

- a. By revising the undesignated center heading “List of States Parties as of November 1, 2006” to read “List of States Parties as of August 1, 2007”;
- b. By adding, in alphabetical order, the country “Barbados”; and
- c. By revising the footnote for China to read “\* For CWC purposes only, China includes Hong Kong and Macau.”

**PART 772—[AMENDED]**

- 7. The authority citation for 15 CFR part 772 is revised to read as follows:  
**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 15, 2007, 72 FR 46137 (August 16, 2007).
- 8. In § 772.1, the definition of “Australia Group” is revised to read as follows:

**§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).**

\* \* \* \* \*

*Australia Group.* The countries participating in the Australia Group have agreed to adopt harmonized controls on certain dual-use chemicals (i.e., precursor chemicals), biological agents, related manufacturing facilities and equipment, and related technology in order to ensure that exports of these items do not contribute to the proliferation of chemical or biological weapons. Countries participating in the Australia Group as of July 1, 2007, include: Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea (South), Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, the United Kingdom, and the United States. See also § 742.2 of the EAR.

\* \* \* \* \*

**PART 774—[AMENDED]**

- 9. The authority citation for 15 CFR part 774 is revised to read as follows:  
**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 15, 2007, 72 FR 46137 (August 16, 2007).

**Supplement No. 1 to Part 774—[Amended]**

- 10. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms” & “Toxins,” ECCN 1C352 is amended by revising paragraph (b) under “*Items*” in the List of Items Controlled to read as follows:

**1C352 Animal pathogens, as follows (see List of Items Controlled).**

\* \* \* \* \*

**List of Items Controlled**

*Unit:* \* \* \*  
*Related Controls:* \* \* \*  
*Related Definitions:* \* \* \*  
*Items:*

\* \* \* \* \*

- b. Bacteria, as follows:
  - b.1. *Mycoplasma mycoides*, as follows:
    - b.1.a. *Mycoplasma mycoides* subspecies *mycoides* SC (small colony) (a.k.a. contagious bovine pleuropneumonia);
    - b.1.b. *Mycoplasma capricolum* subspecies *capripneumoniae* (“strain F38”).
  - b.2. [RESERVED.]

**Supplement No. 1 to Part 774—[Amended]**

- 11. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms” & “Toxins,” ECCN 1C360 is amended by revising paragraph (b)(2) under “*Items*” in the List of Items Controlled to read as follows:

**1C360 Select agents not controlled under ECCN 1C351, 1C352, or 1C354.**

\* \* \* \* \*

**List of Items Controlled**

*Unit:* \* \* \*  
*Related Controls:* \* \* \*  
*Related Definitions:* \* \* \*  
*Items:*

\* \* \* \* \*

- b. \* \* \*
  - b.2. *Mycoplasma*, as follows:
    - b.2.a. *Mycoplasma capricolum*, except subspecies *capripneumoniae* (see ECCN 1C352.b.1.b);
    - b.2.b. *Mycoplasma mycoides capri*;

\* \* \* \* \*

**Supplement No. 1 to Part 774—[Amended]**

- 12. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 2B352 is amended by revising parenthetical phrase “(Geneva, 1983)” to read “(3rd edition, Geneva, 2004)” in the Technical Note immediately following paragraph (a) in the List of Items Controlled.

Dated: September 6, 2007.  
**Christopher A. Padilla,**  
*Assistant Secretary for Export Administration.*  
 [FR Doc. E7–18018 Filed 9–11–07; 8:45 am]  
**BILLING CODE 3510–33–P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 9338]

RIN 1545–BE47

**Information Returns Required With Respect to Certain Foreign Corporations and Certain Foreign-Owned Domestic Corporations; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations; correction.

**SUMMARY:** This document contains a correction to final regulations (TD 9338) that were published in the **Federal Register** on Friday, July 13, 2007 (72 FR 38475) providing guidance under sections 6038 and 6038A of the Internal Revenue Code. The final regulations clarify the information required to be furnished regarding certain related party transactions of certain foreign corporations and certain foreign-owned domestic corporations.

**DATES:** The correction is effective September 12, 2007.

**FOR FURTHER INFORMATION CONTACT:** Kate Y. Hwa at (202) 622–6070 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations that are the subject of the correction are under Sections 6038 and 6038A of the Internal Revenue Code.

**Need for Correction**

As published, final regulations (TD 9338) contain an error that may prove to be misleading and is in need of clarification.

**Correction of Publication**

Accordingly, the publication of the final regulations (TD 9338), which were the subject of FR Doc. E7–13587, is corrected as follows:

On page 38475, in the document heading, the language “RIN 1545–

BG11” is corrected to read “RIN 1545–BE47.”

