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SUMMARY COMPARISON OF CURRENT LAW AND THE PRINCIPAL PROVISIONS OF THE PENSION PROTECTION ACT OF 2006:[1] SINGLE-EMPLOYER PENSION FUNDING REFORMS AND CASH BALANCE PROVISIONS

Contents

[1] This chart generally summarizes the single-employer pension funding and cash balance provisions included in the Pension Protection Act of 2006 (Pub. Law No. 109-280, 120 Stat. 780); H.R. 4. The multiemployer funding reforms, defined contribution reforms, fiduciary and prohibited transaction provisions, and other miscellaneous provisions contained in the Act are included in separate charts.

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MINIMUM REQUIRED CONTRIBUTION AND FUNDING SHORTFALL

	Current Law	The Pension Protection Act of 2006 (the "Act")
In General	Under normal ERISA rules (ERISA § 302 and IRC § 412), the minimum required contribution is the amount required to balance all "charges" (e.g., to amortize past service liabilities, losses, etc.) and "credits" (e.g., to amortize gains) to the funding standard account ("FSA"). Generally, a plan with more than 100 participants with plan assets that are less than 90 percent of its "current liability," or less than 80 percent if the plan was at least 90 percent funded for 2 consecutive years out of the last 3 years, must make an additional contribution to the plan called a deficit reduction contribution ("DRC"). A plan's "current liability" equals the present value of the plan's liabilities that have accrued to date.	Sections 102 and 112 of the Act add new ERISA § 303 and IRC § 430, generally effective beginning in 2008. In general, under new ERISA § 303(a) and IRC § 430(a), if the plan's assets are less than the "funding target," the minimum required contribution for the year is equal to the plan's "target normal cost" plus the amortization of the "funding shortfall." If the plan's assets equal or exceed the "funding target," the minimum required contribution is the "target normal cost" (reduced by the excess). The "target normal cost" for the year generally is the present value of benefit liabilities expected to accrue during the plan year, including increases in past service benefits attributable to current year increases in compensation (see new ERISA § 303(b) and IRC § 430(b)). The "funding shortfall" is the excess of the plan's funding target over the plan's assets (as calculated after subtracting any credit balances from plan assets (as discussed more fully below) (see new ERISA § 303(c)(4) and IRC § 430(c)(4)). A plan's "funding target" is equal to 100 percent of the present value of all benefit liabilities accrued to date (see new ERISA § 303(d)(1) and IRC § 430(d)(1)).

	Current Law	The Pension Protection Act of 2006 (the "Act")
		Under new ERISA § 303(c)(5) and IRC § 430(c)(5), the new 100 percent funding target is phased in over 4 years. Specifically, a plan generally will not have a new "shortfall amortization base" (described below) that needs to be amortized over 7 years if the plan is funded up to the following phase-in levels: 2008 – 92 percent; 2009 – 94 percent; 2010 – 96 percent; 2011 and thereafter – 100 percent. For purposes of determining a plan's funding level under this special rule, plan assets must only be reduced by the plan's "pre-funding balance" (if any) (discussed more fully below) and only if the plan sponsor elects to reduce its minimum required contribution by its pre-funding balance (also discussed more fully below). Note, a plan that is not funded at the applicable phase-in level for the year (e.g., 92 percent for 2008) would have a funding shortfall for the year based upon the difference between the plan's assets (as calculated after subtracting any credit balances from plan assets (discussed more fully below)) and the 100 percent funding target, not the applicable phase-in level. Generally, this phase-in is only available to (i) plans that were in existence prior to 2007, (ii) plans not subject to the DRC for the plan year beginning in 2007 and (iii) plans that have met the applicable funding threshold for the preceding plan year.

	Current Law	The Pension Protection Act of 2006 (the "Act")
Shortfall Amortizat-ion Base; Shortfall Amortizat-ion Installments	Generally, in determining charges to the FSA of a single-employer plan, the amortization periods for increases in past service liabilities is 30 years and the amortization period for losses varies (generally from 5 to 10 years) depending upon the measure of the loss (ERISA § 302(b) and IRC § 412(b)). For example: • unfunded past service liability must be amortized over 30 years; • unfunded liability resulting from a plan amendment must be amortized over 30 years; • experience losses must be amortized over 5 years; • the amortization period for a change in actuarial assumptions must be 10 years.	Under new ERISA § 303(c) and IRC § 430(c) (added by §§ 102(a) and 112(a) of the Act), if the plan has a funding shortfall, the underfunded amount must be amortized over 7 years. In determining the "shortfall amortization base," the present value of "shortfall amortization installments" due under existing amortization schedules is subtracted from the funding shortfall. This new shortfall amortization base is amortized in 7 shortfall amortization installments. Under new ERISA § 303(c)(6) and IRC § 430(c)(6) (added by §§ 102(a) and 112(a) of the Act), if a plan's assets exceed the plan's funding target (i.e., there is no funding shortfall for the year (as calculated after subtracting any credit balances from plan assets)), all shortfall amortization bases and installments for preceding years are reduced to zero.
Special Airline Provision	There are no industry-specific provisions.	Under § 402 of the Act, a commercial passenger airline and any employer that provides catering services to such an airline may elect to amortize its plan's unfunded liabilities over 17 years, using an interest rate equal to 8.85 percent. Under this election, the plan must be frozen effective as of the first day of the first plan year in which the election would apply and at all times thereafter while an election is in place. Alternatively, an airline, or airline catering service, may elect to amortize its plan's unfunded liabilities over 10 years starting in 2008 using the actuarial assumptions set forth under the general funding

	Current Law	The Pension Protection Act of 2006 (the "Act")
		rules. In addition, the ability to elect to reduce alternative deficit reduction contributions by a plan maintained by an airline is extended for two additional years. If a plan to which an election to amortize its unfunded liability over 17 years is made is terminated within 10 years of the date of the election, the plan termination date and the date on which PBGC guarantees are based is the first day of the plan year in which the election was made. If such termination is within 5 years of the election, the termination premium paid to the PBGC by plan sponsors terminating their plans in bankruptcy (discussed below) is increased to $2,500 per participant.
Quarterly Contributi-ons	If, for the preceding plan year, a plan's funded current liability percentage is less than 100 percent, the plan sponsor is required to make the minimum required contribution for the year in four installment payments (due on April 15, July 15, Oct. 15 of the plan year and Jan. 15 of the following year). In general, a plan's funded current liability percentage is the actuarial value of the plan's assets divided by the plan's current liability for the preceding year. Interest equal to the greater of (i) 175 percent of the federal mid-term rate or (ii) the plan's interest rate will be applied on the amount of any underpayment (ERISA § 302(e) and IRC § 412(m)).	Under new ERISA § 303(j)(3) and IRC § 430(j)(3) (added by §§ 102(a) and 112(a) of the Act), plans that have a "funding shortfall" in the preceding plan year are required to make the minimum required contribution for the year in quarterly installments equal to 25 percent of the lesser of (i) 90 percent of the minimum required contribution for the plan year or (ii) 100 percent of the minimum required contribution for the preceding plan year. These installment payments are due on April 15, July 15, Oct. 15 of the plan year and Jan. 15 of the following year. Interest equal to the plan's interest rate plus 5 percent shall be applied on the amount of any underpayment.

