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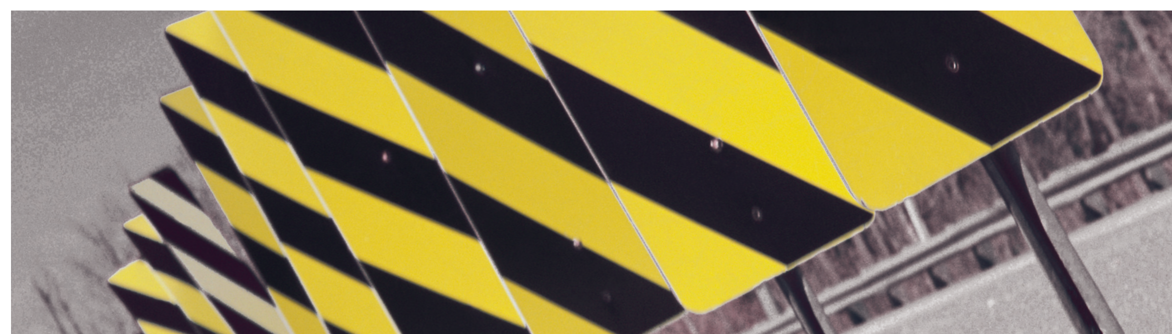
2010

Employee Benefit Plans Industry Developments

AUDIT RISK ALERT



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2010

Employee Benefit Plans Industry Developments

AUDIT RISK ALERT

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STRENGTHENING AUDIT INTEGRITY
SAFEGUARDING FINANCIAL REPORTING

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Notice to Readers

This Audit Risk Alert is intended to provide auditors of financial statements of employee benefit plans with an overview of recent economic, industry, technical, regulatory, and professional developments that may affect the audits and other engagements they perform. This Audit Risk Alert also can be used by an entity's internal management to address areas of audit concern.

This publication is an *other auditing publication*, as defined in AU section 150, *Generally Accepted Auditing Standards* (AICPA, *Professional Standards*, vol. 1). Other auditing publications have no authoritative status; however, they may help the auditor understand and apply the Statements on Auditing Standards.

If an auditor applies the auditing guidance included in an other auditing publication, he or she should be satisfied that, in his or her judgment, it is both relevant to the circumstances of the audit and appropriate. The auditing guidance in this document has been reviewed by the AICPA Audit and Attest Standards staff and published by the AICPA and is presumed to be appropriate. This document has not been approved, disapproved, or otherwise acted on by a senior technical committee of the AICPA.

Linda C. Delahanty, CPA
Technical Manager
Accounting and Auditing Publications

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How This Alert Helps You

.01 This Audit Risk Alert (alert) helps you plan and perform your employee benefit plan audits and also can be used by an entity's internal management to address audit and accounting concerns. The difficult economic climate continues to make accounting for and auditing of employee benefit plans challenging. It is crucial to remain alert to current events and evaluate how they affect the audits you perform. This alert delivers information about emerging practice issues and current accounting, auditing, and regulatory developments that will help you plan and perform your employee benefit plan audits. This alert provides information to assist you in achieving a more robust understanding of the business, economic, and regulatory environments in which your clients operate. This alert is an important tool to help you identify the significant risks that may result in the material misstatement of financial statements and delivers information about emerging practice issues and current accounting, auditing, and regulatory developments. You should refer to the full text of accounting and auditing pronouncements, as well as the full text of any rules or publications that are discussed in this alert.

.02 Certain accounting guidance referenced in this alert has been codified into the Financial Accounting Standards Board (FASB) *Accounting Standards Codification*™ (ASC). On June 30, 2009, FASB issued FASB Statement No. 168, *The* FASB Accounting Standards Codification™ *and the Hierarchy of Generally Accepted Accounting Principles—a replacement of FASB Statement No. 162*, which is codified in FASB ASC 105-10. On the effective date of this statement, FASB ASC became the source of authoritative U.S. accounting and reporting standards for nongovernmental entities, in addition to guidance issued by the Securities and Exchange Commission (SEC). At that time, FASB ASC superseded all then-existing, non-SEC accounting and reporting standards for nongovernmental entities. Once effective, all other nongrandfathered, non-SEC accounting literature not included in FASB ASC became nonauthoritative.

> **Help Desk**—Employee benefit plan accounting may be found in the following sections of FASB ASC: FASB ASC 960, *Plan Accounting—Defined Benefit Pension Plans*; FASB ASC 962, *Plan Accounting—Defined Contribution Pension Plans*; and FASB ASC 965, *Plan Accounting—Health and Welfare Benefit Plans*.

Economic and Industry Developments

The Current Economy

.03 The current recession, which officially began in December 2007, is the longest recession since the end of World War II. At this point, although the technical recession (as defined by negative growth in U.S. real gross domestic product) may have ended, a period of significant economic stress continues and it is unclear when things will return to normal. Further, no clear idea of what the new "normal" will be exists; what is known is that the United States cannot repeat the same actions that led to this economic crisis. For the past few years, U.S. consumers have been living above their means and spending more than they earn. This lifestyle and the economic growth it spurred were unsustainable. Consumers' personal savings rate was negative 0.5 percent in

2005, the first time a negative savings rate occurred for an entire year since the Great Depression of 1932–1933, when the personal savings rates were negative 0.9 percent and negative 1.5 percent, respectively. For a more robust discussion of the overall economic environment see the AICPA Audit Risk Alert *Current Economic Instability: Accounting and Auditing Considerations—2009*.

Effect on Employee Benefit Plans

.04 When planning and performing an audit of an employee benefit plan, an auditor should understand the economic conditions facing the industry in which the plan sponsor operates as well as the effects of these conditions on the employee benefit plan. Economic activities relating to factors such as interest rates, availability of credit, consumer confidence, overall economic expansion or contraction, inflation, and labor market conditions, are likely to have an effect on an entity's business and, therefore, its financial statements. Although it is impossible to predict and include all accounting, auditing, and attestation issues that may affect employee benefit plan audits, the primary areas of concern given the current economic conditions are described in this alert. As always, continue to remain alert to changes in economic, legislative, and regulatory developments as well as the associated accounting, auditing, and attestation issues as you perform your engagements.

.05 Economic conditions and regulatory actions may cause additional risk factors that had not previously existed or did not have a material effect on the audit of the plan in prior years. The financial crisis has uncovered significant issues in existing retirement plans, forcing employers to answer some tough questions. Can employers maintain their plans in light of the long-term costs and workforce implications? Meanwhile, reform efforts and other potential government-backed solutions could have huge financial implications.

.06 Some challenges that may affect the plan or the plan sponsor, or both, in light of the current economic conditions are as follows:

- Uncertainty over health care reform and Consolidated Omnibus Budget Reconciliation Act (COBRA) benefits.
- Defined benefit plans still facing sizable funding obligations despite partial recoveries in 2009.
- Employer commitment to retirement plans—can the employer continue to offer the current level of benefits or have they already cut such benefits due to the recession?
- Plan design changes and amendments.
- Baby boomers approaching or are in their first years of retirement.
- New retirees finding themselves having to delay retirement.
- The credit crisis, which results in significant measurement uncertainty, including accounting estimates and fair value measurements.
- Operations that are exposed to volatile markets, such as currency and real estate markets.
- Continued downsizing causing significant layoffs or a labor force consisting of part-time employees with no benefits.
- Going concern and liquidity issues.
- Fraudulent internal and external transactions.

.07 Although many of these risks are not new for plan audits, consideration of the ways an employee benefit plan is affected by external forces is part of obtaining an understanding of the entity and its environment and will allow the auditor to plan and perform the audit to address those risks. As noted in paragraph .17 of AU section 312, *Audit Risk and Materiality in Conducting an Audit* (AICPA, *Professional Standards*, vol. 1), some possible audit responses to significant risks of material misstatement include increasing the extent of audit procedures, performing procedures closer to year-end, or increasing audit procedures to obtain more persuasive evidence. Additionally, given the constant changing status of economic conditions that could affect your client, auditors should consider modifying audit procedures to ensure that risks are still adequately addressed.

.08 Pricing services typically used by plan trustees or custodians to provide investment prices, such as Interactive Data Pricing and Reference Data, informed users that they are experiencing difficulties in obtaining consistent market information in the production of valuations of subprime-related securities. Service providers have enhanced their procedures to respond to these issues including, among other things, more frequent monitoring of the differences between amortized cost and the market value of securities for money market funds and close monitoring of the portfolios for exposure to these markets and the associated valuations of these securities.

Liquidity Concerns

.09 Due to the continuing volatility of the capital markets, auditors may want to pay particular attention to the plan's liquidity and whether the current conditions could affect the plan sponsor and plan's ability to continue as a going concern. AU section 341, *The Auditor's Consideration of an Entity's Ability to Continue as a Going Concern* (AICPA, *Professional Standards*, vol. 1), requires auditors to evaluate whether there is substantial doubt about an entity's ability to continue as a going concern for a reasonable period of time, not to exceed one year beyond the date of the financial statements being audited. AU section 380, *The Auditor's Communication With Those Charged With Governance* (AICPA, *Professional Standards*, vol. 1), requires that auditors communicate with those charged with governance events or conditions that lead the auditor to believe there is substantial doubt about the entity's ability to continue as a going concern. See the "Going Concern Matters" section of this alert for further discussion of these matters in an employee benefit plan audit.

.10 Additional considerations also may be appropriate related to defined benefit plans due to the deficit between plan assets and the plan's accumulated plan benefit obligations and funding requirements. For further information, refer to the "Defined Benefit Plans" section of this alert.

.11 The continued economic crisis may result in unexpected losses and possibly cause financing or liquidity difficulties for many plans and plan sponsors. Additionally, plan sponsors may be valuing illiquid securities using inherently subjective methodologies. These situations may provide plan management additional opportunity and incentive to commit fraud.

Fraud Considerations

.12 Due to the downturn in the economy, the incentive or pressure to commit illegal acts increases. Greater opportunity exists due to deteriorating

internal controls or lack of segregation of duties as well as increased rationalization to commit fraud. The planning and design of testing for the existence of assets, such as investments, is important. Because of the characteristics of fraud, the auditor's exercise of professional skepticism is important when considering the risk of material misstatement due to fraud.

.13 Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence. The auditor should conduct the engagement with a mindset that recognizes the possibility that a material misstatement due to fraud could be present, regardless of any past experience with the entity and regardless of the auditor's belief about management's honesty and integrity. Furthermore, professional skepticism requires ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred. AU section 316, *Consideration of Fraud in a Financial Statement Audit* (AICPA, *Professional Standards*, vol. 1), provides additional information including ways for the auditor to respond to the risk of material misstatement due to fraud.

.14 Additional areas of fraudulent transactions could result due to the economic crisis related to the operation of the plan. Defalcations, inappropriate vesting of participants, ineligible participants included in the plan, and inappropriate assumptions for defined benefit and health and welfare plan obligations are possible areas to consider.

.15 In addition, the significant number of layoffs at plan sponsors will affect employee benefit plans. For a defined benefit pension plan, this may add to the liquidity issues that the plan faces. For both defined benefit pension plans and defined contribution plans, a provision of the Internal Revenue Code (IRC) requires that all affected participants be fully vested in the event of a *partial termination*. This is a technical term that does not have a clear definition but has been interpreted to apply when 20 percent or more of the workers have lost their jobs due to an event such as a plant closing or economic downturn. Because many plans use forfeitures to reduce employer contributions or to pay expenses, it is important for the client to properly identify when such a partial termination has occurred. See paragraph 12.21 of the Audit and Accounting Guide *Employee Benefit Plans* for further guidance.

.16 AU section 316 is the primary source of authoritative guidance about an auditor's responsibilities concerning the consideration of fraud in a financial statement audit. AU section 316 establishes standards and provides guidance to auditors in fulfilling their responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement (whether the material misstatement was caused by error or fraud as stated in paragraph .02 of AU section 110, *Responsibilities and Functions of the Independent Auditor* [AICPA, *Professional Standards*, vol. 1]).

> **Help Desk—Resources for Economic Information**—The Internet covers a vast amount of information that you may find valuable. See appendix C for some of the sites not previously mentioned in this section and links to relevant documents regarding economic information.

Hot Topics

403(b) Employee Benefit Plans Covered Under the Employee Retirement Income Security Act

Overview of 403(b) Plans

.17 A 403(b) tax-sheltered annuity (TSA) plan is a retirement plan offered by schools, hospitals, churches, charities, and certain other tax-exempt organizations. An individual 403(b) annuity can only be obtained under an employer's TSA plan. Generally, these annuities are funded by elective deferrals made under salary reduction agreements and may include nonelective employer contributions. Participants may include the following:

- Employees of public school systems, colleges, or universities (teachers, school administrators, school personnel, professors, researchers, librarians, and so on)
- Employees of entities tax-exempt under Section 501(c)(3) of the IRC (charitable, scientific, educational, and so on)
- Employees of cooperative hospital service organizations (for example, nurses and doctors)
- Church employees and ministers
- Employees of public school systems organized by American Indian tribal governments

.18 A 403(b) plan comprises individual investment accounts that include the following types:

- Fixed and variable annuity contracts with insurance companies (403(b)(1) annuities)
- Custodial accounts made up of mutual funds (403(b)(7) accounts)
- A retirement income account set up for church employees (403(b)(9) accounts)

IRS Regulation Highlights

.19 In July 2007, the IRS issued the first comprehensive regulations for 403(b) plans in 43 years, bringing 403(b) plans closer to the standards set for 401(k) plans. The new IRS regulations clarified several points on employer responsibility and required organizations to have a written plan in place. Additionally, in an effort to ease the administrative burden, the new IRS rules have the effect of encouraging employers to limit the number of investment vendors offered to employees while introducing due diligence expectations that affect the daily plan management. The new rules are effective on or after January 1, 2009, with some notable exceptions.

Filing and Audit Requirements for 403(b) Plans Covered Under the Employee Retirement Income Security Act

.20 In addition to the IRS regulations, in November 2007, the Department of Labor (DOL) issued amended regulations eliminating an exemption granted to 403(b) plans from annual Form 5500 (Annual Return/Report of Employee

Benefit Plan) reporting, disclosure, and audit requirements under Title I of the Employee Retirement Income Security Act (ERISA). The removal of this exemption subjects ERISA-covered 403(b) plans to the same Form 5500 reporting and audit requirements as 401(k) plans effective with their 2009 Form 5500 filings.

.21 A 403(b) plan generally will be covered under ERISA if there are employer contributions or employer involvement in the plan exceeds the limitations permitted under the DOL's safe harbor regulations (see also DOL Field Assistance Bulletin [FAB] 2010-01, *Annual Reporting and ERISA Coverage for 403(b) Plans*, for specific Questions & Answers [Q's & A's] addressing the DOL's safe harbor regulations). *Governmental plans* (plans established or maintained by the U.S. or any state government or any political subdivision, agency, or instrumentality thereof for the benefit of its employees) and *church plans* (plans established by a church, convention, or association of churches for the benefit of its employees or their beneficiaries) are generally exempt from ERISA. In addition, other 403(b) plans that meet all of the following conditions are exempt:

- There are no employer contributions.
- The plan includes only employee voluntary contributions.
- The employer has limited involvement in the plan.
- No compensation is paid to the employer in connection with the plan.
- Rights under the plan are enforceable solely by the participants and their beneficiaries against the provider and not against the employer.

.22 Large ERISA-covered plans (generally, plans with 100 or more eligible participants at the beginning of the plan year) will be required to file audited financial statements. ERISA-covered plans with fewer than 100 eligible participants at the beginning of the plan year that file the form as a small plan are generally exempt from the audit requirement. DOL regulations in Title 29, *Labor*, U.S. *Code of Federal Regulations* (CFR) Part 2520.104-46 establish conditions for small plans to be exempt from the general audit requirement under Title I of ERISA (refer to www.dol.gov/ebsa/faqs/faq_auditwaiver.html#section3). Also, in years subsequent to the initial filing year, a plan that covers between 80 and 120 eligible participants at the beginning of the plan year may elect to complete the Form 5500 in the same category (large plan or small plan) as was filed for the previous year (DOL Regulation 29 CFR 2520.103-1(d)).

DOL FABs Related to 403(b) Plans

.23 On July 20, 2009, the DOL issued FAB No. 2009-02, *Annual Reporting Requirements for 403(b) Plans*, to provide certain transition relief for administrators of 403(b) plans that make good faith efforts to transition for the 2009 plan year to ERISA's generally applicable annual reporting requirements. DOL FAB No. 2009-02 was intended to address concerns over the DOL's enforcement of incomplete filings, which would be subject to rejection due to the inability to identify all participant accounts to be included in plan assets.

.24 DOL FAB No. 2009-02 indicates that certain inactive contracts will not be required to be part of the employer's Title I plan or as plan assets for purposes of the annual report (Form 5500), provided that

- the contract or account was issued to a current or former employee before January 1, 2009;
- the employer ceased to have any obligation to make contributions (including employee salary reduction contributions), and in fact ceased making contributions to the contract or account before January 1, 2009;
- all of the rights and benefits under the contract or account are legally enforceable against the insurer or custodian by the individual owner of the contract or account without any involvement by the employer; and
- the individual owner of the contract is fully vested in the contract or account.

.25 In addition, the number of participants as reported on Form 5500 will not include those former employees holding only such excluded contracts provided such contracts are not included on Form 5500.

.26 Although DOL FAB No. 2009-02 provides enforcement relief for plans that would have difficulty gathering information for pre-2009 contracts or accounts, it does not provide relief for large 403(b) plans (that is, plans with 100 or more eligible participants) from having an independent audit of the plan's financial statements as required by ERISA and DOL regulations. Section 103(a)(3)(A) of ERISA requires the plan administrator of an employee benefit plan to engage an independent qualified public accountant (IQPA) to audit the financial statements using generally accepted auditing standards (GAAS) and to prepare an opinion regarding whether the financial statements (and any supplemental schedules required to be included in the annual report) are presented fairly in conformity with U.S. generally accepted accounting principles (GAAP).

.27 If the plan administrator elects to exclude some or all of those contracts or accounts meeting the conditions of DOL FAB No. 2009-02 from the plan's financial statements or instructs the auditor not to perform procedures on certain or all pre-2009 contracts, or both, the auditor will need to consider the effect of the exclusions on the completeness of the financial statement presentation and restrictions on the scope of the audit. The auditor may be faced with both a U.S. GAAP departure for failure to report on the plan as a whole and a scope limitation on the audit. In many cases, this could result in the independent auditor issuing a qualified, adverse, or disclaimer of opinion. When some or all of the pre-2009 contracts are not specifically scoped out of the audit by the plan administrator, the auditor could still have difficulty in obtaining sufficient appropriate audit evidence for prior periods to evaluate completeness, as well as the valuation of opening balances and whether assets have been properly included or excluded, which could also result in the auditor modifying his or her opinion or issuing a disclaimer of opinion. See the "403(b) Plans and the Auditor's Report" subsection of this alert for additional information regarding the auditor's report.

.28 DOL FAB No. 2009-02 states that the DOL will not reject a 403(b) plan Form 5500 filing on the basis of a qualified, adverse, or disclaimer of opinion if the accountant expressly states that the sole reason for such an opinion was because such pre-2009 contracts were not covered by the audit or included in the plan's financial statements. In February 2010, the DOL issued FAB 2010-01,

which supplements DOL FAB 2009-02 and addresses questions the DOL received concerning the scope of FAB 2009-02 and the safe harbor regulations at 29 CFR 2510.3-2(f). DOL FAB 2010-01 addresses, among other things, the plan administrator's responsibility to determine whether the conditions of DOL FAB 2009-02 have been satisfied with respect to excluded contracts from the plan's annual report.

.29 DOL FAB 2010-01 states that if, as part of the audit the auditor was engaged to perform, the auditor discovers that contracts were incorrectly excluded under DOL FAB 2009-02 from the plan's financial statements, the DOL expects that the auditor will alert the plan administrator. Plan administrators have an obligation to take reasonable steps to resolve questions concerning the exclusion of such contracts in their annual report. If the plan administrator and auditor do not agree with how to resolve issues relating to excluded contracts, the DOL expects these issues to be noted in the audit report.

.30 The full text of DOL FAB No. 2009-02 and DOL FAB No. 2010-01 are available at www.dol.gov/ebsa/regs/fab2009-2.html and www.dol.gov/ebsa/regs/fab2010-1.html, respectively.

Significant Differences Between 401(k) Plans and 403(b) Plans

.31 In addition to the foregoing considerations, this section highlights certain areas where ERISA-covered 403(b) arrangements vary from a 401(k) plan. This summary is not intended to be all inclusive.

Attribute	*401(k)*	*403(b)*
Eligible employees	Employer may apply a 1 year wait, age 21 entry age, or restrict eligibility to a group that satisfies the various tax code requirements for participation, coverage, and nondiscrimination.	Employees are subject to universal availability*; the 401(k) rules may apply for employer contributions. *universal availability: Once a 403(b) permits employee salary deferrals, the opportunity must be extended to nearly all employees of the organization subject to certain exceptions.
Trust requirement	All plan assets must be held in trust or by an insurance company.	No trust requirement.
Funding requirement	Any investments considered prudent by the fiduciary.	Insurance annuity contracts (traditional annuities or pooled separate accounts) or custodial accounts that invest solely in shares of registered investment companies.

Attribute	*401(k)*	*403(b)*
Long service employee additional catch-up contribution (beyond the age 50 catch up)	None	Employees with 15 or more years of service have an additional deferral limit.
Allowable contributions for terminated employees in years following termination	None	Allowed for 5 years following severance.
Average Deferral Percentage Test	Applies	None
Distribution options	Outlined in plan document. Generally one set of salary deferrals and, possibly, another set for employer contributions.	Outlined in plan document. Distribution terms may vary by age on contract and type of investment—custodial account or annuity contract.
Required minimum distribution	Entire balance subject to these rules.	Only post-1986 balance is subject to these rules. Pre-1987 balances may be distributed over a longer period of time.
Prototype plan documents	Available	May be available in 2010.
IRS Determination Letter	Available	Program hasn't been established yet.
Nonexempt Transactions	Applies, excise tax paid under Tax Code provisions using Form 5330.	Applies, excise tax payable under Title I/Department of Labor provision of the Employee Retirement Income Security Act. Payment process not defined.

Note: It may be challenging to obtain a complete population of contracts and transactions for 403(b) plans because IRS Revenue Ruling 90-24 previously allowed 403(b) participants to initiate a transfer of their 403(b) assets and accounts from a vendor offered by their employer to outside-of-plan vendors without any approval of the plan sponsor.

Client Acceptance and Continuance

.32 Paragraph .27 of Statement on Quality Control Standards No. 7, *A Firm's System of Quality Control* (AICPA, *Professional Standards*, vol. 2, QC sec. 10), provides that policies and procedures should be established for the acceptance and continuance of client relationships and specific engagements. Such policies and procedures should provide the audit firm with reasonable assurance that it will undertake or continue relationships and engagements only when the firm

- has considered the integrity of the client, including the identity and business reputation of the client's principal owners, key management, related parties, and those charged with its governance, and the risks associated with providing professional services in the particular circumstances;
- is competent to perform the engagement and has the capabilities and resources to do so; and
- can comply with legal and ethical requirements.

.33 The firm should obtain such information as it considers necessary in the circumstances before accepting an engagement with a new client, when deciding whether to continue an existing engagement, and when considering acceptance of a new engagement with an existing client.

.34 The following is a list of risk factors that engagement teams might consider during their client acceptance and continuance discussions related to an employee benefit plan engagement:

- Ineffective monitoring by management (for example, lack of oversight by plan management of outside providers [such as lack of review of reconciliations of trust assets to participant accounts or no independent records maintained by the sponsor to periodically check information provided by the custodian] or an ineffective plan oversight committee)
- Complex or unstable organizational structure (for example, turnover of plan management, oversight committee members, or outside service providers or difficulty in determining what individuals or committees have oversight or fiduciary responsibility for the plan)
- Weak financial reporting skills, failure by the plan administrator or plan management to take appropriate responsibility for the financial statements, or the plan has a material weakness or significant deficiency in its financial reporting process
- Significant related party transactions or transactions with parties in interest, or history of engaging in prohibited transactions (for example, involvement in nonexempt transactions or events or activities [violations of laws, regulations, or plan provisions] that could cause loss of tax-exempt status)
- Plan invests in securities that do not have a readily determinable market value (such as limited partnerships and nonpublicly traded employer securities), specialized, or unique investments, or engages in securities lending (regardless of the scope of the audit) and management lacks the proper oversight and understanding of such investments, including valuation

- The use of service providers that do not provide a type 2 Statement on Auditing Standards (SAS) No. 70, *Service Organizations* (AICPA, *Professional Standards*, vol. 1, AU sec. 324) report (SAS No. 70 report)
- The plan is inherently more complex (such as, health and welfare plans and leveraged employee stock ownership plans [ESOPs]) and the engagement team lacks the technical skills that are necessary to audit such a plan
- Other inherent risk factors, such as electronic payroll or human resources systems, complex decentralized control environment, or in-house processing of complex transactions (such as benefit calculations and claims)
- The plan has significant issues with regulatory agencies, pending enforcement matters, or other investigations

.35 The following sections include a number of unique considerations that bear consideration in evaluating whether to undertake an audit of a 403(b) plan.

Engagement Letter Considerations

.36 An engagement letter represents the form of communication with the client concerning the scope of services for an audit of a 403(b) plan (see AICPA Audit and Accounting Guide *Employee Benefit Plans*, exhibit 5-5). Generally, this understanding would be obtained during the planning phase of an engagement and is part of the required communications to those charged with governance under paragraph .08 of AU section 311, *Planning and Supervision* (AICPA, *Professional Standards*, vol. 1), and AU section 380. The standard engagement letter included in the AICPA Audit and Accounting Guide *Employee Benefit Plans* may need to be modified for an audit of a 403(b) plan, as follows:

- If the plan administrator has restricted the scope of the audit for any reason, including the limited scope audit exemption, then the opening paragraph of the engagement letter should read: "We will conduct our audit in accordance with auditing standards generally accepted in the United States except for . . ." This language is similar to the example limited scope paragraph in chapter 13 of the AICPA Audit and Accounting Guide *Employee Benefit Plans*.
- The limited scope audit exemption allowed by the DOL under 29 CFR 2520.103-8 may not be appropriate.
- Because many audits of 403(b) plans will be initial audits and the fact that the statement of net assets available for benefits is required to be comparative, the engagement letter needs to include appropriate language regarding the auditor's responsibility for the prior year's statement of net assets available for benefits.

Initial Audit Considerations

.37 Although the new, large plan audit requirement was not in effect until the 2009 plan year, ERISA requires the presentation of comparative statements of net assets available for benefits. As such, when a plan's financial statements have not been previously audited, it is important for the auditor to apply procedures that are practicable and reasonable in the circumstances to obtain assurance that the accounting principles used by the plan in the current and

the preceding year are consistent. See paragraphs .24–.25 of AU section 420, *Consistency of Application of Generally Accepted Accounting Principles* (AICPA, *Professional Standards*, vol. 1), for further guidance.

.38 Areas of special consideration in an initial audit of a plan's financial statements include the following (see paragraph 5.90 of AICPA Audit and Accounting Guide *Employee Benefit Plans*):

- The completeness of participant data and records of the prior year, especially as they relate to participant eligibility
- The amounts and types of benefits
- The eligibility for benefits
- Account balances

.39 The nature, timing, and extent of auditing procedures applied by the auditor are a matter of judgment and will vary with factors such as the adequacy of past records, the significance of beginning balances, the complexity of the plan's operations, and controls covered by SAS No. 70 reports. Because ERISA requires that audited plan financial statements present comparative statements of net assets available for benefits, the current year statements should be audited and the prior year that is presented for comparative purposes may be either compiled, reviewed, or audited. Appropriate reference in the current year audit report should be made to describe the level of responsibility assumed in the prior year. However, although a compilation or review of the prior year is acceptable, the auditor would need to apply sufficient auditing procedures on the beginning balance of net assets available for benefits to obtain appropriate evidence that no material misstatements to these beginning balances exist that may affect the current year's statement of changes in net assets available for benefits.

