

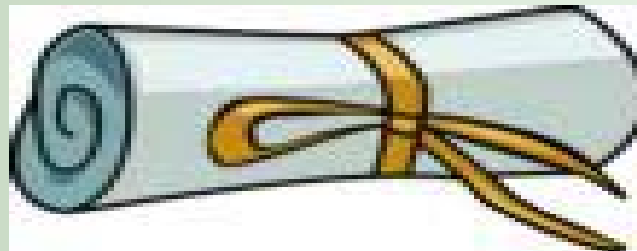
Federal Legislative and Regulatory Activities Relevant to Public Sector Employee Benefit Plans

Ian Lanoff

Groom Law Group

Federal Legislative Activities

- Pension “Reform”
- Social Security “Reform”
- Re-defining ERISA Conflict of Interest
- Re-opening Sarbanes-Oxley



Pension “Reform”

- Joint Committee on Taxation Staff Report
 - Proposals include “revenue enhancers”
 - Repeal of “pick-up” rules
 - Extend the 10% early distribution tax
 - Limit 403(b) deferrals
 - Eliminate contributions for up to 5 years after termination of employment
 - Eliminate special catch-up rule
 - Impose 401(k) nondiscrimination tests

Pension “Reform”

- Portman-Cardin proposed legislation included a series of provisions aimed at relief for governmental plans
 - Clarification of rules on purchase of permissive service credit
 - Application of minimum distribution rules to governmental plans
 - Recognition of DROP plans

Pension “Reform”

Senate “Pension Security” Legislation proposed refinements regarding purchases of permissive service credit under governmental defined benefit plans



Social Security Reform

Possibility of
mandate to cover
all newly hired
public sector
workers



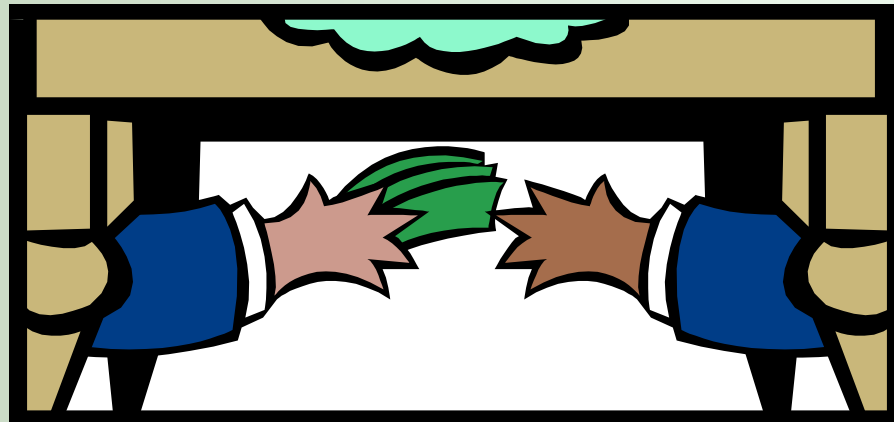
ERISA Conflict of Interest

Wall Street firms are pressuring Congress to modify “ERISA prohibited transactions” provisions and “plan asset” definition



ERISA Conflict of Interest

- Party in interest provisions would be amended to permit service providers “arms-length” transactions
- Would clarify that plan service providers are not “fiduciaries” under ERISA



ERISA Conflict of Interest

- Would exempt trades that take place through electronic communications networks (ECNs)
- Would provide more flexibility in allowing ERISA assets to be part of block trades
- Would update the term “plan asset”

ERISA Conflict of Interest

- Amend ERISA's bonding rules
- Allow active cross-trades



Re-opening Sarbanes-Oxley

Chamber of
Commerce pushing for
relaxing of regulation
and enforcement.
Would be “technical
corrections” to
address “regulatory
overkill”



Federal Regulatory Activities



- U.S. Department of Labor
- Securities and Exchange Commission
- EEOC

Department of Labor

- Information letter to William Lindsay
 - Defines when “pay for play” campaign contributions are illegal conflicts of interest
 - Circumstances under which “recusal” does not relieve potential liability

Department of Labor

United States of America v.
Dean Kirkland, Gary Kirkland
and Robert Legmo

- ERISA based criminal decision
- Court convicted vendors for bribing trustees with free travel – trustees on the “gravy train”



Department of Labor

- Press Release April 12, 2005
 - DOL investigating AFL-CIO pressuring vendors over Social Security reform
 - Implications for vendor involvement in current efforts to replace Defined Benefit Plans with Defined Contribution Plans
 - Two recent U.S. Supreme Court decisions protect vendors against “retaliation” by governmental entities for exercising free speech

Securities and Exchange Commission

- Proxy Access Rules
- Disclosure of Executive Arrangements
 - Accelerated disclosure including:
 - Equity compensation or bonus plan is adopted and “top 5 officers” are eligible
 - Material terms of award differ from sample previously filed with SEC
 - Performance goals – establishment and payment

EEOC

- Two recent federal court decisions challenge the judgment of the EEOC under the ADEA and complicate the benefits area for public employers and plans.

Ian Lanoff, Esq.

Groom Law Group

(202) 857-0620

www.groom.com