DETERMINATION OF LIABILITIES

	Current Law	The Pension Protection Act of 2006 (the "Act")
Benefits Taken Into Account	Under the DRC rules, current liability is based upon benefits accrued to date (see ERISA § 302(d) and IRC § 412(l)).	The funding target is based upon all benefits accrued to date (see new ERISA § 303(d) and IRC § 430(d) (added by §§ 102(a) and 112(a) of the Act)).
Interest Rate	Prior to 2004, for purposes of determining current liability under the DRC the required interest rate was based on the 30-year Treasury rate. For 2004 and 2005, the interest rate was based on investment grade long-term corporate bonds, instead of the rate on the 30-year Treasury bond. Beginning in 2006, the interest rate reverts back to the applicable 30-year Treasury rate. The interest rate must be within a "permissible range" of the four-year "weighted average" of the applicable rates of interest on (i) investment grade long-term corporate bonds for 2004 and 2005 with a permissible range of 90-100 percent and (ii) 30-year Treasury securities for 2006 with a permissible range of 90-105 percent. The weighting used for this purpose is 40 percent, 30 percent, 20 percent and 10 percent, starting with the most recent year in the four-year period (ERISA § 302(b)(5)(B), (d)(7)(C)(i) and IRC § 412(b)(5)(B), (l)(7)(C)(i)).	For 2006 and 2007, the temporary replacement corporate bond rate in effect for 2004 and 2005 continues to apply (see § 301 of the Act). Beginning in 2008, under new ERISA § 303(h)(2) and IRC § 430(h)(2) (added by §§ 102(a) and 112(a) of the Act), the interest rate used to determine the present value of liabilities is based on a modified yield curve of investment-grade corporate bonds of varying maturities and that are in the top 3 quality levels (AAA, AA, and A ratings) that is published monthly by the Treasury Department. Three different interest rates will be used to determine these present values based on the duration of the liabilities: those liabilities payable within 5 years of the valuation date, liabilities payable after 5 years and before 20 years of the valuation date, and liabilities payable thereafter. The rate for each of the three segments is determined by the Treasury Department each month based on bonds maturing during the applicable duration (i.e., during first 5 years, after 5 and before 20 years, and after 20 years) and based on a 24-month unweighted

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		average ending on the prior month. A plan sponsor, however, may make a one-time election to use the full corporate bond yield curve without any averaging, rather than using the 3 separate segment rates. The use of this modified yield curve is phased-in over 3 years beginning in 2008. A plan sponsor, however, may make a one-time election to opt out of the phase-in.
Mortality Table	Treasury is required to prescribe mortality tables used in determining current liability. Currently, the 1983 Group Annuity Mortality Table is used (see ERISA § 302(d)(7)(C)(ii) and IRC § 412(l)(7)(C)(ii)).	Under new ERISA § 303(h)(3) and IRC § 430(h)(3) (added by §§ 102(a) and 112(a) of the Act), Treasury shall prescribe mortality tables based on the actual experience of pension plans and projected trends in such experience. Treasury is directed to take into account results available from an independent study on plan participants' mortality in prescribing such tables. Treasury is also directed to update any mortality table at least every 10 years. Plan sponsors may request to use a substitute mortality table as long as the plan is sufficiently large and has been in effect long enough to have creditable information. All plans within the controlled group of the sponsor must use the substitute table. Treasury is also directed to establish special mortality tables for determining disability benefits.

	Current Law	**The Pension Protection Act of 2006 (the "Act")**
"At-Risk" Rules	No provision.	In general, if a plan is "at-risk," the plan sponsor must make larger contributions to the plan to reflect the greater "at-risk" liability. Beginning in 2008, under new ERISA § 303(i)(4) and IRC § 430(i)(4) (added by §§ 102(a) and 112(a) of the Act), a plan will be considered "at-risk" if, for the preceding plan year, the plan is both (i) less than 80 percent funded using the actuarial assumptions set forth under the general funding rules *and* (ii) less than 70 percent funded using the "at-risk" actuarial assumptions (discussed below). Special rules apply to certain automobile and automobile parts manufacturers. The 80 percent funded requirement is phased in over 4 years: 2008—65 percent, 2009—70 percent, 2010—75 percent, and 2011—80 percent. For purposes of determining whether a plan is at least 70 percent funded in 2008, Treasury is directed to prescribe the methods for determining a plan's funding status for the preceding plan year. Plans with 500 or fewer participants are never considered "at-risk" (see new ERISA § 303(i)(6) and IRC § 430(i)(6) (added by §§ 102(a) and 112(a) of the Act)).
"At-Risk" Liability	No provision.	Pursuant to new ERISA § 303(i)(1), (2) and IRC § 430(i)(1), (2) (added by §§ 102(a) and 112(a) of the Act), a plan's "at-risk" liability is determined as if all participants who are eligible for benefits during the current plan year and the next 10 years retire at the earliest possible date and elect benefits that result in the highest present value of liabilities (e.g., subsidized, early retirement

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		payments). If a plan is at-risk for 2 out of the 4 preceding years, a load factor of $700 per participant and 4 percent of the funding target and target normal cost would apply, which is intended to reflect the higher costs involved in terminating a plan. At-risk liability can never be lower than the target normal cost and funding target determined without regard to the at-risk rules (see new ERISA § 303(i)(3) and IRC § 430(i)(3) (added by §§ 102(a) and 112(a) of the Act)). For plans that have been at-risk for less than 5 consecutive years (starting in 2008), the at-risk liability shall be phased in over 5 years (see new ERISA § 303(i)(5) and IRC § 430(i)(5) (added by §§ 102(a) and 112(a) of the Act)).

VALUING PLAN ASSETS

	Current Law	The Pension Protection Act of 2006 (the "Act")
In General	Plan assets may be valued using any reasonable actuarial method permitted under Treasury Department regulations. The actuarial value of the plan's assets may be "smoothed" by averaging the fair market value of the assets over a period not to exceed the five most recent, but the asset values may not be less than 80 percent or more than 120 percent of the current fair market value of plan assets as of the valuation date (see ERISA § 302(c)(2) and IRC § 412(c)(2)).	Current law rules under which plan assets may be valued using any reasonable actuarial method permitted under Treasury Department regulations continue to apply, but "smoothing" of asset values cannot be for more than a 24-month period and the smoothing cannot result in values that are lower than 90 percent or greater than 110 percent of the fair market value of such assets at the time of valuation (see new ERISA § 303(g)(3) and IRC § 430(g)(3) (added by §§ 102(a) and 112(a) of the Act)).
Valuation Date	The valuation date may be any date during the plan year (ERISA § 302(c)(9)(B) and IRC § 412(c)(9)(B)), except that DRC-related calculations are measured as of the first day of the plan year (ERISA § 302(d)(7)(C)(ii) and IRC § 412(l)(7)(C)(ii)).	Pursuant to new ERISA § 303(g)(2) and IRC § 430(g)(2) (added by §§ 102(a) and 112(a) of the Act), plans with more than 100 participants must use the first day of the plan year. Plans with 100 or fewer participants can choose any day of the plan year.

