

Initial Statement of Reasons

Summary of Proposal

The CalSavers Retirement Savings Board (Board) proposes adopting and amending its regulations to do the following:

- Clarify the Board's regulations by making the terminology in the Board's rules more consistent and easier to understand;
- Implement requirements for employers, employees, and individuals;
- Clarify the Board's penalty enforcement and refund process; and
- Introduce the process for employers to exempt themselves from the CalSavers Retirement Savings Program (Program).

Background

In 2012, the California Legislature enacted, and the Governor signed, Senate Bills (SB) 1234 and (Chapter 734, Statutes of 2012) and SB 923 (Chapter 737, Statutes of 2012) which established the California Secure Choice Retirement Savings Investment Board (subsequently changed to the "CalSavers Retirement Savings Board" through Assembly Bill (AB) 102 in 2020). The legislation, among other things, required the Board to determine, based on a market analysis, if conditions to implement the Program could be met and prohibited the implementation of the Program without subsequent legislation to authorize it.

In 2016, the California Legislature enacted, and the Governor signed SB 1234 (Chapter 804, Statutes of 2016) which, among other things, granted the Board the authority to take the steps necessary to implement the Program, including the adoption of regulations.

In 2020, the California Legislature enacted, and the Governor signed AB 102 (Chapter 21, Statutes of 2020) which, among other things, created a penalty enforcement scheme administrated by the Board and the Franchise Tax Board (FTB). Additionally, the bill expressly requires the Board to notify employers of noncompliance and to levy penalties on employers for failing to allow their eligible employees to participate in the Program. If compliance is not satisfied after the Board's notice is served on a noncompliant employer, the bill permits FTB to impose a penalty of \$250 for noncompliance. If noncompliance persists after the initial penalty is imposed, FTB is authorized on behalf of the Board to issue additional penalties of \$500 for continued noncompliance. Lastly, the bill created an appeals process by which employers may dispute penalties authorized by the bill with FTB.

In April of 2020, the Board authorized Board staff to engage in rulemaking activities which, among other things, created Section 10008 subsections (a) and (b) of Title 10 of the California Code of Regulations (CCR). By January 13, 2022, Board staff had completed the emergency rulemaking process and made permanent those regulations. Title 10 CCR Section 10008 subsections (a) and (b) delegate penalty enforcement to Board staff and set forth requirements for Board staff to notify employers of pending enforcement activities as required by state law.

At a November 13, 2023, meeting, the Board approved regulations amendments to clarify the assessment and collection of penalties from employers who fail to allow their employees to participate in the Program and provide the Board with the ability to refund penalties collected in error.

Lastly, at an August 20, 2026, meeting the Board approved further regulations amendments to clarify penalty enforcement and refunds, broadly clarify the Board's regulations through standardization, implement requirements for the public, and create an employer exemption process. This filing is intended to enact those proposed regulatory changes.

Policy Statement Overview

Objectives, Goals, & Problems Addressed by this Rulemaking

The objective of this rulemaking is to make the language and layout of the Board's existing regulations consistent to ensure the regulated community can more easily understand them. Additionally, this rulemaking is intended to clarify how an employer exempts themselves from the Program and the Board's noncompliance enforcement.

The main problem this rulemaking is intended to solve is the lack of clarity around the Board's requirements for individuals (employers and Program participants). By adding more detailed descriptions and step by step procedures for the public to accomplish tasks with the Program, the Board intends to improve compliance among the regulated community and reduce confusion about the Program's rules.

Overall Anticipated Benefits of this Rulemaking

This rulemaking, if implemented, would bolster the Program by clarifying terms used by the Board in its regulations which, among other things, administer the Program. For employers and business owners, it would clarify what responsibilities they have in facilitating the Program and how to maintain compliance. For employees and individual participants, it would clarify how the Program works, their rights within the Program, and the requirements of the Program.

Additionally, these regulations will notify and communicate to employers when they are subject to penalties assessed by the Board and provide refunds for penalties in limited circumstances. This benefits employers by informing them of their responsibilities, so they are not penalized without the opportunity to comply by accessing publicly available information on what is required to establish and maintain compliance with the Program. It also establishes a process for those who believe they were penalized in error, allowing them to request a refund of those funds forfeited in the enforcement process.

This proposed rulemaking also ensures that participants' account settings including investment elections, automatic escalation elections, and savings rates remain stable throughout their career by creating a rule that keeps their elections the same regardless of whether participants change jobs or obtains multiple jobs at other participating

CalSavers employers. This simple rule aligns the Program's design with the legislature's intent for the Program and with how other IRA programs, public or private operate throughout the country. It should be noted that the change preserves the right of participants to change their settings at any time which are also detailed in this rulemaking.

Other benefits include an improvement in the compliance rate, through the improved communication of administrative procedures, exemption eligibility, and other Board requirements, which will benefit the perception of the Program in the eyes of the public.

By improving the clarity of the Board's regulations, communicating a penalty schedule for noncompliance, and setting forth requirements for penalty refunds, the Board is providing nonmonetary benefits to the regulated community. Additionally, the proposed regulatory action increases transparency in business and government by more clearly communicating employer responsibilities, the penalty schedule for noncompliance, and the requirements and procedures for penalty refunds.

Effect of the Proposed Regulations

The effects that this proposed rulemaking will have are as follows:

1. Improve clarity of the Board's regulations through the standardization of its language and formatting, making it easier for employers and employees to understand and adhere to the regulations.
2. Communicate to the regulated community information about exempted parties and noncompliance penalties.
3. Implement the Program administrator's and the Board's requirements for exemptions from the Program.
4. Improve compliance as it relates to exemptions and further clarify how to obtain penalty refunds.

Evaluation as to Whether the Proposed Regulations Are Inconsistent or Incompatible with Existing State and Federal Regulations

The Board evaluated whether or not there are any other regulations that may be adversely impacted by the adoption of these proposed regulations and found no such cases. Because these regulations are solely for the purpose of operating the Program, and no other regulations exist in the CCR and the Code of Federal Regulations that pertain to the operation of the Program, the proposed regulations are neither inconsistent nor incompatible with existing state and federal regulations.

Additionally, the Board found that there are no federal statutes that the proposed regulations are inconsistent nor incompatible with.

Reasonable Alternatives to the Regulations and the Board's Reasons for Rejecting those Alternatives:

The Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to its attention, would be more effective

in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board, in initiating this rulemaking will consider alternatives proposed by the public during the public comment period or any public hearing the public requests as a result of this rulemaking. To that end, the Board welcomes and solicits feedback from the public.

Documents or Forms Incorporated by Reference

None for this rulemaking.

Mandate by Federal Law or Regulations

None.

Other Statutory Requirements

None.

Authority and Reference Citations

Authority: Sections 100010 and 100048 of the Government Code (GOV Code) provides the Board with the authority to adopt regulations to implement Title 21 GOV Code.

Reference: Sections 100000, 100002, 100004, 100008, 100012, 100014, 100032, 100033, 100034, 100043, and 100046, Title 21 GOV Code.

Discussion of Regulations Affected

The section of the regulations proposed for adoption are identified below including a description of the objectives and necessity for adoption.

Section 10000. Definitions.

Adopt paragraph: The Board proposes to adopt a paragraph at the beginning of the Board's definitions section to explain what words mean throughout the Board's regulations. Specifically, the Board proposes to adopt the statement that unless words are defined, or context indicates a different meaning, the words used throughout the Board's regulations will have their usual meaning. In other words, unless stated or communicated otherwise, the words the Board uses in its regulations are intended to be communicated and understood using the dictionary definition of the term.

Additionally, the Board proposes to communicate to the regulated community that "Words used in the present tense also include the future; words in the singular number include the plural number; words in the plural number include the singular number." The Board is including this clause to communicate that the Board's regulations written in the present tense also mean the future. Additionally, singular words in the Board's regulations also include the plural meaning and inversely plural words are singular.

Lastly the Board proposes adding a clause specifying that “shall” is a mandatory term and “may” is a permissive term.

By adopting this paragraph, the Board intends to clarify terms used throughout the Board’s regulations to enhance the clarity of the Board’s regulations to the regulated community. Additionally, in communicating that present tense includes future tense, plural includes singular, and vice versa the Board intends to ensure that as many regulatory scenarios that could apply to the regulated community are included in the Board’s regulations without making the language of the Board’s regulations cumbersome to read. For example, some employers regulated by the Board may have only one employee while others may have 500 or more employees. While the Board could write “employee or employees” or “employee(s)” throughout its regulations that stylistic choice would likely result in sentence structures that are more difficult to read than is necessary and regulations that are unnecessarily lengthy.

For these reasons the Board believes the adoption of this paragraph is necessary to clarify the Boards regulations.

Amend subsection (c): The Board proposes to include the definition of automatic escalation in Section 10000 instead of referring readers to Section 10005. This is necessary to establish the definition for use throughout the Board’s regulations and to make the definition easier to find by the regulated community.

In moving the definition of “Automatic Escalation” to Section 10000 the Board restructured the regulation from how it was written in Section 10005 for readability purposes but maintained the original meaning, material impacts, and requirements concerning automatic escalation. Additionally, the Board proposes to add “in the Program” at the end of the definition after “enrollment” to clarify to the regulated community that automatic escalation occurs annually on January 1 after enrollment in the Program. These proposed changes are necessary to improve the readability and clarity of the Board’s regulations.

Amend subsection (d): The Board proposes to remove plural variations of individual and entity by removing “(s)” and “(ies)” to make the Board’s regulations consistent with the adopted paragraph at the beginning of Section 10000 (see page 4 above). By removing plural variations, the Board hopes to reduce reader confusion by removing unnecessary phrases from the regulation and making the regulation read more normally. For these reasons the Board believes the amendment of subsection (d) is necessary.

Amend subsection (g): The Board proposes to make non substantive grammatical amendments by adding “subsection” to the Code of Federal Regulations citation. This is necessary to make the citation style of the Board’s regulations consistent.

Amend subsection (j): The Board proposes to make non substantive grammatical amendments by adding “subsection” to the United States Code citation. This is necessary to make the citation style of the Board’s regulations consistent.

Amend subsection (k): The Board proposes to make non substantive grammatical amendments by adding “subsection” to the United States Code citation. This is necessary to make the citation style of the Board’s regulations consistent.

Amend subsection (m): The Board proposes to add a colon to subsection (m) to turn subsections (m)(i) through (m)(iii) into a list format. By doing so, the Board intends to make its regulations easier to read and comprehend by the regulated community. This is necessary to improve clarity of the Board’s regulations to the regulated community.

Amend subsection (m)(i): The Board proposes to make non substantive grammatical amendments by capitalizing the word “Has” to make the style consistent with the list formatting of subsections (m)(i) through (m)(iii). The Board also proposes to make non substantive grammatical amendments by adding “subsection” to the California Code of Regulations citation. This is necessary to make the citation style of the Board’s regulations consistent.

Amend subsections (m)(ii) & (m) (iii): The Board proposes to make non substantive grammatical amendments by capitalizing the word “Does” in subsection (m)(ii) and “Is” in subsection (m)(iii), respectively. This is necessary to make the style consistent with the list formatting of subsection (m)(i) through (m)(iii).

Amend subsection (q): The Board proposes to add the wording “meets one of the following criteria”, “The Employer”, and a colon to subsection (q) to turn subsections (q)(i) through (q)(v) into a list format. By doing so, the Board intends to make its regulations easier to read and comprehend by the regulated community. This is necessary to improve clarity of the Board’s regulations.

Amend subsection (q)(i): The Board proposes to make non substantive grammatical amendments by capitalizing the word “Has” to make the style consistent with the list formatting of subsections (q)(i) through (q)(v). The Board also proposes to make non substantive grammatical amendments by adding “subsection” to the California Code of Regulations citation. This is necessary to make the citation style of the Board’s regulations consistent across all the Board’s regulations.

The Board also proposes to remove “, has one or more Employees, but does not employ any Eligible Employees,” as it includes repetitive language that the definition of “Eligible employer” as defined in Government Code Section 100000 subsection (d)(1) already states. This is necessary to remove language from the Board’s regulations that are duplicative of existing State law without providing any additional information or context to the regulated community.

Amend subsections (q)(ii) & (q)(iii): The Board proposes to make non substantive grammatical amendments by capitalizing the word “Maintains” in subsection (q)(ii) and

“Is” in subsection (q)(iii) respectively. This is necessary to make the style consistent with the list formatting of subsections (q)(i) through (q)(v).

Adopt subsection (q)(iv): The Board proposes to adopt subsection (q)(iv) to establish that federally recognized Indian tribes are considered exempt employers for purposes of complying with the Board’s regulations. Specifically, the Board proposes to define that exempt employers are employers that are “federally recognized as an Indian tribe by the United States Department of Interior, by an act of the United States Congress, or by the decision of a United States Court.”

This is necessary because federally recognized Indian tribes are not under the regulatory auspices of the State of California due to their sovereignty conferred under federal recognition. Nearly two centuries of US case law have established and reaffirmed federal primacy when concerning Indian and governmental legal relations with limited exceptions that typically require tribal authorization for state legal actions. It is in the interest of the Board to respect and comply with settled law and subsection (q)(iv) seeks to do just that.

Simply put, when an Indian tribe is considered sovereign by the federal government through any of the three enumerated methods in subsection (q)(iv) the Board willingly accepts and recognizes that sovereign status and will not seek to regulate where it cannot and should not regulate.

The inclusion of this subsection is necessary to clearly communicate to the regulated community who is and who is not subject to the regulatory authority of the Board in no uncertain terms. In the interest of improving clarity to the regulated community and to maintain consistency with established law, the Board believes the adoption of subsection (q)(iv) is necessary.

Adopt subsection (q)(v): The Board proposes to add subsection (q)(v) to the regulations to establish that religious organizations are exempt employers. This is necessary to inform this section of the California employer community about the fact that they are exempt from the requirement to participate in the Program.

Previously, the Board utilized the definition of employee under subsection (n) to exempt these religious employers since religious organizations are exempt from paying federal unemployment tax and accordingly employ no eligible employees; however, that exemption is not clear, nor is it straightforward in the regulated community’s eyes, and is borderline convoluted. Those adjectives are all related to unclear, unnecessarily complex, and confusing, which the Administrative Procedure Act was expressly passed to remedy and to curtail state agencies from promulgating confusing regulations in the future.

For these reasons it is the opinion and the intent of the Board to make it abundantly clear who is and who is not subject to the regulatory authority of the Board. Accordingly, the Board believes adopting subsection (q)(v) is necessary to make it clear to the

regulated community who is subject to the Program mandate and who is not, in clear, non-technical, concise terms.

Amend subsection (r): The Board proposes to make non substantive grammatical amendments by adding “subsection” to the United States Code citations. This is necessary to make the citation style of the Board’s regulations consistent.

Amend subsection (s): The Board proposes to remove the plural variation of entity by removing “(ies)” to make the Board’s regulations consistent with the adopted paragraph at the beginning of Section 10000 (see page 4 above). By removing “(ies)” the Board hopes to reduce reader confusion by removing unnecessary phrases from the regulation and making the regulation read more normally. For these reasons, the amendment of this subsection is necessary.

Amend subsection (aa): The Board proposes to make non substantive grammatical amendments by adding “subsection” to the United States Code citations. This is necessary to make the citation style of the Board’s regulations consistent.

Section 10001. Eligible Employers.

Amend subsection (a): The Board proposes to capitalize the word “employees” to match the definition of the word in Section 10000 subsection (n). This is necessary to ensure the defined term is properly referenced and matches the use of “Employee” throughout the Board’s regulations.

The Board also proposes to make non substantive grammatical amendments by adding “the” before the listed DE 9C form required for determining employer eligibility. This is necessary to improve clarity of the Board’s regulations.

Amend subsection (a)(1): The Board proposes to make non substantive grammatical amendments by adding “a” before the reference to the DE 9C form which is required for determining employer eligibility. This is necessary to improve clarity of the Board’s regulations.

Amend subsection (a)(2): The Board proposes to make non substantive grammatical amendments by adding “subsection” to the California Code of Regulations citation. This is necessary to make the citation style of the Board’s regulations consistent.

Amend subsection (c): The Board proposes to add the word “following” to subsection (c) to establish a list of the ways an employer may notify the administrator of a change in their status when they cease to be eligible to participate in the Program. By doing so, the Board intends to make its regulations easier to read and comprehend by the regulated community. This is necessary to improve clarity of the Board’s regulations.

The Board also proposes to remove “established in Section 10002(e)” in favor of including the available methods by which a participating employer notifies the administrator of their change in status to make it easier for employers to find the

appropriate contact methods. This is necessary to improve clarity of the Board's regulations and provide employers with the information they need to comply.

Adopt subsection (c)(1): The Board proposes to adopt subsection (c)(1) to provide email as a new option for employers to notify the administrator as required by subsection (c). This is necessary to communicate to the regulated community what methods are available for employers to notify the administrator about the fact that they are no longer an eligible employer. This is also necessary to comport the Board's regulations with updated Program practices.

