

# CFDD Legislative Update

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### Pending Legislation July 2009

Fee disclosure will probably move forward in the House, but it's unclear whether the Senate will follow suit. Investment advice will receive close attention to see if a consensus can be reached. Target date funds are also under scrutiny, but a regulatory solution may be more likely than a legislative one. Mandatory payroll deduction IRAs as outlined in the FY2010 budget may result in a legislative initiative. Defined benefit plan funding relief proposals are expected shortly. The following represent bills that are actively being considered by Congress at this time. For more information on these and other bills, go to the Library of Congress website at <http://thomas.loc.gov>.

Bill	Description	Outlook/Effective Date
<b>Executive Pay</b>		
Shareholder Bill of Rights Act of 2009 - S 1074 Schumer (D-NY)	Would give shareholders an advisory role on compensation packages and provide them with a way to nominate board directors.	Introduced 5/19/09 – referred to the Committee on Banking, Housing and Urban Affairs
Executive Pay Shareholder Approval Act - S 1006 Durbin (D-IL)	Would require a supermajority (i.e. 60%) shareholder approval for any compensation more than 100 times the average compensation for employees at that company.	Introduced 5/7/09 – referred to the Committee on Banking, Housing and Urban Affairs
Executive Pay Capped Deduction Act of 2009 - S 1007 Durbin (D-IL)	Would limit the normal tax deduction for compensation for executives to 100 times the average compensation for all employees at that company.	Introduced 5/7/09 – referred to Committee on Banking, Housing and Urban Affairs
Pay for Performance Act - HR 1664 Grayson (D-FL)	Would amend the executive compensation provisions of the Emergency Economic Stabilization Act of 2008 to prohibit unreasonable and excessive compensation and compensation not based on performance standards.	Introduced 3/23/09, passed 4/1 in House, to Senate 4/2.
American Recovery and Reinvestment Act of 2009 - H.R. 1 Obey (D-WI) Public Law 111-5	Law imposes a number of executive compensation restrictions and corporate governance standards applicable to all past and future recipients of financial assistance from the federal government under the Troubled Asset Relief Program ("TARP").	Signed into law by President Obama on 2/17/09. (Amends and replaces corporate governance and executive compensation requirements of the TARP as created under the Emergency Economic Stabilization Act of 2008.)
Economic Recovery Adjustment Act of 2009 - S.431 Whitehouse (D-RI)	Establishes an Office of the Taxpayer Advocate in the Justice Department that would conduct ongoing audits and oversight of executive compensation received by TARP recipients.	Introduced on 2/12/09 and referred to the Committee on Banking, Housing and Urban Affairs.
Cap Executive Officer Pay Act of 2009 - S. 360 McCaskill (D-MO)	Would require entities that receive or have received emergency economic assistance under the TARP to cap annual compensation paid to officers, directors, executives or other employees. Compensation would be capped at the salary paid to the President of the United States (\$400,000). This limitation would apply while any TARP assistance was outstanding.	Introduced on 1/30/09 and referred to the Committee on Banking, Housing and Urban Affairs.