CREDIT BALANCES

	Current Law	The Pension Protection Act of 2006 (the "Act")
Credit Balances	A credit balance occurs if cumulative credits to the FSA exceed cumulative charges. Generally, a credit balance can occur if a plan sponsor contributes more than the minimum required contribution for the year (see ERISA § 303(b) and IRC § 412(b)).	Under new ERISA § 303(f)(1)(B) and IRC § 430(f)(1)(B) (added by §§ 102(a) and 112(a) of the Act), a plan sponsor maintaining a pre-2008 plan that has a positive balance in its funding standard account as of the end of 2007 may elect to maintain all or a portion of that amount as a "funding standard carryover balance." Beginning in 2008, under new ERISA § 303(f)(1)(A) and IRC § 430(f)(1)(A) (added by §§ 102(a) and 112(a) of the Act), a plan sponsor that contributes amounts in excess of the plan's minimum required contribution for the year may elect to maintain all or a portion of that amount as a "pre-funding balance."
Use of Credit Balances	Generally, a credit balance may be used to reduce the minimum required contribution for the year. Plan assets are not reduced by any credit balance for purposes of determining whether the DRC rules apply (i.e., the plan is less than 90 percent (or 80 percent) funded) (see ERISA § 302(d) and IRC § 412(l)).	According to new ERISA § 303(f)(2)(A), (f)(3) and IRC § 430(f)(2)(A), (f)(3) (added by §§ 102(a) and 112(a) of the Act), a plan sponsor may elect to reduce its minimum required contribution for the year by its funding standard carryover and/or pre-funding balances. For purposes of reducing the minimum required contribution for the year, the funding standard carryover balance must be used before the pre-funding balance may be used (see new ERISA § 303(f)(3)(B) and IRC § 430(f)(3)(B) (added by §§ 102(a) and 112(a) of the Act)). If a plan is less than 80 percent funded (as calculated after subtracting the pre-funding balance *only* (discussed more fully below)) for the preceding plan year, the plan cannot use these balances to reduce the plan's minimum required contribution for the

	Current Law	The Pension Protection Act of 2006 (the "Act")
		year. For purposes of determining whether a plan is at least 80 percent funded in 2008, Treasury is directed to prescribe the methods for determining a plan's funding status for the preceding plan year (see new ERISA § 303(f)(3)(C) and IRC § 430(f)(3)(C) (added by §§ 102(a) and 112(a) of the Act)).
Effect of Credit Balances on Plan Assets	If a plan is subject to the DRC rules, plan assets are reduced by any credit balance for purposes of determining the amount of additional contributions required under the DRC (ERISA § 303(d)(8)(E) and IRC § 412(l)(8)(E)).	Pursuant to new ERISA § 303(f)(4)(B)(i) and IRC § 430(f)(4)(B)(i) (added by §§ 102(a) and 112(a) of the Act), plan assets must be reduced by its funding standard carryover *and* pre-funding balances for purposes of determining: • The amount of the funding shortfall used to determine the minimum required contribution for the year. • Whether the plan is at-risk; and • Generally, whether the benefit restrictions apply (although an exception applies if a plan is 100 percent funded without reducing plan assets by these balances (discussed below)). In the case of a plan that is subject to a binding written agreement with the PBGC that provides that the plan's credit balance is not available to reduce its minimum required contribution for the year, plan assets are not reduced by the funding standard carryover balance and pre-funding balance for purposes of determining the amount of the funding shortfall used to determine the minimum required contribution for the year. (Note, plans subject to such a PBGC agreement must continue to reduce plan assets by its credit balance for purposes of determining whether the at-risk rules and

	Current Law	The Pension Protection Act of 2006 (the "Act")
		benefit restrictions apply.) (see new ERISA § 303(f)(4)(B)(ii) and IRC § 430(f)(4)(B)(ii) (added by §§ 102(a) and 112(a) of the Act)). For purposes of determining whether a new shortfall amortization base arises for a year (discussed above), plan assets are required to be reduced by the pre-funding balance, *but only if* the plan sponsor affirmatively elects to apply a portion of such balance to reduce its minimum required contribution for the year (see new ERISA § 303(f)(4)(A) and IRC § 430(f)(4)(A) (added by §§ 102(a) and 112(a) of the Act)). For purposes of applying the 80 percent limitation on the use of credit balances to reduce a plan's minimum required contribution (discussed above), a plan sponsor is required to reduce its plan assets by the pre-funding balance (but *not* the funding standard carryover balance) (see new ERISA § 303(f)(4)(C) and IRC § 430(f)(4)(C) (added by §§ 102(a) and 112(a) of the Act)).
Reducing Credit Balances	No provision.	Under new ERISA § 303(f)(5) and IRC § 430(f)(5) (added by §§ 102(a) and 112(a) of the Act), plan sponsors may elect to reduce all or a portion of its funding standard carryover or pre-funding balance prior to determining the value of the plan's assets for the year. If such an election is made, such balances are eliminated forever. The funding standard carryover balance must be reduced to zero before the plan sponsor can elect to reduce all or any portion of the pre-funding balance. A plan maintained pursuant to a collective bargaining agreement generally is deemed to have elected to reduce any such balances by

	Current Law	The Pension Protection Act of 2006 (the "Act")
		the amount necessary for the limitations on (i) benefit increases, (ii) benefit accruals, and (iii) shutdown benefits not to apply. This rule applies to *all* defined benefit plans for purposes of the restrictions on benefit payments (see new ERISA § 206(g)(5)(C) and IRC § 436(f)(3) (added by §§ 103(a) and 113(a) of the Act)) (discussed below).
Valuation of Balances	Currently, credit balances are not adjusted for actual market performance. Instead, credit balances are adjusted based on the interest rate used to by the plan's actuary to value liabilities under the normal ERISA funding rules (see generally ERISA § 302(b)(5) and IRC § 412(b)(5)).	New ERISA § 303(f)(8) and IRC § 430(f)(8) (added by §§ 102(a) and 112(a) of the Act) provide that as of the first day of the plan year, the funding standard carryover and pre-funding balances are adjusted to reflect investment performance in the underlying plan assets. Treasury is directed to issue regulations instructing how the adjustment is made.

