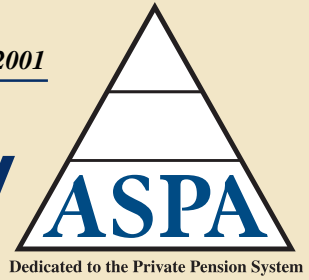


# THE Pension Actuary



## Amending Qualified Plans for GUST



by Lanning R. Hochhauser, APM

### WASHINGTON UPDATE

#### Pension Reform Finally Passes – Why Was It So Hard?

by Brian H. Graff, Esq.

After almost five years of work, pension reform has finally become law. Can you believe it? A summary of this \$50 billion landmark legislation is included along with this issue of *The Pension Actuary*. It is part of the larger Economic Growth and Tax Reconciliation Act of 2001.

It was touch and go there for a while, but in the late hours of the conference the conferees agreed to include the pension package. Special thanks are owed to Senator Baucus (D-MT), Senator Grassley (R-IA), and Representative Portman (R-OH) for not backing down to the Republican leadership who wanted to use the \$50 billion for estate tax repeal.

Please note, believe it or not, that the entire tax bill, including pension

*Continued on page 10*

**A**s we approach mid-year 2001, some practitioners are asking when they must amend their qualified plans for GUST. The answer depends upon the type of plan adopted – individually designed, master and prototype (M & P), or volume submitter – and upon the individual sponsor of the M & P or volume submitter plan adopted. The GUST amendments must incorporate the various provisions required by the General Agreement of Tariffs and Trade (GATT), the Uniform Services Employment Reemployment Rights Act of 1994 (USERRA), the Small Business Job Protection Act of 1996 (SBJPA), the Taxpayer Relief Act of 1997 (TRA '97), and the Internal Revenue Restructuring and Reform Act of 1998 (RRA).

The period during which an employer sponsoring a qualified plan must bring the plan into compliance with the Internal Revenue

Code is called the Remedial Amendment Period (RAP), and is defined in the Internal Revenue Code (the Code) at §401(b), and

### IN THIS ISSUE

- Fiduciary Responsibilities for Managing 401(k) Plans and Their Investments **3** • Structure for Success **4** • An Honorable Profession **6** • ASPA March on the Hill **7** • A Plea for Communication About Communications! **8** • Welcome New Members **9**
- International Congress of Actuaries Meeting **13** • Los Angeles Benefits Conference **21** • ASPA's 2001 Advanced DC & Form 5500 Workshops **21** • 2001 ASPA Annual Conference **22** • The First Annual 401(k) Sales Summit **22** • Focus on CE **23** • Focus on ABCs **24**
- Focus on Technology **25** • PIX Digest **26** • New JBEA Website **27**
- Bulletin Board **28** • Calendar of Events **28**

further explained in the attendant regulation.

#### *401(b) Certain Retroactive Changes In Plan*

A stock bonus, pension, profit-sharing, or annuity plan shall be considered as satisfying the requirements of subsection (a) for the period beginning with the date on which it was put into effect, or for the period beginning with the earlier of the dates on which there was adopted or put into effect any amendment which caused the plan to fail to satisfy such requirements, and ending with the time prescribed by law for filing the return of the employer for his taxable year in which such plan or amendment was adopted (including extensions thereof) or such later time as the Secretary may designate, if all provisions of the plan which are necessary to satisfy such requirements are in effect

by the end of such period and have been made effective for all purposes for the whole of such period.

Generally the Remedial Amendment Period ends on the last day by which the employer may file its return for the taxable year in which the plan or amendment is adopted, including extensions.

Traditionally, the Remedial Amendment Period (RAP) has been extended after the passage of major tax legislation, in order to provide the Internal Revenue Service time to publish guidance and for employers to develop strategies that consider the changes in the law. Additionally, third party administrators, consultants, and attorneys must be able to plan for their staffing needs. The dilemma many are facing now is when to add staff to ensure there is adequate time to amend all the qualified plans for which they are responsible before the end of the RAP.

The Secretary of the Treasury has been given the authority to extend the RAP from time to time and has done so in the case of the GUST Remedial Amendment Period. Revenue Procedure 2000-27 has set the end of the GUST Remedial Amendment Period as the last day of the first plan year beginning on or after January 1, 2001.

For government plans, the TRA '86 remedial amendment period for Sections 401(a)(4), 401(a)(26), 401(k), 401(m), 410(b), and 414(s) of the Code, which had previously been extended until the last day of the first plan year beginning on or after January 1, 1999 (Notice 96-64), has been further extended under Revenue Procedure 2000-27 until the last day of the first plan year beginning on or after January 1, 2001.

For nonelecting church plans (Section 410(d) of the Code), the TRA '86 remedial amendment period was extended until the last day of the first plan year beginning on or

*Continued on page 11*

*The Pension Actuary* is produced by the Executive Director of ASPA and the Pension Actuary Committee. Statements of fact and opinion in this publication, including editorials and letters to the editor, are the sole responsibility of the authors and do not necessarily represent the position of ASPA or the editors of *The Pension Actuary*.

The purpose of ASPA is to educate pension actuaries, consultants, administrators, and other benefits professionals, and to preserve and enhance the private pension system as part of the development of a cohesive and coherent national retirement income policy.

ASPA members are retirement plan professionals in a highly diversified, technical, and regulated industry. ASPA is made up of individuals who have chosen to be among the most dedicated practicing in the profession, and who view retirement plan work as a career.

---

#### **Editor in Chief**

Brian H. Graff, Esq.

#### **Pension Actuary Committee**

Chris L. Stroud, MSPA, Chair  
Amy L. Cavanaugh, CPC, QPA, QKA  
Constance E. King, CPC, QPA  
Sheila L. Parker, QPA  
Robert M. Richter, APM  
Daphne M. Weitzel, QPA

#### **Editors**

Chris L. Stroud, MSPA, and Jane S. Grimm

#### **Associate Editors**

Jolynne M. Flores and Troy L. Cornett

#### **Technical Review Board**

Lawrence Deutsch, MSPA  
Kevin J. Donovan, MSPA  
David R. Levin, APM  
Margorie R. Martin, MSPA  
Duane L. Mayer, MSPA  
Nicholas L. Saakvitne, APM, Esq.

#### **Layout and Design**

Alicia Hood

## **ASPA Officers**

### **President**

George J. Taylor, MSPA

### **President-elect**

Craig P. Hoffman, APM

### **Vice Presidents**

Stephen L. Dobrow, CPC, QPA  
Joan A. Gucciardi, MSPA, CPC  
Stephen H. Rosen, MSPA, CPC

### **Secretary**

Gwen S. O'Connell, CPC, QPA

### **Treasurer**

Scott D. Miller, FSPA, CPC

### **Immediate Past President**

John P. Parks, MSPA

### **Ex Officio Member of the EC**

Bruce L. Ashton, APM

American Society of Pension Actuaries, 4245 North Fairfax Drive, Suite 750, Arlington, Virginia 22203  
Phone: (703) 516-9300, Fax: (703) 516-9308, E-mail: [aspa@aspa.org](mailto:aspa@aspa.org), World-Wide Web: [www.aspa.org](http://www.aspa.org)

© ASPA 2001. All rights reserved. ASPA is a non-profit professional society. The materials contained herein are intended for instruction only and are not a substitute for professional advice.