Adopt subsection (c)(2): The Board proposes to adopt subsection (c)(2) to list phone calls as a way for employers to notify the administrator as required by subsection (c). This is necessary to communicate to the regulated community what methods are available for employers to notify the administrator about the fact that they are no longer an eligible employer.

The adoption of this subsection does not institute a new contact option for the purposes of complying with subsection (c) as employers were previously permitted to contact the administrator by phone under the cross-referenced options in Section 10002 subsection (e).

Adopt subsection (c)(3): The Board proposes to adopt subsection (c)(3) to list overnight mail as a way for employers to notify the administrator as required by subsection (c). This is necessary to communicate to the regulated community what methods are available for employers to notify the administrator about the fact that they are no longer an eligible employer.

The adoption of this subsection does not institute a new contact option for the purposes of complying with subsection (c) as employers were previously permitted to contact the administrator by overnight mail under the cross-referenced options in Section 10002 subsection (e).

Adopt subsection (c)(4): The Board proposes to adopt subsection (c)(4) to list regular mail as a way for employers to notify the administrator as required by subsection (c). This is necessary to communicate to the regulated community what methods are available for employers to notify the administrator about the fact that they are no longer an eligible employer.

The adoption of this subsection does not institute a new contact option for the purposes of complying with subsection (c) as employers were previously permitted to contact the administrator by regular mail under the cross-referenced options in Section 10002 subsection (e).

Repeal subsection (d): The Board proposes to repeal subsection (d) and renumber the subsection to Section 100010 subsection (a). By doing so, the Board intends to create a new section that is solely concerned with the employer exemption process. The intent of this change is to make the Board's employer exemption rules and requirements easier

to locate by the regulated community and to formally adopt Board requirements for employers to exempt themselves from the Program. This is necessary to improve the clarity of the Board's regulations to the regulated community and to implement Board requirements.

Amend subsection (e): The Board proposes to amend subsection (e) to renumber it to subsection (d) to account for the repeal of the existing subsection (d). This is necessary to keep the organization of the Board's regulations accurate and current.

Amend subsections (e)(1) & (e)(3): The Board proposes to make non substantive grammatical amendments by adding "subsection" to the Unemployment Insurance Code citations. These amendments are necessary to make the citation style of the Board's regulations consistent.

Section 10002. Employer Registration.

Amend subsection (a)(3): The Board proposes to make non substantive grammatical amendments by adding "subsection" between "Section 10001" and "(a)." This amendment and others like it are necessary to make the citation style of the Board's regulations consistent.

Amend subsection (b): The Board proposes to capitalize the word "employees" to match the definition of the word in Section 10000 subsection (n). This is necessary to ensure defined terms are properly referenced throughout the Board's regulations.

The Board also proposes to make non substantive grammatical amendments by adding "subsection" to the California Code of Regulations citation. This is necessary to make the citation style of the Board's regulations consistent.

The Board also proposes to remove "is notified by the Program about their eligibility" and add "became an Eligible Employer" to change when a newly eligible employer must register with the Program. This is necessary because the time between when the Board receives data to determine employer eligibility and notify its administrator is nearly a year presenting an issue with sending timely notifications to each newly eligible employer. This gap between when an employer becomes eligible and when they are notified by the administrator about their eligibility delays the ability of the employer's employees being able to save with the Program.

This change is necessary because no matter how hard the Board tries to maintain accurate and up-to-date information, the Board is ultimately supplied with out-of-date information and often times inaccurate contract information by which to notify newly eligible employers of their status. Additionally, the vision of the CalSavers law is to provide employees in California with timely access to a retirement program not delayed access to retirement savings potentially 2 years after an employer becomes required to make the Program available to its employees.

The Board believes that newly eligible employers should be required to remain appraised of California laws and business requirements and their responsibilities when it comes to maintaining compliance with said laws and regulations. The Board also believes a goal of the Program is to make it possible for Californians to begin saving for retirement as early as possible, so mandating businesses to register based off when they became eligible and not when they were notified of said eligibility is most in line with that goal. Therefore, the Board proposes to update this subsection to change the starting timeframe by which a newly eligible employer must register for and establish a retirement savings arrangement.

Repeal subsection (c): The Board proposes repealing subsection (c) as the cross referenced Section 10001 subsection (a) already communicates to the employer community how employee counts will be determined. This is necessary to eliminate redundancy in the Board's regulations.

Amend subsection (d): The Board proposes to amend subsection (d) about exempt employers being prohibited from participating in the Program to renumber it to subsection (c) to account for the repeal of the existing subsection (c). This is necessary to keep the organization of the Board's regulations accurate and current.

Amend subsection (e): The Board proposes to amend subsection (e) about the methods in which an eligible employer may register with the Program to renumber it to subsection (d) to account for the amendment of the existing subsection (d). This is necessary to keep the organization of the Board's regulations accurate and current.

Amend subsection (f): The Board proposes to amend subsection (f) about the information an eligible employer shall provide when registered for the Program to renumber it to subsection (e) to account for the amendment of the existing subsection (e). Additionally, the Board proposes to renumber the cross reference from subsection (e) to (d) within this regulation to account for the previous renumbered regulations in this section. This is necessary to keep the organization of the Board's regulations accurate, current, and to provide employers with references to the information they need to comply with the Board's regulations.

Section 10003. Participating Employer Duties.

Amend subsection (a): The Board proposes to add "calendar" and "with the Program" to this subsection. This is necessary to clarify both the length of time employers have to send employee information to the administrator, as well as clarifying that the actions taken should be after registration with the Program. While calendar days have been the Board's standard for this subsection and any other regulation the Board has that does not expressly specify otherwise, the Board believes that it would be wise to remove ambiguity from its regulations by specifying what type of days it means. This level of specificity helps the regulated community better understand what is required of them.

The Board also proposes to add “The Eligible Employee’s:” to turn subsections (a)(1) through (a)(6) to a list format. This is necessary to improve clarity of subsection (a)(1) through (a)(6) as the Board believes itemizing the employee information that the employer must provide to the administrator is more easily understood by the regulated community. Additionally, the amendment reduces the length of subsections (a)(1) through (a)(6) by eliminating unnecessary and repetitive language.

Amend subsection (a)(1): The Board proposes to remove “Eligible Employee’s” and capitalize the first letter of “full”. This is necessary to conform the layout to the newly established list format, reduce the overall length of subsection (a)(1), and to improve the clarity of the Board’s regulations.

Amend subsection (a)(2): The Board proposes to remove “Eligible Employee’s”. This is necessary to conform the layout to the newly established list format, reduce the overall length of subsection (a)(2), and improve the clarity of the Board’s regulations.

Amend subsection (a)(3): The Board proposes to remove “Eligible Employee’s” and capitalize the first letter of “date”. This is necessary to conform the layout to the newly established list format, reduce the overall length of subsection (a)(3), and to improve the clarity of the Board’s regulations.

Amend subsection (a)(4): The Board proposes to remove “Eligible Employee’s” and capitalize the first letter of “physical”. This is necessary to conform the layout to the newly established list format, reduce the overall length of subsection (a)(4), and to improve the clarity of the Board’s regulations.

Amend subsection (a)(5): The Board proposes to remove “Eligible Employee’s” and capitalize the first letter of “phone”. This is necessary to conform the layout to the newly established list format, reduce the overall length of subsection (a)(5), and to improve the clarity of the Board’s regulations.

Amend subsection (a)(6): The Board proposes to remove “Eligible Employee’s”, capitalize the first letter of “email”, and remove the “(es)” from “address”. This is necessary to conform the layout to the newly established list format, reduce the overall length of subsection (a)(6), make grammatical changes to conform the Board’s regulations with the changes made in the meaning of words paragraph added to 10000 (see page 4), and to improve the clarity of the Board’s regulations.

Amend subsection (b): The Board proposes to add “calendar” to this subsection to clarify that the time to provide employee information is measured in calendar days. While calendar days have been the Board’s standard for this subsection and any other regulation the Board has that does not expressly specify otherwise, the Board believes that it would be wise to remove ambiguity from its regulations by specifying what type of days it means. This level of specificity should help the regulated community better understand what is required of them. For these reasons the amendment of subsection (b) is necessary.

Amend subsection (c): The Board proposes to add the words “for” and “calendar”. This is necessary to clarify how long employers have to facilitate each employee’s first contribution to the Program and to improve the grammar of the regulation. While calendar days have been the Board’s standard for this subsection and any other regulation the Board has that does not expressly specify otherwise, the Board believes that it would be wise to remove ambiguity from its regulations by specifying what type of days it means.

The Board also proposes to remove the words “notification by the Administrator of” to set the deadline for the first contribution submission at 30 calendar days after the participating employee’s enrollment. This is necessary to eliminate a loophole where if an employer does not receive an enrollment notification for an employee, then they do not need to facilitate contributions for that employee. This technicality could allow employers to circumvent the intent of the regulation which is to send employee contributions to the Program starting with the first payroll period after an employee’s enrollment and until the employee leaves the employer or opts out from the Program. The loophole also undermines the intent of the employee to participate in the Program.

The vast majority of employers receive notifications regarding participating employee enrollment, but due to the nature of registration being a manual process there will always be a small number of employers who don’t receive notifications due to typographical errors made while providing their email address. Additionally, since the notification by the administrator is conducted via email, the email service provider of some of the Program’s employers will route that email to their spam or junk folder. Those two aforementioned instances where an employer may not receive enrollment notification from the administrator should not rid the employer of their programmatic responsibilities. Instead, the Board expects that employers send contributions on behalf of their enrolled employees to the Program within 30 calendar days of the employee’s enrollment. Employers can find a list of their enrolled employees on their CalSavers employer account regardless of whether the notification by the administrator arrived in the employer’s email inbox.

For the aforementioned reasons the Board believes the removal of the notification being received by an employer which currently predicates employee contributions being sent to the Program is necessary.

The Board also proposes to remove “shall be” and “by the Participating Employee and” and to add “pursuant to Section 10005 shall be”. This is necessary to eliminate ambiguity regarding how contribution rates are established and who establishes the employee’s contribution rate. In most instances employees make contributions to the Program at the default contribution rate which is established by the Board under the existing Section 10005 subsection (a)(1) and Title 21 of the Government Code Section 100032 subsection (k). Alternatively, some employees do elect to establish an alternative contribution rate of their choice under the current regulation Section 10005 subsection (b)(1). Because of this dynamic it isn’t accurate to make a blanket statement

that all contribution rates are established by the employee as the current regulation implies. The proposed change addresses that issue and refers the regulated community to the applicable rules for establishing employee contribution rates.

The Board also proposes to add “Participating” before “Employer”. This is necessary to make the regulations clearer and ensure the use of a defined term to identify the participating employer as the one to whom the contribution rate should be reported.

Amend subsection (c)(1): The Board proposes to remove “as soon as administratively practicable, not to exceed”, as this is vague language that is confusing to participating employers. “As soon as administratively practicable” is also unenforceable due to its vagueness because it lacks a clear standard.

In its place the Board proposes to add “by no later than” to shift compensation remittance to the administrator by no later than seven calendar days from the date of deduction. Lastly, the Board proposes to change the timeframe of compensation remittance from up to seven business days to calendar days. The Board is proposing this change to align its payroll deduction remittance requirement with Labor Code Section 204 subsection (d) which requires employers who pay employees wages on a weekly, biweekly, and semi-monthly basis within seven calendar days of the close of the payroll period. Since compensation is considered as wages paid by the employer to the employee, the Board believes it is necessary to align its compensation remittance rules with State compensation laws.

This is necessary to improve the clarity of the Board’s regulations to the regulated community, align the Board’s rules with other provisions of State law, and to establish a clear standard that the regulated community can comply with and is enforceable by the Board.

Amend subsection (d)(1): The Board proposes to capitalize the word “employee” to match the definition of the word in Section 10000 subsection (n). This is necessary to ensure a defined term is properly referenced throughout the Program regulations.

Amend subsection (d)(3): The Board proposes to add “to the Administrator” to clarify that employee contributions shall not be remitted to the administrator in the event an employee is not participating in the Program. The Board also proposes to add “or is not enrolled in” to ensure that all possible scenarios where employee contributions should not be remitted to the Program. This is necessary because it is against the Program’s regulations and against California State law to remit contributions to the Program for any employee that is not participating in the Program, whether they have opted out, aren’t eligible, or aren’t participating for another reason.

By making these changes the Board intends to improve the clarity of its rules to the regulated community.

Adopt subsection (e): The Board proposes to adopt subsection (e) to establish that participating employers must provide employee information to the administrator within 30 calendar days of that employee becoming eligible to participate in the Program.

Currently employers are required to send eligible employee information to the administrator within 30 days after registration with the Program (See subsection (a)) and within 30 days of the eligible employee being hired. Some employees, such as minors or co-owners, may initially be ineligible to participate when they were hired, but become eligible later on, for example when a minor turns 18 on the job or when a co-owner loses ownership status. This gap in the regulatory framework leaves out a small cohort of employees from being able to access the Program until they change employers.

The adoption of subsection (e) closes this loophole and requires employers to provide employee information as employees become eligible to participate in the Program. For these reasons, the Board believes that the adoption of this subsection is necessary.

Adopt subsection (f): The Board proposes to adopt subsection (f) to specify by which method eligible employers must provide eligible employee information required by subsections (a), (b), and (e) to the administrator. This is necessary to improve the clarity of the Board's regulations and inform employers as to how they must provide required information to the administrator.

Section 10004. Employee Enrollment.

Amend subsection (a): The Board proposes to change the word "Program" to "Administrator" to make it more clear which party is delivering the employee information packet. Additionally, the Board proposes adding "calendar" after "10" and before "days" to clarify how many days the administrator has to deliver the employee information packet. This is necessary to inform the regulated community and the administrator when the Employee Information Packet will be delivered to employees. These changes are necessary to improve the clarity of the Board's regulations.

The Board also proposes to make non substantive grammatical amendments by adding "subsections" to the California Code of Regulations citation and expanding the reference from subsection (a) and (b) to also include subsection (e). The addition of "subsections" is necessary to make the citation style of the Board's regulations consistent.

Additionally, adding the cross reference to Section 10003 subsection (e) is necessary to ensure that all eligible employees are afforded the opportunity to participate in the Program. Section 10003 subsection (e) similar to the existing Section 10003 subsections (a) and (b) requires participating employers to provide eligible employee information to the administrator. When the administrator receives the eligible employee's information, Section 10004 subsection (a) is triggered requiring the administrator to send the employee information packet to the employee. The inclusion of subsection (e) thus ensures that each time eligible employee information is sent to

the administrator whether the employee was hired, the participating employer registered with the Program, or the employee became an eligible employee while on the job, the administrator takes the appropriate action to begin the enrollment process by sending the employee the information packet. For these reasons the citation to Section 10003 subsection (e) is necessary to include in this subsection.

Amend subsection (b): The Board proposes to add the word “calendar” between “30” and “days” to improve clarity of the Board’s regulations and to communicate to eligible employees how long they have to opt out from the Program before being enrolled by the administrator. This is necessary because while calendar days have been the Board’s standard for this subsection and any other regulation the Board has that does not expressly specify otherwise, the Board believes that it would be wise to remove ambiguity from its regulations by specifying the specific timeframe for each of its rules. By doing so the Board intends to better communicate to the regulated community its rules and how long employees have to opt out from the Program.

The Board also proposes to change the word “delivered” to “furnished to the Eligible Employee” to make the regulation consistent with the language of subsection (c). This is necessary to improve the clarity of the Board’s regulations and to utilize the same language where possible in describing activities to avoid confusing the regulated community.

Lastly, the Board also proposes to make non substantive grammatical amendments by adding “subsection” to the California Code of Regulations citation. This is necessary to make the citation style of the Board’s regulations consistent.

Amend subsection (c): The Board proposes to remove “pursuant to subsection (a) and has been provided with an opportunity to opt out of the Program.” because Section 10004 subsection (b) establishes that eligible employees have 30 calendar days after they have been furnished the employee information packet to opt out from the Program. This makes the “provided with an opportunity to opt out of the Program” redundant as the act of providing the employee information packet already accomplishes this function. That is because the packet includes detailed information about opting out from the Program and how long employee’s have to do so which is required by state law.

This deletion is necessary to improve the clarity of the Board’s regulations and to eliminate redundancy.

Amend subsection (d): The Board proposes to make non substantive grammatical amendments by changing the word “the” to “an”. This is necessary to convey that there is not just one opt-out form available to the eligible employee. The Board also proposes adding the wording “to the Administrator”. This is necessary to clarify to whom the employee should submit the opt-out form.

Repeal subsection (d)(1): The Board proposes to repeal subsection (d)(1) and readopt it as subsection (d)(2) to switch the order of subsections (d)(1) and (d)(2). This is

necessary to match the order of opt out procedures in subsections (d)(1) and (d)(2) to the order of opt out options as they are written in subsection (d). Subsection (d) lists the opt out options as electronically, by phone, overnight mail, and lastly regular mail. Before amending the existing subsection (d)(1) it listed opt out options as by overnight mail and regular mail and subsection (d)(2) listed opt out options as electronically and by phone which does not match the order in which those options appear in subsection (d).

