H. R. 4524

To expand retirement coverage, preserve retirement income, simplify rules related to retirement plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2017

Mr. Neal introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To expand retirement coverage, preserve retirement income, simplify rules related to retirement plans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Retirement Plan Simplification and Enhancement Act of 2017”.

(b) Table of Contents.—The table of contents for this Act is as follows:
Sec. 1. Short title; table of contents.

TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS

Sec. 101. Modification of automatic enrollment safe harbor.
Sec. 102. Secure deferral arrangements.
Sec. 103. Facilitating automatic enrollment.
Sec. 104. Credit for employers with respect to modified safe harbor requirements.
Sec. 105. Qualified cash or deferred arrangements must allow long-term employees working more than 500 but less than 1,000 hours per year to participate.
Sec. 106. Separate application of top heavy rules to defined contribution plans covering part-time employees.
Sec. 107. Opportunity to claim the saver’s credit on form 1040EZ.
Sec. 108. Additional time to adopt a qualified plan.
Sec. 109. Repeal of maximum age for traditional IRA contributions.
Sec. 110. 60-day rollover to inherited individual retirement plan of nonspouse beneficiary.
Sec. 111. Increase in age for required beginning date for mandatory distributions.
Sec. 112. Increase in credit limitation for small employer pension plan startup costs.
Sec. 113. Safe harbor for corrections of employee elective deferral failures.
Sec. 114. Economically targeted investments.
Sec. 115. Small immediate financial incentives for contributing to a plan.

TITLE II—PRESERVATION OF INCOME

Sec. 201. Availability of distribution options.
Sec. 202. Portability of lifetime income and managed account options.
Sec. 203. Qualifying longevity annuity contracts.
Sec. 204. Remove required minimum distribution barriers for life annuities.

TITLE III—SIMPLIFICATION AND CLARIFICATION OF QUALIFIED RETIREMENT PLAN RULES

Sec. 301. Exception from required distributions where aggregate retirement savings do not exceed $250,000.
Sec. 302. Expansion of employee plans compliance resolution system.
Sec. 303. Review and report to the congress relating to reporting and disclosure requirements.
Sec. 304. Consolidation of defined contribution plan notices.
Sec. 305. Performance benchmarks for asset allocation funds.
Sec. 306. Permit nonspousal beneficiaries to roll assets to plans.
Sec. 307. Eliminate the “first day of the month” requirement.
Sec. 308. Office of participant and plan sponsor advocate.
Sec. 309. Simplifying 402(f) notices.
Sec. 310. Guidance related to certain overpayment recoupment practices.
Sec. 311. Rules relating to election of safe harbor 401(k) status.
Sec. 312. Use of forfeitures to fund safe harbor contributions.
Sec. 313. Treatment of custodial accounts on termination of section 403(b) plans.

TITLE IV—DEFINED BENEFIT PLAN REFORMS
Sec. 401. Cash balance.
Sec. 402. Aligning use of lookback months to determine interest rates.
Sec. 403. Aligning employer pension contribution due date with corporate return due date.
Sec. 404. Clarification of the role of the Participant and Plan Sponsor Advocate.

**TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS**

SEC. 101. MODIFICATION OF AUTOMATIC ENROLLMENT SAFE HARBOR.

(a) In General.—

(1) Removal of 10-percent cap.—Clause (iii) of section 401(k)(13)(C) of the Internal Revenue Code of 1986 is amended by striking “, does not exceed 10 percent, and is at least” and inserting “and is”.

(2) Conforming Amendments.—

(A) Subclause (I) of section 401(k)(13)(C)(iii) is amended by striking “3 percent” and inserting “at least 3 percent, but not greater than 10 percent,”.

(B) Subclause (II) of section 401(k)(13)(C)(iii) is amended by striking “4 percent” and inserting “at least 4 percent”.

(C) Subclause (III) of section 401(k)(13)(C)(iii) is amended by striking “5 percent” and inserting “at least 5 percent”.

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(D) Subclause (IV) of section 401(k)(13)(C)(iii) is amended by striking “6 percent” and inserting “at least 6 percent”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of enactment of this Act.

SEC. 102. SECURE DEFERRAL ARRANGEMENTS.

(a) IN GENERAL.—Subsection (k) of section 401 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(14) ALTERNATIVE METHOD FOR SECURE DEFERRAL ARRANGEMENTS TO MEET NONDISCRIMINATION REQUIREMENTS.—

“(A) IN GENERAL.—A secure deferral arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii).

“(B) SECURE DEFERRAL ARRANGEMENT.—For purposes of this paragraph, the term ‘secure deferral arrangement’ means any cash or deferred arrangement which meets the requirements of subparagraphs (C), (D), and (E) of paragraph (13), except as modified by this paragraph.

“(C) QUALIFIED PERCENTAGE.—For purposes of this paragraph, with respect to any
employee, the term ‘qualified percentage’
means, in lieu of the meaning given such term
in paragraph (13)(C)(iii), any percentage deter-
mined under the arrangement if such percent-
age is applied uniformly and is—

“(i) at least 6 percent, but not greater
than 10 percent, during the period ending
on the last day of the first plan year which
begins after the date on which the first
elective contribution described in para-
graph (13)(C)(i) is made with respect to
such employee,

“(ii) at least 7 percent during the
first plan year following the plan year de-
scribed in clause (i),

“(iii) at least 8 percent during the
second plan year following the plan year
described in clause (i),

“(iv) at least 9 percent during the
thirds plan year following the plan year de-
scribed in clause (i), and

“(v) at least 10 percent during any
subsequent plan year.

“(D) MATCHING CONTRIBUTIONS.—
“(i) IN GENERAL.—For purposes of this paragraph, an arrangement shall be treated as having met the requirements of paragraph (13)(D)(i) if and only if the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to the sum of—

“(I) 100 percent of the elective contributions of the employee to the extent that such contributions do not exceed 1 percent of compensation,

“(II) 50 percent of so much of such contributions as exceed 1 percent but do not exceed 6 percent of compensation, plus

“(III) 25 percent of so much of such contributions as exceed 6 percent but do not exceed 10 percent of compensation.

“(ii) APPLICATION OF RULES FOR MATCHING CONTRIBUTIONS.—The rules of clause (ii) of paragraph (12)(B) and clauses (iii) and (iv) of paragraph (13)(D) shall apply for purposes of clause (i) but
the rule of clause (iii) of paragraph (12)(B) shall not apply for such purposes. The rate of matching contribution for each incremental deferral must be at least as high as the rate specified in clause (i), and may be higher, so long as such rate does not increase as an employee’s rate of elective contributions increases.”.

(b) Matching Contributions and Employee Contributions.—Subsection (m) of section 401 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (13) as paragraph (14) and by inserting after paragraph (12) the following new paragraph:

“(13) Alternative Method for Secure Deferral Arrangements.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions and employee contributions if the plan—

“(A) is a secure deferral arrangement (as defined in subsection (k)(14)),

“(B) meets the requirements of clauses (ii) and (iii) of paragraph (11)(B), and

“(C) provides that matching contributions on behalf of any employee may not be made with respect to an employee’s contributions or
elective deferrals in excess of 10 percent of the
employee’s compensation.”.

(c) CONFORMING AMENDMENT.—Subparagraph (H)
of section 416(g)(4) of the Internal Revenue Code of 1986
is amended—

(1) in clause (i), by striking “section
401(k)(12) or 401(k)(13)” and inserting “paragraph
(12), (13), or (14) of section 401(k)”, and

(2) in clause (ii), by striking “section
401(m)(11) or 401(m)(12)” and inserting “para-
graph (11), (12), or (13) of section 401(m)”.

(d) EFFECTIVE DATE.—The amendments made by
this section shall apply to plan years beginning after De-

SEC. 103. FACILITATING AUTOMATIC ENROLLMENT.