BENEFIT RESTRICTIONS

	Current Law	The Pension Protection Act of 2006 (the "Act")
In General	See current law benefit restrictions described below.	Sections 103 and 113 of the Act add new ERISA § 206(g) and IRC § 436, generally effective beginning in 2008, with special rules for collectively bargained plans. Under these new rules, if a plan has an "adjusted funding target attainment percentage" that is less than a specified percentage, limitations on (i) benefit increases, (ii) benefit payments, (iii) benefit accruals, and (iv) shutdown benefits would apply. In general, if a plan is subject to these limitations for a plan year, the limitations will continue to apply until the plan's actuary certifies that the plan meets the applicable funding threshold (see new ERISA § 206(g)(7) and IRC § 436(h)). A plan's adjusted funding target attainment percentage is the ratio of the plan's assets (as calculated after subtracting any credit balances from plan assets) compared to its funding target, which are both increased by the aggregate amount of purchases of annuities for all participants who were non-highly compensated employees for the preceding 2 years (see new ERISA § 206(g)(9)(B) and IRC § 436(j)(2)). If a plan is at least 100 percent funded under the general funding rules without reducing plan assets by its funding standard carryover and/or pre-funding balance, the benefit restrictions shall not apply. The 100 percent threshold is phased in over 4 years, and therefore, plans may avoid the benefit restrictions if it is funded up to the

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		following phase-in levels: 2008—92 percent; 2009—94 percent; 2010—96 percent; and 2011 and thereafter—100 percent. This transition rule is not available if a plan fails to meet the applicable funding threshold for the preceding plan year. For 2008, Treasury is directed to prescribe the methods for determining a plan's funding status for the preceding plan year (see new ERISA § 206(g)(9)(C) and IRC § 436(j)(3)).
Benefit Increases	Plans with more than 100 participants generally may not be amended to increase benefits if the plan's funded current liability percentage is less than 60 percent (taking into account the amendment), unless the plan sponsor provides security or funds the increase (IRC § 401(a)(29)). Generally, plan sponsors in bankruptcy may not increase benefits until the plan sponsor emerges from bankruptcy (IRC § 401(a)(33)). Limitations on benefit increases also apply if a funding waiver or amortization extension is in effect (IRC § 412(f)).	Under new ERISA § 206(g)(2) and IRC § 436(c) (added by §§ 103(a) and 113(a) of the Act), a plan cannot be amended to increase benefits if the plan has an "adjusted funding target attainment percentage" that (i) is less than 80 percent funded, or (ii) would be less than 80 percent funded taking into account the amendment. This restriction does not apply if the plan sponsor makes contributions (or provides security) to the plan to (i) pay for the increase, or (ii) satisfy the 80 percent funded threshold. A plan sponsor may not apply the plan's funding standard carryover and/or pre-funding balance to this contribution. This restriction does not apply if an amendment to the plan provides for an increase in benefits under a formula which is not based on a participant's compensation, so long as the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of plan participants (e.g., cost-of-living increases in flat-dollar plans are generally excepted from this restriction). Also, this restriction does not apply to new plans for the first 5 plan years (see new ERISA § 206(g)(6) and IRC § 436(g) (added by §§

	Current Law	The Pension Protection Act of 2006 (the "Act")
		103(a) and 113(a) of the Act)). If a collectively bargained plan maintains a funding standard carryover and/or pre-funding balance, such balances must be reduced to the extent such reduction will result in the plan not being subject to the prohibition against increasing benefits (see new ERISA § 206(g)(5)(C) and IRC § 436(f)(3) (added by §§ 103(a) and 113(a) of the Act)).
Benefit Payments	Generally, plans with a "liquidity shortfall" under the quarterly contribution requirements cannot pay benefits in a form other than life annuity (ERISA § 206(e)).	In general, under new ERISA § 206(g)(3) and IRC § 436(d) (added by §§ 103(a) and 113(a) of the Act), (i) a plan that has an "adjusted funding target attainment percentage" that is less than 60 percent, or (ii) a plan whose sponsor is in bankruptcy and has an adjusted funding percentage that is less than 100 percent, cannot pay benefits in a form other than a life annuity. If a plan's adjusted funding target attainment percentage is between 60 percent and 80 percent, the plan may generally only make a one-time lump sum payment that is limited to the lesser of (i) the present value of the participant's maximum PBGC guaranteed benefit or (ii) 50 percent of the amount of the payment that could otherwise be paid. This restriction does not apply to a plan that is frozen as of September 1, 2005, and continues to be frozen thereafter. If *any* plan subject to this benefit restriction maintains a funding standard carryover and/or pre-funding balance, such balances must be reduced to the extent such reduction will result in the plan not

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		having to limit benefits (see new ERISA § 206(g)(5)(C) and IRC § 436(f)(3) (added by §§ 103(a) and 113(a) of the Act)). If a plan is no longer subject to this restriction, benefit payments may resume unless otherwise provided for in the plan (see new ERISA § 206(g)(8) and IRC § 436(i) (added by §§ 103(a) and 113(a) of the Act)). The plan administrator must provide written or electronic notice of the restriction within 30 days of its application (Section 103(b) of the Act adds new ERISA § 101(j)).
Benefit Accruals	No provision.	Under new ERISA § 206(g)(4) and IRC § 436(e) (added by §§ 103(a) and 113(a) of the Act), if a plan has an "adjusted funding target attainment percentage" that is less than 60 percent, the plan must freeze all future benefit accruals as of the valuation date for the plan year. This restriction does not apply if the plan sponsor makes contributions to the plan (or provides security) to satisfy the 60 percent funded threshold. A plan sponsor may not apply the plan's funding standard carryover and/or pre-funding balance to the contribution amount. Also, this restriction does not apply to new plans for the first 5 plan years (see new ERISA § 206(g)(6) and IRC § 436(g) (added by §§ 103(a) and 113(a) of the Act)). If a collectively bargained plan maintains a funding standard carryover and/or pre-funding balance, such balances must be

	Current Law	The Pension Protection Act of 2006 (the "Act")
		reduced to the extent such reduction will result in the plan not having to cease accruals (see new ERISA § 206(g)(5)(C) and IRC § 436(f)(3) (added by §§ 103(a) and 113(a) of the Act)). If a plan is no longer subject to this restriction, benefit accruals may resume unless otherwise provided for in the plan (see new ERISA § 206(g)(8) and IRC § 436(i) (added by §§ 103(a) and 113(a) of the Act)). The plan administrator must provide written or electronic notice of the restriction within 30 days of its application (Section 103(b) of the Act adds new ERISA § 101(j)).
Shutdown/ Unpredict-able Contingent Benefits	A plan may pay "unpredictable contingent event benefits," which are benefits that depend on contingencies that are not reliably and reasonably predictable (e.g., facility shutdowns or reductions in workforce). Unpredictable contingent event benefits generally are not taken into account for funding purposes until the event has occurred (i.e., no pre-funding is required) (ERISA § 302(d)(7)(B) and IRC 412(l)(7)(B)).	Under new ERISA § 206(g)(1) and IRC § 436(b) (added by §§ 103(a) and 113(a) of the Act), shutdown benefits (or benefits payable upon any other unpredictable contingent event) may not be made if a plan has an "adjusted funding target attainment percentage" that (i) is less than 60 percent or (ii) would be less than 60 percent by reason of paying such benefits. This restriction does not apply if the plan sponsor makes contributions to the plan (or provides security) to (i) pay for the provision of the benefits, or (ii) satisfy the 60 percent funded threshold. A plan sponsor may not apply the plan's funding standard carryover and/or pre-funding balance to the contribution amount.

