Part III

Sample Plan Amendments for the Economic Growth and Tax Relief Reconciliation Act of 2001

Notice 2001-57

I. Purpose

This notice provides sample plan amendments for the changes to the plan qualification requirements under § 401(a) of the Internal Revenue Code that were made by the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16 (EGTRRA). These sample amendments will help plan sponsors and sponsors and adopters of pre-approved plans comply with the requirement to adopt good faith EGTRRA plan amendments on a timely basis.

In some cases, plan sponsors may be able to adopt the sample amendments verbatim. In other cases, plan sponsors may have to modify the sample amendments to make the amendments appropriate for adoption in their plans.

The sample amendments are examples of plan amendments that satisfy the good faith requirement and should not be viewed as interpretive guidance on the EGTRRA changes to the qualification requirements. Other guidance will address the EGTRRA changes. See, for example, Notice 2001-56, p. **[insert page #]**, this bulletin.

II. Background

EGTRRA. EGTRRA, which was enacted on June 7, 2001, includes numerous changes to the qualified plan rules. Most of these changes are effective in years beginning after December 31, 2001. While many of the changes are not mandatory, a plan sponsor that chooses to implement an optional provision of EGTRRA will have to amend its plan to conform plan provisions to plan operation.

EGTRRA Remedial Amendment Period Requirements. Notice 2001-42, 2001-30 I.R.B. 70, designated as disqualifying provisions under Treas. Reg. § 1.401(b)-1(b) plan provisions that (1) must be amended to satisfy the qualification requirements of the Code because of changes in those requirements made by EGTRRA or (2) are integral to qualification requirements changed by EGTRRA. The effect of this designation is to provide a remedial amendment period under § 401(b), ending no earlier than the end of the 2005 plan year, in which any needed retroactive remedial EGTRRA plan amendments may be adopted (the EGTRRA remedial amendment period).

The availability of the EGTRRA remedial amendment period is conditioned on the timely adoption of required good faith EGTRRA plan amendments. There are two circumstances in which a good faith EGTRRA plan amendment is required. First, a plan is required to have a good faith EGTRRA plan amendment in effect for a year if the plan is required to implement a provision of EGTRRA for the year and the plan language, prior to the amendment, is not consistent with the provision of EGTRRA. Second, a plan is required to have a good faith EGTRRA plan amendment in effect for a year if the plan sponsor elects to implement a provision of EGTRRA for the year and the plan language, prior to the amendment, is not consistent with the operation of the plan in a manner consistent with EGTRRA. A good faith EGTRRA plan amendment is timely if it is adopted no later than the later of (i) the end of the plan year in which the EGTRRA change in the qualification requirements is required to be, or is optionally, put into effect under the plan or (ii) the end of the GUST remedial amendment period for the plan.[1]

Good Faith. A plan amendment is a good faith EGTRRA plan amendment only if the amendment represents a reasonable effort to take into account all of the requirements of the applicable EGTRRA provision and does not reflect an unreasonable or inconsistent interpretation of the provision.

III. Sample EGTRRA Plan Amendments

In General. As provided in Notice 2001-42, the Service is publishing sample EGTRRA plan amendments that can be adopted or used in drafting individualized good faith plan amendments for individually designed and pre-approved plans. In some cases, plan sponsors may be able to adopt the sample amendments in this notice verbatim. In other cases, plan sponsors may have to modify the sample amendments to make them appropriate for adoption in their plans.

The availability of the EGTRRA remedial amendment period is conditioned on the timely adoption of good faith EGTRRA plan amendments, as noted above. Many of the issues and questions concerning the EGTRRA changes to the qualification requirements are not addressed in the sample amendments. Therefore, the sample amendments may not contain all those provisions that will

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1 The term GUST refers to the following:

- the Uruguay Round Agreements Act, Pub. L. 103-465;
- the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103-353;
- the Small Business Job Protection Act of 1996, Pub. L. 104-188;
- the Taxpayer Relief Act of 1997, Pub. L. 105-34;
- the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206; and
- the Community Renewal Tax Relief Act of 2000, Pub. L. 106-554

Unless section 19 of Rev. Proc. 2000-20, 2000-6 I.R.B. 553, as modified by Notice 2001-42, applies, the GUST remedial amendment period generally ends on the last day of the 2001 plan year.

be necessary to comply with the EGTRRA changes once guidance on the changes is issued. Nevertheless, proper adoption of the sample amendments, or plan amendments that are materially similar to the sample amendments, will, with respect to the EGTRRA provisions addressed in the amendments that a sponsor adopts, satisfy the good faith plan amendment requirement and allow the amended plan provisions to be retroactively amended within the EGTRRA remedial amendment period.

Of course, regardless of whether a plan sponsor adopts the sample amendments in this notice or its own good faith amendments, the operation of the plan must also reflect a good faith, reasonable interpretation of EGTRRA. Plan operation will not reflect a good faith, reasonable interpretation of EGTRRA unless the operation is consistent with published guidance beginning no later than the effective date of the guidance.

Some of the sample amendments reflect other guidance issued with respect to the applicable section of EGTRRA. Notice 2001-56 provides guidance with respect to the effective dates of the increase in the § 401(a)(17) compensation limit under EGTRRA § 611(c), the changes to the top-heavy requirements of § 416 under EGTRRA § 613, and the change to the suspension period for hardship distributions in a § 401(k) plan under EGTRRA § 636(a). The Service and Treasury will issue additional guidance on other EGTRRA changes in the near future, including the increase in the § 415(b) dollar limit under EGTRRA § 611(a) and the catch-up contribution provisions under EGTRRA § 631. The sample amendments in this notice, materially similar amendments, and other good faith amendments will continue to be good faith EGTRRA plan amendments, even after the publication of additional guidance. However, as provided above, a plan will have to be operated in accordance with such additional guidance as of the effective date of the guidance, notwithstanding the provisions of the plan's good faith amendments.