The Secretary of the Treasury shall promulgate regu-
lations or other guidance that—

(1) simplify and clarify the rules regarding the
timing of participant notices required under section
401(k)(13)(E) of the Internal Revenue Code of
1986, with specific application to—

(A) plans that allow employees to be eligi-
ble for participation immediately upon begin-
ing employment; and
(B) employers with multiple payroll and administrative systems; and

(2) simplify and clarify the automatic escalation rules under sections 401(k)(13)(C)(iii) and 401(k)(14)(C) of the Internal Revenue Code of 1986 in the context of employers with multiple payroll and administrative systems.

Such regulations or guidance shall address the particular case of employees within the same plan who are subject to different notice timing and different percentage requirements, and provide assistance for plan sponsors in managing such cases.

SEC. 104. CREDIT FOR EMPLOYERS WITH RESPECT TO MODIFIED SAFE HARBOR REQUIREMENTS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 45S. CREDIT FOR SMALL EMPLOYERS WITH RESPECT TO MODIFIED SAFE HARBOR REQUIREMENTS FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS.

“(a) General Rule.—For purposes of section 38, in the case of a small employer, the safe harbor adoption credit determined under this section for any taxable year
is the amount equal to the total of the employer’s matching contributions under section 401(k)(14)(D) during the taxable year on behalf of employees who are not highly compensated employees, subject to the limitations of subsection (b).

“(b) LIMITATIONS.—

“(1) LIMITATION WITH RESPECT TO COMPENSATION.—The credit determined under subsection (a) with respect to contributions made on behalf of an employee who is not a highly compensated employee shall not exceed 2 percent of the compensation of such employee for the taxable year.

“(2) LIMITATION WITH RESPECT TO YEARS OF PARTICIPATION.—Credit shall be determined under subsection (a) with respect to contributions made on behalf of an employee who is not a highly compensated employee only during the first 5 years such employee participates in the qualified automatic contribution arrangement.

“(c) DEFINITIONS.—

“(1) IN GENERAL.—Any term used in this section which is also used in section 401(k)(14) shall have the same meaning as when used in such section.
“(2) SMALL EMPLOYER.—The term ‘small employer’ means an eligible employer (as defined in section 408(p)(2)(C)(i)).

“(d) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowable under this title for any contribution with respect to which a credit is allowed under this section.”.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 is amended by striking “plus” at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting “, plus”, and by adding at the end the following new paragraph:

“(37) the safe harbor adoption credit determined under section 45S.”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after the item relating to section 45R the following new item:

“Sec. 45S. Credit for small employers with respect to modified safe harbor requirements for automatic contribution arrangements.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years that include any portion of a plan year beginning after December 31, 2017.
SEC. 105. QUALIFIED CASH OR DEFERRED ARRANGEMENTS

MUST ALLOW LONG-TERM EMPLOYEES WORKING MORE THAN 500 BUT LESS THAN 1,000 HOURS PER YEAR TO PARTICIPATE.

(a) Participation Requirement.—

(1) In general.—Subparagraph (D) of section 401(k)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

“(D) which does not require, as a condition of participation in the arrangement, that an employee complete a period of service with the employer (or employers) maintaining the plan extending beyond the close of the earlier of—

“(i) the period permitted under section 410(a)(1) (determined without regard to subparagraph (B)(i) thereof), or

“(ii) subject to the provisions of paragraph (14), the first period of 3 consecutive 12-month periods during each of which the employee has at least 500 hours of service.”.

(2) Special rules.—Section 401(k) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:
“(15) Special rules for participation requirement for long-term, part-time workers.—For purposes of paragraph (2)(D)(ii)—

“(A) Age requirement must be met.—Paragraph (2)(D)(ii) shall not apply to an employee unless the employee has met the requirement of section 410(a)(1)(A)(i) by the close of the last of the 12-month periods described in such paragraph.

“(B) Nondiscrimination and top-heavy rules not to apply.—

“(i) Nondiscrimination rules.—In the case of employees who are eligible to participate in the arrangement solely by reason of paragraph (2)(D)(ii)—

“(I) notwithstanding subsection (a)(4), an employer shall not be required to make nonelective or matching contributions on behalf of such employees even if such contributions are made on behalf of other employees eligible to participate in the arrangement, and

“(II) an employer may elect to exclude such employees from the ap-
application of subsection (a)(4), paragraph (3), subsection (m)(2), and section 410(b).

“(ii) Top-heavy rules.—An employer may elect to exclude all employees who are eligible to participate in a plan maintained by the employer solely by reason of paragraph (2)(D)(ii) from the application of the vesting and benefit requirements under subsections (b) and (c) of section 416.

“(iii) Vesting.—For purposes of determining whether an employee described in clause (i) has a nonforfeitable right to employer contributions (other than contributions described in paragraph (3)(D)(i)) under the arrangement, each 12-month period for which the employee has at least 500 hours of service shall be treated as a year of service.

“(iv) Employees who become full-time employees.—This subparagraph shall cease to apply to any employee as of the first plan year beginning after the plan year in which the employee meets
the requirements of section 410(a)(1)(A)(ii) without regard to paragraph (2)(D)(ii).

“(C) Exception for Employees Under Collectively Bargained Plans, Etc.—Paragraph (2)(D)(ii) shall not apply to employees described in section 410(b)(3).

“(D) Special Rules.—

“(i) Time of Participation.—The rules of section 410(a)(4) shall apply to an employee eligible to participate in an arrangement solely by reason of paragraph (2)(D)(ii).

“(ii) 12-Month Periods.—12-month periods shall be determined in the same manner as under the last sentence of section 410(a)(3)(A).”.

(b) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2017, except that, for purposes of section 401(k)(2)(D)(ii) of the Internal Revenue Code of 1986 (as added by such amendments), 12-month periods beginning before January 1, 2018, shall not be taken into account.
SEC. 106. SEPARATE APPLICATION OF TOP HEAVY RULES TO DEFINED CONTRIBUTION PLANS COVERING PART-TIME EMPLOYEES.

(a) In General.—Paragraph (2) of section 416(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(C) Separate application to employees not meeting age and service requirements.—If employees not meeting the age or service requirements of section 410(a)(1) (without regard to subparagraph (B) thereof) are covered under a plan of the employer which meets the requirements of paragraphs (A) and (B) separately with respect to such employees, such employees may be excluded from consideration in determining whether any plan of the employer meets the requirements of subparagraphs (A) and (B).”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 107. OPPORTUNITY TO CLAIM THE SAVER’S CREDIT ON FORM 1040EZ.

The Secretary of the Treasury shall modify the forms for the return of tax of individuals in order to allow individuals claiming the credit under section 25B of the Inter-
nal Revenue Code of 1986 to file (and claim such credit on) Form 1040EZ.

SEC. 108. ADDITIONAL TIME TO ADOPT A QUALIFIED PLAN.

(a) In General.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (37) the following new paragraph:

“(38) The adoption of a plan by the applicable date shall not cause a plan to fail to meet the requirements of this section for a plan year. For purposes of the preceding sentence, the term ‘applicable date’ means the due date (including extensions) for filing the Federal income tax return for the employer’s taxable year in which ends the plan year for which the plan is effective. An employer may elect to have a plan adopted in accordance with this paragraph be treated as established by the end of the employer’s taxable year for purposes of applying section 404(a).”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to years beginning after December 31, 2017.

SEC. 109. REPEAL OF MAXIMUM AGE FOR TRADITIONAL IRA CONTRIBUTIONS.

(a) In General.—Paragraph (1) of section 219(d) of the Internal Revenue Code of 1986 is repealed.
(b) CONFORMING AMENDMENT.—Subsection (c) of section 408A of the Internal Revenue Code of 1986 is amended by striking paragraph (4) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made for taxable years beginning after December 31, 2017.

SEC. 110. 60-DAY ROLLOVER TO INHERITED INDIVIDUAL RETIREMENT PLAN OF NONSPOUSE BENEFICIARY.

