

## *LEGISLATIVE FLASH*

### *PENSION PROTECTION ACT OF 2006*

*Editors' Note: As this book was being finalized for publication, Congress passed and President Bush signed into law on August 17, 2006, the Pension Protection Act of 2006 (PPA). Certain components of this law will require ESOP plan amendments and modifications in plan operations. This change occurred after all of the chapters in the book, including this one, had been finalized. A summary of these changes can be found at [www.esopbook.org](http://www.esopbook.org).*

*The following is a very brief summary of the ESOP-related changes from the PPA:*

- *Made permanent the changes applicable to ESOPs from EGTRRA, including the prohibited allocation provisions of Section 409(p) applicable to S corporation ESOPs, and the Section 404(k) deduction for ESOP dividends reinvested in employer stock.*
- *Increases the fiduciary bond requirement to \$1 million for plans that hold employer securities.*
- *ESOPs and other defined contribution plans that hold publicly traded stock must provide new diversification rights for amounts invested in employer stock. Companies with stand-alone ESOPs that do not have elective employee or matching contributions are exempt from the diversification rules. This rule does not affect closely held ESOP companies.*
- *After December 31, 2006, vesting schedules are accelerated for all employer contributions to ESOPs and other defined contribution plans. Existing ESOPs repaying a loan that was in place as of September 26, 2005, are exempt from the change until that loan is repaid.*
- *Provides new and modified notice and disclosure requirements for retirement plans. Some of these new rules impact all retirement plans, while others impact only certain types of plans.*
- *Provides limited relief from excise taxes for non-controlling shareholders who sell stock to an ESOP in a transaction that fails to satisfy the current prohibited transaction exemptions.*