

**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****21 CFR Part 1308**

[Docket No. DEA-419F]

**Schedules of Controlled Substances: Placement of Eluxadoline Into Schedule IV***Correction*

In notice document 2015-28718, beginning on page 69861 in the issue of Thursday, November 12, 2015, make the following correction:

On page 69861, in the first column, in the eighteenth and nineteenth lines from the bottom, "December 17, 2015" should read "December 14, 2015".

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[TD 9743]

RIN 1545-BL62

**Transitional Amendments To Satisfy the Market Rate of Return Rules for Hybrid Retirement Plans**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations that provide guidance regarding certain amendments to applicable defined benefit plans. Applicable defined benefit plans are defined benefit plans that use a lump sum-based benefit formula, including cash balance plans and pension equity plans, as well as other plans that have formulas with an effect similar to a lump sum-based benefit formula. These final regulations relate to previously issued final regulations that specify permitted interest crediting rates for purposes of the requirement that an applicable defined benefit plan not provide for interest credits (or equivalent amounts) at an effective rate that is greater than a market rate of return. These final regulations permit a plan sponsor of an applicable defined benefit plan that does not comply with the market rate of return requirement to amend the plan in order to change to an interest crediting rate that is permitted under the previously issued final hybrid plan regulations without violating the anti-cutback rules of section 411(d)(6).

These regulations affect sponsors, administrators, participants, and beneficiaries of these plans.

**DATES:** *Effective Date:* These regulations are effective on November 16, 2015.

*Applicability Date:* These regulations generally apply to plan amendments made on or after September 18, 2014 (or an earlier date as elected by the taxpayer). These regulations cease to apply for amendments made on or after the first day of the first plan year that begins on or after January 1, 2017 (or, for collectively bargained plans, on or after a later date specified in the regulations).

**FOR FURTHER INFORMATION CONTACT:** Neil S. Sandhu or Linda S.F. Marshall at (202) 317-6700 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under sections 411(a)(13) and 411(b)(5) of the Internal Revenue Code (Code).

Generally, a defined benefit pension plan must satisfy the minimum vesting standards of section 411(a) and the accrual requirements of section 411(b) in order to be qualified under section 401(a) of the Code. Sections 411(a)(13) and 411(b)(5), which modify the minimum vesting standards of section 411(a) and the accrual requirements of section 411(b), were added to the Code by section 701(b) of the Pension Protection Act of 2006, Public Law 109-280 (120 Stat. 780 (2006)) (PPA '06). Sections 411(a)(13) and 411(b)(5) and certain related effective date provisions were subsequently amended by the Worker, Retiree, and Employer Recovery Act of 2008, Public Law 110-458 (122 Stat. 5092 (2008)) (WRERA '08).

Under section 411(b)(5)(B)(i), a statutory hybrid plan is treated as failing to satisfy the requirements of section 411(b)(1)(H) (which provides that the rate of an employee's benefit accrual must not be reduced because of the attainment of any age) if the terms of the plan provide any interest credit (or an equivalent amount) for any plan year at a rate that is in excess of a market rate of return. Section 411(b)(5)(B)(i) is generally effective for plan years beginning after December 31, 2007.

Section 411(d)(6) provides generally that a plan does not satisfy section 411 if an amendment to the plan decreases a participant's accrued benefit. For this purpose, a plan amendment that has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy or eliminating an optional form of benefit with respect to benefits

attributable to service before the amendment is treated as reducing accrued benefits.

Sections 204(b)(5)(B)(i) and 204(g) of the Employee Retirement Income Security Act of 1974, Public Law 93-406 (88 Stat. 829 (1974)), as amended (ERISA), contain rules that are parallel to sections 411(b)(5)(B)(i) and 411(d)(6), respectively. Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of the Treasury has interpretive jurisdiction over the subject matter addressed in these final regulations for purposes of ERISA, as well as the Code. Thus, these final regulations apply for purposes of sections 411(b)(5)(B)(i) and 411(d)(6) of the Code, as well as for purposes of sections 204(b)(5)(B)(i) and 204(g) of ERISA.

Section 1.411(d)-4, A-2(b)(1), of the Income Tax Regulations provides, in part, that the Commissioner may, consistent with the provisions of § 1.411(d)-4, provide for the elimination or reduction of section 411(d)(6) protected benefits that have already accrued to the extent that such elimination or reduction is necessary to permit compliance with other requirements of section 401(a). The Commissioner may exercise this authority only through the publication of revenue rulings, notices, and other documents of general applicability.

Section 1.411(d)-4, A-2(b)(2)(i), provides that a plan may be amended to eliminate or reduce a section 411(d)(6) protected benefit, within the meaning of § 1.411(d)-4, A-1, if the following three requirements are met: The amendment constitutes timely compliance with a change in law affecting plan qualification; there is an exercise of section 7805(b) relief by the Commissioner; and the elimination or reduction of the section 411(d)(6) protected benefit is made only to the extent necessary to enable the plan to continue to satisfy the requirements for qualified plans.

Final regulations (TD 9505) (2010 final hybrid plan regulations) were published by the Treasury Department and the IRS in the **Federal Register** on October 19, 2010 (75 FR 64123). Additional final regulations (TD 9693) (2014 final hybrid plan regulations) were published by the Treasury Department and the IRS in the **Federal Register** on September 19, 2014 (79 FR 56442) (collectively, the 2010 and 2014 final hybrid plan regulations are referred to herein as the final hybrid plan regulations). The final hybrid plan regulations provide, effective for plan years that begin on or after January 1, 2016, a list of interest crediting rates