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Tegan: I will now like to formally begin today's phone forum and introduce John Schmidt.

John: Thank you very much, Tegan. Hello everyone and thank you for joining us today. As Tegan said, I am John Smith, the acting director of IRS Employee Plans Customer Education and Outreach. I'd like to welcome you to our phone forum entitled, "Employee Plans Guidance." Today, we will be hearing from our two Employee Plans Guidance managers, Ingrid Grinde and Sherri Edelman.

Before we start, I'd like to point out a couple of things. We will email a certification of completion to everyone that just did for today's forum if you attend the entire presentation. Enrolled agents, retirement plan agents and actuaries can receive continuing education credit for this session. Other tax professionals should consult their licensing organization to see if today's session qualifies for continuing education credit. As with all of our presentations, the comments expressed by our speakers should not be construed as IRS formal guidance.

Here at the Internal Revenue Service, we have many retirement plan resources available for you. If you'll take a look at the handout specifically slide two, you'll see a link to our retirement plan's web page. You can also get there by going to the name irs.gov landing page where you would click on the information for drop down box in the upper right hand's corner of the screen and from there, select retirement plans. If you now take a look at slide three, you'll notice a graphic representation of how you can subscribe to our free electronic newsletters.

To subscribe, select newsletters in the left navigation bar, choose subscribe and then select retirement news for employers on newsletter for employers sponsoring retirement plans or the employee plans news on newsletter for retirement plan professionals. Finally, allow me to draw your attention to just one more of our web pages which is highlighted on slide four that is pertinent to our topic today which is our specific published guidance page where you will find all of the pieces that will be discussed this afternoon and can be easily found from our retirement plans main page by clicking on published guidance within the left navigation bar.

Having said all of that and without further ado, I'd like to turn in the microphone over to Ingrid Grinde.

Ingrid: Thanks, John. Hi everyone. Thanks for joining us today. As John mentioned, Sherri and I are managers in the Employee Plans Guidance in Washington, DC and we work with Treasury and chief counsel on developing items of guidance. We also work on items relating to the determination letter program. First on slide five as an overview, we're going to talk about the priority guidance plan and of course, focusing on the 2013 and 2014 plan. We'll talk about the EP Determinations Program status and the status of the pre-approved program for both the defined contribution and defined benefit pre-approval plans. Then, we'll come back and talk about some miscellaneous items of recently issued guidance and upcoming guidance.

Under the priority guidance plan, it's established each year and it's a joint effort between the Treasury and the IRS, it runs from July 1st to June 30th of each year and it's updated quarterly. This slide contains the link where it's posted. With respect to employee benefits, there are 41 projects identified on this year's plan as updated and also we work on items that aren't on the guidance plan because things come up during the year such as new legislation or new case law that warrants guidance.

First, regarding the EP Determination Letter Program, we're closely involved in changes related to the individually designed and pre-approved programs and we work with our EP Determination's office in Cincinnati and other areas of the service. We work on both informal and formal items related to the staggered remedial amendment cycle system that we first implemented in 2005 including the annual cumulative list, annual revenue procedures relating to rulings, determination letters, technical advice, procedures, user fees. These are issued in January each year.

We're also considering expansions to the pre-approved program that Sherri will get into later and we work on newsletter articles to get the word out to the public when changes are made. One item related to the annual revenue procedures this year, the main changes were to Rev. Proc. 2014-8 which contains updates to user fees and some of the changes include adding provisions relating to the pre-approved program for Section 403(b) plans including fee schedules and other areas and revised fee schedules relating to the pre-approved plan submissions. Some of those fees went up.

On to slide eight, as a brief general overview, just so we're all on the same page, as you probably know, Rev. Proc. 2007-44 described the system of staggered remedial amendment cycle that applied to pre-approved plans and individual designed plans and under that system, sponsors can submit applications for individually designed plans once every five years in accordance with Cycles A through E that are determined depending on the employer's EIN and regarding pre-approved plans, sponsors can submit applications once every six years and the submission period is determined based on whether the plan is a defined benefit or defined contribution plan.