The Board believes that its regulations should be structured in a logical manner that presents its information and requirements in a consistent manner. Therefore, it is the Board's belief that the repeal of subsection (d)(1) and the readoption of those requirements as subsection (d)(2) is necessary.

Repeal subsection (d)(2): The Board proposes to repeal subsection (d)(2) and readopt it as subsection (d)(1) to switch the order of subsection (d)(1) and (d)(2).

This is necessary to match the order of opt out procedures in subsections (d)(1) and (d)(2) to the order of opt out options as they are written in subsection (d). Subsection (d) lists the opt out options as electronically, by phone, overnight mail, and lastly regular mail. Before amending the existing subsection (d)(2) it listed opt out options as electronically or by phone and subsection (d)(1) listed opt out options as by overnight mail or regular mail which does not match the order in which those options appear in subsection (d).

The Board believes that its regulations should be structured in a logical manner that presents its information and requirements in a consistent manner. Therefore, it is the Board's belief that the repeal of subsection (d)(2) and the readoption of those requirements as subsection (d)(1) is necessary.

Adopt subsection (d)(1): The Board proposes to adopt subsection (d)(1) to complete the move of the electronic and phone opt out procedures from subsection (d)(2) to subsection (d)(1) as explained in the repeal explanation of subsection (d)(2) above. This move is necessary to match the order of opt out options in subsection (d).

The Board also proposes to make the following changes to the electronic and phone opt out procedures. First the Board proposes to change "must" to "shall" to match the predominate term used for a mandatory requirement throughout the Board's regulations. This is necessary to remain consistent with the Board's other regulations, to reduce confusion amongst the regulated community, and to improve clarity of the Board's regulations.

Second, the Board proposes to switch the order of ZIP Code and date of birth to match the order of appearance in subsection (d)(2). The standard doesn't change compared to what currently exists in the CCR, just the order in which it is written.

Lastly, the Board proposes to add the requirement that eligible employees must provide the name of their participating employer during the electronic and phone opt out

process. This is necessary so that the Program administrator can identify the employee faster and more accurately by using all the information required by subsection (d)(1) including the employer's name.

Adopt subsection (d)(2): The Board proposes to adopt subsection (d)(2) to complete the move of the mail in opt out procedures from subsection (d)(1) to subsection (d)(2) as explained in the repeal explanation of subsection (d)(1) above. This move is necessary to match the order of opt out options in subsection (d).

The Board also proposes to make the following changes to the mail in opt out procedures. First the Board proposes to change "must" to "shall" to match the predominate term used for a mandatory requirement throughout the Board's regulations. This is necessary to remain consistent with the Board's other regulations, to reduce confusion amongst the regulated community, and to improve clarity of the Board's regulations.

Second, the Board proposes to adopt the statement "complete the Opt-Out Form by providing their access code..." in subsection (d)(2) to remain consistent with the fact that subsection (d) requires employees that are opting out from the Program to fill out the opt-out Form. Previously subsection (d)(1) only mentioned that "the form" needed to be signed by the employee and implied that it was the opt-out Form mentioned in subsection (d). One of the purposes of these regulatory changes is to improve the clarity of the Board's regulations and the Board believes this change furthers this effort by explicitly naming the form that needs to be completed instead of implying that it's the opt-out Form.

The inclusion of providing the access code as an identifier is necessary as the opt-out Form permits the employee to provide either their access code, last four digits of their social security number, or individual tax identification number. Before amendment, the only options were the last four digits of the employee's social security number or the individual tax identification number. For these reasons the inclusion of the access code is necessary.

Third, the Board proposes to switch the order of ZIP Code and date of birth to match the order of appearance on the opt-out Form. The standard doesn't change compared to what currently exists in the CCR, just the order in which it is written. The Board believes this is necessary so that an employee could read the regulation and fill out the opt-out Form to successfully opt out from the Program.

Fourth, the Board proposes to add the requirement that eligible employees must provide the name of their participating employer during the mail in opt-out process. This is necessary so that the Program administrator can identify the employee faster and more accurately by using all the information required by subsection (d)(2) including the employer's name.

Finally, the Board proposes to include “the Opt-Out” at the end of the sentence so that the signature requirement reads “sign the Opt-Out Form”. The Board also proposes to capitalize “Form” compared to the previously adopted rule which had form in lower case. The addition of “the Opt-Out” is a necessary inclusion to improve the clarity of the regulation by outright stating which form needs to be signed by the employee instead of implying that it is the opt-out Form that needs to be signed. The capitalization of “Form” is necessary because opt-out Form is a defined term, and the Board capitalizes words that are defined in Section 10000 as they are used throughout its regulations in the CCR.

Amend subsection (e): The Board proposes to remove “through one of the methods established in subsection (d)” and add in the methods by which eligible employees may opt out, including electronically, by phone, by overnight mail, or by regular mail. This is necessary to make the Board’s regulations consistent and to ensure the regulated community can easily locate the contact information to use if they want to opt out of the Program.

The Board also proposes to make non substantive grammatical amendments by adding “subsection” to the California Code of Regulations citation. This is necessary to make the citation style of the Board’s regulations consistent across all of the Board’s regulations.

Amend subsection (f): The Board proposes to add “calendar” after 15 and before days to clarify how many days the administrator has to notify the participating employer about being unable to enroll an eligible employee. This is necessary because while calendar days have been the Board’s standard for this subsection and any other regulation the Board has that does not expressly specify otherwise, the Board believes that it would be wise to remove ambiguity from its regulations by specifying what type of days it means. The specification of the type of days also clarifies the Boards requirements, so the regulated community can better understand what is required of them.

The Board also proposes to remove “Within the notice, the Administrator will provide instructions to the Participating Employer not to remit Contributions for the Eligible Employee.” This is necessary because the proposed amendments to Section 10003 subsection (d)(3) informs and prohibits participating employers from remitting contributions for employees that are not enrolled in the Program. Thus, the removal of this clause is necessary as it is redundant and unnecessary.

Section 10005. Default Program Options and Alternative elections for Contributions, Automatic Escalation, and Investment Options for Participants.

Amend subsection (a)(2): The Board proposes to remove the definition for automatic escalation since the term is being defined by amending Section 10000 subsection (c). Specifically, the Board is removing “whereby the Contribution Rate shall increase by an additional 1% of compensation on each January 1 following the Participating Employee's enrollment, up to a maximum Contribution Rate of 8%.” For an explanation

on the amendment of Section 10000 subsection (c) please refer to page 5 of this document.

The removal of the aforementioned automatic escalation definition from this subsection is necessary to place the definition in the appropriate place so that the regulated community can find the Board's definitions more easily and to improve the clarity of the Board's regulations.

Repeal subsection (a)(2)(A): The Board proposes to repeal subsection (a)(2)(A) because the regulation concerns alternative contribution election rules. The primary regulation (subsection a) concerns the Program's default elections which makes the topics of these two subsections at odds with one another when they should be similar. Instead, to reduce confusion among the regulated community and to structure the Board's regulations in a more logical manner the Board proposes relocating subsection (a)(2)(A) to subsection (b)(2)(D) and subsection (c).

The rule requiring that alternative contribution elections be subject to automatic escalation is being moved to subsection (b)(2)(D) which is within the other alternative contribution election rules. Whereas the rule concerning opting out from automatic escalation is being moved and expanded upon in the proposed subsection (c).

The repeal of this subsection and subsequent relocation to other subsections within Section 10005 is necessary to better present the information to the regulated community by structuring the Board's regulations in a more logical manner. Additionally, this change and other proposed changes to Section 10005 (if implemented) would leave only default election rules to subsection (a)-(a)(4) making this portion of the Board's regulations easier to comprehend by the regulated community.

Repeal subsection (a)(2)(B): The Board proposes to repeal subsection (a)(2)(B) and renumber the regulation to subsection (d). The relocation of the regulation is necessary to organize the Board's regulations in a more logical manner by placing it as a standalone regulation instead of having the rule nestled among the default election rules. By making this move the regulated community can better understand which rules and requirements with respect to automatic escalation apply to all participating employee accounts as the regulation is intended to. For these reasons and to improve the clarity of the Board regulations the repeal of subsection (a)(2)(B) is necessary.

Repeal subsection (a)(2)(B)(1): The Board proposes to repeal subsection (a)(2)(B)(1) and renumber the regulation to subsection (e). The relocation of the regulation is necessary to organize the Board's regulations in a more logical manner by placing it after the other automatic escalation related rules in subsections (c) and (d). By making this move the regulated community can better understand which rules and requirements with respect to automatic escalation apply to participating employee accounts. For these reasons, the repeal of this regulation and subsequent move to subsection (e) is necessary to improve the clarity of the Board's regulations.

Amend subsection (a)(3): The Board proposes to add the word “Roth” in front of “IRA”: in two places in this subsection. This is necessary to improve the clarity of subsection (a)(3) to the regulated community. While “Roth IRA” was implied throughout this subsection based on the first sentence using the term, the Board in this rule making action intends to reduce the instances in which words or terms are implied.

The Board also proposes to add “provided by the Participating Employee’s Participating Employer as” to clarify how employee information is acquired by the administrator for purposes of establishing a Roth IRA for the employee. This is necessary to improve the clarity of the Board’s regulations.

Lastly, the Board proposes to add “subsection” to the cross-referenced citation of Section 10003 subsection (a) to make the citation style of the Board’s regulations consistent across all the Board’s regulations. This is necessary to improve clarity and to provide a consistent citation style.

Amend subsection (a)(4): The Board proposes to add the word “calendar” in front of several uses of the word “days” to more clearly define the timeline of expected actions for participating employee contributions. While calendar days were previously implied in subsection (a)(4) as the Board has traditionally used “business day” when referring to any day that is not a calendar day, the Board now believes that it is in the interest of transparency and clarity to fully state what kind of days the Board is referring to.

The Board also proposes to add the words “Month, Day, and Year” to the header row of the table included in this subsection. By clarifying the month, day, and year format used by the Board in describing target date funds the Board intends to improve the clarity of the target date fund table.

Amend subsection (b): The Board proposes to repeal “Participants may make an alternative election at any time through one of the methods established under Section 10004(d)” and replace it with “Alternative Election Rules”. This change is being made to structure the Board’s alternative election regulations in a format that is similar to existing subsection (c) (proposed to be renumbered to subsection (f)) which contains the body of regulations concerning other contribution and investment election rules. In doing so, the Board intends to improve the clarity of Section 10005 and more specifically the alternative election regulations by standardizing them based on other regulations the Board has.

The regulation providing participants with the ability to make alternative elections at any time is being moved to subsection (b)(1). Additionally, the method by which alternative elections may be made is being repealed and the instructions to complete certain alternative elections are being placed in each respective subsection concerning alternative elections.

Adopt subsection (b)(1): The Board proposes to adopt subsection (b)(1) to state that participants may make an alternative election at any time. This is necessary to affirm

and inform participants that they may change their Program elections at any time. The adoption of this subsection is also necessary to complete the move of this rule from the existing subsection (b) to subsection (b)(1) as part of a larger effort to standardize the Board's regulations and reorganize them in a more logical manner.

Amend existing subsection (b)(1): The Board proposes to amend subsection (b)(1) to renumber it to subsection (b)(2) to account for the adoption of the newly proposed subsection (b)(1). This is necessary to keep the organization of the Board's regulations accurate and current.

Also, the Board proposes to replace "integer" with "whole number" to inform participants that they may adjust their contribution rate to any number between 0% and 100% of compensation. This is necessary because integers include negative numbers which do not exist between the limiting values of 0% and 100%. Instead, whole number is a more accurate term to describe the participant's options and better informs them of their alternative contribution options.

Lastly, the Board also proposes adding the methods by which a participating employee may elect a contribution rate other than the default contribution rate. Specifically, alternative contribution rates may be selected on the Program's website (saver.calsavers.com), by phone (855-650-6918), or via overnight or regular mail by completing the "IRA Account Maintenance Form." This is necessary to inform participating employees how they elect alternative contribution rate or change their existing contribution rate.

Adopt subsection (b)(2)(A): The Board proposes to adopt subsection (b)(2)(A) to implement alternative contribution rate election procedures for participating employees who elect their alternative contribution rate via the Program's website. Specifically, the Board proposes to require that participating employees select "manage contributions" on their account portal, identify which employer is remitting contributions to the Program, and lastly input the contribution rate of their choice to elect a contribution rate that is not the default contribution rate.

This is necessary to implement requirements that the Program administrator has for selecting contribution rates online. Additionally, the adoption of this subsection is necessary to inform the regulated community as to how they select an alternative contribution rate online.

Adopt subsection (b)(2)(B): The Board proposes to adopt subsection (b)(2)(B) to implement alternative contribution rate election procedures for participating employees who elect their alternative contribution rate by phone. Specifically, the Board proposes to require that participating employees provide their full legal name, physical or mailing address, the contribution rate of their choice, and one of the following pieces of identifying information stated in subsections (b)(2)(B)(i) through (b)(2)(B)(iv) in their call to the Program administrator. This is necessary to implement existing Program requirements for electing a contribution rate by phone. Additionally, to safeguard

sensitive financial information, it is necessary to request information only the account owner would know so that the Program can identify the individual electing a change in the contribution rate.

Adopt subsection (b)(2)(B)(i): The Board proposes to adopt subsection (b)(2)(B)(i) to list account number as one of the four options available to participating employees when providing required information to elect alternative contribution rates over the phone.

This is necessary to implement existing Program requirements for electing a contribution rate over the phone as the administrator accepts the participating employee's account number as part of the alternative contribution election process. Additionally, it is necessary to request certain types of identifying information as part of this process that only the participating employee would know to help safeguard against unauthorized account access. This information helps the administrator identify the participating employee so that decisions made by said employee are applied to the appropriate account.

Adopt subsection (b)(2)(B)(ii): The Board proposes to adopt subsection (b)(2)(B)(ii) to list Social Security Number as one of the four options available to participating employees when providing required information to elect alternative contribution rates over the phone.

This is necessary to implement existing Program requirements for electing a contribution rate over the phone as the administrator accepts the participating employee's Social Security Number as part of the alternative contribution election process. Additionally, it is necessary to request certain information as part of this process that only the participating employee would know to safeguard against unauthorized account access. This information helps the administrator identify the participating employee so that decisions made by said employee are applied to the appropriate account.

Adopt subsection (b)(2)(B)(iii): The Board proposes to adopt subsection (b)(2)(B)(iii) to list individual taxpayer identification number as one of the four options available to participating employees when providing required information to elect alternative contribution rates over the phone.

This is necessary to implement existing Program requirements for electing a contribution rate over the phone as the administrator accepts the participating employee's individual taxpayer identification number as part of the alternative contribution election process. Additionally, it is necessary to request certain information that only the participating employee would know to safeguard against unauthorized account access. This information helps the administrator identify the participating employee so that decisions made by said employee are applied to the appropriate account.

Adopt subsection (b)(2)(B)(iv): The Board proposes to adopt subsection (b)(2)(B)(iv) to list date of birth as one of the four options available to participating employees when providing required information to elect alternative contribution rates over the phone.

This is necessary to implement existing Program requirements for electing a contribution rate over the phone as the administrator accepts the participating employee's date of birth as part of the alternative contribution election process. Additionally, it is necessary to request certain information as part of this process that only the participating employee would know to safeguard against unauthorized account access. This information helps the administrator identify the participating employee so that decisions made by said employee are applied to the appropriate account.

Adopt subsection (b)(2)(C): The Board proposes to adopt subsection (b)(2)(C) to implement alternative contribution rate election procedures for participating employees who elect their alternative contribution rate by mail. Specifically, the Board proposes to require that participating employees provide their account number, full legal name, telephone number, participating employer name, select contribution rate, mark the contribution rate they want to contribute to their account, and sign and date the IRA account maintenance form in their letter to the Program administrator.

This is necessary to implement existing Program requirements for electing a contribution rate. Additionally, to safeguard sensitive financial information, it is necessary to request information only the account owner would know so that the Program can identify the individual electing a change in the contribution rate.

Adopt subsection (b)(2)(D): The Board proposes to adopt subsection (b)(2)(D) to state that alternative contribution rates chosen by participating employees will be subject to automatic escalation.

The adoption of this subsection is part of the relocation of the rule from the previously repealed subsection Section 10005, subsection (a)(2)(A). The renumbering and subsequent adoption of this subsection is necessary to better present the information to the regulated community by structuring the Board's regulations in a more logical manner.

Repeal subsection (b)(2): The Board proposes to repeal subsection (b)(2) to make the regulations consistent with existing administrator requirements for opting out of automatic escalation or electing an alternative automatic escalation percentage. Specifically, the repealed subsection permits participating employees to opt out from automatic escalation or to elect an alternative automatic escalation percentage.

