



**THE PROFIT SHARING AND 401(k) ADVOCATE ♦ SHARING THE COMMITMENT SINCE 1947**

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January 7, 2009

*delivered electronically*

RE: IRS REG-107318-08

Proposed Rule on the Notice to Participants of Consequences of Failing To Defer Receipt of Qualified Retirement Plan Distributions; Expansion of Applicable Election Period and Period for Notices

The Profit Sharing/401k Council of America (“PSCA”) is pleased to submit the following comments on the proposed Rule on the Notice to Participants of Consequences of Failing to Defer Receipt of Qualified Retirement Plan Distributions; Expansion of Applicable Election Period and Period for Notices that were published in the Federal Register on October 9, 2008.

Established in 1947, PSCA is a national, non-profit association of 1,200 companies and their 6 million plan participants. PSCA represents its members’ interests to federal policymakers and offers practical, cost-effective assistance with profit sharing and 401(k) plan design, administration, investment, compliance and communication. PSCA’s services are tailored to meet the needs of both large and small companies. Members range in size from Fortune 100 firms to small, entrepreneurial businesses.

PSCA supports the proposed rule. It reflects the statutory language and, we believe, Congressional intent.

Proposed paragraph 1.411(a)-11(c)(2)(vi)(A)(3) requires, in the case of a defined contribution plan, a statement that some currently available plan investment options may not be available on similar terms outside the plan. Subparagraph (c)(2)(vi)(A)(4) requires, in the case of a defined contribution plan, a statement that fees and expenses outside the plan may be different from plan fees and expenses applicable to a participant’s account. The provisions also require the statements to include contact information for obtaining additional information (i) on the availability of plan investment options outside the plan and (ii) information on the fees and expenses that apply to the participant’s account.

PSCA recommends that the final rule include alternative methods to provide participants with the information required under subparagraphs (c)(2)(vi)(A)(3) and (c)(2)(vi)(A)(4) relating to the availability of plan investments outside the plan and the fees and expenses that apply to the participant’s account. As an alternative to providing contact information, a plan should be permitted to (i), direct participants to a web site that contains the information; (ii) provide the information directly to the participant; or (iii) offer

to provide the information to the participant upon request. The information should be permitted to be distributed electronically in the manners permitted under current regulations issued by the Departments of Treasury or Labor.

Thank you for considering our recommendation. Please contact me at 202-863-7272 or [ferrigno@401k.org](mailto:ferrigno@401k.org) if you have any questions or if I can be of assistance.

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