Good Faith. The sample amendments, and plan amendments that are materially similar to the sample amendments, are sufficient to satisfy the good faith plan amendment requirement. A plan amendment that represents a reasonable effort to take into account all of the requirements of the applicable EGTRRA provision and does not reflect an unreasonable or inconsistent interpretation of the provision will not fail to be a good faith plan amendment merely because it is not materially similar to a sample EGTRRA plan amendment.

Scope of the Sample Amendments. The sample amendments address most of the EGTRRA changes for which plan amendments are either required or optional. The sample amendments do not address changes not generally applicable to plans; changes not effective prior to the issuance of regulations; and changes under EGTRRA §§ 602 and 617, regarding deemed individual retirement accounts and annuities and Roth contribution programs in qualified

plans, respectively. The good faith plan amendment requirement described above applies with respect to all the EGTRRA changes to the plan qualification requirements, including those that are not addressed in the sample amendments. The sample amendments also do not address EGTRRA changes regarding deduction limits and excise taxes.

Some amendments that would generally be optional may, in certain circumstances, be required. Plan sponsors should make the determination of which amendments are appropriate after reviewing the EGTRRA changes in the context of their plans and particular circumstances. The sample amendments include notes to assist plan sponsors in making this determination.

Format of the Sample Amendments. The format of the sample amendments generally follows the design of pre-approved plans, including all M&P plans, that employ a basic plan document and an adoption agreement. Thus, each sample amendment includes language designed for inclusion in a basic plan document. In addition, some of the sample amendments include language designed for inclusion in an adoption agreement to allow the employer to indicate whether, or when, the corresponding basic plan document provision will be effective in the employer's plan and to select among options related to the application of the basic plan document provision. Sponsors may modify the amendments to specify the default option that will apply if an employer does not select an alternative option in the adoption agreement.

Sponsors of plans that do not use an adoption agreement should modify the format of the amendments to incorporate the appropriate adoption agreement option(s) in the terms of the amendments. The adoption agreement format is not used in the sample amendment for multiemployer plans for EGTRRA §§ 611(a) and 654, regarding changes in the limitations of § 415(b) of the Code.

Pre-approved plans that are amended for EGTRRA in any manner other than by the adoption of a separate, clearly identified addendum to the plan (or basic plan document) and/or adoption agreement, limited to the provisions of EGTRRA, will be treated as individually designed plans. The sample EGTRRA plan amendments in this notice are designed to be easily incorporated in such a separate addendum, so that a pre-approved plan will not be treated as an individually designed plan.

The sample amendments have been designed to facilitate their adoption in cases where the plan's language, including definitions, is similar to the sample plan provisions in the Service's *Listing of Required Modifications* (which is available at http://www.irs.gov/ep). Thus, the sample amendments generally do not provide definitions of terms used in the amendments if equivalent terms should already be defined in a plan. Among these terms are the following: annual addition, annual benefit, defined benefit compensation limitation, determination date for top-heavy status, elective deferrals, eligible retirement

plan, eligible rollover distribution, limitation year, and matching contributions. Of course, a sponsor needs to ensure that the terminology of its good faith EGTRRA plan amendments is consistent with the plan's existing terminology and definitions. The sample amendments generally do not address issues of plan design. Sponsors may want to add to or modify the sample amendments to address these issues.

The sample amendments are arranged in these categories: all plans, defined contribution plans, section 401(k) plans, and defined benefit plans.

Effective Dates. Sponsors that adopt the sample amendments may have to modify the amendments' effective dates to ensure that no optional plan amendment is effective earlier than the date on which the corresponding EGTRRA change is put into effect under the plan. For plans maintained pursuant to a collective bargaining agreement, the effective date of the sample amendment for EGTRRA § 633, regarding faster vesting of matching contributions, may be modified to reflect the effective date in § 633(c)(2).

Time and Manner of Adoption. Although good faith EGTRRA plan amendments are generally not required to be adopted earlier than the end of the plan year in which the amendments are required to be, or are optionally, put into effect, earlier adoption may be necessary in order to avoid a decrease or elimination of benefits protected by § 411(d)(6). See the discussion of § 411(d)(6) in section III of Notice 2001-42.

A pre-approved plan may be amended by the document's sponsor to the extent authorized. For example, a sponsor of an M&P plan may amend the plan on behalf of adopting employers. If the amendment of a pre-approved plan includes an addendum to the adoption agreement, the addendum is effective only if signed and dated by the employer.

Determination Letters and Reliance. Until further notice, the Service will not consider EGTRRA in issuing determination, opinion and advisory letters and such letters may not be relied on with respect to the EGTRRA changes, regardless of whether the plan has been amended by the adoption of the sample EGTRRA plan amendments. However, an employer's ability to otherwise rely on a favorable letter will not be adversely affected by the timely adoption of good faith EGTRRA plan amendments.

Possible Subsequent Required Amendments. The Service and Treasury will provide additional guidance on EGTRRA. Plans amended by the timely adoption of good faith EGTRRA plan amendments, including the sample amendments, may have to be amended again by the end of the EGTRRA remedial amendment period to comply with additional guidance. In addition, as provided above, plans will have to be operated consistent with such additional guidance as of the effective date of the guidance.

Application to Other Plans. Although the sample amendments are designed for plans qualified under § 401(a), some of the sample amendments may be used in an appropriate context in other plans, including § 403(b) plans. Future guidance will address the EGTRRA changes applicable to § 457 plans.

