Bob Architect
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I had been with the Employee Plans Division of the Internal Revenue Service from 1975 until I retired in 2009. From 1978, I specialized in 403(b) tax-sheltered annuity arrangements. I had the opportunity to be involved in all aspects of my organization's work with 403(b) from the issuance of private letter rulings to the preparation of guidance, most notably the 2007 403(b) regulations. I also participated in our compliance efforts including examinations, the training of field agents and the writing of their examination guidelines, as well as the development of 403(b)'s inclusion in the Service's correction resolution program. Finally, I spearheaded the organization's educational outreach efforts to the 403(b) community during which time I gave well over two hundred presentations to professional and lay groups involved in the world of 403(b).

Soon after my retirement from public service I took my current position of Vice President of Compliance and Market Strategy with VALIC, a major provider of 403(b) benefits, on whose behalf I speak today.

Over the years I have been witness to the evolution of 403(b) from being viewed as a participant's "super IRA" like possession to its current inclusion in the list of employer sponsored retirement plans. I have also seen the 403(b) equation morph from a direct and exclusive relationship between an individual participant and his or her benefits provider to a more 401(k) like formula where the focus is on the employer offering the plan. And, I have watched as a "Wild West" culture continues to head towards a culture of affirmative compliance.

403(b) entered the Internal Revenue Code in 1958 and has to the present been subject to many additional Code modifications and additions. Through legislation, regulations, enhanced reporting requirements and participation in an imminent Internal Revenue Service pre-approved program, 403(b) has come closer to resembling its 401(k) cousin particularly where salary reduction agreements and written plans are involved. Yet, it retains it own unique identity that regulators should be aware of. Technically, some of the prime distinctions are elective deferral nondiscrimination testing, the regulation statement that a 403(b) plan may include by reference the insurance policies or custodial accounts thereunder which then become part of the plan, the ability to have a written plan under the regulations without a single integrated document and the potential inability to timely liquidate plan assets in order to facilitate a termination.

In a broader sense though, 403(b) derives its uniqueness from the community it serves. Tax-exempt entities are by their very nature a compliant group that shares an all too common trait, limited resources. As such, a regulatory structure that facilitates affordable compliance through the realization not only of this community's distinction from the for-profit world but also takes into account the movement away from the legacy relationship between providers and participants would greatly enhance compliance. This is what the drafters of the Internal Revenue Service's 403(b) regulations attempted to do when, in the preparation, we drew upon our years of experience working with the tax-exempt community and its representatives.

The Department of Labor has come a long way in Title I 403(b) guidance since the publication of the ERISA safe-harbor rules as evidence by FAB 2010-1 and its straightforward answers to long asked stakeholder questions. Of course, the need for additional guidance remains. For example, the annual reporting requirement's transition relief of FAB 2009-2 may, upon a closer reading, not interface comfortably with the transition relief for contracts of deselected providers in section 8 of the IRS's Revenue Procedure 2007-71, the latter based upon a plan approach, the former upon the legacy culture of individual ownership. Finally, since the publication of the IRS's 403(b) termination Revenue Ruling 2011-7, the Department of Labor needs to tell its story from the ERISA side of the two-headed termination coin.

Thank you for the opportunity to share my thoughts.