Initial Audit Considerations Unique to 403(b) Plans

.40 The initial audit of a 403(b) plan will likely require significant audit effort as the auditor will need to perform procedures to test the completeness and accuracy of plan and participant-level information going back numerous years. The assets attributable to a participant's vested interest may be held in a custodial account or in an annuity contract that is issued in the participant's name, rather than the plan's name. This industry practice raises plan reporting issues and associated audit issues.

.41 As part of the auditor's risk assessment procedures, determining the nature, timing, and extent of auditing procedures for an initial audit of a 403(b) plan may be more challenging than general auditing procedures for an initial audit. Many plans may face significant challenges in establishing plan accounting records and proper controls, such as identifying all participant accounts to be included as plan assets, determining beginning account balances (that is, comparative balances are required as of December 31, 2008, for calendar year plans), and obtaining other financial information to be included in the plan's financial statements. For example, plans may have multiple third-party administrator (TPA) vendors (nonexclusive administration), orphan contracts (old accounts and contracts that were not transferred to the current TPA), missing participants, or participants with multiple annuity contracts. Also, historical plan records may not be readily available or may be nonexistent for previous years.

.42 Planning the nature, timing, and extent of further audit procedures depends on the outcome of the auditors risk assessment procedures. The following is a list of factors (not all inclusive) that the auditor may want to consider when performing their risk assessment procedures for an initial audit of a 403(b) plan.

General

- How many years has the plan been in existence?
- How large is the plan (dollar amount and eligible participants)?
- How complete and organized are the plan's critical documents (plan documents, amendments, trust agreements, service provider agreements, and so on)? What plan amendments have been adopted?
- How many vendor choices have participants been offered over the years (and which ones were they)?
- How complete is the participant data and records in the current year and prior years?
  - What process was used to identify all participant accounts to be included in plan assets?
  - How disaggregated is the plan's recordkeeping information? What concerns exist regarding the completeness of information?
  - What concerns exist over the completeness of applicable personnel records and payroll records (especially as it relates to participant eligibility, the amounts and types of benefits, the support for contributions, the eligibility for benefits, and so on)?
  - Will historical plan records be readily available (or are some nonexistent for previous years)? How many years of custodial statements and recordkeeping information are available (or can be obtained from vendor(s))?
  - Is a risk of orphan contracts present (old accounts and contracts that were not transferred to the current TPA)?
- What annuity contracts or custodial accounts has the plan administrator opted not to report as part of the plan or as plan assets for purposes of Form 5500 based on the enforcement relief offered by DOL FAB 2009-02?
- Have significant changes in the workforce occurred?
- Have any changes in investment policies or practices occurred?
- Have any nonexempt transactions (for example, nontimely remittance of employee contributions)
- Have there been any events or activities identified either during the year under audit or in the past that could cause loss of tax-exempt status (for example, violations of any law or regulation or plan provisions)? Have such events, if any, been satisfactorily cured?
- Have any participant complaints taken place (historically or currently)?

- Do any of the service providers provide SAS No. 70 reports? Are they type 1 or type 2 reports? How many years have they been providing them?
- Other

Plan Reporting and Governance

- Who will be preparing the Form 5500 and plan financial statements? What are their qualifications and experience?
- Are independent records maintained and periodically checked against information provided to the custodian? Who is responsible for reconciling third-party records and reports?
- Does the plan offer participants the opportunity to purchase annuities that are being reported as allocated contracts and excluded from plan assets? What documentation exists to support such reporting (for both the Form 5500 reporting and U.S. GAAP financial statements)?
- Does the plan allow for participant loans? If so, how are they being reported?
- Other

Fraud

- Are any concerns or awareness present regarding fraud or other irregularities including any third-party providers servicing the plans?
- Is proper segregation of duties present, or is plan management dominated by a single person or small group without compensating controls (for example, is proper segregation of duties present and related to benefit payments, contributions, investment transactions, and loans; are participant statements mailed directly by TPA to participants, and so on)?
- What are the controls over benefit payments, including the termination of payments in accordance with plan provisions?
- Other

.43 The auditor should also make inquires of the plan administrator and outside service providers, as applicable, regarding the plan's operations during those earlier years. The auditor also may wish to obtain relevant information (for example, trust statements, recordkeeping reports, reconciliations, minutes of meetings, and SAS No. 70 reports) for earlier years, as applicable, to determine whether any errors were noted during those years that could have a material effect on current year balances. Further, the auditor should gain an understanding of the accounting practices that were followed in prior years to determine that they have been consistently applied in the current year. Based on the results of the auditor's inquiries, review of relevant information, and evidence gathered during the current year audit, the auditor would determine the necessity of performing additional substantive procedures (including detailed testing or substantive analytics) on earlier years' balances. (See Technical Questions and Answers [TIS] section 6933.01, "Initial Audit of a Plan" [AICPA, *Technical Practice Aids*] for additional discussion of initial audits.)

.44 The inability of the auditor to obtain sufficient appropriate audit evidence supporting the accuracy and completeness of beginning balances of

reported contracts and accounts is considered a restriction on the scope of the audit and may require the auditor to modify his or her opinion.

Format for 403(b) Financial Statements and Disclosures

.45 403(b) plans are considered a type of defined contribution plan. Therefore, the financial statements and disclosures would be similar to those described in chapter 3 (and appendix E) of the AICPA Audit and Accounting Guide *Employee Benefit Plans*. However, consideration should be given concerning which disclosures may need to be modified or added. For example, the general description of the plan, eligibility requirements, funding, and tax status should reflect the requirements of the 403(b) plan document. Additional or modified disclosures of the accounting policies surrounding the accounting treatment of certain contracts may be necessary. It will be important to obtain an understanding of the operations of the plan in order to determine whether the presentation and disclosures are adequate and in accordance with U.S. GAAP. See paragraph .31 of this alert, which provides a summary of differences between 403(b) and 401(k) plans.

403(b) Plans and the Auditor's Report

.46 The unique challenges to the audits of 403(b) plans discussed in the previous sections also present the auditor with challenges in evaluating the type of report to issue in order to prevent any misinterpretations of the degree of responsibility taken with respect to the financial statements. DOL FAB No. 2009-02 allows a plan administrator of a 403(b) plan to exclude certain contracts and accounts from plan assets for purposes of ERISA's annual reporting requirements under certain specified conditions. The following Q and A is intended to help the auditor make his or her determination of the form of report to be issued when the plan administrator has chosen to exclude certain contracts or accounts from plan assets.

Help Desk—For further guidance related to 403(b) plans, readers are encouraged to visit the AICPA Employee Benefit Plan Audit Quality Center (EBPAQC) 403(b) Plan Resource Center at http://ebpaqc.aicpa.org/Resources/Accounting+and+Auditing+Resource+Centers/403%28b%29+Plans.htm.

.47 *Inquiry*—DOL FAB No. 2009-02 allows a plan administrator of a 403(b) plan to exclude certain contracts and accounts from plan assets for purposes of ERISA's annual reporting requirements under certain specified conditions. U.S. GAAP requires inclusion of these contracts and accounts as plan assets in the plan's financial statements. If a plan excludes from the financial statements certain contracts and accounts as defined under DOL FAB No. 2009-02, what are the implications for the auditor's report?

.48 *Reply*—The implications to the type of report will depend on the auditor's professional judgment of whether the auditor believes sufficient appropriate audit evidence has been obtained to form an opinion on the financial statements. If circumstances allow the auditor to perform a GAAS audit and thereby obtain sufficient appropriate audit evidence to form an opinion, then the auditor would likely express a qualified or adverse opinion. However, if the auditor is unable to obtain sufficient appropriate audit evidence to form an

opinion, the auditor's scope would be restricted and the auditor may need to qualify or disclaim an opinion.

.49 In either case, the U.S. GAAP departure would be disclosed in the auditor's report.

Illustrative Reports

.50 The following example auditor's reports illustrate three different fact patterns that might occur related to 403(b) plans. These illustrative auditor's reports are specific to the stated circumstances. In deciding the type of report to issue, auditors must apply their professional judgment to their specific facts and circumstances and refer to authoritative pronouncements.

.51 Illustration 1: Disclaimer of Opinion

Fact Pattern: The following is an example of an auditor's report for a first year audit of a 403(b) plan. The plan administrator has elected to exclude certain contracts and accounts from plan assets as permitted by DOL FAB No. 2009-02, and the plan administrator is not able to determine the amounts of the excluded contracts or whether the amounts of the excluded contracts are material because no records relating to the excluded contracts exist. In this situation, the auditor has concluded to issue a disclaimer of opinion due to the limitation on the scope of the audit because the auditor is unable to obtain sufficient appropriate audit evidence to form an opinion on the financial statements. (See paragraphs .61–.63 of AU section 508, Reports on Audited Financial Statements *[AICPA,* Professional Standards, *vol. 1], for guidance on disclaimers of opinion.)*

Note: *AU section 551,* Reporting on Information Accompanying the Basic Financial Statements in Auditor-Submitted Documents *(AICPA,* Professional Standards, *vol. 1), states that when an adverse opinion or disclaimer of opinion is issued on the basic financial statements, the auditor should not express the opinion described in paragraph .06 of AU section 551 on any accompanying information.*

Independent Auditor's Report

[*Addressee*]

We were engaged to audit the accompanying statements of net assets available for benefits of XYZ Company 403(b) Plan as of December 31, 2009 and 2008, and the related statement of changes in net assets available for benefits for the year ended December 31, 2009. These financial statements are the responsibility of the Plan's management.

The Plan has not maintained sufficient accounting records and supporting documents relating to certain annuity and custodial accounts issued to current and former employees prior to January 1, 2009. Accordingly, we were unable to apply auditing procedures sufficiently to determine the extent to which the financial statements may have been affected by these conditions.

As described in Note X, the Plan has excluded from investments in the accompanying statement of net assets available for benefits certain annuity and custodial accounts issued to current and former employees prior to January 1, 2009, as permitted by the Department of Labor's Field Assistance Bulletin No. 2009-02, *Annual Reporting Requirements for 403(b) Plans*. The investment income and distributions related to such accounts have also been excluded in the accompanying statement of changes in net assets available for benefits. The amount of these excluded annuity and custodial accounts and the related

income and distributions are not determinable. Accounting principles generally accepted in the United States of America require that these accounts and the related income and distributions be included in the accompanying financial statements.

Since we were not able to apply auditing procedures to satisfy ourselves as to the appropriateness and completeness of the Plan's net assets available for benefits and changes in net assets available for benefits as of December 31, 2009 and 2008, and for the year ended December 31, 2009, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on these accompanying financial statements.

We were engaged to audit the basic financial statements. The supplemental schedules of [*identify title of schedules and period covered*] are presented for the purpose of additional analysis and are not a required part of the basic financial statements but are supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. These supplemental schedules are the responsibility of the Plan's management. Because of the significance of the matters described in the second and third paragraphs of this report, we express no opinion on the supplemental schedules.

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[*Signature of Firm*]

[*City and State*]

[*Date*]

.52 Illustration 2: Limited-Scope Audit as Permitted by 29 CFR 2520.103-8 and FAB 2009-02 contracts have been excluded

<u>Fact Pattern:</u> *The following is an example of an auditor's report for a first year audit of a 403(b) plan. The plan administrator has elected the limited scope audit exemption as permitted by 29 CFR 2520.103-8 and has also elected to exclude certain contracts and accounts from plan assets as permitted by DOL FAB No. 2009-02. The amounts of the excluded contracts or accounts are determinable and are material. For example, the plan administrator is able to provide the auditor with a report from its custodian that lists each individual annuity and custodial account and the total amount of the excluded contracts and related activity for the current year. In this situation the auditor has concluded to issue a disclaimer of opinion due to the limitation on the scope of the audit because the plan administrator has elected the limited scope audit exemption. Further, the auditor has concluded that an opinion on the form and content of the supplemental schedules is not appropriate because of the departure from U.S. GAAP. (See paragraphs .61–.63 of AU section 508 for guidance on disclaimers of opinion.)*

Note*: In accordance with paragraphs .61–.62 of AU section 508, all of the substantive reasons for the disclaimer should be included in the report. In addition, the auditor should also disclose any other reservations he or she has regarding fair presentation in conformity with U.S. GAAP.*

Independent Auditor's Report

[*Addressee*]

We were engaged to audit the accompanying statements of net assets available for benefits of GHI Company 403(b) Plan as of December 31, 2009 and 2008, and the related statement of changes in net assets available for benefits for the year ended December 31, 2009, and the supplemental schedules of (1) Schedule

H, line 4i—Schedule of Assets Held (At End of Year) and (2) Schedule H, line 4j—Schedule of Reportable Transactions as of or for the year ended December 31, 2009. These financial statements and supplemental schedules are the responsibility of the Plan's management.

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the information summarized in Note X, which was certified by ABC Bank, the trustee (or custodian) of the Plan, except for comparing such information with the related information included in the financial statements and supplemental schedules. We have been informed by the plan administrator that the trustee (or custodian) holds the Plan's investment assets and executes investment transactions. The plan administrator has obtained a certification from the trustee (or custodian) as of December 31, 2009 and 2008 and for the year ended December 31, 2009, that the information provided to the plan administrator by the trustee (or custodian) is complete and accurate.

As described in Note X, the Plan has excluded from investments in the accompanying statement of net assets available for benefits certain annuity and custodial accounts issued to current and former employees prior to January 1, 2009, as permitted by the Department of Labor's Field Assistance Bulletin No. 2009-02, *Annual Reporting Requirements for 403(b) Plans*. If the identified contracts, as reported by the custodian, were included, net assets available for benefits would increase by approximately $XX and $XX as of December 31, 2009 and 2008, respectively. Further investment income of approximately $XX and distributions of approximately $XX related to such accounts, as identified by the custodian, have also been excluded in the accompanying statement of changes in net assets available for benefits for the year ended December 31, 2009. Accounting principles generally accepted in the United States of America require that these accounts and the related income and distributions be included in the accompanying financial statements.

Because of the significance of the information that we did not audit, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on the accompanying financial statements and supplemental schedules taken as a whole.

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[*Signature of Firm*]

[*City and State*]

[*Date*]

.53 Illustration 3: Adverse Opinion

Fact Pattern: *The following is an example of an auditor's report for a first year audit of a 403(b) plan. The plan administrator has elected to exclude certain contracts and accounts from plan assets as permitted by DOL FAB No. 2009-02 and the amounts of the excluded contracts or accounts are determinable and are material. For example, the plan administrator is able to provide the auditor with a report from its custodian that lists each individual annuity and custodial account and the total amount of the excluded contracts and the related activity for the current year. In addition, the auditor is able to perform a GAAS audit and is able to obtain sufficient appropriate audit evidence to conclude that the financial statements taken as a whole are not presented fairly in conformity*

with U.S. GAAP. In this situation, the auditor has concluded to issue an adverse opinion due to the departure from U.S. GAAP. (See paragraphs .58–.60 of AU section 508 for guidance on adverse opinions.)

Note: *Paragraph .10 of AU section 551 states that when an adverse opinion or disclaimer of opinion is issued on the basic financial statements, the auditor should not express the opinion described in paragraph .06 of AU section 551 on any accompanying information.*

Independent Auditors' Report

[*Addressee*]

We have audited the accompanying statements of net assets available for benefits of ABC Company 403(b) Plan as of December 31, 2009 and 2008, and the related statement of changes in net assets available for benefits for the year ended December 31, 2009. These financial statements are the responsibility of the Plan's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Plan's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As described in Note X, the Plan has excluded from investments in the accompanying statement of net assets available for benefits certain annuity and custodial accounts issued to current and former employees prior to January 1, 2009, as permitted by the Department of Labor's Field Assistance Bulletin No. 2009-02, *Annual Reporting Requirements for 403(b) Plans*. If the identified contracts, as reported by the custodian, were included, net assets available for benefits would increase by approximately $XX and $XX as of December 31, 2009 and 2008, respectively. Further investment income of approximately $XX and distributions of approximately $XX related to such accounts, as identified by the custodian have also been excluded in the accompanying statement of changes in net assets available for benefits for the year ended December 31, 2009. Accounting principles generally accepted in the United States of America require that these accounts and the related income and distributions be included in the accompanying financial statements.

In our opinion, because of the effects of the matters discussed in the preceding paragraph, the financial statements referred to above do not present fairly, in conformity with accounting principles generally accepted in the United States of America, the net assets available for benefits of the Plan as of December 31, 2009 and 2008, and the changes in its net assets available for benefits for the year ended December 31, 2009.

Our audits were performed for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental schedules of [*identify*

title of schedules and period covered] are presented for the purpose of additional analysis and are not a required part of the basic financial statements but are supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. These supplemental schedules are the responsibility of the Plan's management. These supplemental schedules have been subjected to the auditing procedures applied in the audits of the basic financial statements. Because of the effects of the matter discussed in the third paragraph of this report, we express no opinion on the supplemental schedules.

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[*Signature of Firm*]

[*City and State*]

[*Date*]

Other 403(b) Resources

.54 The following is a list of helpful resources that provide guidance when auditing 403(b) plans:

- DOL Employee Benefits Security Administration (EBSA) 403(b) Web site: www.dol.gov/ebsa/403b.html
- AICPA EBPAQC 403(b) Plan Resource Center: http://ebpaqc.aicpa.org/Resources/Accounting+and+Auditing+Resource+Centers/403%28b%29+Plans.htm
- IRS 403(b) Resources: www.irs.gov/retirement/article/0,id=172430,00.html and www.irs.gov/publications/p571/index.html

Fair Value Measurements and Disclosures

.55 In September 2006, FASB issued Statement No. 157, which was codified in FASB ASC 820, *Fair Value Measurements and Disclosures*, to provide enhanced guidance for using fair value to measure assets and liabilities. This standard defines fair value and expands disclosures about fair value measurements. The standard applies whenever other standards require (or permit) assets or liabilities to be measured at fair value. The standard does not expand the use of fair value in any new circumstances.

.56 For plan assets and liabilities that are traded in active markets, fair value is determined based on quoted market prices. If quoted market prices for identical assets and liabilities are not available, the plan uses valuation techniques that should maximize the use of observable inputs (assumptions based on market data) and minimize the use of unobservable inputs. In measuring fair value, the plan should make adjustments for risks and uncertainties if a market participant would include such an adjustment in its pricing. FASB ASC 820 requires entities to make certain disclosures for each major category of assets and liabilities that are measured at fair value, including the level within the fair value hierarchy in which the fair value measurements fall as discussed in FASB ASC 820-10-35. For disclosure requirements, refer to FASB ASC 820-10-50.

.57 In October 2008, FASB issued Staff Position (FSP) FAS 157-3, *Determining the Fair Value of a Financial Asset When the Market for That Asset Is Not Active*, to provide guidance in applying fair value in an illiquid or distressed

market. FSP FAS 157-3 was codified in FASB ASC 820 and clarified the application of FASB ASC 820 in an inactive market, and amended FASB ASC 820 to include an illustrative example.

.58 In April 2009, FASB issued FSP FAS 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly*, which was also codified in FASB ASC 820. This FSP emphasizes that even if there has been a significant decrease in the volume and level of activity for the asset or liability and regardless of the valuation technique(s) used, the objective of a fair value measurement remains the same. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction (that is, not a forced liquidation or distressed sale) between market participants at the measurement date under current market conditions.

.59 Also, FASB ASC 820-10-50-2 states that for equity and debt securities, *major category* should be defined as major security type as described in FASB ASC 320, *Investments—Debt and Equity Securities* (FASB ASC 320-10-50-1B), even if the equity securities or debt securities are not within the scope of FASB ASC 320 (for further guidance, see chapters 2–4 of the AICPA Audit and Accounting Guide *Employee Benefit Plans*).

.60 According to FASB ASC 320-10-50-1B, major security types are based on the nature and risks of the security. In determining whether disclosure for a particular security type is necessary and whether it is necessary to further separate a particular security type into greater detail, all of the following should be considered: the activity or business sector, vintage, geographic concentration, credit quality, or economic characteristic.

.61 In addition, FASB issued the following FASB Accounting Standards Updates (ASUs) that amend FASB 820 and will be discussed later in this alert:

- FASB ASU No. 2009-12, *Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent)*
- FASB ASU No. 2010-06, *Improving Disclosures about Fair Value Measurements*

Effect on Employee Benefit Plans and Plan Sponsors

.62 Meeting the requirements of FASB ASC 820 requires coordination among plan management, custodians, investment fiduciaries, and auditors. U.S. GAAP requires plan management to take responsibility for the valuation of investments. Form 5500 requires assets to be reported at current value. Plan management has a fiduciary responsibility to ensure the accuracy of the information reported on the Form 5500. The nonauthoritative practice aid *Alternative Investments—Audit Considerations* states that "management of the investor entity is responsible for the valuation of alternative investment amounts as presented in the investor entity's financial statements" and "this responsibility cannot, under any circumstances, be outsourced or assigned to a party outside of the investor entity's management." Therefore, plan management can delegate but not abdicate its valuation responsibility. Although plan management is responsible for establishing an accounting and financial reporting process for determining fair value measurements, plan management will typically rely on the trustee or custodian for the pricing of its investments. The trustee or custodian may use an outside service provider or pricing service for valuation of the investments. Because many plans outsource investment management

activities to third-party service providers, information regarding the pricing and valuation of the plan's investments may not be fully transparent to those responsible for financial reporting.

.63 Plan management is ultimately responsible for the fair values reported in the financial statements and is obligated to carefully consider how third-party input is used in estimating fair value. Accordingly, plan management needs to understand and document the pricing inputs used by plan custodians and others used to value each plan investment in order to properly classify each investment into the appropriate level within the FASB ASC 820 hierarchy. Service providers are not typically determining the hierarchy levels for plans. Plan management will need to obtain pricing service documentation describing the valuation methods they or their custodians use to support their fair value hierarchy. Pricing services typically used by plan trustees or custodians to provide investment prices, such as Interactive Data Pricing and Reference Data, typically prepare this information.

.64 Accordingly, for full scope audits, auditors may consider the procedures and controls put in place by the plan management and service providers to identify hard to value investments; validate the reliability of pricing or institute fair value procedures, or both, if necessary; monitor the collectability of accrued income; and modify reporting and disclosures based on the exposure of these markets in their plans. Auditors may also consider the need to enhance audit procedures to ascertain that prices obtained from pricing services are reasonable, including the use of multiple pricing sources or valuation experts to review any pricing models or fair value methodologies put in place, or both.

.65 Year two of preparing and auditing FASB ASC 820 measurements and disclosure requirements is expected to be smoother than year one. However, additional time may be needed this year for plan management to prepare and auditors to audit the investment information in accordance with the new requirements of FSP FAS 157-4, ASU 2009-12, and ASU 2010-06. Implementation issues will vary based on the types of investments held and the availability of information. Valuing different types of financial instruments, including understanding whether the valuation assumptions and methods used are appropriate under FASB ASC 820 and obtaining additional information about valuation inputs to make the appropriate note disclosures may present plan sponsors and administrators with significant challenges.

Help Desk—For audits of issuers, such as Form 11-K, Annual reports of employee stock purchase, savings and similar plans pursuant to Section 15(d), audits, the guidance in Public Company Accounting Oversight Board (PCAOB) Staff Audit Practice Alert No. 2, *Matters Related to Auditing Fair Value Measurements of Financial Instruments and the Use of Specialists* (AICPA, *PCAOB Standards and Related Rules*, PCAOB Staff Guidance, sec. 400.02), and PCAOB Staff Audit Practice Alert No. 4, *Auditor Considerations Regarding Fair Value Measurements, Disclosures, and Other-Than-Temporary Impairment* (AICPA, *PCAOB Standards and Related Rules*, PCAOB Staff Guidance, sec. 400.04), would be applicable.

.66 For limited scope audits, if the auditor becomes aware that the certified information relating to such investments is inaccurate as a result of valuation or

other concerns, further inquiry may be necessary that might result in additional testing or modification to the auditor's report. See the "Limited Scope Audit Exemption Permitted Under 29 CFR 2520.103-8" section of this alert for further guidance.

FASB ASU No. 2009-12

.67 In September 2009, FASB issued FASB ASU No. 2009-12, which provides amendments to FASB ASC 820 for the fair value measurement of investments in certain entities that calculate net asset value per share (or its equivalent). The amendments in FASB ASU No. 2009-12 permit, as a practical expedient, a reporting entity to measure the fair value of an investment on the basis of the net asset value per share of the investment (or its equivalent) if the net asset value of the investment (or its equivalent) is calculated in a manner consistent with the measurement principles of FASB ASC 946, *Financial Services—Investment Companies*, as of the reporting entity's measurement date, including measurement of all or substantially all of the underlying investments of the investee in accordance with FASB ASC 820.

.68 The amendments in FASB ASU No. 2009-12 also require disclosures by major category of investment about the attributes of investments, such as the nature of any restrictions on the investor's ability to redeem its investments at the measurement date, any unfunded commitments (for example, a contractual commitment by the investor to invest a specified amount of additional capital at a future date to fund investments that will be made by the investee), and the investment strategies of the investees. The major category of investment is required to be determined on the basis of the nature and risks of the investment in a manner consistent with the guidance for major security types in U.S. GAAP on investments in debt and equity securities in FASB ASC 320-10-50-1B. The disclosures are required for all investments within the scope of FASB ASC 820-10-15-4 and 820-10-15-5 regardless of whether the fair value of the investment is measured using the practical expedient. The amendments in FASB ASU No. 2009-12 are effective for interim and annual periods ending after December 15, 2009. Early application is permitted in financial statements for earlier interim and annual periods that have not been issued. If an entity elects to adopt the measurement amendments in FASB ASU No. 2009-12 early, the entity is permitted to defer the adoption of the disclosure provisions of paragraph FASB ASC 820-10-50-6A until periods ending after December 15, 2009.

Help Desk—The AICPA has published Technical Practice Aids for auditors and financial statement preparers to help them gain a clearer understanding of the accounting rules for determining the fair value of investments in certain entities that calculate net asset value. These entities, often called *alternative investments*, include hedge, private equity, and real estate funds. TIS sections 2220.18–.27, "Long-Term Investments" (AICPA, *Technical Practice Aids*), offer nonauthoritative implementation guidance to FASB ASU No. 2009-12.

The Technical Practice Aids cover a series of issues related to FASB ASU No. 2009-12, among them, determining whether net asset value calculation is consistent with FASB ASC 946, determining whether an adjustment to net asset value is necessary, and certain disclosure considerations. The Technical Practice Aids may be found at www.aicpa.org/Professional+Resources/Accounting+and+Auditing/Accounting+Standards/recent_tpas.htm.

FASB ASU No. 2010-06

.69 In January 2010, FASB issued FASB ASU No. 2010-06, which amends the disclosure requirements of FASB ASC 820 to require new disclosures regarding (*a*) transfers in and out of levels 1 and 2, and (*b*) activity in level 3 fair value measurements. ASU 2010-06 also provides amendments to FASB ASC 820 that clarify existing disclosures regarding (*a*) level of disaggregation for each class of assets and liabilities, and (*b*) disclosures about inputs and valuation techniques for fair value measurements that fall in either level 2 or level 3.

.70 The new disclosures and clarifications of existing disclosures are effective for interim and annual reporting periods beginning after December 15, 2009, except for the disclosures regarding the roll-forward of activity in level 3 fair value measurements, which are effective for fiscal years beginning after December 15, 2010, and for interim periods within those fiscal years.

.71 This guidance is located in FASB ASC 820-10-50 and 820-10-55 and is labeled as "Pending Content" due to the transition and open effective date information contained in FASB ASC 820-10-65-7.

.72 Readers are encouraged to consult the aforementioned "Pending Content" for illustrative disclosure examples that may provide useful information regarding the level of disaggregation for current year financial statement disclosures.