With respect to the Cycle C submission period, I'm still in slide eight, for individually designed plans, the second round of five year cycles for the Cycle C submission period began on February

1st, 2013 and ended on January 31st, 2014. It applied to individually designed plans whose sponsors have EIN's ending in three or eight and to governmental plans that chose to file in Cycle C. They can choose Cycle E or C in this round of cycles. I wanted to give you a few numbers that I've gotten from our Cincinnati EP Determination's office regarding the types of submissions and numbers received as of February 23rd, 2014.

I wanted to highlight that many cases submitted haven't been entered into the system yet. This number will increase. Right now, for Form 5300 which is the general application for individually designed plans, we received 8,052 submissions. About 852 are governmental or church and the rest are variety of defined benefit cash balance, profit sharing, 401(k) and ESOPs. We've received 319 Form 5307 which are for adopters of modified volume submitter plans and we received 1,284 5310's for terminating plans and 90 Form 5316 group/pooled trusts..

Again, this isn't the final number because we haven't entered all of them into the system yet. Then finally, Cycle D submission period began on February 1st, 2014 and that will end on January 31st, 2015. Regarding the cumulative list, we issue a cumulative list every year identifying changes affecting plan qualification requirements. They are used by plans that begin in the month of February following the publication of the cumulative list. That list is usually published in November or December of each year.

The most recent one is Notice 2013-84 which we call the 2013 Cumulative List. It's to be used by plan sponsors submitting applications during the period beginning February 1st, 2014 and ending January 31st, 2015. These plans are Cycle D plans and individually designed plans and multi-employer plans described in 414(f). One unusual item about this cumulative list is that we added two items that were issued after the ordinary cutoff date of October 1st. Ordinarily, if guidance is issued after October 1st for the particular year, we wouldn't include it on the list, but we did add two items issued after October 1st and we'll get into this later. In total, there were six new items in the 2013 cumulative list.

On to slide 10. Before we get in to the status of the pre-approved program, I just wanted to mention some items related to the form that accompanies determination letter applications and some user fee forms. We updated Form 5300 and Form 5310 as of December 2013 but although we prefer that that you use the new forms, you can continue to use the old forms until June 30 of 2014. We did make a lot of these changes to the forms to reflect some changes made by Announcement 2011-82 which stream lined the program providing that we don't review for coverage and non-discrimination requirements indetermination letter applications anymore and we reduced the number of Form 5307 by restricting of use to pre-approved plan volume submitters, submitters that make changes that aren't too extensive.

Also, I wanted to note Form 5307 is being revised and that will be issued later this year. Now, slide 11. I wanted to point out the form for user fees. One important thing is that there are new user fees that were updated in revenue procedure 2014-8, effective February 1st, 2014 but the forms relating to the user fees have not been updated yet. You need to use the old forms for

now but submit the new user fees until the old forms are updated. That's the main point that I wanted to make for the Form 8717 and the Form 8717-A.

Now on to the pre-approved program. First, with respect to the status of pre-approved defined contribution plans. I'm on slide 12 now. The second submission period for defined contribution pre-approved lead plans since the staggered remedial amendment program began in 2005 was from February 1st, 2011 to April 2nd, 2012 which was extended from the ordinary deadline of January 31st, 2012. We're nearing the end of our two-year review period for the defined contribution lead pre-approved plans that were submitted for the second round of the six-year cycle.

We plan to open the two-year window for adopting employers to adopt these plans in the spring of 2014, April or May and this will be done through an announcement. With respect to the numbers, we got 260 non-mass lead submitter defined contribution plans and 117 mass lead submitters and as you know, these pre-approved plans received emails of preliminary approval stating that we believe that the plan appears to meet the qualification requirements but this is not an official opinion or advisory letter until the official letter is issued.

As of February 24th, we had issued 185 emails of preliminary approval on the non mass lead submitter plans and 28 for the mass lead submitter plans. We received 5695 identical adopters and of these there are 1073 word for word adopters linked to the 28 mass leads that are counted as being complete although they do not receive actual emails of preliminary approval.