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		Also, this restriction does not apply to new plans for the first 5 plan years (see new ERISA § 206(g)(6) and IRC § 436(g) (added by §§ 103(a) and 113(a) of the Act)). If a collectively bargained plan maintains a funding standard carryover and/or pre-funding balance, such balances must be reduced to the extent such reduction will result in the plan not having to eliminate shutdown and unpredictable contingent benefits (see new ERISA § 206(g)(5)(C) and IRC § 436(f)(3) (added by §§ 103(a) and 113(a) of the Act)). The plan administrator must provide written or electronic notice of the restriction within 30 days of its application (Section 103(b) of the Act adds new ERISA § 101(j)).

DEFERRED COMPENSATION RESTRICTIONS

	Current Law	The Pension Protection Act of 2006 (the "Act")
In General	Defined benefit plan sponsors that also sponsor a nonqualified deferred compensation plan may set aside amounts to fund such nonqualified deferred compensation without regard to the funding status of the defined benefit plan.	Section 116 of the Act amends IRC § 409A(b) to include certain limitations of nonqualified deferred compensation, effective for transfers occurring after the date of enactment (August 17, 2006). During a "restricted period," any amounts (i) set aside or reserved (directly or indirectly) or transferred to a trust or other arrangement or (ii) restricted for the payment of deferred compensation under a nonqualified deferred compensation plan (maintained by a plan sponsor or member of its controlled group) will be considered a taxable transfer to the individual. Such amounts are subject to an additional 20 percent tax and interest under IRC § 409A. A restricted period is any time in which (i) the plan sponsor is bankrupt, (ii) a plan is at-risk, or (iii) the 12-month period beginning 6 months before an underfunded plan is terminated. Amounts used to fund nonqualified deferred compensation before the beginning of a restricted period, however, are not subject to taxation. A plan sponsor that "grosses up" an executive's compensation (directly or indirectly) to pay penalty taxes imposed as a result of funding nonqualified deferred compensation during a restricted period is prohibited from deducting such "gross up" amounts, and such amounts shall be taken into account for purposes of determining the amount taxable to the individual under IRC § 409A. In general, (i) a current and former chief executive officer and the top four highest compensated officers of the plan sponsor (or

	Current Law	The Pension Protection Act of 2006 (the "Act")
		member of its controlled group) or (ii) certain directors, officers, or shareholders covered by § 16(a) of the Securities and Exchange Act of 1934 who have deferred compensation are the individuals subject to these rules.

LUMP SUM DISTRIBUTIONS

	Current Law	The Pension Protection Act of 2006 (the "Act")
Minimum Lump Sum Value	Generally, for purposes of determining the minimum value of a lump sum distribution, the applicable interest rate used is the 30-year Treasury rate. The applicable mortality table is based upon a mortality table based upon the 1994 Group Annuity Reserving Table (ERISA § 205(g) and IRC § 417(e)).	Section 302 of the Act amends ERISA § 205(g) and IRC § 417(e) providing that the interest rate used to determine the minimum value of lump sum distributions and certain other optional forms of payment is based upon the 3-segment, modified yield curve interest rate used to determine liabilities under the plan (discussed above). However, the new rates are generally determined based on the rate for the month before the date of distribution, without the 24-month averaging. Plans are also required to use the mortality tables prescribed by Treasury. The use of the new interest rate will be phased in over 5 years beginning in 2008.
Straight Life Annuity as a Lump Sum	In applying the IRC § 415(b) dollar limit, for 2004 and 2005, the interest rate used to convert a lump sum amount to a straight life annuity must not be less than the greater of (i) 5.5 percent or (ii) the plan's interest rate (IRC § 415(b)(2)(E)).	Same as current law, except the rate must not be less than the greater of (i) 5.5 percent, (ii) the plan's interest rate, or (iii) a rate that produces a benefit of not more than 105 percent of the benefit calculated using the minimum value lump sum interest rate. This rate is available for plan years beginning after December 31, 2005 (see § 303 of the Act).

DEDUCTIBLE AMOUNTS

	Current Law	The Pension Protection Act of 2006 (the "Act")
Deductible Limit	Plan sponsors of a defined benefit plan generally may deduct the greater of: • the amount necessary to satisfy the minimum funding requirement for the year; or • the sum of the plan's normal cost for the year plus the amount necessary to amortize certain unfunded liabilities over 10 years. The deductible limit, however, may never exceed the "full funding limit" for the year. The maximum amount deductible is not less than the plan's unfunded current liability (IRC § 404(a)(1)).	Section 801 of the Act amends IRC § 404(a)(1) and adds new IRC § 404(o). For 2006 and 2007, the deduction limitation is equal to150 percent of the plan's current liability. Beginning in 2008, the maximum deductible amount generally is equal to the greater of (i) the sum of the plan's funding target, the plan's target normal cost, and a "cushion amount," minus the plan's (unreduced) assets for the plan year or (ii) the minimum required contribution for the year. The "cushion amount" is generally equal to the sum of 50 percent of the plan's funding target for the plan year and the amount by which the funding target would increase based on future compensation increases, or, for plans that do not base past service benefits on compensation, on expected increases in benefits (based off of the average of such benefit increases over the past 6 years). In addition, for plans that are *not* in the "at-risk" category, this calculation can be performed as if the plan was in "at-risk" status. If a plan terminates during the plan year, the maximum deductible amount shall not be less than the amount required to meet the plan's benefit liabilities.

	Current Law	**The Pension Protection Act of 2006 (the "Act")**
Combined Deductible Limit	The deductible limit for an employer sponsoring both a defined contribution and defined benefit plan that benefit one or more of the same employees is generally limited by an overall limit equal to the greater of: • 25 percent of compensation otherwise paid or accrued during the plan year; or • the contribution necessary to meet the minimum funding requirements, but not less than the amount of the plan's unfunded current liability. Elective deferrals are generally not taken into account for purposes of the determining the combined deductible limit (IRC § 404(a)(7)).	Sections 801(c) and 803 of the Act amend IRC § 404(a)(7). For plan years beginning in 2006, the combined plan deduction limitation does not apply to the extent contributions to one or more defined contribution plans does not exceed 6 percent of compensation of beneficiaries under the plan. Beginning in 2008, the combined plan deduction limitation shall not take into account single-employer defined benefit plans covered under Title IV of ERISA.

