

CFDD Legislative Update
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Pending Legislation July 2008

Although 2008 will probably be known in retirement circles as “the year of the fee regulations” rather than the year of any significant new legislation, there are a few bills to watch this year. First, notice that the Heroes Earnings Assistance and Relief Act (H.R.6081) was enacted into law on June 17, 2008. Included in this law are some contribution and rollover abilities for active military and an increase in tax for expatriates and foreign workers who retire abroad. We still do not have technical corrections to the Pension Protection Act of 2006. The issue that is holding these corrections is “smoothing” – whether we should calculate our defined benefit funding obligations using average asset values or include future contributions to the funding calculations and “smooth” the costs. Also watch H.R. 6049 which will extend AMT patch relief for middle income Americans with revenue received from amendments to nonqualified deferred compensation plans. And anticipate a last minute extension to the charitable rollover taxation relief for age 70-1/2 IRA holders. This relief expired this year, but may be extended if senate bills 2886 or 3098 pass into law. 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 Web site at: <http://thomas.loc.gov>.

Pension Protection Act Technical Corrections		
Bill	Description	Outlook/Effective Date
Pension Protection Technical Corrections Act of 2007 -S.1974 Kennedy (D-MA) and H.R. 3361 Rangel (D-NY)	<ul style="list-style-type: none"> • Clarifies the 2008 transition rule for determining “at-risk” underfunded defined benefit plan status would apply to both the 70% and 80% tests. • Allows lump sum distributions of \$5,000 or less to be paid from underfunded plans. • Provides fiduciary relief to blackout periods of less than 3 consecutive days. • Mandates non-spouse beneficiary rollovers in all plans. • Restricts the combined plan deduction limit to combined DB and DC plans with contributions in excess of 6% of compensation. <i>(Only the contributions in excess of 6% would count towards the deduction limit.)</i> • Clarify the new 3-year vesting requirements for hybrid plans as well as make corrections to the confusing effective 	Passed the House and Senate on March 12, 2008. As bills differ slightly due to “smoothing”, inconsistencies will be discussed in committees. Will be effective as if included in the Pension Protection Act.

	date of both the vesting and credit requirements for hybrids.	
Pension Protection Technical Corrections Act of 2008 -H.R. 6382 Rangel (D-NY)	<ul style="list-style-type: none"> • Similar to S. 1974 (above), but requires plans to compute their funding obligations over 2 years using average asset values, which could generally force plans to make larger contributions. • Also eliminates a Pension Protection Act provision requiring automatic termination of defined benefit plans for companies that file for Chapter 11 bankruptcy protection. Under this bill, the plans would be terminated only if a U.S. Bankruptcy Court judge ruled such a move was necessary. 	Anticipate battle between this bill and S. 1974. Will be effective as if included in the Pension Protection Act.

Military Plan Distributions		
Law	Description	Outlook/Effective Date
Heroes Earning Assistance and Tax Relief Act (H. R 6081, Now Public Law 110-245 as of June 17, 2008)	<ul style="list-style-type: none"> • Retirement plans must pay the survivors of a soldier-employee who dies during qualified military service any benefits (other than those that accrued during military service) the plan would have paid had the participant died during active employment. Failure to do so will result in plan disqualification. • Plan participants who are called to military duty for at least 179 days can take penalty free withdrawals from their retirement accounts. (<i>An extension from an earlier law.</i>) • Differential pay must be treated as wages for retirement plan purposes. (<i>Differential pay is supplemental pay employers may offer to bring a soldier's pay up to what they would earn during regular employment.</i>) Tax credits are available for small employers (fewer than 50 workers) that provide differential pay. • Reservists on active duty for more than 30 days remain eligible for penalty-free distributions from their retirement plans even though they are receiving wages 	<ul style="list-style-type: none"> • Effective 1/1/2007. • Effective 6/17/2008. • Differential pay will be treated as wages for withholding for amounts paid after 12/31/2008. • Effective for plan years beginning after

	<p>from their employer. They must wait 6 months after taking distributions to make a contribution to the plan.</p> <ul style="list-style-type: none"> • Military death gratuities may be rolled into a Roth IRA or Coverdell Education Savings Accounts without concern for contribution or income limits. • Expatriates and foreign workers who return home after leaving U.S. employment will have 30% withholding on property gain that exceeds \$600,000. This includes retirement plan distributions, deferred compensation and any property or right which the worker is entitled in connection with performing services to the extent the property was not previously included as income under code section 83. 	<p>12/31/2007.</p> <ul style="list-style-type: none"> • For rollovers made after 10/7/2001 as long as contribution is made within 1 year after enactment. • Effective 6/17/2008 and overrides existing tax treaties.
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Fee Disclosure		
Bill	Description	Outlook/Effective Date
<p>401(k) Fair Disclosure for Retirement Security Act of 2007 – H.R. 3185 Miller (D-CA)</p>	<ul style="list-style-type: none"> • Requires Plan sponsors to obtain a fee disclosure statement from service providers if services exceed \$1,000. Disclosure statement. This statement identifies the service provider, description of services and itemized costs for each and any conflicts of interest the provider may have with the plan sponsor. <i>(Impact of share classes on fund investments must also be disclosed on this statement.)</i> 	<p>House Education and Labor Committee approved H.R.3185 on 4/16/2008. <i>(Disclosure requirements of this bill would be very complex and</i></p>

