

## 2011 Restated Plan Document Initiative

### 457 Governmental Plan & Trust Explanation of Selected Substantive Changes

#### ARTICLE I

##### Definitions

**Compensation** (Section 1.07): Revised compensation definition to address final regulations issued under Section 415 of the Internal Revenue Code (the "I.R.C."). Additionally, incorporated differential wage payments under the definition, which is consistent with the Heroes Earnings Assistance and Relief Tax Act of 2008 (the "HEART Act").

**Distributions to Individuals in the Uniformed Services:** Made changes consistent with the HEART Act, which allow distributions to certain individuals during periods of uniformed service. (Section 1.28(c)(3)).

#### ARTICLE III

##### Deferral Contributions/Limitations

**Deferrals After Severance from Employment, Including Sick, Vacation, and Back Pay Under an Eligible Plan:** Revisions incorporated to extend the time period during which deferrals may occur after severance from employment under the final regulations issued under Section 415 of the I.R.C. (Section 3.02(c)).

#### ARTICLE IV

##### Time and Method of Payment Benefits

**Emergency Tax Relief Distributions:** New section added which is designed to serve as a catchall provision allowing distributions from the plan if legislation is enacted following emergency or catastrophic events (e.g., hurricanes, floods). Administrator can also establish procedures related to these distributions. (Section 4.01).

**Required Minimum Distributions:** A plan provision was added to reflect the 2009 waiver period of RMDs under the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"). (Section 4.03(f)(1)).

**Eligible Rollover Distributions by a Non-Spousal Beneficiary:** A provision was added to the plan reflecting Section 829 of the Pension Protection Act of 2006 ("PPA"), which requires plans to permit direct rollovers by non-spousal beneficiaries to inherited IRAs under certain conditions. (Section 4.07(c)).

**Eligible Rollover Distributions to a Roth IRA:** Language added to reflect the ability of participants to direct rollovers to a Roth IRA under PPA Section 824. (Section 4.07(d)(2)).

**Mandatory Distributions for Small Accounts.** A provision has been added to make mandatory distributions of inactive accounts with less than \$1,000. (Section 4.07(d)(4)).

**Distribution for Qualified Health Insurance Premiums:** New section added pursuant to PPA Section 845 and IRC 402(l), which allows a distribution of \$3,000 per year to “eligible retired public safety officers” to pay for “qualified health insurance premiums” if certain conditions are met. This provision reflects the regulatory requirement that the plan make distributions directly to the qualified health insurance premium coverage provider to qualify. (Section 4.08(a)).

## ARTICLE V

### Administrative Services Provider Duties

**Loans:** Loan provisions are incorporated into the plan document, and is no longer a stand alone amendment to the plan. Including this provision does not require plans to offer loans. Plan sponsors wanting to offer loans must complete an administrative procedures document before Nationwide will begin administering loans. This document is available upon request. Plan sponsors who have already completed this step are not required to take any additional action at this time. (Section 5.03).

**Procedure When Location of Participant or Beneficiary Unknown:** New language added to Plan Document providing distribution procedures when the location of a participant or beneficiary is unknown. (Section 5.12(a)(b)).

## ARTICLE VI

### Participant Administrative Provisions

**Automatic Revocation of Spousal Beneficiary Designation:** New section, which automatically revokes designations in favor of a former spouse as beneficiary upon a divorce or dissolution of marriage. Many states already have laws which takes this action with former spouses. (Section 6.01).

## ARTICLE VII

### Miscellaneous

**Use of Plan Assets that Are Not Attributable to an Account:** New section, which provides that Plan Sponsor shall direct the Administrator how to use money received by the Plan that is not related to an Account Balance. This would include any settlement money, fee reimbursements, and litigation awards received by the Plan. (Section 7.09)

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### **Pension Protection Act of 2006**

The Act makes permanent the retirement-plan and IRA provisions of the [Economic Growth and Tax Relief Reconciliation Act of 2001](#) (EGTRRA), most of which were due to sunset after 2010. Also, the Act makes sweeping changes to the private sector defined benefit system by:

- Imposing tougher funding requirements for well-funded and under-funded plans
- Limiting future benefit increases for poorly funded plans
- Providing benefit accrual safeguards for older participants in cash balance conversions
- Legitimizing cash balance and hybrid defined benefit as viable plan designs going forward.

### **HEART - Heroes Earnings Assistance and Relief Tax (HEART) Act of 2008**

Provides additional benefits to active duty military personnel and their families

- Inclusion of Differential Pay For Retirement Plan Purposes. Differential pay is subject to federal income tax withholding.
- Withdrawal of Elective Deferrals and the 10% Early Distribution Tax
- Plan Death Benefit Requirements
- Increased Benefits
- Rollover of Military Death Gratuities

### **Worker, Retiree and Employer Recovery Act of 2008**

- Waiver of any required minimum distribution (RMD) for 2009

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