

**CFDD Legislative Update**  
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**Pending Retirement Legislation 2008**

The 110<sup>th</sup> Congress reconvenes on January 3<sup>rd</sup> with some significant bills on the table—most important being the technical corrections to the Pension Protection Act. Other bills of note involve fee disclosures, changes to nonqualified deferred compensation and making permanent certain tax deductions due to expire. The following represent bills that are actively being considered by Congress at this time. For more information on these 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"> <li>• Clarifies the 2008 transition rule for determining “at-risk” underfunded defined benefit plan status would apply to both the 70% and 80% tests.</li> <li>• Allows lump sum distributions of \$5,000 or less to be paid from underfunded plans.</li> <li>• Provides fiduciary relief to blackout periods of less than 3 consecutive days.</li> <li>• Mandates non-spouse beneficiary rollovers in all plans.</li> <li>• 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></li> <li>• Clarifies the new 3-year vesting requirements for hybrid plans as well as make corrections to the confusing effective date of both the vesting and credit requirements for hybrids.</li> </ul>	Held over for 2008. Will be effective as if included in the Pension Protection Act.
Bill to Provide an Orderly Transition to New Requirements -H.R. 3868 Pomeroy (D-ND)	Delays the effective date of certain portions of the Pension Protection Act by one year to January 1, 2009, assuming that guidance is provided by the Treasury and Labor Departments by June 30, 2008. Otherwise, the Pension Protection Act would be delayed until the January 1st after guidance is provided by June 30th of the applicable year.	Held over for 2008. Will be effective as if included in the Pension Protection Act.

Pension Protection Act Technical Corrections- <i>Cont'd</i>		
Bill	Description	Outlook/Effective Date
Tax Technical Corrections Act of 2007 -H.R. 3997 Rangel (D-NY)	<ul style="list-style-type: none"> <li>Imposes a 30% withholding tax on qualified and nonqualified plan distributions to expatriates and those who were long-term U.S. residents (green card holders.)</li> <li>Makes penalty-free withdrawal provisions for active military permanent. Requires retirement plans to provide for death and/or disability benefits for qualified persons who die performing military service to be the same had the person resumed employment then terminated employment from the plan due to disability or death.</li> <li>Makes permanent the penalty-free withdrawal from retirement plans for active duty reservists.</li> <li>Allows rollover of amounts received from military death benefits to Roth IRA or an educational savings account.</li> </ul>	Anticipate passing early in 2008. Will be effective as if included in the Pension Protection Act

Fee Disclosure		
Bill	Description	Outlook/Effective Date
401(k) Fair Disclosure for Retirement Security Act of 2007 - H.R. 3185 Miller (D-CA)	<ul style="list-style-type: none"> <li>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>) Statement must be delivered annually and within 30 days of a material change.</li> <li>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.)</li> <li>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.</li> </ul>	Held over for 2008. ( <i>Disclosure requirements of this bill would be very complex and difficult to communicate</i> ) Effective for plan years beginning after the date of enactment.

Fee Disclosure- <i>Cont'd</i>		
Bill	Description	Outlook/Effective Date
401(k) Fair Disclosure for Retirement Security Act of 2007 - H.R. 3185 Miller (D-CA)- <i>Cont'd</i>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Requires each 401(k) plan to include at least one market-based index fund as an investment option.</li> </ul>	
Defined Contribution Fee Transparency Act - H.R. 3765 Neal (D-MA)	<ul style="list-style-type: none"> <li>• 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.</li> <li>• The DOL and Treasury would develop model notices and regulations for automatic enrollment and electronic communications.</li> <li>• 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.</li> </ul>	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.
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 requires 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
Shareholder Vote on Executive Compensation Act - H.R. 1257 Frank (D-MA) and S.1181 Obama (D-IL)	<ul style="list-style-type: none"> <li>• Requires public companies to include in their annual proxies a non-binding advisory shareholder vote on their executive pay plans.</li> <li>• Requires a separate advisory vote if a company gave a new, not yet disclosed, golden parachute while negotiating to buy or sell a company.</li> </ul>	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>

Nonqualified Deferred Compensation (NQDC), Stock Options and Executive Pay- <i>Cont'd</i>		
Bill	Description	Outlook/Effective Date
Shareholder Vote on Executive Compensation Act - H.R. 1257 Frank (D-MA) and S.1181 Obama (D-IL)- <i>Cont'd</i>	<ul style="list-style-type: none"> <li>Does not set limits on executive pay but shareholders would be approving executive pay practices.</li> </ul>	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"> <li>Creates a new corporate stock option deduction requiring the tax deduction to be consistent with the book expense.</li> <li>Eliminates existing excess deductions for corporate stock options.</li> </ul>	Revenue raiser. Held over for 2008.

Nonqualified Deferred Compensation (NQDC), Stock Options and Executive Pay- <i>Cont'd</i>		
Bill	Description	Outlook/Effective Date
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.	Held over for 2008. <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.

Bankruptcy		
Bill	Description	Outlook/Effective Date
Protecting Employees and Retirees in Business Bankruptcies Act of 2007 - S.2092	<p>Designed to protect worker/retiree wages/benefits during company's Chapter 11 bankruptcy.</p> <ul style="list-style-type: none"> <li>Workers' wage claims increase \$20,000 with additional \$20,000 claim for benefits earned.</li> </ul>	Held over for 2008. Effective on date of enactment.

Bankruptcy- <i>Cont'd</i>		
Bill	Description	Outlook/Effective Date
Durbin (D-IL) and H.R.3652 Conyers (D-MI)- <i>Cont'd</i>	<ul style="list-style-type: none"> <li>Priority claim established for loss in pension value. (180 day filing requirement would be eliminated.)</li> <li>Employees/retirees would continue to receive compensation after the company exits bankruptcy.</li> <li>Company reorganization plans must include plan to preserve jobs.</li> </ul>	

IRAs		
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"> <li>Provides a permanent provision at age 70-1/2 and older for penalty-free rollovers from IRAs to qualified charities.</li> <li>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>)</li> </ul>	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 Neal (D-MA)	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 not required for companies with fewer than 100 employees.</i>	Held over for 2008.

Annuities		
Bill	Description	Outlook/Effective Date
Lifetime Pension Annuity for You Act of 2007 H.R. 4150 Pomeroy (D-ND)	Provides an exclusion from gross income of 25% up to \$5,000 for annuity payments from qualified plans.	Held over for 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.	Anticipate passage early in 2008. Effective for taxable years after December 31, 2007.

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.

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