The opt out from automatic escalation rules are being relocated and expanded upon in subsections (c)-(c)(2)(vii) to create a universal opt out from automatic escalation rule. This move is necessary to consolidate the Board's regulations thus eliminating redundancy between existing subsections (a)(2)(A) and (b)(2).

Additionally, the rule permitting participating employees to select an alternative automatic escalation percentage is being repealed as this Program option was and is not available to participants. Due to this the Board believes the repeal of this particular provision is necessary to conform the Board's regulations with the Program options that are actually available to Program participants. For these reasons the Board believes that the repeal of this subsection is necessary.

Repeal subsection (b)(3): The Board proposes to repeal subsection (b)(3) and to readopt it as subsection (e)(5) to relocate the procedures for making recurring non-payroll contributions to the Program. This is necessary as the Board in this rulemaking action is proposing to house the alternative election rules and requirements in subsection (b). Subsection (e) concerns "Other Contribution" rules which is more closely related to the content of the rules being moved making this renumbering of subsection (b)(3) a more natural fit for the regulation. Due to this the Board believes the repeal of subsection (b)(3) and the subsequent relocation to subsection (e)(5) is necessary to structure the Board's regulations in a more logical manner and to communicate to the regulated community what is required of them to set up recurring non-payroll contributions to the Program.

Repeal subsection (b)(4): The Board proposes to repeal subsection (b)(4) and to readopt it as subsection (e)(6) to relocate the procedures for making non-recurring non-payroll contributions to the Program. This is necessary as the Board in this rulemaking action is proposing to house the alternative election rules and requirements in subsection (b). Subsection (e) concerns "Other Contribution" rules which is more closely related to the content of the rules being moved out of subsection (b)(4) making this move a more natural fit for the regulation. Due to this the Board believes the repeal of subsection (b)(4) and the subsequent relocation to subsection (e)(6) is necessary to structure the Board's regulations in a more logical manner and to communicate to the regulated community what is required of them to set up non-recurring non-payroll contributions to the Program.

Amend subsection (b)(5): The Board proposes to amend subsection (b)(5) to renumber it to subsection (b)(3) and to add the methods by which a participant may make investment option elections electronically and by phone. The Board also proposes repealing language directing participants to Section 10004(d) for methods to notify the administrator as the amendments to subsection (b)(5) already state how to notify the administrator.

The amendment from subsection (b)(5) to (b)(3) is necessary to update the regulations based on other renumbering and reorganization efforts concerning subsections (b)-(b)(6). The repeal of the reference to Section 10004(d) is necessary because the Board believes it is clearer and more concise to include the methods by which a participant may notify the administrator of an alternative election in the section the information is presented rather than direct the reader to a separate subsection. To adoption of the electronic and phone notification methods are necessary to replace the previously

mentioned repeal of the reference to Section 10004(d) where the information was located before.

Additionally, the Board proposes to capitalize the word “contribution” to match the definition of the word in Section 10000 subsection (h). This is necessary to ensure a defined term is properly referenced throughout the Program regulations.

Adopt subsection: (b)(3)(A): The Board proposes to adopt subsection (b)(3)(A) to implement the process and requirements for a participant to elect investment options electronically via the Program’s website. Specifically, the proposed subsection directs participants to select “manage investments” on the Program’s website, and elect to exchange assets or chose an investment option for future contributions.

The adoption of this subsection is necessary to implement the process by which participants manage and elect investment options via the Program’s website and to communicate to the regulated community how to do so.

Adopt subsection (b)(3)(B): The Board proposes to adopt subsection (b)(3)(B) to implement the process and requirements for participants to elect investment options by phone. Specifically, the proposed subsection directs participants to provide their full legal name, mailing address, elect to exchange their assets or choose a different investment option for future investments, and provide one piece of information enumerated in subsections (b)(3)(B)(i)-(iv) as part of the phone call to the administrator.

The adoption of this subsection is necessary to implement the process by which participants manage and elect investment options over the phone and to communicate to the regulated community how to do so.

Adopt subsection (b)(3)(B)(i): The Board proposes to adopt subsection (b)(3)(B)(i) to list account number as one of the four options available to participating employees when providing required information to elect investment options over the phone.

This is necessary to implement existing Program requirements for electing an investment option over the phone as the administrator accepts the participating employee’s account number as part of the alternative contribution election process. Additionally, it is necessary to request certain information that only the participating employee would know as part of this process to safeguard against unauthorized account access. This information helps the administrator identify the participating employee so that decisions made by said employee are applied to the appropriate account.

Adopt subsection (b)(3)(B)(ii): The Board proposes to adopt subsection (b)(3)(B)(ii) to list Social Security Number as one of the four options available to participating employees when providing required information to elect investment options over the phone.

This is necessary to implement existing Program requirements for electing an investment option over the phone as the administrator accepts the participating employee's Social Security Number as part of the alternative contribution election process. Additionally, it is necessary to request certain information that only the participating employee would know as part of this process to safeguard against unauthorized account access. This information helps the administrator identify the participating employee so that decisions made by said employee are applied to the appropriate account.

Adopt subsection (b)(3)(B)(iii): The Board proposes to adopt subsection (b)(3)(B)(iii) to list individual taxpayer identification number as one of the four options available to participating employees when providing required information to elect investment options over the phone.

This is necessary to implement existing Program requirements for electing an investment option over the phone as the administrator accepts the participating employee's individual taxpayer identification number as part of the alternative contribution election process. Additionally, it is necessary to request certain information that only the participating employee would know as part of this process to safeguard against unauthorized account access. This information helps the administrator identify the participating employee so that decisions made by said employee are applied to the appropriate account.

Adopt subsection (b)(3)(B)(iv): The Board proposes to adopt subsection (b)(3)(B)(iv) to list date of birth as one of the four options available to participating employees when providing required information to elect investment options over the phone.

This is necessary to implement existing Program requirements for electing an investment option over the phone as the administrator accepts the participating employee's date of birth as part of the alternative contribution election process. Additionally, it is necessary to request certain information that only the participating employee would know as part of this process to safeguard against unauthorized account access. This information helps the administrator identify the participating employee so that decisions made by said employee are applied to the appropriate account.

Adopt subsection (b)(3)(C): The Board proposes to adopt subsection (b)(3)(C) to establish a list of investment options participants may select from to fulfill the requirements of subsection (b)(3).

This is necessary to provide participants with an exhaustive list of potential investment election options so that they may choose the investment option of their liking. It is also necessary to fully implement the investment option selection processes in subsections (b)(3)(A) and (b)(3)(B).

Adopt subsection (b)(3)(C)(i): The Board proposes to adopt subsection (b)(3)(C)(i) to inform participants wishing to make an investment option election that they may select a target retirement fund as an option, as a singular investment election or as part of multiple investment elections, to satisfy the requirements of subsection (b)(3). This is necessary to communicate to the regulated community what investment options are available to them and to implement Program investment offerings.

Adopt subsection (b)(3)(C)(ii): The Board proposes to adopt subsection (b)(3)(C)(ii) to inform participants wishing to make an investment option election that they may select a target retirement fund by year starting with the year 2020 and increasing every 5 years until the year 2070 as an option, as a singular investment election or as part of multiple investment elections, to satisfy the requirements of subsection (b)(3). This is necessary to communicate to the regulated community what investment options are available to them and to implement Program investment offerings.

Adopt subsection (b)(3)(C)(iii): The Board proposes to adopt subsection (b)(3)(C)(iii) to inform participants wishing to make an investment option election that they may select a Money Market Fund as an option, as a singular investment election or as part of multiple investment elections, to satisfy the requirements of subsection (b)(3). This is necessary to communicate to the regulated community what investment options are available to them and to implement Program investment offerings.

Adopt subsection (b)(3)(C)(iv): The Board proposes to adopt subsection (b)(3)(C)(iv) to inform participants wishing to make an investment option election that they may select a core bond fund as an option, as a singular investment election or as part of multiple investment elections, to satisfy the requirements of subsection (b)(3). This is necessary to communicate to the regulated community what investment options are available to them and to implement Program investment offerings.

Adopt subsection (b)(3)(C)(v): The Board proposes to adopt subsection (b)(3)(C)(v) to inform participants wishing to make an investment option election that they may select a global equity fund as an option, as a singular investment election or as part of multiple investment elections, to satisfy the requirements of subsection (b)(3). This is necessary to communicate to the regulated community what investment options are available to them and to implement Program investment offerings.

Adopt subsection (b)(3)(C)(vi): The Board proposes to adopt subsection (b)(3)(C)(vi) to inform participants wishing to make an investment option election that they may select a environment, social, and governance (ESG) fund as an option, as a singular investment election or as part of multiple investment elections, to satisfy the requirements of subsection (b)(3). This is necessary to communicate to the regulated community what investment options are available to them and to implement Program investment offerings.

Adopt subsection (b)(3)(D): The Board proposes to adopt subsection (b)(3)(D) to require the investment options participants select as part of fulfilling the requirements of

subsection (b)(3) must altogether equal 100% of the contributions made by the participant.

This is necessary to implement existing Program requirements for selecting investment options and to ensure each participant's contributions are invested properly by the Program administrator.

Amend subsection (b)(6): The Board proposes to amend subsection (b)(6) to renumber it to subsection (b)(4). This is necessary to update this subsection to be consistent with other proposed changes made to subsection (b)-(b)(6).

The Board also proposes to capitalize "Contribution". This is necessary because that term is defined in Section 10000 and the Board capitalizes terms that are defined in Section 10000 throughout its regulations.

The Board also proposes to add "established pursuant to this Section" to ensure readers understand where and how alternative contribution elections are made. This is necessary to make the regulations clearer and confirm where the information on setting up alternative contributions is located.

The Board also proposes to remove "(including Contribution Rates, Automatic Escalation and opt out elections)" because this information is repetitive and mirrors information already stated in subsection (b). This is necessary to make sure the Program regulations are clear, reduce redundancy in the Board's regulations, and apply the 30 day implementation to all types of alternative elections made under subsection (b).

The Board also proposes to remove "as soon as administratively practicable" and replace it with "by". The current wording is vague and hard to enforce as there is no clear standard for implementing the prescribed action. Instead requiring the administrator to implement alternative elections by no later than 30 days after the election has been made provides a clear-cut standard that the Board can enforce and hold the administrator accountable too. This is necessary to make the regulations clearer and to ensure participants have their alternative elections applied to their accounts in a timely manner.

The Board also proposes to add "calendar" to the deadline of 30 days currently stated in the regulations. This is necessary to more accurately describe what the deadline is for the administrator to meet and to communicate to the public the maximum amount of time the administrator has to update their election choices.

Adopt subsection (c): The Board proposes to adopt subsection (c) to inform participating employees of their ability to opt out of the automatic escalation of their contributions to their CalSavers accounts. This subsection also describes the methods by which employees can complete this process, including electronically and by two different forms of mail. Additionally, the adoption of this subsection consolidates the

existing regulations on this process from two subsections ((a)(2)(A) and (b)(2)) into one place.

This is necessary to inform the regulated community of the rights they maintain regarding their CalSavers accounts, how they go about exercising those rights, and to reduce redundancy in the Board's regulations via consolidation of duplicative rules.

Adopt subsection (c)(1): The Board proposes to adopt subsection (c)(1) to implement the process and requirements for a participant to opt out of automatic escalation electronically via the Program's website. Specifically, the proposed subsection directs participants to select "manage contributions" on the Program's website, identify which employer is remitting contributions to the Program, and select that they do not want contributions subject to automatic escalation.

The adoption of this subsection is necessary to implement the process by which participants opt out of automatic escalation via the Program's website and to communicate to the regulated community how to do so.

Adopt subsection (c)(2): The Board proposes to adopt subsection (c)(2) to implement the process and requirements for a participant to opt out of automatic escalation by overnight mail or regular mail. Specifically, the proposed subsection directs participants to complete the IRA account maintenance form and provide specific information included in the following subsections (c)(2)(i)-(vii).

The adoption of this subsection is necessary to implement the process by which participants opt out of automatic escalation by overnight mail or regular mail and to communicate to the regulated community how to do so.

Adopt subsection (c)(2)(i): The Board proposes to adopt subsection (c)(2)(i) to require that participating employees provide their account number when completing the IRA account maintenance form to opt out from automatic escalation.

This is necessary to communicate to the regulated community what they must do to complete the IRA account maintenance form and to opt out from automatic escalation by mail. The requirement to provide the account number is also necessary to assist the administrator in identifying which account to apply this election to. Lastly, requiring the account number which is information that only the participating employee should know helps safeguard against unauthorized access to accounts and ultimately safeguards employee information and account integrity.

Adopt subsection (c)(2)(ii): The Board proposes to adopt subsection (c)(2)(ii) to require that participating employees provide their full legal name when completing the IRA account maintenance form to opt out from automatic escalation.

This is necessary to communicate to the regulated community what they must do to complete the IRA account maintenance form and to opt out from automatic escalation by mail. The requirement to provide the full legal name is also necessary to assist the

administrator in identifying which account to apply this election to. Lastly, requiring the full legal name which is information that only the participating employee should know helps safeguard against unauthorized access to accounts and ultimately safeguards employee information and account integrity.

Adopt subsection (c)(2)(iii): The Board proposes to adopt subsection (c)(2)(iii) to require that participating employees provide their telephone number when completing the IRA account maintenance form to opt out from automatic escalation.

This is necessary to communicate to the regulated community what they must do to complete the IRA account maintenance form and to opt out from automatic escalation by mail. The requirement to provide the telephone number is also necessary to assist the administrator in identifying which account to apply this election to. Lastly, requiring the telephone number which is information that only the participating employee should know helps safeguard against unauthorized access to accounts and ultimately safeguards employee information and account integrity.

Adopt subsection (c)(2)(iv): The Board proposes to adopt subsection (c)(2)(iv) to require that participating employees provide the name of their participating employer when completing the IRA account maintenance form to opt out from automatic escalation.

This is necessary to communicate to the regulated community what they must do to complete the IRA account maintenance form and to opt out from automatic escalation by mail. The requirement to provide the name of their participating employer is also necessary to assist the administrator in identifying which account to apply this election to. Lastly, requiring the participating employer name which is information that only the participating employee should know helps safeguard against unauthorized access to accounts and ultimately safeguards employee information and account integrity.

Adopt subsection (c)(2)(v): The Board proposes to adopt subsection (c)(2)(v) to require that participating employees mark the “Automatic Annual Increase” portion of the IRA account maintenance form to opt out from automatic escalation.

This is necessary to communicate to the regulated community what is required to complete the form and opt out of automatic escalation by overnight mail or regular mail. It is also necessary because the administrator requires that portion of the form be marked to complete the form. The administrator requires this because it assists the administrator in identifying which account action the participating employee wishes to make.

Adopt subsection (c)(2)(vi): The Board proposes to adopt subsection (c)(2)(vi) to require that participating employees mark that they do not wish to have their contributions automatically increased each year as a selection on the IRA account maintenance form to opt out from automatic escalation by mail.

This is necessary to communicate to the regulated community what is required to complete the form and opt out of automatic escalation by overnight mail or regular mail. It is also necessary because the administrator requires that portion of the form be marked to complete the form. The administrator requires this because it assists the administrator in identifying which account action the participating employee wishes to make.

Adopt subsection (c)(2)(vii): The Board proposes to adopt subsection (c)(2)(vii) to require that participating employees provide their signature and date of signature on the form.

This is necessary to communicate to the regulated community what is required to complete the form and opt out of automatic escalation by overnight mail or regular mail. It is also necessary because the administrator requires the signature and date portion of the form to be completed for it to be accepted. Lastly, requiring a signature which should only be provided by the participating employee is necessary because it is intended to prevent unauthorized access to accounts and safeguard the integrity of the participating employee's account.

Adopt subsection (d): The Board proposes to adopt subsection (d) to complete the renumbering of the existing subsection (a)(2)(B) to subsection (d). The relocation of the regulation is necessary to organize the Board's regulations in a more logical manner by placing it as a standalone rule concerning automatic escalation instead of having the rule nestled among default election rules. By making this move the regulated community can better understand which rules and requirements with respect to automatic escalation apply to all participating employee accounts as the regulation is intended to. For these reasons the adoption of this subsection is necessary.

Adopt subsection (d)(1): The Board proposes to adopt subsection (d)(1) to complete the renumbering of the existing subsection (a)(2)(B)(1) to subsection (d)(1). The relocation of the regulation is necessary to organize the Board's regulations in a more logical manner by placing it after the other automatic escalation related rules in subsections (c) and (d). By making this move the regulated community can better understand which rules and requirements with respect to automatic escalation apply to participating employee accounts. For these reasons, the adoption of this subsection is necessary.

Amend subsection (c): The Board proposes to amend subsection (c) concerning "other contribution and investment election rules" by renumbering it to subsection (e). This is necessary to update the numbering convention of the Board regulations consistent with the other proposed changes to Section 10005.

Amend subsection (e)(2): The Board proposes to amend subsection (e)(2) to remove "as other Participating Employees" and replace it with "that apply to Participating Employees under this Chapter". This is necessary to improve the clarity of the Board's regulations.

