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Labor Department Proposes Rule To Preserve Retirement Savings

WASHINGTON– The U.S. Department of Labor announced a proposed rule that provides guidance on how employers and financial institutions can implement the new requirement that retirement plan distributions between $1,000 and $5,000 be automatically rolled over into an individual retirement plan unless the worker directs otherwise. By following the terms of the regulation, employers will meet their fiduciary responsibility for choosing the IRA or annuity provider and investment of the funds.

"Preservation of retirement savings when workers change jobs is key to ensuring retirement security," said Assistant Secretary of Labor Ann L. Combs of the Employee Benefits Security Administration (EBSA). "The proposed rule changes the landscape from one where workers cash out and spend small distributions to one where savings accumulate over time and are available when needed at retirement."

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) requires that certain distributions of retirement plan benefits of $1,000 to $5,000 be automatically rolled over into an individual retirement plan when a separated worker fails to elect a distribution method. The proposed regulation protects retirement plan fiduciaries from liability under the Employee Retirement Income Security Act (ERISA) by providing a safe harbor in connection with two aspects of the automatic rollover process – the selection of an institution to provide the individual retirement plans and the selection of investments for such plans.

In order to obtain relief under the safe harbor, plan fiduciaries must satisfy certain conditions. Among others, these relate to the types of institutions that are qualified to offer individual retirement plans, the investment products in which funds can be invested, and the limitations on the fees and expenses that may be assessed against the individual retirement plan funds.

The department also is proposing a class exemption. The proposed exemption would enable certain plan sponsors to use their own services and products in connection with rollovers from their own retirement plan.

The proposed regulation and class exemption are scheduled to be published in the March 2, 2004 Federal Register. Comments should be submitted by April 1, 2004 to the Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Attn: Automatic Rollover Regulation. Electronic responses may be addressed to e-ori@dol.gov and should be marked "Automatic Rollover Regulation" on the subject line. Comments on the proposed exemption should be addressed to the Office of Exemption Determinations in Room N5649 at the address above or by Internet to moffitt.betty@dol.gov.