



## UPDATE Employee Benefits and Compensation

May 2013

# Department of Labor Issues Model Exchange Notices and Updated Model COBRA Continuation Coverage Election Notice

Under the Patient Protection and Affordable Care Act (PPACA), employers are required to provide notice to all employees of the availability of health coverage under the government-run health care exchanges. The U.S. Department of Labor (DOL) recently issued Technical Release 2013-02 (the "Release"), providing temporary guidance on the Exchange Notice requirement, as well as two model Exchange Notices and a new Model COBRA Continuation Coverage Election Notice.

### EXCHANGE NOTICE

PPACA requires employers that are subject to the Fair Labor Standards Act (FLSA) to provide a written Exchange Notice to all current employees by October 1, 2013. For new employees hired on or after October 1, the Release provides that employers will have 14 days from the employee's start date to provide the notice. According to the Release, this Exchange Notice must be provided to all full- or part-time employees, whether or not they are enrolled in the employer plan.

The DOL issued two model Exchange Notices that may be used by employers to meet the notice requirement—one for employers that offer a health plan to some or all employees and another for those that do not offer a health plan. Both Exchange Notices will require some tailoring by the employer. The Exchange Notices can be found on the DOL's [Affordable Care Act website](#).

The DOL requires that the notice be provided in writing and in a manner calculated to be understandable by the average employee. It may be provided by first-class mail, or electronically, if the requirements of the DOL's electronic disclosure safe harbor are met.

### MODEL COBRA CONTINUATION COVERAGE ELECTION NOTICE

The DOL revised its Model COBRA Continuation Coverage Election Notice to: inform qualified

beneficiaries of coverage options available through the Exchange; clarify that preexisting condition exclusions will be prohibited beginning in 2014 under PPACA; and eliminate outdated references to prior laws.

The [Model COBRA Continuation Coverage Election Notice](#) is available in electronic form, along with a "redline version" showing the changes that were made.

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If you have any questions regarding these notice requirements, please contact one of the members of Robinson & Cole's [Employee Benefits and Compensation Practice Group](#):

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