# Fiduciary Responsibilities for Managing 401(k) Plans and Their Investments

by Fred Reish, APM, and Gail Reich



**T**his article, third in a series of articles designed to address the changing face of plan administration, focuses on ERISA fiduciary responsibilities for operating a 401(k) plan.

In today's world, employers who are unsophisticated or overly cost-conscious tend to view plan documents as word processing forms, plan administration as pushing the right button on a computer, plan design as "fill-in-the-blank," and 401(k) investments as a group of mutual funds.

They do not understand the difficulty – or the importance – of properly designing and operating a 401(k) plan. As a result, they do not appreciate the value of advice from pension administrators, consultants, and attorneys. Because of their unwillingness to seek or pay for that advice, their plans are often poorly designed to meet their business objectives and the needs of their employees. The administration of their plans may be inaccurate and incomplete, frustrating the efforts of the employer to provide a valued employee benefit.

On the other hand, sophisticated employers realize that, to meet their needs and those of their employees, plans cannot be bought "off the shelf." The plans must be designed to fit their workforce and their budget. Plan documentation must be tailored to the design of a plan.

In the participant-directed environment, the key to unlocking the value

of a plan – that is, to providing superior retirement benefits for the employees – is the selection and monitoring of the investment options offered to the employees, including the removal of underperforming funds. These employers know that competent plan administration is important to employee satisfaction. It requires knowledge and effort to properly design, document, administer, and invest a 401(k) plan.

In other words, sophisticated employers know that a 401(k) plan must be properly set up and operated with the benefit of professional and technical advice.

## The Fiduciary Requirement

ERISA imposes on employers the fiduciary responsibility to prudently operate their plans and manage the investments. While large companies have financial executives and in-house benefits staffs, small and mid-sized companies must rely on advice from their third party administrators, consultants, brokers, and attorneys.

In recent years, internet sites have been developed to assist employers in setting up, administering, and investing 401(k) plans. These websites raise the question of whether 401(k) plans can be intelligently designed, admin-

istered, and invested without the benefit of assistance from pension experts.

Expressed in legal terms, that question might be: Can an employer fulfill its fiduciary responsibilities under ERISA to properly administer a 401(k) plan and to prudently select and maintain investments without the benefit of professional advice?

This article discusses some of the most important fiduciary responsibilities under ERISA and the difficulty of complying with those requirements. While the article focuses on the need for advice, it does not address whether employers will want that advice in person, over the telephone, or via the internet. However, the article does point out the need for the advice to be proactive – that is, in many cases employers must be initially alerted to potential plan issues (and their fiduciary responsibilities), and then be given advice about the solutions.

The design of a plan is considered an employer, or "settlor," function – as opposed to a fiduciary function. As a result, this article does not discuss design issues, other than to say that a well-designed plan can maximize the cost-effectiveness of the plan, the benefit levels of the top employees, and the perceived value to all of the employees. However, one of the leading internet bundled providers – a mutual fund company –

*Continued on page 14*

# Structure for Success

## A Concentric Approach to Business Management for Retirement Planning Firms

by Carol Sears, FSPA, CPC, and Chris Stroud, MSPA



**T**he establishment and ongoing management of a retirement planning firm in today's rapidly changing world can be a monumental task. However, with an effective structure for success in place, the task becomes manageable and the chances for success increase exponentially. This article sets forth a "concentric" approach to business management. The process begins with the definition of the innermost circle, which contains the purpose and values that are of the utmost importance to you and your firm – the "Core Ideology." Create this definition first – the "Core Ideology." This is not a new concept. In fact, one of Covey's popular "Seven Habits" portrays the same concept using different words – "Begin with the end in mind." Sadly however, many firms spend little or no time going through this process, and, as a result, they struggle and never reach their true potential because they never clearly define what it is they want to be.



The term "concentric" is a key concept in this business management plan. As the additional circles are developed – representing Staff and Personal Growth, Policies and Procedures, and Marketing and Business Growth – the circles are carefully added, making sure that the "core" remains in place as the center of the firm's universe. Just as the invention of the wheel revolutionized history, the utilization of the concentric circles can revolutionize the way you operate your business.



**Core Ideology**

Whether you are redefining your existing operations or establishing a firm or division from scratch, the first step in the process is to create the "Core Ideology." This ideology is comprised of two components: Core Purpose and Core Values. The "Core Purpose"

identifies what your business focus will be and what services will be provided. The Core Purpose statement should be clear and concise and written in a manner that can be easily communicated to external sources, business prospects, customers, and your employees. The "Core Values" represent the more intrinsic means by which you will further define and hone your Core Purpose.

The Core Values statement is for internal use only and should contain stated objectives that can easily be communicated to the employees. Although the Core Values statement is not typically communicated in form to external sources, many of the concepts in the statement should easily be "perceived" by others as they do business with you or form alliances with your firm. A current or prospective employee should get a "feeling" and a deeper understanding about the firm upon reading the Core Purpose and Core Values statements. Published mission statements for companies should be developed directly from the contents of the Core Ideology components.

Creating the Core Ideology and tending to core issues are the most important jobs of the retirement planning firm's executive team. The primary tasks of the executive team include:

- Strategic thinking
- Direction setting
- Staffing considerations

- Operational oversight
- Policies and guidelines
- Business development

If the time, energy, and creativity of the executive team are focused on these functions, then the “machine,” which is the whole of the firm combined, will produce the desired outcome – to be productive and profitable and able to effect changes quickly when needed. To be successful, the firm must be able to move assertively and to stimulate progress, while always preserving its nonnegotiable Core Ideology. In other words, the Core Ideology becomes the “inner circle” or “hub” around which the entire machine spins, and the members of the executive team become the “keepers of the vision.”

Effective communication of the Core Ideology results in a shared vision across the firm. This vision should be inherent in the way every job of every staff person is approached. The vision also becomes the understanding that guides all levels of decision-making and affects the way day-to-day operations are handled. Difficult decisions of whether to say “yes” or “no” can often be made easily after careful review of the Core Ideology.

**An example of Core Ideology follows:**

**Core Purpose**

*We are a select group of retirement plan actuaries, compliance advocates, third party administrators, and consultants utilizing our extensive experience, specialized communication skills, and technical expertise for the installation, administration, compliance testing, reporting, actuarial applications, participant distributions and other maintenance of select types of qualified retirement plans.*

**Core Values**

*We are responsible for many types of plans, although our specialty lies in defined benefit, boutique defined contribution and high profile plans that require special consideration because of combined plan situations, unique calculations or other actuarial distinctions. We will provide high quality, timely, and uniquely client-responsive services at a profit. We will be the relationship manager for our clients and their plans assigned to us. We will be the communication hub for our clients and their plans with regards to investment, recordkeeping, and tax advisors. We will embrace the fast-paced ever-changing aspects of our industry with strong commitments to a technologically advanced environment and to professional growth. We will work hard, yet we will maintain a casual and cooperative working environment. We will add value to the lives of our customers, plan participants, and our community as a whole.*

**Sample considerations as you develop the Core Purpose:**

- What services will you provide?
- What related services won't you provide?
- What alliances with other service providers do you anticipate?
- What expertise levels do you need?
- What is the minimum and maximum sized plan you will handle?