Auditing Fair Value Measurements

.73 As was stated previously, it is management's responsibility to make the fair value measurements and disclosures. When auditing these fair values to ensure they are in conformity with U.S. GAAP, auditors should consult AU section 328, *Auditing Fair Value Measurements and Disclosures* (AICPA, *Professional Standards*, vol. 1), which establishes standards and provides guidance for auditors. Specific types of fair value measurements are not covered by AU section 328. For example, when auditing the fair value of derivatives and securities, refer to AU section 332, *Auditing Derivative Instruments, Hedging Activities, and Investments in Securities* (AICPA, *Professional Standards*, vol. 1).

.74 The strongest audit evidence to support a fair value is an observable market price in an active market. If that is not available, a valuation method should incorporate common market assumptions. If common market assumptions are not available or require significant adjustments, the entity may use its own assumptions. The auditor should obtain an understanding of the entity's process for determining fair values, as well as whether the fair value measurements and disclosures are in accordance with U.S. GAAP. During this testing, the auditor also may identify any possible indicators of impairment. According to paragraph .23 of AU section 328, substantive tests of the fair value measurements may involve (*a*) testing management's significant assumptions, the valuation model, and the underlying data; (*b*) developing independent fair value estimates for corroborative purposes; or (*c*) reviewing subsequent events and transactions. Paragraph .26 of AU section 328 also notes that when testing the fair value measurements and disclosures, the auditor evaluates whether management's assumptions are reasonable and reflect, or are not inconsistent with, market information. According to FASB ASC 820, this might include whether the market is distressed, whether the transaction was an orderly transaction, the reasonableness of the determination within the fair value hierarchy of inputs, and the reasonableness of the underlying assumptions.

.75 It is important for the auditor to be aware of the increased risk posed by current market conditions and to develop or modify audit procedures accordingly. Among other things, auditors may consider the following:

- The overall effect of risk on a plan's portfolio of illiquid investments (for example, asset-backed commercial paper or high-yield debt or loans). The auditor should identify risks throughout the process of obtaining an understanding of the plan and its environment, including relevant controls such as controls at the plan sponsor and outside service provider, including any applicable investment service provider. The auditor also may consider the policies that affect the management and monitoring of these investments.
- The increased difficulty of obtaining reliable valuations for certain types of asset-backed securities, given the decrease in market liquidity. The auditor should obtain an understanding of the plan's process for determining fair value measurements and disclosures and of the relevant controls sufficient to develop an effective audit approach. This would include controls over valuation at the plan sponsor and service provider, in particular the extent to which they monitor valuations obtained from brokers and external pricing services for consistency with observations of market conditions, as well as the involvement of valuation committees or other internal review groups independent of portfolio managers in assessing the day-to-day reasonableness of security valuations and overriding quotations that appear to be unrepresentative.
- Swap or derivative contracts are often written using the International Swap and Derivatives Association Master Agreement (ISDA) protocol. ISDA contracts include events of default and termination events, similar to bank loan covenants. The effect of a violation could be the acceleration or termination of the agreement, the requirement to post additional collateral, or the violation could affect the valuation of the derivative instrument. The auditor may obtain an understanding of management's ongoing monitoring process. If the vehicle is no longer in compliance with the covenants, the auditor would assess the appropriate accounting and reporting implications, including AU section 341.

.76 In certain instances, the auditor may need special skills or knowledge to plan and perform auditing procedures for privately held ESOPs or plans that hold alternative investments and subprime mortgage-backed securities. AU section 332 states that for some derivatives and securities, U.S. GAAP may prescribe presentation and disclosure requirements. Furthermore, AU section 332 advises the auditor to consider the form, arrangement, and content of the financial statements (including the notes) when evaluating the adequacy of presentation and disclosure. Auditors may also consider using a specialist when determining how to audit a plan that includes hard to value investments. AU section 336, *Using the Work of a Specialist* (AICPA, *Professional Standards*, vol. 1), provides guidance on the use of a specialist during an engagement. Also refer to the "Using the Work of a Specialist" subsection of this alert.

.77 The guidance in AU section 332 relating to auditing the fair value of securities is fairly similar to the guidance in AU section 328. As previously mentioned, quoted market prices in active markets are the best available audit evidence to support a fair value; however, when they are unavailable and the

valuations of securities are obtained from a broker or dealer or another pricing service based on valuation models, it is important for the auditor to understand the underlying valuation method used (such as a cash flow projection). These valuations also may be based on quoted prices from an active market or other observable inputs that would be considered by the auditor when developing audit procedures.

Valuation Testing

.78 It is important for the auditor to evaluate the process used by a pricing service in measuring fair value to determine the consistency with the specified valuation method (as discussed in FASB ASC 820-10-35). The auditor also may determine that it is necessary to obtain quotes from more than one pricing source based on circumstances, such as an existing relationship between the entity and the valuing entity, which could inhibit objective pricing or underlying valuation assumptions that are highly subjective. In the context of FASB ASC 820, quoted prices in active markets are considered level 1 inputs.

.79 When an entity performs its own valuation, value testing procedures for the auditor to consider include assessing the reasonableness, comparing the assumptions to industry reports or benchmarks, assessing the appropriateness of the model, calculating the value using his or her own model, comparing the fair value with subsequent or recent transactions. Whether or not the inputs to the entity's valuation model are observable determines their characterization as level 2 or level 3 inputs, respectively, within the FASB ASC 820 fair value hierarchy. When extensive judgment is needed, consider using a specialist or refer to AU section 342, *Auditing Accounting Estimates* (AICPA, *Professional Standards*, vol. 1). Additionally, when the underlying collateral of a security significantly contributes to its fair value and collectability of the security, evidence of the collateral also should be examined for existence, fair value, transferability, and the investor's right to the collateral.

Using the Work of a Specialist

.80 It may be necessary to use a specialist (such as a securities valuation expert) to assist in auditing complex or subjective matters. Examples of matters in which an auditor may engage a specialist are valuation issues; reasonableness of determination of amounts derived from specialized techniques or models; or implementation of technical requirements, regulations, or legal documents. AU section 336 provides guidance to auditors in using specialists. The guidance in AU section 336 is applicable when the specialist is hired by management or if the auditor engages the specialist. However, if a specialist employed by the auditor's firm participates in the audit, AU section 311 is applicable rather than AU section 336.

.81 When using the work of a specialist, the auditor should evaluate the specialist's professional qualifications, obtain an understanding of the nature of the work performed or to be performed, and evaluate the relationship of the specialist to the client in terms of objectivity. Although the appropriateness and reasonableness of the methods and assumptions employed by the specialist are the responsibility of the specialist, the auditor should obtain an understanding of these qualities, test the underlying data provided to the specialist, and evaluate the specialist's findings in the context of the audit and related assertions in the financial statements.

Evaluating the Existence of Assets

.82 The Madoff case and other recent fraud investigations bring to light a number of risks that continually need to be considered and responded to by management and auditors. Due to the nature of securities and other financial instruments, determining and testing the existence of investments has become more difficult. Often, securities and other investments purchased on behalf of an entity are held in the name of a broker organization, which may or may not be a custodian. Also custodians do not generally obtain a paper document, only an electronic record of the assets.

.83 Some examples of risks inherent in investment transactions that may be relevant when assessing the existence of investments are as follows:

- The assets involved may not be readily available to physical inspection.
- Effective, independent, third-party oversight could be lacking.
- The information received from a broker organization in the form of monthly statements or in response to audit confirmation requests may require further verification to assess its reliability.
- A lack of experience on the part of the client may exist with these types of transactions and, therefore, controls over existence may be nonexistent or poorly designed.
- The transactions may be complex in nature, making them difficult to understand.

.84 Plan management has a responsibility to design an internal control system that is responsive to the risk of existence of assets (in addition to the valuation of assets). As part of their risk assessment procedures, auditors need to assess those controls and determine if the controls have been implemented. Depending on the results of those assessments, the auditor should design an audit strategy that takes into consideration the entity's controls, including testing those controls, if those controls are to be relied upon and used as part of the auditor's audit evidence regarding the existence assertion. If the auditor's assessment indicates that management's design or operation of controls is not effective, then those deficiencies should be communicated to those charged with governance if the control deficiency is a significant deficiency or a material weakness.

.85 Examples of procedures that can be performed by management that are designed to assess the existence of assets could include the following:

- Obtaining evidence through site visits and documenting an understanding of existence controls placed in operation by any service organization that are utilized by the entity and periodically reassessing that understanding
- Obtaining evidence through direct testing or a SAS No. 70 type 2 report that the service organization's existence controls are appropriately designed and operating effectively
- Inspecting other documentation supporting the entity's interest in the security (for example, correspondence from the broker organization or trustee acknowledging transactions with the fund)

Short-Term Investments

.86 Various money market funds (both registered and unregistered) have acknowledged investments in troubled paper. They have enhanced their procedures to monitor the differences between net asset value as determined using amortized cost and market values of securities, as required by Rule 2a-7 under the Investment Company Act of 1940 or other equivalent regulations. Some money market funds may have had material differences between amortized cost and the market value of securities, resulting in a share value reported in the audited financial statements that is different than what is used for participant transactions and reported on the trustee or custodial statements at year-end. In addition, the differences between amortized cost and fair value caused many plan sponsors to change their short term investment arrangements. Although many money market funds have experienced a rebound in 2009, a review of the audited financial statements would provide further information regarding the investment values at year-end.

Stable Value Funds

.87 Some employer-sponsored defined contribution plans offer an investment alternative often referred to as a *stable value fund*. These funds primarily invest in guaranteed investment contracts (GICs) issued by insurance companies and other financial services institutions, referred to as *traditional* GICs and *synthetic* GICs. Synthetic contracts often invest in mortgage related fixed income investments. FASB ASC 960 allows such contracts to be presented at contract value for purposes of determining the net assets available for benefits for a defined contribution plan if the contract meets the definition of *benefit responsiveness* in accordance with FASB ASC 960-325. An investment contract is considered fully benefit-responsive if all of the following criteria are met for that contract:

- The investment contract is executed directly between the plan and the issuer and prohibits the plan from assigning or selling the contract or its proceeds to another party without the consent of the issuer.
- Either (*a*) the repayment of principal and interest credited to participants in the plan is a financial obligation of the issuer of the investment contract, or (*b*) prospective interest crediting rate adjustments are provided to participants in the plan on a designated pool of investments held by the plan or the contract issuer, whereby a financially responsible third party, through a contract generally referred to as a wrapper, must provide assurance that the adjustments to the interest crediting rate will not result in a future interest crediting rate that is less than zero. If an event has occurred such that realization of full contract value for a particular investment contract is no longer probable (for example, a significant decline in creditworthiness of the contract issuer or wrapper provider), the investment contract shall no longer be considered fully benefit-responsive.
- The terms of the investment contract require all permitted participant-initiated transactions with the plan to occur at contract value with no conditions, limits, or restrictions. Permitted participant-initiated transactions are those transactions allowed

by the plan, such as withdrawals for benefits, loans, or transfers to other funds within the plan.

- An event that limits the ability of the plan to transact at contract value with the issuer (for example, premature termination of the contracts by the plan, plant closings, layoffs, plan termination, bankruptcy, mergers, and early retirement incentives) that also limits the ability of the plan to transact at contract value with the participants in the plan must be probable of not occurring.
- The plan itself must allow participants reasonable access to their funds.

.88 As a result of recent credit market events, some of the issuers of these contracts may have experienced a decline in credit worthiness. In addition, as a result of depreciation in the mortgage-backed securities and related markets, an increase in the difference between fair value and contract value for synthetic GIC contracts has resulted in greater risks relating to these contracts. For example, certain issuers are requesting to terminate contracts, limiting future contributions or redemptions, or increasing wrap fees. In addition, certain issuers are deciding to no longer offer stable value products or exiting the business altogether thereby limiting the number of stable value alternatives for plan sponsors. Also, these contracts typically have certain investment guidelines that need to be followed in order to maintain the stable value protection by the wrap provider.

.89 Reading stable value contracts would enable auditors to gain an understanding of the terms for (*a*) events that limit the ability of the plan to transact at contract value with the issuer (for example, premature termination of the contracts by the fund, plant closings, layoffs, plan termination, bankruptcy, mergers, and early retirement incentives), and (*b*) events and circumstances that would allow issuers to terminate fully benefit-responsive investment contracts with the fund and settle at an amount different from contract value (for example, breaches of investment guidelines, investments in default, and so on). For appropriate financial statement accounting and reporting, it is important for the auditor to give careful consideration to the ability of the issuer to comply with the terms of the contract, the benefit-responsive provisions, the credit worthiness of the wrap provider and other risks relating to investing in these products. As a result of these industry issues, the plan sponsor may experience difficulties in obtaining certain inputs to determine a fair value for these products (for example, inability to obtain re-bid quotes and so on). Often the plan sponsor will look to an outside service provider to assist in the mechanics of the valuation. However, in practice, the outside service provider may not be able to assist in the mechanics of the valuation and the plan sponsor may have difficulties in determining fair value for the stable value investment. In these circumstances, the plan sponsor should consider the feasibility of alternative valuation methodologies or consultation with a valuation specialist, or both.

.90 Plans may hold stable value investments through direct contracts with issuers or through a separately managed account. Plans may also hold stable value investments through beneficial ownership of bank collective funds (common or collective trusts [CCTs]) that own investment contracts. Insurance company pooled separate accounts that hold investment contracts also have similar characteristics. See TIS section 6931.08, "Types of Investments Subject to FASB ASC 962" (AICPA, *Technical Practice Aids*), for further guidance that

includes financial statement presentation and disclosure guidance for CCTs and master trusts.

Disclosures About Derivative Instruments and Hedging Activities

.91 FASB Statement No. 161, *Disclosures About Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133*, which was codified in FASB ASC 815, *Derivatives and Hedging*, expands the disclosure requirements in FASB ASC 815, about an entity's derivative instruments and hedging activities. It is effective for financial statements issued for fiscal years beginning after November 15, 2008. The disclosure provisions of this statement apply to employee benefit plan financial statements. The new guidance requires more robust qualitative disclosures and expanded quantitative disclosures. Such disclosures generally will need to be presented for every annual and interim reporting period for which a statement of net assets and a statement of changes in net assets are presented. Upon adoption, entities are encouraged, but not required, to provide comparative disclosures for earlier periods. The following paragraphs summarize the requirements of FASB Statement No. 161 and are not intended as a substitute for the reading of FASB Statement No. 161 as well as FASB ASC 815.

.92 FASB Statement No. 161 requires entities to distinguish between instruments used for risk management (defined as derivatives designated as hedging instruments under FASB ASC 815 and those that serve as economic hedges) and instruments used for other purposes, and make disclosures separately for the two types of instruments. Because benefit plan financial statements account for all derivative instruments at fair value and record the associated fair value changes in the statement of changes in net assets available for benefits (and not to comprehensive income), such distinction is not applicable to employee benefit plan financial statements and is not described here.

Effect on Employee Benefit Plans and Plan Sponsors

.93 Use of derivative financial instruments is common in employee benefit plan investment portfolios, especially in defined benefit pension plans. In the past, some plans may not have disclosures for derivative instruments because the year-end net fair value was not considered material. However, this new guidance requires disclosure of the gross amount of derivative instruments. Consequently, consideration of materiality may focus instead on the gross notional value and overall risk relative to the entire investment portfolio instead of the net fair value. As a result, it is expected that these new disclosure requirements will be applicable to employee benefit plan financial statements for those plans that use derivative financial instruments.

.94 An effort similar to that for adopting FASB ASC 820 will be necessary in preparing to meet the new disclosure requirements. Gathering the necessary information and documenting an understanding will require coordination among plan management, custodians, investment managers, and auditors. Although the plan sponsor is responsible for establishing an accounting and financial reporting process, plan sponsors typically rely on the trustee or custodian and investment manager for the information needed for the disclosures. Because many plans outsource investment management activities to third party service providers, information regarding derivatives may not be fully transparent to those responsible for a plan's financial reporting.

Summary of the Amended Disclosures

Qualitative Disclosures

.95 The new guidance requires an entity with derivatives to describe the following:

- How and why it uses derivative instruments
- How derivative instruments and related hedged items are accounted for under FASB ASC 815
- How derivative instruments and related hedged items affect the entity's financial position, financial performance, and cash flows

.96 The new guidance retains the existing requirement of FASB ASC 815 to disclose an entity's objectives for holding or issuing derivative instruments, the context needed to understand those objectives and its strategies for achieving those objectives. However, it also requires that such information be disaggregated by the primary underlying risk exposure (for example, interest rate, credit rating, foreign exchange rate, or overall price).

.97 The new guidance also requires entities to describe the volume of their derivative activity; however, no specific format is prescribed and entities must tailor such disclosure to their specific situations. For example, entities could disclose gross notional amounts of outstanding contracts segregated by the type of instrument (for example, commodity, fixed income/interest rate, foreign exchange, equity).

Quantitative Disclosures

.98 The quantitative disclosure requirements added by FASB Statement No. 161 are fairly detailed and illustrative disclosures are included in the text of the statement.

Tabular Disclosures

.99 One of the more significant new disclosure requirements is for entities to provide tabular disclosures of the location, by line item, of fair value amounts in the statement of financial position (net assets available for benefits) and the location, by line item, of amounts of gains and losses reported in the statement of financial performance (statement of changes in net assets available for benefits).

.100 FASB Statement No. 161 also amends FASB ASC 825, *Financial Instruments*, to clarify that derivative instruments are subject to the concentration of credit risk disclosures required by FASB ASC 825. Although FASB intended the provisions in FASB ASC 825 to apply to all financial instruments, including derivatives, it believes the clarification was necessary to address diversity that has developed regarding whether entities' disclosures about concentration of credit risk should include derivative instruments.

Securities Lending

.101 Securities custodians commonly carry out securities lending activities on behalf of their employee benefit plan clients. Often it is not evident from the trustee or custodial investment reports that securities lending arrangements exist. Identification of such arrangements can be achieved through discussions with (*a*) those responsible at the plan sponsor for investment

decisions, or (*b*) investment service providers (for example, investment advisors, trustees/custodians, and so on) or review of all investment related agreements.

.102 The borrowers of securities generally are required to provide collateral to the lender (the plan). This collateral is typically cash but sometimes it may be other securities or standby letters of credit, with a value slightly higher than that of the securities borrowed. If the collateral is cash, the lender typically earns a return by investing that cash at rates higher than the rate paid or rebated to the borrower. If the collateral is other than cash, the lender typically receives a fee.

.103 Employee benefit plans that participate in securities lending programs through security lending agents typically receive cash collateral for security loans. The cash is often invested in security lending cash collateral funds that are managed by the agent or parties affiliated with the agent. Although some collateral funds are money market funds registered with the SEC and subject to Rule 2a-7 under the Investment Company Act of 1940, many—even some holding themselves out as managed in a way similar to Rule 2a-7—are not registered. Unregistered collateral funds often invest in securities with longer maturity and higher risk than typical short-term money market-type securities. Accordingly, it is important for benefit plans to verify the exact nature of the collateral funds used for investment of cash collateral. As a result of financial market conditions, many unregistered collateral funds have a net asset value per unit/participation interest based on current fair values of underlying assets significantly less than $1, yet the collateral funds continue to issue and redeem their units/participation interests (units) at $1, as may be allowed by the relevant legal agreements. A number of those collateral funds have placed restrictions on redemption. Examples of audit procedures the auditor may perform regarding management's determination of the fair value of the collateral fund at year-end may include obtaining a copy of the collateral fund audited financial statements, if available, and comparing the value to what was reported in the benefit plan financial statements.

.104 As a result of the recent market issues discussed previously with securities lending programs, many employee benefit plans revised existing securities lending agreements. Identification of such revisions can be achieved through discussions with (*a*) those responsible at the plan sponsor for investment decisions, (*b*) the investment service providers or through the review of all related agreements, or (*c*) both. It is important to consider such revisions in securities lending agreements in determining the proper accounting, auditing, and reporting in accordance with FASB ASC 860, *Transfers and Servicing*.

.105 In June 2009, FASB issued FASB Statement No. 166, *Accounting for Transfers of Financial Assets—an amendment of FASB Statement No. 140*, which was codified in FASB ASC 860. Among other guidance relating to transfer of financial assets, FASB Statement No. 166 (*a*) clarifies that the objective of paragraph 9 of FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities-a replacement of FASB Statement No. 125*, is to determine whether a transferor has surrendered control over transferred financial assets; (*b*) defines the term *participating interest* to establish specific conditions for reporting a transfer of a portion of a financial asset as a sale; and (*c*) requires that a transferor recognize and initially measure at fair value all assets obtained and liabilities incurred as a result of

a transfer accounted for as a sale. In addition, FASB Statement No. 166 requires enhanced disclosures to provide financial statements users with greater transparency about the transfers of financial assets and the transferor's continuing involvement with transferred financial assets. FASB Statement No. 166 is effective as of the beginning of each reporting entity's first annual reporting period that begins after November 15, 2009, for interim periods within that first annual reporting period, and for interim and annual reporting periods thereafter. Earlier application is prohibited. The recognition and measurement provisions of FASB Statement No. 166 should be applied to transfers that occur on or after the effective date. For further guidance on the accounting and reporting for transfers of financial assets, including securities lending, consult FASB ASC 860. Also refer to paragraphs 2.25–.29, 3.33–.37, and 4.50–.54 of the AICPA Audit and Accounting Guide *Employee Benefit Plans* for further information. The following is a list of additional resources that provide guidance on auditing investments:

- AU section 328, *Auditing Fair Value Measurements and Disclosures* (AICPA, *Professional Standards*, vol. 1)
- AU section 332, *Auditing Derivative Instruments, Hedging Activities, and Investments in Securities* (AICPA, *Professional Standards*, vol. 1)
- AU section 336, *Using the Work of Specialists* (AICPA, *Professional Standards*, vol. 1)
- AU section 342, *Auditing Accounting Estimates* (AICPA, *Professional Standards*, vol. 1)
- AU section 560, *Subsequent Events* (AICPA, *Professional Standards*, vol. 1)
- PCAOB Staff Audit Practice Alert No. 2, *Matters Related to Auditing Fair Value Measurements of Financial Instruments and the Use of Specialists* (AICPA, *PCAOB Standards and Related Rules*, PCAOB Staff Guidance, sec. 400.02)
- PCAOB Staff Audit Practice Alert No. 3, *Audit Considerations in the Current Economic Environment* (AICPA, *PCAOB Standards and Related Rules*, PCAOB Staff Guidance, sec. 400.03)
- PCAOB Staff Audit Practice Alert No. 4, *Auditor Considerations Regarding Fair Value Measurements, Disclosures, and Other-Than-Temporary Impairments* (AICPA, *PCAOB Standards and Related Rules*, PCAOB Staff Guidance, sec. 400.04)
- Center for Audit Quality white paper, *Measurement of Fair Value in Illiquid (or Less Liquid) Markets*
- AICPA Practice Aid *Alternative Investments—Audit Considerations*
- AICPA EBPAQC, *Assessing the Fair Values of Your Plan Investments*
- AICPA EBPAQC, *Alternative Investments in Employee Benefit Plans*

Allocated and Unallocated Funding Arrangements

.106 When a plan enters into a contract with an insurance company, an understanding of the terms and provisions of the contract is essential in determining the proper accounting and reporting. According to paragraph 7.34 of the AICPA Audit and Accounting Guide *Employee Benefit Plans*, the fundamental basis of distinction in classifying contracts for accounting purposes is (*a*) whether the contributions are currently used to purchase insurance or annuities for the individual participants, or (*b*) whether some or all of the contributions are accumulated in an unallocated fund to be used to meet benefit payments as they come due or to purchase annuities for participants at retirement or on earlier termination of service with a vested right. Contractual arrangements under which funds are currently allocated to purchase insurance or annuities for individual participants are referred to as *allocated* funding arrangements, whereas other arrangements are called *unallocated* funding arrangements.

.107 Allocated funding arrangements include annuity contracts. An *allocated contract* is a contract with an insurance entity under which contributions paid to the insurance company are used to purchase deferred or immediate annuities for individual participants. As defined in the FASB ASC glossary, an *annuity contract* is a contract in which an insurance company unconditionally undertakes a legal obligation to provide specified benefits to specific individuals in return for a fixed consideration or premium. This arrangement is irrevocable and involves the transfer of significant risk from the plan to the insurance company. Generally, allocated contracts are excluded from the plan's financial statements.

.108 An *unallocated contract*, as defined in the FASB ASC glossary, is a contract with an insurance company under which related payments to the insurance company are accumulated in an unallocated fund to be used to meet benefit payments when employees retire, either directly or through the purchase of annuities. Funds in an unallocated contract may also be withdrawn and otherwise invested. Unallocated funding ordinarily is associated with a group deposit administration contract and an immediate participation guarantee contract. For investment purposes, unallocated funds may be commingled in a general or pooled separate account or held in an individual separate account. These contracts generally should be included in the plan's financial statements.

.109 Plan administrators may want to consider consulting with legal counsel or the service provider to fully understand insurance contract provisions prior to making their determination regarding the appropriate financial statement and Form 5500 accounting and reporting for these contracts.

Contracts With Insurance Companies

.110 According to FASB ASC 962-325-35, defined contribution plan investments should be presented at their fair value at the reporting date. However, contract value is the relevant measurement attribute for that portion of the net assets available for benefits of a defined contribution plan attributable to fully benefit-responsive investment contracts. In addition, FASB ASC 960-325-35-3 states that whether or not the plan is subject to ERISA, insurance contracts as defined by FASB ASC 944-20 should be presented in the same manner as specified in the annual report filed by the plan with certain governmental agencies pursuant to ERISA, consistent with the requirements of Form 5500—that is,

either at fair value or at amounts determined by the insurance enterprise (contract value). Thus, it is important for the plan administrator to differentiate between those contracts with insurance companies that are insurance contracts versus investment contracts. Investment contracts with insurance companies are generally reported at fair value, with an adjustment to net assets for the difference between fair value and contract value for fully benefit responsive contracts. Fair value may be difficult to determine and may require use of a valuation specialist for certain investment contracts.

Form 5500 Reporting

.111 According to the Form 5500 instructions, a contract is considered to be allocated only if the insurance company or organization that issued the contract unconditionally guarantees, upon receipt of the required premium or consideration, to provide a retirement benefit of a specified amount. This amount must be provided to each participant without adjustment for fluctuations in the market value of the underlying assets to the company or organization and each participant must have a legal right to such benefits which is legally enforceable directly against the insurance company or organization. For example, deposit administration, immediate participation guarantee, and GICs are not allocated contracts for Form 5500 purposes.

DOL Advisory Opinion 2010-01A

.112 On March 4, 2010, the DOL issued Advisory Opinion 2010-01A on whether a specific annuity contract, as described in the Advisory Opinion, is a fully allocated contract for annual reporting purposes within the meaning of 29 CFR 2520.104-44(b)(2) and the Form 5500 annual return/report instructions. The Advisory Opinion affects whether the specific annuity contract should be reported as plan assets on the Form 5500 and applicable schedules and attachments. The DOL Advisory Opinion concluded that, based on the facts and circumstances set forth in the Advisory Opinion, the specified annuity contract is not a fully allocated contract within the meaning of 29 CFR 2520.104-44(b)(2). Further, the Advisory Opinion provides enforcement relief related to complying with this advisory opinion. The Advisory Opinion can be viewed at www.dol.gov/ebsa/regs/aos/ao2010-01a.html. Plan sponsors and their auditors are urged to review this advisory opinion to determine whether the plan under audit holds the specified annuity contract as described in the advisory opinion.

Limited Scope Audit Exemption Permitted Under 29 CFR 2520.103-8

.113 When a plan administrator elects to limit the scope of the audit performed as permitted by 29 CFR 2520.103-8 of the DOL Rules and Regulations for Reporting and Disclosure under ERISA, the auditor is instructed by the plan administrator to limit the scope of testing of investment information prepared and certified by a qualified trustee or custodian as complete and accurate. The trustee or custodian certifies to the completeness and accuracy of the plan's investment assets and investment activity as contained in the institution's ordinary books and records, which may or may not be fair value in accordance with U.S. GAAP. Although DOL regulations allow the qualified trustee or custodian to report in this manner, it is the plan sponsor's responsibility to prepare the financial statements and footnote disclosures in accordance with U.S. GAAP (that is, at fair value as of the plan's year-end).

