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Focus on the "Distribution Phase"

Cassidy Retirement Group is closely monitoring two developments in Washington, D.C. which may influence investments in defined contribution plans. First, Senators Jeff Bingaman (D-NM), Johnny Isakson (R-GA), and Herb Kohl (D-WI) have co-sponsored a bill titled the "Lifetime Income Disclosure Act" which would require plan sponsors to estimate the amount of retirement income an account balance could provide to a participant, based on tables and templates that would be provided by the Department of Labor. Second, the Department of Labor and the Treasury Department have announced a plan to issue a request for information (RFI) early next year to solicit comments from the public on how retirement plans, particularly defined contribution plans, can minimize the probability that workers will run out of funds during their retirement. Mitigating "longevity risk" - through enhanced communication and investment offerings that address both the accumulation *and* distribution phases - is an area in which CRG is poised to help plan sponsors, and we will keep you informed on this front. To read more, please click [here](#).

CRG Retirement Plan Update - DB and DC Plans

Recent Guidance

- **December 11 (DB/DC):** The IRS released Notice 2009-97 which provides an extension of time - to "the last day of the first plan year that begins on or after January 1, 2010" - for certain plan amendments required by the Pension Protection Act of 2006 (PPA 2006) and the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA 2008). In general, this extension applies to (1) amendments required by IRC §436 related to funding-based limits on benefits and benefit accruals for pension plans, (2) amendments required by IRC §411(a)(13) and IRC §411(b)(5) related to vesting and other special rules for cash balance pension plans, and (3) amendments required by IRC §401(a)(35) related to diversification requirements for certain defined contribution plans.
- **November 24 (DB):** The IRS/Treasury issued final regulations pertaining to various amendments that might trigger so-called "section 204(h) notices" (e.g., a notice of a plan amendment that provides for a significant reduction in the rate of future benefit accrual, as required under ERISA §204(h)). These regulations finalize the March 2008 proposed rules, and generally provide guidance on timing, situations involving plan amendments with retroactive effective dates, and interactions between section 204(h) notices and other

notice requirements. Among other items, the final rules specify that, in general, a plan amendment made to reflect the new applicable mortality table and interest rates for distributions subject to IRC §417(e)(3) would not require a section 204(h) notice.

- **November 23 (DB):** The PBGC issued a request for public comments in conjunction with forthcoming guidance related to the purchases of irrevocable commitments to provide plan benefits prior to initiating a standard plan termination. While the PBGC understands that "plans sometimes consider [the] purchase of irrevocable commitments ... to take advantage of favorable interest rates, or to gradually prepare for a termination," the PBGC states two "substantial concerns" with these purchases: (1) concern "that the purchase circumvents the statutory and regulatory protections afforded under the standard termination process" and (2) concern "that [after the purchase] plan assets could be insufficient for plan benefits at the time of any distribution upon termination." Comments are requested by January 22, 2010.
- **November 23 (DB):** The PBGC released a proposed rule related to the "reportable events" regulation under ERISA §4043. The key elements contained in the proposed rule include: (1) elimination of most automatic waivers and extensions related to advance and post-event notices, (2) reduction in the frequency of reporting in situations involving multiple participant reductions over the course of a year, (3) a new reportable event if a plan's Adjusted Funding Target Attainment Percentage (AFTAP) drops below 60%, and (4) a new reportable event for plan asset transfers to a retiree health account. Comments on the proposed rule are due by January 22, 2010.
- **November 19 (DC):** The Department of Labor issued a press release announcing that it has withdrawn its controversial rule on the provision of investment advice. This rule had been originally issued on January 21, 2009 and had been postponed several times prior to this announcement. The DOL indicated that it intends to publish another proposed rule related to investment advice, but no time table was provided.

For a list of past guidance, please click [here](#).

