

## Temporary Money Market Fund Disclosures Adopted

BY ED ZAHAREWICZ

The SEC has adopted an interim final temporary rule that requires money market funds to report their portfolio holdings and valuation information to the SEC under certain circumstances. Temporary Rule 30b1-6T under the Investment Company Act, which became effective on September 18, 2009, is designed to provide information substantially similar to that submitted by certain money market funds under the Treasury Department's Temporary Guarantee Program for Money Market Funds. The Guarantee Program, which expired on the new rule's effective date, was established to allay investor concerns about the safety of money market funds in the wake of last year's Lehman Brothers bankruptcy and deepening credit crisis by guarantying the \$1.00 share value of accounts held by investors as of September 19, 2008 in participating money market funds.

Under the rule, if the market-based NAV per share of a money market fund falls below \$.9975, the fund must notify the SEC and provide it with a portfolio schedule containing the required information no later than the next business day. Thereafter, the fund must provide the SEC a portfolio schedule as of the last business day of each week, no later than the second business day of the following week, until the fund's market-based NAV per share is \$.9975 or greater. The required notice and portfolio schedule, which is required to be prepared in Microsoft Excel format, must be submitted by email to a designated SEC email address. The rules states that the information submitted will be nonpublic to the extent permitted by law. The SEC believes that this information will enable it to identify funds that present a greater risk that they will be unable to maintain their primary investment objectives.

The disclosure requirements apply to every registered investment company or fund series that is regulated as a money market fund under Rule 2a-7, whether or not the fund had participated in the Treasury's Guarantee Program. Temporary Rule 30b1-6T, by its terms, will expire on September 17, 2010.

## Summary Prospectus Satisfies Requirement

BY STEVE KRAUS

Section 404(c) of ERISA provides that a plan fiduciary is not liable for any losses resulting from investment decisions made by participants under an individual account plan (e.g., 401(k) plan) if the plan permits participants to exercise control over the assets in their accounts. Under the Department of Labor regulations implementing Section 404(c), in order for participants to be considered as having exercised control over their assets they must, among other things, be provided, or have the opportunity to obtain, sufficient information to make informed investment decisions.



*Summary prospectus  
is compliant*

If an individual account plan offers mutual funds as investment alternatives, participants must be provided by the plan fiduciary, either immediately before or immediately after a decision to invest in a mutual fund alternative, a copy of the most recent prospectus provided to the plan for that fund. The DOL regulations also provide that a participant must be provided, either directly or upon request, based on the latest information available to the plan, copies of any prospectuses, financial statements and reports, and any other materials relating to all the mutual fund investment alternatives available under the plan, to the extent such information is provided to the plan.

The SEC recently published Rule 498 providing for an enhanced disclosure framework for mutual funds including a new Summary Prospectus rule. The new Summary Prospectus rule is an optional means of compliance with the prospectus delivery requirements under section 5(b)(2) of the Securities Act.

In ERISA Field Assistance Bulletin No. 2009-3, the Labor Department announced that the delivery of a Summary Prospectus satisfies the requirement that a participant be provided with sufficient information to make an informed investment decision because the required contents of the Summary Prospectus provide key information about a mutual fund to participants. Specifically, the Summary Prospectus will satisfy the regulatory requirement that a plan fiduciary furnish a prospectus immediately before or immediately after a participant's initial investment in a mutual fund. Also, if a participant requests a prospectus, and the most recent prospectus received by the plan is a Summary Prospectus, the plan fiduciary may provide such Summary Prospectus in satisfaction of the request.