Bill	Description	Outlook/Effective Date
<b>Fee Disclosure</b>		
401(k) Fair Disclosure for Retirement Security Act of 2009 - HR 1984 Miller (D-CA)	<ul style="list-style-type: none"> <li>• Ensure that workers receive basic investment information, including information on risk, return, complete fees and investment objectives before signing up for a plan.</li> <li>• Require that all fees – in one number – that are charged against a worker’s account be included in the account holder’s quarterly statement</li> <li>• Require service providers to disclose to employers all fees assessed against the participant’s account, broken down into four categories: administrative fees, investment management fees, transaction fees and other fees.</li> <li>• Require plan administrators to offer at least one low-cost index fund to plan participants in order to receive protection against liability for participants’ investment losses.</li> <li>• Require service providers to disclose any financial relationships or potential conflicts of interest to 401(k) plan sponsors.</li> <li>• Give the Department of Labor the authority to enforce new disclosure rules and fine service providers who violate them.</li> </ul>	Introduced 4/21/09 – referred to Committee on Education and Labor (bill reintroduced from last year).
Defined Contribution Fee Disclosure Act – S. 401 Harkin (D-IA)	<ul style="list-style-type: none"> <li>• Increase the fee information required to be provided to sponsors of defined contribution plans. This information would then be passed on to participants upon request.</li> <li>• Require participants to be given information about the overall levels of fees when they choose investment options and on their quarterly statements. The pre-selection notice would include other critical information for plan selection such as historical returns, the level of risk and basic investment guidance. A quarterly statement would help individuals to understand over time how much they have paid in fees and help them to compare fees against returns.</li> <li>• Require disclosure of relationships between all parties with financial interest in the plan.</li> </ul>	Introduced on 2/9/09— referred to Health, Education, Labor and Pension Committee. Would be effective for plan years beginning after 12/31/11 and would require Department of Labor (DOL) to issue final regulations a year earlier.
<b>Fiduciary Liability</b>		
Lilly Ledbetter Fair Pay Restoration Act – S. 181 Mikulski (D-MD) Public Law 111-2	Overturns Supreme Court decision in Ledbetter vs. Goodyear Tire and Rubber Co. Court had ruled that time limit for filing discrimination claim does not restart with each paycheck. Law now allows paycheck restart. [This law may have implications for retirement plans (e.g. by forcing employers to recalculate benefits using increased compensation).]	Signed into law by President Obama on 1/29/09—effective 5/28/07 (the day before the Supreme Court’s decision).

Bill	Description	Outlook/Effective Date
<b>Investment Advice</b>		
Conflicted Investment Advice Prohibition Act of 2009 - HR 1988 Andrews (D-NJ)	Would require investment advisers to be “independent investment advisers”, who must not “provide or manage” any plan assets in the individual accounts. Fees must not vary based on advice provided and must be calculated pursuant to a flat dollar, flat percentage of plan assets or per participant basis. Advice must be provided pursuant to a written agreement that provides that (a) the investment adviser is a fiduciary of the plan with respect to the provision of the advice, (b) the advice be provided only by registered representatives of the investment adviser or an affiliate and (c) the adviser discloses whether he or she has any material, financial, referral or other relationship or arrangement with an entity that creates or may create a conflict of interest for the adviser—and, if so, discloses that arrangement.	Introduced 4/21/09 – referred to Committee on Education and Labor.
<b>IRAs</b>		
IRA Charitable Giving Act - HR 2435 Kosmas (D-FL)	Would extend the law that allows tax-free gifts from IRAs to charities (would permit such IRA distributions through the end of 2010).	Introduced 5/14/09 – referred to Ways and Means Committee
IRA Assistance Act of 2009 - HR 1628 McCotter (R-MI)	Would allow premature distributions from IRAs (other than Roth IRAs) without penalty to make hardship loans	Introduced 3/19/09 – referred to Ways and Means Committee.
<b>Required Minimum Distributions</b>		
Individual Recovery Assistance Act of 2009 - HR 2331 Latta (R-OH)	Waives the 10% penalty on early withdrawals from qualified retirement plans for participants who (a) use the funds to make mortgage payments on a primary residence and (b) have lost jobs and have received unemployment compensation for 12 consecutive weeks. The two exceptions would apply for one year, dating from passage of the bill. The bill would also increase the age at which distributions from qualified retirement plans are required to begin from 70-1/2 to 75.	Introduced 5/7/09 – referred to the Ways and Means Committee
(untitled) H.R. 882 King (R-NY)	Would raise age at which distributions from qualified retirement plans were required to begin from 70-1/2 to 75.	Introduced on 2/4/09— referred to Ways and Means Committee.
Retirement Account Distribution Improvement Act of 2009 – S. 157 Snowe (R-ME)	<ul style="list-style-type: none"> <li>• Expands the temporary waiver of required minimum distribution rules from tax-deferred retirement plans to 2008, 2009 and 2010.</li> <li>• Provides for recontribution of distributions made in 2008 or early 2009.</li> </ul>	Introduced on 1/6/09— referred to Finance Committee