**Sample considerations as you develop the Core Values:**

- What will differentiate your firm from other firms?
- Do you prefer “boiler-plate” designs to more rapidly achieve mass?
- What are your firm's customer service goals?

- How do you want your customers to view your firm as a business partner?
- Must your firm be profitable or will it be subsidized by other related business efforts?
- What will be the key features of the working environment within your firm?
- Will your firm be leading edge or traditional?
- What contributions to society will your firm make?

One effective tool that can be used to develop your Core Ideology is the book *The Brand Called You*, by Peter Montoya and Tim Vandehey. Although the book focuses on personal marketing for financial advisors, many of the same concepts set forth in the book apply to the retirement planning marketplace and the development of your Core Values. For instance, they discuss “positioning” (analogous to creating the Core Ideology) as “driving a stake in the ground that says what you stand for and how you want your prospects to perceive you.”



**Staff & Personal Growth**

The second step of structuring your business for success is assembling a talented and effective staff. The executive team should keep the Core Ideology firmly in mind as it determines professional, mid-level, and support staffing needs. Since the staff is essential to the firm's ability to realize its Core Purpose, the Staff & Personal Growth process becomes the second circle and surrounds the inner circle containing

*Continued on page 17*

# An Honorable Profession

by Alan J. Stonewall, FSPA



If you are a credentialed member of ASPA – congratulations! You are a member of an honorable profession. How important is it to you to be a member of an honorable profession? You might just be surprised at exactly how important it is, or at least should be, to you.

## ASPA Deserves Credit

ASPA, as an organization, deserves a lot of the credit for the professional recognition of its members. Remember, for years we were known as the “one-question” actuarial society. Answer one question right and you, too, can be an actuary! Today, that story is ancient history.

*Editor's Note: If you are curious about how the “one-question” story originated, refer to the article in the May-June 2000 issue of *The Pension Actuary* titled “Recollections of an Old Timer...”, by R. William Dozier, Jr., FSPA, CPC.*

Today, you cannot become a credentialed member of ASPA without having passed a series of examinations, and you must also have qualifying relevant experience. The FSPA designation requires at least six exams; the MSPA designation requires at least three exams; the CPC designation requires five exams; the QPA designation requires five exams, and the new QKA designation requires five exams.

Not only must a candidate pass examinations and demonstrate relevant experience to be a member of our society, the new member must also:

- Earn 40 or more continuing education credits every two years

- Obtain at least two letters of recommendation from existing ASPA members
- Abide by the ASPA Code of Professional Conduct

Additionally, ASPA actuaries must follow the Actuarial Standards of Practice that apply to all members of a recognized US actuarial organization. Clearly and appropriately, there is much more to being an ASPA professional today than answering a one-question exam.

## Why is this Important?

Being part of an honorable profession is important because it is valuable to you and valuable to the many public segments we serve. Being a credentialed member of ASPA directly or indirectly makes your paycheck bigger. For some of us, the initials after our name have allowed us to more easily get to the successful positions we enjoy today. The private pension system is stronger and more financially viable today, in part because of the efforts of ASPA and its members.

Why has ASPA been able to have a significant influence on the shape of our industry? In terms of numbers and voters, we are relatively small. However, our voice has been heard because, for years, we have been recognized by lawmakers and

regulators as pension professionals – not salesmen, not narrowly focused lobbyists, and not academics. When our leaders speak, they represent the thoughts of a respected profession. Equally as important, we've had some very impressive leaders!

ASPA's recent involvement with proposed legislation to allow financial institutions to offer investment advice to plan participants despite the existence of a conflict of interest is a good example of this. ASPA raised serious concerns about the legislation and its potential impact on people's confidence in the private pension system. Congressman Andrews (D-NJ), ranking Democrat on the ERISA Subcommittee of the House Education and Workforce Committee, asked ASPA for assistance on this issue because “ASPA is the only organization without an ax to grind that has the expertise to help.”

Other aspects of our profession continue to grow in influence. The National Association of Insurance Commissioners, an organization that has tremendous influence on the insurance industry, has asked for guidance from the Actuarial Standards Board on a number of topics. Recently, the Financial Reporting Council of the American Academy of Actuaries met with the Financial Accounting Standards Board to jointly discuss proposed accounting standards that could affect aspects of our industry. Ten years ago, these meetings would not have taken place.

The public also benefits from our professionalism. One obvious example is the positive influence we

have had on pension laws and regulations, influence we might not have been able to exercise without recognition as a profession. Another example is the confidence that a pension plan participant can have that the actuary signing the Schedule B for his/her pension plan is properly trained, has maintained his/her professional education, and is subject to a Code of Professional Conduct which includes, among other things, a requirement that the actuary only practice in areas in which the actuary is qualified by reason of training and experience.

### Is it Worth the Cost?

Maintaining an honorable profession does not come cheaply. Part, if not most, of every dollar of dues we pay to ASPA supports our professional activities. Take a look at the ASPA Yearbook. ASPA Officers, Board, and members devote an in-

credible amount of time to many volunteer duties and activities. The Yearbook lists sixteen committees of the Society. Many of the sixteen committees are directly tied to the nurturing and maintenance of our professional efforts. Additional portions of the Yearbook focus on other significant professional aspects regarding who we are.

ASPA also supports the professional activities of the entire US actuarial profession through our financial and volunteer support of the American Academy of Actuaries and the Council of Presidents. We have representatives on a number of intersocietal groups, such as the Academy's Council on Professionalism and the Joint Committee on the Code of Professional Conduct.

Have you ever attended an ASPA meeting or other professional meeting to maintain your continuing

education requirements? Was the learning experience worthwhile? That is one example of the cost of being a professional.

Is it worth the cost? What is the real value of being part of an honorable profession? I don't think the answer is measurable in dollars and cents. I am certain that answers may vary from member to member. However, I hope we all agree that we are members of an honorable profession, and therefore, ultimately, we all benefit – whatever the cost. ▲

---

---

*Alan J. Stonewall, FSPA, is a past President of ASPA and currently serves as chair of ASPA's Harry T. Eidson Founders' Award subcommittee. He also serves as chair of the Actuarial Standards Board. He is currently the Director, Human Capital Group at Deloitte & Touche, LLP. He resides in Portland, Oregon.*

## ASPA March on the Hill

**SAVE THE DATE – Tuesday, October 30, 2001  
Annual Conference**

It's ASPA time again on Capitol Hill. Join over 250 of your fellow ASPA members who will go to Capitol Hill to meet with congressional representatives to discuss the issues key to your private pension professional field. Remember, you're the person your representative wants to talk to because you represent votes back home!

