

*LEGISLATIVE AND REGULATORY UPDATE*

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**Companies should act now on compensation committee and adviser independence**

**standards:** Listing standard changes on compensation committee member independence and compensation adviser selection issued by the NYSE and Nasdaq Stock Market were approved by the SEC in January. Required by the Dodd-Frank Act, the changes generally become effective after the 2013 proxy season, but companies should take action now to ensure compliance. Tasks include reviewing committee member relationships, updating committee charters, revising the committee's process for selecting advisers and evaluating advisers against six independence-related factors.

**IRS publishes 2013 MAP-21 stabilized segment rates for DB pension funding:** Employers may refine their 2013 defined benefit pension contribution budgets now that IRS has announced 2013 MAP-21 stabilized segment rates. The first, second and third segment rates are 4.94%, 6.15% and 6.76% (85% of the 25-year average rates of 5.81%, 7.23% and 7.95%). In a change from 2012, Notice 2013-11 indicates IRS used historical corporate bond yield data to construct 24-month average yield curves back to October 1987. The notice includes annual averages of 24-month segment rates for the past 25 years. [Full text of Notice 2013-11 \(IRS, 11 Feb 2013\) »](#)

**Lessening the pain of an overdue Form 5500 through DFVCP:** An update of the Department of Labor's Delinquent Filer Voluntary Compliance Program (DFVCP) provides a roadmap for employers that missed Form 5500 filing deadlines for ERISA-covered retirement and welfare plans. For most plans, the update requires filing delinquent forms through the EFAST2 system rather than on paper. An online tool helps filers identify the appropriate forms and schedules to use when filing reports for prior years. The update also incorporates an existing online penalty calculator and payment system into the program. The revisions took effect Jan. 29. [DOL website with DFVCP FAQs ; Fact sheet on the DFVCP \(DOL, 29 Jan 2013\) »](#)

**Final rule on essential health benefits issued, with minimum-value calculator, new FAQs:** Just-issued final regulations on essential health benefits set out methods for measuring whether a group health plan has a minimum value of 60% and confirm that the Affordable Care Act's annual cost-sharing limits will apply to all nongrandfathered group health plans. Other new guidance answers frequently asked questions about the preventive services that nongrandfathered plans must cover under health care reform. [Full text of fact sheet on final rule \(CCIIO, 20 Feb 2013\) »](#); [Full text of interagency ACA FAQs, set 12 \(DOL, 20 Feb 2013\) »](#)

**Final ACA rules target health coverage access, premiums, risk pools, employee nonretaliation:** Final HHS rules for nongrandfathered insured health plans in the individual and small-group markets spell out standards for fair premiums, guaranteed availability, rate review, and other marketplace reforms under the Affordable Care Act (ACA). Another new rule from the Labor Department implements the ACA's nonretaliation protections for employees. Under this

rule, an employer could face damage claims if it retaliates against an employee for receiving subsidies to purchase exchange coverage, thus triggering potential shared-responsibility penalties for the employer. [Full text of DOL interim final rule \(22 Feb 2013\) »](#); [Press release on rules \(HHS, 22 Feb 2013\) »](#); [Fact sheet on HHS rules \(CCIIO, 22 Feb 2013\) »](#)

**DOL issues revised 2012 Form M-1, extends filing due date to May 1:** With release of a revised and substantially expanded 2012 Form M-1 on Feb. 28, the 2013 filing deadline has moved to May 1. Starting next year, multiple-employer welfare arrangements (MEWAs) must file this annual report by the normal March 1 deadline and certify their M-1 compliance on Form 5500. Along with issuing the revised M-1 and 5500 requirements, the Department of Labor (DOL) has finalized rules, first proposed in 2011, that expand the entities and information subject to M-1 reporting, tighten the deadlines for reporting certain events, and toughen DOL's enforcement powers. [Fact sheet on final MEWA rules \(DOL, 28 Feb 2013\) »](#); [Full text of 2012 Form M-1 package with instructions \(DOL, 28 Feb 2013\) »](#); [DOL Form M-1 Online Filing System website \(for 2012 or later forms\) »](#); [DOL website with FAQs on 2012 Form M-1 filings »](#)

**Medicare Part D limits and maximum retiree drug subsidy drop for 2014:** Employers whose retiree prescription drug plans qualify for government reimbursement will see lower maximum subsidies in 2014: \$1,691.20 per retiree, compared with \$1,757.00 in 2013. This results from the lower 2014 out-of-pocket costs for retirees under Medicare Part D -- including a \$310 deductible, down \$15 from 2013 -- announced Feb. 15. Noncalendar-year plans must use the 2014 values for retiree drug subsidy attestations of actuarial equivalence submitted after April 16, 2013. All plans must use the 2014 values to determine allowable retiree costs for plan years ending in 2014. [Press release detailing 2014 Medicare Part D and other adjustments \(CMS, 15 Feb 2013\) »](#)

**Determining FATCA status is key for non-US retirement plans with US investments:** Unless otherwise exempt, non-US retirement plans with US investments will soon have new duties under the Foreign Account Tax Compliance Act (FATCA). Starting in 2014, these plans face 30% withholding on payments due from US-source investments, unless the plans have registered with US tax authorities and agreed to set up procedures to identify and report US account holders. An online registration portal will open later this year. But a critical first step is to see whether an exemption applies under recently finalized IRS rules or an intergovernmental agreement. [Full text of final FATCA regulations \(Federal Register, 28 Jan 2013\) »](#); [US Treasury webpage on FATCA »](#); [IRS webpage on FATCA »](#)

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