We've also have 65 minor modifiers and we're working on those. Many of those are as yet unstarted. That's the general numbers of the defined contribution plan so far. Now, on to the status of the pre-approved defined benefit plans. The second submission period for the lead plans is ongoing from February 1st, 2013 to February 2nd, 2015. We issued an announcement very recently about a month ago that extended the ordinary deadline of January 31st, 2014 until February 2nd, 2015. The main reason for this is that we planned to develop a defined benefit pre-approved program that will include pre-approved plans with certain cash balance features.

The extension was to give us time to develop the necessary language and tools for this program and Sherri will discuss that later. Probably, because of this extension, we haven't received few many submissions yet. As of February 24, 2008, we received 8 mass submitter lead plans consisting of 3 sponsors 180 words for word adopters of the mass submitter and 18 non-mass lead plans.

On slide 14, I just wanted to explain this extension a little more. We wanted to highlight that the extended deadline of February 2nd, 2015 applies to all pre-approved defined benefit plans even if they won't be modified to include cash balance features. The plan was to develop this program but the extension applied to all of the plans. Until it's issued, you shouldn't submit plans with cash balance feature. Note that the higher user fees will apply. A plan sponsor who waited to submit after the original January 31st deadline will pay a higher user fee.

We also extended the time for Cycle C sponsors of individually designed plans to complete Form 8905 that intend to adopt the pre-approved plan. It has until March 31st, 2014 to complete that form since we issued the extension at the end of January, we thought that was necessary. We've gotten some additional questions on this announcement so be on the lookout for an article and FAQ's with more details to be published soon. Now, I'm going to turn it over to Sherri for a while and she's going to discuss some other future planned program in the pre-approved program area.

Sherri: Okay. Thank you, Ingrid. I am going to be start with slide 15 and will talk first about two programs that we have in the works. Two of the pre-approved programs that we're working on. The first deals with cash balance plans. Ingrid already provided you some details regarding the changes that were made by announcement 2014-4 with respect to the cash balance plan but let me back up a second and give you a little bit of background as to why we're moving in the area. First is the demand by the public for pre-approved program.

We've received requests from the public for a pre-approved program for cash balance plans and as I'll discuss in a minute, similarly for ESOPs. The second is our reduced resources. Unfortunately, we simply do not have the staff or personnel to deal with plans the way we did many years ago. Thus, we're sort of forced to go in this direction. However, we believe that the new programs will be a win-win for all parties concerned.

Now, with respect to the cash balance program as I said, Ingrid already provided you with some details about the changes that were made by announcement 2014-4. What we're doing now is we are working on the parameters and features for the cash balance program which includes LRMs, which is the Listing of Required Modifications or sample plan language. We have a group in place that's working on the LRMs. Once we are close to completion, we will announce when plans with cash balance features can be submitted.

Until such time, however, plans with cash balance features should not be submitted under the pre-approved program. As Ingrid similarly indicated, Cycle C individually designed plan that have not submitted an application and want to adopt a pre-approved plan can sign a form 8905 by March 31, 2014. Cycle C plans that have submitted an application and who want to instead adopt the pre-approved plan will be permitted to request to withdraw the application and the refund of the user fee.

We will be posting an article in the FAQ's shortly with the details on where to send the request, the address, what will include, etc. Look at our website. We will issue an article and a press release once the article is ready to be posted. We welcome your input on the development of the cash balance program including suggestions as to program parameters and sample plan language.

Comments if you have any can be sent to our website, I'm sorry, I meant our email addressretirementplanquestions@irs.gov and you can put attention Don Kieffer. Don is the

principal author of Announcement 2014-4. You'll see his name and that email address at the end of the announcement. We're also actively working on a program for pre-approved ESOP that is similar to the cash balance program, we're working on LRM's and developing the parameters of the program.

Any questions you have regarding pre-approved ESOP should similarly be sent to our email address, retirementplanquestions@irs.gov. Okay, let's move on to slide 16 where I am going to discuss the 403(b) pre-approved plan program, some changes we are planning for that program. As background, Rev. Proc. 2013-22 which was issued last April, established a pre-approved plan program for 403(b) plans. It's modeled after the program for pre-approved qualified plans that's described in Rev. Proc. 2011-49.