The previous statement implicitly communicated to employers that are also participating employees that they had the same contribution rights as “other participating employees.” While that statement does communicate this reality, the Board believes that the proposed change communicates the rule more directly by outright saying participating employers who are participating employees may make contributions to the Program under the same terms and conditions that apply to participating employees.

Amend subsection (e)(4): The Board proposes to amend subsection (e)(4) to implement the option to recharacterize contributions by mail. This is necessary to provide participants with the Program options that are available to them as participants can recharacterize their contributions by phone or by mail. It is also necessary to communicate to the regulated community what is required of them to recharacterize contributions by mail.

Adopt subsection (e)(4)(A): The Board proposes to adopt subsection (e)(4)(A) to provide a segue to the list of requirements that administrator has for participants to recharacterize contributions by phone. Subsections (e)(4)(A)(i)-(e)(4)(B) contain the specific steps that the participant must complete to recharacterize their contributions.

The adoption of this subsection is necessary to communicate to participants what is required of them to recharacterize their contributions by phone in a manner that is easy to follow.

Adopt subsection (e)(4)(A)(i): The Board proposes to adopt subsection (e)(4)(A)(i) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by phone must provide their full legal name. This is necessary to safeguard participant information by preventing unauthorized access to accounts by requesting the caller provide information that only the account holder should know. Additionally, requiring the name of the account holder as part of this process is necessary for the administrator to identify the account and apply elections made by the participant to the appropriate account. Lastly, the adoption of this subsection is necessary to communicate to participants what is required of them during the phone contribution recharacterization process.

Adopt subsection (e)(4)(A)(ii): The Board proposes to adopt subsection (e)(4)(A)(ii) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by phone must provide their physical or mailing address. This is necessary to safeguard participant information by preventing unauthorized access to accounts by requesting the caller provide information that only the account holder should know. Additionally, requiring the physical or mailing address of the account holder as part of this process is necessary for the administrator to identify the account and apply elections made by the participant to the appropriate account. Lastly, the adoption of this subsection is necessary to communicate to participants what is required of them during the phone contribution recharacterization process.

Adopt subsection (e)(4)(A)(iii): The Board proposes to adopt subsection (e)(4)(A)(iii) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by phone must provide one of either their account number, social security number, individual taxpayer identification number, or date of birth as a piece of identifying information. This is necessary to safeguard participant information by preventing unauthorized access to accounts by requesting the caller provide information that only the account holder should know. Additionally, requiring one of those identifiers be provided is necessary for the administrator to identify the account and apply elections made by the participant to the appropriate account. Lastly, the adoption of this subsection is necessary to communicate to participants what is required of them during the phone contribution recharacterization process.

Adopt subsection (e)(4)(A)(iv): The Board proposes to adopt subsection (e)(4)(A)(iv) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by phone must provide their original contribution rate to their Roth IRA. This is necessary so that the administrator can both identify the account and apply elections made by the participant to the appropriate account. Lastly, the adoption of this subsection is necessary to communicate to participants what is required of them during the phone contribution recharacterization process.

Adopt subsection (e)(4)(A)(v): The Board proposes to adopt subsection (e)(4)(A)(v) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by phone must provide their original contribution amount to be recharacterized as a piece of identifying information. This is necessary so that the Administrator knows how much of the investments in the participant's Roth IRA they would like to recharacterize. Without that information the Administrator can only logically assume the entire account is being recharacterized which isn't always the case. Therefore, the adoption of this subsection is necessary to communicate to the regulated community what is required to recharacterize their contributions to a Traditional IRA by phone and for the Board to implement requirements of the Administrator.

Adopt subsection (e)(4)(A)(vi): The Board proposes to adopt subsection (e)(4)(A)(vi) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by phone must provide the total amount to be recharacterized. This is necessary as the administrator needs to know the amount of contributions that the participant desires to recharacterize in order to recharacterize those contributions. Additionally, the adoption of this subsection is necessary for the Board to formally implement the requirements the Administrator and thus the Program has of the public to recharacterize funds with the Program.

Adopt subsection (e)(4)(A)(vii): The Board proposes to adopt subsection (e)(4)(A)(vii) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by phone must provide the account number of their traditional IRA account. This is necessary as it is part of the administrator's account creation process and without the account number being confirmed during the call, the administrator will not complete the

recharacterization process. Lastly, the adoption of this subsection is necessary to communicate to the regulated community what is required to recharacterize their contributions to a Traditional IRA by phone.

Adopt subsection (e)(4)(A)(viii): The Board proposes to adopt subsection (e)(4)(A)(viii) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by phone must provide the recharacterization amount including either the full balance of the participant's investment options, a partial amount provided by the participant to be allocated proportionately from all current investment options, or a partial amount to be recharacterized from investment options provided by the participant as a piece of identifying information.

The adoption of this rule is necessary so that the administrator can recharacterize the amount the participant wishes to recharacterize. Additionally, it's necessary to communicate to Program participants what is required to recharacterize their contributions to a Traditional IRA by phone.

Adopt subsection (e)(4)(B): The Board proposes to adopt subsection (e)(4)(B) to implement the second portion of rules for participants to finalize the recharacterization of their contributions to a Traditional IRA as described in subsection (e)(4). Specifically, the rule requires that participants log into their online account with the Program and complete the steps enumerated in subsections (e)(4)(B)(i)-(iv) to complete the recharacterization process.

This is necessary to communicate to participants what is required of them to finish recharacterizing their contributions to a Traditional IRA and to implement administrator requirements on the topic.

Adopt subsection (e)(4)(B)(i): The Board proposes to adopt subsection (e)(4)(B)(i) to require that a participant wishing to recharacterize their contributions to a Traditional IRA must select "view" under the Traditional IRA Account profile on their online user account. This is necessary to communicate to the regulated community one of the four online steps needed to finalize recharacterizing contributions to a Traditional IRA and to implement administrator requirements on the topic.

Adopt subsection (e)(4)(B)(ii): The Board proposes to adopt subsection (e)(4)(B)(ii) to require that a participant wishing to recharacterize their contributions to a Traditional IRA must confirm their investment options and employer contributions by selecting either their current options or new options.

Participants selecting neither will have their options established as the default election identified in subsection (a)(1) and (a)(4). This is necessary to communicate to the regulated community the second of four online steps needed to finalize recharacterizing contributions to a Traditional IRA and to implement administrator requirements on the topic. It is also necessary to give the participant the opportunity to change or affirm their investment preferences such as retirement funds, contribution amounts, automatic

escalation, etc. Lastly it is necessary so that the administrator can apply said investment preferences of the participant to their new traditional IRA account.

Adopt subsection (e)(4)(B)(iii): The Board proposes to adopt subsection (e)(4)(B)(iii) to require that a participant wishing to recharacterize their contributions to a Traditional IRA must select “Activate” on their online user account. This is necessary to activate the account and to communicate to the regulated community what steps are required by the administrator to recharacterize contributions.

Adopt subsection (e)(4)(B)(iv): The Board proposes to adopt subsection (e)(4)(B)(iv) to require that a participant wishing to recharacterize their contributions to a Traditional IRA must confirm that they have received and read the Program Documents associated with the recharacterization of their account.

This is necessary to inform the participant of the ramifications of recharacterizing contributions, educate them on the functions and purposes of a traditional IRA account, and for the Program to be sure that participants are making informed decisions regarding their financial investments.

Adopt subsection (e)(4)(C): The Board proposes to adopt subsection (e)(4)(C) to require that participants wishing to recharacterize contributions by mail must complete the recharacterization election form. The rule also provides a segue into the list of requirements in subsections (e)(4)(C)(i)-(xiv) that the administrator has for participants to complete the election form. The adoption of this subsection is necessary to communicate to participants what is required of them to recharacterize their contributions by mail and to provide them with a simple list of those rules in the ensuing subsections.

Adopt subsection (e)(4)(C)(i): The Board proposes to adopt subsection (e)(4)(C)(i) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must provide their account number on the recharacterization election form. This is necessary because the administrator requires that part of the form be filled out by participants to recharacterize funds. Additionally, it is necessary to safeguard participant information and communicate to the regulated community what is required to recharacterize their contributions to a Traditional IRA by overnight mail or regular mail.

Adopt subsection (e)(4)(B)(ii): The Board proposes to adopt subsection (e)(4)(B)(ii) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must provide their social security number or individual taxpayer identification number on the election form. This is necessary to safeguard participant information, communicate to the regulated community what is required to recharacterize their contributions to a Traditional IRA by overnight mail or regular mail, and implement Board practices.

Adopt subsection (e)(4)(B)(iii): The Board proposes to adopt subsection (e)(4)(B)(iii) to require that a participant wishing to recharacterize their contributions to a Traditional

IRA by overnight mail or regular mail must provide their full legal name on the election form. This is necessary to safeguard participant information, communicate to the regulated community what is required to recharacterize their contributions to a Traditional IRA by overnight mail or regular mail, and implement Board practices.

Adopt subsection (e)(4)(B)(iv): The Board proposes to adopt subsection (e)(4)(B)(iv) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must provide their telephone number on the election form. This is necessary to safeguard participant information by requesting information that only the participant should have, communicate to the regulated community what is required to recharacterize their contributions by mail, and to implement administrator requirements to do so.

Adopt subsection (e)(4)(B)(v): The Board proposes to adopt subsection (e)(4)(B)(v) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must provide their date of birth on the election form. This is necessary to safeguard participant information by requesting information that only the participant should have, communicate to the regulated community what is required to recharacterize their contributions by mail, and to implement administrator requirements to do so.

Adopt subsection (e)(4)(B)(vi): The Board proposes to adopt subsection (e)(4)(B)(vi) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must input their original contribution rate to their Roth IRA on the election form. This is necessary to safeguard participant information by requesting information that only the participant should have, determine the amount of money that the participant would like to recharacterize, communicate to the regulated community what is required to recharacterize their contributions by mail, and to implement administrator requirements to do so.

Adopt subsection (e)(4)(B)(vii): The Board proposes to adopt subsection (e)(4)(B)(vii) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must provide their original contribution amount on the election form. This is necessary to safeguard participant information by requesting information that only the participant should have, determine the amount of money that the participant would like to recharacterize, communicate to the regulated community what is required to recharacterize their contributions by mail, and to implement administrator requirements to do so.

Adopt subsection (e)(4)(B)(viii): The Board proposes to adopt subsection (e)(4)(B)(viii) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must provide their net income attributable on the election form. This is necessary to safeguard participant information by requesting information that only the participant would have, communicate to the regulated community what is

required to recharacterize their contributions by regular mail, and to implement administrator requirements to do so.

Adopt subsection (e)(4)(B)(ix): The Board proposes to adopt subsection (e)(4)(B)(ix) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must provide the total amount to be recharacterized on the election form. This is necessary to determine the amount of money that the participant would like to recharacterize, communicate to the regulated community what is required to recharacterize their contributions by mail, and to implement administrator requirements to do so.

Adopt subsection (e)(4)(B)(x): The Board proposes to adopt subsection (e)(4)(B)(x) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must provide the name of the accepting organization including whether the organization is a trustee or a custodian of the IRA owner on the election form. This is necessary to confirm where the recharacterized contributions will be sent. Additionally, it is necessary to communicate to the regulated community what is required to recharacterize their contributions to a Traditional IRA by mail and implement administrator requirements to do so.

Adopt subsection (e)(4)(B)(xi): The Board proposes to adopt subsection (e)(4)(B)(xi) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must provide the address of the accepting organization on the election form. This is necessary to confirm the physical location of the receiving entity so that the administrator can facilitate the transfer. Additionally, it is necessary to communicate to the regulated community what is required to recharacterize their contributions to a Traditional IRA by mail and implement administrator requirements to do so.

Adopt subsection (e)(4)(B)(xii): The Board proposes to adopt subsection (e)(4)(B)(xii) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must provide the Traditional IRA account number on the election form. This is necessary for the administrator to facilitate the transfer and to safeguard participant monies by requesting information that only the participant would know to facilitate the transfer. Additionally, it is necessary to communicate to the regulated community what is required to recharacterize their contributions to a Traditional IRA by mail and implement administrator requirements to do so.

Adopt subsection (e)(4)(B)(xiii): The Board proposes to adopt subsection (e)(4)(B)(xiii) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must input a recharacterization amount including either the full balance of the participant's investment options, a partial amount provided by the participant to be allocated proportionately from all current investment options, or a partial amount to be recharacterized from the participant's investment options on the election form.

This is necessary to confirm the amount contributions the participant would like to recharacterize and to confirm from which investments the participant would like to recharacterize. Additionally, it is necessary to communicate to the regulated community what is required to recharacterize their contributions to a Traditional IRA by mail and implement administrator requirements to do so.

Adopt subsection (e)(4)(B)(xiv): The Board proposes to adopt subsection (e)(4)(B)(xiv) to require that a participant wishing to recharacterize their contributions to a Traditional IRA by mail must provide the signature and date of the IRA owner of authorized individual on the election form. This is necessary to ensure that only the account owner or authorized individual is making this election and for the administrator to safeguard participant accounts. Additionally, it is necessary to communicate to the regulated community what is required to recharacterize their contributions to a Traditional IRA by mail and to implement administrator requirements to do so.

Adopt subsection (e)(5): The Board proposes to adopt subsection (e)(5) as a part of the relocation of the rules for making recurring non-payroll contributions from existing subsection (b)(3) to subsection (e)(5). As explained in the “repeal subsection (b)(3)” (See page 24) portion of this document this move is being made to place the recurring non-payroll contribution rules in a more appropriate location and restructure the Board’s “Alternative election rules” in subsection (b).

This is necessary to make the information on electing and making recurring non-payroll contributions more consistent with other types of Program contribution rules in the Board’s regulations. Additionally, the relocation is intended to make the Board’s regulations more accessible and understandable by the regulated community, thus improving the clarity of the Board’s regulations.

The Board also proposes adding the methods by which a participating employee elects said recurring non-payroll contributions by including “electronically (saver.calsavers.com) or by phone (855-650-6918)” as part of the regulation. This is necessary to communicate to participating employees where they must go to elect recurring non-payroll contributions.

Adopt subsection (e)(5)(A): The Board proposes to adopt subsection (e)(5)(A) to implement rules for participating employees to make recurring non-payroll contributions electronically via the Program’s website. This process includes selecting “Manage contributions”, selecting the frequency of contributions, providing a start date for recurring nonpayroll contributions, and providing banking information including the bank name, routing number, and bank account type.

The adoption of this subsection is necessary to communicate to participating employees how they make recurring non-payroll contributions to the Program. Additionally, it is necessary to implement the administrator’s requirements for participating employees to make these kinds of contributions to the Program.

Adopt subsection (e)(5)(B): The Board proposes to adopt subsection (e)(5)(B) to establish a list of steps participants must follow to make recurring non-payroll contributions by phone. Those requirements to complete setting up recurring non-payroll contributions are further enumerated in subsections (e)(5)(B)(i)-(v).

The adoption of this subsection is necessary to establish said list of requirements and to organize these requirements in a manner that is easy for participants to follow. By doing so, the Board intends to improve the clarity of these requirements and the comprehension of these regulations by the regulated community. Additionally, it is necessary to implement the administrator's requirements for participants to make these elections over the phone.

Adopt subsection (e)(5)(B)(i): The Board proposes to adopt subsection (e)(5)(B)(i) to require that participants making recurring non-payroll contributions by phone must provide their full legal name.

This is necessary to communicate to the regulated community what they must do to make recurring non-payroll contributions by phone. It is also necessary to assist the administrator in identifying which account to apply this election to. Lastly, requiring by requiring the caller provide the account holder's full legal name which is information that only the account holder should know the administrator helps safeguard against unauthorized access to accounts and ultimately protects employee information and account integrity. For these reasons the adoption of this subsection is necessary.

Adopt subsection (e)(5)(B)(ii): The Board proposes to adopt subsection (e)(5)(B)(ii) to require that participants wishing to make recurring non-payroll contributions by phone must provide their physical or mailing address.

This is necessary to communicate to the regulated community what they must do to make recurring non-payroll contributions by phone. It is also necessary to assist the administrator in identifying which account to apply this election to as the participant's address is part of their account information. Lastly, requiring the caller provide the account holder's address which is information that only the account holder should know helps safeguard against unauthorized access to accounts and ultimately protects employee information and account integrity. For these reasons the adoption of this subsection is necessary.

Adopt subsection (e)(5)(B)(iii): The Board proposes to adopt subsection (e)(5)(B)(iii) to require that participants wishing to make recurring non-payroll contributions by phone must provide one of their account number, social security number, individual taxpayer identification number, or date of birth.

This is necessary to communicate to the regulated community what they must do to make recurring non-payroll contributions by phone. It is also necessary to assist the administrator in identifying which account to apply this election to as all of the four options available are also located on the participants' account with the Program. Lastly,

by requiring the caller to provide information that only the account holder should know helps the administrator safeguard against unauthorized account access and ultimately protects employee information and account integrity. For these reasons the adoption of this subsection is necessary.