In 1999, over 250 ASPA members, representing every state, met with their congressional representatives to discuss pension issues. You can read about their experiences in the July/August 1999 issue of *The Pension Actuary* on ASPA's website. Even the most reluctant marcher had a great time

and came back feeling energized about how they made a difference.

In 2000, we couldn't March to the Hill because of the presidential and congressional elections. It has been two years since your representatives have seen you and pension issues are hotter than ever. They will welcome your input and your visit.

ASPA's March on the Hill is simple:

- Register to March as you register for Annual Conference;
- All Marchers will be briefed prior to the March on key private pension issues to discuss with your congressional representative;
- All Marchers will meet for a rally on the morning of the March for a

final briefing of issues, meet with other Marchers from your district and/or state, get an ASPA cheer send-off; and

- You won't miss any sessions or CE credit, since the March will be done over lunch.

ASPA will provide box lunches and bus transportation to and from the Hill. ASPA staff will take care of making all appointments, setting up information folders, and all other logistics. We just need you to come and talk about what is important to you as an ASPA member; believe it or not, your representatives are delighted to have you come!



# From the ASB: A Plea for Communication About Communications!



by Ken Hartwell

**T**he second exposure draft of the proposed Actuarial Standard of Practice (ASOP) on Actuarial Communications, approved for exposure by the Actuarial Standards Board (ASB) at its March meeting, is on its way to the actuarial profession for comment. As explained below, this proposed ASOP already has an unusually long history, and if it becomes necessary to issue a third exposure draft, it will likely break some records. However, we are not in the business of breaking records. Our goal is to promulgate ASOPs that provide useful and practical guidance for actuaries, and to achieve this, we need your input. This article is partly to explain the long history to date, but primarily to ask that each actuary read the exposure draft, think about how it would affect the work you and your staff do in your particular practice area, and then send us your comments: the more the merrier!

The proposed ASOP, in contrast to many other standards that affect the work we do only once or a few times each year, provides guidance that is relevant to the activities of many actuaries, day-in and day-out.

Each member of the ASB has liaison duties (one primary, the other secondary) to two ASB committees or task forces. In my case, my primary liaison responsibility is currently to the General Committee, which deals with ASOPs that cut

across the four practice areas: Casualty, Health, Life, and Pensions. Bill Cutlip, who succeeded Bob Stein, has chaired this committee since January 2000. The General Committee was established in 1997, and in that same year it began work on the proposed ASOP, which is intended to replace Interpretative Opinion No. 3, *Professional Communications of Actuaries*. The first exposure draft was issued in November 1998, with a comment deadline of March 1,

1999. Twenty-three comment letters were received, which is about the average, but many of these comment letters were quite long and dealt with a variety of aspects of the exposure draft. Interestingly enough, a number of the comment letters were from distinguished actuaries who have served the profession as volunteers over long periods in various actuarial organizations, including two former chairpersons of the ASB.

What was particularly impressive about these comment letters was the extent to which they were helpful to the committee and to the ASB in moving forward to a second exposure draft. Such a draft was presented to the ASB at its December 1999 meeting, but in view of developments with the then proposed revisions to the Code of Professional Conduct (Code), we decided to postpone sending a second exposure draft to the membership for comment. The new Code was adopted by the five US-based actuarial organizations effective January 1, 2001, and we then proceeded with the second exposure draft, which has a September 15, 2001 comment deadline.

Some actuaries may feel unmotivated by this long delay, and in order to counter any such feelings



and thus obtain all the comments we possibly can, this article gives some additional background. During 2000, the Joint Committee on the Code of Professional Conduct was presenting its recommendations for a revised Code, and it went through a couple of iterations of those Code requirements that affect actuarial communications. The ASB provided some comments on the proposed Code language and these resulted in certain changes being made. In the meantime, the ASB posted a revised draft of this ASOP on the ASB website as a discussion draft, which was the first time that had been done. Quite frankly, we were disappointed that no comment letters were received. Now you have another chance to let us know your views on this subject.

As explained in Appendix 2 of the second exposure draft, one of the major changes from the first exposure is the inclusion of oral communications, which are now explicitly covered by the Code. However, we have gone to considerable lengths not to impose unreasonable requirements on actuaries – so once more, tell us if we have succeeded.

If by any chance you have misplaced your hardcopy of this second exposure draft, it is available on the Academy website ([www.actuary.org](http://www.actuary.org)) by clicking on “Actuarial Standards of Practice” and then on “Exposure Drafts.” Alternatively, if you do not have access to the internet, call the ASB office and another copy will be mailed to you.

In conclusion, don’t leave it until August – you may miss the deadline and deprive us of the benefit of your opinion. Take a critical look now, before all the summer activities start in earnest, and send in those comments, please! ▲

## WELCOME NEW MEMBERS

Welcome and congratulations to ASPA’s new members and recent designees.

### CPC

Sandra L. Carpenter  
Stacy M. Coffee  
Sheryl L. Reed

### QPA

Kristi S. Allender  
Matthew J. Calamita  
Paul F. Dolan  
Stephen L. Douglass  
Cheryl A. Durnwald  
Steven R. Eckroth Jr.  
Nancy D. Higgs  
Edwin T. Ilano  
Kelli J. Johnson  
Erik C. Juhl  
Kaye Mitchell  
Timothy E. Norman  
Staci D. Sloan  
Mary Snyder  
David N. Tenenbaum  
Lisa Thompson  
Carole Trice  
Jane A. Vaske  
Susan L. Williams  
Janiele J. Worswick

### QKA

James A. Aldridge  
Diane M. Armstrong  
Sean K. Arnold  
Joseph G. Barmess Jr.  
Marcia G. Bartels  
Julie Brown  
Laura J. Browne  
Teresa L. Brumfield  
Stephen L. Caruthers  
Shannon R. Critchfield  
Lisa A. Crowell  
Tiffany L. Davis

Martha A. DeAngelis  
Steven R. Eckroth Jr.  
Denice M. England  
April Lyn Golden  
Matthew L. Grabeel  
Anne L. Hannon  
Amy R. Harren  
Stacy S. Heistand  
Patrick G. Henn  
Leslie A. Hutchinson  
Barbara B. Leadem  
Lynn L. Lehmann  
Teresa Leonard  
Carol J. Lipman  
William A. Magnuson  
Catherine M. Meyer  
Catherine Miller  
Stanley D. Milovancev  
Neil J. Moody  
Donald W. Moore  
James R. Nemeth  
Mary F. Noor  
Timothy E. Norman  
Teresa L. Olivier  
Kimberly L. Oros  
Robert D. Oros  
Susan H. Perry  
John R. Pittman  
Rebecca S. Poetker  
Sharon M. Powell  
Steven W. Pulley  
Sheryl L. Reed  
Kim L. Robertson  
Vicki J. Rockhill  
Albert J. Romito  
Sherry Salzman  
Faith L. Schnell  
Staci D. Sloan  
Michael F. Smith  
Scott J. Swain

