by section 201(c) of this Act, is amended by
13 striking “100 participants” and inserting “100 partici-
14 pants who have an accrued benefit under the plan”.

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

18 **SEC. 244. FIDUCIARY REQUIREMENT REGARDING SELEC-**
19 **TION OF ANNUITY PROVIDER AND ANNUITY**
20 **CONTRACT.**

21 (a) IN GENERAL.—Section 404 of the Employee Re-
22 tirement Income Security Act of 1974 (29 U.S.C. 1104)
23 is amended by adding at the end the following:

24 “(e) ABILITY OF ANNUITY PROVIDERS TO MAKE
25 PAYMENTS.—In the case of the selection of an annuity

1 provider and annuity contract in connection with the pay-
 2 ment of benefits under a defined contribution plan, the
 3 fiduciary requirement under subsection (a)(1)(B) is
 4 deemed satisfied with respect to determining the ability
 5 of the annuity provider to make all payments due under
 6 the contract to the extent that such payments are guaran-
 7 teed by a State guaranty association under applicable
 8 State law in effect as of the date of issuance of the con-
 9 tract.”.

10 (b) EFFECTIVE DATE.—The amendment made by
 11 subsection (a) shall apply to annuity contracts purchased
 12 after the date of enactment of this Act.

13 **TITLE III—INDIVIDUAL RETIRE-**
 14 **MENT INVESTMENT ADVICE**
 15 **REFORM**

16 **SEC. 301. TRANSFER TO SECRETARY OF THE TREASURY OF**
 17 **AUTHORITIES REGARDING INDIVIDUAL RE-**
 18 **TIREMENT PLANS.**

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

22 (1) in subsection (a)—

23 (A) by striking “and” at the end of clause

24 (ii),

1 (B) by striking “and” at the end of clause
2 (iii), and

3 (C) by inserting “(iv) regulations, rulings,
4 opinions, and exemptions relating to individual
5 retirement accounts described in section 408(a)
6 of the Code and individual retirement annuities
7 described in section 408(b) of the Code, includ-
8 ing simplified employee pensions under section
9 408(k) of the Code and simple retirement ac-
10 counts under section 408(p) of the Code; and
11 (v) regulations described in section 103(b) of
12 this Plan; and” at the end of clause (iii) (as
13 amended by subparagraph (B)), and

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

16 “The Secretary of the Treasury shall consult with the Se-
17 curities and Exchange Commission in prescribing regula-
18 tions, rulings, opinions, and exemptions under subsection
19 (a)(iv) that provide guidance of general application as to
20 the professional standards of care (whether involving fidu-
21 ciary, suitability, or other standards) owed by brokers and
22 investment advisors to owners and account holders of ac-
23 counts and annuities described in such subsection.”.

24 (b) JOINT AUTHORITY.—Section 103 of such Plan is
25 amended—

1 (1) by striking “In the case of” and inserting:

2 “(a) In the case of”; and

3 (2) by adding at the end:

4 “(b)(1) The Secretary of the Treasury and the Sec-
5 retary of Labor shall have joint authority to issue regula-
6 tions described in this subsection, and any such regula-
7 tions shall be issued jointly by such Secretaries.

8 “(2) A regulation is described in this subsection if
9 (i) the regulation is not described in clause (i), (ii), (iii),
10 or (iv) of section 102(a) of this Plan and (ii) defines or
11 interprets a term or requirement that is included in sec-
12 tion 4975 of the Code or section 406 of ERISA. The de-
13 termination of whether any regulation is described in this
14 subsection shall be made without regard to whether any
15 such term or requirement is also used or defined in any
16 other provision of the Code or ERISA.”.

17 (c) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by
19 this section shall apply to regulations, rulings, opin-
20 ions, and exemptions which have not been finalized
21 as of July 8, 2013.

22 (2) TRANSITION.—Any final regulation, ruling,
23 opinion, or exemption described in section 102(a)(iv)
24 or 103(b) of Reorganization Plan No. 4 of 1978 (as
25 added by the amendments made by this section)

1 which was issued by the Secretary of Labor before
2 July 9, 2013, shall apply until such time as such
3 regulation, ruling, opinion, or exemption is revoked
4 or modified pursuant to such amendments.

○