Bill	Description	Outlook/Effective Date
<b>Savings Accounts</b>		
<p>The Retirement Security Needs Lifetime Pay Act - HR 2748 Pomeroy (D-ND)</p>	<ul style="list-style-type: none"> <li>• Would encourage workers to annuitize some of their retirement savings by providing a 50% tax exclusion for up to \$10,000 of lifetime annuity payments annually.</li> <li>• Would exclude from taxes 25% of lifetime income payments from IRAs, qualified plans and similar employer-sponsored retirement savings plans other than defined benefit plans.</li> <li>• Would also exclude the value of longevity insurance from amounts subject to required minimum distributions (RMDs) and clarify the taxation of partial annuity payments.</li> </ul>	<p>Introduced 6/8/09 – referred to the Ways and Means Committee</p>
<p>Savings Recovery Act - HR 2021 Boehner (R-OH)</p>	<ul style="list-style-type: none"> <li>• Increase the contribution and catch-up limits for individuals and families.</li> <li>• Extend the existing saver's credit to contributions made to 529 college savings accounts.</li> <li>• Double the Social Security earnings limit from \$14,160 to \$28,320.</li> <li>• Immediately suspend the capital gains tax on newly acquired assets for the next two years, raise and index to inflation the amount of capital losses allowed against ordinary income to \$10,000 and suspend taxes on dividend income through 2011.</li> <li>• Temporarily provide an increased glide path for recognizing losses and two additional years to resolve pension funding shortfalls.</li> <li>• Block efforts to wipe out 401(k)s entirely and replace them with government-run accounts.</li> </ul>	<p>Introduced 4/22/09 – referred to Committee on Ways and Means and the Committee on Education and Labor.</p>
<p>The Savings for American Families' Future Act of 2009 - HR 1961 Pomeroy (D-ND)</p>	<ul style="list-style-type: none"> <li>• Would make saver's credit refundable and require that it be paid only into the taxpayer's retirement accounts.</li> <li>• Expand the number of families and individuals who would be able to use the full saver's credit by more than doubling the existing income limits for the full credit. The new limits would be set at adjusted gross incomes ("AGI") of \$32,500 for individuals and \$65,000 for couples. A phase-out range gradually lowers the credit until AGI reaches \$42,500 for individuals and \$85,000 for couples, at which time taxpayers are no longer eligible.</li> <li>• Establish the maximum amount of an employee's contribution that is eligible for the saver's credit at \$500 for an individual and \$1,000 for a couple, with the limits to increase by \$100 and \$200, respectively, each year until 2020 and after that time, to increase with inflation.</li> </ul>	<p>Introduced 4/2/09 – referred to Ways and Means Committee (bill largely tracks the saver's credit expansion proposal contained in the FY2010 budget recently approved by Congress).</p>

Bill	Description	Outlook/Effective Date
<b>Savings Accounts</b>		
Worker Savings Account Act of 2009 – H.R. 153 McHugh (R-NY)	<ul style="list-style-type: none"> <li>• Would create a program allowing workers to contribute up to \$5,000 annually on a tax-advantaged basis to use tax-free during times of unemployment or disability.</li> <li>• Employers could match the worker's contributed amount 100%.</li> <li>• Would make a portion of the saver's credit refundable and require increases in the saver's credit to be paid into a worker's savings account.</li> </ul>	Introduced on 1/6/09—referred to Ways and Means Committee (bill reintroduced from last year).

Source: Library of Congress

H.R. = House of Representatives; IRA= Individual Retirement Account

**Consider the investment objectives, risks, and charges and expenses carefully. For this and other information about AIM funds, obtain a prospectus from your financial advisor and read it carefully before investing.**

Please note: This primer is not intended to be investment advice. The information presented is based on current interpretation of pending retirement legislation. State laws may differ.

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