IV. Effect on Other Documents. Notice 2001-42 is modified.

DRAFTING INFORMATION

The principal drafter of this notice is James Flannery of Employee Plans. For further information regarding this notice, please contact Employee Plans' taxpayer assistance telephone service at (202) 283-9516 or (202) 283-9517, between the hours of 1:30 p.m. and 3:30 p.m. Eastern Time, Monday through Thursday. Mr. Flannery may be reached at (202) 283-9613. These telephone numbers are not toll-free.

SAMPLE EGTRRA PLAN AMENDMENTS FOR ALL PLANS

Sample Preamble Adopting Good Faith Amendments and Superseding Inconsistent Plan Provisions

(The following sample preamble is optional. However, plan sponsors that do not adopt this or a similar provision will have to modify some of the amendments that follow to specify effective dates and supersede inconsistent plan provisions.)

AMENDMENT OF THE PLAN FOR EGTRRA

PREAMBLE

1. Adoption and effective date of amendment. This amendment of the plan is adopted to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). This amendment is intended as good faith compliance with the requirements of EGTRRA and is to be construed in accordance with EGTRRA and guidance issued thereunder. Except as otherwise provided, this amendment shall be effective as of the first day of the first plan year beginning after December 31, 2001.

2. Supersession of inconsistent provisions. This amendment shall supersede the provisions of the plan to the extent those provisions are inconsistent with the provisions of this amendment.

Sample Plan Amendment for § 612 of EGTRRA

(The following amendment is required for plans that provide loans to participants but prohibit the making of loans to owner-employees or Subchapter S shareholder-employees.)

SECTION _____. PLAN LOANS FOR OWNER-EMPLOYEES AND SHAREHOLDER EMPLOYEES

Effective for plan loans made after December 31, 2001, plan provisions prohibiting loans to any owner-employee or shareholder-employee shall cease to apply.

SAMPLE EGTRRA PLAN AMENDMENTS FOR DEFINED CONTRIBUTION PLANS

Sample Plan Amendment for §§ 611(b) and 632 of EGTRRA

(Although plans may impose lower limits on contributions and allocations than the limits under § 415(c) of the Code, the following amendment will generally be required in order to avoid a related violation of § 401(a). This could occur, for example, if the plan allocates excess annual additions to a suspense account. (See Notice 99-44, Q&A-8, 1999-2 C.B. 326.) A plan that correctly incorporates the § 415(c) limits by reference will automatically reflect the EGTRRA changes and need not be amended.)

SECTION _____. LIMITATIONS ON CONTRIBUTIONS

1. Effective date. This section shall be effective for limitation years beginning after December 31, 2001.

2. Maximum annual addition. Except to the extent permitted under section _____ of this amendment [enter the section of the amendment that provides for catch-up contributions under EGTRRA § 631] and section 414(v) of the Code, if applicable, the annual addition that may be contributed or allocated to a participant's account under the plan for any limitation year shall not exceed the lesser of:

(a) $40,000, as adjusted for increases in the cost-of-living under section 415(d) of the Code, or

(b) 100 percent of the participant's compensation, within the meaning of section 415(c)(3) of the Code, for the limitation year.

The compensation limit referred to in (b) shall not apply to any contribution for medical benefits after separation from service (within the meaning of section 401(h) or section 419A(f)(2) of the Code) which is otherwise treated as an annual addition.

_____

Sample Plan Amendment for § 611(c) of EGTRRA

(The following sample amendment is optional. It should be adopted if the plan sponsor wants to increase the limit on annual compensation taken into account

under the plan in plan years beginning after December 31, 2001, to $200,000. If the plan bases allocations for plan years beginning after December 31, 2001, on compensation for periods beginning before January 1, 2002, the amendment should be modified to include provisions similar to the prior year limit and adoption agreement provisions of the sample amendment for EGTRRA § 611(c) for defined benefit plans. Also see Notice 2001-56 for guidance regarding the effective date of the change made by EGTRRA § 611(c).)

SECTION _____. INCREASE IN COMPENSATION LIMIT

The annual compensation of each participant taken into account in determining allocations for any plan year beginning after December 31, 2001, shall not exceed $200,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. Annual compensation means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

_____

Sample Plan Amendment for § 613 of EGTRRA

(The following sample amendment applies to all plans that are required to include provisions to determine whether the plan is top-heavy and that apply if the plan is top-heavy. The amendment is required. However, the amendment is not required for plans that consist solely of a cash or deferred arrangement which meets the safe harbor requirements of § 401(k)(12) of the Code and matching contributions with respect to which the safe harbor requirements of § 401(m)(11) of the Code are met. For these plans, see the sample plan amendments for EGTRRA § 613 under **Sample Plan Amendments for Section 401(k) Plans**.)

SECTION _____. MODIFICATION OF TOP-HEAVY RULES

1. Effective date. This section shall apply for purposes of determining whether the plan is a top-heavy plan under section 416(g) of the Code for plan years beginning after December 31, 2001, and whether the plan satisfies the minimum benefits requirements of section 416(c) of the Code for such years. This section amends section _____ of the plan [enter the section of the plan that includes top-heavy provisions].

2. Determination of top-heavy status.

2.1 Key employee. Key employee means any employee or former employee (including any deceased employee) who at any time during the plan year that includes the determination date was an officer of the employer having annual compensation greater than $130,000 (as adjusted under section 416(i)(1) of the Code for plan years beginning after December 31, 2002), a 5-percent owner of the employer, or a 1-percent owner of the employer having annual compensation of more than $150,000. For this purpose, annual compensation means compensation within the meaning of section 415(c)(3) of the Code. The determination of who is a key employee will be made in accordance with section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder.