Looking Ahead

- **December 31 (DB/DC):** Deadline for (1) EGTRRA restatements for individually-designed plans in "cycle D" (i.e., generally, plans with an EIN ending in a "4" or a "9"), with January 31, 2010 being the due date for submission for the determination letter, (2) amending plans for certain PPA requirements, such as IRC §415 and §417(e)(3) changes, if not subject to the extension granted under IRS Notice 2009-97 (see December 11 posting above), (3) updating plans to conform with the Heroes Earnings Assistance and Relief Tax Act of 2008 (the "HEART" Act), and (4) updating the eligible rollover notices to participants under IRS §402(f) for lump sum distributions, based on the two new safe harbor notices issued in conjunction with IRS Notice 2009-68.

- **December 31 (DB/DC):** Deadline for making required minimum distributions for participants who have attained age 70½ prior to 2009 (exception for employers of DC plans who have waived this requirement for 2009).
- **December 31 (DB):** Due date for providing benefit statements to vested, active participants under the "once-every-three-years" requirement. (As of the release of this newsletter, neither final guidance nor a model benefit statement has been released by the Department of Labor.)
- **December 31 (DB):** Due date for the annual notice outlining how participants may obtain benefit statements (as required by PPA) for plan sponsors who "opt out" of providing benefit statements every three years to vested, active participants.
- **December 31 (DC):** Deadline for making corrective distributions for a failed ADP/ACP test for plan year 2008.
- **December 31 (DB):** Last day to voluntarily reduce (aka, "burn") funding balances (i.e., funding standard carryover balance and/or prefunding balance) for calendar year 2009 plan years.
- **January 13 (DB):** Deadline for posting the 2008 Form 5500 actuarial information (i.e., Schedule SB) on an employer's intranet for calendar year plans that filed by October 15, 2009.
- **January 15 (DB):** Fourth quarterly contribution deadline for calendar year plans (for the 2009 plan year).

Market Summary - Total Returns Through December 17, 2009

Year-to-date and one-year returns for key market indexes are summarized below:

	Dow Jones Industrial Average	Standard & Poor's 500 Index	Russell 2000 Index	MSCI EAFE International Equity Index	Barclays Capital Aggregate Index
Year-to-date	17.5%	21.3%	21.0%	25.2%	7.2%
Last 12 Months	19.8%	23.8%	26.1%	22.5%	7.7%

Source: The Wall Street Journal

Defined Benefit Plans - Liability Returns

The return on assets in a pension trust is clearly a key driver of the funded status of a pension plan. However, pension liability values can also fluctuate significantly with changes in market interest rates. In essence, pension liabilities carry their own market returns. Plan sponsors should therefore focus on the *net* impact of changes in assets

and liabilities on a plan's funded status. The following table provides the estimated return on pension plan liabilities as of November 30, 2009 as calculated by Ryan Labs, Inc. (used with permission):

	Ryan Labs, Inc. PPA Liability Index (Funding)	Ryan Labs, Inc. FAS 158 Liability Index (Accounting)
Qtr through 11/30/2009	-3.8%	2.0%
Year-to-Date	12.8%	14.7%
Last 12 Months	35.1%	34.7%

Source: Ryan Labs, Inc.

Ryan Labs, Inc. Asset Management specializes in managing custom fixed income portfolios for pension plans and institutional clients. For more information on Ryan Labs, please visit <http://www.ryanlabs.com>, or call 800-321-2301.

Defined Benefit Plans - Key Interest Rates

IRC §430 Corporate Bond Yield Curve (DB Funding): For a graph showing the year-to-date and 12-month change in the yield curve as of November 2009, please click [here](#). (Note that, in light of the final IRS/Treasury regulations, we have included the October 2008 spot rates on this graph.)

IRC §417(e)(3) Lump Sum Rates (DB Plans): For a graph showing the year-to-date and 12-month change in lump sum interest rates as of November 2009, including rates for the 2010 plan year, please click [here](#).

Resources

For more information on Cassidy Retirement Group, please visit www.cassidyretirement.com.