Similar to the program for qualified plans, under the 403(b) program, sponsors can apply for an advisory or opinion letter on a volume submitter plan or prototype plan. Once the plan is approved, employers can adopt it. Following the issuing of the revenue procedure which also by the way, included sample plan language for 403(b) plans, we received some comments which is not surprising. Among the comments we received, was a request to extend the deadline for submissions. We received some comments concerning the eligibility criteria and some folks requested that we expand the program to permit more employers to participate.

We received some comments requesting that the minor modifier program be expanded to include volume submitter plans. Some folks asked that we clarify some items in the LRM's and some people wanted us to institute a program, either a determination letter program or a PLR program for individually designed 403b plans. On that latter item, unfortunately that's not going to happen.

Again, we don't have the resources to establish a program for individually designed 403b. However, with respect to several of the other comments, we have looked at them, considered them and we will be coming out with guidance very, very, very, very shortly that implements some of those changes. Again, be on the lookout for that and we are hoping to get that out soon.

All right, now I will turn out some recently issued guidance. Again, this is on slide 17. The first item that I will talk briefly about is guidance that we issued pertaining to closed defined benefit plans. That is Notice 2014-5. What that provides is temporary non-discrimination relief for closed defined benefit plans. Again, a little bit of background. During recent years, a lot of employers had moved away the traditional defined benefit plan.

What happened is that these employers allowed employees who were already in the plan to continue to earn pension benefits but closed those plans to new participants. What's happened over time, is that it has become difficult for these plans to continue to meet the non-discrimination rule and the reason is rather obvious. That's because the plan participants tend to be more highly compensated because again they've been there for a while and new

employees who tend to be not highly compensated are not covered so that's caused some problems.

Several employers and the industry groups approached both the Internal Revenue Service and Treasury and asked for relief. We gave the issues that they raised serious consideration and issued Notice 2014-5 which provides these plans with what I want to emphasize, is limited temporary relief. We can consider whether and I might add, if so, how to provide permanent relief.

I am not going to go into all of the details on this webcast. Please look at it if you're not familiar with it. What I do want to point out however is that in that notice, we ask for comments on permanent release and the comments are due this Friday, February 28th. If you're familiar with the notice and you've been meaning to send something to us, please do. All the details on how to get us the information is in that notice and if you haven't thought about it but I have peaked your interest, please take a look at that notice and get us something by this Friday. We look at every single comment we receive.

Okay. Moving on. Slide 18. Another piece of guidance that we issued as Notice 2013-74 which provides guidance on in-plan Roth rollovers under 401k, 403b and governmental 457b plans. The American Tax Payer Relief Act of 2012 expanded the types of contributions eligible for in-plan Roth rollovers to all contributions including otherwise non-distributable amounts. Previously, in-plan Roth rollovers were limited to distributable amounts. Under Notice 2013-74, rollover amounts include deferrals, matching contribution, non-elective contributions and earnings. The Notice discusses the tax withholding rules which do not apply, by the way.

The plans must separately account for the rollover amount. Restrictions on the rollover amount must also be maintained. Again, last but not least, a plan that wants to allow in-plan Roth rollovers must be amended to allow such rollovers. Any such amendment is a discretionary amendment under Rev. Proc. 2007-44. The deadline for 2013 is December 31, 2014. There are also special rules in the notice for Safe Harbor 401k plans and 403b plans. The next item that I will mention is on slide 18. Those are the final regulations that were issued in November 2013 concerning the mid-year suspension of safe harbor contributions.

Briefly, under the regulations, in order to suspend either matching or non-elective contributions, an employer must either be operating in an economic loss that is described in code Section 412(c)(2)(A) for the plan year, or provide a safe harbor notice that includes a statement that the employer may reduce or suspend contributions mid-year, and the reduction or suspension will not be applicable until at least 30 days after the employees are provided with the supplemental notice of the action being taken.