ENHANCED DISCLOSURE

	Current Law	The Pension Protection Act of 2006 (the "Act")
In General	In general, multiemployer plans (but not single-employer) must provide participants, beneficiaries, and certain other interested parties an annual funding notice. Generally, the notice must be provided within 9 months after the close of the plan year (ERISA § 101(f)). Generally, a plan sponsor with unfunded vested benefits of more than $50 million (determined on a controlled group basis) must disclose to the PBGC (i) the plan's assets and liabilities and (ii) certain confidential corporate information (i.e., § 4010 information). The information filed with the PBGC may not be disclosed to the public and is not subject to the Freedom of Information Act (ERISA § 4010). Defined benefit plans must annually file a Form 5500 which generally must include an actuarial statement ("Schedule B"). Generally, a Form 5500 is due 210 days after the end of the plan year (i.e., July 31st for a calendar year plan), but an automatic 2-1/2 month extension is permitted (i.e., October 15 for a calendar year plan) (ERISA §§ 103 and 104)). Plans must annually provide a summary annual report ("SAR") to participants within 2 months after the due date of the annual report. In addition, plans required to pay variable rate premiums must provide notice to participants explaining the plan's funding status and limits of PBGC guarantees within 2 months after the	The Act makes various changes to the disclosure rules, including the following: • Beginning in 2008, annual notices that currently are required to be sent by multiemployer plans must also be sent by single-employer plans, disclosing, among other things, the value of the plan's assets as compared to its plan liabilities for the current and 2 preceding plan years, its funding status, its funding policy and allocation of investments, a summary of the rules governing termination, and a description of those benefits guaranteed by the PBGC. In general, the notice must be furnished (in written or electronic form) within 120 days after the end of the plan year to the PBGC, plan participants and beneficiaries, and unions (if any). The Department of Labor is directed to issue a model funding notice within 1 year of enactment (by August 17, 2007) (see § 501(a) of the Act amending ERISA § 101(f) and § 501(c) of the Act). • Beginning in 2008, a plan sponsor (or any member of its controlled group) whose plan is less than 80 percent funded (as calculated after subtracting any credit balances from plan assets and) for the preceding plan year must file with the PBGC (i) the § 4010 information and (ii) information disclosing (a) the plan's liabilities under the general funding rules and assuming the plan is "at-risk" and (b) the funding status of the plan. The PBGC is directed to provide, on an annual basis, a summary report of the

	Current Law	The Pension Protection Act of 2006 (the "Act")
	due date of the annual report (i.e., § 4011 notices) (ERISA §§ 101(a)(2), 104(b)(3), and 4011)).	§ 4010 information to Congress (see § 505 of the Act amending ERISA § 4010(b) and adding new ERISA § 4010(d), (e)). • Beginning in 2008, the plan's actuary must provide an explanation of actuarial assumptions used in projecting future retirements and forms of benefit on the Form 5500 and, in the case of participants covered under 2 or more plans, the plans' funded percentage. Basic plan and actuarial information will be displayed on the DOL's web site within 90 days after the Form 5500 is filed. Plan sponsors are also required to display the information on its own private web site (or intranet) in accordance with DOL regulations. Such basic plan and actuarial information must be filed with the DOL in an electronic format that accommodates display on the DOL's web site (see § 503(a), (b) adding ERISA § 103(f) and amending ERISA § 103(d) and § 504(a) of the Act adding ERISA § 104(b)(5)). • Defined benefit plans subject to Title IV of ERISA are no longer required to furnish an ERISA § 4011 notice (beginning in 2007) or a SAR (beginning in 2008) to participants (see § 501(b) of the Act amending ERISA § 4011 and § 503(c) of the Act amending ERISA § 104(b)(3)). • Generally effective after the date of enactment (August 17, 2006), plans that are subject to a distress or involuntary termination must provide certain information to participants and beneficiaries within 15 days of such request. A plan sponsor may charge reasonable fees for any information provided (see § 506 of the Act amending ERISA § 4041(c)(2) and 4042(c)).

PBGC PREMIUMS

	Current Law	The Pension Protection Act of 2006 (the "Act")
Variable Rate Premiums	Generally, an underfunded plan must pay both the flat-rate premium of $30 per participant per year (increased from $19 by the Deficit Reduction Act of 2005) and a variable rate premium of $9 per $1,000 of unfunded vested benefits (ERISA § 4006(a)(3)). Plans at the "full funding limit," however, are not required to make variable rate premiums. In general, unfunded vested benefits are calculated using a specified interest rate. For 2004 and 2005, the applicable rate was 85 percent of the long-term corporate bond rate using a "spot rate" (without any smoothing)) (ERISA § 4006(a)(3)(E)). A $1,250 per participant premium is imposed on an employer that terminates their pension plan in bankruptcy. This provision expires at the end of 2010 (ERISA § 4006(a)(7)).	Effective for plan years beginning in 2008, the full funding limit exception is repealed (Section 801 of the Act effectively eliminates the full funding limitation). Beginning in 2008, § 401(a) of Act amends ERISA § 4006(a)(3)(E) providing that unfunded vested benefits are generally be determined using the same interest rate for determining plan liabilities (discussed above), except the 3 segment yield curve is based upon "spot" rates (not a 24-month unweighted average). Only vested benefits are taken into account and assets are based on fair market value. The current rules would continue to apply for 2006 and 2007. Section 401(b) of the Act amends ERISA § 4006(a)(7) making permanent the $1,250 per participant premium imposed on employers that terminate their pension plans in bankruptcy, effective upon the date of enactment of the Deficit Reduction Act of 2005.
Variable Rate Premiums for Small Employers	No special rule for small plans.	Section 405 of the Act amends ERISA § 4006(a)(3)(E)(i) and adds new ERISA section 4006(a)(3)(H) providing that, effective for plan years beginning in 2007, the variable rate premium for small plans (with 25 or fewer employees, taking into account all of the employees in the contributing sponsor's controlled group) for each participant is no more than $5 multiplied by the number of participants in the plan as of the close of the preceding plan year. For example, if the plan has 10 participants, the variable rate premium for each participant cannot exceed $50 ($5 x 10), for a plan maximum of $500 ($50 x 10).

	Current Law	**The Pension Protection Act of 2006 (the "Act")**
Interest on Premium Overpay-ments	The PBGC is not required to pay interest on overpayments of PBGC premiums (see ERISA § 4007(b)).	Section 406 of the Act amends ERISA § 4007(b) providing that the PBGC is authorized, subject to PBGC regulations, to pay interest on premium overpayments made after the date of enactment (August 17, 2006). Such interest shall be calculated at the same rate and in the same manner that interest is calculated on the underpayment of PBGC premiums.