	<p>Statement must be delivered annually and within 30 days of a material change.</p> <ul style="list-style-type: none"> • Requires Plan sponsor to provide to participant an annual investment election notice 15 days prior to beginning of each plan year with change in investment options to investment objective, risk level, historical returns and fee menu. (Fee menu includes any <i>potential</i> service fees assessed against participant's account to include fees as a percentage of total assets and administrative and transactional fees.) • Requires plan sponsors to provide participants and annual benefit statement within 90 days after the end of the plan years disclosing <i>actual</i> fees assessed to each participant's investment option along with a comparison of the investment performance to a nationally recognized market based index. • Directs the Department of Labor (DOL) to provide model disclosure notices. The DOL would also conduct a compliance audit of a sampling of plans and refer any violations to the Securities and Exchange Commission and other necessary regulatory agencies. • Requires each 401(k) plan to include at least one market-based index fund as an investment option. 	<p><i>difficult to communicate)</i> Effective for plan years beginning after the date of enactment. (Due to election and DOL regulations, unlikely to come to a vote this year.)</p>
<p>Defined Contribution Fee Transparency Act – H.R. 3765 Neal (D-MA)</p>	<ul style="list-style-type: none"> • Requires plan sponsors to provide disclosure statements to participants at enrollment and annually on plan investments and fees. Statements should include key characteristics of investments such as risk/return and historical performance and any applicable fees (and whether fees are used for services beyond investment management). Disclosure would include a statement that investment decisions should not be based solely on fees but should include a range of factors. • The DOL and Treasury would develop model notices and regulations for automatic enrollment and electronic communications. 	<p>Held over for 2008. Effective date for participant disclosures begins with plan years on or after January 1, 2009. Service provider disclosures effective date would be 90 days after enactment.</p>

	<ul style="list-style-type: none"> Requires service providers to provide plan sponsors with fee information similar to H.R. 3185. However, multiple bundled services would have to be separated for investment management, administration, and fees paid to third parties. Revenue sharing would also have to be disclosed. 	
Mutual Fund Fee Reform Act – H.R. 3225 Moore (D-KS)	Directs the SEC to improve the disclosure of 12b-1 fees and expenses charged to mutual fund investors.	Effective 1 year after SEC regulations.
Defined Contribution Fee Disclosure Act – S. 2473 Harkin (D-IA)	Similar disclosure requirements to H.R. 3185. However, this bill does not require a plan to include an index fund as one of its investment options.	Effective 2010. Requires final regulations to be issued a year before.

Nonqualified Deferred Compensation (NQDC), Stock Options and Executive Pay		
Bill	Description	Outlook/Effective Date
Renewable Energy and Job Creation Act of 2008 -H.R. 6049 Rangel (D-NY)	<ul style="list-style-type: none"> Prevent hedge fund managers from using offshore hedge funds to defer compensation received for providing investment services. Not only defines deferred compensation under 409A, but also includes any arrangement under which compensation is based on the increase in value of a specified member of equity units of the service recipient, including stock appreciation rights (SARS) regardless of the exercise price of the SAR. Not intended to apply to most Section 83 arrangements. 	This bill is a revenue raiser and is being considered as a way to offset the cost of the AMT patch. President Bush has threatened to veto.
Shareholder Vote on Executive Compensation Act – H.R. 1257 Frank (D-MA) and S.1181 Obama (D-IL)	<ul style="list-style-type: none"> Requires public companies to include in their annual proxies a non-binding advisory shareholder vote on their executive pay plans. Requires a separate advisory vote if a company gave a new, not yet disclosed, golden parachute while negotiating to buy or sell a company. Does not set limits on executive pay but shareholders would be approving executive pay practices. 	Held over for 2008. (<i>Concerns raised that shareholder votes on executive pay plans could lead to votes on other corporate decisions (e.g. hiring, corporate strategies).</i>)