There are requirements concerning what must be spelled out in the supplemental notice, including the effective date of the amendment. The Notice is effective May 18th, 2009 for non-

elective and January 1, 2015 for matching contribution. Again, I can't go into all the details due to the time in what we want to cover but at least, I give you a flavor.

With that, I am going to turn it back to Ingrid and she's going to discuss some additional guidance that we issued.

Ingrid: Thanks, Sherri. Okay. I am going to go over a couple of more items of fairly recently issued guidance and then we'll get into some items of upcoming guidance. The first I wanted to mention is proposed regulations treating income from Indian fishing rights activity as compensation under Section 415. We issued proposed regs on November 15th, 2013 that would amend the 415 regulations treating this income as compensation so that amounts can be contributed to a qualified retirement plan.

Because the fishing rights related income isn't subject to income tax, there was a question of whether this income was included as compensation under section 415 and the proposed regulations asked for comments and also can be relied on pending the issue until final regulation. Another item we issued last year that I wanted to mention is proposed regulations requiring electronic filing of the Form 5500 annual return report series and Form 8955-SSA which is the annual registration statement identifying separated participants with deferred vested benefits for certain filers.

This regulations were issued, August 30th, 2013 and they require the electronic filing of the Form 5500 for filers who file at least 250 returns. For those of you who are familiar with the old 5500, we used to have some IRS only questions on there that we had to take off when the Department of Labor mandated electronic filing of the 5500 came into place. The basic problem here is the Department of Labor requires electronic filing of 5500 for all filers.

On the other hand, we at the IRS, can't require electronic filing for smaller filers under 250 returns. There's a certain disconnect. We had certain IRS only questions that the Department of Labor would not accept electronically since we can't mandate it under our rules even if they can under their rules. What we did with these regulations is we required electronic filing for larger filers and we planned to have a paper form for IRS only questions for smaller filers that wish to file on paper.

Of course, they probably will file electronically because they have to file that for DOL anyway but we need to give them that option. Now, on to some upcoming guidance that we're planning. I wanted to mention interim amendment which is something that many of you in the community have been asking for a while now and we are definitely working on guidance, it's well developed and drafted. It would reduce the frequency of required interim amendments and I will tell you what we anticipate but of course, nothing is final until it's issued. This is just what we're planning right now.

We anticipate the default rule would be that plan sponsors do not need to make required interim amendments until the end of their applicable cycle unless we provide otherwise or there would be a Section 411(d)(6) cut back or a statute requires an earlier amendment. In other words, we will change the default rules so there would be no amendments unless one of these events occurred.

We're coordinating with Department of Labor. That's one of the items that we're working on. On to slide 21. Other items of upcoming guidance. There's a draft revenue ruling that would address whether certain retirement plans qualified under the Puerto Rico code but not qualified under the Internal Revenue Code could invest in group trusts and whether retirement plans that are currently permitted to invest in group trusts may invest in the insurance company separate accounts.

Just a little background here, revenue ruling 81-100 provides that qualified plans and IRAs can pool their assets for investment purposes in a group trust. We issued subsequent revenue rulings that added plans under 403(b), 457(b) and 401(a)(24) to the list of plans that could invest in this group trust. This draft revenue would further expand categories. This is also well-developed in the sense that it's been drafted and worked on. I can't give you a definite date when it will be out but that is another item that we're working on.

Next, final regulations under Section 401(a)9 deferred annuities. These are what we call the final QLAC regs meaning Qualifying Longevity Annuity Contract regulations. This deals with the purchase of qualified longevity annuity contracts under defined contribution plans, 403b plans, IRAs and eligible governmental section 457 plans. The final regs would amend the required minimum distribution rules under 401(a)(9) of the code to accommodate the purchase of QLACs.

By longevity annuity contract, we mean annuity contracts that don't begin until later in life for example, at age 80 or 85 and the objective behind this project is to permit participants in defined contribution plans and IRAs to defer distributions of some other accumulated plan balance as a hedge against outliving their assets. Now, this is because there's a big shift from defined benefit plans that provide lifetime annuities to defined contribution plans and it has created the problem for retirees with defined contribution plans of knowing how much to withdraw each year.