(a) IN GENERAL.—Section 402(c)(11) of the Internal Revenue Code of 1986 is amended by redesignating sub-subparagraph (B) as subparagraph (C) and by striking sub-subparagraph (A) and inserting the following:

“(A) IN GENERAL.—If—

“(i) any portion of a distribution attributable to an employee is paid after the death of the employee to an individual who is a designated beneficiary (as defined by section 401(a)(9)(E)) of the employee and who is not the surviving spouse of the employee, and

“(ii) such portion is transferred or paid to an individual retirement plan in a
transfer or payment meeting the requirements of subparagraph (B),

the preceding provisions of this subsection shall apply to such distribution in the same manner as if the designated beneficiary were the employee.

“(B) REQUIREMENTS FOR TRANSFER OF DISTRIBUTION.—The requirements of this subparagraph are met with respect to the portion of any distribution if—

“(i) such portion is transferred or paid to an individual retirement plan described in clause (i) or (ii) of paragraph (8)(B) established for the purposes of receiving the distribution on behalf of the designated beneficiary,

“(ii) such individual retirement plan is established as an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)), whichever is applicable, and

“(iii) notice is provided to the trustee, insurance company, or other provider of the individual retirement plan that such individual retirement plan is being estab-
lished as an inherited individual retirement account or individual retirement annuity.

Section 401(a)(9)(B) (other than clause (iv) thereof) shall apply to such individual retirement plan.”.

(b) Rollover Treatment for Inherited Accounts.—Section 408(d)(3)(C) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(iii) Exception for Qualified Transfers to Another Inherited Account.—Clause (i) shall not apply to any portion of a distribution out of an inherited individual retirement account or inherited individual retirement annuity if such portion is paid to another such individual retirement plan or annuity but only if the requirements of subparagraphs (A), (B), and (E) of this paragraph, and the requirements of section 402(c)(11)(B), are met with respect to such transfer or payment.”.

(e) Effective Date.—The amendments made by this section shall apply to distributions made after December 31, 2017.
SEC. 111. INCREASE IN AGE FOR REQUIRED BEGINNING DATE FOR MANDATORY DISTRIBUTIONS.

(a) Increase in age for required beginning date.—

(1) In general.—Subclause (I) of section 401(a)(9)(C)(i) of the Internal Revenue Code of 1986 is amended to read as follows:

“(I) the first calendar year in which the employee attains the applicable age for such calendar year, or”.

(2) Special rule for owners.—Subclause (I) of section 401(a)(9)(C)(ii) of such Code is amended by striking “in which the employee attains age 70 1⁄2” and inserting “described in clause (i)(I) with respect to the employee”.

(b) Mandatory distribution age.—Paragraph (9) of section 401(a) of the Internal Revenue Code of 1986 is amended by inserting at the end the following new subparagraph:

“(H) Applicable age.—For purposes of this paragraph—

“(i) In general.—The applicable age is—

“(I) for calendar years before 2019, age 70 1⁄2,
“(II) for calendar years 2019, 2020, 2021, 2022, and 2023, age 71,

“(III) for calendar years 2024, 2025, 2026, 2027, and 2028, age 72,

“(IV) for calendar year 2029, age 73, and

“(V) for calendar years after 2029, the age as adjusted under clause (ii).

“(ii) ADJUSTMENT.—The Secretary shall adjust the age under clause (i)(IV) for calendar year 2030 and each succeeding calendar year in a manner proportional to increases in the life expectancy of an individual who attained age 73 in the calendar year preceding the calendar year for which the adjustment is being made as compared to the life expectancy of an individual who attained age 73 in 2028. The applicable age for any calendar year as adjusted under this clause—

“(I) shall be applicable only with respect to employees whose required beginning date has not occurred as of
December 31 of the year preceding such year, and

“(II) shall be rounded to the next lowest whole number.

“(iii) LIFE EXPECTANCIES.—The life expectancies under clause (ii) shall be determined on a unisex basis in accordance with life expectancies underlying the tables described in section 430(h)(3)(A).”.

(c) Spouse Beneficiaries.—Subclause (I) of section 401(a)(9)(B)(iv) of the Internal Revenue Code of 1986 is amended by striking “age 70½” and inserting “the applicable age”.

(d) Conforming Amendment.—Subsection (b) of section 408 of such Code is amended by striking “age 70½” and inserting “the applicable age determined under section 401(a)(9)(H) with respect to such individual”.

(e) Effective Date.—The amendments made by this section shall apply to calendar years beginning after December 31, 2017.

SEC. 112. INCREASE IN CREDIT LIMITATION FOR SMALL EMPLOYER PENSION PLAN STARTUP COSTS.

(a) In General.—Paragraph (1) of section 45E(b) of the Internal Revenue Code of 1986 is amended to read as follows:
“(1) for the first credit year and each of the 4 taxable years immediately following the first credit year, the greater of—

“(A) $500, or

“(B) the lesser of—

“(i) $250 for each employee of the eligible employer who is not a highly compensated employee (as defined in section 415(q)) and who is eligible to participate in the eligible employer plan maintained by the eligible employer, or

“(ii) $5,000, and”.

(b) Special Rule for Employers With 25 or Fewer Employees.—Subsection (a) of section 45E of such Code is amended by inserting before the period at the end the following: “(100 percent of such costs in the case of an eligible employer with 25 or fewer employees, as determined by substituting ‘25’ for ‘100’ in section 408(p)(2)(C)(i))”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2017.
SEC. 113. SAFE HARBOR FOR CORRECTIONS OF EMPLOYEE ELECTIVE DEFERRAL FAILURES.

(a) In General.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(aa) Correcting Automatic Contribution Errors.—

“(1) In General.—Any plan or arrangement shall not fail to satisfy any requirement of this subchapter or section 457 solely by reason of a corrected error.

“(2) Corrected Error Defined.—For purposes of this subsection, the term ‘corrected error’ means a reasonable administrative error in implementing an automatic enrollment or automatic escalation feature in accordance with the terms of an eligible automatic contribution arrangement (as defined under subsection (w)(3)), provided that the implementation failure is corrected by the date that is 9½ months after the end of the plan year during which the failure occurred. Such correction may occur before or after the participant has terminated employment and may occur without regard to whether the error is identified by the Secretary.”.

(b) Effective Date.—The amendment made by this Act shall apply with respect to any errors with respect
to which the date referred to in section 414(aa) (as added by this section) is after the date of enactment of this Act.

SEC. 114. ECONOMICALLY TARGETED INVESTMENTS.

Subsection (a) of section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new paragraph:

“(3) A fiduciary shall not fail to satisfy the requirements of this subsection solely by reason of taking into account economic, social, and governance factors in connection with an investment or investment strategy, but only if the fiduciary prudently determines the investment is appropriate based solely on economic considerations, including those derived from such factors.”.

SEC. 115. SMALL IMMEDIATE FINANCIAL INCENTIVES FOR CONTRIBUTING TO A PLAN.

(a) In General.—Subparagraph (A) of section 401(k)(4) of the Internal Revenue Code of 1986 is amended by inserting “(other than a de minimus financial incentive)” after “any other benefit”.

(b) Effective Date.—The amendments made by this section shall apply with respect to taxable years beginning after the date of enactment of this Act.
TITLE II—PRESERVATION OF INCOME

SEC. 201. AVAILABILITY OF DISTRIBUTION OPTIONS.

(a) LIFETIME INCOME INVESTMENTS.—By the date that is one year after the date of enactment of this Act, the Secretary of the Treasury shall issue final regulations under which it is clarified that any specified age or service condition (or combination of age and service conditions) with respect to a lifetime income investment (as defined in section 401(a)(38)(B)(ii)) under a defined contribution plan shall be disregarded in determining whether such lifetime income investment is currently available to an employee for purposes of Treasury Regulation section 1.401(a)(4)–4(b) (or any successor provision).