> **Help Desk**—Plan administrators should review their trustee or custodial arrangements to determine the nature of the financial information that will be provided by the trustee or custodian. For instance, in cases when the plan invests in assets without readily determinable market values, the reported values may be based on the best information available to the trustee or custodian at the time the certification is prepared, which may or may not be fair value as of the plan's year-end.

.114 The auditor's responsibilities for investments covered by the limited scope audit exemption permitted by 29 CFR 2520.103-8 are to (*a*) obtain and read a copy of the certification from the plan administrator, (*b*) determine whether the entity issuing the certification is a qualifying institution under DOL regulations, (*c*) compare the certified investment information to the financial statements and related disclosures, (*d*) perform the necessary procedures to become satisfied that any received or disbursed amounts reported by the trustee or custodian were determined in accordance with the plan provisions, and (*e*) determine whether the form and content of the financial statement disclosures related to the investment information prepared and certified by the plan's trustee or custodian are in conformity with U.S. GAAP and are in compliance with DOL rules and regulations. See paragraphs 7.65–.69 of AICPA Audit and Accounting Guide *Employee Benefits Plans* for further guidance on limited scope audits.

.115 The limited scope audit exemption permitted by 29 CFR 2520.103-8 extends only to investments and related investment information certified by the qualified trustee or custodian. Plan investments not held by a qualified trustee or custodian, such as real estate, leases, mortgages, self-directed brokerage accounts, participant loans, and any other investments or assets not covered by such a certification, should be subjected to appropriate audit procedures. Moreover, the appropriate audit procedures for all noninvestment related information (for example, contributions and distributions) are the same for a limited scope audit as they are for a full scope audit.

.116 When engaged to perform a limited scope audit as permitted by 29 CFR 2520.103-8, the auditor has no responsibility to perform audit procedures on investments and related activity covered by the certification. Although the auditor is not required to audit certain investment information when the limited scope audit exemption is applicable, if the auditor becomes aware that the certified information is incomplete, inaccurate, or otherwise unsatisfactory, further inquiry may be necessary that might result in additional testing or modification to the auditor's report. In certain instances, a limited scope audit as permitted by 29 CFR 2520.103-8 may no longer be appropriate (or may only be appropriate with respect to certain investments held by the plan).

.117 Plan management's decision to rely on a certification for purposes of limiting the scope of the audit as permitted by 29 CFR 2520.103-8 has become increasingly more challenging, especially in light of recent economic events as well as the guidance in FASB ASC 820. Because plans increasingly invest in alternative investments (including hedge funds, real estate, limited partnerships, private equity funds, and other hard-to-value investments), care should be taken by plan management when determining if certified information

can be relied upon in preparing the plan's Form 5500 and related financial statements.

.118 Plan management will need to have sufficient understanding of the nature of the plan's investments and the valuation methodologies, key assumptions, and inputs used to determine fair value. Plan management cannot outsource or assign its responsibility for properly reporting fair value of the plan's investments, even in situations when the plan's trustee or custodian certifies the completeness and accuracy of the plan's investments for a limited scope audit. Therefore, prior to being engaged to perform a limited scope audit as permitted by 29 CFR 2520.103-8, it is recommended that plan management and the auditor discuss the nature of the investments held by the plan, including how those investments are valued and where they fall in the fair value hierarchy, to help ensure that plan management engages their auditor to perform the appropriate type of audit.

Help Desk—FASB ASC 820 does not change the auditor's responsibility in a limited scope audit permitted by 29 CFR 2520.103-8. Third parties may provide pricing methodology information that assists plan management in determining the fair value hierarchy levels, or may provide preliminary suggestions of the fair value hierarchy levels. It is ultimately the responsibility of the plan's management to understand the basis for the designations to determine whether the plan's investments have been valued and disclosed in accordance with U.S. GAAP or whether revisions are necessary.

.119 If the auditor becomes aware that the certified information relating to such investments is inaccurate as a result of valuation or other concerns, further inquiry may be necessary that might result in additional testing or modification to the auditor's report. For example, when a plan has significant interests in alternative investments that are hard to value or fall within level 3 of the fair value hierarchy, this may prompt the auditor to inquire whether these investments are covered by the certification, the method used to value these investments, and whether they are reflected in the certification at fair value in accordance with U.S. GAAP. Upon further inquiry, if the auditor becomes aware that adequate year-end valuation procedures have not been performed and therefore the financial statements may not be prepared in conformity with U.S. GAAP, the auditor would communicate those findings to the plan management. It is the plan management's responsibility to prepare the financial statements and footnote disclosures in conformity with U.S. GAAP and in compliance with DOL rules and regulations. Accordingly, plan management may request the trustee or custodian to recertify or amend the certification for such investments at their appropriate year-end values or to exclude such investments from the certification. If the trustee or custodian amends the certification to exclude such investments from the certification, or if the trustee or custodian does not recertify those investments, plan management is responsible for valuing such investments as of the plan year-end and engaging the auditor to perform full scope audit procedures on the investments excluded from the certification. Paragraph 7.69 of the AICPA Audit and Accounting Guide *Employee Benefit Plans* contains an illustrative auditor's report when plan investments have been certified and plan management was unable

to determine whether the investment information is valued in conformity with U.S. GAAP.

.120 If the trustee or custodian excludes certain investments from the certification, this ordinarily would not affect the limited scope (DOL disclaimer as permitted by 29 CFR 2520.103-8) language in the auditor's report. Accordingly, the footnote pertaining to certified information should only reflect the investment information that was included or derived from the certified information.

.121 In the event that the audit changes from a limited scope audit permitted by 29 CFR 2520.103-8 in the prior year to a full scope audit in the current year, the auditor would perform full scope audit procedures regarding the beginning balances of investments. See paragraph 13.28 of the AICPA Audit and Accounting Guide *Employee Benefit Plans* for an illustrative auditor's report when the scope of the audit in the prior year was limited in accordance with DOL rules and regulations.

> **Help Desk**—After the issuance of the auditor's report, if the auditor subsequently discovers that certain or all investment information should have been subjected to full scope audit procedures in the prior year, the auditor may be required to perform additional procedures and to consider whether to recall, restate, or reissue the prior year's audit report. For further guidance refer to AU section 390, *Consideration of Omitted Procedures After the Report Date*, and AU section 561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report* (AICPA, *Professional Standards*, vol. 1).

.122 When the auditor discovers departures from U.S. GAAP or encounters scope limitations (other than as permitted by 29 CFR 2520.103-8), the auditor should evaluate the affect of these matters in determining the appropriate report modification. If the auditor is unable to obtain sufficient appropriate audit evidence regarding other noninvestment related information or investment information not covered by the certification, then the auditor's report illustrated in paragraph 13.26 of the AICPA Audit and Accounting Guide *Employee Benefit Plans* may no longer be appropriate. Also, it likely will not be appropriate for the auditor to opine on the supplemental schedules as presented in compliance with the DOL's Rules and Regulations for Reporting and Disclosure under ERISA. See AU section 508 for reporting guidance.

Subsequent Events

.123 In May 2009, FASB issued FASB Statement No. 165, *Subsequent Events*, which was codified in FASB ASC 855, *Subsequent Events*. Previously, guidance on subsequent events resided solely in AU section 560. FASB ASC 855 is intended to be an accounting standard that reflects the underlying principles contained in AU section 560. The objective of the standard is to establish general standards of accounting for and disclosure of events that occur after the balance sheet date, but before financial statements are issued or are available to be issued. FASB ASC 855 applies to the accounting for and disclosure of subsequent events not addressed in other applicable U.S. GAAP (such as FASB ASC 740, *Income Taxes*, and FASB ASC 450, *Contingencies*) and is effective for

interim or annual financial periods ending after June 15, 2009, and should be applied prospectively.

.124 FASB ASC 855 defines certain key terms such as *subsequent events* (including *recognized subsequent event* and *nonrecognized subsequent event*). Additionally, it introduces the concept of financial statements being available to be issued. Financial statements are considered available to be issued when they are complete in a form and format that complies with U.S. GAAP and all approvals necessary for issuance have been obtained (for example, from management, the board of directors, and significant shareholders).

.125 An entity must recognize in the financial statements the effects of all material subsequent events that provide additional evidence about conditions that existed at the date of the balance sheet, including the estimates inherent in the process of preparing financial statements. This is analogous to a type 1 event in AU section 560. Conversely, an entity may not recognize subsequent events that arose after the balance sheet date but before financial statements are issued when such events provide evidence about conditions that did not exist at the date of the balance sheet. This is analogous to a type 2 event in AU section 560. FASB ASC 855 provides examples of each type of subsequent event.

.126 FASB ASC 855 was amended in February 2010 by FASB ASU No. 2010-09, *Subsequent Events: Amendments to Certain Recognition and Disclosure Requirements*. The guidance in FASB ASU No. 2010-09 is effective immediately for all financial statements that have not yet been issued or have not yet become available to be issued.

.127 As a result of FASB ASU No. 2010-09, SEC registrants will not disclose the date through which management evaluated subsequent events in the financial statements. SEC registrants continue to have responsibilities for evaluating subsequent events as previously required. Plans that file their financial statements with the SEC using Form 11-K shall evaluate subsequent events through the date the financial statements are issued. These plans will not be required to disclose the date through which management has evaluated subsequent events in the financial statements.

.128 FASB ASU No. 2010-09 also changes the criteria for determining whether an entity would evaluate subsequent events through the date that financial statements are issued or when they are available to be issued. SEC registrants will evaluate subsequent events through the date that the financial statements are issued, and all other entities will evaluate subsequent events through the date that financial statements are available to be issued. All plans that do not file with the SEC shall evaluate subsequent events through the date that the financial statements are available to be issued. These plans shall disclose both of the following:

- *a.* The date through which subsequent events have been evaluated
- *b.* Whether that date is either of the following:
    - i. The date the financial statements were issued
    - ii. The date the financial statements were available to be issued

.129 The auditor's report date should be the same date that the plan's financial statements are issued (for SEC filers) or available to be issued (for all other plans).

Going Concern Matters

.130 Many plan sponsors are currently experiencing, or may experience in the near term, conditions and events that may raise substantial doubt about their ability to continue as a going concern for a reasonable period of time (not to exceed one year beyond the date of the financial statements being audited). Substantial doubt raised about the plan sponsor may also raise concerns about the ability of the plan to continue as a going concern. Given the current volatile economic environment, management's evaluation of the plan's ability to continue as a going concern for a reasonable period of time may require more extensive analysis. It may be necessary for the auditor to obtain additional information about such conditions and events, as well as the appropriate audit evidence to support information that mitigates the auditor's doubt.

.131 If the auditor believes there is substantial doubt about the plan's ability to continue as a going concern for a reasonable period of time, he or she should (*a*) obtain information about management's plans that are intended to mitigate the effect of such conditions or events, and (*b*) assess the likelihood that such plans can be effectively implemented. The assessment of the plan's ability to continue as a going concern is the responsibility of the plan's management. The auditor's responsibility, as described in AU section 341, is to consider, when planning and performing audit procedures and evaluating their results, the appropriateness of management's use of the going concern assumption in the preparation of the financial statements.

.132 Additionally, current market conditions have heightened the expectations of financial statement users that entities, including benefit plans, will provide a more thorough and transparent analysis of risks and uncertainties in accordance with FASB ASC 275, *Risks and Uncertainties*, which requires management to make certain disclosures of risks and uncertainties facing the entity. In many cases, those are the same risks and uncertainties that management and the auditor need to assess in evaluating the entity's ability to continue as a going concern. It is important for the auditor to have discussions with management about the plan's significant risks and uncertainties and the adequacy of disclosures about them in current year financial statements.

.133 Conditions or events that raise doubt about the plan sponsor's ability to continue as a going concern are significant in evaluating the ability of an employee benefit plan to continue as a going concern for a reasonable period of time. Factors that may be relevant to management's use of the going concern assumption or, conversely, events, or conditions that may cast substantial doubt on the going concern assumption include, but are not limited to, financial events that are becoming more prevalent in the current environment, such as the following:

- Substantial doubt about the plan sponsor's ability to continue as a going concern
- The ability of the plan sponsor to continue funding the plan
- The plan's lack of liquidity
- The plan's ability to continue paying benefits when due to participants

.134 For defined contribution plans, the financial condition of the plan sponsor typically does not affect the plan's ability to meet its obligations as they become due; however, consideration should be given to the level of company

stock held by the plan, restrictions on withdrawals from certain investments held by the plan due to liquidity concerns, and plan terminations (see paragraphs 3.62–.65 of the AICPA Audit and Accounting Guide *Employee Benefit Plans* for guidance regarding terminating plans).

.135 After the auditor has evaluated management's plans, the auditor concludes whether he or she has substantial doubt about the plan's ability to continue as a going concern for a reasonable period of time. If the auditor concludes there is substantial doubt, the auditor should (*a*) consider the adequacy of disclosure about the plan's possible inability to continue as a going concern for a reasonable period of time, and (*b*) include an explanatory paragraph (following the opinion paragraph) in the auditor's report to reflect this conclusion. If the auditor concludes that substantial doubt does not exist, he or she should consider the need for disclosure. When, primarily because of the auditor's consideration of management's plans, he or she concludes that substantial doubt about the entity's ability to continue as a going concern for a reasonable period of time is alleviated, the auditor should consider the need for disclosure of the principal conditions and events that initially caused him or her to believe there was substantial doubt. The auditor's consideration of disclosure should include the possible effects of such conditions and events, and any mitigating factors, including management's plans.

Health and Welfare Plans

The Health Insurance Portability and Accountability Act of 1996

.136 As a professional service provider, auditors receive and maintain significant amounts of confidential client information. When performing a health and welfare plan audit, the auditor will likely need to gain access to medical information that may be subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and a range of other federal and state laws and regulations. HIPAA establishes standards for the privacy and protection of individually identifiable electronic health information as well as administrative simplification standards. HIPAA includes protection for those who move from one job to another, are self-employed, or have preexisting medical conditions. The rules include standards to protect the privacy of individually identifiable health information. The rules (applicable to health plans, health care clearinghouses, and certain health care providers, known collectively as *covered entities*) present standards with respect to the rights of individuals who are the subjects of this information, procedures for the exercise of those rights, and the authorized and required uses and disclosures of this information. HIPAA requires that plan sponsors enter into a business associates' agreement (BAA) with any of their service providers (including plan auditors) that have access to any protected health information (PHI).

.137 The American Recovery and Reinvestment Act of 2009 (ARRA) includes changes to HIPAA. The law that is responsible for many of the changes is the Technology for Economic and Clinical Health Act (HITECH Act) and interim final regulations issued by the Department of Health and Human Services (HHS). In the past, HIPAA was only applicable to the use and disclosure of the PHI by covered entities. Vendors who provided administrative services to covered entities (for example, those providing legal, accounting, information technology, financial support, or other similar services) were required to sign BAAs, which, by contract, they then agreed to maintain the privacy and security

of the PHI. However, under the HITECH Act, several of the HIPAA security and privacy requirements have been expanded, including business associates being subject to civil and criminal penalties and enforcement proceedings for violations of HIPAA.

.138 The HITECH Act also creates a new affirmative notice requirement for health plan sponsors and business associates that discover a breach of an individual's unsecured PHI if the breach constitutes significant risk of financial, reputational, or other harm to an individual.

Help Desk—For more information on the ARRA's changes to HIPAA, including data restrictions, disclosure and reporting requirements, as well as various applicable effective dates, see www.rules.house.gov/111/LegText/111_hr1_text.pdf. For more information on interim final regulations issued by the HHS, see www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/breachnotificationifr.html.

COBRA Premium Subsidy

.139 On February 17, 2009, President Obama signed into law the ARRA, which imposes new temporary COBRA rules for employers sponsoring group health plans. Under COBRA prior to the passage of the Recovery Act, former employees electing to continue employer medical coverage under COBRA were required to pay the full cost of the coverage based on the average cost for the plan. The Recovery Act reduced the amount to be paid by the former employee to 35 percent of the plan's average costs, with the remaining 65 percent of the cost to be paid by the government. The employer initially pays the 65 percent portion of the premium and is then reimbursed by the government through a payroll tax credit. The 65 percent premium subsidy applies to certain former employees who become eligible for and who elect COBRA coverage between February 17, 2009, and February 28, 2010. The maximum length of time the premium subsidy will be provided is 15 months.

.140 If a health and welfare plan has a more significant population of retiree participants as compared to active participants, the financial statement activity relating to the COBRA activity may not be significant. However, for health and welfare plans with a significant number of active participants, the COBRA subsidy would have a greater affect on the financial statements. Currently, FASB ASC 965 provides that the postemployment benefit obligation recorded in a plan's financial statements should be measured in accordance with FASB ASC 712, *Compensation—Nonretirement Postemployment Benefits* (the *net postemployment benefit obligation*, which is the obligation to be paid by the plan's participating employer(s) and from existing plan assets), with disclosure of information about the former employee's relative share of the plan's estimated cost of providing postemployment benefits. FASB ASC 712 provides for the accounting for benefits (such as COBRA benefits) that do not vest or accumulate to be accounted for using the principles of FASB ASC 450 (formerly FASB Statement No. 5, *Accounting for Contingencies*). For welfare benefit plans subject to audit, this law change presents unique financial reporting issues that could affect the post employment benefit obligation at the plan level. Plan management should consider the principles in FASB ASC 965, 712, and 450 as well

as the materiality of these balances in determining accounting and reporting for these subsidies in the health and welfare financial statements at year-end.

Timeliness of the Remittance of Participant Contributions—New DOL Guidance

.141 EBSA continues to focus on the timeliness of remittance of participant contributions in contributory employee benefit plans. Participant contributions are plan assets on the earliest date that they can reasonably be segregated from the employer's general assets, but in no event later than (*a*) for pension plans, the 15th business day of the month following the month in which the participant contributions are withheld or received by the employer, and (*b*) for welfare plans, 90 days from the date on which such amounts are withheld or received by the employer.

.142 On January 14, 2010, the DOL published a final rule establishing a safe harbor period for small pension and welfare benefit plans (those with fewer than 100 participants) of 7 business days following receipt or withholding by employers (see the "Regulatory Developments" section of this alert for additional information).

.143 On Form 5500, information on all delinquent participant contributions should be reported on line 4a of either Schedule H or Schedule I, and should not be reported on line 4d of Schedule H, I, or on Schedule G. Beginning for 2009 plan years, large plans with delinquent participant contributions should attach a schedule clearly labeled, "Schedule H, line 4a—Schedule of Delinquent Participant Contributions" using the format set forth in Form 5500 instructions.

.144 Participant loan repayments paid to or withheld by an employer for purposes of transmittal to the plan that were not transmitted to the plan in a timely fashion must be reported either on line 4a in accordance with the reporting requirements that apply to delinquent participant contributions or on line 4d. See DOL Advisory Opinion 2002-2A at www.dol.gov/ebsa.

.145 Delinquent forwarding of participant contributions and participant loan repayments are eligible for correction under the Voluntary Fiduciary Correction Program (VFCP) and Prohibited Transaction Exemption (PTE) 2002-51, *Class Exemption to Permit Certain Transactions Identified in the Voluntary Fiduciary Correction Program*, on terms similar to those that apply to delinquent participant contributions.

Help Desk—For further guidance, see the instructions to Form 5500 and the EBSA Web site frequently asked questions (FAQs) at www.dol.gov/ebsa/faqs/faq_compliance_5500.html.

AICPA Audit and Accounting Guide Revision as of March 1, 2010

.146 The AICPA Audit and Accounting Guide *Employee Benefit Plans* has been updated with conforming changes as of March 1, 2010, and includes updated guidance regarding recent accounting and auditing pronouncements and

FASB ASUs. Most notable are the FASB ASUs relating to FASB ASC 820. The AICPA Audit and Accounting Guide *Employee Benefit Plans* includes summaries of these recent FASB ASUs, disclosure requirements, and illustrative disclosures.

Help Desk—To order the AICPA Audit and Accounting Guide *Employee Benefit Plans* with conforming changes as of March 1, 2010 (product no. 012510kk), call the Service Center Operations at (888) 777-7077 or go to www.cpa2biz.com.

Audit and Attest Issues and Developments

Service Organizations—SAS No. 70 Report Considerations

.147 Internal control of a benefit plan consists of the controls at the sponsor as well as the controls at applicable service and subservice organizations that perform significant plan functions including but not limited to processing of participant-level transactions such as contributions and distributions, investment custody and valuation, and execution of investment transactions. SAS No. 70 reports may be useful in providing user auditors with a sufficient understanding of controls at the service organization to assess the risks of material misstatement in accordance with AU section 314, *Understanding the Entity and its Environment and Assessing the Risks of Material Misstatement* (AICPA, *Professional Standards*, vol. 1).

.148 It is not uncommon for the service organization's SAS No. 70 report to cover only some of the services used by the plan (for example, the report might cover custodial services but not allocation services) or to not cover activities performed by subservice organizations (for example, the report might not cover services performed by an investment pricing service). The subservice organization may be a separate entity from the service organization or may be related to the service organization. For example, 401(k) record keepers often exclude the related data processing center from their SAS No. 70 reports. The independent auditor's report included in the SAS No. 70 report will typically include language that the report does not cover certain significant service or subservice organizations or systems. For less significant service or subservice organizations or systems, this language will not be included in the auditor's report, but will be described elsewhere in the report. In these situations, auditors would gain an understanding of the controls related to the services not covered in the SAS No. 70 report as they relate to the plan's transactions processed by the service or subservice organization that are part of the plan's information system. If the user auditor does not have sufficient information to assess control risk as low or moderate, the plan auditor may decide to perform additional tests of the service or subservice organization's controls or perform additional audit procedures on the plan's financial statements. The auditor may obtain a copy of the subservice organization's SAS No. 70 report if one was issued.

.149 In January 2010, the Auditing Standards Board (ASB) approved, as final, two standards that supersede SAS No. 70. Currently, SAS No. 70 contains guidance for auditors auditing the financial statements of entities that use a

service organization (user auditors) and for auditors reporting on controls at a service organization (service auditors). The new SAS *Audit Considerations Relating to an Entity Using a Service Organization* only contains guidance for user auditors and is effective for audits of financial statements for periods beginning on or after December 15, 2010 (note that this effective date is provisional, but will not be earlier than December 15, 2010). Guidance for service auditors will be contained in Statement on Standards for Attestation Engagements (SSAE) No. 16, *Reporting on Controls at a Service Organization*. This SSAE will be effective for service auditors' reports for periods ending on or after June 15, 2011. Earlier implementation is permitted. Readers should consult the AICPA Web site at www.aicpa.org for further information on when the SAS and SSAE are available.

> **Help Desk**—See chapter 6, "Internal Control," in the AICPA Audit and Accounting Guide *Employee Benefit Plans* for further guidance regarding SAS No. 70.

Communicating Internal Control Related Matters Identified in an Audit

.150 In October 2008, the AICPA ASB issued SAS No. 115, *Communicating Internal Control Related Matters Identified in an Audit* (AICPA, *Professional Standards*, vol. 1, AU sec. 325). SAS No. 115 amends SAS No. 112, *Communicating Internal Control Related Matters Identified in an Audit*, and further clarifies standards and provides guidance on communicating matters related to an entity's internal control over financial reporting (internal control) identified in an audit of financial statements.

.151 In general, SAS No. 115 retains many of the provisions of SAS No. 112. The key differences between the two standards lie in the definitions of *material weaknesses* and *significant deficiencies*. SAS No. 115 is effective for audits of financial statements for periods ending on or after December 15, 2009, with early implementation permitted.

Definitions of Significant Deficiency *and* Material Weakness

.152 A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that a reasonable possibility exists that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. For the purpose of this definition, a reasonable possibility exists when the likelihood of the event is either *reasonably possible* or *probable*, as those terms are used in the FASB ASC glossary. The FASB ASC glossary defines *reasonably possible* as the chance of the future event or events occurring is more than remote but less than likely; *probable* is defined as the future event or events are likely to occur.

.153 SAS No. 115 also makes the following changes to the guidance provided in SAS No. 112:

- Changes the unconditional requirements to evaluate the severity of identified deficiencies to determine whether significant deficiencies or material weaknesses exist and to communicate, in writing,

identified significant deficiencies and material weaknesses to presumptive requirements

- Clarifies the requirements for consideration of compensating controls
- Changes the prudent officials test from the auditor concluding that prudent officials having knowledge of the same facts and circumstances would agree with the auditor's classification of the deficiency to the auditor considering whether prudent officials would likely reach the same conclusion
- Eliminates the list of deficiencies that ordinarily would be considered at least significant deficiencies
- Reduces the list of deficiencies in internal control that are strong indicators of material weaknesses
- Provides examples of circumstances that may be deficiencies, significant deficiencies, or material weaknesses
- Contains a revised illustrative written communication to management and those charged with governance of material weaknesses and significant deficiencies

.154 The AICPA published the Audit Risk Alert *Communicating Internal Control Related Matters in an Audit—Understanding SAS No. 115* (product no. 022539) to assist in understanding the requirements of this SAS. The Audit Risk Alert provides specific case studies to help determine whether identified control weaknesses would constitute a significant deficiency or material weakness; it can be obtained by calling the AICPA at (888) 777-7077 or visiting www.cpa2biz.com. See also the AICPA EBPAQC, *SAS No. 115 Toolkit,* for additional information concerning the implementation of SAS No. 115.

Supplementary Information

.155 The ASB has issued the following three SASs related to supplementary information:

- SAS No. 118, *Other Information in Documents Containing Audited Financial Statements* (AICPA, *Professional Standards*, vol. 1, AU sec. 550)
- SAS No. 119, *Supplementary Information in Relation to the Financial Statements as a Whole* (AICPA, *Professional Standards*, vol. 1, AU sec. 551)
- SAS No. 120, *Required Supplementary Information* (AICPA, *Professional Standards*, vol. 1, AU sec. 558)

.156 SAS Nos. 118–120 are effective for audits of financial statements for periods beginning on or after December 15, 2010. Early application is permitted. For more information, view the summaries of each of these new SASs at www.aicpa.org/Professional+Resources/Accounting+and+Auditing/Audit+and+Attest+Standards/Authoritative+Standards+and+Related+Guidance+for+Non-Issuers/Summaries+of+Recently+Issued+Auditing+Standards.htm.

SAS No. 118

.157 SAS No. 118 supersedes the requirements and guidance in AU section 550A, *Other Information in Documents Containing Audited Financial Statements* and, along with SAS No. 119, supersedes the requirements and guidance

in SAS No. 117. SAS No. 118 addresses the auditor's responsibility in relation to other information in documents containing audited financial statements and the auditor's report thereon.

SAS No. 119

.158 SAS No. 119, along with SAS No. 118, supersedes the requirements and guidance in AU section 551A. SAS No. 119 addresses the auditor's responsibility when engaged to report on whether supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole. The information covered by this SAS is presented outside the basic financial statements and is not considered necessary for the financial statements to be fairly presented in accordance with the applicable financial reporting framework. This SAS also may be applied when an auditor has been engaged to report on whether required supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole.

.159 ERISA and DOL regulations require additional information to be disclosed. Some of this information is required to be covered by the auditor's report, for example, Schedule H, line 4i—Schedule of Assets Held (At End of Year). Paragraph 13.09 of the AICPA Audit and Accounting Guide *Employee Benefit Plans* points to AU section 551 for guidance on the form and content of reporting on these supplemental schedules. View the summary of this SAS at www.aicpa.org/Professional+Resources/Accounting+and+Auditing/Audit+and+Attest+Standards/Authoritative+Standards+and+Related+Guidance+for+Non-Issuers/Summaries+of+Recently+Issued+Auditing+Standards.htm.

SAS No. 120

.160 SAS No. 120 supersedes the requirements and guidance in AU section 558A, *Required Supplementary Information*. SAS No. 120 is effective for audits of financial statements for periods beginning on or after December 15, 2010, and early application is permitted. SAS No. 120 addresses the auditor's responsibilities with respect to information that a designated accounting standard setter requires to accompany an entity's basic financial statements.