Margaret Moeller Szumski  
Susanne M. Timblin  
Bridget Toomey  
Robert J. Turner  
Sara Diane Turner  
Jane A. Vaske  
James J. Walker  
Em B. Willoughby  
Wendy L. Wilson  
Donna L. Wolfson  
Janiele J. Worswick

### Affiliate

Kristy Bayless  
Patrick Bivins  
Therese M. Bowdren  
Betty M. Caldwell  
Janet Dailey  
Mark A. Davis  
Karen Dewerff  
Michelle L. Greenwald  
Shawn P. Gunst  
Patricia T. Hancock  
H Eileen Howard  
Brad H. Hyde  
James M. Izett  
Martin J. Jacobs  
Douglas L. Johnston II  
Mitchell A. Kurtz  
Christopher T. Lown  
Patricia Matthews  
Michael R. Miranda  
Linda H. Parker  
Michele D. Phillips  
Toby Raich  
Charles C. Repsher  
Lewis M. Rowe  
E.W. Sanders III  
Marianne Snow  
Michael E. Wojtaszek

*Ken Hartwell is a member of the Actuarial Standards Board, and a former Vice President for Professionalism of the American Academy of Actuaries. Born and educated in South Africa, Ken came to the USA in 1984 and is a consulting actuary*

*with MMC Enterprise Risk (formerly part of William M. Mercer) in Boston. Ken is a Fellow of the Institute of Actuaries, a Fellow of the Society of Actuaries and a member of the American Academy of Actuaries.*

## Washington Update

reform, reverts to current law after December 31, 2010. This was done in order to satisfy the Senate budget rules. At this point, no one is precisely sure how this will work (this has never happened before), particularly with respect to limit increases. Obviously, ASPA's Government Affairs Committee will be working hard to ensure that these critical law changes never expire.

Also, a number of important Title I and Title IV changes had to be dropped for procedural reasons. These include reduced PBGC premiums for new small business plans and a cap on the variable rate premium for plans with less than 25 employees. ASPA's Government Affairs Committee will be looking for another vehicle to enact these provisions.

ASPA members have been asking me, "Why has it been so difficult to get this legislation enacted? It's popular, it seemed to pass the House of Representatives overwhelmingly about once a week, and, of course, as we all know, it's great policy."

Like everything here in Washington, the answer is both complicated and political. But most of all, it has been terribly frustrating. Nonetheless, despite the pain, the victory is very sweet.

### A Victim of Our Success

To some degree, and this can only happen in Washington, pension reform became too popular. The name of the game in Washington is to obtain a political advantage. The Republican leadership wants to "beat" the Democratic leadership and vice versa. For example, repealing the estate tax was clearly a win for Republicans. There was no political advantage to passing pension reform. It was supported by virtually everyone representing both political persuasions. The US Chamber of Commerce, the National Fed-

eration of Independent Businesses, the AFL-CIO, and AARP endorse the legislation. That is why it always passed the House of Representatives overwhelmingly (most recently, 407-24). Neither side got a win if pension reform was passed. Thus, pension reform was not a priority for either leadership. It simply was not "politically sexy."

### Pigs at the Trough

A constant in Washington is that there are always too many pigs and not enough feed. That is especially true when it comes to tax legislation. Under the budget reconciliation instruction passed by the House, the tax bill could not exceed \$1.35 trillion. Rest assured, there were tax proposals out there that, in total, far exceeded that number. We fought for our lives, just like other groups, to make sure that we got in. A good example was the corporate research and development tax credit. It was not included in the \$1.35 trillion. The credit is set to expire at the end of 2004. To extend it permanently costs \$47 billion. The pension package costs \$50 billion. Not surprisingly, they were trying to convince the conferees to make a trade. Also, not surprisingly, the corporations pushing this are very powerful and make millions of dollars a year in campaign contributions. We obviously fought this very hard. Although, the thought of pushing aside the retirement security of millions of Americans in favor of a corporate tax subsidy may seem absurd to us, rest assured it could have happened. The R&D credit was just one example. There were many others.

### The Clinton Legacy

Unfortunately, we missed our ideal opportunity last fall. Senator

Roth was still chairman of the Senate Finance Committee, and Clinton signaled Congress that he would agree to the pension package. In fact, he communicated to the House leadership that he would take the pension package without the tax credits for low-income savers. The House wanted to do it, but the Senate leadership, Senators Lott (R-MS) and Nickles (R-OK), balked. They said they wanted to save it for President Bush and that he should decide what tax cuts should be made. Clinton's offer effectively tainted the package with the new Bush administration, which is why they have not gotten behind the legislation. This problem was further compounded by Nickles' obvious distaste for the private pension system. As a tax policy purist, he is offended by the social engineering that is the object of the non-discrimination rules and feels the pension reform package is an endorsement of that policy. Simply put, he would prefer an unlimited, unfettered tax deduction for individual savings.

### The Key to Pension Reform

Positive pension legislation has always been a product of bipartisan support by both moderate Republicans and Democrats. That is what happened in 1996 with the Small Business Job Protection Act, and that is what it took to pass pension reform this year. As in 1996, the key was that both moderate Republican and Democratic support was necessary to piece together a tax bill that could garner the votes necessary to pass Congress. Fortunately, virtually all of the current moderates, including Breaux (D-LA), Baucus (D-MT), Grassley (R-IA), and Jeffords (R-VT) supported the package, and frankly, that is why we prevailed. ▲

---

*Brian H. Graff, Esq., is Executive Director of ASPA. Before joining ASPA, Brian was legislation counsel to the US Congress Joint Committee on Taxation.*

## Amending Qualified Plans for GUST

after January 1, 2001 (Notice 98-39), except for provisions of OBRA '93, UCA '92 and other nondiscrimination provisions that had to be adopted for the first plan year beginning on or after January 1, 1999 (Notice 96-64).

### Individually Designed Plans

Individually designed plans, except for governmental and nonelecting church plans, must be amended and, if desired, submitted for determination letter no later than the last day of the first plan year beginning in 2001. This period can be further extended if the employer intends to adopt an M & P plan or volume submitter plan to replace its individually designed plan.

### Master or Prototype Plans and Volume Submitter Plans

Employers using M & P plans or volume submitter plans must amend their plans no later than the last day of the first plan year beginning in 2001, unless the employer meets the requirements for an extension of the Remedial Amendment Period provided in §19 of Revenue Procedure 2000-20.

#### *Revenue Procedure 2000-20*

#### *Section 19. Remedial Amendment Period*

**.01 Purpose** – The purpose of this section is to ensure that employers will have 12 months after an M & P plan or volume submitter specimen plan is approved for GUST in which to adopt the approved plan as a timely GUST restatement. Employers will be eligible for this 12-month period if they are prior adopters of an M & P, regional prototype, or volume submitter specimen plan, or if they certify that they intend to restate

their plan for GUST using an M & P or volume submitter specimen plan, and the M & P plan sponsor or volume submitter practitioner submits its plan for GUST-approval by December 31, 2000.