Adopt subsection (e)(5)(B)(iv): The Board proposes to adopt subsection (e)(5)(B)(iv) to require that participating employees wishing to make recurring non-payroll contributions by phone must provide the contribution amount they would like to make.

This is necessary as the administrator needs this information to apply the correct contribution amount to the participant's account. Additionally, the adoption of this subsection is necessary to communicate to the regulated community what is required of them to make recurring non-payroll contributions to the Program.

Adopt subsection (e)(5)(B)(v): The Board proposes to adopt subsection (e)(5)(B)(v) to require that participating employees wishing to make recurring non-payroll contributions by phone must provide the frequency of contributions that they would like to make.

This is necessary as the administrator needs this information to apply the correct contribution frequency that the participant wants to make to their account. Additionally, the adoption of this subsection is necessary to communicate to the regulated community what is required of them to make recurring non-payroll contributions to the Program.

Adopt subsection (e)(6): The Board proposes to adopt subsection (e)(6) as part of the relocation of the rules for making non-recurring non-payroll contributions from subsection (b)(4) to this subsection. As explained in the "repeal subsection (b)(4)" (See page 25) section of this document this move is being made to place contribution rules in a more appropriate location (From "Alternative election" rules to "Other contribution" rules) and to restructure the Board's "Alternative election rules."

This is necessary to make the information on electing and making non-recurring non-payroll contributions easier to find by the regulated community as those rules are contribution related rules.

In addition to the relocation of the regulation the Board proposes making the following changes to the regulation to improve the clarity of the regulation and to communicate to the regulated community what is required of them to make non-recurring non-payroll contributions to the Program.

Specifically, the Board proposes removing "also" from the first sentence of the existing regulation as the inclusion in the updated regulation in this subsection is not necessary. Additionally, the Board proposes removing "and must be a minimum of at least \$10" from the second sentence of the existing regulation and adopting "of at least \$10 to their Account" in the first sentence to match the structure of the proposed subsection (e)(5) of this rulemaking action. These changes are necessary to remove unnecessary language from the Board's regulations with the intent to improve the clarity of the regulations.

Additionally, the changes are necessary to restructure the Board's regulations in a similar style and format so the regulated community can more easily interpret, comprehend, and locate the regulations that apply to them.

Lastly, the Board proposes to add the methods by which a participating employee makes non-recurring non-payroll contributions by including "electronically (saver.calsavers.com), by phone (855-650-6918), by overnight mail (CalSavers, 95 Wells Avenue, Suite 155, Newton, MA 02459), or by regular mail (CalSavers, P.O. Box 55759, Boston, MA, 02205-5759) to the Administrator" to the regulation. This is necessary to communicate to participating employees which places they must contact or send their contributions if they wish to make non-recurring non-payroll contributions to the Program.

Adopt subsection (e)(6)(A): The Board proposes to adopt subsection (e)(6)(A) to implement the process for participating employees to make non-recurring non-payroll contributions electronically via the Program's website. This process includes selecting "Manage contributions", selecting one-time contributions, selecting the date for the contribution to be made, and providing banking information including the bank name, routing number, and bank account type.

The adoption of this subsection is necessary to communicate to participating employees how they make non-recurring non-payroll contributions to the Program. Additionally, it is necessary to implement the Program's requirements for participating employees to make these kinds of contributions to the Program.

Adopt subsection (e)(6)(B): The Board proposes to adopt subsection (e)(6)(B) to establish a list of required information participants must provide to the administrator to make non-recurring non-payroll contributions by phone. The list of requirements to complete setting up recurring non-payroll contributions are further enumerated in subsections (e)(6)(B)(i)-(iv).

The adoption of this subsection is necessary to establish said list of requirements and to organize these requirements in a manner that is easy to follow by participating employees. By doing so, the Board intends to improve the clarity of these requirements and the comprehension of these regulations by the regulated community.

Adopt subsection (e)(6)(B)(i): The Board proposes to adopt subsection (e)(6)(B)(i) to require that participating employees wishing to make non-recurring non-payroll contributions by phone must provide their full legal name as part of the process.

This is necessary to communicate to the regulated community what they must do to make non-recurring non-payroll contributions by phone. It is also necessary to assist the administrator in identifying which account to apply this election to. Lastly, requiring by requiring the caller provide the account holder's full legal name which is information that only the account holder should know helps the administrator safeguard against

unauthorized account access and ultimately protects employee information and account integrity. For these reasons the adoption of this subsection is necessary.

Adopt subsection (e)(6)(B)(ii): The Board proposes to adopt subsection (e)(6)(B)(ii) to require that participating employees wishing to make non-recurring non-payroll contributions by phone must provide their physical or mailing address as part of the process.

This is necessary to communicate to the regulated community what they must do to make non-recurring non-payroll contributions by phone. It is also necessary to assist the administrator in identifying which account to apply this election to as the participating employee's address is part of the participant's account information. Lastly, requiring by requiring the caller provide the account holder's address which is information that only the account holder should know helps the administrator safeguard against unauthorized account access and ultimately protects employee information and account integrity. For these reasons the adoption of this subsection is necessary.

Adopt subsection (e)(6)(B)(iii): The Board proposes to adopt subsection (e)(6)(B)(iii) to require that participating employees wishing to make non-recurring non-payroll contributions by phone must provide one of their account number, social security number, or individual taxpayer identification number, or date of birth as part of the process.

This is necessary to communicate to the regulated community what they must do to make non-recurring non-payroll contributions by phone. It is also necessary to assist the administrator in identifying which account to apply this election to as all of the four options available are also located on the participating employee's account. Lastly, requiring the caller provide information that only the account holder should know helps the administrator safeguard against unauthorized account access and ultimately protects employee information and account integrity. For these reasons the adoption of this subsection is necessary.

Adopt subsection (e)(6)(B)(iv): The Board proposes to adopt subsection (e)(6)(B)(iv) to require that participating employees wishing to make non-recurring non-payroll contributions by phone must provide the contribution amount they would like to make as part of the process.

This is necessary as the administrator needs this information to set up the contribution amount that the participating employee wants to make to the Program. Additionally, the adoption of this subsection is necessary to communicate to the regulated community what is required of them to make non-recurring non-payroll contributions to the Program.

Adopt subsection (e)(6)(C): The Board proposes to adopt subsection (e)(6)(C) to implement the process for participating employees to make non-recurring non-payroll contributions to the Program by mail. This process includes mailing a complete check

referencing the name of the account owner to the administrator in the amount they would like contributed to their account.

The adoption of this subsection is necessary to formally implement administrator requirements for participating employees to make non-recurring non-payroll contributions (e.g. one-time payments) to the Program by mail. It is also necessary to communicate to the regulated community as to how they can make non-recurring non-payroll contributions to the Program.

Adopt subsection (e)(7): The Board proposes to adopt subsection (e)(7) to provide that a participant's account settings remain with the participant, rather than resetting when the participant changes jobs. Subsection (e)(7) would apply to all account settings described in section 10005, including the default account settings under subsection (a), the alternative account settings under subsection (b), and the election to opt out of automatic escalation under subsection (c). Although the rule would apply to all participants, its effect would be most significant for participants who change jobs or take an additional job with a different participating employer.

Under current Program policies, when a participant moves from one participating employer to another, the participant's contribution settings reset to the default rate. As a result, a participant who was contributing 7 percent of compensation under the default settings at one employer would contribute 5 percent at a new employer, even though the participant made no election to change that rate.

This reset is inconsistent with the Legislature's intent that the Program provide portable benefits across jobs (GOV Code Section 100004(a) and 100012(a)(3)). It also differs from the operation of Roth and traditional IRAs generally, which retain their terms regardless of the account holder's employment. When it created the Program, the Legislature selected individual retirement accounts as the Program's investment vehicle precisely so that accounts would belong to participants rather than their employers. The proposed subsection carries that design through to account settings, making CalSavers accounts and benefits fully portable across jobs for participants throughout the state.

The proposed rule ensures that participants' account settings remain stable throughout their careers, regardless of changes in employment. Participants' contributions will continue without increases or decreases caused solely by a change of employer or the addition of a second job.

The rule does not limit participants' control over their accounts. A participant may change contribution rates or other account settings at any time, either when beginning employment with a new facilitating employer or by following the procedures described in section 10005.

The Board also proposes to exempt employee contributions from the capital preservation investment holding rule under subsection (a)(4) when an employee makes

contributions to the Program from a new participating employer. Currently when an employee makes contributions to the Program in the first month at a participating employer, the money is placed in a money market fund (capital preservation investment). Then after 30 days have elapsed, those funds are transferred to a target date fund that is selected for the participant based on their projected retirement date (see the table located in subsection (a)(4)). The capital preservation rule was meant to preserve participants' initial investment with the Program in case they decided to opt out within those 30 days. The intent of that rule and the circumstance where participants already have a funded account with the Program does not align. As a consequence, existing participants lose a month's worth of compounding interest and investment gain opportunity each time they change jobs. To avoid this misalignment of rules and the minor loss of compounding interest, the Board believes that funds contributed to the Program should only be preserved in a capital investment fund when a participant first joins the Program not each time they change jobs. For the above reasons the Board believes the adoption of this subsection is necessary.

Section 10006. Individual Participation.

Amend subsection (a): The Board proposes to remove "outside of an employment relationship with an Eligible Employer" after "Participating Individual" from subsection (a) as this information is already included as part of the definition of "Participating Individual" (See Section 10000 subsection (y)). The removal of this clause is necessary as the statement being removed is redundant and unnecessary. The Board, through this rulemaking action, intends to remove as much redundant and unnecessary language from its regulations in an effort to improve the clarity of the regulations and to reduce redundancy.

The Board also proposes to add "by creating an online user account with the Program electronically (saver.calsavers.com)" to subsection (a). This is necessary to communicate to participating individuals how they enroll in the Program. As part of this addition the Board proposes removing "through any of the methods established in Section 10004(d)" for three reasons. First, the language the Board is proposing to add to this subsection makes this clause redundant as both clauses communicate to individuals how they enroll in the Program. Second, the cross-referenced regulation (Section 10004(d)) concerns how to opt out from the Program which is confusing to the regulated community as the topic of this regulation concerns how to enroll in the Program not opting out. Third, some of the options to contact the Board as stated in Section 10004(d) are not viable options (phone and mail) for individuals to enroll in the Program.

Lastly, the Board also proposes to remove "information required in Section 10003(a)(1) through (a)(6)" and to add "following to the Administrator" in its place. This proposed change is necessary to fully communicate to individuals who wish to enroll in the Program how they go about doing so.

Adopt subsection (a)(1): The Board proposes to add “The individual’s:” to establish a list of the information individuals must provide to enroll in the Program as a participating individual. This is necessary to communicate to individuals how they enroll in the Program in a manner that is easy to comprehend.

Adopt subsection (a)(1)(A): The Board proposes to adopt subsection (a)(1)(A) to require that individuals enrolling in the Program must provide their full legal name as part of the enrollment process. This is necessary to communicate to individuals what is required of them to enroll in the Program, implement a requirement the administrator has to set up accounts, and to fulfill the requirements of subsection (a).

Adopt subsection (a)(1)(B): The Board proposes to adopt subsection (a)(1)(B) to require that individuals enrolling in the Program must provide their social security number or individual taxpayer identification number as part of the enrollment process. This is necessary to communicate to individuals what is required of them to enroll in the Program, implement a requirement the administrator has to set up accounts, and to fulfill the requirements of subsection (a).

Adopt subsection (a)(1)(C): The Board proposes to adopt subsection (a)(1)(C) to require that individuals enrolling in the Program must provide their date of birth as part of the enrollment process. This is necessary to communicate to individuals what is required of them to enroll in the Program, implement a requirement the administrator has to set up accounts, and to fulfill the requirements of subsection (a).

Adopt subsection (a)(1)(D): The Board proposes to adopt subsection (a)(1)(D) to require that individuals enrolling in the Program must provide their physical address as part of the enrollment process. This is necessary to communicate to individuals what is required of them to enroll in the Program, implement a requirement the administrator has to set up accounts, and to fulfill the requirements of subsection (a).

Adopt subsection (a)(1)(E): The Board proposes to adopt subsection (a)(1)(E) to require that individuals enrolling in the Program must provide their phone number as part of the enrollment process. This is necessary to communicate to individuals what is required of them to enroll in the Program, implement a requirement the administrator has to set up accounts, and to fulfill the requirements of subsection (a).

Adopt subsection (a)(1)(F): The Board proposes to adopt subsection (a)(1)(F) to require that individuals enrolling in the Program must provide their email address as part of the enrollment process. This is necessary to communicate to individuals what is required of them to enroll in the Program, implement a requirement the administrator has to set up accounts, and to fulfill the requirements of subsection (a).

Adopt subsection (a)(2): The Board proposes to adopt subsection (a)(2) to require that individuals enrolling in the Program must select an investment option from the available options in subsections (a)(2)(A)-(a)(2)(B)(vi). This is necessary to communicate to

individuals what is required of them to enroll in the Program and which investment options are available to them.

Adopt subsection (a)(2)(A): The Board proposes to adopt subsection (a)(2)(A) to provide the standard investment option as an investment option that is available to individuals enrolling in the Program. Additionally, the Board proposes to clarify in this regulation that the standard investment option is the same as the default investment option described in Section 10005 subsection (a)(4). This is necessary to fully communicate what the standard investment option is and to use the same investment option terminology present to participating individuals on the Program's website.

The adoption of subsection (a)(2)(A) is necessary to communicate to individuals what investment options are available to them and what is required of them to enroll in the Program.

Adopt subsection (a)(2)(B): The Board proposes to adopt subsection (a)(2)(B) to establish that an individual's contribution may be comprised of fractions of one or more available investment options, so long as they make up 100% of the individual's contribution(s). The available investment options are enumerated in subsections (a)(2)(B)(i)-(vi) of this Section so that individual's know which options are available to them and to not overly complicate this subsection.

The adoption of subsection (a)(2)(B) is necessary to communicate to individuals what investment options are available to them, how individuals invest in multiple options, and what is required of them to enroll in the Program.

Adopt subsection (a)(2)(B)(i): The Board proposes to adopt subsection (a)(2)(B)(i) to establish the Target Date Retirement Fund as an investment option available for participating individuals. The adoption of this subsection is necessary to communicate to individuals what investment options are available to them and what is required of them to enroll in the Program.

Adopt subsection (a)(2)(B)(ii): The Board proposes to adopt subsection (a)(2)(B)(ii) to establish that Target Date Retirement Funds are an investment option available to participating individuals. The Target Date Retirement Funds start with the year 2020 with another fund offering each 5 years until 2070 (e.g. 2020, 2025, 2030, etc.). The adoption of this subsection is necessary to communicate to individuals what investment options are available to them and what is required of them to enroll in the Program.

Adopt subsection (a)(2)(B)(iii): The Board proposes to adopt subsection (a)(2)(B)(iii) to establish the Money Market Fund as an investment option available to participating individuals. The adoption of this subsection is necessary to communicate to individuals what investment options are available to them and what is required of them to enroll in the Program.

Adopt subsection (a)(2)(B)(iv): The Board proposes to adopt subsection (a)(2)(B)(iv) to establish the Core Bond Fund as an investment option available to participating

individuals. The adoption of this subsection is necessary to communicate to individuals what investment options are available to them and what is required of them to enroll in the Program.

Adopt subsection (a)(2)(B)(v): The Board proposes to adopt subsection (a)(2)(B)(v) to establish the Global Equity Fund as an investment option available to participating individuals. The adoption of this subsection is necessary to communicate to individuals what investment options are available to them and what is required of them to enroll in the Program.

Adopt subsection (a)(2)(B)(vi): The Board proposes to adopt subsection (a)(2)(B)(vi) to establish the Environmental, Social, and Governance Fund as an investment option available to participating individuals. The adoption of this subsection is necessary to communicate to individuals what investment options are available to them and what is required of them to enroll in the Program.

Adopt subsection (a)(3): The Board proposes to adopt subsection (a)(3) to add “Contribution option including bank account or payroll direct deposit (if available).” to establish that individuals may contribute to their Program account via bank account or direct deposit.

This is necessary to communicate to individuals which contribution methods are available to them and what is required of individuals to set up contributions by each of those methods.

Adopt subsection (a)(3)(A): The Board proposes to add subsection (a)(3)(A) to establish a list of requirements for individuals to make contributions by bank account. The adoption of this subsection is necessary to communicate to individuals what is required of them to make contributions to the Program by bank account and to implement administrator requirements in a format that individuals can easily follow.

Adopt subsection (a)(3)(A)(i): The Board proposes to add subsection (a)(3)(A)(i) to require that individuals wishing to make contributions to the Program via bank account must provide a contribution amount as part of their account set up with the Program. The contribution amount must also be at least \$10.

This is necessary to communicate to individuals what is required of them to contribute to the Program via bank account. Additionally, it is necessary to inform the regulated community about the administrator’s minimum contribution requirements for participants. Lastly, the inclusion of this rule is necessary so that the administrator charges the appropriate contribution amounts to the individuals bank account based on their election.

