

Date: October 19, 2007

TCRS 2007-06: Department of Labor Additional Guidance On Pension Benefit Statements for Non-Participant Directed Defined Contribution Plans – Field Assistance Bulletin (FAB) 2007-03

On October 12, 2007, the Department of Labor issued Field Assistance Bulletin (FAB) 2007-03 providing guidance on the deadline for furnishing benefit statements by defined contribution plans that do not permit participants to direct the investment of their accounts.

Background

In FAB 2006-03 issued December 20, 2006, the DOL indicated that pending the issuance of further guidance, the furnishing of pension benefit statements within 45 days following the end the relevant quarter or calendar year will constitute good faith compliance with the requirement to automatically furnish pension benefit statements under the Pension Protection Act of 2006. Since the issuance of FAB 2006-03, the DOL has received numerous comments about the challenges many sponsors of profit sharing plans that do not permit participants to direct investments face in obtaining information on a timely basis to meet the 45-day deadline. See the February 8, 2007 posting of TCRS 2007-01 for a summary of FAB 2006-03 at www.transamericacenter.org.

FAB 2007-03

In consideration of these comments, the DOL has extended the good faith compliance deadline for defined contribution plans that do not permit participants to direct investments. Pending issuance of further guidance, this new deadline has been extended to the filing deadline for Form 5500 (including extensions). This new deadline allows plan sponsors to use much of the information compiled for preparation of Form 5500 in preparing the pension benefit statements.

FAB 2007-03 does not address defined contribution plans that permit participant investment direction for some contribution sources and not others. The most common example would be a profit sharing/401(k) plan that permits participant investment direction for elective deferrals and matching contributions, but provides for trustee-direction for profit sharing contributions. For these plans, pension benefit statements must be furnished quarterly using the latest available information for the profit sharing portion which could be for the prior year.

FAB 2007-03 does not change the good faith compliance deadline of 45 days following the end of the relevant quarter or calendar year for defined contribution plans that permit participants to direct the investment of their accounts.