**.02 Extension of Remedial Amendment Period** – If the requirements in subsection .03 are satisfied, the remedial amendment period for an employer's plan will not expire before the time described in subsection .04. For purposes of this section, the remedial amendment period means the remedial amendment period determined under section 1.401(b)-1 and Rev. Proc. 97-41 and Rev. Proc. 98-14, both as modified by Rev. Proc. 99-23. As provided in section 3.05, where it is appropriate in this section (for example, in subsection .031), the term "M & P plan" includes regional prototype plans under Rev. Proc. 89-13, and the term "opinion letter" includes notification letters issued under Rev. Proc. 89-13.

**.03 Requirements for Extension** – The requirements of this subsection .03 are satisfied if:

1. before the end of the remedial amendment period (determined without regard to the extension provided by this section), the employer adopts an M & P plan or volume submitter specimen plan (regardless of whether such plan has a TRA '86 opinion or advisory letter); or
2. before the end of the remedial amendment period (determined without regard to the

extension provided by this section), the employer and an M & P plan sponsor or volume submitter practitioner execute a written certification of the employer's intent to amend or restate its plan by adopting the sponsor's or practitioner's GUST-approved M & P or volume submitter specimen plan; and

3. by December 31, 2000, the sponsor or practitioner submits an application for a complete GUST opinion or advisory letter for the M & P plan or volume submitter specimen plan referred to in 1 or 2 (even if the M & P plan is an identical adoption of a mass submitter plan).

**.04 Period of Extension** – If the preceding requirements are satisfied, the remedial amendment period for the employer's plan will not expire before the end of the twelfth month beginning after the date on which a GUST opinion or advisory letter is issued for the M & P or volume submitter specimen plan referred to in subsection .03, or the opinion or advisory letter application for the plan is withdrawn. Within this period, the employer must amend or restate its plan by adopting the GUST-approved M & P or volume submitter specimen plan (or another GUST-approved M & P or volume submitter specimen plan, or individually designed GUST amendments) and, if required for reliance, request a determination letter.

Section 19 of Revenue Procedure 2000-20 extends the RAP to the last day of the twelfth month beginning after the date on which a GUST opinion or advisory letter is issued for the M & P or volume submitter specimen

plan. However, this extension is only available where the sponsor of the M & P or volume submitter submitted an application for a complete GUST opinion or advisory letter no later than December 31, 2000.

### Determination of Applicable RAP

The factors necessary to determine the RAP for any plan are:

- What is the plan type?
  - individually designed
  - master or prototype
  - volume submitter
  - governmental entity
  - non-electing church
- Who is the sponsor of the M & P plan or volume submitter plan?

Generally an individually designed plan must be amended for GUST by the last day of the plan year beginning on or after January 1, 2001. Pursuant to Revenue Procedure 2000-20, the employer sponsoring an individually designed plan can extend this period if the employer executes a written certification of its intent to amend or restate its plan by adopting a master and prototype or volume submitter specimen plan that has been updated for GUST and submitted for an opinion or advisory letter by December 31, 2000.

An employer who is using a master and prototype or volume submitter plan must amend its plan for GUST by the last day of the twelfth month beginning after the date on which a GUST opinion or advisory letter is issued for the master, prototype or volume submitter specimen plan.

Section 19.05 of Rev. Proc. 2000-20 provides a bonus of sorts. It says that an adopter of a plan of an M & P or volume submitter sponsor is deemed to have adopted all the other plans sponsored by such sponsor. Therefore, the RAP is tied to the last plan of the sponsor to receive an opinion or advisory letter.

The application of the rules governing the RAP is best illustrated by the following examples:

#### Example 1

Facts:

Friendly TPA sponsors Plan A, an M & P CODA  
Plan B, an M & P defined benefit plan  
Plan C, a Volume Submitter profit sharing plan

Plan A receives a GUST opinion letter dated June 30, 2001  
Plan B receives a GUST opinion letter dated July 15, 2001  
Plan C receives a GUST advisory letter dated December 30, 2001

Employer X adopted Plan A, an M & P plan sponsored by Friendly TPA in 1997.

Employer X has until December 31, 2002 (Friendly TPA's compliance date), to adopt any GUST updated plan (such as Friendly TPA's approved M & P or volume submitter specimen plan, another GUST-approved M & P or volume submitter specimen plan of any other sponsor, or an individually designed plan). In addition, if Employer X updates its plan after the end of the general RAP (e.g., December 31, 2001, for a calendar year plan), then Employer X is required to submit an application for a determination letter if Employer X updates its plan with a plan that is not entitled to automatic reliance (e.g., if Employer X uses a nonstandardized plan or volume submitter plan). Even though the opinion letter for Plan A was received on June 30, 2001, because Employer X is deemed to have adopted all of Friendly TPA's plans, Friendly TPA's compliance date is measured using Plan C's advisory letter of December 30, 2001.

#### Example 2

Facts:

Friendly TPA sponsors Plan A, an M & P CODA  
Plan B, an M & P defined benefit plan  
Plan C, a Volume Submitter profit sharing plan

Plan A receives a GUST opinion letter dated June 30, 2001  
Plan B receives a GUST opinion letter dated July 15, 2001  
Plan C receives a GUST advisory letter dated December 30, 2001

Employer Y, now a client of Friendly TPA, adopted an M & P plan of Prior TPA in 1997.

Prior TPA's plans have opinion letters dated May 15, 2001.

Employer Y has until May 31, 2002, to update its plan for GUST (using a GUST-approved M & P, volume submitter specimen plan, or individually designed GUST amendments). In addition, if the plan is updated after the end of the general RAP, then, if required for reliance, a determination letter request must be submitted no later than May 31, 2002 (Prior TPA's compliance date).

### Example 3

Facts:

Friendly TPA sponsors Plan A, an M & P CODA  
Plan B, an M & P defined benefit plan  
Plan C, a Volume Submitter profit sharing plan

Plan A receives a GUST opinion letter dated June 30, 2001  
Plan B receives a GUST opinion letter dated July 15, 2001  
Plan C receives a GUST advisory letter dated December 30, 2001

Employer Z, now a client of Friendly TPA, adopted a Volume Submitter plan of Prior TPA in 1997.

Employer Z, prior to December 31, 2001, signs and Friendly TPA countersigns a certification that Employer Z intends to adopt any M & P or volume submitter specimen plan sponsored by Friendly TPA.

Prior TPA's plans have opinion letters dated May 15, 2001.

Employer Z has until December 31, 2002, (Friendly TPA's compliance date) to adopt a GUST-approved M & P or volume submitter specimen plan (or another GUST-approved M & P or volume submitter specimen plan, or individually designed GUST amendments) and, if required for reliance, to request a determination letter.

### Example 4

Facts:

Friendly TPA sponsors Plan A, an M & P CODA  
Plan B, an M & P defined benefit plan  
Plan C, a Volume Submitter profit sharing plan

Plan A receives a GUST opinion letter dated June 30, 2001  
Plan B receives a GUST opinion letter dated July 15, 2001  
Plan C receives a GUST advisory letter dated December 30, 2001

Employer W, now a client of Friendly TPA, adopted an M & P plan of Prior TPA in 1997.