(b) ENFORCEMENT.—As of the date of enactment of this Act, the Secretary of the Treasury shall administer and enforce the law in accordance with subsection (a) with respect to plan years beginning before, on, or after the date of enactment of this Act.

(c) EFFECTIVE DATE.—This section shall take effect as of the date of enactment of this Act.
SEC. 202. PORTABILITY OF LIFETIME INCOME AND MANAGED ACCOUNT OPTIONS.

(a) In General.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (37) the following new paragraph:

“(38) Portability of Lifetime Income and Managed Account Options.—

“(A) In General.—A trust forming part of a defined contribution plan shall not be treated as failing to constitute a qualified trust under this section solely by reason of allowing—

“(i) qualified distributions of a lifetime income investment or a managed account investment, or

“(ii) distributions of a lifetime income investment in the form of a qualified plan distribution annuity contract,

on or after the date that is 90 days prior to the date on which such lifetime income investment or such managed account investment is no longer authorized to be held as an investment option under the plan except as may otherwise be provided by regulations.

“(B) Definitions.—For purposes of this subsection—
“(i) the term ‘qualified distribution’ means a direct trustee-to-trustee transfer to an eligible retirement plan (as defined in section 402(c)(8)(B)), as described in section 401(a)(31)(A), and in the case of a managed account investment, the eligible retirement plan must be maintained by the account manager of such managed account investment,

“(ii) the term ‘lifetime income investment’ means an investment option that is designed to provide an employee with election rights—

“(I) that are not uniformly available with respect to other investment options under the plan, and

“(II) that are to a lifetime income feature available through a contract or other arrangement offered under the plan or under another eligible retirement plan (as defined in section 402(c)(8)(B)) through a direct trustee-to-trustee transfer to such other eligible retirement plan under section 401(a)(31)(A),
“(iii) the term ‘lifetime income feature’ means—

“(I) a feature that guarantees a minimum level of income annually (or more frequently) for at least the remainder of the life of the employee or the joint lives of the employee and the employee’s designated beneficiary, or

“(II) an annuity payable on behalf of the employee under which payments are made in substantially equal periodic payments (not less frequently than annually) over the life of the employee or the joint lives of the employee and the employee’s designated beneficiary,

“(iv) the term ‘qualified plan distribution annuity contract’ means an annuity contract purchased for a participant and distributed to the participant by a plan described in subparagraph (B) of section 402(c)(8) (without regard to clauses (i) and (ii) thereof),

“(v) the term ‘managed account investment’ means an investment option
under which the assets of the employee’s individual account are managed by an account manager, applying generally accepted investment theories, to achieve varying degrees of long-term appreciation and capital preservation based on the employee’s age, target retirement date or life expectancy,

“(vi) the term ‘account manager’ means an investment manager (within the meaning of section 3(38) of the Employee Retirement Income Security Act), and

“(vii) a lifetime income investment or managed account investment is treated as no longer authorized to be held as an investment under the plan if such treatment applies to all plan participants or to a class of such participants, as determined in any reasonable manner.”.

(b) CASH OR DEFERRED ARRANGEMENT.—Clause (i) of section 401(k)(2)(B) of such Code is amended by striking “or” at the end of subclause (IV), by striking “and” at the end of subclause (V) and inserting “or”, and by adding at the end of clause (i) the following:
“(VI) with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii)) or a managed account investment (as defined in section 401(a)(38)(B)(v)), the date that is 90 days prior to the date that such lifetime income investment or such managed account investment may no longer be held as an investment option under the plan (within the meaning of section 401(a)(38)(B)(vii)), provided that any distribution under this subclause must be in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or, in the case of a lifetime income investment, a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)), and’.”

(c) Section 403(b) Plans.—

(1) Annuity Contracts.—Paragraph (11) of section 403(b) of such Code is amended by striking “or” at the end of subparagraph (B), by striking the period at the end of subparagraph (C), and by in-
serting ‘‘, or’’, and by adding at the end the fol-
lowing:

“(D) with respect to amounts invested in a
lifetime income investment (as defined in sec-
section 401(a)(38)(B)(ii)) or a managed account
investment (as defined in section
401(a)(38)(B)(v)), the date that is 90 days
prior to the date that such lifetime income in-
vestment or such managed account investment
may no longer be held as an investment option
under the plan (within the meaning of section
401(a)(38)(B)(vii)), provided that any distribu-
tion under this subparagraph must be in the
form of a qualified distribution (as defined in
section 401(a)(38)(B)(i)) or, in the case of a
lifetime income investment, a qualified plan dis-
tribution annuity contract (as defined in section
401(a)(38)(B)(iv)).”.

(2) CUSTODIAL ACCOUNTS.—Clause (ii) of sec-
tion 403(b)(7)(A) of such Code is amended to read
as follows:

“(ii) under the custodial account, no
such amounts may be paid or made avail-
able to any distributee (unless such
amount is a distribution to which section
72(t)(2)(G) applies) before—

“(I) the employee dies,

“(II) the employee attains age
59½,

“(III) the employee has a sever-
ance from employment,

“(IV) the employee becomes dis-
abled (within the meaning of section
72(m)(7)),

“(V) in the case of contributions
made pursuant to a salary reduction
agreement (within the meaning of sec-
tion 3121(a)(5)(D)), the employee en-
counters financial hardship, or

“(VI) with respect to amounts in-
vested in a lifetime income investment
(as defined in section
401(a)(38)(B)(ii)) or a managed ac-
count investment (as defined in sec-
tion 401(a)(38)(B)(v)), the date that
is 90 days prior to the date that such
lifetime income investment or such
managed account investment may no
longer be held as an investment option
under the plan (within the meaning of section 401(a)(38)(B)(vii)), provided that any distribution under this subparagraph must be in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or, in the case of a lifetime income investment, a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)).”.

(d) **Eligible Deferred Compensation Plans.**—

Subparagraph (A) of section 457(d)(1) of such Code is amended by striking “or” at the end of clause (ii), by inserting “or” at the end of clause (iii), and by adding after clause (iii) the following:

“(iv) with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii)) or a managed account investment (as defined in section 401(a)(38)(B)(v)), the date that is 90 days prior to the date that such lifetime income investment or such managed account investment may no longer be held as an investment option under the plan (within the meaning of section 401(a)(38)(B)(vii)),

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provided that any distribution under this subparagraph must be in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or, in the case of a lifetime income investment, a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)),”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2017.

SEC. 203. QUALIFYING LONGEVITY ANNUITY CONTRACTS.

(a) IN GENERAL.—By the date that is one year after the date of enactment of this Act, the Secretary of the Treasury shall amend the regulation issued by the Department of the Treasury relating to “Longevity Annuity Contracts” 79 Fed. Reg. 37633 (July 2, 2014), as follows:

(1) REPEAL 25-PERCENT PREMIUM LIMIT.—The Secretary shall amend Q&A–17(b)(3) of 26 C.F.R. section 1.401(a)(9)–6 and Q&A–12(b)(3) of 26 C.F.R. section 1.408–8 to eliminate the requirement that premiums for qualifying longevity annuity contracts be limited to 25 percent of an individual’s account balance, and to make such corresponding changes to the regulations and related forms as necessary to reflect the elimination of this requirement.
(2) INCREASE DOLLAR LIMITATION.—

(A) The Secretary shall amend Q&A–17(b)(2)(i) of 26 C.F.R. section 1.401(a)(9)–6 and Q&A–12(b)(2)(i) of 26 C.F.R. section 1.408–8 to increase the dollar limitation on premiums for qualifying longevity annuity contracts from $125,000 to $200,000, and to make such corresponding changes to the regulations and related forms as necessary to reflect this increase in the dollar limitation.