Auditing Plan Fees and Expenses

.161 Administrative expenses are often paid out of plan assets. As plan sponsors look for ways to decrease operating costs, it is becoming more common to amend benefit plans to allow for the payment of the expenses out of the plan. In certain instances, forfeitures are used to pay plan expenses. The auditor's responsibilities with respect to testing administrative expenses are detailed in paragraphs 12.13–.14 of the AICPA Audit and Accounting Guide *Employee Benefit Plans*. Auditors need to gain an understanding of the expenses that are allowed to be paid by the plan according to the plan document. Typically, plan expenses are below materiality levels in a benefit plan audit and, therefore, are not subject to significant detailed testing. Often, auditors obtain reasonable assurance related to expense balances using other audit procedures such as substantive analytics. Auditors may also want to be aware of fees paid by one plan on behalf of another plan resulting from errors or inappropriate allocations or fees paid by the plan for certain services (actuarial fees) that may relate to services provided to the plan sponsor. Excessive fees or expenses paid by the plan that are not allowed by the plan document, no matter how immaterial, may be deemed a prohibited transaction requiring further testing and disclosure

as described in paragraph 11.13 of the AICPA Audit and Accounting Guide *Employee Benefit Plans*.

.162 In addition, any fees or expenses paid to related parties need to be considered for disclosure under FASB ASC 850, *Related Party Disclosures*. In certain instances, it may be difficult to understand the nature of the expenses being paid by the plan due to the netting of expenses against income or other hidden arrangements resulting in expenses not being apparent on the service provider statements. In these situations, the auditor may determine that additional inquiries with management and the service providers or review of service provider agreements may assist in understanding the fee arrangements. Consideration should be given to disclosing the terms of expense offset arrangements with third parties, whereby fees (for example, recordkeeping and so on) are reduced by a specified or readily ascertainable amount for services provided. It is important for auditors to remain alert for situations when service providers return fees previously paid. These fees are sometimes set up in separate cash accounts that may not be reflected in the service provider statements. Accordingly, a review of service provider agreements that provide for the account is performed to determine if these amounts represent plan assets. Also, refer to the DOL-issued publication *Understanding Retirement Plan Fees and Expenses* and DOL Letter 2001-O1A to better understand and evaluate plan fees and expenses.

.163 In addition, current year revisions to Schedule C of the 2009 Form 5500 may affect how plan auditors assess the reasonableness of plan fees and expenses. In the past, auditors have often compared amounts reported on Schedule C of Form 5500 to the expense amounts on Schedule H, expecting them to agree if both schedules were prepared on the same basis of accounting (that is, cash versus accrual). As further discussed in the "Regulatory Developments" section of this alert, the 2009 Schedule C has been revised to require expanded reporting of indirect compensation received by service providers (such as mutual fund investment management fees, account maintenance fees, and 12b-1 fees that are reflected in the value of the plan's investments) and, therefore, the amounts reported on these schedules may not agree with amount reported in the financial statements or on Schedule H of Form 5500.

Defined Benefit Plans

Actuarial Reports for Defined Benefit Plans

.164 Several economic and demographic assumptions are used in actuarial valuations for defined benefit plans to determine funding requirements and the actuarial present value of accumulated plan benefits in accordance with the guidance in FASB ASC 960. One of the most significant economic assumptions is the discount rate. Two approaches exist that can be used to select the discount rate. The most commonly used approach is to reflect the long-term expected rate of return on assets. This amount is generally stable from one year to the next. This assumption would reflect anticipated growth of the actual underlying investments in the pension trust. Many employers are changing the mix of investments that have been historically used. For employers that are changing their mix of assets, the actual history of returns is not as relevant as new expectations for the new mix of assets.

.165 Historically, when an approach of looking at the long term expected return was used, the rate selected had generally been the same as that used

for funding purposes. However, the Pension Protection Act of 2006 (PPA) has changed the funding rate. The funding rate is no longer an appropriate rate for use in the plan's financial statements. Plans using expected return on plan assets as the basis for choosing the discount rate will need to have a benchmark other than the PPA funding rate. One of the most common approaches has been to use the expected return on plan assets that the employer uses when following the guidance in FASB ASC 715, *Compensation—Retirement Benefits*. It is important to note that this is not the discount rate used for purposes of applying FASB ASC 715. The discount rate and the expected return are separate and distinct rates. Therefore, auditors will need to take care when determining if the proper rate is disclosed in the benefit plan's financial statements.

.166 The second approach that may be used to select the discount rate used to determine the present value of accumulated plan benefits is to select a rate that reflects an insurance company's purchase rates as of the benefit information date. Because this is a settlement type of rate, it may be similar to (but not necessarily the same as) the discount rate used for the financial statements of the plan sponsor. A discount rate selected on this basis can be expected to change from year to year to reflect changes in the long term interest rate markets. The volatility that existed in the bond markets during 2008 has substantially stabilized in 2009. The yield curve was flat at December 31, 2008, but has returned to a normal upward slope at December 31, 2009. Those plans using a settlement type of rate and a beginning-of-year benefit information date may experience increases or decreases in discount rates for 2009. Those plans that use an end-of-year benefit information date can expect little change in discount rate if they refer to commonly used bond indices but could experience significant declines in discount rate if they use a yield curve.

.167 It should be noted that if a plan has used one basis to select its discount rate and then changes to a different basis, a change in accounting principle may occur. For example, if a plan had used the funding rate prior to PPA (a long-term return basis) and then changes to a settlement type rate (such as the discount rate described in FASB ASC 715), it might be considered a change in accounting principle rather than a change in estimate. Consider the guidance in FASB ASC 250, *Accounting Changes and Error Corrections*, when making this determination.

.168 The most significant demographic assumptions used to determine the actuarial present value of accumulated plan benefits include mortality rates, retirement age, form of payment, or type of benefit elections and cash balance crediting rates, if applicable. With the increase in life expectancies, the mortality assumption should include improvements to longevity that were not included in earlier tables. Certain mortality tables used by actuaries include the 1983 Group Annuity Mortality (GAM), 1994 GAM, Uninsured Pensioner Mortality (UP) 1994, and Retired Pensioner Mortality (RP) 2000 tables. Auditors may consider challenging the use of such tables for purposes of determining the plan's benefit obligation beginning in 2007. For 2007 calendar year plans and beyond, a new mortality table is required as part of the minimum required contribution calculation. This table, which is based on the RP 2000 mortality table, has replaced the 1983 GAM table. Many actuarial reports will refer to this table as the RP 2000 Combined Mortality Table with projections as specified by IRS Regulation 1.412(1)(7)-1. It has been common practice to use the same mortality table for the financial statements of the plan as is required for minimum funding purposes. It can therefore be expected that the RP 2000

table with or without the IRS required projections will be used frequently for 2009 valuations. It is possible that the use of the 1983 GAM table, in limited circumstances, may continue to be acceptable depending on the plan's experience; however, most plans will be changing to use the 1994 GAM, UP 1994, or the recent RP 2000 tables for their mortality assumptions. It is expected that plan sponsors will consider the demographics of their participant population prior to utilizing a mortality table in determining the actuarial present value of accumulated plan benefits.

.169 The medical trend assumption is unique to postretirement health and welfare plans. This assumption is intended to project the current cost of health care benefits to future periods when those benefits will be paid. Health care costs have traditionally increased at a faster rate than general inflation. In addition to general inflation, health care costs are affected by increased utilization of plan benefits, rising cost of medical technology, and the leveraging effect of plan provisions such as co-pays and deductibles. Taken together, these factors contribute to cost increases well above the rate of general inflation. Most actuaries assume that these excess cost increases will continue in the near term but will ultimately merge with general inflation rates. Therefore, a common approach is to assume a higher trend rate for the current year and grade down to the general inflation rate after several years. An example is a trend rate of 9 percent for 2009 grading down by 0.50 percent each year until the ultimate rate of 5 percent is reached for 2017 and beyond. Auditors should question trend assumptions that only reflect general inflation for all years or that grade down to general inflation too quickly. For example, if the trend assumption is 8 percent for 2009 and grades to 5 percent in 2011, the auditor will want to obtain support for the rapid decline.

.170 Regardless of the assumption used, each assumption must be individually reasonable. Plan management ordinarily should review actual plan experience with assumptions used periodically to determine if any changes should be made. The following may also be considered as plan auditors review actuarial valuations:

- Trends and nature of benefit distributions (for example, lump sum versus annuity)—a plan that predominantly pays lump sum benefits may have a higher obligation than an equivalent plan that pays annuities. To properly value the plan's liabilities, assumptions must be used to reflect the cost of the lump sum benefits. If only assumptions exist that reflect annuities, the lump sum benefits may be undervalued.
- Whether a shift in the plan population has occurred over time—this could warrant a different assumption for turnover or retirement, for example, if participants are retiring much earlier or later than assumed.
- Whether recent plan mergers or acquisitions have occurred—in the case of a plan merger, all assumptions would be reviewed for their continued reasonableness because the assumptions used for one plan may not be appropriate for the plan being merged.
- Whether changes to any plan benefit formula have occurred or a freezing of the plan—changes in plan benefits available may affect anticipated turnover and retirement patterns. These assumptions would be reviewed if the plan is amended to change benefits.

- Whether consistent gains and losses are generated each year—if yes, this may indicate that one or more of the assumptions are not reasonable based on actual experience.
- When reviewing an actuarial report, consideration may be given to the following:
  - — Consistency of benefits accumulated each year (auditors would expect changes if a plan merger, acquisition, a significant plan provision change, or changes to the underlying assumptions have occurred).
  - — Benefit payments in the roll forward of accumulated plan benefits, which should match the amount per the statement of changes in net assets (to properly match these amounts, it is necessary to understand if the beginning of the year or end of the year information is used for the actuarial valuation).
  - — The asset value on the financial statements, which should match the asset value shown in the actuarial report.
  - — Inclusion of the effect of a change in plan provisions and the effect of merger, spin-off, or acquisition.

.171 It is also important to note that the assumption of salary increases may not be relevant because the disclosure of the actuarial present value of accumulated plan benefits does not take into account future salary increases. It may have some relevance if the actuary does not have or maintain salary histories for the plan participants and the salary increase assumption is used to estimate prior salary histories.

> **Help Desk**—In light of funding pressures in the current economic environment, the risk that the plan's benefit obligation is understated due to inappropriate selection of an actuarial assumption or inaccurate or incomplete census data provided to the actuary may be a significant risk.
>
> The calculation of the plan's benefit obligation can be very sensitive to actuarial assumptions and census data. Accordingly, it is important to (*a*) gain comfort regarding the reasonableness of the actuarial assumptions used, and (*b*) to properly test the census data in order to gain comfort that the calculation of the benefit obligation is based on correct census data and reasonable assumptions.

The Use of Beginning of Year Benefit Information Date

.172 The presentation of the financial statement information and the footnotes are affected by the benefit information date selected for disclosure. The preferred approach is to use an end-of-year benefit information date. If end-of-year is presented, the present value of accumulated plan benefits will be as of the same date as the net assets. In this case, at a minimum, two statements of net assets available for benefits and one statement of changes in net assets are presented. In addition, two corresponding statements (or disclosure in the footnotes) of the present value of accumulated plan benefits and one statement

of changes also are presented. Examples of this are shown in exhibits D-1, D-2, D-3, and D-4 of Audit and Accounting Guide *Employee Benefit Plans*.

.173 However, if beginning-of-year benefit information is used, the date of the benefit information in the actuarial report may not match the date that net assets are presented. For example, for financial statements presented as of December 31, 2008, and December 31, 2007, the actuarial valuation will be as of January 1, 2008. For the benefit information to match the statement of net assets, the present value of accumulated plan benefits should be presented as of December 31, 2007 (one day earlier). Typically, this will not cause a material misstatement unless a plan amendment was adopted on or after January 1, 2008, with a January 1, 2008, effective date. In that case, the effect of the amendment must be removed. As shown in Audit and Accounting Guide *Employee Benefit Plans*, when beginning-of-year benefit information is used, two statements of net assets and two statements of changes would be presented. Only a single year of present value of accumulated plan benefits is required with a reconciliation from the prior year. Examples of this are shown in exhibits D-1, D-7, and D-8 of Audit and Accounting Guide *Employee Benefit Plans*.

Affect of the PPA on Defined Benefit Plans

.174 The PPA has affected many aspects of plan design, administration, and funding. For defined benefit plans, the PPA focuses on the funded percentage as the trigger point to activate additional funding requirements and benefit limitations. These rules are very complex and this discussion will not address many of those complexities but rather will provide an overview of the key features.

.175 New minimum funding standards were fully operational for 2008 plan years. Minimum funding standards are established based on a plan's funded status. The funding target is the present value of accrued benefits. PPA defines the ratio of plan assets to the funding target as the adjusted funding target attainment percentage (AFTAP). If the assets equal the present value of accrued benefits, the plan's AFTAP will be 100 percent. The minimum required contribution for plans with an AFTAP of 100 percent or greater will be the plan's normal cost. This is the actuarially determined amount necessary to fund the benefits that have accrued in the current year. This minimum contribution could be reduced to zero if the excess of the assets over the funding target exceeds the plan's normal cost for the year. For plans with an AFTAP of less than 100 percent, the minimum required contribution will be the plan's normal cost plus an additional payment that will amortize the shortfall over 7 years plus, if applicable, the amortization of any funding waivers over a 5-year period.

.176 Funding waivers may be requested in cases of business hardship. Application for a funding waiver must be made within two-and-a-half months of the plan year-end. The plan may not be amended to increase benefits while a funding waiver is in effect. The IRS cannot grant extension of the funding waiver amortization period. If granted, waivers generally permit a plan sponsor to pay the ERISA minimum contribution over a five-year period. The auditor may need to ascertain whether the plan is a going concern for a reasonable period of time (not to exceed one year beyond the date of the financial statements being audited). For further guidance, refer to the "Going Concern Matters" section of this alert.

.177 As in prior years, the minimum required contribution will be part of the actuarial report. For financial statement purposes, the aforementioned minimum required contributions are accrued and any excess amounts received after year-end would be considered a nonrecognized type 2 subsequent event unless evidence exists of a formal commitment as of the balance sheet date. The contributions receivable for the financial statements should include the amounts paid in the subsequent period and may be adjusted by the effective interest rate used. For plans when the plan sponsor has not made the final required contribution as of the date of the plan's filing, the amount receivable should include the amount required to be paid, based on the best estimate of when the payment will be made, as of the plan's year-end.

.178 Each year the actuary is required to certify to the plan's funded percentage. Plans with a funding percentage below 80 percent will be required to implement certain benefit limitations. Further limitations will be required when the AFTAP falls below 60 percent. Plans with an AFTAP above 60 percent but less than 80 percent may not be amended to provide additional or increased benefits. They must also place a limit on accelerated benefits such as lump sums and annuity purchases. This limit is 50 percent of the full amount allowed by the plan. If the AFTAP falls below 60 percent, the plan must freeze the accrual of all future benefits until such time as the percentage increases to over 60 percent. The plan will also not be allowed to make any accelerated payments. The auditor will need to determine if the plan is being operated in accordance with any limitations that apply based on the aforementioned rules and consider the need for disclosure of such limitations in the notes to the financial statements of the plan.

.179 The PPA imposed new disclosure requirements on plan sponsors of defined benefit plans, including sponsors of cash balance plans. If the plan sponsor maintains an intranet Web site, they are required to post the plan's Form 5500 actuarial information on the sponsor's intranet Web site. The PPA amendment also requires the DOL to post the plan's actuarial information on its Web site. The statutory requirements that apply to plan sponsors and the DOL are the same except the DOL is required to post the plan's Form 5500 actuarial information on its Web site within 90 days after the date the plan's Form 5500 is filed with the DOL.

.180 These requirements apply for plan years beginning after December 31, 2007. The statute does not contain a deadline for a plan sponsor to post this information on its intranet Web site; however, if plan sponsors have not yet posted the plan's actuarial information for the 2008 year, they may want take action quickly to meet this requirement.

.181 The DOL has established a Web site that allows the public to search for a plan sponsor's Form 5500 actuarial information. This Web site can be found at www.dol.gov/ebsa/actuarialsearch.html.

Form 11-K Audits

.182 The SEC requires employee stock purchase, savings, and similar plans with interests that constitute securities registered under the Securities Act of 1933 to file Form 11-K pursuant to Section 15(d) of the Securities Exchange Act of 1934. When Form 11-K is filed separately (not as an exhibit to Form 10-K), it must be filed with the SEC within 90 days after the end of the plan's fiscal year-end; however, if in lieu of the requirements of the SEC, a plan

subject to ERISA files plan financial statements and schedules prepared in accordance with the financial reporting requirements of ERISA, the Form 11-K filing deadline is increased to 180 days after the plan's fiscal year-end.

> **Help Desk**—Instructions for completing Form 11-K can be accessed under topic 15 of the SEC manual located on www.sec.gov.

.183 The PCAOB establishes auditing and attestation standards for audits of issuers. Refer to the PCAOB Web site at www.pcaob.org for information about its activities.

Recent PCAOB Pronouncements and Related Guidance	
Public Company Accounting Oversight Board (PCOAB) Auditing Standard No. 7, *Engagement Quality Review* (AICPA *PCAOB Standards and Related Rules*, Auditing Standards) Issue Date: January 2010 (Applicable to audits conducted in accordance with PCAOB standards)	Auditing Standard No. 7 clarifies and expands the role of engagement quality reviewer by strengthening the existing concurring (or second) partner review requirements and extending the requirements to engagements to review interim financial information. This standard includes guidance related to the following: • Qualifications of an engagement quality reviewer • Procedures to be performed • Documentation requirements The standard is effective for engagement quality reviews of audits and interim reviews for fiscal years that began on or after Dec. 15, 2009.
Conforming Amendments to PCAOB Interim Quality Control Standards Resulting from the Adoption of Auditing Standard No. 7 Issue Date: January 2010 (Applicable to audits conducted in accordance with PCAOB standards)	In conjunction with the PCAOB's adoption of Auditing Standard No. 7, the PCAOB also adopted a number of conforming amendments to its interim standards. The conforming amendments can be found in appendix 2 of PCAOB Release No. 2009-02 at http://pcaobus.org/Rules/Rulemaking/Docket%20025/2009-07-28_Release_No_2009-004.pdf.
PCAOB Staff Question and Answer, *Auditing Standard No. 7*, Engagement Quality Review (AICPA, *PCAOB Standards and Related Rules*, PCAOB Staff Guidance, sec. 100.10) Issue Date: February 2010 (Applicable to audits conducted in accordance with PCAOB standards)	This staff question and answer provides further implementation guidance on the documentation requirements of Auditing Standard No. 7 in light of comments the SEC received during its comment period.

Recent PCAOB Pronouncements and Related Guidance	
PCAOB Staff Audit Practice Alert No. 4, *Auditor Considerations Regarding Fair Value Measurements, Disclosures, and Other-Than-Temporary Impairments* (AICPA, *PCAOB Standards and Related Rules*, PCAOB Staff Guidance, sec. 400.04) Issue Date: April 2009 (Applicable to audits conducted in accordance with PCAOB standards)	This staff audit practice alert is designed to inform auditors about potential implications of the Financial Accounting Standards Board Staff Positions on reviews of interim financial information and annual audits. This alert addresses the following topics: • Reviews of interim financial information • Audits of financial statements, including integrated audits • Disclosures • Auditor reporting considerations

Preapproval of Employee Benefit Plan Audits

.184 In December 2005, the SEC issued "Current Accounting and Disclosures Issues in the Division of Corporation Finance" to provide guidance regarding the preapproval of audits of employee benefit plans. Section II.R.3 is summarized in the following paragraph. An employee benefit plan may be an affiliate of a registrant as its plan sponsor. The SEC's independence rules related to preapproval surround services provided to the issuer and the issuer's subsidiaries but not to services provided to other affiliates of the issuer that are not subsidiaries. Therefore, the independence rules do not require the audit committee of the plan sponsor to preapproved audits of the employee benefit plans, although the audit committee is encouraged to do so. When employee benefit plans are required to file Form 11-K, those plans are separate issuers under the Securities Exchange Act of 1934; as a result, those issuers are subject to the preapproval requirements.

.185 This preapproval can be provided by either the audit committee of the plan sponsor or the appropriate entity overseeing the activities of the employee benefit plan, such as the trustee, plan administrator, or responsible party. The SEC's rules require that all fees, including fees related to audits of employee benefit plans, paid to the principal auditor be included in the company's fee disclosures, regardless of whether the audit committee of the company preapproved those fees. As part of the exercise to gather the information for the required fee disclosures, the audit committee should be made aware of all fees paid to the principal auditor, including those related to audits of the employee benefit plans. The company may elect to separately indicate in their disclosures those fees paid to the principal auditor that were not subject to the preapproval requirements. Registrants and their auditors are reminded that the financial statements included in Form 11-K must be audited by an independent auditor who is registered with the PCAOB, and the audit report must refer to the standards of the PCAOB rather than GAAS.

Applicable Audit Standards

.186 Plans that are required to file Form 11-K are deemed to be issuers under the Sarbanes-Oxley Act of 2002 and must submit to the SEC an audit in accordance with the auditing and related professional practice standards promulgated by the PCAOB. These plans may also be subject to ERISA and

must submit to the DOL an audit in accordance with GAAS promulgated by the ASB. Therefore, audits of ERISA plans that file Form 11-K must be conducted to comply with both PCAOB standards and GAAS. As a result, two separate audit reports, one referencing PCAOB standards for the Form 11K filing with the SEC and a separate report referencing GAAS for the DOL filing, are required.

Form 8-K Requirements for Form 11-K Filers

.187 For an employee benefit plan required to file Form 11-K, the SEC staff has historically expected a change in a plan's auditor to be reported on Form 8-K, Current Report; however, plans that filed their financial statements as part of the plan sponsor's annual report (as provided for in Rule 15d-21 of the Securities Exchange Act of 1934) have not been expected to report changes in its auditors on Form 8-K. This requirement was discussed at the April 4, 2006, AICPA SEC Regulations Committee meeting, and although the SEC staff unofficially stated that all employee stock purchase, savings, or similar plans that change auditors are not required to file a Form 8-K (regardless of whether it files its annual financial statements on Form 11-K or as part of the plan sponsor's annual report), the committee observed that, under Section 1000.08(m), *Notification of the Commission or Resignations and Dismissals from Audit Engagements for Commission Registrants*, of the PCAOB Interim Quality Control Standards, an independent registered public accounting firm is required to report the termination of the auditor-client relationship for any SEC registrant, which is defined to include employee benefit plans that file Form 11-K. This communication should be in writing directly to the former client, with a simultaneous copy to the Office of the Chief Accountant (OCA) of the SEC. This letter should be sent by the end of the fifth business day following the firm's determination that the client-auditor relationship has ended (or it may be faxed to the OCA at (202) 772-9251 with a reference to "PCAOB Letter File"). The SEC staff agreed to discuss its position on Form 8-K reporting by employee benefit plans with the PCAOB staff. Until authoritative guidance is provided by the SEC that provides a specific exemption, public accounting firms should continue to provide these "5-day" letters to comply with PCAOB requirements for a change in auditor of a plan that files a Form 11-K. An employee benefit plan whose financial statements are filed as an amendment to the sponsor's Form 10-K does not meet the definition of an *SEC engagement* and would therefore fall outside the scope of Section 1000.08(m).

Help Desk—Any questions regarding performance and reporting requirements of audits of financial statements of Form 11-K filers should be directed to the SEC Division of Corporation Finance, OCA, at (202) 551-5300. See paragraph 13.19 of the AICPA Audit and Accounting Guide *Employee Benefit Plans* for an example of an opinion for a Form 11-K audit.

Deficiencies Found in Employee Benefit Plan Audits

.188 The AICPA, working with EBSA, has made a concerted effort to improve the guidance and training available to auditors of employee benefit plans. The AICPA self-regulatory teams continue to be concerned about deficiencies noted on audits of employee benefit plans and practitioners need to understand that severe consequences can result from inadequate plan audits, including

loss of membership in the AICPA and loss of license. The following is a listing of frequent violations cited in AICPA Ethics Division cases involving employee benefit plan investigations:

General Violations

- The auditor undertook an engagement that could not reasonably be expected to be completed competently.
- The auditor's report for a full scope audit did not state that the audit was conducted in accordance with auditing standards generally accepted in the United States of America nor did it state that the financial statements were prepared in accordance with U.S. GAAP.

Auditing and Reporting Deficiencies

- The audit report incorrectly contained language for a full scope audit when the auditor was engaged to perform a limited scope audit as it related to the audit of investments and related transactions.
- The independent auditor's report inappropriately identified statements that were not presented and did not extend to supplemental schedules that were presented.
- The scope of the audit was inappropriately limited. The financial institution holding the plan's investments did not qualify for limited scope treatment pursuant to DOL regulation 29 CFR 2520.103-12.
- The auditor did not adequately document his understanding of internal control: the control environment, risk assessment, control activities, information and communication, and monitoring. The auditor relied on audit information from the plan sponsor but did not document any understanding of the internal controls at the plan sponsor.
- The firm over relied on the SAS No. 70 report or relied on the report without having obtained and read the report.
- The auditor relied on a SAS No. 70 report that covered a different reporting period than the plan's fiscal year and took no other actions to obtain an understanding of the internal control environment at the TPA during the period under audit.

Financial Statement Deficiencies

- The statement of changes in net assets available for benefits did not present investment income exclusive of changes in fair value.
- The footnotes to the financial statements failed to disclose (or inadequately disclosed) the following:
  - — Investments that represent 5 percent or more of total net assets.
  - — The net change in fair value of each significant type of investment.
  - — The amount and disposition of forfeited nonvested accounts.
  - — The plan's federal tax status.

(continued)

- — Related party transactions.
- — The policy for the payment of administrative expenses including whether the employer absorbs significant costs of the plan.
- — A description of the method and significant assumptions used to determine the fair value of investments (or contracts) nor indicate on the presentation of investments how the fair value has been determined.
- — The use of estimates in the preparation of the financial statements.
- — A description of the plan's policy regarding the purchase of insurance contracts that are excluded from plan assets.
- — The funding policy of the plan.
- — Concentrations of credit risk arising from all financial instruments.
- — The vesting provisions.
- — The termination provisions and priorities for distribution of assets.
- — Basis for determining participant contributions.
- — A reconciliation between the financial statement amounts and amounts on Schedule H of Form 5500.
- — Defined Benefit Plans: The defined benefit plan's status with respect to any applicable minimum funding requirements.
- — Limited scope audits: The financial statement disclosures addressing information certified by the trustee incorrectly included noninvestment information, which should have been subjected to audit procedures or improperly excluded information that was certified.
- — Health and welfare plans: The benefit obligations exceeded the net assets of the plan, but the footnotes did not disclose the method of funding this deficit.
- — The assumed health care cost-trend rates used to measure the expected cost of benefits covered by the plan for the next year.
- — The effect of a one percentage point increase in the assumed health care cost-trend rates for each future year on the postretirement benefit obligation.

Other Deficiencies

- The schedule of assets (held at end of year) did not properly identify persons know to be a party-in-interest to the plan in column (a) as required by the DOL's Rules and Regulations for Reporting and Disclosure under ERISA.
- The schedule of assets (held at end of year) improperly excluded participant loans.
- The maturity date and rate of interest related to participant loans was not disclosed in the schedule of assets (held at end of year).
- The schedule of assets (held at end of year) did not include cost information for investments that are nonparticipant directed.

Accounting Issues and Developments

FASB Accounting Standards Codification

.189 Released on July 1, 2009, FASB ASC is a major restructuring of accounting and reporting standards designed to simplify user access to all authoritative U.S. GAAP by providing the authoritative literature in a topically organized structure. FASB ASC disassembled and reassembled thousands of nongovernmental accounting pronouncements (including those of FASB, the Emerging Issues Task Force, and the AICPA) to organize them under approximately 90 topics.

.190 FASB published a notice to constituents (NTC) that explains the scope, structure, and usage of consistent terminology of FASB ASC. Constituents are encouraged to read this NTC because it answers many common questions about FASB ASC. FASB ASC, and its related NTC, can be accessed at http://asc.fasb.org/home and are also offered by certain third party licensees, including the AICPA. FASB ASC is offered by FASB at no charge in a "basic view" and for an annual fee in a "professional view."