Section 401(a)9 issue here – in a typical defined contribution plan or IRA the amount that has to be distributed each year starting at 70-1/2 in most cases is determined by dividing the account balance at the end of the preceding year by the remaining joint life expectancy of the participant and his/her beneficiary. Proposed regs were issued February 3rd, 2012 and issuer of QLACs would have to comply with certain reporting and disclosure requirements that informed both the employee and the IRS of the details of the contract.

The final QLAC regs are expected to be published later this year and in response to comments, it's expected that the final regs will ease some of the administrative and reporting burden expressed in the comments. Next, final regulations on Form 8955-SSA. We published proposed regulations on June 21st, 2012 with reliance pending final regulations. They would finalize the proposed regulations but will designate 8955-SSA forms to use as the annual registration statement identifying participants with the deferred vested benefits.

That form replaced the old form SSA. It would also add the 8955-SSA to the list of forms covered by an automatic two and a half month extension and specified no signatures required for extending the time to file a Form 5500 or 8955-SSA and in order to do that, it will tell you to file a form 5558. Now, the next slide is 22. We are working on a notice updating notice 2002-23 that provides administrative penalty relief for late Form 5500 filers.

Plan administrators who fail to timely file the Form 5500 series annual reports are subject to penalties under both Title I ERISA and the Code. Department of Labor has a program that allows the administrators who fail to file a timely annual report to pay reduced civil penalties known as the DFVC program and we coordinated in 2002, we issued a notice to coordinate this with DOL's program. We provided that we won't impose code penalties on a person who's satisfied to DOL's DFVC program.

Recently, the Department of Labor updated its program by a 2013 notice and now, requires that the delinquent annual reports be filed electronically. But the DOL notice, says this program doesn't apply to the form SSA or the 8955-SSA which replaced the SSA that has IRS information on it. It used to be part of the Form 5500. Our updated notice would say as before if you satisfy the DOL's DFVC program, you get relief from the penalties under the Code but only if any applicable Form 8955-SSA is filed separately with the Service on paper.

This brings me to the next topic on slide 22 because the relief here doesn't apply for filers that are not covered under title one of ERISA because the DOL's program doesn't cover those filer. We are working on a revenue procedure establishing a pilot penalty relief program for late annual returns filed by non-Title One plans that the DOL program doesn't help. People have requested that we provide this type of program. It would be a temporary program at first providing administrative release for late filers of reports with respect to plans that aren't subject to Title I such as certain small businesses like owner spouse plans and certain plans of business partnerships, one participant plans and foreign plans.

If filers aren't eligible for a refund under the rev proc they could still request relief for reasonable cause. I will turn it back to Sherri to go over some other items.

Sherri: Okay. I am picking up with slide 23. Again, we're still talking about upcoming guidance. One project that we're working on is referred to as lifetime income guidance. Some folks refer to it as the target date fund guidance. Basically, we're working on guidance concerning the application of the non-discrimination rules to target date funds that are available from defined

contribution plan that are invested in deferred annuities and therefore, only available to older workers.

There's concern that these participants, basically the older workers, could disproportionately consist of highly compensated employees. Again, this is similar to the comment I made earlier because older employees are commonly more highly paid than younger employees. If so, making this deferred annuity available only to older participants could violate the non-discrimination and benefits, rights, and features aspects of our regulations.

I would say it's sort of at an early stage, but this is something that we're working on. Moving on to slide 24. The next piece of upcoming guidance that we're working on concerns the Supreme Court's decision in *United States vs. Windsor*. What we're doing is we're working on guidance concerning how qualified retirement plans must comply with the Supreme Court's decision in *Windsor* and Rev. Rul. 2013-17.

As background on June 26, 2013, Supreme Court held in *United States vs. Windsor* that section 3 of the Defense of Marriage Act or DOMA, prohibiting the recognition of the same-sex spouses for federal tax purposes was unconstitutional. Following *Windsor*, the Internal Revenue Service, issued Rev. Rul. 2013-17 which is effective, September 16, 2013. That revenue ruling applies for all federal tax purposes and has 3 holdings.