(B) The Secretary shall amend Q&A–17(d)(2)(i) of 26 C.F.R. section 1.401(a)(9)–6 to provide that, in the case of calendar years beginning on or after January 1 of the second year following the year of enactment of this Act, the $200,000 dollar limitation (as increased by subparagraph (A)) will be adjusted at the same time and in the same manner as the limits are adjusted under section 415(d) of the Internal Revenue Code of 1986, except that the base period shall be the calendar quarter beginning July 1 of the year of enactment of this Act, and any increase to such dollar limitation that is not a multiple of $10,000 will be rounded to the next lowest multiple of $10,000.
(3) FACILITATE JOINT AND SURVIVOR BENEFITS.—The Secretary shall amend Q&A–17(e) of 26 C.F.R. section 1.401(a)(9)–6, and make such corresponding changes to the regulations and related forms as necessary, to provide that in the case of a qualifying longevity annuity contract that was purchased with joint and survivor annuity benefits for the individual and his or her spouse that were permissible under the regulations at the time the contract was originally purchased, a divorce occurring after the original purchase and before the annuity payments commence under the contract will not affect the permissibility of the joint and survivor annuity benefits or other benefits under the contract, or require any adjustment to the amount or duration of benefits payable under the contract, provided that a qualified domestic relations order (within the meaning of section 414(p) of the Internal Revenue Code of 1986) or a divorce or separation instrument (within the meaning of section 71(b)(2) of the Internal Revenue Code of 1986)—

(A) provides that the former spouse is entitled to the survivor benefits under the contract;
(B) does not modify the treatment of the former spouse as the beneficiary under the contract who is entitled to the survivor benefits; or

(C) does not modify the treatment of the former spouse as the measuring life for the survivor benefits under the contract.

(b) **Effective Dates, Enforcement, and Interpretations.**—

(1) **Effective dates.**—

(A) Paragraphs (1) and (2) of subsection (a) shall be effective with respect to contracts purchased or received in an exchange on or after the date of enactment of this Act.

(B) Paragraph (3) of subsection (a) shall be effective with respect to contracts purchased or received in an exchange on or after July 2, 2014.

(2) **Enforcement and Interpretations.**—

Prior to the date that the Secretary of the Treasury issues final regulations pursuant to subsection (a)—

(A) the Secretary shall administer and enforce the law in accordance with subsection (a) and the effective dates in paragraph (1) of this subsection; and
(B) taxpayers may rely upon their reason-
able good faith interpretations of subsection (a).

SEC. 204. REMOVE REQUIRED MINIMUM DISTRIBUTION
BARRIERS FOR LIFE ANNUITIES.

(a) IN GENERAL.—Paragraph (9) of section 401(a)
of the Internal Revenue Code of 1986, as amended by sec-
tion 111 of this Act, is further amended by adding at the
end the following new subparagraph:

“(I) CERTAIN INCREASES IN PAYMENTS
UNDER A COMMERCIAL ANNUITY.—Nothing in
this section shall prohibit a commercial annuity
(within the meaning of section 3405(c)(6)) that
is issued in connection with any eligible retire-
ment plan (within the meaning of section
402(c)(8)(B)) from providing one or more of
the following types of payments on or after the
annuity starting date:

“(i) annuity payments that increase
by a constant percentage, applied not less
frequently than annually, at a rate that is
less than 5 percent per year,

“(ii) a lump sum payment that—

“(I) results in a shortening of the
payment period with respect to an an-
nuity or a full or partial commutation

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of the future annuity payments, provided that such lump sum is determined using reasonable actuarial methods and assumptions, as determined in good faith by the issuer of the contract, or

“(II) accelerates the receipt of annuity payments that are scheduled to be received within the ensuing 12 months, regardless of whether such acceleration shortens the payment period with respect to the annuity, reduces the dollar amount of benefits to be paid under the contract, or results in a suspension of annuity payments during the period being accelerated,

“(iii) an amount which is in the nature of a dividend or similar distribution, provided that the issuer of the contract determines such amount based on a reasonable comparison of the actuarial factors assumed when calculating the initial annuity payments and the issuer’s experience with respect to those factors, or
“(iv) a final payment upon death that does not exceed the excess of the total amount of the consideration paid for the annuity payments, less the aggregate amount of prior distributions or payments from or under the contract.”.

(b) REGULATIONS AND ENFORCEMENT.—

(1) REGULATIONS.—By the date that is one year after the date of enactment of this Act, the Secretary of the Treasury shall amend the regulation issued by the Department of the Treasury relating to “Required Distributions from Retirement Plans,” 69 Fed. Reg. 33288 (June 15, 2004), and make any corresponding amendments to other regulations, in order to—

(A) conform such regulations to subsection (a), including by eliminating the types of payments described in subsection (a) from the scope of the requirement in Q&A–14(c) of 26 C.F.R. section 1.401(a)(9)–6 that the total future expected payments must exceed the total value being annuitized;

(B) amend Q&A–14(c) of 26 C.F.R. section 1.401(a)(9)–6 to provide that a commercial annuity that provides an initial payment that is
at least equal to the initial payment that would be required from an individual account pursuant to 26 C.F.R. section 1.401(a)(9)–5 will be deemed to satisfy the requirement in Q&A–14(c) of 26 C.F.R. section 1.401(a)(9)–6 that the total future expected payments must exceed the total value being annuitized; and

(C) amend Q&A–14(e)(3) of 26 C.F.R. section 1.401(a)(9)–6 to provide that the total future expected payments under a commercial annuity are determined using the tables or other actuarial assumptions that the issuer of the contract actually uses in pricing the premiums and benefits with respect to the contract, provided that such tables or other actuarial assumptions are reasonable.

(2) ENFORCEMENT.—As of the date of enactment of this Act, the Secretary of the Treasury shall administer and enforce the law in accordance with subsections (a) and (b) with respect to taxable years beginning before, on, or after the date of enactment of this Act.

(e) EFFECTIVE DATE.—This section shall take effect as of the date of enactment of this Act.
TITLE III—SIMPLIFICATION AND
CLARIFICATION OF QUALIFIED RETIREMENT PLAN
RULES

SEC. 301. EXCEPTION FROM REQUIRED DISTRIBUTIONS
WHERE AGGREGATE RETIREMENT SAVINGS
DO NOT EXCEED $250,000.

(a) IN GENERAL.—Section 401(a)(9) of the Internal
Revenue Code of 1986, as amended by sections 111 and
204, is further amended by adding at the end the following
new subparagraph:

“(J) EXCEPTION FROM REQUIRED MINIMUM DISTRIBUTIONS DURING LIFE OF EMPLOYEE OR BENEFICIARY WHERE ASSETS DO NOT EXCEED $250,000.—

“(i) IN GENERAL.—If, as of a measurement date, the aggregate value of the entire interest of an employee under all applicable eligible retirement plans does not exceed $250,000, then, during any succeeding calendar year beginning before the next measurement date—

“(I) the requirements of subparagraph (A) shall not apply to the employee, and
“(II) the requirements of subparagraph (B) shall not apply to the employee’s designated beneficiary with respect to the designated beneficiary’s interest in the interest of the deceased employee.

“(ii) Applicable Eligible Retirement Plan.—For purposes of this subparagraph, the term ‘applicable eligible retirement plan’ means an eligible retirement plan (as defined in section 402(c)(8)(B)) and any other plan, contract, or arrangement to which the requirements of this paragraph apply.

“(iii) Special Rule for Benefits Paid as a Life Annuity from Defined Benefit Plan.—In determining the aggregate value under clause (i), there shall not be taken into account the value of any benefits under a defined benefit plan that, on the measurement date, are being paid as a life annuity.

“(iv) Measurement Date.—

“(I) Initial Measurement Dates.—The initial measurement
date for an employee is the last day of
the calendar year preceding the earlier
of—

“(aa) the calendar year in
which the employee attains the
applicable age, or

“(bb) the calendar year in
which the employee dies.

