

December 21, 2006

## Diversification Notice and Pension Benefit Statement Guidance

Yesterday the U.S. Department of Labor issued guidance on the Pension Protection Act's diversification notice requirements and pension benefit statement requirements.

### Diversification Notice

Field Assistance Bulletin 2006-3 (the "FAB") provides relief from the initial diversification notice that applies to an individual account retirement plan that included an employer stock fund holding publicly-traded employer securities, provided diversification rights under the plan's terms were at least equal to those provided under the Pension Protection Act. If the plan provided such rights, then a separate standalone notice regarding the Pension Protection Act's diversification rights requirements is not required, provided, the periodic benefit statements are provided and include the diversification notice. The FAB included sample language that can be utilized to fulfill the diversification notice requirement. If you would like a copy of the sample language, you can either access the Field Assistance Bulletin on the U.S. Department of Labor website or contact one of the attorneys listed below.

Plans that are still required to provide a diversification notice must include information regarding the restrictions and rights to direct investments, but such notice does not need to include any limitations or restrictions imposed by the investment funds, other investment vehicles, or by state or federal securities laws.

### New Individual Account Plan Participant Benefit Statements

Individual account plans that provide for participant direction of investments must provide individual participant benefit statements at least once each calendar quarter for those plans with participant investment direction, and annually for plans in which participants do not have the right to direct investments. The individual benefit statement must be provided within 45 days after the end of the quarter. The first quarterly benefit statement is required for the quarter ending March 31, 2007, for a calendar year plan. This notice is required to include an explanation of the importance of diversification. This is the diversification language referenced above.

Benefit statements that are continuously available through a website may meet the quarterly statement requirement provided the participant is notified where to go to get the information and is offered the same information in hard copy, if they prefer.

If you have any questions regarding the foregoing, please feel free to contact one of the attorneys listed below.

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