2.2 Determination of present values and amounts. This section 2.2 shall apply for purposes of determining the present values of accrued benefits and the amounts of account balances of employees as of the determination date.

2.2.1 Distributions during year ending on the determination date. The present values of accrued benefits and the amounts of account balances of an employee as of the determination date shall be increased by the distributions made with respect to the employee under the plan and any plan aggregated with the plan under section 416(g)(2) of the Code during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the plan under section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than separation from service, death, or disability, this provision shall be applied by substituting 5-year period for 1-year period.

2.2.2 Employees not performing services during year ending on the determination date. The accrued benefits and accounts of any individual who has not performed services for the employer during the 1-year period ending on the determination date shall not be taken into account.

3. Minimum benefits.

3.1 Matching contributions. Employer matching contributions shall be taken into account for purposes of satisfying the minimum contribution requirements of section 416(c)(2) of the Code and the plan. The preceding sentence shall apply with respect to matching contributions under the plan or, if the plan provides that the minimum contribution requirement shall be met in another plan, such other plan. Employer matching contributions that are used to satisfy the minimum contribution requirements shall be treated as matching contributions for purposes of the actual contribution percentage test and other requirements of section 401(m) of the Code.

3.2 Contributions under other plans. The employer may provide in the adoption agreement that the minimum benefit requirement shall be met in another plan (including another plan that consists solely of a cash or deferred arrangement which meets the requirements of section 401(k)(12) of the Code and matching contributions with respect to which the requirements of section 401(m)(11) of the Code are met).

(Adoption agreement provision)

Minimum Benefits for Employees Also Covered Under Another Plan:

(The employer should describe below the extent, if any, to which the top-heavy minimum benefit requirement of section 416(c) of the Code and section_____ of the plan shall be met in another plan. This should include the name of the other plan, the minimum benefit that will be provided under such other plan, and the employees who will receive the minimum benefit under such other plan.)

_____

Sample Plan Amendment for § 633 of EGTRRA

(Plans that provide for matching contributions, as defined in § 401(m)(4)(A) of the Code, that do not vest at least as rapidly as under one of the two alternative schedules in EGTRRA § 633 must be amended to satisfy EGTRRA § 633 for contributions for plan years beginning after December 31, 2001. The following amendment is effective for plan years beginning after December 31, 2001, but applies to all matching contributions under the plan, including contributions for plan years beginning before January 1, 2002. The amendment may be modified to limit its application to contributions for plan years beginning after December 31, 2001. The amendment may also be modified to provide for any other vesting schedule that is at least as rapid as one of the alternative schedules in EGTRRA § 633.)

SECTION _____. VESTING OF EMPLOYER MATCHING CONTRIBUTIONS

1. Applicability. This section shall apply to participants with accrued benefits derived from employer matching contributions who complete an hour of service under the plan in a plan year beginning after December 31, 2001. If elected by the employer in the adoption agreement, this section shall also apply to all other participants with accrued benefits derived from employer matching contributions.

2. Vesting schedule. A participant's accrued benefit derived from employer matching contributions shall vest as provided by the employer in the adoption agreement. If the vesting schedule for employer matching contributions in Option 3 of the adoption agreement is elected, the election in section _____ of the plan [enter the section of the plan that provides for the election of the former vesting schedule under § 411(a)(10) of the Code] shall apply.

(Adoption agreement provisions)

Application of Section _____, Vesting of Employer Matching Contributions:

(Check the following option to apply section _____, Vesting of Employer Matching Contributions, to all participants with accrued benefits derived from employer matching contributions, rather than just those who complete an hour of service under the plan in a plan year beginning after December 31, 2001.)

_____ Section _____, Vesting of Employer Matching Contributions, shall apply to all participants with accrued benefits derived from employer matching contributions.

Vesting Schedule for Employer Matching Contributions:

____ Option 1. A participant's accrued benefit derived from employer matching contributions shall be fully and immediately vested.

____ Option 2. A participant's accrued benefit derived from employer matching contributions shall be nonforfeitable upon the participant's completion of three years of vesting service.

____ Option 3. A participant's accrued benefit derived from employer matching contributions shall vest according to the following schedule:

Years of vesting service	**Nonforfeitable percentage**
2	20
3	40
4	60
5	80
6	100

_____

Sample Plan Amendment for §§ 636(b), 641, 642 and 643 of EGTRRA

(The following sample amendment is required. However, the third paragraph should be deleted in the case of plans that do not provide for hardship distributions. The fourth paragraph should be deleted in the case of plans that do not have after-tax employee contributions.)

SECTION _____. DIRECT ROLLOVERS OF PLAN DISTRIBUTIONS

1. Effective date. This section shall apply to distributions made after December 31, 2001.

2. Modification of definition of eligible retirement plan. For purposes of the direct rollover provisions in section _____ of the plan, an eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Code and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the Code.

3. Modification of definition of eligible rollover distribution to exclude hardship distributions. For purposes of the direct rollover provisions in section _____ of the plan, any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan.

4. Modification of definition of eligible rollover distribution to include after-tax employee contributions. For purposes of the direct rollover provisions in section _____ of the plan, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

_____

Sample Plan Amendment to Specify Additional Types of Rollovers Accepted by the Plan Pursuant to EGTRRA §§ 641, 642 and 643

(A plan is not required to accept rollover contributions, including direct rollovers under § 401(a)(31) of the Code. The following optional sample amendment may be used to specify additional types of rollovers the plan will accept pursuant to EGTRRA §§ 641, 642 and 643. A plan that accepts rollovers may be required to separately account for such amounts.)