.191 FASB's NTC suggests the use of plain English in financial statement footnotes to describe broad FASB ASC topic references. They suggest a reference similar to "as required by the *Derivatives and Hedging topic* of the FASB *Accounting Standards Codification*." Employee benefit plans might consider revising their financial statement references to reflect this plain English referencing, rather than the use of specific FASB ASC references (for example, FASB ASC 815).

.192 Note also that new standards are now issued by FASB through FASB ASUs and will serve only to update FASB ASC. FASB does not consider the ASUs authoritative in their own right; new standards become authoritative when they are incorporated into FASB ASC. Any ASUs (or other authoritative accounting guidance issued prior to the release date of FASB ASC) issued but not yet fully effective for all entities or transactions within its scope are reflected as "Pending Content" in FASB ASC. This pending content is shown in text boxes below the paragraphs being amended in FASB ASC and includes links to the transition information. The pending content boxes are meant to provide users with information about how a paragraph will change when new guidance becomes authoritative. When an amended paragraph becomes fully effective, the outdated guidance will be removed, and the amended paragraph will remain without the pending content box. FASB will keep any outdated guidance in the applicable archive section of FASB ASC for historical purposes.

.193 Because not all entities have the same fiscal year-ends and certain guidance may be effective on different dates for public and nonpublic entities, the pending content will apply to different entities at different times. As such, pending content will remain in place within FASB ASC until the roll-off date. Generally, the roll-off date is six months following the latest fiscal year-end for which the original guidance being amended or superseded by the pending content could be applied as specified by the transition guidance.

.194 Entities, including employee benefit plans, cannot disregard the pending content boxes. Instead, all entities must review the transition guidance to determine if and when the pending content is applicable to them.

Unrelated Business Income Tax

.195 Although qualified benefit plans are not generally subject to taxation, certain activities of a qualified plan may be taxable. In general, unrelated business taxable income (UBTI) of a tax-exempt entity is subject to taxation. UBTI is

- gross income derived from an unrelated trade or business that is regularly carried on, less
- allowable deductions directly connected with the trade or business.

.196 With respect to qualified retirement plans, *unrelated trade* or *business* is defined as any trade or business regularly carried on by the trust or by a partnership of which the trust is a member. This means that a qualified plan can have UBTI due to its investments. For tax-exempt welfare plans, UBTI includes the previous examples. In addition, such plans may be subject to UBTI on their investment income if their assets exceed certain allowable reserves.

.197 Nonleveraged investments, such as government securities, stocks, and debt instruments of noncontrolled corporations, mutual funds, and insurance company annuity contracts, do not typically generate UBTI. However, other nonleveraged investments, such as investments in partnerships, real estate investment trusts, loans, or mortgages, and options to buy or sell securities such as short sales or repurchase agreements, may generate UBTI. The most common plans that generate UBTI are health and welfare plans and defined benefit pension plans. However, with the increase of such investments held by defined contribution plans, such plans may begin to be subject to UBTI also.

Accounting for Uncertainty in Income Taxes

.198 FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes* (which was codified in FASB ASC 740), was issued in June 2006 and is effective for fiscal years beginning after December 15, 2006. However, subsequent to its issuance, FASB issued FSP FIN 48-2, *Effective Date of FASB Interpretation No. 48 for Certain Nonpublic Enterprises*, and FSP FIN 48-3, *Effective Date of FASB Interpretation No. 48 for Certain Nonpublic Enterprises* (which were also codified in FASB ASC 740), which defer the effective date of FASB Interpretation No. 48 for nonpublic enterprises, as defined in the FASB ASC glossary, and included in the FSP's scope, to the annual financial statements for fiscal years beginning after December 15, 2008. For the full text of FASB Interpretation No. 48 and its associated FSPs, visit the FASB Web site at www.fasb.org.

.199 FASB ASC 740-10-25-6 states that financial statement tax accruals may only contain positions that meet the more-likely-than-not standard and any variances must be disclosed in the financial statements. This means that positions taken on the return (or that were taken in any open year) that do not meet the more-likely-than-not standard will be disclosed and will likely be subject to increased IRS scrutiny.

.200 The evaluation of a tax position in accordance with this interpretation is a two-step process. The first step is recognition: The enterprise determines whether it is more likely than not that a tax position will be sustained upon examination, including resolution of any related appeals or litigation processes,

based on the technical merits of the position. In evaluating whether a tax position has met the more-likely-than-not recognition threshold, the enterprise should presume that the position will be examined by the appropriate taxing authority that would have full knowledge of all relevant information. The second step is measurement: A tax position that meets the more-likely-than-not recognition threshold is measured to determine the amount of benefit to recognize in the financial statements. The tax position is measured at the largest amount of benefit that is greater than 50 percent likely of being realized upon ultimate settlement.

.201 Tax positions that previously failed to meet the more-likely-than-not recognition threshold should be recognized in the first subsequent financial reporting period in which that threshold is met. Previously recognized tax positions that no longer meet the more-likely-than-not recognition threshold should be derecognized in the first subsequent financial reporting period in which that threshold is no longer met. Use of a valuation allowance, as described in the FASB ASC glossary, is not an appropriate substitute for the derecognition of a tax position. The requirement to assess the need for a valuation allowance for deferred tax assets based on the sufficiency of future taxable income is unchanged by this interpretation.

Help Desk—A practice guide for accountants, auditors, and tax advisers has been posted to the AICPA's Tax Center at http://tax.aicpa.org/Resources/Professional+Standards+and+Ethics/Practice+Guide+on+Accounting+for+Uncertain+Tax+Positions+Under+FIN+48.htm. Also, an AICPA continuing professional education (CPE) course on accounting for income taxes that has been updated for FASB Interpretation No. 48 is now available. Please visit www.cpa2biz.com for more information on these products.

Additional Implementation Guidance for FASB Interpretation No. 48

.202 In September 2009, FASB released FASB ASU No. 2009-6, *Implementation Guidance on Accounting for Uncertainty in Income Taxes and Disclosure Amendments for Nonpublic Entities*, which clarifies and provides examples of the application of FASB Interpretation No. 48 to not-for-profit entities and pass-through entities and modifies the required financial statement disclosures for nonpublic entities.

.203 Among the points addressed in FASB ASU No. 2009-06 is that management's determination of the taxable status as a pass-through entity or tax-exempt not-for-profit is a tax position subject to the standards required for accounting for uncertainty in income taxes in FASB ASC 740. Additionally, FASB ASU No. 2009-06 eliminates for nonpublic entities the disclosures required by both FASB ASC 740-10-50-15(a), which requires a tabular reconciliation of the total amount of unrecognized tax benefits at the beginning and end of the periods presented, and FASB ASC 740-10-50-15(b), which requires the disclosure of the total amount of unrecognized tax benefits that, if recognized, would affect the effective tax rate.

.204 FASB ASU No. 2009-06 is effective for financial statements issued for interim and annual periods ending after September 15, 2009, for entities that

have begun applying the standards for accounting for uncertainty in income taxes. For those entities that have deferred the application of those standards in accordance with FASB ASC 740-10-65-1(e), the amendments are effective upon adoption of those standards. Readers can find the full text of FASB ASU No. 2009-06 at www.fasb.org.

.205 FASB Interpretation No. 48 does apply to employee benefit plans, although, it is recognized that in most instances the plan will not be subject to income taxes because it is a tax exempt organization. However, in instances whereby the plan is subject to unrelated business income tax or could be subject to income tax because of operational errors or other issues that may affect its tax exempt status, the auditor should work with the plan sponsor to ensure the accounting and reporting requirements of FASB Interpretation No. 48 are met.

Recent Pronouncements

Recent Auditing and Attestation Pronouncements and Related Guidance

.206 The following table presents a list of recently issued audit and attestation pronouncements and related guidance. As a reminder, AICPA auditing and attestation standards are applicable only to audits and attestation engagements of nonissuers. The PCAOB establishes auditing and attestation standards for audits of issuers. For information on pronouncements issued subsequent to the writing of this alert, please refer to the AICPA Web site at www.aicpa.org, the FASB Web site at www.fasb.org, and the PCAOB Web site at www.pcaob.org.

Recent Auditing and Attestation Pronouncements and Related Guidance	
Statement on Auditing Standards No. 120, *Required Supplementary Information* (AICPA, *Professional Standards*, vol. 1, AU sec. 558) Issue Date: February 2010 (Applicable to audits conducted in accordance with generally accepted auditing standards [GAAS])	This standard addresses the auditor's responsibility with respect to information that a designated accounting standard setter requires to accompany an entity's basic financial statements. In the absence of any separate requirement in the particular circumstances of the engagement, the auditor's opinion on the basic financial statements does not cover required supplementary information. SAS No. 120 supersedes the requirements and guidance in AU section 558A, *Required Supplementary Information* (AICPA, *Professional Standards*, vol. 1). SAS No. 120 is effective for audits of financial statements for periods beginning on or after December 15, 2010. Early application is permitted.

Recent Auditing and Attestation Pronouncements and Related Guidance	
Statement on Auditing Standards No. 119, *Supplementary Information in Relation to the Financial Statements as a Whole* (AICPA, *Professional Standards*, vol. 1, AU sec. 551) Issue Date: February 2010 (Applicable to audits conducted in accordance with GAAS)	This SAS addresses the auditor's responsibility when engaged to report on whether supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole. The information covered by this SAS is presented outside the basic financial statements and is not considered necessary for the financial statements to be fairly presented in accordance with the applicable financial reporting framework. SAS No. 119 supersedes the requirements and guidance in AU section 551A, *Reporting on Information Accompanying the Basic Financial Statements in Auditor-Submitted Documents* (AICPA, *Professional Standards*, vol. 1). SAS No. 119 is effective for audits of financial statements for periods beginning on or after December 15, 2010. Early application is permitted.
Statement on Auditing Standards No. 118, *Other Information in Documents Containing Audited Financial Statements* (AICPA, *Professional Standards*, vol. 1, AU sec. 551) Issue Date: February 2010 (Applicable to audits conducted in accordance with GAAS)	This SAS addresses the auditor's responsibility in relation to other information in documents containing audited financial statements and the auditor's report thereon. In the absence of any separate requirement in the particular circumstances of the engagement, the auditor's opinion on the financial statements does not cover other information, and the auditor has no responsibility for determining whether such information is properly stated. This SAS establishes the requirement for the auditor to read the other information of which the auditor is aware because the credibility of the audited financial statements may be undermined by material inconsistencies between the audited financial statements and other information. SAS No. 118 supersedes the requirements and guidance in AU section 550A, *Other Information in Documents Containing Audited Financial Statements* (AICPA, *Professional Standards*, vol. 1). Along with SAS No. 119, SAS No. 118 also supersedes the requirements and guidance in AU section 551A. SAS No. 118 is effective for audits of financial statements for periods beginning on or after December 15, 2010. Early application is permitted.

(continued)

Recent Auditing and Attestation Pronouncements and Related Guidance—continued	
Statement on Auditing Standards No. 117, *Compliance Audits* (AICPA, *Professional Standards*, vol. 1, AU sec. 801) Issue Date: December 2009 (Applicable to audits conducted in accordance with GAAS)	SAS No. 117 addresses governmental audit requirements. SAS No. 117 supersedes SAS No. 74, *Compliance Auditing Considerations in Audits of Governmental Entities and Recipients of Governmental Financial Assistance* (AICPA, *Professional Standards*, vol. 1, AU sec. 801A). SAS No. 117 is effective for compliance audits for fiscal periods ending on or after June 15, 2010. Early application is permitted.
Technical Questions and Answers (TIS) section 2220.18–.27, "Long-Term Investments" (AICPA, *Technical Practice Aids*) Issue Date: December 2009 (Nonauthoritative)	These question and answers are intended to assist reporting entities when implementing the provisions of Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 820, *Fair Value Measurements and Disclosures* (specifically, Accounting Standards Update (ASU) No. 2009-12, *Fair Value Measurements and Disclosures (Topic 820): Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent)*) to estimate the fair value of investments in certain entities that calculate net asset value. TIS sections apply to investments that are required to be measured and reported at fair value and are within the scope of paragraphs 4–5 of FASB ASC 820-10-15.
TIS section 8700.01, "Effect of FASB ASC 855 on Accounting Guidance" (AICPA, *Technical Practice Aids*) Issue Date: September 2009 (Nonauthoritative)	This question and answer addresses whether the accounting guidance in AU section 560, *Subsequent Events* (AICPA, *Professional Standards*, vol. 1) is affected by the issuance of FASB ASC 855, *Subsequent Events*.
TIS section 1500.07, "Disclosure Concerning Subsequent Events in OCBOA Financial Statements" (AICPA, *Technical Practice Aids*) Issue Date: July 2009 (Nonauthoritative)	This question and answer addresses whether full disclosure financial statements prepared on an other comprehensive basis of accounting should contain the disclosures set forth in FASB ASC 855.

Recent Accounting Standards Updates, Pronouncements, and Related Guidance

.207 The following table presents a list of recently issued accounting standards updates, pronouncements, and related guidance. You also may look for announcements of newly issued accounting standards in the *CPA Letter* and the *Journal of Accountancy*.

Recent Accounting Standards Updates, Pronouncements, and Related Guidance	
Financial Accounting Standards Board (FASB) Accounting Standard Update (ASU) No. 2010-10 (February 2010)	*Consolidation (Topic 810): Amendments for Certain Investment Funds*
FASB ASU No. 2010-09 (February 2010)	*Subsequent Events (Topic 855): Amendments to Certain Recognition and Disclosure Requirements*
FASB ASU No. 2010-08 (February 2010)	*Technical Corrections to Various Topics*
FASB ASU No. 2010-07 (January 2010)	*Not-for-Profit Entities (Topic 958): Not-for-Profit Entities: Mergers and Acquisitions*
FASB ASU No. 2010-06 (January 2010)	*Fair Value Measurements and Disclosures (Topic 820): Improving Disclosures about Fair Value Measurements*
FASB ASU No. 2010-05 (January 2010)	*Compensation—Stock Compensation (Topic 718): Escrowed Share Arrangements and the Presumption of Compensation (SEC Update)*
FASB ASU No. 2010-04 (January 2010)	*Accounting for Various Topics—Technical Corrections to SEC Paragraphs (SEC Update)*
FASB ASU No. 2010-03 (January 2010)	*Extractive Activities—Oil and Gas (Topic 932): Oil and Gas Reserve Estimation and Disclosures*
FASB ASU No. 2009-02 (June 2009)	*Omnibus Update—Amendments to Various Topics for Technical Corrections*

(continued)

Recent Accounting Standards Updates, Pronouncements, and Related Guidance—continued

FASB ASU No. 2009-01 (June 2009)	*Topic 105—Generally Accepted Accounting Principles—amendments based on—Statement of Financial Accounting Standards No. 168—The FASB Accounting Standards Codification*™ and the Hierarchy of Generally Accepted Accounting Principles
FASB Statement No. 168 (June 2009) (Codified in FASB *Accounting Standards Codification* [ASC] 105, *Generally Accepted Accounting Principles*)	*The* FASB Accounting Standards Codification™ *and the Hierarchy of Generally Accepted Accounting Principles—a replacement of FASB Statement No. 162*
FASB Statement No. 167 (June 2009) (Codified in FASB ASC 810, *Consolidation*)	*Amendments to FASB Interpretation No. 46(R)*
FASB Statement No. 166 (June 2009) (Codified in FASB ASC 860, *Transfers and Servicing*)	*Accounting for Transfers of Financial Assets—an amendment of FASB Statement No. 140*
FASB Statement No. 165 (May 2009) (Codified in FASB ASC 855, *Subsequent Events*)	*Subsequent Events*
FASB Statement No. 164 (April 2009) (Codified in FASB ASC 810 and 350, *Intangibles—Goodwill and Other*)	*Not-for-Profit Entities: Mergers and Acquisition—Including an amendment of FASB Statement No. 142*

Regulatory Developments

DOL's New All-Electronic Filing System and the 2009 and 2010 Form 5500

.208 On January 1, 2010, the DOL converted to a total electronic system of online filing for the Form 5500 and the new Form 5500-SF. Now the all-electronic ERISA Filing Acceptance System (EFAST2) system allows the public to submit and access filings online at www.efast.dol.gov, for the first time providing real time, online access to financial information about private sector employee benefit plans, including a copy of the audited financial statements that are attached to Form 5500.

.209 The revised EFAST Web site has been updated to provide filers with a variety of tools and guidance, including the 2009 and 2010 Form 5500 and new Form 5500-SF schedules and instructions, FAQs, user guides, and a tutorial. Filers and preparers can register for an account, complete the required forms and schedules online in multiple sessions, print a copy for their records, and submit it at no cost.

.210 Filers may also use EFAST2-approved software to complete and submit their filings. EFAST2-approved software is expected to be easier to use and provide more value-added features than the government Web application. A list of EFAST2-approved software is available at the EFAST2 Web site.

.211 Pension and welfare benefit plans required to file an annual return/report regarding their financial conditions, investments, and operations each year generally satisfy that requirement by filing the Form 5500 or Form 5500-SF and any required attachments. Filers must submit the 2009 and 2010 annual return/report forms and schedules electronically through EFAST2. Prior year delinquent or amended Form 5500 filings also now must be filed electronically, except that 2008 plan year filings may still be filed through the original EFAST on paper until October 15, 2010, or electronically through June 30, 2010.

.212 Important changes for the 2009 and 2010 forms include the following:

- Mandatory electronic filing.
- Introduction of the new, two-page Form 5500-SF for eligible small plan filers.
- Expanded disclosure on Schedule C of indirect service provider compensation.
- Expanded reporting by IRC Section 403(b) plans.
- Removal of IRS Schedules E and SSA. Information on participants with deferred vested benefits who separated from the service covered by the plan now must be filed directly with the IRS.

Help Desk—The 2009 and 2010 Forms 5500, 5500-SF, and the related instructions may be found at www.dol.gov/ebsa under "Forms and Filing." A helpful video on electronic filing is available. Assistance with the EFAST2 system and the Form 5500 and 5500-SF is available toll-free at (866) 463-3278.

2009 Form M-1 for Multiple Employer Welfare Arrangements

.213 On December 28, 2009, the DOL published in the Federal Register the 2009 Form M-1 annual report for multiple employer welfare arrangements (MEWAs). Plan administrators may use EBSA's online filing system to expedite processing of the form.

.214 MEWAs generally are arrangements that offer medical benefits to the employees of 2 or more employers or to their beneficiaries. The filing deadline for the 2009 Form M-1 is March 1, 2010. Administrators can request, however, an automatic 60-day extension to May 3, 2010. The 2009 form is basically identical to the previous year's form.

.215 The online filing system is available at www.askebsa.dol.gov/mewa. It allows filers the flexibility to complete the form in multiple sessions, print a copy for his or her records, and submit it at no cost. The Web site includes a user manual, FAQs, and a link to submit questions electronically.

Help Desk—Technical assistance for the online filing system is available by calling (202) 693-8600. Information about the Form M-1 and how to fill it out is available at www.askebsa.dol.gov/mewa or by calling (202) 693-8360.

DOL Issues Additional Guidance on Schedule C Reporting for 2009 Form 5500

.216 On October 29, 2009, the DOL released additional guidance to help plan administrators and service providers comply with the expanded requirements for reporting service provider fee and compensation information on the Form 5500 annual returns/reports. The expanded requirements apply for plan years beginning on or after January 1, 2009.

.217 The new guidance is provided in the form of 25 FAQs on the new Schedule C requirements. Some of the issues covered in the new FAQs include reporting of the following:

- Gifts, entertainment, and other nonmonetary compensation
- Compensation to hedge fund investment managers
- Look-through investment funds
- Mutual fund redemption fees
- ERISA fee recapture accounts

.218 The FAQs also provide clarification regarding the 2009 plan year transition relief for service providers by explaining that the transition relief also covers plan administrators and Form 5500 preparers who rely on those service providers for information needed to complete the Schedule C. The details about the transition relief were explained in an earlier set of FAQs released in July 2008.

Help Desk—The new FAQs, as well as those published in July 2008, may be found at www.dol.gov/ebsa under "FAQs."

Final Rule—Safe Harbor for Employee Contributions to Small Pension and Welfare Plans

.219 On January 14, 2010, the DOL published a final rule to protect employee contributions deposited to pension and welfare benefit plans with fewer than 100 participants by permitting a safe harbor period of 7 business days following receipt or withholding by employers.

.220 Currently, employers of all sizes must transmit employee contributions to pension plans as soon as they can reasonably be segregated from the general assets of the employer, but no later than the 15th business day of the month following the month in which contributions are received or withheld by the employer. The latest date for forwarding participant contributions to health plans is 90 days from the date on which such amounts are received or withheld by the employer.

.221 The final rule amends the participant contribution rules to create a safe harbor period under which participant contributions to a small plan will be deemed to comply with the law if those amounts are deposited with the plan within 7 business days of receipt or withholding. The final rule is consistent with the proposed rule issued by the DOL in February 2008. The DOL did not expand the safe harbor to cover plans with 100 or more participants due to a lack of information and data sufficient to evaluate current practices of such employers and assess the costs, benefits, and risks to participants associated with extending the safe harbor to large plans. The final rule may be viewed at www.dol.gov/ebsa under "Final Rules."

Timeliness of Remittance of Participant Contributions Remains an Enforcement Initiative for EBSA

.222 EBSA continues to focus on the timeliness of remittance of participant contributions in contributory employee benefit plans. Participant contributions are plan assets on the earliest date that they can reasonably be segregated from the employer's general assets, but in no event later than (*a*) for pension plans, the 15th business day of the month following the month in which the participant contributions are withheld or received by the employer, and (*b*) for welfare plans, 90 days from the date on which such amounts are withheld or received by the employer.

Reporting of Late Remittances

.223 Failure to remit or untimely remittance of participant contributions constitutes a prohibited transaction under ERISA Section 406, regardless of materiality. Such transactions constitute either a use of plan assets for the benefit of the employer or a prohibited extension of credit. In certain circumstances, such transactions may even be considered an embezzlement of plan assets.

.224 Information on all delinquent participant contributions should be reported on line 4a of either Schedule H or Schedule I of the Form 5500 regardless of the manner in which they have been corrected. In addition, plan administrators should correct the prohibited transaction with the IRS by filing a Form 5330 and paying any applicable excise taxes.

.225 Delinquent participant contributions reported on line 4a should be treated as part of the supplemental schedules reported on by auditors even though they are no longer required to be listed on Part III of the Schedule G.

.226 Beginning with the 2009 Form 5500, the instructions to Schedules H and I set forth a new standardized schedule for reporting delinquent participant contributions on line 4a of Schedules H and I.

.227 For large plans that are subject to the audit requirement,

- delinquent participant contributions reported on line 4a that constitute prohibited transactions (excluding those that have been corrected under the VFCP and for which the conditions of PTE 2002-51 have been satisfied, as described subsequently) may be reported on a separate supplemental schedule to be attached to the Form 5500 and reported on by the IQPA.
- ERISA and DOL regulations require additional information to be disclosed in supplemental schedules. Some of this information is required to be covered by the auditor's report. AU section 551 provides guidance on the form and content of reporting when the auditor submits a document containing information accompanying the basic financial statements. If the auditor concludes that the plan has entered into a prohibited transaction and the transaction has not been properly disclosed in the required supplemental schedule, the auditor should (*a*) express a qualified opinion or an adverse opinion on the supplemental schedule if the transaction is material to the financial statements, or (*b*) modify his or her report on the supplemental schedule by adding a paragraph to disclose the omitted transaction if the transaction is not material to the financial statements. See chapter 11, "Party in Interest Transactions," of the AICPA Audit and Accounting Guide *Employee Benefit Plans* for further discussion of prohibited transactions.

.228 Plan officials faced with remitting delinquent participant contributions should consider applying to the DOL's VFCP. Plans that fully comply with the program, including satisfaction of the conditions of PTE 2002-51,

- will receive a No-Action Letter issued by the DOL that provides for no imposition of Section 502(l) penalties;
- receive relief from the excise tax provisions of the IRC;
- continue to report the occurrence and amount of the corrected delinquent remittances on line 4a of either Schedule H or Schedule I (but not on line 4d or Schedule G); and
- are not required to report such transactions as supplemental information if the plan is required to be audited because the transactions are not considered to be prohibited transactions.

Help Desk—EBSA's Web site, www.dol.gov/ebsa, contains useful information about the VFCP, including a fact sheet, a FAQ section, and a sample No-Action Letter.

Reporting of Delinquent Loan Repayments

.229 Generally speaking, participant loan repayments are not subject to the DOL's participant contribution regulation (29 CFR 2510.3-102). Accordingly, their delinquent remittance is not reported on line 4a of either Schedule H or Schedule I. However, delinquent remittance of participant loan repayments is a prohibited transaction.

.230 In Advisory Opinion 2002-2A, the DOL concluded that, although not subject to the participant contribution regulation, participant loan repayments

paid to or withheld by an employer for purposes of transmittal to an employee benefit plan are sufficiently similar to participant contributions to justify, in the absence of regulations providing otherwise, the application of principles similar to those underlying the final participant contribution regulation for purposes of determining when such repayments become assets of the plan. Specifically, the Advisory Opinion concluded that participant loan repayments paid to or withheld by an employer for purposes of transmittal to the plan become plan assets as of the earliest date on which such repayments can reasonably be segregated from the employer's general assets.

.231 Accordingly, the DOL will not reject a Form 5500 report based solely on the fact that delinquent forwarding of participant loan repayments is included on Line 4a of the Schedule H or Schedule I. Beginning with the 2009 Form 5500, the instructions to line 4a of Schedules H and I now permit inclusion of delinquent forwarding of participant loan repayments on line 4a, provided that filers that choose to include such participant loan repayments on line 4a use the same supplemental schedule and IQPA disclosure requirements for the loan repayments as for delinquent transmittals of participant contributions.

.232 Delinquent forwarding of participant loan repayments is eligible for correction under the VFCP and PTE 2002-51 on terms similar to those that apply to delinquent participant contributions. For questions or further information, see the instructions to the Form 5500 or contact the Office of Regulations and Interpretations at the DOL at (202) 693-8500 or at www.dol.gov/ebsa.

DOL Proposed Rule on Investment Advice for 401(k) Plans and Individual Retirement Accounts

.233 On March 2, 2010, the DOL published in the Federal Register a proposed rule under ERISA and parallel provisions of the IRC, relating to the provision of investment advice to participants and beneficiaries in individual account plans, such as 401(k) plans and beneficiaries of individual retirement accounts (IRAs).

.234 The proposed rule would implement provisions of a statutory prohibited transaction exemption and would replace guidance contained in a final rule, published in the Federal Register on January 21, 2009, that was withdrawn by the DOL pursuant to a notice published in the Federal Register on November 20, 2009.

.235 The proposed regulation allows investment advice to be given under the statutory exemption in two ways. One is through the use of a computer model certified as unbiased. The other way is through an adviser compensated on a *level-fee* basis (such as if fees do not vary based on investments selected by the participant).

.236 Several other requirements also must be satisfied, including disclosure of fees the adviser is to receive. The regulation contains some key safeguards and conditions, including the following:

- Requiring that a plan fiduciary (independent of the investment adviser or its affiliates) select the computer model or fee leveling investment advice arrangement
- Imposing recordkeeping requirements for investment advisers relying on the exemption for computer model or fee leveling advice arrangements

- Requiring that computer models must be certified in advance as unbiased and meeting the exemption's requirements by an independent expert
- Establishing qualifications and a selection process for the investment expert who must perform the previously mentioned certification
- Clarifying that the fee-leveling requirements do not permit investment advisers (including its employees) to receive compensation from affiliates on the basis of their recommendations
- Establishing an annual audit of investment advice arrangements, including the requirement that the auditor be independent from the investment advice provider
- Requiring disclosures by advisers to plan participants

.237 The proposed rule and a related fact sheet may be viewed at www.dol.gov/ebsa.