The first holding is that for federal tax purposes, the term "spouse", "husband", "wife", and "husband and wife" include an individual married to a person of the same sex. Second, it holds that a marriage of same-sex individuals that was validly entered into in a jurisdiction whose laws authorize the marriage of two individuals of the same-sex applies for federal tax purposes even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages. This is normally referred to as the state of celebration rule.

Third, it holds that a person who is in a registered domestic partnership or civil union is not considered to be a spouse for purposes of applying the federal tax laws, regardless of whether the person's partner is of the same or opposite sex. Qualified retirement plans must comply with the rule set forth in Rev. Rul. 2013-17 as of September 16th, 2013. However, Rev. Rul. 2013-17 specifically recognizes that additional guidance is needed to address the retroactive application of *Windsor* to employee benefit plans, including retirement plans.

The guidance we are working on will address retroactivity and plan amendments. I believe that at this point in time, release of that guidance is imminent.

Slide 25. Again, more things we're working on. We're busy. Hybrid plan regulations, we're working on final regulations which deal with market rate of return restrictions, conversions from traditional defined benefit plans, and plan terminations.

We're also working on proposed transition regulations which will address adjustments needed for hybrid plans with interest crediting rates that do not meet the market rate of return restrictions, and the extent of relief from the anti-cutback rules of 411(d)(6). Next, we're also working on 417e regulations. Proposed regulations were issued in February 2012 that proposed simplified rules for partial lump sum and other payments subject to 417(e)(3).

We are looking at finalizing the proposed regulations and issuing some new proposed regulations that would address other issues relating to 417(e), including clarification in response to several court decisions and addressing comments and questions from practitioners, etc. We're also working on the final 430 regulations that will finalize the proposed regulations that were published in 2008. They would address the mechanics of building the minimum required contribution for single employer defined benefit plans once the liabilities and assets have been determined.

They will also provide guidance on required quarterly installments and plans with year-end valuation dates. Moving on to slide 26. We're also working on guidance on the approval for changes in funding method. This guidance we know is eagerly awaited by practitioners and plan sponsors. Rev. Proc. 2000-40 does not apply to single employer plan subject to section 430. This guidance will address automatic approvals for single employer plans subject to 430, update automatic approval for other plans, and update procedures for requesting approval for changes not eligible for automatic approvals.

We're also working on guidance on PRA 2010. It will clarify some of the guidance in Notice 2011-3. It will provide rules on eligible charity plans and plans with deferred effective date for Section 430 and 436. The rules are expected to be flexible since we realize that plan sponsors had to make decisions in the past years before this guidance is available. All of these different projects are in the works and they're moving along.

Some of them will be out shortly. Okay, with that I am going to turn it back to Ingrid who's going to pick up on slide 27.

Ingrid: Thanks, Sherri. We are working on guidance under Sections 402c and 402A on distributions disbursed to multiple destinations. This guidance would consist of a notice and a proposed regulation and it would address how to allocate pre and post-tax amount that are included in a distribution from a plan among multiple simultaneous destinations.

We're also working on an EPCRS update to Rev. Proc. 2013-12 and one topic that we're looking into is providing a correction method for the failure to implement automatic deferrals for plans with automatic enrollment. We are also considering whether to provide relief for multiple employer plans that could fail the qualification rules because of the actions of a single employer. We're looking at what would allow on multiple employer plan to preserve its qualified status and in addition, we're considering whether we should expand the eligibility conditions for some reduced fees and some other miscellaneous items updates to EPCRS.

There's also a revenue ruling facilitating rollovers into retirement plans which we sometimes just call the roll-in revenue ruling for short. The background here is in general, if a distribution from a qualified plan or IRA is transferred to qualified plan, the distribution will not be taxed in the year of the transfer, this is of course a generalization. There are a lot of exceptions in the rules to comply with but the danger for the plan receiving the transfer is that the money may not be a valid rollover contribution for whatever particular reason.