Employer W, prior to December 31, 2001, adopts an interim M & P plan of Friendly TPA which has not received a GUST opinion letter.

Prior TPA's plans have opinion letters dated May 15, 2001.

Employer W has until December 31, 2002, (Friendly TPA's compliance date) to adopt a GUST-approved M & P or volume submitter specimen plan (or another GUST-approved M & P or volume submitter specimen plan, or individually designed GUST amendments) and, if required for reliance, to request a determination letter. ▲

*Lanning R. Hochhauser, APM, is Senior Attorney at DATAIR Employee Benefit Systems, Inc., where he is responsible for DATAIR's prototype and volume submitter plans as well as advising the firm's software developers. Before receiving his J.D. from IIT-Chicago Kent College of Law, Lanning earned a Masters Degree in Business Administration from Eastern Illinois University. Lanning has spoken at both national and local ASPA meetings.*

## International Congress of Actuaries Meeting in Cancun, Mexico

As you may know, the International Congress of Actuaries will hold its 2002 meeting in Cancun, Mexico from March 17-22, 2002. By now, all actuaries should have received a general notice regarding this meeting. If you have not, please take a few moments to visit the Congress' website at [www.ica2002.com](http://www.ica2002.com), where you will find detailed information about this unique event.

We invite you to fill out one of the two forms included on the website and send it either by fax or e-mail to the organizers. This will guarantee that you continue receiving further information.

We look forward to having a strong participation from our members, both in attendance and through submission of papers. ICA 2002 will be a magnificent opportunity to meet with colleagues from around the world and will provide access to an excellent scientific and cultural program.

Send your completed form today!

Sincerely,

Robert J. Reitz, President  
Conference of Consulting  
Actuaries

## Fiduciary Responsibilities

states in the “legalese” section of its website: “[ABC Mutual Fund Company] is not recommending a plan design. Answers to Plan Design Questions will provide a possible sample plan. Since there are many factors that go into designing a plan, you may want to consult your legal counsel or tax advisor as well.” Realistically, what are the chances that an employer who is designing a plan on a website – probably to save money – will take the extra time and incur the expense of consulting with legal counsel or other advisors? Understandably, though, the mutual fund company wants to protect itself from liability for poorly designed or improperly documented plans created by unsophisticated employers using its website service, thereby shifting that liability to the employer.

Our discussion of the fiduciary responsibilities for operating 401(k) plans addresses these issues:

- Who are the responsible fiduciaries?
- Selection and monitoring of investments
- Accurate and complete administration
- Satisfying reporting and disclosure requirements

### *Who Are the Responsible Fiduciaries?*

When an employer establishes an ERISA qualified plan, it is the initial fiduciary. In setting up the plan, the employer needs to decide whether to appoint individuals or committees to be responsible for some of the fiduciary responsibilities. If a plan committee is appointed, then the committee and its members are fiduciaries and must perform their as-

signed duties under ERISA's “prudent expert” standard. If the employer keeps some or all of those duties, then the officers or principals who act on its behalf are ERISA fiduciaries.

Further, the appointment of a fiduciary is itself a fiduciary act. Thus, whoever appoints the officers or committee members to oversee the administration and investment of the plan has a duty to prudently select those persons and to regularly monitor their performance. Typically, it is the Board of Directors or corporate president who appoints the fiduciaries and who, therefore, has those responsibilities.

In order for the directors, officers, and committee members to perform their duties competently, they must have advice about:

- Am I a fiduciary?
- What are my fiduciary responsibilities?
- How do I fulfill those duties under the law?

### *Selection and Monitoring of Investments*

The selection of investments for a participant-directed 401(k) plan requires that the officers or plan committee address the following questions:

- Is each individual option (“fund”) a prudent and suitable investment option for the participants?
- Do the funds, in the aggregate, constitute a broad range of investment options?
- Is the investment package suitable for the abilities of the particular workforce? If not, can it be made so through investment education or advice?

In order to answer these questions, the employer will need professional advice – unless it has in-house investment expertise. For small employers, that “advice” may come from information provided by a broker. Larger employers may use RIAs – registered investment advisors.

Regardless of the source of information, these are difficult questions which require analysis, effort and, hopefully, consultation from competent sources. It may be difficult, or even impossible, for a small or mid-sized employer to know that they need to answer those three investment questions – much less to do the analysis – without the benefit of an advisor.

Some investment providers have developed 401(k) packages designed to assist employers in satisfying the requirements that each fund be well-selected and that the funds in the aggregate constitute a broad range. These investment packages offer valuable help to fiduciaries. However, how can a plan sponsor identify the investment packages with the “built in” help without a broker or other advisor?

To compound the problem, the fiduciaries have a duty to regularly monitor the funds and to remove funds which underperform. For small and mid-sized plans, that monitoring should be done at least annually. Some insurance companies, mutual fund companies, and banks that provide 401(k) investment products help fiduciaries by giving them performance, expense, benchmark, and other information and by removing underperforming funds from the investment packages. However, the responsibility falls on the fiduciaries to review those materials and to make the decision to retain or remove funds.

Are the fiduciaries aware of their responsibilities? Once aware, do they know how to perform those

duties in a way that complies with ERISA? This is a difficult job, even with the help of an advisor; it borders on impossible without that help.

Other investment issues that require advice:

- Should the plan have an investment policy? How do you prepare one?
- Should the plan comply with ERISA Section 404(c)? If so, what do the fiduciaries need to do?
- As the plan grows larger, should the fees be re-negotiated and/or is the plan entitled to additional “free” services?

### ***Accurate and Complete Administration***

The fiduciaries are also responsible for overseeing the administration of the plan. To do that properly, they need to understand the legal requirements and to monitor compliance with those requirements. While there are many aspects to plan administration, this article discusses only the following:

- Enrolling and covering the right employees
- Selection and monitoring of the administration firm
- Correction of problems
- Handling IRS audits and DOL investigations

### **Enrolling and Covering the Right Employees**

Covering the right employees is essential to the proper administration of a plan. Two important areas where employers need advice to make sure that they cover the right employees or exclude workers who are not intended to be covered are:

- Is the employer a member of a controlled group or affiliated service group, causing other employees to be considered for testing or to be included in the plan?

- Are there other workers, such as temporary employees, leased employees, or mis-classified independent contractors, who may be entitled to benefits under the plan? Is the plan properly drafted to exclude those workers if they are re-classified as common law employees?

Just asking the questions, however, is not enough. The issues are fact-intensive and the analysis is complex. For example, the analysis of a potential affiliated service group – and its consequences and planning alternatives – may require a review of the entities' documents and related agreements, as well as research of the governing Code sections. How does an employer (plan sponsor) know to ask the right questions and, once asked, to find the answers? The failure to do so can result in disqualification of the plan or in a costly correction.

After the legal questions about the employer and the employees have been answered, the plan sponsor still faces an important coverage issue – how to educate the employees about the plan, its investments, and the importance of making deferrals into the plan. Without significant participation by the rank-and-file employees (or substantial contributions by the employer), the officers or principals of the sponsor will be limited in their ability to defer and the plan's benefit may be diminished.