SECTION _____. ROLLOVERS FROM OTHER PLANS

If provided by the employer in the adoption agreement, the plan will accept participant rollover contributions and/or direct rollovers of distributions made after December 31, 2001, from the types of plans specified in the adoption agreement, beginning on the effective date specified in the adoption agreement.

(Adoption agreement provisions)

Direct Rollovers:

The plan will accept a direct rollover of an eligible rollover distribution from: (Check each that applies or none.)

____ a qualified plan described in section 401(a) or 403(a) of the Code, excluding after-tax employee contributions.

____ a qualified plan described in section 401(a) or 403(a) of the Code, including after-tax employee contributions.

____ an annuity contract described in section 403(b) of the Code, excluding after-tax employee contributions.

____ an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

Participant Rollover Contributions from Other Plans:

The plan will accept a participant contribution of an eligible rollover distribution from: (Check each that applies or none.)

____ a qualified plan described in section 401(a) or 403(a) of the Code.

____ an annuity contract described in section 403(b) of the Code.

____ an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

Participant Rollover Contributions from IRAs:

The plan: (Choose one.)

____ will

____ will not

accept a participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income.

Effective Date of Direct Rollover and Participant Rollover Contribution Provisions:

Section _____, Rollovers From Other Plans, shall be effective:

_____ (Enter a date no earlier than January 1, 2002.)

_____

Sample Plan Amendment for § 648 of EGTRRA

(The following optional sample amendment may be adopted by plans that provide for involuntary cash-outs, other than plans that are subject to the qualified joint and survivor annuity requirements of §§ 401(a)(11) and 417 of the Code. Note that this amendment will result in the involuntary distribution of a separated participant's account over $5,000 if the portion of the account that is not attributable to rollover contributions is $5,000 or less.)

SECTION _____. ROLLOVERS DISREGARDED IN INVOLUNTARY CASH-OUTS

1. Applicability and effective date. This section shall apply if elected by the employer in the adoption agreement and shall be effective as specified in the adoption agreement.

2. Rollovers disregarded in determining value of account balance for involuntary distributions. If elected by the employer in the adoption agreement, for purposes of section _____ of the plan [enter the section of the plan that provides for the involuntary distribution of vested accrued benefits of $5,000 or less], the value of a participant's nonforfeitable account balance shall be determined without regard to that portion of the account balance that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Code. If the value of the participant's nonforfeitable account balance as so determined is $5,000 or less, the plan shall immediately distribute the participant's entire nonforfeitable account balance.

(Adoption agreement provisions)

Treatment of Rollovers in Application of Involuntary Cash-out Provisions:

The employer: (choose one)

____ elects

____ does not elect

to exclude rollover contributions in determining the value of the participant's nonforfeitable account balance for purposes of the plan’s involuntary cash-out rules.

If the employer has elected to exclude rollover contributions, the election shall apply with respect to distributions made after:

_____ (Enter a date no earlier than December 31, 2001.)

with respect to participants who separated from service after:

_____ (Enter date. The date may be earlier than December 31, 2001.)

Sample Plan Amendment for § 666 of EGTRRA

(The following sample amendment is required for plans subject to the multiple use test described in Treas. Reg. § 1.401(m)-2.)

SECTION _____. REPEAL OF MULTIPLE USE TEST

The multiple use test described in Treasury Regulation section 1.401(m)-2 and section _____ of the plan shall not apply for plan years beginning after December 31, 2001.

SAMPLE PLAN AMENDMENTS FOR SECTION 401(k) PLANS

Sample Plan Amendment for § 611(d) of EGTRRA

(Unless the plan correctly incorporates the limitation of § 402(g) of the Code by reference, the plan cannot permit the higher amount of elective deferrals under EGTRRA unless it adopts the following or similar amendment.)

SECTION _____. ELECTIVE DEFERRALS -- CONTRIBUTION LIMITATION

No participant shall be permitted to have elective deferrals made under this plan, or any other qualified plan maintained by the employer during any taxable year, in excess of the dollar limitation contained in section 402(g) of the Code in effect for such taxable year, except to the extent permitted under section _____ of this amendment [enter the section of the amendment that provides for catch-up contributions under EGTRRA § 631] and section 414(v) of the Code, if applicable.

_____

Sample Plan Amendment for § 611(f) of EGTRRA

(The following sample amendment is only for SIMPLE 401(k) plans. This amendment is not necessary if the plan correctly incorporates the limitation in § 408(p)(2)(A)(ii) of the Code.)

SECTION _____. MAXIMUM SALARY REDUCTION CONTRIBUTIONS

Except to the extent permitted under section _____ of this amendment [enter the section of the amendment that provides for catch-up contributions under EGTRRA § 631] and section 414(v) of the Code, if applicable, the maximum salary reduction contribution that can be made to this plan is the amount determined under section 408(p)(2)(A)(ii) of the Code for the calendar year.

_____

Sample Plan Amendment for § 613 of EGTRRA

(The following sample amendment is only for plans that consist solely of a cash or deferred arrangement which meets the requirements of § 401(k)(12) of the Code and matching contributions with respect to which the requirements of § 401(m)(11) of the Code are met.)

SECTION _____. MODIFICATION OF TOP-HEAVY RULES

The top-heavy requirements of section 416 of the Code and section _____ of the plan shall not apply in any year beginning after December 31, 2001, in which the plan consists solely of a cash or deferred arrangement which meets the requirements of section 401(k)(12) of the Code and matching contributions with respect to which the requirements of section 401(m)(11) of the Code are met.