“(II) Subsequent Measurement Dates.—If, in a calendar year,
an employee to whom subparagraph
(A) or (B) does not apply by reason
of clause (i) receives contributions,
rollovers, or transfers of amounts, or
accrues additional benefits under a
defined benefit plan, that were not
previously taken into account in ap-
plying this subparagraph, then the
last day of that calendar year shall be
a new measurement date and a new
determination shall be made as to
whether clause (i) applies to such em-
ployee.

“(v) Determination of Value.—
For purposes of this subparagraph—
“(I) IN GENERAL.—Except as provided in subclause (II), the value of an employee’s interest in a plan is the account balance of such plan.

“(II) DEFINED BENEFIT PLANS.—The value of defined benefit plan benefits shall be determined in accordance with the applicable interest rate and applicable mortality rate assumptions under section 417(e), except that the value shall be equal to the amount of the single sum payment payable to the extent available under the plan.

“(vi) PHASE-OUT OF EXCEPTION.—In the case of an employee whose aggregate balance described in clause (i) as of a measurement date exceeds the dollar amount in effect under such clause by less than $10,000, the required distributions under this paragraph for calendar years beginning after such measurement date and before the next measurement date shall be equal to the amount which bears the same ratio to the required distributions
otherwise determined under this paragraph
as—

“(I) the amount by which such
aggregate balance exceeds such dollar
amount so in effect, bears to

“(II) $10,000.

“(vii) COST OF LIVING ADJUST-
MENTS.—The Secretary shall adjust annu-
ally the $250,000 amount specified in
clause (i) for increases in the cost-of-living
at the same time and in the same manner
as adjustments under section 415(d); ex-
cept that the base period shall be the cal-
endar quarter beginning July 1, 2017, and
any increase which is not a multiple of
$5,000 shall be rounded to the next lowest
multiple of $5,000.”.

(b) EFFECTIVE DATE.—The amendment made by
this section shall apply to initial measurement dates occur-
ing on or after December 31, 2017.

SEC. 302. EXPANSION OF EMPLOYEE PLANS COMPLIANCE
RESOLUTION SYSTEM.

(a) IN GENERAL.—Not later than one year after the
date of the enactment of this Act, the Secretary of the
Treasury shall modify the Employee Plans Compliance
Resolution System (as described in Revenue Procedure 2016–51 or any successor guidance) to achieve the results specified in the succeeding subsections of this section and to further facilitate corrections and compliance in such other means as the Secretary deems appropriate.

(b) Loan Error.—

(1) In the case of plan loan errors for which corrections are specified under the voluntary compliance program, self-correction shall be made available by methods applicable to such loans through the voluntary compliance program.

(2) The Secretary of Labor shall treat any loan error corrected pursuant to paragraph (1) as meeting the requirements of the Voluntary Fiduciary Correction Program of the Department of Labor.

(e) EPCRS for IRAs.—The Secretary of the Treasury shall expand the Employee Plans Compliance Resolution System to allow custodians of individual retirement plans to address inadvertent errors for which the owner of an individual retirement plan was not at fault, including (but not limited to)—

(1) waivers of the excise tax that would otherwise apply under section 4974 of the Internal Revenue Code of 1986;
(2) under the self-correction component of the Employee Plans Compliance Resolution System, waivers of the 60-day deadline for a rollover where the deadline is missed for reasons beyond the reasonable control of the account owner; and

(3) rules permitting a nonspouse beneficiary to return distributions to an inherited individual retirement plan described in section 408(d)(3)(C) of the Internal Revenue Code of 1986 in a case where, due to an inadvertent error by a service provider, the beneficiary had reason to believe that the distribution could be rolled over without inclusion in income of any part of the distributed amount.

(d) REQUIRED MINIMUM DISTRIBUTION CORRECTIONS.—The Secretary of the Treasury shall expand the Employee Plans Compliance Resolution System to allow plans to which such system applies and custodians of individual retirement plans to self-correct, without an excise tax, any inadvertent errors pursuant to which a distribution is made no more than 180 days after it was required to be made.
SEC. 303. REVIEW AND REPORT TO THE CONGRESS RELATING TO REPORTING AND DISCLOSURE REQUIREMENTS.

(a) STUDY.—As soon as practicable after the date of the enactment of this Act, the Secretary of Labor, the Secretary of the Treasury, and the Pension Benefit Guaranty Corporation shall review the reporting and disclosure requirements of—

(1) title I of the Employee Retirement Income Security Act of 1974 applicable to pension plans (as defined in section 3(2) of such Act); and

(2) the Internal Revenue Code of 1986 applicable to qualified retirement plans (as defined in section 4974(c) of such Code without regard to paragraphs (4) and (5) thereof).

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor, the Secretary of the Treasury, and the Pension Benefit Guaranty Corporation, jointly, shall make such recommendations as may be appropriate to the appropriate committees of the Congress to consolidate, simplify, standardize, and improve the applicable reporting and disclosure requirements so as to simplify reporting for plans referenced to in subsection (a) and ensure that needed understandable information is provided to participants and beneficiaries of such plans.
SEC. 304. CONSOLIDATION OF DEFINED CONTRIBUTION PLAN NOTICES.

(a) In General.—

(1) Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor and the Secretary of the Treasury shall adopt final regulations providing that a plan may, but is not required to, consolidate two or more of the notices required under sections 404(c)(5)(B) and 514(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(e)(3)), sections 401(k)(12)(D), 401(k)(13)(E), and 414(w)(4) of the Internal Revenue Code of 1986, and section 2550.404a–5 of title 29, Code of Federal Regulations (29 C.F.R. 2550.404a–5) into a single notice or, to the extent provided by such regulations, consolidate such notices with the summary plan description or summary of material modifications described in section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)), so long as the combined notice, summary plan description or summary of material modifications includes the required content, clearly identifies the issues addressed therein, and is provided at the time and with the frequency required for each such notice.
(2) The Secretary of Labor and the Secretary of the Treasury may include in such regulations rules to ensure that, to the extent such notices are consolidated with the summary plan description or summary of material modifications, the presentation, placement, or prominence of the information in such notices shall not have the effect of failing to inform participants and beneficiaries regarding the information in such notices.

(b) Provision of Annual Notices Without Regard to Plan Year.—

(1) Clause (i) of section 404(c)(5)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)(5)(B)) is amended—

(A) in subclause (I) by striking “within a reasonable period of time before each plan year,” and inserting “within a reasonable period before the arrangement described in subparagraph (A) applies to such participant or beneficiary, and thereafter at least once within any 12-month period (without regard to the plan year) during which such arrangement applies,”; and

(B) in subclause (II) by striking “and before the beginning of the plan year”.

(2) Subparagraph (A) of section 514(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(e)(3)(A)) is amended by striking “, within a reasonable period before such plan year, provide to each participant to whom the arrangement applies for such plan year” and inserting “, within a reasonable period before the arrangement applies to a participant or beneficiary, and thereafter at least once within any 12-month period (without regard to the plan year) during which such arrangement applies, provide”.

(3) Clause (i) of section 401(k)(13)(E) of the Internal Revenue Code of 1986 is amended by striking “, within a reasonable period before each plan year, each employee eligible to participate in the arrangement for such year receives” and inserting “each employee eligible to participate in the arrangement receives, within a reasonable period before the employee becomes eligible, and thereafter within a reasonable period before each plan year during which such arrangement applies,.”.

(4) Subparagraph (D) of section 401(k)(12) of the Internal Revenue Code of 1986 is amended by striking “, within a reasonable period before any year, given written notice” and inserting “given
written notice, within a reasonable period before the employee becomes eligible, and thereafter within a reasonable period before each plan year during which such arrangement applies,”.

