

# THE ASPPA Journal

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## WASHINGTON UPDATE

### In Search of Relief *What's a DB Plan Sponsor Supposed to Do?*

by Judy A. Miller, MSPA

**W**hen the market plummeted in September 2008, participants in 401(k) plans saw account balances drop dramatically. Benefits for the more than 40 million workers and retirees covered by defined benefit pension plans were protected from the market downturn, but the employers that sponsor those plans were not. Assets for defined benefit plans were invested in the same falling market as 401(k) plan assets, resulting in dramatically higher minimum contribution requirements. ASPPA's Government Affairs Committee and the ASPPA College of Pension Actuaries (ACOPA) have been working toward obtaining funding relief for defined benefit plan sponsors. Legislative and regulatory actions have cushioned the blow for many plan sponsors, if only temporarily. However, many are still struggling to meet current funding obligations, and others are anticipating serious difficulty in the upcoming year if legislative funding relief is not forthcoming.

#### Relief to Date

The Worker, Retiree and Employer Recovery Act of 2008 (WREERA) provided limited funding relief to plans that were not subject to Deficit Reduction Contribution requirements in 2007. It also protected participants from accrual freezes that otherwise may have occurred as a result of the market plunge (see ASPPA *asap* No. 08-44). A March 2009 Special Edition of *Employee Plans News* provided another tool for dealing with the market downturn by permitting the use of a lookback period for the full yield curve. The full yield curve is more sensitive to interest rates because it is based on a one-month average of interest rates instead of the two-year average used for segment rates. Interest rates peaked in October 2008, so adopting the full yield curve with a lookback to the October 2008 rates

substantially reduces the target liability and target normal cost for plans with a December 31, 2008 or January 1, 2009 valuation date. The publication also anticipated the inclusion in final regulations of automatic approval for a change in interest rate method for 2009 to facilitate adoption of the full yield curve. Many plans with January 1, 2009 valuation dates were hesitant to adopt the full yield curve without assurance that a change to the smoothed segment rates can be made in 2010. Since final regulations will not be effective until 2010, there is an expectation that switching back to the segment rates in 2010 will not be a problem, but that cannot be confirmed at the time of this writing.

#### Proposals for Additional Funding Relief

There is bipartisan support for funding relief. Minority Leader Boehner included relief provisions in HR 2021, the Savings Recovery Act of 2009. Relief provisions were also included in HR 2989, the 401(k) Fair Disclosure and Pension Security Act of 2009, which was passed by the House Education and Labor Committee on June 24, 2009. HR 2989 includes a "two plus seven" relief provision, whereby an employer could pay only interest on a plan's 2008 losses for two years and then begin the seven-year amortization of those losses at the end of the two-year period. This relief provision was added to the bill by amendment during the Committee markup of the bill. [Rep. Guthrie (R-KY) had proposed an amendment that also included an expansion of the 10% corridor around market value to 20%, but he agreed to drop the corridor expansion to get Chairman Miller's support for the two plus seven relief.] Congressman Pomeroy, who sits on the House Ways and Means Committee, released a discussion draft of funding relief proposals in June and is expected to file a bill when Congress returns in September.

*If you have clients who need funding relief, contact your representatives (and encourage your clients to contact their representatives) and tell them the need for relief is urgent.*

### Outlook

ASPPA's Government Affairs Committee and ACOPA are working with other organizations to get Congress to enact funding relief this fall. Recently, ACOPA joined with more than 30 other organizations in writing a letter to Congress, urging them to provide needed relief. ASPPA's Government Affairs staff is also meeting with members of Congress and their staff to convey the message that employers that have been "good guys" and provided defined benefit plans for employees need relief to save benefits, jobs and, in some cases, the business itself. The message is being heard. However, you can turn up the volume. If you have clients who need funding relief, contact your representatives (and encourage your clients to contact their representatives) and tell them the need for relief is urgent. We do not expect a stand-alone pension bill to move through Congress this year, so relief also will need another moving legislative vehicle on which to ride. The most likely possibility is legislation that modifies the estate tax rules before the estate tax repeal is effective for 2010. When that train starts moving, we are working to see that funding relief is on board. ↗



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