**LaNita Van Dyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E7–17820 Filed 9–11–07; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### 29 CFR Part 2509

RIN 1210–AB22

#### Amendment to Interpretive Bulletin 95–1

**AGENCY:** Employee Benefits Security Administration, Department of Labor.

**ACTION:** Interim final rule.

**SUMMARY:** This document contains an interim final rule that amends Interpretive Bulletin 95–1 to limit the application of the Bulletin to the selection of annuity providers for defined benefit plans. This interim final rule implements section 625 of the Pension Protection Act of 2006. Also appearing in today’s **Federal Register** is a proposed regulation, entitled “Selection of Annuity Providers for Individual Account Plans”, which, in the form of a safe harbor, provides guidance concerning the fiduciary considerations attendant to the selection of annuity providers and contracts for purposes of benefit distributions from individual account plans. The amendment to Interpretive Bulletin 95–1, as well as the proposed safe harbor for annuity selections, will affect plan sponsors and fiduciaries of individual account plans, and the participants and beneficiaries covered by such plans.

**DATES:** This interim final rule is effective November 13, 2007. Written comments on the interim final rule should be received by the Department of Labor on or before November 13, 2007.

**ADDRESSES:** To facilitate the receipt and processing of comments, the Department encourages interested persons to submit their comments electronically to [www.regulations.gov](http://www.regulations.gov) (follow instructions for submission of comments) or [e-ORI@dol.gov](mailto:e-ORI@dol.gov). Persons submitting comments electronically are encouraged not to submit paper copies. Persons interested in submitting comments on paper should send or deliver their comments to: Office of Regulations and Interpretations, Employee Benefits Security

Administration, Room N–5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Interpretive Bulletin 95–1. Comments received will be posted without change, including any personal information provided, to [www.regulations.gov](http://www.regulations.gov) and <http://www.dol.gov/ebsa>, and also available for public inspection at the Public Disclosure Room, Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC, 20210.

**FOR FURTHER INFORMATION CONTACT:** Janet A. Walters or Allison E. Wielobob, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor, Washington, DC 20210 (202) 693–8510. This is not a toll-free number.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

In 1995, the Department issued Interpretive Bulletin 95–1 (29 CFR 2509.95–1) (the IB), providing guidance concerning the fiduciary standards under Part 4 of Title I of ERISA applicable to the selection of annuity providers for purposes of pension plan benefit distributions. In general, the IB makes clear that the selection of an annuity provider in connection with benefit distributions is a fiduciary act governed by the fiduciary standards of section 404(a)(1), including the duty to act prudently and solely in the interest of the plan’s participants and beneficiaries. In this regard, the IB provides that plan fiduciaries must take steps calculated to obtain the safest annuity available, unless under the circumstances it would be in the interest of the participants and beneficiaries to do otherwise. The IB also provides that fiduciaries must conduct an objective, thorough and analytical search for purposes of identifying providers from which to purchase annuities and sets forth six factors that should be considered by fiduciaries in evaluating a provider’s claims paying ability and creditworthiness.

In Advisory Opinion 2002–14A (Dec. 18, 2002) the Department expressed the view that the general fiduciary principles set forth in the IB with regard to the selection of annuity providers apply equally to defined benefit and defined contribution plans. The opinion recognized that, the selection of annuity providers by the fiduciary of a defined contribution plan would be governed by section 404(a)(1) and, therefore, such

fiduciary, in evaluating claims paying ability and creditworthiness of an annuity provider, should take into account the six factors set forth in 29 CFR 2509.95–1(c).

During 2005, the ERISA Advisory Council created the Working Group on Retirement Distributions & Options to study, in part, the nature of the distribution options available to participants of defined contribution plans. In November 2005, after public hearings and testimony, the Advisory Council issued a report, entitled Report of the Working Group on Retirement Distributions & Options,<sup>1</sup> concluding that many defined contribution plan distributions tend to be paid out in lump sums which “expose retirees to a wide range of risks including the possibility of outliving assets, investment losses, and inflation risk.” The Advisory Council recommended that the Department revise Interpretive Bulletin 95–1 to facilitate the availability of annuity options in defined contribution plans.

The Pension Protection Act of 2006 (the PPA) (Pub. L. 109–280, 120 Stat. 780) was enacted on August 17, 2006. Section 625 of the PPA directs the Secretary to issue final regulations within one year of the date of enactment, clarifying that the selection of an annuity contract as an optional form of distribution from an individual account plan is not subject to the safest available annuity standard under Interpretive Bulletin 95–1 and is subject to all otherwise applicable fiduciary standards.

Consistent with section 625 of the PPA, the Department is amending Interpretive Bulletin 95–1 to limit its application only to defined benefit plans. The Department is also proposing the adoption of a regulation, published in today’s **Federal Register**, which, in the form of a safe harbor, provides guidance concerning the fiduciary considerations attendant to the selection of annuity providers and contracts for purposes of benefit distributions from individual account plans.

##### B. Overview of Interim Final Rule

In order to implement the Congressional mandate of section 625 of the PPA and to eliminate any confusion regarding the applicability of the fiduciary standards set forth in IB 95–1 to the selection of annuity providers for the purpose of benefit distributions from individual account plans, the

<sup>1</sup> A copy of the Report can be found on the About EBSA page under the heading ERISA Advisory Council at [http://www.dol.gov/ebsa/publications/AC\\_1105A\\_report.html](http://www.dol.gov/ebsa/publications/AC_1105A_report.html).