

Employer Responsibilities Under the Pension Protection Act
(Please note: The information provided below is for educational purposes only and is not intended as legal advice. Please consult your own attorney for legal advice specific to your facts.)

The Department of Labor has issued the first set of proposed regulations in response to the passage of the Pension Protection Act of 2006. The proposed regulations issued on September 26, 2006 and published in the Federal Register on September 27th: <http://benefitslink.com/DOL/06-8282.pdf> address automatic enrollment options. These provisions are designed to increase participation in retirement plans and provide a greater investment income for participants.

Default investment alternatives are defined and the DOL establishes conditions for granting plan fiduciaries relief from liability for investment outcomes. Unless a participant makes an election of investments for contributions, the assets must be invested in a “qualified default investment alternative” (QDIA). A QDIA must be diversified so as to minimize the risk of large losses; may not invest participant contributions directly in employer securities; and may be lifecycle funds, balanced funds or professionally managed accounts. Traditional conservative default options such as money market and other cash-equivalent accounts do not qualify.

Participants must be given an opportunity to make investment selections. A notice must be furnished to participants 30 days in advance of the first investment and at least 30 days in advance of each subsequent plan year. This notice must describe the circumstances under which assets will be invested in a QDIA, a description of the investment objectives of the QDIA and an explanation of the rights of participants to direct the investments out of the QDIA.

This summary does not address all of the provisions of the proposed regulations, so please review the proposed regulations for all the details.

Written comments to the proposed regulations will be accepted until November 13, 2006. Comments may be submitted to e-ORI@dol.gov or www.regulations.gov. These comments may be viewed at www.dol.gov/ebsa and www.regulations.gov. The DOL proposes to make the regulation effective 60 days after the date of publication of the final rule in the Federal Register.