_____

Sample Plan Amendment for § 631 of EGTRRA

(The following amendment is optional.)

SECTION _____. CATCH-UP CONTRIBUTIONS

If elected by the employer in the adoption agreement, all employees who are eligible to make elective deferrals under this plan and who have attained age 50 before the close of the plan year shall be eligible to make catch-up contributions in accordance with, and subject to the limitations of, section 414(v) of the Code. Such catch-up contributions shall not be taken into account for purposes of the provisions of the plan implementing the required limitations of sections 402(g) and 415 of the Code. The plan shall not be treated as failing to satisfy the provisions of the plan implementing the requirements of section 401(k)(3), 401(k)(11), 401(k)(12), 410(b), or 416 of the Code, as applicable, by reason of the making of such catch-up contributions.

(Adoption agreement provision)

Section _____, Catch-up Contributions: (Choose one.)

_____ shall apply to contributions after _____ . (Enter December 31, 2001 or a later date).

_____ shall not apply.

_____

Sample Plan Amendment for § 636(a) of EGTRRA

(The following sample amendment is optional for section 401(k) plans (other than plans described in § 401(k)(12) or 401(m)(11) of the Code) that use the safe harbor (deemed) standards for hardship distributions of elective contributions set forth in Treas. Reg. § 1.401(k)-1(d)(2)(iv). The amendment is required for a plan described in § 401(k)(12) or 401(m)(11) of the Code. Also see Notice 2001-56 for guidance regarding the effective date of the change made by EGTRRA § 636(a).)

SECTION _____. SUSPENSION PERIOD FOLLOWING HARDSHIP DISTRIBUTION

A participant who receives a distribution of elective deferrals after December 31, 2001, on account of hardship shall be prohibited from making elective deferrals and employee contributions under this and all other plans of the employer for 6 months after receipt of the distribution. A participant who receives a distribution of elective deferrals in calendar year 2001 on account of hardship shall be prohibited from making elective deferrals and employee contributions under this and all other plans of the employer for the period specified by the employer in the adoption agreement.

(Adoption agreement provision)

Suspension Period for Hardship Distributions: (Choose one.)

_____ A participant who receives a distribution of elective deferrals in calendar year 2001 on account of hardship shall be prohibited from making elective deferrals and employee contributions under this and all other plans of the employer for 6 months after receipt of the distribution or until January 1, 2002, if later.

_____ A participant who receives a distribution of elective deferrals in calendar year 2001 on account of hardship shall be prohibited from making elective deferrals and employee contributions under this and all other plans of the

employer for the period specified in the provisions of the plan relating to suspension of elective deferrals that were in effect prior to this amendment.

_____

Sample Plan Amendment for § 646 of EGTRRA

(The following amendment is optional.)

SECTION _____. DISTRIBUTION UPON SEVERANCE FROM EMPLOYMENT

1. Effective date. If elected by the employer in the adoption agreement, this section shall apply for distributions and severances from employment occurring after the dates specified in the adoption agreement.

2. New distributable event. A participant's elective deferrals, qualified nonelective contributions, qualified matching contributions, and earnings attributable to these contributions shall be distributed on account of the participant's severance from employment. However, such a distribution shall be subject to the other provisions of the plan regarding distributions, other than provisions that require a separation from service before such amounts may be distributed.

(Adoption agreement provision)

Section _____, Distribution Upon Severance from Employment, shall apply for distributions after:

_____ (Enter a date no earlier than December 31, 2001.),

(Choose one.)

_____ regardless of when the severance from employment occurred.

_____ for severances from employment occurring after_____. (Enter date.)

_____

SAMPLE PLAN AMENDMENTS FOR DEFINED BENEFIT PLANS

Sample Plan Amendment for § 611(a) of EGTRRA for Non-Multiemployer Plans

(The following sample amendment is optional for non-multiemployer plans that do not incorporate the § 415(b) limits by reference.

The last two sentences of section 3.2(b) of the amendment and the last sentence of section 3.2(c) may be modified to conform to Notice 87-21, 1987-1 C.B. 458, and Notice 83-10, 1983-1 C.B. 536. These notices provide alternatives with regard to the application of the mortality decrement in making the adjustments under section 3.2(b) and (c) of the amendment.

In addition to the following amendment, non-multiemployer plans should be amended as necessary to reflect EGTRRA § 654(b). Section 654(b) of EGTRRA changed the § 415 aggregation rules to provide that, for limitation years beginning after December 31, 2001, a multiemployer plan is not combined or aggregated with a non-multiemployer plan for purposes of applying the § 415(b)(1)(B) compensation limit to the non-multiemployer plan.

If a plan's normal retirement age (NRA) is below 65, the plan's provisions regarding post-NRA accruals and actuarial increases for deferred benefits must be coordinated with the following amendment to ensure that the plan does not violate § 401(a) of the Code. In order to avoid such a violation, a plan may have to pay benefits at NRA, notwithstanding a participant's continued employment, or provide for the suspension of benefits in accordance with § 411(a)(3)(B) of the Code.)

SECTION _____. LIMITATIONS ON BENEFITS

1. Effective date. This section shall be effective for limitation years ending after December 31, 2001.

2. Effect on participants. Benefit increases resulting from the increase in the limitations of section 415(b) of the Code will be provided to those participants specified by the employer in the adoption agreement.

3. Definitions.

3.1 Defined benefit dollar limitation. The "defined benefit dollar limitation" is $160,000, as adjusted, effective January 1 of each year, under section 415(d) of the Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under section 415(d) will

apply to limitation years ending with or within the calendar year for which the adjustment applies.

