

1 **SEC. 623. INCREASE IN PENALTIES FOR COERCIVE INTER-**
2 **REFERENCE WITH EXERCISE OF ERISA RIGHTS.**

3 (a) IN GENERAL.—Section 511 of the Employment
4 Retirement Income Security Act of 1974 (29 U.S.C. 1141)
5 is amended—

6 (1) by striking “\$10,000” and inserting
7 “\$100,000”, and

8 (2) by striking “one year” and inserting “10
9 years”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to violations occurring on and after
12 the date of the enactment of this Act.

13 **SEC. 624. TREATMENT OF INVESTMENT OF ASSETS BY PLAN**
14 **WHERE PARTICIPANT FAILS TO EXERCISE IN-**
15 **VESTMENT ELECTION.**

16 (a) IN GENERAL.—Section 404(c) of the Employee
17 Retirement Income Security Act of 1974 (29 U.S.C.
18 1104(c)), as amended by section 622, is amended by add-
19 ing at the end the following new paragraph:

20 “(5) DEFAULT INVESTMENT ARRANGE-
21 MENTS.—

22 “(A) IN GENERAL.—For purposes of para-
23 graph (1), a participant in an individual ac-
24 count plan meeting the notice requirements of
25 subparagraph (B) shall be treated as exercising
26 control over the assets in the account with re-

1 spect to the amount of contributions and earn-
2 ings which, in the absence of an investment
3 election by the participant, are invested by the
4 plan in accordance with regulations prescribed
5 by the Secretary. The regulations under this
6 subparagraph shall provide guidance on the ap-
7 propriateness of designating default investments
8 that include a mix of asset classes consistent
9 with capital preservation or long-term capital
10 appreciation, or a blend of both.

11 “(B) NOTICE REQUIREMENTS.—

12 “(i) IN GENERAL.—The requirements
13 of this subparagraph are met if each par-
14 ticipant—

15 “(I) receives, within a reasonable
16 period of time before each plan year,
17 a notice explaining the employee’s
18 right under the plan to designate how
19 contributions and earnings will be in-
20 vested and explaining how, in the ab-
21 sence of any investment election by
22 the participant, such contributions
23 and earnings will be invested, and

24 “(II) has a reasonable period of
25 time after receipt of such notice and

1 before the beginning of the plan year
2 to make such designation.

3 “(ii) FORM OF NOTICE.—The require-
4 ments of clauses (i) and (ii) of section
5 401(k)(12)(D) of the Internal Revenue
6 Code of 1986 shall apply with respect to
7 the notices described in this subpara-
8 graph.”.

9 (b) EFFECTIVE DATE.—

10 (1) IN GENERAL.—The amendments made by
11 this section shall apply to plan years beginning after
12 December 31, 2006.

13 (2) REGULATIONS.—Final regulations under
14 section 404(c)(5)(A) of the Employee Retirement In-
15 come Security Act of 1974 (as added by this section)
16 shall be issued no later than 6 months after the date
17 of the enactment of this Act.

18 **SEC. 625. CLARIFICATION OF FIDUCIARY RULES.**

19 (a) IN GENERAL.—Not later than 1 year after the
20 date of the enactment of this Act, the Secretary of Labor
21 shall issue final regulations clarifying that the selection
22 of an annuity contract as an optional form of distribution
23 from an individual account plan to a participant or bene-
24 ficiary—