Final Rule on Multiemployer Pension Plan Information Made Available on Request

.238 On March 2, 2010, the DOL published in the Federal Register a final rule designed to ensure that workers have greater access to information about the operation and financial health of their multiemployer defined benefit and defined contribution pension plans.

.239 The PPA amended ERISA by adding a new Section 101(k) to increase transparency with respect to multiemployer retirement plan operations. Section 101(k) requires the administrator of a multiemployer pension plan, on the written request of any plan participant, beneficiary, employee representative (for example, union), or any employer that has an obligation to contribute to the plan, to furnish copies of requested financial and actuarial reports of the plan. The documents that are required to be furnished are as follows:

- Periodic actuarial reports
- Quarterly, semiannual, or annual financial reports
- Certain applications filed with the Secretary of the Treasury and related determinations (amortization extensions)

.240 A plan administrator must furnish the requested documents within 30 days from the request. The Secretary of Labor may assess a civil penalty against any person of up to $1,000 a day for each violation by any person of Section 101(k).

.241 A plan is not required to provide more than 1 copy of any document during any 1 12-month period and may impose a reasonable charge on the requester to cover the cost of copying and mailing a document.

.242 The final rule became effective on April 1, 2010. The final rule and a related fact sheet may be viewed at www.dol.gov/ebsa.

DOL Proposed Civil Penalty Rules for Multiemployer Defined Benefit Pension Plans That Fail to Take Corrective Funding Action

.243 On September 4, 2009, the DOL proposed a regulation to assess civil penalties against plan sponsors of multiemployer defined benefit pension plans

that fail to adopt a funding improvement or rehabilitation plan in accordance with ERISA, as amended by the PPA.

.244 The PPA amended ERISA and the IRC to require those plans certified to be in endangered or critical status to adopt a funding improvement plan or a rehabilitation plan within 240 days from the required date of the certification. The PPA also gave the DOL authority to assess civil monetary penalties of up to $1,100 per day against plan sponsors that fail to timely adopt funding improvement or rehabilitation plans. The proposed regulation sets forth the administrative procedures for assessing and contesting such penalties. The proposed regulation may be viewed at www.dol.gov/ebsa under "Proposed Rules."

New Civil Penalty Rules Under ERISA Section 502(c)(4)

.245 On January 2, 2009, the DOL published a final regulation implementing the DOL's authority to assess civil penalties against plan administrators who fail to disclose certain documents to participants, beneficiaries, and others as required by ERISA, as amended by the PPA.

.246 The PPA established new disclosure provisions relating to: funding-based limits on benefit accruals and certain forms of benefit distributions; plan actuarial and financial reports; withdrawal liability of contributing employers; and participants' rights and obligations under automatic contribution arrangements. The PPA gives the DOL authority to assess civil monetary penalties of up to $1,000 per day against plan administrators for violations of the new disclosure requirements. The final regulation sets forth the administrative procedures for assessing and contesting such penalties and does not address substantive provisions of the new disclosure requirements. The text of the final regulation is available at www.dol.gov/ebsa under "Final Rules."

DOL Issues Final Rule for Distributions to Missing Nonspouse Beneficiaries

.247 On October 7, 2008, the DOL issued a final rule requiring the distribution of 401(k) type benefits for missing nonspouse beneficiaries from terminated plans to be rolled into IRAs.

.248 The PPA amended the IRC to allow the rollover of certain retirement benefits of a deceased participant into a tax-favored inherited IRA created on behalf of a nonspouse beneficiary. The new rule (and a related class exemption), conforms to the PPA by amending existing distribution requirements for terminated defined contribution plans, including abandoned plans, to require rollovers into inherited IRAs for missing nonspouse beneficiaries. The final rule and model notices for notifying participants or beneficiaries of the plan's termination and distribution options may be found at www.dol.gov/ebsa under "Final Rules."

DOL Issues Model Notice for Multiemployer Plans in Critical Status

.249 On March 25, 2008, the DOL published a proposed regulation providing a model notice for use by multiemployer defined benefit pension plans to notify plan participants and others that their plan is in critical funding status. The proposed regulation is the result of the PPA.

.250 The PPA amended ERISA and the IRC to require that sponsors of multiemployer defined benefit pension plans in critical status for a plan year provide notice of this status to participants, beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation (PBGC) and the DOL. The PBGC, created under ERISA to insure defined benefit pension plans, guarantees payment of basic pension benefits of affected workers and retirees.

.251 The notice must inform participants that their plan is in critical status and of the possibility that adjustable benefits may be reduced or even eliminated. The proposed regulation contains a model notice that may be used by plans to satisfy the notice requirement. The proposed regulation may be found at www.dol.gov/ebsa under "Proposed Rules."

Multiemployer Plan Notice

.252 Sections 202 and 212 of the PPA established new funding requirements for multiemployer plans deemed to be in an endangered or critical status. No later than the 90th day of each plan year, an actuary is required to certify the following to Treasury and the plan sponsor:

- Whether or not a plan is in endangered status for the plan year and whether or not the plan is or will be in critical status for the plan year
- In the case of a plan that is in a funding improvement or rehabilitation period, whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan

.253 Plans in critical status must include in the notice additional explanations regarding possible reduction of adjustable benefits.

.254 No later than 30 days after a multiemployer plan is certified to be in endangered or critical status, the plan sponsor must provide notice of the endangered or critical status to participants and beneficiaries, the bargaining parties, the PBGC, the IRS, and the DOL.

.255 An actuary's failure to timely certify a plan's status is equivalent to the plan sponsor having failed to file a Form 5500. This subjects the plan administrator to penalties of up to $1,100 per day pursuant to ERISA Section 502(c)(2). Also, pursuant to ERISA Section 502(c)(8), the plan administrator is subject to penalties of up to $1,100 per day for not adopting a funding or rehabilitation plan. This requirement is effective for plan years beginning after 2007.

DOL Correspondence

No Processing-Related Correspondence Under EFAST2

.256 On January 1, 2010, the DOL began processing the Form 5500 and the new Form 5500-SF annual return/reports using the all new, all electronic EFAST2 processing system. EFAST2, unlike its predecessor, EFAST, will not generate written edit test correspondence regarding deficiencies identified during processing. Forms 5500 and 5500-SF will now be prepared and submitted using DOL's IFILE application or EFAST2-approved third-party software. Filers will be able to identify many of their own errors by using the validate

feature in IFILE and helpful automatic error identifiers in EFAST2-approved third-party software.

.257 In addition, those filings containing errors or omissions will continue to be subject to further review and possible civil penalties by the DOL, IRS, and PBGC.

Correspondence From the OCA

.258 The DOL's OCA has the responsibility for enforcing ERISA reporting and disclosure requirements. This includes ensuring that the Form 5500 filings are filed timely and correctly, and determining whether plan audits are performed in accordance with professional auditing and regulatory standards. The OCA routinely queries the ERISA database and targets for review Form 5500 filings that satisfy certain criteria, including those filings in which processing errors went uncorrected and those with improperly prepared auditor's reports. The OCA staff review the Form 5500 filings and also request copies of working papers that support audit engagements. If the OCA staff identifies problems, a formal enforcement process commences with the issuance of a Notice of Rejection (NOR) against the plan administrator.

.259 Upon receipt of an NOR, the plan administrator has 45 days to make any necessary corrections to the Form 5500 filing. This may involve the auditors having to correct their audit reports or even perform additional fieldwork in audit areas where work was previously not performed or deemed by the DOL to be insufficient. At the end of the 45-day period, if the Form 5500 filing remains deficient, the DOL issues a Notice of Intent to Assess a Penalty (NOI), potentially subjecting the plan administrator to civil penalties of up to $1,100 per day (imposed from the day after the original due date of the filing). As a policy matter, however, most deficiencies are penalized at $150 per day with penalties capped at $50,000.

.260 When plan administrators receive an NOI, they have 35 days to submit to the DOL a Statement of Reasonable Cause, submitted under penalty of perjury, in which they set forth any reasons why the penalty should be abated in part or in full. (It is important to note that traditionally the DOL will not consider abatement of any penalties in cases when deficiencies still exist.) If the plan administrator fails to comply with the requirements of the NOI, the penalty becomes a final agency action and the plan administrator forfeits all appeal rights.

.261 After the DOL reviews the statement of reasonable cause, the agency issues a Notice of Determination that contains the final penalty amount assessed against the plan administrator. The plan administrators may choose to pay the penalty amount or, within 35 days as provided for in the letter, file an answer with the administrative law judge, appealing the penalty. Any questions regarding the DOL penalty process should be directed to the OCA at (202) 693-8360.

EBSA's Inspection Programs to Assess Plan Audit Quality

.262 The DOL's EBSA continues its enhanced programs aimed at assessing and improving the quality of employee benefit plan audits. According to EBSA, 64 public accounting firms audit more than 100 plans that cover approximately 25,000 audits. The remaining 51,000 plan audits are performed by nearly 10,000 different CPA firms, 8,000 of whom perform 5 or fewer audits.

EBSA utilizes both top-down and bottom-up strategies in selecting and evaluating ERISA audits.

.263 First, EBSA conducts periodic inspections of firms with substantial ERISA audit practices—those with greater than 200 benefit plan clients. EBSA staff meets with firm management, review firm policies and procedures that relate to employee benefit plan audits, and conduct on-site reviews of a sample of ERISA audit engagements. This top-down and bottom-up approach provides EBSA a more efficient means of evaluating the quality of audit work performed by these large firms and ensuring that findings and recommendations are communicated to those in a position to effect any necessary changes. To date, EBSA has completed 22 such reviews.

.264 Next, for firms that audit between 100 and 200 employee benefit plans, EBSA carries out what it refers to as a mini-inspection program. This program is similar to the inspection program for larger firms, except that the work is performed in EBSA's Washington, D.C. office. The top-level communications with firm management and personnel are conducted using a firm questionnaire (also used in the larger inspection program) and telephone interviews. A sample of ERISA audit engagements is also selected, and firms are asked to make the audit work papers available for review in EBSA's office.

.265 The top-down and bottom-up approach utilized in both the inspection and mini-inspection programs provides EBSA an efficient means of evaluating the quality of audit work performed by these large firms and ensures that findings and recommendations are communicated to those in a position to effect any necessary changes. To date, EBSA has completed inspections of 14 firms and mini-inspections of 15 firms.

.266 Finally, for firms with employee benefit plan audit practices of 100 or less plans, EBSA focuses its in-house work on reviewing copies of selected audit working papers. When circumstances warrant, the scope of EBSA's reviews is expanded to additional audit areas. To date, EBSA has conducted over 1,800 of these desk reviews.

.267 In instances in which deficient audit work is identified, the related Form 5500 filings are subject to rejection, and auditors potentially face referral to the AICPA's Professional Ethics Division or State Board of Public Accountancy.

.268 EBSA has also expanded its enforcement efforts dealing with fiduciary breaches to include determining whether plan auditors may be considered as *knowing participants*. An auditor is considered a knowing participant if at least one of the three following elements is present:

- The plan auditor took affirmative action to further the violation.
- The plan auditor helped in concealing the violation.
- The plan auditor failed to act when required to do so by applicable professional standards.

Delinquent Filer Voluntary Compliance Program

.269 The Delinquent Filer Voluntary Compliance Program (DFVCP) is designed to encourage voluntary compliance with the annual reporting requirements under ERISA. The program gives delinquent plan administrators a way to avoid potentially higher civil penalty assessments by satisfying the program's requirements and voluntarily paying a reduced penalty amount. To increase

incentives for delinquent plan administrators to voluntarily comply, the DOL has reduced penalties and simplified the rules governing participation in the program.

.270 Address to be used for the DFVCP:

Standard Mail	***Private Delivery Service***
DFVC Program—DOL P.O. Box 70933 Charlotte, NC 28272-0933	DFVC Program—DOL Wachovia QLP Lockbox—D1113-022 1525 West WT Harris Blvd. Charlotte, NC 28262

DFVCP Penalty Calculator and Online Payment Option

.271 The DOL provides two Web-based options that make participating in the DFVCP easy, quick, and error-free. An online DFVCP penalty calculator is available to help plan administrators accurately calculate the payment needed to participate in the program. In addition, plan administrators who use the online calculator now have the option of paying the penalty electronically over the Internet.

.272 Additional details on the online calculator and online payment option may be found in the DFVCP FAQs at www.dol.gov/ebsa/calculator/dfvcpmain.html.

Program Eligibility

.273 Eligibility in the DFVCP continues to be limited to plan administrators with filing obligations under Title I of ERISA who comply with the provisions of the program and who have not been notified in writing by the DOL of a failure to file a timely annual report under Title I of ERISA. Form 5500-EZ filers and Form 5500 filers for plans without employees (as described in 29 CFR 2510.3-3(b) and (c)) are not eligible to participate in the DFVCP because such plans are not subject to Title I.

Using the DFVCP in an Electronic Era

.274 Participation in the DFVCP continues to be a two-part process. First, plan administrators must file with EBSA a complete Form 5500 Series annual return/report, including all schedules and attachments, for each year relief is requested. Please note that all 2007 and earlier Form 5500 filings, along with all 2009 and forward Form 5500 filings, must be submitted electronically through EFAST2 in an approved electronic format. Until October 15, 2010, 2008 Form 5500 filings may continue to be submitted on paper to Lawrence, Kansas, utilizing the former EFAST1 filing system.

.275 Second, plan administrators must submit to the DFVCP the required documentation and applicable penalty amount. Plan administrators may choose to submit their DFVC filing and payment electronically using the Online Calculator (www.askebsa.dol.gov/dfvcepay/calculator) or file through the mail with a print out of Form 5500 and a paper check.

.276 The plan administrator is personally liable for the applicable penalty amount, and, therefore, amounts paid under the DFVCP shall not be paid from the assets of an employee benefit plan. Special simplified rules apply to top hat plans and apprenticeship and training plans.

Penalty Structure

.277 The penalty structure under the DVFCP is as follows:

- *Per day penalty.* The basic penalty under the program is $10 per day for delinquent filings.
- *Per filing cap.* The maximum penalty for a single late annual report is $750 for a small plan (generally a plan with fewer than 100 participants at the beginning of the plan year) and $2,000 for a large plan.
- *Per plan cap.* This cap is designed to encourage reporting compliance by plan administrators who have failed to file an annual report for a plan for multiple years. The per plan cap limits the penalty to $1,500 for a small plan and $4,000 for a large plan regardless of the number of late annual reports filed for the plan at the same time. No per administrator or per sponsor cap exists. If the same party is the administrator or sponsor of several plans required to file annual reports under Title I of ERISA, the maximum applicable penalty amounts would apply for each plan.
- *Small plans sponsored by certain tax-exempt organizations.* A special per plan cap of $750 applies to a small plan sponsored by an organization that is tax-exempt under IRC Section 501(c)(3). The $750 limitation applies regardless of the number of late annual reports filed for the plan at the same time. It is not available, however, if, as of the date the plan files under the DFVCP, a delinquent annual report for a plan year exists during which the plan was a large plan.
- *Top hat plans and apprenticeship and training plans.* The penalty amount for top hat plans and apprenticeship and training plans is $750.

IRS and PBGC Participation

.278 Although the DFVCP does not cover late filing penalties under the IRC or Title IV of ERISA, the IRS and PBGC agreed to provide certain penalty relief for delinquent Form 5500s filed for Title I plans when the conditions of the DFVCP have been satisfied. Questions about the DFVCP should be directed to EBSA by calling (202) 693-8360. For additional information about the Form 5500 Series, visit the EFAST Internet site at www.efast.dol.gov, or call the EBSA Help Desk toll-free at (866) 463-3278.

Voluntary Fiduciary Correction Program

.279 The VFCP encourages voluntary compliance by self-correcting violations of the law. The program also helps plan officials understand the law and gives immediate relief from payment of excise taxes under a class exemption.

.280 In April 2006, EBSA expanded and simplified the VFCP to help employers and their professional advisors voluntarily correct violations of the law for employee benefit plans. This update to the VFCP reflects public comments and includes the following:

- Expansion and simplification of eligible transactions
- Streamlined documentation and clarified eligibility requirements
- A model application form

- Clarification of what constitutes "under investigation" allowing more entities to qualify for the program
- Relief from civil penalties for transactions involving health and welfare plans

.281 Under the VFCP, employers may voluntarily correct specific ERISA violations. Applicants must fully correct any violations, restore to the plan any losses or profits with interest, and distribute any supplemental benefits owed to eligible participants and beneficiaries. A no action letter is given to plan officials who properly correct violations.

.282 The DOL also provides applicants conditional relief from payment of excise taxes for certain VFCP transactions under a class exemption related to the VFCP. The amended class exemption was also published in the Federal Register in April 2006.

.283 More information about the VFCP is available by contacting a local EBSA regional office through its toll-free number, (866) 444-EBSA (3272), or by visiting the DOL at www.dol.gov/ebsa under "Correction Programs."

DOL Outreach and Customer Service Efforts

.284 The DOL's EBSA continues to encourage auditors and plan filers to call its Division of Accounting Services at (202) 693-8360 with ERISA-related accounting and auditing questions. Questions concerning the filing requirements and preparation of Form 5500 should be directed to EBSA's EFAST Help Desk at its toll-free number, (866) 463-3278.

.285 In addition to handling technical telephone inquiries, EBSA is involved in numerous outreach efforts designed to provide information to practitioners to help their clients comply with ERISA's reporting and disclosure requirements. The agency's outreach efforts continue to focus on plan audit quality, the current Form 5500 and Form 5500-SF, the EFAST2 Processing System, and other agency-related developments. Questions regarding these outreach efforts should be directed to the OCA at (202) 693-8360.

.286 Practitioners and other members of the public may also wish to contact EBSA at www.dol.gov/ebsa. The Web site also provides information on EBSA's organizational structure, current regulatory activities, and customer service and public outreach efforts.

EBSA Technical Guidance

Field Assistance Bulletins

.287 In the course of audits and investigations by EBSA field enforcement staff, difficult legal issues often arise. In an effort to provide the regional office staff with prompt guidance, EBSA has developed a vehicle for communicating technical guidance from the national office. FABs ensure that the law is applied consistently across the various regions. They also provide the regulated community with an important source of information about EBSA's views on technical applications of ERISA.

.288 Currently, 23 FABs are outstanding. They cover many topics of current interest such as refinancing ESOP loans (FAB 2002-1), ERISA rules on participant loans when securities law might otherwise limit such loans

(FAB 2003-1), duties to lost participants in a terminated plan (FAB 2004-2), interaction between IRS rules and DOL provisions for 403(b) plans (FAB 2007-2), the responsibilities for ERISA fiduciaries to collect delinquent contributions (FAB 2008-1), and Form 5500 filing by 403(b) plans (FAB 2009-02 and FAB 2010-01).

Help Desk—The FABs are available at www.dol.gov/ebsa under "Field Assistance Bulletins."

Administrative Law Judge Ruling Reinforces That Bankruptcy Does Not Relieve Plan Administrators of Their Fiduciary Duties

.289 A plan administrator was ordered to pay an $86,500 penalty assessed by the DOL for violating the annual reporting requirements of ERISA, according to a December 22, 2009, decision and order of the DOL's Office of Administrative Law Judges. The administrator appealed the DOL's civil penalty assessment for violating the annual reporting requirements of ERISA. The plan's administrator failed to file a complete and accurate Form 5500 annual return/report for the 2004 plan year. The report was rejected because the administrator failed to attach an acceptable independent qualified accountant's opinion and a schedule of assets held for investments. The court found that the administrator's bankruptcy did not relieve the administrator of its duties and that it deliberately elected to sell its business locations without preserving the plan records as required by ERISA.

.290 According to the decision, compliance with the annual reporting requirements alone preserves the intention of ERISA, which is to protect the rights of the employees whose money is being held by the plan. The administrator's excuse and apologies for why it failed to maintain records and file a compliant report cannot substitute for that protection. A copy of the decision may be found at the DOL's Office of Administrative Law Judge Web site at www.dol.gov/appeals.

IRS Limits

.291 Section 415 of the IRC provides for dollar limitations on benefits and contributions under qualified retirement plans. In addition, Section 415 requires the IRS to annually adjust these limits for cost-of-living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments. The limits differ depending on the type of plan. Annually, the IRS publishes such limits. These limits can be accessed at www.irs.gov/retirement/article/0,,id=96461,00.html.

Recent AICPA Independence and Ethics Pronouncements

.292 Audit Risk Alert *Independence and Ethics Developments—2009* (product no. 0224709) contains a complete update on new independence and ethics pronouncements. This alert will heighten your awareness of independence and ethics matters likely to affect your practice. Obtain this alert by calling the AICPA at (888) 777-7077 or visiting www.cpa2biz.com.

On the Horizon

.293 Auditors should keep abreast of auditing and accounting developments and upcoming guidance that may affect their engagements. The following sections present brief information about some ongoing projects that have particular significance in the current state of the economy. Remember that exposure drafts are nonauthoritative and cannot be used as a basis for departures from existing standards.

.294 The following table lists the various standard setting bodies' Web sites, through which information may be obtained on outstanding exposure drafts, including downloading exposure drafts. These Web sites contain in-depth information about proposed standards and other projects in the pipeline. Many more accounting and auditing projects exist in addition to those discussed here. Readers should refer to information provided by the various standard setting bodies for further information.

Standard Setting Body	*Web Site*
AICPA Auditing Standards Board	www.aicpa.org/Professional+Resources/Accounting+and+Auditing/Audit+and+Attest+Standards/Auditing+Standards+Board/
Financial Accounting Standards Board	www.fasb.org
Professional Ethics Executive Committee	www.aicpa.org/Professional+Resources/Professional+Ethics+Code+of+Professional+Conduct/Professional+Ethics/
Public Company Accounting Oversight Board	www.pcaob.org
Securities and Exchange Commission	www.sec.gov

Overhaul Project—AICPA Audit and Accounting Guide *Employee Benefit Plans*

.295 The AICPA is continuing to make progress overhauling the AICPA Audit and Accounting Guide *Employee Benefit Plans*, addressing numerous accounting, auditing, industry, and regulatory issues that have transpired since this guide was originally issued in 1991. During this project, the AICPA will continue to issue annual editions of the guide, updated to reflect recent audit and accounting pronouncements.

Auditing Pipeline—Nonissuers

Auditing Standards Board Clarity Project

.296 In response to growing concerns about the complexity of standards, the ASB has commenced a large-scale clarity project to revise all existing auditing standards so they are easier to read and understand. Over the last few years, the ASB has been redrafting all of the existing auditing sections

contained in the *Codification of Statements on Auditing Standards* (AU sections of the AICPA's *Professional Standards*) to apply the clarity drafting conventions and converge with the International Standards on Auditing (ISAs) issued by the International Auditing and Assurance Standards Board (IAASB). The majority of the clarified standards will be issued in a single SAS codified in AU section format, with each section assigned a section number and title. When the new SAS becomes effective, the SASs issued prior to SAS No. 117, *Compliance Audits* (AICPA, *Professional Standards*, vol. 1, AU sec. 801), will be superseded. The ASB proposes that most redrafted standards will become effective at the same time. Currently, the date is expected to be for audits of financial statements for periods beginning no earlier than December 15, 2010. Those clarified standards that have already been issued (currently SAS Nos. 117–120) to address current practice issues may have different effective dates. Additionally, six clarified AU sections dealing with internal audit, going concern, and engagements other than audits of financial statements have effective dates that are expected to be later than the provisional effective date. The ASB believes that having a primarily single effective date will ease the transition to, and implementation of, the redrafted standards. The effective date will be long enough after all redrafted statements are finalized to allow sufficient time for training and updating of firm audit methodologies. This expected date depends on satisfactory progress being made and will be amended, should that prove necessary. See the explanatory memorandum "Clarification and Convergence," the discussion paper *Improving the Clarity of ASB Standards*, and the March 2010 *In Our Opinion* newsletter at www.aicpa.org/Professional+Resources/Accounting+and+Auditing/Audit+and+Attest+Standards.

Exposure Drafts on Auditor's Reports

.297 The ASB issued three proposed SASs related to auditor's reports: *Forming an Opinion and Reporting on Financial Statements*, *Modifications to the Opinion in the Independent Auditor's Report*, and *Emphasis of Matter Paragraphs and Other Matter Paragraphs in the Independent Auditor's Report*. These proposed standards are drafted with the ASB's clarity drafting conventions and are intended to converge with ISAs. The intent of issuing three separate SASs is to assist practitioners in identifying and applying the reporting requirements and guidance. The ASB has made various changes to the related ISAs to tailor them to the United States; however these changes have not been substantial in nature.

.298 The comment period for the proposed SASs ended in December 2009. The proposed SASs are expected to be effective for audits of financial statements for periods beginning on or after December 15, 2010. Auditors are encouraged to review the exposure draft and be alert for developments on this topic.

Exposure Drafts on Special Considerations Audits

.299 Another exposure draft issued by the ASB contains two proposed SASs: *Special Considerations—Audits of Financial Statements Prepared in Accordance With Special Purpose Frameworks* and *Special Considerations—Audits of Single Financial Statements and Specific Elements, Accounts, or Items of a Financial Statement*. These proposed standards have been drafted with the clarity drafting conventions and are intended to converge with the equivalent ISAs. No meaningful differences exist between these proposed standards and the ISAs. *Special Considerations—Audits of Financial Statements Prepared*

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in Accordance With Special Purpose Frameworks addresses the application of GAAS to financial statements prepared under the cash, tax, regulatory, or contractual bases of accounting. It also replaces the term other comprehensive basis of accounting with special purpose framework.

.300 *Special Considerations—Audits of Single Financial Statements and Specific Elements, Accounts, or Items of a Financial Statement* introduces new planning, performance, and reporting requirements for these engagements. The proposed SAS also clarifies that a single financial statement and a specific element of a financial statement include the related notes.

.301 The comment period for the proposed SASs ended in December 2009. The proposed SASs are expected to be effective for audits of financial statements for periods beginning on or after December 15, 2010. Auditors are encouraged to review the exposure draft and be alert for developments on this topic.

Auditing Pipeline—Issuers

PCAOB Risk Assessment Standards

.302 In October 2008, the PCAOB proposed seven new auditing standards to update and supersede the current risk assessment standards. The PCAOB chairman noted that the proposals demonstrate the view that the risk of fraud is a central part of the audit process and not a separate consideration. The proposed standards integrate the risk assessment standards with the standard for the audit of internal control over financial reporting. Many of the IAASB's risk assessment standards were utilized in creating these proposed standards, and efforts were made to reduce any unnecessary differences. These proposed standards each have a statement of objective for the auditor, which was loosely adapted from the ISA. This is an example of the move in the United States from rules-based to principles-based accounting and auditing standards because these objectives do not state required outcomes.

.303 The comment period for these proposed standards ended in March 2010. As with any new auditing standard or amendment to a PCAOB standard, after adoption by the PCAOB, the standards will be submitted to the SEC for approval.

Concept Release on Audit Confirmations

.304 In April 2009, the PCAOB issued a concept release for public comment on possible revisions to AU section 330, *The Confirmation Process* (AICPA, *PCAOB Standards and Related Rules*, Interim Standards). Confirmations are typically an important source of evidence for auditors as independent third-party sources verify the data on the confirmation.

.305 Generally speaking, the concept release does not contemplate major changes to the confirmation process; rather it addresses developments in technology and related risk factors. Comments were due back to the PCAOB by the end of May 2009. Readers should be alert to developments on this issue.

Signing of the Audit Report by the Engagement Partner

.306 In July 2009, the PCAOB issued a concept release on requiring the engagement partner to sign the audit report. This requirement would be in addition to the signature of the audit firm on the audit report. Comments on this

proposal were due in September 2009. Readers should be alert for developments on this issue.

Accounting Pipeline

FASB and International Accounting Standards Board Memorandum of Understanding

.307 In September 2008, FASB and the International Accounting Standards Board (IASB) updated their Memorandum of Understanding (MoU), originally published in 2006, to reaffirm their respective commitments to the development of high quality, compatible accounting standards that could be used for both domestic and cross-border financial reporting. In developing the original MoU, FASB and the IASB agreed on priorities and established milestones as part of a joint work program to develop new common standards that improve the financial information reported to investors. FASB and the IASB agreed that the goal of joint projects is to produce common, principles-based standards, subject to the required due process.