3.2 Maximum permissible benefit: The “maximum permissible benefit” is the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided in (a) and, if applicable, in (b) or (c) below).

(a) If the participant has fewer than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of participation in the plan and (ii) the denominator of which is 10. In the case of a participant who has fewer than 10 years of service with the employer, the defined benefit compensation limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of service with the employer and (ii) the denominator of which is 10.

(b) If the benefit of a participant begins prior to age 62, the defined benefit dollar limitation applicable to the participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the participant at age 62 (adjusted under (a) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of (i) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in section_____of the plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate and the applicable mortality table as defined in section _____ of the plan. Any decrease in the defined benefit dollar limitation determined in accordance with this paragraph (b) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

(c) If the benefit of a participant begins after the participant attains age 65, the defined benefit dollar limitation applicable to the participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the participant at age 65 (adjusted under (a) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as (i) the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in section _____of the plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate assumption and the applicable mortality table as defined in

section _____ of the plan. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.

(Adoption agreement provision)

Benefit Increases Resulting from the Increase in the Limitations of Section 415(b) of the Code

Benefit increases resulting from the increase in the limitations of section 415(b) of the Code shall be provided to: (Choose one.)

_____ all current and former participants (with benefits limited by section 415(b)) who have an accrued benefit under the plan immediately prior to the effective date of this section (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under section 415(b)).

_____ all employees participating in the plan who have one hour of service on or after the first day of the first limitation year ending after December 31, 2001.

_____

Sample Plan Amendment for §§ 611(a) and 654 of EGTRRA for Multiemployer Plans

(The following sample amendment is optional for multiemployer plans that do not incorporate the § 415(b) limits by reference.

The last two sentences of section 3.2(b) of the amendment and the last sentence of section 3.2(c) may be modified to conform to Notice 87-21, 1987-1 C.B. 458, and Notice 83-10, 1983-1 C.B. 536. These notices provide alternatives with regard to the application of the mortality decrement in making the adjustments under section 3.2(b) and (c) of the amendment.

Section 3.2(d) of the amendment should be deleted if the plan's limitation year is the calendar year.

Section 654(b) of EGTRRA changed the § 415 aggregation rules to provide that, for limitation years beginning after December 31, 2001, a multiemployer plan is not combined or aggregated with a non-multiemployer plan for purposes of applying the § 415(b)(1)(B) compensation limit to the non-multiemployer plan. This change is not reflected in this amendment for multiemployer plans. Plan

sponsors should review their plans to determine if a plan amendment for EGTRRA § 654(b) should be adopted.

If a plan's normal retirement age (NRA) is below 65, the plan's provisions regarding post-NRA accruals and actuarial increases for deferred benefits must be coordinated with the following amendment to ensure that the plan does not violate § 401(a) of the Code. In order to avoid such a violation, a plan may have to pay benefits at NRA, notwithstanding a participant's continued employment, or provide for the suspension of benefits in accordance with § 411(a)(3)(B) of the Code.)

SECTION _____. LIMITATIONS ON BENEFITS

1. Effective date. This section shall be effective for limitation years ending after December 31, 2001, except as provided in section 3.2(d).

2. Effect on participants. Benefit increases resulting from the increase in the limitations of section 415(b) of the Code will be provided to [enter one of the following 2 options: all current and former participants (with benefits limited by section 415(b)) who have an accrued benefit under the plan immediately prior to the effective date (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under section 415(b)); all employees participating in the plan who have one hour of service on or after the first day of the first limitation year ending after December 31, 2001].

3. Definitions.

3.1 Defined benefit dollar limitation. The "defined benefit dollar limitation" is $160,000, as adjusted, effective January 1 of each year, under section 415(d) of the Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies.

3.2 Maximum permissible benefit: The “maximum permissible benefit” is the defined benefit dollar limitation (adjusted where required, as provided in (a) and, if applicable, in (b) or (c) below, and limited, if applicable, as provided in (d) below).

(a) If the participant has fewer than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of participation in the plan and (ii) the denominator of which is 10.

(b) If the benefit of a participant begins prior to age 62, the defined benefit dollar limitation applicable to the participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the participant at age 62 (adjusted under (a) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of (i) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in section_____of the plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate and the applicable mortality table as defined in section _____ of the plan. Any decrease in the defined benefit dollar limitation determined in accordance with this paragraph (b) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

(c) If the benefit of a participant begins after the participant attains age 65, the defined benefit dollar limitation applicable to the participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the participant at age 65 (adjusted under (a) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as (i) the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in section _____of the plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate assumption and the applicable mortality table as defined in section _____ of the plan. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.

(d) Notwithstanding the above, for limitation years beginning before January 1, 2002, the maximum permissible benefit will not exceed the defined benefit compensation limitation. In the case of a participant who has fewer than 10 years of service with the employer, the defined benefit compensation limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of service with the employer and (ii) the denominator of which is 10.

_____

Sample Plan Amendment for § 611(c) of EGTRRA

(The following sample amendment is optional. It should be adopted if the plan sponsor wants to increase the limit on annual compensation taken into account under the plan in plan years beginning after December 31, 2001, to $200,000.

The last sentence of the first paragraph of the amendment and the related adoption agreement provision are applicable to plans that base benefit accruals in plan years beginning after December 31, 2001, on compensation for periods beginning before January 1, 2002. Also see Notice 2001-56 for guidance regarding the effective date of the change made by EGTRRA § 611(c).)

SECTION _____. INCREASE IN COMPENSATION LIMIT

1. Increase in limit. The annual compensation of each participant taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed $200,000. Annual compensation means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan (the determination period). For purposes of determining benefit accruals in a plan year beginning after December 31, 2001, compensation for any prior determination period shall be limited as provided by the employer in the adoption agreement.