(5) Subparagraph (A) of section 414(w)(4) of the Internal Revenue Code of 1986 is amended by striking “, within a reasonable period before each plan year, give to each employee to whom an arrangement described in paragraph (3) applies for such plan year” and inserting “, within a reasonable period before an arrangement described in paragraph (3) applies to an employee, and thereafter at least once within any 12-month period (without regard to the plan year) during which such arrangement applies, give to each such employee”.

SEC. 305. PERFORMANCE BENCHMARKS FOR ASSET ALLOCATION FUNDS.

(a) In General.—Not later than six months after the date of enactment of this Act, the Secretary of Labor shall modify the regulations under section 404 of the Employee Retirement Income Security Act of 1974 to provide that, in the case of a designated investment alternative that contains a mix of asset classes, a plan administrator may, but is not required to, use a benchmark that is a
blend of different broad-based securities market indices if—

(1) the blend is reasonably representative of the asset class holdings of the designated investment alternative;

(2) for purposes of determining the blend’s returns for 1-, 5-, and 10-calendar year periods (or for the life of the alternative, if shorter), the blend is modified at least once per year to reflect changes in the asset class holdings of the designated investment alternative; and

(3) each securities market index that is used for an associated asset class would separately satisfy the requirements of such regulations for such asset class.

(b) STUDY.—Not later than December 31, 2018, the Secretary of Labor shall deliver a report to the House Committee on Ways and Means, the House Committee on Education and the Workforce, the Senate Committee on Finance, and the Senate Committee on Health, Education, Labor and Pensions regarding the effectiveness of the benchmarking requirements under 29 C.F.R. section 2550.404a–5.
SEC. 306. PERMIT NONSPOUSAL BENEFICIARIES TO ROLL ASSETS TO PLANS.

(a) In General.—Section 402(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(12) Distributions to qualified plan of nonspouse beneficiary.—If, with respect to any portion of a distribution from an eligible retirement plan described in paragraph (8)(B)(iii) of a deceased employee, a direct trustee-to-trustee transfer is made to a plan or annuity described in clause (iii), (iv), (v), or (vi) of paragraph (8)(B) of an individual who is a designated beneficiary (as defined by section 401(a)(9)(E)) of the employee and who is not the surviving spouse of the employee—

“(A) the transfer shall be treated as an eligible rollover distribution, and

“(B) section 401(a)(9)(B) (other than clause (iv) thereof) shall apply to such plan.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to distributions made after the date of the enactment of this Act.
SEC. 307. ELIMINATE THE “FIRST DAY OF THE MONTH” REQUIREMENT.

(a) In General.—Paragraph (4) of section 457(b) of the Internal Revenue Code of 1986 is amended to read as follows:

“(4) which provides that compensation will be deferred only if an agreement providing for such deferral has been entered into before the compensation is currently available to the individual,”.

(b) Effective Date.—The amendment made by this section shall apply to years beginning after the date of the enactment of this Act.

SEC. 308. OFFICE OF PARTICIPANT AND PLAN SPONSOR ADVOCATE.

(a) In General.—Section 7803 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(e) Participant and Plan Sponsor Advocate.—

“(1) In General.—There is established in the Internal Revenue Service an office to be known as the ‘Office of the Participant and Plan Sponsor Advocate’.

“(2) Participant and Plan Sponsor Advocate.—
“(A) IN GENERAL.—The Office of the Participant and Plan Sponsor Advocate shall be under the supervision and direction of an official to be known as the ‘Participant and Plan Sponsor Advocate’. The Commissioner shall select the Participant and Plan Sponsor Advocate without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or Senior Executive Service.

“(B) DUTIES.—The Participant and Plan Sponsor Advocate shall—

“(i) act as a liaison between the Internal Revenue Service, sponsors of qualified retirement plans (as defined in section 4974(e)), and participants in such plans,

“(ii) advocate for the full attainment of the rights of such plan sponsors and participants,

“(iii) assist pension plan sponsors and participants in resolving disputes with the Internal Revenue Service,

“(iv) identify areas in which participants and plan sponsors have persistent
problems in dealings with the Internal Revenue Service,

“(v) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems,

“(vi) identify potential legislative changes which may be appropriate to mitigate problems, and

“(vii) refer instances of fraud, waste, and abuse, and violations of law to the Office of the Treasury Inspector General for Tax Administration.

“(C) REMOVAL.—The Participant and Plan Sponsor Advocate can only be removed from office or transferred to another position or location within the Internal Revenue Service by the Secretary of the Treasury. If the Participant and Plan Sponsor Advocate is removed from office or is transferred to another position or location within the Internal Revenue Service, the Secretary shall communicate in writing the reasons for any such removal or transfer to Congress not less than 30 days before the removal or transfer. Nothing in this paragraph
shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

“(D) COMPENSATION.—The annual rate of basic pay for the Participant and Plan Sponsor Advocate shall be the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Commissioner so determines, at a rate fixed under section 9503 of such title.

“(3) ANNUAL REPORT.—

“(A) IN GENERAL.—Not later than December 31 of each calendar year, the Participant and Plan Sponsor Advocate shall report to the Health, Education, Labor, and Pensions Committee of the Senate, the Committee on Finance of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Ways and Means of the House of Representatives on the activities of the Office of the Participant and Plan Sponsor Advocate during the fiscal year ending during such calendar year.

“(B) CONTENT.—Each report submitted under subparagraph (A) shall—
“(i) summarize the assistance requests received from participants and plan sponsors and describe the activities, and evaluate the effectiveness, of the Participant and Plan Sponsor Advocate during the preceding year,

“(ii) identify significant problems the Participant and Plan Sponsor Advocate has identified,

“(iii) include specific legislative and regulatory changes to address the problems, and

“(iv) identify any actions taken to correct problems identified in any previous report.

“(C) CONCURRENT SUBMISSION.—The Participant and Plan Sponsor Advocate shall submit a copy of each report to the Secretary of the Treasury, the Commissioner of Internal Revenue, and any other appropriate official at the same time such report is submitted to the committees of Congress under subparagraph (A).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2018.
SEC. 309. SIMPLIFYING 402(f) NOTICES.

Not later than December 31, 2018, the Secretary of the Treasury, in consultation with the Secretary of Labor and the Director of the Pension Benefit Guaranty Corporation, shall simplify the model notices issued under section 402(f) of the Internal Revenue Code of 1986 so as to facilitate better understanding by recipients of different distribution options and corresponding tax consequences. Such model notices shall include an explanation of the effect of elections on spousal rights.

SEC. 310. GUIDANCE RELATED TO CERTAIN OVERPAYMENT RECOUPMENT PRACTICES.

(a) OVERPAYMENTS UNDER INTERNAL REVENUE CODE.—Not later than December 31, 2018, the Secretary of the Treasury shall modify the Employee Plans Compliance Resolution System (as described in Revenue Procedure 2016–51 or any successor guidance)—

(1) to clarify that in no case shall any person be required to seek recoupment of an inadvertent overpayment (as defined in such System) from a participant or beneficiary; and

(2) in the case of an inadvertent overpayment, except as otherwise provided by such Secretary based on the size of the overpayment, a contribution of such overpayment that would qualify as a rollover under section 402(c), 403(a)(4), 403(b)(8), or...
457(e)(16) of the Internal Revenue Code of 1986 but for the fact that it is an overpayment, shall be treated as a rollover contribution for all purposes under such Code.

(b) OVERPAYMENTS UNDER ERISA.—Not later than December 31, 2018, the Secretary of Labor shall prescribe rules under which no fiduciary of a plan shall have a duty under part 4 of title I of the Employee Retirement Income Security Act of 1974 to seek recoupment from a participant or beneficiary of an inadvertent overpayment (as defined in the Employee Plans Compliance Resolution System issued by the Secretary of the Treasury, as described in Revenue Procedure 2016–51 or any successor guidance), provided that such overpayment is paid back by the plan sponsor or other person.