PBGC GUARANTEES AND OTHER PBGC-RELATED CHANGES

	Current Law	The Pension Protection Act of 2006 (the "Act")
Shutdown and Unpredict-able Contingent Events	In general, the PBGC guarantees benefits payable under a defined benefit plan up to a specified amount (e.g., the maximum benefit is $3,971.59 per month for 2006) (ERISA § 4022(a)). The PBGC guarantee of an amendment to increase benefits (that was in effect for less than 5 years before termination) is phased in over 5 years from the effective date of the amendment (ERISA § 4022(b)(7)).	Section 403 of the Act adds new ERISA § 4006(a)(8) providing that the PBGC guarantee of shutdown and other unpredictable contingent event benefits is phased in over 5 years from the date the shutdown or unpredictable event occurred. The provision is applicable to benefits payable as a result of a plant shutdown or other similar event occurring after July 26, 2005.
PBGC Guaranteed Benefit for Bankrupt Employers	The amount of the PBGC guaranteed benefit is determined as of the date of plan termination (ERISA § 4022(a)). If plan assets cannot meet plan liabilities upon termination, ERISA prescribes a priority list for the allocation of assets to benefits under the plan, which is determined as of the date of plan termination (ERISA § 4044(a)).	Section 404 of the Act adds new ERISA §§ 4022(g) and 4044(e) providing that if a bankrupt plan sponsor terminates its plan while in bankruptcy, the date the plan sponsor entered bankruptcy shall be treated as the date of plan termination for purposes of determining (i) the PBGC guarantee and (ii) the allocation of assets to annuity benefits that were being paid or could have been paid 3 years before the date of plan termination. The provision is effective 30 days after enactment (i.e., September 17, 2007).
Missing Participants	The PBGC currently maintains a program to find defined benefit plan participants, upon termination of such plan, that generally cannot be located (ERISA § 4050).	Section 410 of the Act amends ERISA § 4050 providing that the PBGC missing participant program is now available for terminating (i) defined contribution plans, (ii) multiemployer plans, and (iii) plans maintained by a professional service employer (which generally are not covered under Title IV of ERISA). The new program shall not be effective until PBGC regulations are issued.

CASH BALANCE AND OTHER HYBRID PLANS

	Current Law	The Pension Protection Act of 2006 (the "Act")
Age Discrim-ination	The IRC, ERISA, and the Age Discrimination in Employment Act ("ADEA") provide that a defined benefit plan may not provide that benefit accruals cease, or the rate of a benefit accrual is reduced, because of the attainment of any age (ERISA § 204(b)(1)(H), IRC § 411(b)(1)(H), and ADEA § 4(i)(1)).	Section 701 of the Act adds new ERISA § 204(b)(5), IRC § 411(b)(5), and ADEA § 4(i)(10). Beginning on or after June 29, 2005, a defined benefit plan does not violate the age discrimination provisions under ERISA, the IRC, and ADEA if under the terms of the plan a participant's accrued benefit is equal to or greater than a similarly situated younger person. A participant's accrued benefit may be expressed as an annuity payable at normal retirement age, a hypothetical account balance as under a cash balance formula, or the current value of the accumulated percentage of the employee's final average compensation as under a pension equity plan formula. Subsidized early retirement benefits (or retirement-type subsidies) are not taken into account in determining the accrued benefit. In addition, benefit offsets permissible under IRC § 401(a) (e.g., Social Security offsets) and pre-retirement indexing of a benefit do not violate the age discrimination rules. The statute expressly provides that the amendments made under this new law shall not be construed to create any inference with regard to whether cash balance or other hybrid plan formulas were age discriminatory prior to June 29, 2005.

	Current Law	The Pension Protection Act of 2006 (the "Act")
Interest Credit	No provision.	New ERISA § 204(b)(5), IRC § 411(b)(5), and ADEA § 4(i)(10) (as added by § 701 of the Act) also provide that existing plans must provide an interest credit no greater than a market rate. This requirement is met if a minimum guaranteed rate or a rate that is equal to the greater of a fixed or variable rate of return is provided. This interest crediting rate cannot be less than zero. Treasury is directed to define the "market rate" of return and prescribe methods for crediting interest to a participant's account. If the interest credit rate is a variable rate, the plan must provide that, upon plan termination, the rate used to determine accrued benefits under the plan shall be equal to the average of the interest rates used under the plan during the past 5 years. This provision is effective with respect to plans in existence on June 29, 2005 and applies to years beginning in 2008, although a plan sponsor could elect early application of these rules for any period after June 29, 2005. For plans in existence after June 29, 2005, this provision is effective when the plan is established.
"Whipsaw"	Under Notice 96-8 and some case law, a lump sum distribution under a cash balance plan may not be less than the present value of the participant's account converted to an annuity commencing at normal retirement age. The present value is determined using the 30-year Treasury rate. Under this guidance, if the plan's interest crediting rate exceeds the 30-year Treasury rate, the plan would be required to pay a lump-sum benefit that is greater than the participant's account balance, an occurrence commonly known as "whipsaw."	Section 701 of the Act adds new ERISA § 203(f) and IRC § 411(a)(13) providing that a cash balance or other hybrid plan will be able to pay the value of the hypothetical account balance or the accumulated percentage of the participant's final average compensation even if the plan's interest crediting rate is not the 30-year Treasury rate (or its equivalent). This provision is effective for distributions made after the date of enactment (August 17, 2006).

	Current Law	The Pension Protection Act of 2006 (the "Act")
Vesting	Defined benefit plan participants must vest under either a five-year cliff (100 percent after five years) or seven-year graded (increasing in 20 percent increments) vesting schedule (ERISA § 203(a)(2) and IRC § 411(a)(2)).	New ERISA § 204(f) and IRC § 411(a)(13) (as added by § 701 of the Act) also provides that benefits under an existing cash balance (or hybrid) plan generally must be 100 percent vested after 3 years of service. This provision is effective with respect to plans in existence on June 29, 2005 and applies to years beginning in 2008, although a plan sponsor could elect early application of these rules for any period after June 29, 2005. For plans in existence after June 29, 2005, this provision is effective when the plan is established.
Conversions	No provision.	New ERISA § 204(b)(5), IRC § 411(b)(5), and ADEA § 4(i)(10) (as added by § 701 of the Act) provide that any conversion from a traditional pension plan to a cash balance plan occurring on or after June 29, 2005 will not be age discriminatory if a participant's accrued benefit after the amendment is no less than the participant's accrued benefit prior to the conversion (under the terms of the traditional pension plan) for years of service prior to the conversion plus the participant's accrued benefit under the cash balance or hybrid plan for years of service after the conversion (i.e., an A + B-type formula). If a participant meets the eligibility requirements to receive an early retirement benefit or retirement-type subsidy under the terms of the traditional pension plan at the time of retirement, the participant must receive such benefit or subsidy under the cash balance or hybrid plan. The statute expressly provides that the amendments made under this new law shall not be construed to create any inference as to the treatment of conversions prior to June 29, 2005.