2. Cost-of-living adjustment. The $200,000 limit on annual compensation in paragraph 1 shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

(Adoption agreement provision)

Compensation Limit for Prior Determination Periods:

In determining benefit accruals in plan years beginning after December 31, 2001, the annual compensation limit in paragraph 1 of Section _____, Increase in Compensation Limit, for determination periods beginning before January 1, 2002, shall be: (Choose one.)

_____ $200,000.

_____ $150,000 for any determination period beginning in 1996 or earlier; $160,000 for any determination period beginning in 1997, 1998, or 1999; and $170,000 for any determination period beginning in 2000 or 2001.

Sample Plan Amendment for § 613 of EGTRRA

(The following sample amendment applies to all plans that are required to include provisions to determine whether the plan is top-heavy and that apply if the plan is top-heavy. The amendment is required.

The amendment may be modified in accordance with § 416(f) of the Code and the regulations thereunder to provide that the minimum benefit requirement shall be satisfied by benefits or contributions, including employer matching contributions, under another plan, including another plan that consists solely of a cash or deferred arrangement which meets the requirements of § 401(k)(12) of the Code and matching contributions with respect to which the requirements of § 401(m)(11) of the Code are met. See section 3 and the adoption agreement provision for the sample plan amendment for EGTRRA § 613 for defined contribution plans.)

SECTION _____. MODIFICATION OF TOP-HEAVY RULES

1. Effective date. This section shall apply for purposes of determining whether the plan is a top-heavy plan under section 416(g) of the Code for plan years beginning after December 31, 2001, and whether the plan satisfies the minimum benefits requirements of section 416(c) of the Code for such years. This section amends section _____ of the plan [enter the section of the plan that includes top-heavy provisions].

2. Determination of top-heavy status.

2.1 Key employee. Key employee means any employee or former employee (including any deceased employee) who at any time during the plan year that includes the determination date was an officer of the employer having annual compensation greater than $130,000 (as adjusted under section 416(i)(1) of the Code for plan years beginning after December 31, 2002), a 5-percent owner of the employer, or a 1-percent owner of the employer having annual compensation of more than $150,000. For this purpose, annual compensation means compensation within the meaning of section 415(c)(3) of the Code. The determination of who is a key employee will be made in accordance with section

416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder.

2.2 Determination of present values and amounts. This section 2.2 shall apply for purposes of determining the present values of accrued benefits and the amounts of account balances of employees as of the determination date.

2.2.1 Distributions during year ending on the determination date. The present values of accrued benefits and the amounts of account balances of an employee as of the determination date shall be increased by the distributions made with respect to the employee under the plan and any plan aggregated with the plan under section 416(g)(2) of the Code during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the plan under section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than separation from service, death, or disability, this provision shall be applied by substituting 5-year period for 1-year period.

2.2.2 Employees not performing services during year ending on the determination date. The accrued benefits and accounts of any individual who has not performed services for the employer during the 1-year period ending on the determination date shall not be taken into account.

3. Minimum benefits. For purposes of satisfying the minimum benefit requirements of section 416(c)(1) of the Code and the plan, in determining years of service with the employer, any service with the employer shall be disregarded to the extent that such service occurs during a plan year when the plan benefits (within the meaning of section 410(b) of the Code) no key employee or former key employee.

Sample Plan Amendment for §§ 641, 642 and 643 of EGTRRA

(The following sample amendment is required. However, the third paragraph should be deleted in the case of plans that do not have after-tax employee contributions.)

SECTION _____. DIRECT ROLLOVERS OF PLAN DISTRIBUTIONS

1. Effective date. This section shall apply to distributions made after December 31, 2001.

2. Modification of definition of eligible retirement plan. For purposes of the direct rollover provisions in section _____ of the plan, an eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Code and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the Code.

3. Modification of definition of eligible rollover distribution to include after-tax employee contributions. For purposes of the direct rollover provisions in section _____ of the plan, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

_____

Sample Plan Amendment to Specify Additional Types of Rollovers Accepted by the Plan Pursuant to EGTRRA §§ 641, 642 and 643

(A plan is not required to accept rollover contributions, including direct rollovers under § 401(a)(31) of the Code. The following optional sample amendment may be used to specify additional types of rollovers the plan will accept pursuant to EGTRRA §§ 641, 642 and 643. A defined benefit plan that accepts rollovers must separately account for such amounts.)

SECTION _____. ROLLOVERS FROM OTHER PLANS

If provided by the employer in the adoption agreement, the plan will accept participant rollover contributions and/or direct rollovers of distributions made after December 31, 2001, from the types of plans specified in the adoption agreement, beginning on the effective date specified in the adoption agreement.

(Adoption agreement provisions)

Direct Rollovers:

The plan will accept a direct rollover of an eligible rollover distribution from: (Check each that applies or none.)

____ a qualified plan described in section 401(a) or 403(a) of the Code.

____ an annuity contract described in section 403(b) of the Code.

____ an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

Participant Rollover Contributions from Other Plans:

The plan will accept a participant contribution of an eligible rollover distribution from: (Check each that applies or none.)

____ a qualified plan described in section 401(a) or 403(a) of the Code.

____ an annuity contract described in section 403(b) of the Code.

____ an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

Participant Rollover Contributions from IRAs:

The plan: (Choose one.)

____ will

____ will not

accept a participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income.

Effective Date of Direct Rollover and Participant Rollover Contribution Provisions:

Section _____, Rollovers From Other Plans, shall be effective:

_____ (Enter a date no earlier than January 1, 2002.)