.308 Readers are encouraged to monitor developments on the AICPA's Web site, www.ifrs.com, in addition to the FASB, IASB, and SEC Web sites. The growing acceptance of international financial reporting standards as a basis for U.S. financial reporting could represent a fundamental change for the U.S. accounting profession.

Other FASB Projects

.309 Currently, FASB has the following projects underway that may affect employee benefit plans:

- Going Concern
- Disclosure of certain loss contingencies
- Disclosure framework
- Investment properties

Employee Benefit Plan Resources

.310 The following are various resources that practitioners engaged in the employee benefit plan industry may find beneficial.

AICPA Employee Benefit Plan Audit Quality Center

.311 The AICPA EBPAQC is a firm-based, voluntary membership center with the goal of promoting quality employee benefit plan audits. The more than 1,800 firms that have joined the EBPAQC receive valuable ERISA audit and firm best practice tools and resources that are not available from any other source.

.312 In addition to providing periodic e-alerts with information about recent developments affecting employee benefit plan audits, the center has recently made the following available to its members:

- New resource centers, including a 403(b) resource center that includes valuable new tools and resources to help auditors and plan sponsors understand and implement the new audit requirements,

and a defined benefit plan resource center that centralizes resources useful to auditors of those plans.

- Live forum member-only conference calls to share important information and answer participant questions on a wide range of technical and practice topics. These calls are free to members, and as an added benefit, the center offers a CPE option for a small fee.
- New FASB ASC 820 illustrative disclosures; a listing of DOL criminal enforcement cases; new tools to help employee benefit plan auditors understand and implement SAS No. 115, including a summary of the standard, a comparison with SAS No. 112, and examples of internal control communications for employee benefit plans; and a tool to help members understand the new FASB ASC.
- A "Topix" primer on limited scope audits to help members gain a general understanding of these audits.

.313 Visit the center Web site at www.aicpa.org/ebpaqc to see a complete list of the more than 1,800 center members and to preview center benefits. For more information, contact the center at ebpaqc@aicpa.org.

Publications

.314 Practitioners may find the following publications useful. Choose the format best for you—online, print, or CD-ROM:

- Audit and Accounting Guide *Employee Benefit Plans*, with conforming changes as of March 1, 2010 (product no. 012510kk [paperback], WEBXX12 [online], or DEBXX12 [CD-ROM])
- Audit Guide *Analytical Procedures* (2008) (product no. 012558 [paperback], WAN-XX [online], or DAN-XX [CD-ROM])
- Audit Guide *Assessing and Responding to Audit Risk in a Financial Statement Audit* (2009) (product no. 012459 [paperback] or WRA-XX [online])
- Audit Guide *Auditing Derivative Instruments, Hedging Activities, and Investments in Securities* (2009) (product no. 012529 [paperback], WDI-XX [online], or DDI-XX [CD-ROM])
- Audit Guide *Audit Sampling* (2008) (product no. 012538 [paperback], WAS-XX [online], or DAS-XX [CD-ROM])
- Audit Guide *Service Organizations: Applying SAS No. 70, as Amended* (2009) (product no. 012779 [paperback], WSV-XX [online], or DSV-XX [CD-ROM])
- Audit Risk Alert *Current Economic Instability: Accounting and Auditing Considerations—2009* (product no. 0223309 [paperback], WGE-XX [online], or DGE-XX [CD-ROM])
- Audit Risk Alert *Independence and Ethics Developments—2009* (product no. 0224709 [paperback], WIA-XX [online], or DIA-XX [CD-ROM])
- Audit Risk Alert *Communicating Internal Control Related Matters in an Audit—Understanding SAS No. 115* (2009) (product no. 022539 [paperback])
- *Checklists and Illustrative Financial Statements for Defined Benefit Pension Plans* (2009) (product no. 0089909 [paperback] or WDB-CL [online])

- *Checklists and Illustrative Financial Statements for Defined Contribution Pension Plans* (2009) (product no. 0090009 [paperback] or WDC-CL [online])
- *Checklists and Illustrative Financial Statements for Health and Welfare Benefit Plans* (2009) (product no. 0090109 [paperback] or WHW-CL [online])
- *Accounting Trends & Techniques, 63rd Edition* (product no. 0099009 [paperback] or WAT-XX [online])
- *Accounting Trends & Techniques—Employee Benefit Plans, 3rd Edition* (coming soon)
- *Audit and Accounting Manual* (2009) (product no. 0051309 [paperback], WAM-XX [online], or AAM-XX [loose leaf])
- AICPA Audit Practice Aid *SAS No. 70 Reports and Employee Benefit Plans* (product no. 061061kk [paperback or CD-ROM])

.315 Additional resources for accountants in business and industry are the Financial Reporting Alert series, designed to be used by members of an entity's financial management and audit committee to identify and understand current accounting and regulatory developments affecting the entity's financial reporting:

- Financial Reporting Alert *Current Economic Crisis: Accounting Issues and Risks for Financial Management and Reporting—2009* (product no. 0292009kk [paperback])

AICPA reSOURCE: Accounting and Auditing Literature

.316 The AICPA has created your core accounting and auditing library online. AICPA reSOURCE is now customizable to suit your preferences or your firm's needs. Or, you can sign up for access to the entire library. Get access—anytime, anywhere—to the AICPA's latest *Professional Standards*, *Technical Practice Aids*, Audit and Accounting Guides, Audit Risk Alerts, *Accounting Trends & Techniques*, and more. To subscribe to this essential online service for accounting professionals, visit www.cpa2biz.com.

Continuing Professional Education

.317 The AICPA offers a number of CPE courses that are valuable to CPAs working in public practice and industry. Among the many courses, the following are specifically related to employee benefit plans:

- Audits of 401(k) Plans
- Employee Benefit Plans Audit and Accounting Essentials
- Audits of 403(b) Plans: A Challenging New Audit Area (new in 2010)

.318 Visit www.cpa2biz.com for a complete list of CPE courses.

Online CPE

.319 AICPA CPExpress, offered exclusively through CPA2Biz, is the AICPA's flagship online learning product. AICPA members pay $180 for a new subscription and $149 for the annual renewal. Nonmembers pay $435 for a new subscription and $375 for the annual renewal. Divided into 1-credit and 2-credit courses that are available 24 hours a day, 7 days a week, AICPA CPExpress

offers hundreds of hours of learning in a wide variety of topics. To register or learn more, visit www.cpa2biz.com.

Webcasts

.320 Stay plugged in to what is happening and earn CPE credit right from your desktop. AICPA webcasts are high quality, two-hour CPE programs that bring you the latest topics from the profession's leading experts. Broadcast live, they allow you to interact with the presenters and join in the discussion. If you cannot make the live event, each webcast is archived and available on CD-ROM.

.321 In particular, *Employee Benefit Plans Strategic Briefing* has been archived and is available on demand. This webcast, held on April 28, 2010, was a live interactive AICPA webcast covering all the hot issues currently affecting employee benefit plans. Participants learned about current accounting, auditing, and regulatory developments, including the effect of recently issued pronouncements on both preparers and auditors of employee benefit plans.

Member Service Center

.322 To order AICPA products, receive information about AICPA activities, and get help with your membership questions, call the AICPA Service Operations Center at (888) 777-7077.

Hotlines

Accounting and Auditing Technical Hotline

.323 Do you have a complex technical question about U.S. GAAP, other comprehensive bases of accounting, or other technical matters? If so, use the AICPA's Accounting and Auditing Technical Hotline. AICPA staff will research your question and call you back with the answer. The hotline is available from 9 a.m. to 8 p.m. EST on weekdays. You can reach the Technical Hotline at (877) 242-7212 or online at www.aicpa.org/Professional+Resources/Accounting+and+Auditing/Accounting+and+Auditing+Technical+Help/.

Ethics Hotline

.324 In addition to the Technical Hotline, the AICPA also offers an Ethics Hotline. Members of the AICPA's Professional Ethics Team answer inquiries concerning independence and other behavioral issues related to the application of the AICPA Code of Professional Conduct. You can reach the Ethics Hotline at (888) 777-7077 or by e-mail at ethics@aicpa.org.

Industry Conferences

.325 The AICPA sponsors an annual Employee Benefit Plans Accounting, Auditing, and Regulatory Update Conference in the late fall. This conference is a two-day high-level forum that lets you interact with expert auditors and members of the DOL. The 2010 conference will be held December 13–14, 2010 in Washington, DC.

.326 The AICPA sponsors an annual National Conference on Employee Benefit Plans each spring. This conference is designed to update attendees on recent developments related to employee benefit plans. The 2011 conference will be held in May 2011. For further information about the conference, call (888) 777-7077 or visit www.cpa2biz.com.

.327 The AICPA also sponsors the AICPA Employee Benefit Plan Audit Workshop for Defined Benefit and Defined Contribution Plans. This conference was designed to help participants to understand the basic fundamentals required to audit employee benefit plans in accordance with AICPA and EBSA standards. For conference dates and locations, call (888) 777-7077 or visit www.cpa2biz.com.

AICPA Industry Expert Panel—Employee Benefit Plans

.328 For information about the activities of the AICPA Employee Benefit Plans Industry Expert Panel, visit the panel's Web page at http://ebpaqc.aicpa.org/Community/AICPA+Employee+Benefit+Plan+Expert+Panel.htm.

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.329 This Audit Risk Alert replaces *Employee Benefit Plans Industry Developments—2009*.

.330 The Audit Risk Alert *Employee Benefit Plans Industry Developments* is published annually. As you encounter audit or industry issues that you believe warrant discussion in next year's Audit Risk Alert, please feel free to share them with us. Any other comments that you have about the Audit Risk Alert also would be appreciated. You may e-mail these comments to ldelahanty@aicpa.org or write to

Linda C. Delahanty, CPA
AICPA
220 Leigh Farm Road
Durham, NC 27707-8110

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Appendix A—Definitions of Certain Investments

The following list includes certain investments as defined by the instructions to the Form 5500, Annual Return/Report of Employee Benefit Plan.

103-12 Entity. An entity that is not a master trust, common or collective trust, or pooled separate account whose underlying assets include plan assets within the meaning of Title 29, *Labor*, of U.S. *Code of Federal Regulations* Part 2510.3-101 of 2 or more plans that are not members of a related group of employee benefit plans.

common or collective trust (CCT). A trust maintained by a bank, trust company, or similar institution that is regulated, supervised, and subject to periodic examination by a state or federal agency for the collective investment and reinvestment of assets contributed thereto from employee benefit plans maintained by more than one employer or a controlled group of corporations.

master trust. A trust for which a regulated financial institution (bank, trust company, or similar financial institution that is regulated, supervised, and subject to periodic examination by a state or federal agency) serves as trustee or custodian and in which assets of more than one plan sponsored by a single employer or by a group of employers under common control are held.

pooled separate account (PSA). An account maintained by an insurance carrier, which is regulated, supervised, and subject to periodic examination by a state agency for the collective investment and reinvestment of assets contributed thereto from employee benefit plans maintained by more than one employer or a controlled group of corporations.

registered investment company. An investment firm that is registered with the Securities and Exchange Commission and complies with certain stated legal requirements for the collective investment and reinvestment of assets contributed thereto from investors (employee benefit plans and nonemployee benefit plans).

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Appendix B—Auditing Health and Welfare Plans

This section is intended to describe certain audit challenges unique to health and welfare benefit plans and how these challenges cause health and welfare plans to be more complex and expensive to audit than other types of benefit plans. The plan operations surrounding the administration of health claims have always been complex and difficult for auditors to fully understand and document. The requirements for more timely claims processing, appeal decisions, and the privacy requirements under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) have added to the complexity and therefore, the difficulty.

HIPAA Privacy Concerns

HIPAA requires that plan sponsors enter into a business associates' agreement (BAA) with any of their service providers that have access to any protected health information (PHI). Generally, an auditor is considered a business associate and, after entering into a BAA, should be permitted access to the necessary information required by professional standards to audit the plan's financial statements. Although HIPAA regulations allow for the auditors' work papers to contain PHI, such PHI included in work papers obligates the auditing firm to comply with the HIPAA privacy laws and BAA provisions to maintain the privacy of the PHI. For further information on HIPAA, see the "Health and Welfare Plans" section of this alert.

Nondisclosure Agreements

Sponsors of health and welfare plans frequently hire third-party administrators (TPAs) to perform administrative functions for their plans, such as administration of participant claims. Generally, the plan auditor tests a sample of claims processed by the TPA as part of the audit which generally results in PHI being exchanged. Before agreeing to provide this information and data, TPAs frequently request the plan sponsor or auditor, or both, to sign confidentiality agreements or nondisclosure agreements (NDAs). As with BAAs, auditors need to carefully review nondisclosure agreements. Often, the auditor may not be able to agree with certain language in the agreement, as it may not be in accordance with professional standards resulting in delays in completing the audit.

> **Help Desk**—NDAs can take many forms and can apply to all types of plans. For example, some TPAs require the auditor to agree to the terms of an NDA prior to being permitted limited access to electronic databases needed to obtain audit evidence directly from the TPA's Web site. Acceptance of these terms would constitute an NDA.

Considerations When Planning a Health and Welfare Plan Audit

Health and welfare plan benefits may be provided through insurance contracts, from net assets accumulated in a trust or the general assets of the employer, or a combination thereof. Regardless of the funding arrangement, the ultimate reporting entity under ERISA is the plan and not the underlying trust(s).

However, if a trust exists, audited financial statements may be required under the Employee Retirement Income Security Act (ERISA) (see AICPA Audit and Accounting Guide *Employee Benefit Plans*, exhibit 5-3). Before performing a health and welfare plan audit, it is critical for the auditor to obtain a clear understanding of what constitutes the plan.

Some employers may sponsor multiple individual welfare benefit plans, and other may sponsor individual health and welfare benefit programs that are included in a single plan (for example medical, dental and vision). For ease of regulatory reporting, some plan sponsors combine individual plans into a single plan using a wrapper document. A review of the plan agreement, summary plan description, contracts with insurance companies, employee handbooks, previously filed Form 5500s, consultation with legal counsel, and wrapper documents may assist in the determination of the plan's reporting entity. The nature and design of the plan directly affects its accounting and reporting, and requires consideration of the following:

- *Who is covered by the plan*. A plan may cover multiple types of participants, such as active employees, terminated employees under the Consolidated Omnibus Budget Reconciliation Act (COBRA), dependents, beneficiaries, retirees, union, and nonunion employees.
- *Types of benefits*. A plan may include benefits that are fully insured or self-insured, or a combination thereof. All benefits covered under the plan, whether paid through a trust or otherwise, are to be included in the plan's financial statements.
- *Who contributes*. Participants may be required to contribute to the cost of their benefits, or the plan sponsor may cover some or all of the cost.
- *How are benefits funded*. Benefits may be funded from contributions made to a trust or trusts, from the general assets of the plan sponsor or a combination. Therefore, the trust may not include all the activity of the plan.

Unlike retirement plans, sponsors of health and welfare benefit plans typically go through an annual comprehensive process to evaluate the health and welfare benefits they provide. As a result, it is not uncommon for changes to be made to the benefits offered, vendors utilized, and cost sharing amounts on an annual basis. Because the majority of today's TPAs utilize systems focused on automation and speed, a key element in the claims administration process is the proper installation and accumulation of plan data by the TPA. Plan data includes, but is not limited to, key benefit provisions, participant information, providers (both network and out-of-network), and rate structure. Once the TPA has compiled the information and has input it into their system, plan management should ensure they have controls in place to review all key plan parameters input into the TPA's system.

The health care process is important to understand as it will likely affect audit risk assessments and audit planning given contract changes, new or changed systems and new processes. Understanding the various benefits offered, the service providers, the various transaction flows and related control environment is integral to developing the audit approach and the sampling methodology. Standard audit programs for employee benefit plans should be tailored to the unique nature of health and welfare plans.

Unique Health and Welfare Plan Audit Areas

This section is intended to describe certain unique audit areas specific to health and welfare plans and in certain instances to provide examples of audit procedures.

Claims Processing

When auditing claims, it is not expected that the auditor would have the knowledge of a skilled claims specialist or a skilled medical specialist when claims are processed by a TPA. It is important, however, that the auditor has a basic understanding of the terms of the plan and has the necessary knowledge to test that claims are being properly adjudicated. The auditor would want to be aware of any processing problems that the plan is experiencing with claims and discuss with plan management what the plan is doing to correct any such issues.

Although the majority of claims are sent through an automated claims payment process, some claims are processed manually. In both processes, negotiated rates, consistency in service and diagnosis, investigation for other coverage, co-pays and deductibles are applied.

In an automated claims payment process, electronic edit checks match submitted information with known information in the claims processor's system. Significant edit checks may include, but are not limited to the following:

- Member eligibility
- Covered benefit
- Required referral on file
- Excluded coverage or procedure
- Proper coding
- Timely receipt of claim
- Benefit limits
- Authorized provider
- Coordination of benefits
- Duplicate claims
- Others, depending on the claims processor

Passing or failing edit checks determines whether claims are approved, denied, or suspended for manual review. Claim adjustments such as errors identified in quality reviews, requests for reconsideration, refunds from physicians, recoveries from subrogation, legal settlements, and credit balances could result in refunds to the plan.

Contracts With Benefit Service Providers

In some arrangements, an insurance company may assume all or a portion of the financial risk, or in other a third party may provide only administrative services such as claims processing. For any contract the plan has with a benefit service provider, the auditor may examine the reconciliation of the amounts due to or from the benefit service provider to determine if the amounts are appropriate.

Rebates Receivable

If rebates receivable from a service provider exist, the auditor may examine those rebates to determine if the correct amount for the appropriate period of

time has been properly reflected in the financial statements. In addition, the auditor may gain an understanding of the service contracts and apply procedures to determine if all rebates have been received by the plan. These include rebates from prescription drug programs or excess premiums paid over claims incurred under certain contractual arrangements with insurance companies. The auditor would also consider the propriety of the rebate. For example, if the payment vehicle for the claims receiving the rebate was the voluntary employee beneficiary association (VEBA) trust account, receipt of the rebate by the plan sponsor, and deposit of such rebate into a nontrust account may not be appropriate.

Accumulated Eligibility Credits

In many industries (for example, the entertainment and building trades industries) the amount of hours an employee works are not uniform throughout the year. In some months employees work overtime hours and in other months they may not work at all. According to the Financial Accounting Standards Board (FASB) *Accounting Standards Codification* (ASC) 965-30-35-12, health and welfare benefit plans may provide for the payment of insurance premiums or benefits for those participants who have accumulated a sufficient number of eligibility credits or hours. These eligibility credits or hours are commonly referred to as a *bank of hours*. The bank of hours is created by crediting a participant for hours worked in prior periods in excess of the minimum hours required to receive benefits. If a plan participant does not work the sufficient number of hours in a given period to receive a benefit, the bank of hours for that employee is typically charged for the hours necessary to make up the shortage.

If the plan permits accumulated eligibility credits, an obligation should be recorded for those credits. The auditor may determine whether the plan provides for accumulated eligibility credits and, if so, if the obligation has been properly calculated, reported, and disclosed in the financial statements in accordance with FASB ASC 965-30-35-12.

Actuarial Data and Census Information

The actuarial data and census information furnished by the health and welfare plan sponsor to the actuary, especially when the plan covers retirees, is as important as the data used in a defined benefit pension plan. The auditor may gain assurance through confirmation or other audit procedures that the actuarial data and census information furnished to the actuary is complete and accurate.

Stop-Loss Coverage

One way for a plan to protect itself against excessive losses is to purchase stop-loss insurance. Stop-loss insurance can be either specific or aggregate. Specific stop-loss insurance protects the plan against claims that exceed a predetermined maximum per person or per family. All claims above the specific stop-loss amount (for example, $100,000) are normally reimbursed to the plan at 100 percent up to a limit contained in the contract. Aggregate stop-loss coverage reimburses the plan when total eligible claims exceed a predetermined aggregate, such as 125 percent of expected claims.

It is important for the auditor to gain an understanding of the stop-loss coverage that a plan has and to test that claims have been properly filed against the policy within the period specified by the policy.

Claims Incurred but Not Reported

Benefit obligations for a self-funded plan should present the amount of claims payable and currently due for active and retired participants, dependents, and beneficiaries, and claims incurred but not reported (IBNR) for active participants. IBNR for retired participants is generally included in the postretirement benefit obligation.

For a self-funded plan, the cost of IBNR should be measured at the present value, as applicable, of the estimated ultimate cost to the plan of settling the claims (including those associated with terminal diseases and catastrophic accidents) beyond the measurement date pursuant to the plan's provisions and regulatory requirements, regardless of employment status. Note that the ultimate cost to the plan may be limited to the maximum coverage specified in the plan document, stop-loss coverage, Medicare, and so on. Auditors will want to consider who calculated the IBNR estimate (calculated by sponsor, an actuary, claims administrator, and so on), the appropriateness of assumptions used, and integrity of underlying data utilized for developing the estimate. In addition, the scope of procedures performed on the IBNR estimate as part of the sponsor's financial statement audit will likely be different than that is appropriate for the plan. So, caution should be taken when relying on audit work performed during the sponsor entity audit.

Premium Stabilization Reserves

In some fully insured or minimum premium arrangements, an insurance company may require a contract holder to maintain a premium stabilization reserve. Such reserves are usually adjusted by the insurance company at the end of the policy year. The annual adjustment is often the computed difference, or some factor thereof, between actual claims experience of the insurer and premiums paid by the contract holder. Generally, premium stabilization reserves are held in the general assets of the insurance company and are used to pay future premiums of the contract holder. If the premium stabilization reserve is certain to provide future benefits to the plan, the reserve is reported as an asset of the plan. In some cases, the contract holder may liquidate the premium stabilization reserve via cash payment from the insurance company. In other cases, the premium stabilization reserve is forfeited by the contract holder in the event of termination of coverage. Criteria for realization of the reserve are considered when evaluating the existence of the asset.

Health Savings Accounts and Health Reimbursement Arrangements

Individuals enrolled in certain high deductible health plans (HDHPs) can establish health savings accounts (HSAs) to receive tax-favored contributions (from either the employee or employer). The contribution made to the HSA is distributed on a tax-free basis to pay or reimburse qualifying health expenses. The contribution may be used for future expenses or may be used (on a taxable basis) for nonhealth purposes. Funds held in the HSA can be used to pay premiums for long term care insurance and health insurance premiums while receiving unemployment benefits or continuation benefits under COBRA. The HSA's funds are required to be held by an insurance company or trustee (bank). HSAs are not use-it or lose-it plans, and the participant owns the account and is responsible for substantiating distributions from their HSA account.

A health reimbursement arrangement (HRA) is similar to an HSA; however, HRAs are funded solely through employer contributions and may not be funded by the employee through a voluntary salary reduction agreement.

No requirement exists for the arrangement to be part of an HDHP, and the funds can be held by the employer or a VEBA trust. Employees are reimbursed tax free for qualified medical expenses up to a maximum dollar amount for a coverage period. Although HRA amounts are not portable, unused amounts in an HRA can generally be carried over to the next year. The employer is not permitted to refund any part of the balance to the employee, the account cannot be used for anything other than reimbursements for qualified medical expenses, and the plan must substantiate distributions made from the HRA account.

Should an HSA or HRA be wrapped into an audited welfare plan, consultation with the plan's legal counsel may be needed to determine the appropriate accounting and auditing procedures, and whether the associated activity should be included in the audited plan's financial statements. Possible considerations in that determination might include where the sources of funding come from (for example, employers, participants, or both), who has legal title to the amounts in these accounts, how the claims are adjudicated (for example, by employer, self-adjudicated by participant, or other), whether a carry-forward provision exists into the next plan year for unused amounts, and so on.

In Field Assistance Bulletin (FAB) No. 2004-1, *Health Savings Accounts*, and FAB No. 2006-2, *Health Savings Accounts—ERISA Q&As*, the DOL addressed various questions concerning HSAs, including the issue of whether HSAs established in connection with employment-based group health plans constitute employee welfare benefit plans for purposes of Title I of ERISA.

COBRA

Many health and welfare plans are required to provide continuation of benefits upon termination of employment through COBRA. COBRA contains provisions giving certain former employees, retirees (when postretirement benefits are not offered by the plan), spouses and dependent children the right to temporary continuation of health coverage. COBRA participants must be offered benefits identical to those received immediately before qualifying for continuation coverage.

In many cases, the collection of COBRA contributions and payment of COBRA benefits are performed by TPAs. The administration of these benefits needs to be understood, so that COBRA activity can be properly accounted for in the financial statements of the plan. For additional information see the "COBRA Premium Subsidy" section of this alert.

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Appendix C—Resources for Economic Information

The Internet covers a vast amount of information that you may find valuable. Some of the sites not previously mentioned in this alert and links to relevant documents regarding economic information include those shown in the following table.

Organization/Topic	***Web Site***
Chartered Accountants of Canada Canadian Performance Reporting Alert *MD&A Disclosures in Volatile and Uncertain Times*	www.cica.ca/download.cfm?ci_id=47101&la_id=1&re_id=0
Emergency Economic Stabilization Act	www.treas.gov/initiatives/eesa/
Interagency Statement on the Regulatory Capital Impact of Losses on Fannie Mae and Freddie Mac Preferred Stock	http://files.ots.treas.gov/481135.pdf
Public Company Accounting Oversight Board (PCAOB) Staff Audit Practice Alert No. 3, *Audit Considerations in the Current Economic Environment* (AICPA, *PCAOB Standards and Related Rules*, PCAOB Staff Guidance, sec. 400.03)	www.pcaobus.org/Standards/Staff_Questions_and_Answers/2008/12-05_APA_3.pdf
PCAOB Standing Advisory Group Meeting Emerging Issue-Audit Considerations in the Current Economic Environment	www.pcaobus.org/Standards/Standing_Advisory_Group/Meetings/2008/10-22/BP_Audit_Considerations.pdf

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Appendix D—Additional Web Resources

Here are some useful Web sites that may provide valuable information to accountants.

Web Site Name	*Content*	*Web Site*
AICPA	Summaries of recent auditing and other professional standards, as well as other AICPA activities	www.aicpa.org www.cpa2biz.com www.ifrs.com
AICPA Accounting Standards Executive Committee	Summaries of recently issued guides, technical questions and answers, and practice bulletins containing financial, accounting, and reporting recommendations, among other things	www.aicpa.org/Professional+Resources/Accounting+and+Auditing/Accounting+Standards
AICPA Professional Issues Task Force	Summaries of practice issues that appear to present concerns for practitioners and disseminate information or guidance, as appropriate, in the form of practice alerts	www.aicpa.org/Professional+Resources/Accounting+and+Auditing/Audit+and+Attest+Standards/Professional+Issues+Task+Force
Economy.com	Source for analyses, data, forecasts, and information on the U.S. and world economies	www.economy.com
The Federal Reserve Board	Source of key interest rates	www.federalreserve.gov
Financial Accounting Standards Board (FASB)	Summaries of recent accounting pronouncements and other FASB activities	www.fasb.org
USA.gov	Portal through which all government agencies can be accessed	www.usa.gov

(continued)

Web Site Name	*Content*	*Web Site*
Government Accountability Office	Policy and guidance materials and reports on federal agency major rules	www.gao.gov
International Accounting Standards Board	Summaries of International Financial Reporting Standards and International Accounting Standards	www.iasb.org
International Auditing and Assurance Standards Board	Summaries of International Standards on Auditing	www.iaasb.org
International Federation of Accountants	Information on standards setting activities in the international arena	www.ifac.org
Private Company Financial Reporting Committee	Information on the initiative to further improve FASB's standard setting process to consider needs of private companies and their constituents of financial reporting	www.pcfr.org
Public Company Accounting Oversight Board (PCAOB)	Information on accounting and auditing activities of the PCAOB and other matters	www.pcaob.org
Securities and Exchange Commission (SEC)	Information on current SEC rulemaking and the Electronic Data Gathering, Analysis, and Retrieval database	www.sec.gov