TRANSFER OF EXCESS PENSION ASSETS

	Current Law	The Pension Protection Act of 2006 (the "Act")
Use of Excess Pension Assets for Retiree Health Benefits	Generally, excess pension assets may be transferred to a separate account in a pension plan to be used to pay qualified current retiree health liabilities on a year-by-year basis. Generally, transfers are limited to the lesser of (i) assets in excess of 125 percent of current liability (as defined under the current funding rules) or (ii) the retiree health liability for the year. Participants must become 100 percent vested in their accrued benefit in the pension plan. The plan sponsor generally must continue to incur retiree health costs for a 5-year period after the transfer equal to costs prior to the transfer. If transferred assets are not used to pay retiree health benefits in the year of transfer (e.g., the transferred amounts exceed current retiree health costs), such amounts must be transferred back to the plan. A 20 percent reversion tax is applied (but the 50 percent reversion tax is not applicable) (IRC § 420).	Section 841 of the Act adds new IRC § 420(f) providing that excess pension assets may be transferred to a separate account in the pension plan to be used to pay retiree health liabilities for not less than 2 and not more than 10 years (the "transfer period"), beginning after the date of enactment (August 17, 2006). Generally, transfers are limited to the lesser of (i) assets in excess of 120 percent of the plan's funding shortfall (if any) and target normal cost (as determined under the new funding rules) or (ii) the sum of retiree health liabilities during the transfer period. For purposes of determining the amount of excess assets, plan assets must be reduced by credit balances. Same vesting rules apply as under current law. Generally the same cost maintenance requirement as current law during the transfer period and 4 years thereafter. Plan sponsors must maintain its defined benefit plan at a funding level at least equal to the 120 percent cushion during the transfer period; otherwise, amounts transferred to pay for retiree health costs must be transferred back to the pension plan. Special rules apply for transfers used to fund collectively bargained retiree health benefits.

MISCELLANEOUS AND PLAN AMENDMENTS

	Current Law	The Pension Protection Act of 2006 (the "Act")
Joint and Survivor Distribut-ions	In general, defined benefit and money purchase plans must provide benefits in the form of a qualified joint and survivor annuity, which generally is an annuity for the life of the participant, and upon the participant's death, an annuity payable to the surviving spouse in an amount that is not less than 50 percent of the lifetime annuity (IRC §§ 401(a)(11) and 417(a)).	Section 1004 of the Act amends IRC § 417(a)(1) and adds new IRC § 417(g) providing that, beginning in 2008, if a plan's mandatory joint and survivor annuity is less than 75 percent, the plan must offer as an option a survivor annuity that equals 75 percent of the annuity payable during the joint lives of the participant and spouse. If the plan's joint and survivor annuity is equal to or exceeds 75 percent, the plan must offer a 50 percent survivor annuity.
In-Service Distributions	Generally, pension payments may not be made until the later of termination of employment or the attainment or Normal Retirement Age ("NRA") (typically age 65). Thus, pension payments may be made to participants who (i) have reached NRA and (ii) continue in employment, if the plan permits them (see Rev. Rul. 74-254).	Section 905 of the Act amends ERISA § 3(2) and adds new IRC § 401(a)(36) permitting pension payments to be made to a participant who (i) attains age 62 and (ii) continues in employment, effective beginning in 2007.
Highest 3 Years of Compensa-tion For § 415 Limit	In applying the IRC § 415 limits to defined benefit plans (annual distributions are limited to the lesser of (i) $175,000 for 2006 (indexed for inflation) or (ii) 100 percent of the participant's compensation for the highest 3 years), proposed IRS regulations would limit compensation to those years when the participant (i) was an active participant in the plan and (ii) had the greatest aggregate compensation from the employer.	Section 832 of the Act amends IRC § 415(b)(3) clarifying that for years beginning after December 31, 2005, compensation earned during a participant's highest 3 years shall not be limited to only those years when the participant was an active participant in the plan, but rather, shall include all years when the participant was employed by the plan sponsor.

	Current Law	**The Pension Protection Act of 2006 (the "Act")**
DB/K Plan	Under current law, a defined contribution and defined benefit plan must be separate. Separate rules unique to a defined benefit and defined contribution must be satisfied by each respective type of plan.	Section 903 of the Act adds new ERISA § 210(e) and IRC § 414(x) which provide for a new type of hybrid plan (generally effective in 2010), which is the combination of a defined benefit plan and a 401(k) plan (the "DB/K Plan"). The defined benefit portion of the plan must provide a minimum benefit of 1 percent of final average compensation per year of service up to 20 years, without regard to whether the participant makes a contribution under the 401(k) portion of the plan. Benefits under the defined benefit portion of the plan must be fully vested within 3 years. The defined benefit portion of the plan is not subject to the top heavy rules. The 401(k) portion of the plan must provide for automatic enrollment at a rate of at least 4 percent of compensation and a matching fully-vested contribution equal to at least 50 percent of the employee's contribution up to 4 percent of compensation. The nondiscrimination rules for 401(k) plans will be deemed to be satisfied for these amounts. Contributions to the 401(k) plan (either higher matching contributions or after-tax contributions) and defined benefit accruals higher than the minimum benefit are permitted, subject to the applicable nondiscrimination rules.
EPCRS	The IRS Employee Plans Correction Resolution System ("EPCRS") allows the sponsor of a qualified plan, a 403(a) or 403(b) plan, or a SEP or a SIMPLE IRA (and on a provisional basis, 457(b) governmental plans) to voluntarily correct failures that may result in adverse tax consequences through various correction programs, including the Self-Correction Program ("SCP") or the Voluntary Correction Program ("VCP") (see Rev. Proc. 2006-27).	Section 1101 of the Act clarifies that the IRS has the authority to (i) continuously update and improve EPCRS, giving special consideration to issues relating to small employers and significant and insignificant failures under the SCP, and (ii) to waive income, excise, or other taxes to ensure that such penalties bear a reasonable relationship to the failure.

	Current Law	The Pension Protection Act of 2006 (the "Act")
Clarification of the QDRO Rules	Generally, benefits provided under a qualified retirement plan may not be assigned or alienated. However, benefits may be assigned to a former spouse (or other alternate payee) pursuant to a qualified domestic relations order ("QDRO"). Special rules govern whether a domestic relations order is qualified (ERISA § 206(d)(3) and IRC § 414(p)).	Section 1001 of the Act directs the DOL to issue, within 1 year after the date of enactment (by August 17, 2007), regulations clarifying the status of certain domestic relations orders, including that a domestic relations order will not fail to be a QDRO solely because it is issued after or modifies a previous domestic relations order or QDRO, or because of the time at which it is issued.
Reporting Simplificat-ion	Plan administrators are required to annually file a Form 5500 with the DOL providing plan-specific information. In general, one-participant plans with plan assets of $100,000 are exempt from filing and plans with 100 or fewer participants are subject to simplified reporting (see generally ERISA § 103)).	Under § 1103 of the Act, Treasury and the DOL are directed to (i) simplify the Form 5500 annual reporting rules for plans with fewer than 25 employees and (ii) exempt one-participant plans with less than $250,000 in assets from filing a Form 5500 (generally effective beginning on or after January 1, 2007).
Plan Amendments	In general, when IRS prescribes otherwise, discretionary plan amendments must be made by the end of the plan year and required amendments by the end of the tax filing deadline for the plan year (see IRC § 401(b)).	In general, plans must be amended on or before the last day of the first plan year beginning on or after January 1, 2009 to effectuate the changes made by the Act (or as required to implement applicable IRS regulations) (see § 1107 of the Act).

