



FIELD ASSISTANCE BULLETIN NO. 2007-03

Date: October 12, 2007

MEMORANDUM FOR: VIRGINIA C. SMITH, DIRECTOR OF ENFORCEMENT
REGIONAL DIRECTORS

FROM: ROBERT J. DOYLE
DIRECTOR OF REGULATIONS AND INTERPRETATIONS

SUBJECT: PERIODIC PENSION BENEFIT STATEMENTS FOR NON-PARTICIPANT
DIRECTED INDIVIDUAL ACCOUNT PLANS

On December 20, 2006, the Department of Labor issued Field Assistance Bulletin (FAB) 2006-03 providing guidance for the Employee Benefits Security Administration's national and regional offices concerning good faith compliance with the pension benefit statement provisions of section 105 of ERISA, as amended by the Pension Protection Act of 2006. In FAB 2006-03, the Department indicated, among other things, that, pending the issuance of further guidance, the furnishing of pension benefit statement information not later than 45 days following the end of the relevant period (calendar quarter or calendar year) will constitute good faith compliance with the requirement to automatically furnish pension benefit statements by individual account plans.

Since the issuance of FAB 2006-03, it has come to the attention of the Department that many individual account plans that do not permit participants and beneficiaries to direct the investment of assets in their individual accounts may not be able to comply within the 45-day period set forth in the FAB. It is represented that many of these plans are profit sharing plans and the sponsors of those plans do not determine or contribute profit sharing contributions until after the sponsor's business tax return is completed. Similarly, non-participant directed individual account plans sponsored by partnerships cannot make contribution determinations until completion of the partnership tax return. It also is represented that many such plans are dependent on securing third-party valuations for those assets that do not have a readily ascertainable value. Compliance with the 45-day good faith period, therefore, would appear to be impossible or very expensive for many of these plans unless the benefit statements were based on data from the end of the prior plan year. It is further represented that much of the required information is compiled in connection with the preparation of the plan's Form 5500

Annual Return/Report and, accordingly, the time frame for furnishing benefit statements should correspond to the required filing of the plan's Form 5500.

In view of the foregoing, and pending the issuance of further guidance, the Department is providing the following additional guidance. Plan administrators of individual account plans that do not provide for participant direction of investments will be treated as acting in good faith compliance with a reasonable interpretation of section 105(a)(1)(A)(ii) of ERISA when statements are furnished to participants and beneficiaries on or before the date on which the Form 5500 Annual Return/Report is filed by the plan (but in no event later than the date, including extensions, on which the Annual Return/Report is required to be filed by the plan) for the plan year to which the statement relates.

This guidance supersedes the guidance provided in FAB 2006-03 as it relates to the dates for furnishing pension benefit statements to participants and beneficiaries of individual account plans that do not permit participants and beneficiaries to direct the investment of assets in their individual accounts.

Questions concerning this matter may be directed to Jeff Turner or Suzanne Adelman, at 202-693-8523.