Adopt subsection (a)(3)(A)(ii): The Board proposes to add subsection (a)(3)(A)(ii) to require that individuals wishing to make contributions to the Program via bank account must provide the frequency of contributions they would like to make as part of their

account set up with the Program. The rule also communicates to individuals the contribution frequencies that are available to them (weekly, monthly, etc.).

This is necessary to communicate to individuals what is required of them to contribute to the Program via bank account. Additionally, it is necessary for individuals to choose one of these options so that the administrator charges the individual's account at the appropriate frequencies.

Adopt subsection (a)(3)(A)(iii): The Board proposes to add subsection (a)(3)(A)(iii) to require that individuals wishing to make contributions to the Program via bank account must provide the start date for their contributions in order to set up an account with the Program. This is necessary to communicate to individuals what is required of them to contribute to the Program via bank account. Additionally, it is necessary to ensure that the administrator begins charging the individual's bank account when the individual desires to.

Adopt subsection (a)(3)(A)(iv): The Board proposes to add subsection (a)(3)(A)(iv) to require that individuals wishing to make contributions to the Program via bank account must provide their bank information, including bank name, routing number, bank account number, and bank account type as part of the process to set up an account with the Program.

This is necessary to communicate to individuals what is required of them to contribute to the Program via bank account. Additionally, it is necessary because the administrator needs this information to begin charging the individual's bank account. Without this information the administrator would not be able to complete the account set up.

Adopt subsection (a)(3)(B): The Board proposes to add subsection (a)(3)(B) to establish a list of requirements for individuals to make contributions by payroll direct deposit.

The Board also proposes to establish that individuals wishing to make contributions to the Program via payroll direct deposit must provide a contribution amount as part of their account set up with the Program. The contribution amount must be at least \$10 and the individual must provide the form to their employer who will use this information to remit contributions to the Program on behalf of this employee.

This adoption of this subsection is necessary to communicate to individuals what is required of them to contribute to the Program via payroll direct deposit. Additionally, it is necessary to state to the regulated community administrator minimum contribution requirements for participants. Lastly, it is necessary to inform individuals that they must give their form to their employer in order for that employer to make direct payroll deposits to the Program.

Adopt subsection (a)(3)(B)(i): The Board proposes to add subsection (a)(3)(B)(i) to require that individuals wishing to contribute to the Program via direct deposit must complete the direct deposit form by providing a contribution amount, social security

number, signature, and date on the form. This is necessary to communicate to individuals how to complete the direct deposit form before providing it to their employer to begin direct deposits to the Program. Additionally, it is necessary to implement administrator requirements to complete said form.

The kinds of information the individual must provide on the form are all needed by the administrator so they can identify the account to make the contributions to. The information is also necessary so that the employer deducts the appropriate contribution amounts and so that the employer can validate that these contributions are the wishes of their employee as the employee must provide their name and social security number on the form.

Adopt subsection (a)(4): The Board proposes to adopt subsection (a)(4) to require that individuals must create a username of between six and twenty-five characters, as well as creating a password for their online user account using the options provided in subsections (a)(4)(A)-(D) (at a minimum). This is necessary to communicate to individuals how they enroll in the Program and to implement administrator requirements for setting up an account. Additionally, requiring that individuals create a robust username and password is essential to help safeguard their sensitive personal and financial information.

Adopt subsection (a)(4)(A): The Board proposes to adopt subsection (a)(4)(A) to require that individuals enrolling in the Program must use an upper-case letter as part of their password. This is necessary to communicate to individuals what is required of them to create a password and enroll in the Program, and to fulfill the requirements of subsection (a)(4). It is also necessary to implement administrator requirements to do so.

Adopt subsection (a)(4)(B): The Board proposes to adopt subsection (a)(4)(B) to require that individuals enrolling in the Program must use a lower-case letter as part of their password. This is necessary to communicate to individuals what is required of them to create a password and enroll in the Program, and to fulfill the requirements of subsection (a)(4). It is also necessary to implement administrator requirements to do so.

Adopt subsection (a)(4)(C): The Board proposes to adopt subsection (a)(4)(C) to require that individuals enrolling in the Program must use a number as part of their password. This is necessary to communicate to individuals what is required of them to create a password and enroll in the Program, and to fulfill the requirements of subsection (a)(4). It is also necessary to implement administrator requirements to do so.

Adopt subsection (a)(4)(D): The Board proposes to adopt subsection (a)(4)(D) to require that individuals enrolling in the Program must use a special character as part of their password. This is necessary to communicate to individuals what is required of them to create a password and enroll in the Program, and to fulfill the requirements of subsection (a)(4). It is also necessary to implement administrator requirements to do so.

Adopt subsection (a)(5): The Board proposes to adopt subsection (a)(5) to require that individuals creating an account with the Program must “Select three security questions and provide security question answers”.

This is necessary as selecting security questions are part of the account creation process with the Program. Additionally, the administrator requires individuals select three security questions and provide answers to said questions to help safeguard against unauthorized account access and so that in the event an individual needs to recover their account they are prompted with one of these three questions to answer.

Adopt subsection (a)(6): The Board proposes to adopt subsection (a)(6) to require that individuals creating an account with the Program must “Review the Electronic Consent Disclosure” as part of the account creation process. This is to ensure participants have been furnished with the necessary information about the Program and have an opportunity to review said information. Additionally, the adoption of this subsection is necessary to communicate to individuals what is required of them to set up an account with the Program and to implement administrator requirements to do so.

Adopt subsection (a)(7): The Board proposes to adopt subsection (a)(7) to require that individuals creating an account with the Program must “Review the Program Documents and mark that the individual enrolling has read and received a copy of the Program Documents”. This is to ensure participants have been furnished with the necessary information about the Program, had an opportunity to review said information, and to confirm they are informed about such. Additionally, the adoption of this subsection is necessary to communicate to individuals what is required of them to set up an account with the Program and to implement administrator requirements to do so.

Adopt subsection (a)(8): The Board proposes to adopt subsection (a)(8) to require that individuals creating an account with the Program must “Electronically sign the Program Documents acknowledgement.” This is to ensure the individual affirms that they have been furnished with the necessary information about the Program and provides concrete evidence that they are cognizant of that fact. Additionally, the adoption of this subsection is necessary to communicate to individuals what is required of them to complete setting up an account with the Program.

Amend subsection (b): The Board proposes to make non-substantive grammatical changes to this subsection by changing the word “must” to “shall” to indicate the requirement to complete an action. This is necessary to use consistent language when referring to mandatory actions the regulated community must take. Throughout the Board’s regulations the Board uses “Shall” when referring to mandatory actions and “may” as a permissive option.

The Board also proposes to add “Recurring Contributions may be made electronically or by phone” to this subsection. This is necessary to instruct participating individuals as to which options are available to them to make recurring contributions to the Program.

Additionally, this addition is necessary to improve the clarity of the Board's regulations and to implement programmatic options for participating individuals.

Adopt subsection (b)(1): The Board proposes to adopt subsection (b)(1) to implement the process participating individuals need to complete to make recurring contributions electronically via the Program's website. This process includes selecting "Manage contributions", selecting the frequency of contributions, inputting the contribution amount they want, selecting a start date for recurring contributions, and providing banking information including the bank name, routing number, and bank account type.

The adoption of this subsection is necessary to communicate to participating employees how they make recurring contributions to the Program. Additionally, it is necessary to implement the administrator's requirements for participating individuals to make these kinds of contributions to the Program.

Adopt subsection (b)(2): The Board proposes to adopt subsection (b)(2) to implement the process participating individuals need to complete to set up recurring contributions by phone. Subsections (b)(2)(A) - (b)(2)(E) contain the specific steps that the participant must complete to set up recurring contributions.

The adoption of this subsection is necessary to communicate to participating employees how they can set up recurring contributions to the Program. Additionally, it is necessary to implement the administrator's requirements for participating individuals to make these kinds of contributions to the Program.

Adopt subsection (b)(2)(A): The Board proposes to adopt subsection (b)(2)(A) to require that a participating individual wishing to set up recurring contributions by phone must provide their full legal name. This is necessary to safeguard participant information by preventing unauthorized access to accounts by requesting the caller provide information that only the account holder should know. Additionally, requiring the name of the account holder is necessary for the administrator to identify the account and apply elections made by the participant to the appropriate account. Lastly, the adoption of this subsection is necessary to communicate to participants what is required of them during the phone recurring contribution set-up process.

Adopt subsection (b)(2)(B): The Board proposes to adopt subsection (b)(2)(B) to require that a participating individual wishing to set up recurring contributions by phone must provide their physical or mailing address. This is necessary to safeguard participant information by preventing unauthorized access to accounts by requesting the caller provide information that only the account holder should know. Additionally, requiring the address of the account holder is necessary for the administrator to identify the account and apply elections made by the participant to the appropriate account. Lastly, the adoption of this subsection is necessary to communicate to participants what is required of them during the phone recurring contribution set-up process.

Adopt subsection (b)(2)(C): The Board proposes to adopt subsection (b)(2)(C) to require that a participating individual wishing to set up recurring contributions by phone must provide one of either their account number, social security number, individual taxpayer identification number, or date of birth. This is necessary to safeguard participant information by preventing unauthorized access to accounts by requesting the caller provide information that only the account holder should know. Additionally, requiring one of any of these account identifiers is necessary for the administrator to identify the account and apply elections made by the participant to the appropriate account. Lastly, the adoption of this subsection is necessary to communicate to participants what is required of them during the phone recurring contribution set-up process.

Adopt subsection (b)(2)(D): The Board proposes to adopt subsection (b)(2)(D) to require that a participating individual wishing to set up recurring contributions by phone must provide the contribution amount they would like to make.

This is necessary as the administrator needs this information to apply the correct contribution amount that the individual wants to make to the Program. Additionally, the adoption of this subsection is necessary to communicate to the regulated community what is required of them to make recurring contributions to the Program.

Adopt subsection (b)(2)(E): The Board proposes to adopt subsection (b)(2)(E) to require that a participating individual wishing to set up recurring contributions by phone must provide the frequency they would like to make the contributions.

This is necessary as the administrator needs this information to set up the frequency of contributions that the individual wants to make to the Program. Additionally, the adoption of this subsection is necessary to communicate to the regulated community what is required of them to make recurring contributions to the Program.

Amend subsection (c): The Board proposes to make non-substantive grammatical changes to this subsection by changing the word “must” to “shall” to indicate the requirement to complete an action. This is necessary to use consistent language when referring to mandatory actions the regulated community must take. Throughout the Board’s regulations the Board uses “Shall” when referring to mandatory actions and “may” as a permissive option.

Additionally, the Board proposes to add the methods by which a participating employee makes non-recurring contributions by including “electronically (saver.calsavers.com), by phone (855-650-6918), by overnight mail (CalSavers, 95 Wells Avenue, Suite 155, Newton, MA 02459), or by regular mail (CalSavers, P.O. Box 55759, Boston, MA, 02205-5759) to the Administrator” to the regulation. This is necessary to communicate to participating employees which places they must contact or send their contributions if they wish to make non-recurring contributions to the Program.

Adopt subsection (c)(1): The Board proposes to adopt subsection (c)(1) to implement the process participating individuals need to complete to make non-recurring contributions via the Program's website. This process includes selecting "Manage contributions", selecting one-time contribution, inputting the contribution amount they want to make, providing the date for the contribution to be made, and providing banking information including the bank name, routing number, and bank account type.

The adoption of this subsection is necessary to communicate to participating individuals how they make non-recurring contributions to the Program. Additionally, it is necessary to implement the administrator's requirements for participating employees to make these kinds of contributions to the Program.

Adopt subsection (c)(2): The Board proposes to adopt subsection (C)(2) to implement the process participating individuals need to complete to set up non-recurring contributions by phone. Subsections (c)(2)(A) - (c)(2)(d) contain the specific steps that the participant must complete to set up recurring contributions.

The adoption of this subsection is necessary to communicate to participating employees how they can set up non-recurring contributions to the Program. Additionally, it is necessary to implement the administrator's requirements for participating individuals to make these kinds of contributions to the Program.

Adopt subsection (c)(2)(A): The Board proposes to adopt subsection (c)(2)(A) to require that a participating individual wishing to set up non-recurring contributions by phone must provide their full legal name. This is necessary to safeguard participant information by preventing unauthorized access to accounts by requesting the caller provide information that only the account holder should know. Additionally, requiring the name of the account holder is necessary for the administrator to identify the account and apply elections made by the participant to the appropriate account. Lastly, the adoption of this subsection is necessary to communicate to participants what is required of them during the phone non-recurring contribution set-up process.

Adopt subsection (c)(2)(B): The Board proposes to adopt subsection (c)(2)(B) to require that a participating individual wishing to set up non-recurring contributions by phone must provide their physical or mailing address. This is necessary to safeguard participant information by preventing unauthorized access to accounts by requesting the caller provide information that only the account holder should know. Additionally, requiring the address of the account holder is necessary for the administrator to identify the account and apply elections made by the participant to the appropriate account. Lastly, the adoption of this subsection is necessary to communicate to participants what is required of them during the process to set-up non-recurring contributions over the phone.

Adopt subsection (c)(2)(C): The Board proposes to adopt subsection (c)(2)(C) to require that a participating individual wishing to set up non-recurring contributions by phone must provide one of either their account number, social security number,

individual taxpayer identification number, or date of birth. This is necessary to safeguard participant information by preventing unauthorized access to accounts by requesting the caller provide information that only the account holder should know. Additionally, requiring the caller provide one piece of identifying information be provided is necessary for the administrator to identify the account and apply elections made by the participant to the appropriate account. Lastly, the adoption of this subsection is necessary to communicate to participants what is required of them to set-up non-recurring contributions over the phone.

Adopt subsection (c)(2)(D): The Board proposes to adopt subsection (c)(2)(D) to require that a participating individual wishing to set up non-recurring contributions by phone must provide the contribution amount they would like to make.

This is necessary as the administrator needs this information to set up the contribution amount that the participating employee wants to make to the Program. Additionally, the adoption of this subsection is necessary to communicate to the regulated community what is required of them to make non-recurring contributions to the Program.

Adopt subsection (c)(3): The Board proposes to adopt subsection (c)(3) to implement the process participating employees must follow to make non-recurring contributions to the Program by overnight mail or regular mail. This process includes mailing a completed check referencing the name of the account owner to the administrator in the amount they would like contributed to their account.

The adoption of this subsection is necessary to formally implement administrator requirements for participating employees to make non-recurring contributions (e.g. one-time payments) to the Program by mail. It is also necessary to communicate to the regulated community as to how they can make non-recurring contributions to the Program.

Amend subsection (d): The Board proposes to remove “Businesses that use the services of Participating Individuals have not elected to participate in the Program merely because they,” from the first sentence of subsection (d) and instead adopt “Notwithstanding any provision of this Section, Exempt Employers may” in its place. This is necessary to more plainly state the intent of the regulation and to communicate to exempt employers that if they employ an individual who participates in the Program, they may facilitate that employee’s contributions to the Program, but they are not required to do so if they don’t wish to.

The previous iteration of the regulation was intended to provide that optionality to exempt employers. However, the text of the regulation does not state that reality in an easy-to-understand manner. Thus, the proposed amendment to the regulation is necessary to further clarify what is and what is not required of exempt employers who employ participating individuals.

Section 10008. Enforcement of Employer Compliance.

Amend subsection (a): The Board proposes to amend subsection (a) to capitalize “Employer” match the definition of the word in Section 10000 subsection (p). This is necessary to ensure the defined term is properly referenced and matches the use of “Employer” throughout the Board’s regulations. Additionally, the Board proposes removing the last sentence referring to “due diligence” and “reasonable attempts” in bringing employers into compliance prior to issuing a final notice of penalty application. This is necessary because “due diligence” and “reasonable attempts” are vague and subjective making the regulation unenforceable.

The attempts that Board staff take to bring employers into compliance are already covered under subsection (b) making the last sentence of subsection (a) redundant and unnecessary. Additionally, subsection (b) requires Board staff to notify employers of their noncompliant status via letter and email and provide them with methods to come into compliance. As such the existing language of subsection (b) and the information provided in the communications sent to employers are more concrete, clear, and enforceable methods to hold the Board staff accountable.

For these reasons the Board proposes amending subsection (a) to remove ambiguity and redundancy, and because staff are already regulated by other authorities to avail noncompliant employers of their situation and how to remedy it before issuing a penalty notice.

Amend subsection (b): The Board proposes to amend subsection (b) to add “(if available)” after the email notification requirement. This is necessary because the Board does not always have email addresses for employers that are in enforcement situations. The employer email addresses the Board has comes from data provided by the Employment Development Department which is sourced from hard copy forms filled out by hand. Occasionally, those forms omit an email address or contain typographical errors making the email address provided unusable. Thus, the proposed change is necessary to ensure the Board can meet realistic standards in its enforcement efforts and are capable of meeting the requirements of this regulation.