		President Bush may veto depending on final bill language.
Protecting Employees and Retirees in Business Bankruptcies Act – S. 2092 Durbin (D-IL) and H.R. 3652 Conyers (D-MI)	Requires court approval on executive compensation on exit from bankruptcy and deferred executive compensation would not be allowed if employee compensation plans were terminated in bankruptcy.	Held over for 2008.
Ending Corporate Tax Favors for Stock Options Act - S. 2116 Levin (D-MI)	<ul style="list-style-type: none"> • Creates a new corporate stock option deduction requiring the tax deduction to be consistent with the book expense. • Eliminates existing excess deductions for corporate stock options. 	Revenue raiser. Held over for 2008.
Tax Reduction and Reform Act of 2007 – H.R. 3970 Rangel (D-NY)	Prevents hedge fund managers from using offshore hedge funds to defer compensation received for providing investment services.	Held over for 2008.

Fiduciary Liability		
Bill	Description	Outlook/Effective Date
Lilly Ledbetter Fair Pay Act of 2007 – H.R. 2831 and The Fair Pay Restoration Act – S. 1843 Kennedy (D-MA)	Overturns Supreme Court decision in Ledbetter vs. Goodyear Tire and Rubber Co. Court ruled that time limit for filing discrimination claim does not restart with each paycheck. Bill would allow paycheck restart.	House approved on 7/31/2007. Senate failed by 4 votes to end debate and vote. Kennedy may bring bill for another vote this year. <i>(Potential increased liability and costs for plan sponsor due to compensation increases and/or benefit increases and recalculations.)</i> President Bush likely to veto bill as currently drafted.

Fair Pay Act of 2008 – S.2945 Vionovich (R-OH)	Would state the statute of limitations on pay discrimination to begin when the employee “knew or should have known” about the discrimination and limits the claim filing with EEOC to 180 days	Introduced on 4/3/2008. Effective as of 5/28/2007.
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Bankruptcy		
Bill	Description	Outlook/Effective Date
Protecting Employees and Retirees in Business Bankruptcies Act of 2007 - S.2092 Durbin (D-IL) and H.R.3652 Conyers (D-MI)	<p>Designed to protect worker/retiree wages/benefits during company’s Chapter 11 bankruptcy.</p> <ul style="list-style-type: none"> Workers’ wage claims increase \$20,000 with additional \$20,000 claim for benefits earned. Priority claim established for loss in pension value. (180 day filing requirement would be eliminated.) Employees/retirees would continue to receive compensation after the company exits bankruptcy. Company reorganization plans must include plan to preserve jobs. 	Held over for 2008. Effective on date of enactment.

IRAs and Small Business Plans		
Bill	Description	Outlook/Effective Date
Public Good IRA Rollover Act of 2007 – S.819 Dorgan (D-ND) and H.R.1419 Pomeroy (D-ND)	<ul style="list-style-type: none"> Provides a permanent provision at age 70-1/2 and older for penalty-free rollovers from IRAs to qualified charities. Allows tax-free life income gifts at age 59-1/2. (<i>Life income gifts involve the donation of assets to a charity where the donor retains an income stream for a defined period.</i>) 	Held over for 2008. The expiring provision for age 70-1/2 IRA rollovers to charities may be effective retroactively to 2008.
Automatic IRA Act of 2007 – S.1141 Bingaman (D-NM) H.R. 2167	Requires employers with 10 or more employees that do not have an employer sponsored retirement plan, to offer a payroll deduction IRA plan. <i>Employer contributions would not be</i>	Held over for 2008.

Neal (D-MA)	<i>required for companies with fewer than 100 employees.</i>	
SAVE Act of 2008 – H.R.2160 Kind (D-Wis)	Provide incentives for small businesses to start SIMPLEs or 401(k) plans. Bill includes a requirement for business owners to at least enroll workers in an automatic payroll deduction IRA.	Introduced on March 4, 2008.
Alternative Minimum Tax and Extenders Relief Act of 2008 S.3098 McConnell (R-KY) S.2886 Baucus (D-MT)	Includes an extension of the IRA rollovers to charities for age 70-1/2 and older IRA owners. Such rollovers are not included as taxable income. S. 3098 extends the provision until December 31, 2009 and S. 2886 extends the provision until December 31, 2008	Effective 1/1/2008.

Government Plans		
Bill	Description	Outlook/Effective Date
Farm, Nutrition, and Bioenergy Act of 2007- H.R. 2419 Peterson (D-MN)	Allows 457(b) plans to adopt Roth deferral provisions.	Senate named conferees on February 4, 2008. Anticipate passage in 2008. Effective for taxable years after December 31, 2007. <i>(Failed to be included in the final Farm bill that was signed into law in May 2008.)</i>

Source: Library of Congress

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.

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.

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