(e) OVERPAYMENTS BY PBGC.—Effective for overpayments made to a participant or beneficiary after December 31, 2018, the Pension Benefit Guaranty Corporations shall not recoup any such overpayment by reducing any future payments with respect to the same participant or beneficiary by more than 10 percent.

SEC. 311. RULES RELATING TO ELECTION OF SAFE HARBOR

401(k) STATUS.

(a) LIMITATION OF ANNUAL SAFE HARBOR NOTICE TO MATCHING CONTRIBUTION PLANS.—
(1) IN GENERAL.—Subparagraph (A) of section 401(k)(12) of the Internal Revenue Code of 1986 is amended by striking “if such arrangement” and all that follows and inserting “if such arrangement—

“(i) meets the contribution requirements of subparagraph (B) and the notice requirements of subparagraph (D), or

“(ii) meets the contribution requirements of subparagraph (C).”.

(2) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—Subparagraph (B) of section 401(k)(13) of such Code is amended by striking “means” and all that follows and inserting “means a cash or deferred arrangement—

“(A) which is described in subparagraph (D)(i)(I) and meets the applicable requirements of subparagraphs (C) through (E), or

“(B) which is described in subparagraph (D)(i)(II) and meets the applicable requirements of subparagraphs (C) and (D).”.

(b) NONELECTIVE CONTRIBUTIONS.—Section 401(k)(12) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:
“(F) **Timing of Plan Amendment for Employer Making Nonelective Contributions.**—

“(i) **In general.**—Except as provided in clause (ii), a plan may be amended after the beginning of a plan year to provide that the requirements of subparagraph (C) shall apply to the arrangement for the plan year, but only if the amendment is adopted—

“(I) at any time before the 30th day before the close of the plan year, or

“(II) at any time before the last day under paragraph (8)(A) for distributing excess contributions for the plan year.

“(ii) **Exception where plan provided for matching contributions.**—

Clause (i) shall not apply to any plan year if the plan provided at any time during the plan year that the requirements of subparagraph (B) or paragraph (13)(D)(i)(I) applied to the plan year.
“(iii) 4-PERCENT CONTRIBUTION RE-
QUIREMENT.—Clause (i)(II) shall not
apply to an arrangement unless the
amount of the contributions described in
subparagraph (C) which the employer is
required to make under the arrangement
for the plan year with respect to any em-
ployee is an amount equal to at least 4
percent of the employee’s compensation.”.

(c) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

Section 401(k)(13) of the Internal Revenue Code of 1986
is amended by adding at the end the following:

“(F) TIMING OF PLAN AMENDMENT FOR
EMPLOYER MAKING NONELECTIVE CONTRIBU-
TIONS.—

“(i) IN GENERAL.—Except as pro-
vided in clause (ii), a plan may be amend-
ed after the beginning of a plan year to
provide that the requirements of subpara-
graph (D)(i)(II) shall apply to the arrange-
ment for the plan year, but only if the
amendment is adopted—

“(I) at any time before the 30th
day before the close of the plan year,
or
“(II) at any time before the last day under paragraph (8)(A) for distributing excess contributions for the plan year.

“(ii) Exception where plan provided for matching contributions.—Clause (i) shall not apply to any plan year if the plan provided at any time during the plan year that the requirements of subparagraph (D)(i)(I) or paragraph (12)(B) applied to the plan year.

“(iii) 4-percent contribution requirement.—Clause (i)(II) shall not apply to an arrangement unless the amount of the contributions described in subparagraph (D)(i)(II) which the employer is required to make under the arrangement for the plan year with respect to any employee is an amount equal to at least 4 percent of the employee’s compensation.”.

(d) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2017.
SEC. 312. USE OF FORFEITURES TO FUND SAFE HARBOR CONTRIBUTIONS.

(a) In General.—Section 401(k) (as amended by this Act) is amended by adding at the end the following new paragraph:

“(16) A matching contribution or nonelective contribution described in paragraph (3)(D)(ii), subparagraph (B) or (C) of paragraph (12), or paragraph (13)(D) shall not fail to satisfy the definition under such paragraph merely because the contribution is funded in whole or in part by forfeitures.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to forfeitures allocated in accordance with section 401(k)(16) of the Internal Revenue Code of 1986 (as added by subsection (a)) before, on or after the date of enactment of this Act.

SEC. 313. TREATMENT OF CUSTODIAL ACCOUNTS ON TERMINATION OF SECTION 403(B) PLANS.

Not later than six months after the date of enactment of this Act, the Secretary of the Treasury shall issue guidance to provide that, if an employer terminates the plan under which amounts are contributed to a custodial account under subparagraph (A) of section 403(b)(7), the plan administrator or custodian may distribute an individual custodial account in kind to a participant or beneficiary of the plan and the distributed custodial account
shall be maintained by the custodian on a tax-deferred basis as a section 403(b)(7) custodial account, similar to the treatment of fully-paid individual annuity contracts under Revenue Ruling 2011–7, until amounts are actually paid to the participant or beneficiary. The guidance shall provide further (i) that the section 403(b)(7) status of the distributed custodial account is generally maintained if the custodial account thereafter adheres to the requirements of section 403(b) that are in effect at the time of the distribution of the account and (ii) that a custodial account would not be considered distributed to the participant or beneficiary if the employer has any material retained rights under the account (but the employer would not be treated as retaining material rights simply because the custodial account was originally opened under a group contract). Such guidance shall be retroactively effective for taxable years beginning after December 31, 2008.

TITLE IV—DEFINED BENEFIT PLAN REFORMS

SEC. 401. CASH BALANCE.

(a) In General.—Section 414 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new subsection:

“(bb) Projected Interest Crediting Rate.—

For purposes of this part, in the case of an applicable de-
fined benefit plan that provides variable interest crediting rates, the interest crediting rate that is treated as in effect and as the projected interest crediting rate shall be a reasonable projection of such variable interest crediting rate, subject to a maximum of 6 percent.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to years beginning after the date of enactment of this Act.

SEC. 402. ALIGNING USE OF LOOKBACK MONTHS TO DETERMINE INTEREST RATES.

The Secretary of the Treasury shall modify Treasury Regulation section 1.417(e)–1(d)(10)(ii) (or any successor provision) to provide that the same rule applicable to modifications of the time for determining the applicable interest rate shall apply to modifications of the time for determining any interest rate used by a plan to the extent that the use of such interest rate is permissible under section 417(e)(3) of the Internal Revenue Code of 1986, provided that the regulations shall require that after any such modification of such time under a plan pursuant to this section, no further modifications of such time are to be permitted for five years with respect to such plan without the consent of the Secretary of the Treasury. As of the date of enactment of this Act, such regulation (or any successor provision) shall be deemed to be amended in such
manner, so that this change in the regulations is deemed

to have occurred.

SEC. 403. ALIGNING EMPLOYER PENSION CONTRIBUTION

DUE DATE WITH CORPORATE RETURN DUE

DATE.

(a) IN GENERAL.—Paragraph (1) of section 430(j)
of the Internal Revenue Code of 1986 is amended by strik-
ing “8 1⁄2” and inserting “9 1⁄2”.

(b) EFFECTIVE DATE.—The amendment made by

this section shall apply to payments made after the date

of enactment of this Act.

SEC. 404. CLARIFICATION OF THE ROLE OF THE PARTICI-
PANT AND PLAN SPONSOR ADVOCATE.

Section 4004 of the Employee Retirement Income Se-
curity Act of 1974 (29 U.S.C. 1304) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “a liai-

son” and inserting “an independent liaison”; and

(B) in paragraph (3), by striking “assist”

and inserting “advocate for”;

(2) by redesignating subsections (c) through (e)
as subsections (d) through (f), respectively; and

(3) by inserting after subsection (b) the fol-

lowing:
“(c) Requests for Information.—The corporation shall, upon request, provide information to the Participant and Plan Sponsor Advocate to the extent necessary to enable the Participant and Plan Sponsor Advocate to perform the responsibilities described under this section.”.