The Board proposes to capitalize the word “noncompliance” and “noncompliant” to match the definition of the word in Section 10000 subsection (t). This is necessary to ensure the defined term is properly referenced and matches the use of “Noncompliance” throughout the Board’s regulations.

Amend subsection (c): The Board proposes to make non substantive grammatical amendments by adding “subsection” to the United States Code citation and expand the wording of “Gov” to “Government”. This is necessary to make the citation style of the Board’s regulations consistent and to improve the clarity of the Board’s regulations to the regulated community.

Amend subsection (c)(1): The Board proposes to amend subsection (c)(1) to capitalize the words “noncompliant”, “eligible”, and “employer” to match the definitions of each word in Section 10000. This is necessary to ensure the defined terms are properly

referenced and matches the use of “Noncompliant”, “Eligible”, and “Employer” used throughout the Board’s regulations.

The Board also proposes to amend subsection (c)(1) to replace “calendar year in which the employer is noncompliant” with “penalty assessed upon the Noncompliant Employer.” This is necessary to clarify that noncompliant employers will be subject to a penalty of \$500 per eligible employee if noncompliance continues after the initial \$250 penalty is assessed.

The Board believes there is vague language in the current regulation which could be interpreted as saying the \$500 penalty will be assessed in the subsequent year of noncompliance. The current language may be misleading and the Board desires to make sure the regulated community understands that a \$500 continued noncompliance penalty will be assessed 90 days following the first \$250 initial noncompliance penalty (as permitted by GOV Code Section 100033), regardless of calendar year during which the noncompliance occurs.

Amend subsection (c)(2): The Board proposes to amend subsection (c)(2) to remove “of noncompliance” and replace it with “in which an Employer is found to be Noncompliant”. This is necessary to clarify that an employer found to be Noncompliant any time after their initial penalty of \$250 is assessed is eligible to receive a \$500 penalty, regardless of whether they were compliant in the time between penalties.

The Board also proposes to amend subsection (c)(2) to capitalize the words “eligible”, and “employer” to match the definitions of each word in Section 10000. This is necessary to ensure the defined terms are properly referenced and matches the use of “Eligible”, and “Employer” used throughout the Board’s regulations.

Amend subsection (d): The Board proposes to make non substantive grammatical amendments to subsection (d) by expanding the wording of “Cal” to “California”, “regs” to “Regulations”, and “Tit.” to “Title”. This is necessary to make the citation style of the Board’s regulations consistent.

Also, the Board proposes amending subsection (d) to remove the statement concerning Board staff determining compliance as an alternative to the employer demonstrating compliance through the submission of documentation. The Board believes this is necessary for multiple reasons. First, the regulation does not explain how or by what metric compliance will be measured by Board staff. Second, the regulation does not reflect real world practices as Board staff require the employer to submit documentation proving their compliance before issuing a penalty. The alternative of changing the “or” in the regulation to an “and” cannot be implemented by Board staff as there is not enough personnel to proactively and individually review all noncompliant employer account details and information. And lastly, some of the Board’s internal information provided by the administrator is occasionally inaccurate. While Board staff are aware of this issue and have implemented internal mitigations, there may be instances where a lapse of judgement leads to a noncompliant employer being told they are compliant, when they

are not, and may receive a refund in error. To ensure Board staff are certain the employer is compliant, removing the internal review alternative and requiring the employer to demonstrate compliance is necessary.

Additionally, the Board proposes amending subsection (d) to remove the clause where staff inform the Franchise Tax Board (FTB) not to impose penalty collections for noncompliance. This is necessary as the regulation does not accurately reflect the Board's penalty enforcement processes. The regulation concerns what an employer needs to do to receive a penalty refund which means FTB has already imposed and attempted to collect on the penalty. Board staff cannot contact FTB and have them retract a penalty collection letter that has already been sent to the employer. Instead, the proposed addition clarifying eligibility for a penalty refund is a more accurate reflection of the penalty collections and refunds process.

Finally, the Board proposes removing the last sentence of subsection (d) stating that erroneous payments will be refunded. This is necessary because the proposed changes made to subsection (d) and (d)(1) set forth the process by which an employer demonstrates to the Board that their penalty assessment and collection was erroneous. If the proposed changes are adopted, the last sentence of subsection (d) is redundant and unnecessary.

Adopt subsection (d)(1): The Board proposes to adopt subsection (d)(1) to clarify which kinds of documents an employer must submit to demonstrate compliance and be eligible for a penalty refund. This is necessary to communicate to the employer community what they need to do to receive a penalty refund. Specifically, Board staff will accept written documentation that proves the employer was exempt from the Program mandate or that the employer was fully facilitating the Program for all eligible employees during the period of time noncompliance was identified by Board staff.

Adopt subsection (d)(1)(A): The Board proposes to adopt subsection (d)(1)(i) to clarify that a written document submitted for a penalty refund request must demonstrate that the employer requesting a penalty refund is an exempt employer.

This is necessary to communicate to the employer community what they need to do to receive a penalty refund. Additionally, it is necessary to ensure that Board staff are issuing penalty refunds to employers who are in fact exempt from the Program and as such qualify for a penalty refund. When the Board issues penalties on noncompliant employers the Board is doing so based on information provided to the Board by third party government agencies. Occasionally that information is outdated or inaccurate and in those instances the Board needs proof from the employer that its information is wrong. By requiring that the employer provide such proof the Board can be confident it has obtained the correct information and remedy the error by refunding penalty monies that were incorrectly collected. For these reasons the adoption of this subsection is necessary.

Adopt subsection (d)(1)(B): The Board proposes to adopt subsection (d)(1)(ii) to clarify that the employer requesting a penalty refund must have been in compliance with Section 10003(c) during the period that the penalty was issued to be considered eligible for such request.

This is necessary to communicate to the employer community what they need to do to receive a penalty refund. Additionally, for many of the same reasons described in (d)(1)(i) above, the Board needs to obtain proof that its penalty was incorrectly collected and that the employer complied with the Board's requirement that employers remit contributions to the Program for all of their participating employees. When the employer provides such proof the Board can verify its accuracy, correct its internal data, and issue the appropriate penalty refund to the compliant employer. Without such proof the Board's internal information would say otherwise. For these reasons the adoption of this subsection is necessary.

Adopt subsection (e): The Board proposes to adopt subsection (e) to clarify how Board staff determine the penalty amount that is assessed pursuant to Section 10008. Specifically, Board staff used the eligible employee count as determined under Section 10001 subsection (a). This is necessary to convey to the regulated community the methodology used to calculate penalty amounts.

Adopt Section 10010. Exempt Employers.

The Board proposes to adopt Section 10010 "Exempt Employers" to implement Board requirements for employers to exempt themselves from the Program and to communicate to the regulated community what will be required of them during the exemption process.

Most exempt employers are exempted from the Program automatically due to filing paperwork which indicates they meet the requirements of Section 10000 subsection (q) with the Employment Development Department, Internal Revenue Service, and the Department of Justice Office of the Attorney General; however, some exempt employers (45,504 annually, on average) fail to accurately file, or even file any documentation at all with the appropriate agencies, making the Board unaware of their exemption. This cohort of employers along with other nonexempt employers receive communications from the Board regarding the need to facilitate the Program or exempt themselves to comply with state law. Accordingly, these employers are required to provide the information enumerated in subsections (b)-(c) to exempt themselves from the Program because up until this point the Board has received information from other government agencies that indicates the employer is not exempt. For these reasons the adoption of a new section to implement the Board's exemption rules and communicate said rules to the regulated community is necessary.

Adopt subsection (a): The Board proposes to adopt subsection (a) which is being renumbered from Section 10001 subsection (d). This is necessary to move the exemption regulation to one singular body of regulations concerning exempt employers, making the exemption rules easier to locate by the regulated community.

Additionally, the Board is repealing “but need not” from the language of the old Section 10001 subsection (d). This is necessary to clarify the regulation and remove repetitive meanings in hopes that the regulated community will have an easier time understanding what is required of them. The newly adopted “meaning of words” paragraph in Section 10000 states that “may” has a permissive meaning and therefore already contains the meaning of “may, but need not...” in its definition.

Lastly, the Board proposes not including the cross reference “using one of the methods established under Section 10002(e)” from the old Section 10001 subsection (d) and instead stating that exempt employers may notify the administrator “electronically (employer.calsavers.com).” This is necessary to eliminate a confusing cross reference to registration procedures and to specify which methods of notification are accepted by the administrator.

Adopt subsection (b): The Board proposes to adopt subsection (b) to provide a **segue** to the list of information that employers must provide to demonstrate and obtain their exemption from the Program (see subsections (b)(1) - (b)(5)(E)). The adoption of this subsection is necessary to communicate to the employer community what they need to provide when informing the Administrator of their exemption from the Program. Specifically, employers must submit information that identifies the employer so that the Administrator can exempt them and provides a rationale for the employer’s exemption.

Adopt subsection (b)(1): The Board proposes to adopt subsection (b)(1) to require that employers requesting exemption from the Program must provide their company’s federal employer identification number or taxpayer identification number, if applicable. This information is required so the Administrator can identify the employer and apply their exemption, if eligible. The adoption of this subsection is necessary to communicate to employers what is required of them to exempt themselves from the Program, implement a requirement the administrator has to label accounts for exemption, and to fulfill the requirements of subsection (b).

Adopt subsection (b)(2): The Board proposes to adopt subsection (b)(2) to require that employers requesting exemption from the Program must provide their company’s California employer payroll tax account number. This information is required so that the Administrator can identify the employer and apply their exemption, if eligible. The adoption of this subsection is necessary to communicate to employers what is required of them to exempt themselves from the Program, implement a requirement the

administrator has to label accounts for exemption, and to fulfill the requirements of subsection (b).

Adopt subsection (b)(3): The Board proposes to adopt subsection (b)(3) to require that employers requesting exemption from the Program must provide their company's CalSavers access code which is provided by the Administrator to them during initial solicitation to join CalSavers. This information is required so that the Administrator can identify the employer and apply their exemption, if eligible. The adoption of this subsection is necessary to communicate to employers what is required of them to exempt themselves from the Program, implement a requirement the administrator has to label accounts for exemption, and to fulfill the requirements of subsection (b).

Adopt subsection (b)(4): The Board proposes to adopt subsection (b)(4) to require that employers requesting exemption from the Program must provide their company's business address as part of the exemption process. This information is required so that the Administrator can identify the employer and apply their exemption, if eligible. The adoption of this subsection necessary to communicate to employers what is required of them to exempt themselves from the Program, implement a requirement the administrator has to label accounts for exemption, and to fulfill the requirements of subsection (b).

Adopt subsection (b)(5): The Board proposes to adopt subsection (b)(5) to require that employers requesting exemption from the Program must provide their company's exemption reason as part of the exemption process. This information is required so that the Administrator can correctly note the exemption on the employer's file and so CalSavers staff can potentially audit the exemption at a later point (if needed). The adoption of this subsection is necessary to communicate to employers what is required of them to exempt themselves from the Program, implement a requirement the administrator has to label accounts for exemption, and to fulfill the requirements of subsection (b).

Adopt subsection (b)(5)(A): The Board proposes to adopt subsection (b)(5)(A) to establish that sponsoring a tax-qualified retirement plan is a qualifying exemption reason. Sponsoring a tax-qualified retirement plan is listed as an exemption from CalSavers from in section 100000 of the Government Code and further clarified in Section 10000(q) of the CalSavers Regulations. The adoption of this subsection is necessary to communicate to employers what qualifies as a valid exemption under the CalSavers Retirement Savings Trust Act.

Adopt subsection (b)(5)(B): The Board proposes to adopt subsection (b)(5)(B) to establish that if an employer is closed or is being sold they will qualify for an exemption from CalSavers. If a company is closed or is in the process of being sold that means they either no longer have any eligible employees or are transferring CalSavers responsibilities to a new employer, thus exempting them from the Program's

requirements to facilitate. The adoption of this subsection is necessary to communicate to employers what qualifies as a valid exemption under the CalSavers Retirement Savings Trust Act.

Adopt subsection (b)(5)(C): The Board proposes to adopt subsection (b)(5)(C) to establish that employers that have no California-based employees will qualify as exempt from CalSavers. This is because having no California-based employees is listed as an exemption from CalSavers under Section 10000(q) of Title 10 CCR. The adoption of this subsection is necessary to communicate to employers what qualifies as a reason to exempt themselves from the Program.

Adopt subsection (b)(5)(D): The Board proposes to adopt subsection (b)(5)(D) to establish that employers who have no employees other than the owners of the company will qualify for an exemption from CalSavers. This is because having no employees other than the owners of the company is listed as an exemption from CalSavers under section 10000(q) of Title 10 CCR. The adoption of this subsection is necessary to communicate to employers what qualifies as a reason to exempt themselves from the Program.

Adopt subsection (b)(5)(E): The Board proposes to adopt subsection (b)(5)(E) to establish that if a company is a government entity, tribal organization, or religious organization they will qualify for an exemption from CalSavers. This is because government organizations are listed as exempt from CalSavers under Government Code Section 100000(d)(1) and section 10000(m) and (q) of Title 10 CCR. Additionally, tribal and religious organizations do not fall under the jurisdiction of the Program and are therefore exempt. The adoption of this subsection is necessary to communicate to employers what qualifies as a reason to exempt themselves from the Program.

Adopt subsection (c): The Board proposes to adopt subsection (c) to require that employers review their exemption request and certify that the information they provided to the Administrator is accurate. Additionally, the Board proposes requiring the employer provide the name of the individual submitting the exemption to the Administrator. Requiring the employer review their exemption request and certify its accuracy is necessary to ensure the Administrator and by extension the Program receives accurate information. Additionally, by asking for the name of the individual submitting the request the Administrator will have a record of which employers submitted claims for exemption and will be able to track exemptions, assign them to profiles, and audit participating employers in the event of discrepancies.

Economic Impact Assessment

Cost Estimate

The Program is funded through administrative fees assessed on the assets invested in the Program. As established under GOV Code Section 100050, startup costs for the

Program are appropriated from the General Fund in the annual Budget Act in the form of a loan and are required to be repaid through the fees assessed on the Program fund, with interest calculated at the rate earned by the Pooled Money Investment Account.

The Board estimates direct costs as follows:

- Cost to any local agency or school district requiring reimbursement: no impact
- Costs or savings to any state agency: no impact
- Nondiscretionary cost or savings imposed on local agencies: no impact
- Cost or savings in federal funding to the state: no impact

Cost Impacts on Representative Person or Business

The Board is aware of minor costs (at a per employer level) associated with the Board's proposed exemption regulations (Title 10 CCR Section 10010). The Board estimates the total cost of the first year of compliance with these regulations to be \$646,611.84 (\$14.21 per affected employer). That cost is expected to decrease as the Board's exemptions should be reduced on a year-by-year basis. For a detailed explanation about how these costs were calculated refer to the Board's Economic and Fiscal Impact Statement (STD 399) Attachment.

In addition to the cost impacts on persons and businesses the Board made the following determinations.

Creation or elimination of jobs in California: no impact

Creation of new businesses or elimination of existing businesses in California: no impact

Expansion of businesses currently doing business in California: no impact

Benefits of the regulation to the health and welfare of California residents, worker safety, and the State's environment:

The proposed regulations stand to benefit California residents; primarily business owners and operators, as well as their employees. Additionally, the proposed regulations are anticipated to benefit the welfare of California residents as described below. The proposed regulatory changes do not concern health or medical matters and are not anticipated to result in benefits to health.

1. There are many proposed changes to improve clarity in both language and formatting making it easier for the regulated community to understand and adhere to the requirements of the Program.
2. Exempt employers are more thoroughly defined making compliance among the business community easier to achieve.
3. The exemption process is enumerated in these proposed rules making the exemption process easier for employers to follow.
4. The retention of participant account settings may result in stable savings rates for participants throughout their career and potentially better savings outcomes for employees over time. This may increase participant welfare in retirement, as well

as lessen dependence on social programs for those who save more over the course of their career.

Lastly, the Board does not anticipate that the proposed regulations will result in benefits to worker safety or the State's environment.

Business Report

The proposed regulations do not require any reports to be made by any business or other entity.

Small Business

The proposed regulations will affect small businesses. The same rationale explained in the "Cost Impacts on Representative Person or Business" section applies to small businesses as the regulations apply equally to small, medium, and large businesses.

The regulations do not require small business to enforce them and as such do not provide any benefit nor detriment regarding enforcement by a small business.

Housing Costs

The Board has determined that these regulations will not affect housing costs.

Local Mandate

The Board has determined that this regulatory action would not impose a mandate on local agencies or school districts, nor are there any costs that require state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Evidence Supporting Finding of no Significant Statewide Adverse Economic Impact Directly Affecting Business

Based on the Economic Impact Assessment stated above, the Board concludes that the proposed regulation will not have a significant statewide adverse economic impact directly affecting business, including ability of California businesses to compete with businesses in other states.

Specific Technologies or Equipment

None.

Technical, Theoretical, and Empirical Study, Report, or Similar Document on Which The Agency Relies

None for this rulemaking.