

MONTHLY BENEFIT NEWS AND DEVELOPMENTS

January 2008

Executive Compensation Database from the SEC

The Securities and Exchange Commission has launched an online tool – the Executive Compensation Reader – that provides top executives' compensation information for 500 large companies that have filed proxy statements with the agency. The tool includes direct links to companies' proxy statements, including footnotes and the companies' explanation of their compensation decisions.

Go to: sec.gov/xbri

Upcoming Key Dates

2/1/08 – First day of EGTRRA remedial amendment period for plans in Cycle C.

2/29/08 – Estimated 2008 PBGC fixed premiums and filing due (electronically) for calendar-year plans possessing 500 or more participants in prior year.

3/1/08 – Deadline for prescription drug plan sponsors to disclose to CMS whether their employer drug coverage is creditable.

3/30/08 – Annual certification of status for multiemployer plans is due (90 days after beginning of the plan year).

4/1/08 – Benefit restrictions may apply on a presumed basis for calendar-year single-employer defined benefit plans that were underfunded in 2007.

5/23/08 – Deadline to comply with HIPAA national provider identifier standards for small health plans.

12/15/08 (financial periods beginning after) – Application of GASB Statement 45 for governments with total annual revenues of less than \$10 million.

Legislative Activity on the Benefits Front

Congress fell short of enacting what many retirement plan sponsors considered “high priority” legislation, leaving S.1974/H.R.3361 (to make technical corrections to the 2006 Pension Protection Act (PPA)) and H.R.3868 (to delay the effective date of the PPA’s funding rules for defined benefit plans) to be resolved in 2008. Formal business in the second session of the 110th Congress is slated to begin on January 15.

Sent to the President

Before adjourning for the year, Congress passed a few bills, subsequently signed into law, that included employee benefits-related provisions:

- H.R.4839 (P.L.110-172), a tax “technical corrections” bill clarifying that: the tax code’s special elective deferral limit for 403(b) tax-sheltered plans is reduced only by additional designated Roth contributions made under the special rule; and Social Security and Medicare payroll taxes apply to designated Roth contributions.
- H.R.6 (P.L.110-140), an “energy” bill that extends the 0.2% Federal Unemployment Tax Act’s surcharge through 2008.
- S.2499 (P.L.110-173), a Medicare/Medicaid/Children’s Health bill requiring group health plans (or their third-party administrators or insurers) to submit information to enable the Health and Human Services Department to identify situations where the group health plan is or has been a primary payer for purposes of the Medicare Secondary Payer requirements.
- H.R.4343 (P.L.110-135), a bill raising the mandatory retirement age to 65 for U.S. pilots.

Awaiting Additional Action

The Senate also approved the following bills with employee benefits provisions, sending the measures back to the House for additional action:

- H.R.2419 – The Senate approved a farm bill that differs from the House-approved measure, thereby sending the bill to conference for a resolution. The Senate bill includes a revenue-raising provision to allow governmental section 457(b) plans to include a qualified Roth contribution program, effective for taxable years beginning in 2008.
- H.R.3997 – The Senate amended the House-passed military/service family relief bill, which would: treat differential military pay as “wages” for retirement plan purposes; require a qualified retirement plan to provide death benefits to employees serving in the military as if their eligibility service extended through the date of death; permit the plan to reflect military pay and service up to the date of death or disability for benefit accrual purposes; permit employers to make qualified plan contributions on behalf of employees killed or disabled in combat; make permanent the tax code provision that allows active duty reservists to make penalty-free withdrawals from retirement plans; and extend the existing mental health “parity” law through 2008.

Health Plan Deductibles Rise Sharply

Workers in the private sector are increasingly covered by health plans that impose a deductible before any benefits are paid, according to the Agency for Healthcare Research and Quality's *Statistical Brief #190*. The number of workers with such requirements rose from 48% in 2002 to 64% in 2005. The deductible amount also is increasing sharply. For single-person coverage, the average deductible increased 46% – from \$446 to \$652; the average deductible for family coverage rose 29% – from \$958 to \$1,232.

Go to: www.meps.ahrq.gov/

PPA's Effects on Lump Sums Studied

The Congressional Research Service has published *Lump-Sum Distributions under the Pension Protection Act*, summarizing the PPA's provisions that affect lump sums paid from defined benefit plans. The report notes that the law: established new funding requirements for defined benefit pension plans; modified how the minimum permissible value of a lump-sum distribution from a plan will be determined in 2008 and thereafter; and specified conditions under which the payment of lump sums will be restricted.

Go to: www.opencrs.com/

[See also Milliman *Benefit Information Bulletin 07-01*, "Lump-Sum Pension Payments: 2008 and Beyond" at: www.milliman.com/]

New PBGC Director

Charles E.F. Millard has been sworn in as the new director for the Pension Benefit Guaranty Corporation. He is the first individual to head the agency since the PPA elevated the post to a presidentially appointed, Senate-confirmed position.

Regulatory Roundup

From the Department of the Treasury/IRS:

- *Proposed rules* on measuring pension assets and liabilities under the Pension Protection Act (PPA) for single-employer defined benefit plans.
- *Proposed rules* providing guidance under the PPA's requirements for cash balance and other hybrid pension plans.
- *Notice 2008-07*, announcing that yet-to-be issued proposed regulations on employee diversification rights under defined contribution plans holding publicly traded employer securities will not be effective before plan years beginning on or before January 1, 2009.
- *Notice 2007-100*, allowing employers to correct certain operational failures by nonqualified deferred compensation plans under section 409A and providing transitional relief through 2010 for certain failures.
- *Notice 2007-99*, modifying earlier guidance (Notice 2007-7), to permit an income exclusion of up to \$3,000 annually for distributions paid from an eligible governmental plan that is used to pay qualified health insurance premiums (including premiums under a self-insured plan arrangement) for retired public safety officers and their dependents.
- *Notice 2008-1*, providing rules under which a 2% shareholder-employee in an S corporation is entitled to a deduction for accident and health insurance premiums that are paid or reimbursed by the S corporation.

From the Department of Labor:

- *Field Assistance Bulletin 2007-04*, providing guidance on supplemental health insurance coverage that is "excepted" under HIPAA's portability requirements.
- *Proposed rules* on fee disclosures to employee benefit plans, along with a *proposed class exemption* to relieve plan fiduciaries who enter into deficient contracts with service providers that, unbeknownst to the plan fiduciary, failed to comply with their disclosure obligations.

From the Pension Benefit Guaranty Corporation:

- *Technical Update 07-04*, providing information on the methodology used to create the agency's table showing the present value of PBGC's maximum guarantee for 2008.
- *Technical Update 07-03*, providing guidance on lump-sum calculations for single-employer plans that undergo standard and certain distress terminations.
- *Final rules* on premium rates and payment of premiums under the PPA.
- *Final rules* providing a new table to determine expected retirement ages for participants in plans with a valuation date in 2008 that are undergoing a distress or involuntary termination.
- *Proposed rules* on disclosure of plan termination information.

From the Equal Employment Opportunity Commission:

- *Final rules* clarifying that coordinating employer-sponsored retiree health coverage with Medicare or state-sponsored retiree health coverage will not violate the Age Discrimination in Employment Act.