This revenue ruling would make it easier to rollover money into a plan by lessening the burdens on the plan administration of the receiving plan. It could have some guidelines and factual scenarios for administrators of plans accepting rollover contributions. The current reg Section 1.401(a)(31)-1, Q&A-14, provides that if a plan accepts an invalid rollover contribution, it will be treated for purposes of applying the qualification requirements of Section 401a or 403a to the receiving plan as if it were a valid rollover contribution, with respect to the receiving plan, if two conditions are satisfied.

First, when accepting the amount, the plan administrator for the receiving plan must reasonably conclude that it's a valid rollover contribution and second if the administrator later learns that the contribution was an invalid rollover, it must distribute the amount with earnings to the employee within a reasonable time after its termination. Right now, there are four due diligence methods that a plan administrator can use in order to be deemed to have reasonably concluded, that an amount was a valid rollover contribution.

The methods include getting a letter from the administrator of the distributing plan that the plan has received a favorable determination letter or that the plan qualifies or sometimes a distribution statement or certification depending on where the rollover is coming from. Commentators have indicated that the existing safe harbor methods are too burdensome and they restrict the portability of retirement assets.

This revenue ruling would provide some less burdensome practices that the receiving plan administrator could rely on when accepting rollovers on behalf of the employee. Now, I am going to turn it over to Sherri to go over some more miscellaneous items.

Sherri: Yes. Again, some additional items. First is we're working on proposed regulations under Section 404 and that will address PPA changes in the deductible limits under 404. We're also taking this opportunity to update some, not all of the outdated regulations under Section 404. Another item in the works is PEP guidance. By PEP, I am referring to Pension Equity Plans. The guidance will supplement the hybrid plan regulations that we're working on. I mentioned those a few minutes ago, but with the focus on issues affecting PEP's.

The focus is on requirements of Section 411(b)(1)(G) which prohibits the reduction of an accrued benefit on account of an additional year of age or service. Issues under 411(b)(1)(G) arise because PEP's generally provide for interest after accruals cease. So if a participant

completes another year of service, the incremental benefits they earn under the PEP formula could be smaller than the interest they would have earned by terminating employment.

The guidance will outline the issues and provide transition and ongoing rules for correcting violations of 411(b)(1)(G). Another piece of guidance that we're working on deals with section 430 and 436. That guidance will address the areas that were not covered in the final regulations that were published in October 2009, specifically, merger and acquisition issues and WRERA updates. We'll also clarify some rules on the final regulations in response to comments and questions from practitioners that we'd received.

With that, we're still on slide 27 but I am going to turn it back to Ingrid to discuss some few additional miscellaneous items.

Ingrid: We are ready to wrap it up soon but I wanted to mention a few more items. We have some long range, long term projects that are very broad ranging, updating the ESOP regulations and the IRA regulations and these are huge projects. Some of those regulations are really outdated. These are still ongoing and we're also working on governmental plan proposed regulations. We issued two advance notices of proposed rulemaking in November 2011 and attached draft proposed regulations relating to the definition of a governmental plan under 414(d) of the code.

One of the items relates to the appropriate standard for determining whether a retirement plan is a governmental plan under 414(d) and it has various proposed factors to determine whether an entity is closely related enough to a government to be eligible to have a governmental plan. The other item relates to Indian tribal governments and the special rules that apply to them in order to have a governmental plan.

We define various terms in the statute. We have various factors for determining whether an entity is an agency or instrumentality of the US. We had five main factors and eight other factors for determining whether an entity is an agency or instrumentality of a state or Political Subdivision. We have rules for established and maintained and what happens when the plan changes its status from governmental to private and vice versa.

We asked for comments in all aspects of the draft post guidance including whether ultimately the final regulations to keep the distinction between the main and other factors and have a Safe Harbor test. We asked for comments on the possible application of a de minimis rule where some private employees participate in a governmental plan and transition period.

We coordinated with Department of Labor and PBGC on this and there is an ongoing group right now developing proposed regs and that group does include the members of Department of Labor and PBGC as well as the IRS. That's another item I wanted to mention and we received many comments and all of these comments are being taken into account as proposed

regulations are being drafted. With that, I think that we are finished for our presentation so I will turn it over to Tegan to conclude.