Employee participation is a function of thoughtful plan design, good communication, quality investments, and effective face-to-face enrollment meetings. The plan fiduciaries should evaluate the enrollment presentations offered by the competing providers to make sure that the employee will be given a clear and thorough explanation of the requirements to participate, the importance of deferring, and the basics of investing.

### **Selection and Monitoring of the Administration Firm**

The fiduciaries have a duty to prudently select and monitor the firm that provides administrative services to their plan. The fiduciaries should ask these questions:

- What services are needed? Are all of those services being provided?
- Are the services performed well, and are they timely and accurate?
- What are competitors charging for the same service? Are the charges appropriate in relation to the needs of the plan?

The fiduciaries' job is not done when the administration firm is chosen. The provider's performance must be monitored. Monitoring is required regardless of whether the administration services are part of a bundled relationship with the investment company or are provided by an independent third party administrator.

### **Correction of Problems/Handling IRS Audits and DOL Investigations**

In a perfect world, there would not be any problems. But inevitably, problems do occur. Employers and plan fiduciaries need help in correcting those problems.

Also, plans are regularly audited by the IRS and investigated by the DOL. In selecting their service providers, employers should anticipate the possibility of a government inquiry and make sure that one of those providers will be available to represent the plan in audits.

### **Other Administrative Issues**

Examples of other important administrative issues are:

- Who is responsible for making sure that “excess” amounts are not being contributed to the plan – that is, amounts that violate the 415 limits on allocations, the 401(a)(17) limits on compensation, the 402(g) limits on deferrals,

and the ADP and ACP limits on deferrals and matches for highly compensated employees? If excess amounts are contributed, who decides on the best method of correction? How is that decision made?

- Who determines eligibility of employees to participate in the plan? If a mistake is made, how does it get corrected?
- What are the criteria for a hardship withdrawal? What steps must the fiduciaries take to comply with the qualification rules in approving a request for a hardship withdrawal?
- What administrative records must be kept? For how long? Does the administrator give the employer copies of the compliance records?

Before hiring an administrator, the employer should ask these questions – and others – of the candidates being considered for that job. The employer should be able to rely on the administration firm to do most of this work and to provide advice to the employer on the decisions it must make.

### ***Satisfying Reporting and Disclosure Requirements***

ERISA imposes a number of reporting and disclosure requirements on 401(k) plans. For example, plan sponsors and fiduciaries must file an annual report, Form 5500, with the government each year. In addition, participants must be given summary plan descriptions (SPDs), statements of material modifications (SMMs), and summary annual reports (SARs), at specified times. Also, participants must be given information about their benefits upon request and, if the plan wants 404(c) fiduciary protection, participants are entitled to detailed information about the plan and its investments. An ERISA fidelity bond must be obtained and, in some circumstances, the plan must be audited annually by an independent CPA.

It is almost impossible for most small and mid-sized employers to know these rules. As a result, plan sponsors need guidance in complying with the reporting and disclosure requirements. Some of the questions that should be asked and answered before selecting the provider of administrative services are:

- Will the plan receive a Form 5500 that is “signature ready” (*i.e.*, fully completed and needing only a signature) from the administrator?
- Will the administration firm automatically prepare all needed SPDs and SMMs, together with clear instructions on how and when to distribute those materials to the participants?
- Which advisor will assist the employer in complying with the 404(c) requirements, including satisfaction of the rules on information to be given to the participants?

### **Conclusion**

The administrative and investment duties of employers and their fiduciaries are numerous and com-

plex. However, they can be navigated with help from advisors. The issue is not whether the advice and services will be provided in person, on the telephone, or over the internet. Instead, the issue is whether the employer and the fiduciaries will receive the advice needed for the investments and services to comply with ERISA and for the plan to provide high quality, well-appreciated retirement benefits to the employees. ▲

---

*C. Frederick Reish, APM, Esq., is a founder and partner of the Los Angeles law firm Reish Luftman McDaniel & Reicher. He is a former co-chair of ASPA’s Government Affairs Committee (GAC) and is currently the chair of GAC’s Long Range Planning Committee.*

*Gail Surlin Reich, Esq., is an associate with the Los Angeles-based law firm of Reish Luftman McDaniel & Reicher. She received an LL.M. in Taxation from New York University and specializes in employee benefits and executive compensation.*

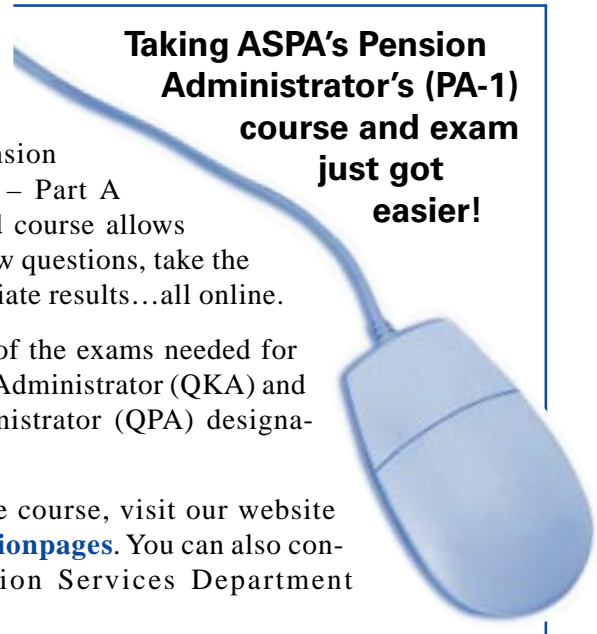
## **POINT. CLICK.**

### **Taking ASPA’s Pension Administrator’s (PA-1) course and exam just got easier!**

ASPA announces its first Online Course: Pension Administrator’s Course – Part A (PA-1A). This web-based course allows candidates to study, review questions, take the exam, and receive immediate results...all online.

The PA-1A exam is one of the exams needed for ASPA’s Qualified 401(k) Administrator (QKA) and Qualified Pension Administrator (QPA) designations.

To register for the online course, visit our website at [www.aspa.org/educationpages](http://www.aspa.org/educationpages). You can also contact the ASPA Education Services Department (703) 516-9300.





## Structure for Success

the Core Ideology. As the staff members are assembled, the nurturing of their personal growth, as appropriate to their roles and the firm's purpose, is the "oil" that keeps the machine running efficiently.

Successful retirement planning firms are ultimately about delivering accurate and appropriate client services. It is wise to first envision your current needs and next, your needs five years from now. Then you should be able to anticipate what each interim year's staffing requirements are likely to be. Use informed intuition to create these milestones, realizing that you'll need to adjust expectations along the way. Copy the growth pattern of firms you see as successful. The executive team's goal in this process is to hire the right senior management staff, which will then hire others appropriately to fit the vision.

To capture the "right" senior management, you may need to utilize the resources of a search firm. However, once you have the proper experienced people in place, you can often find additional bright, career-minded individuals with aptitude in math and application of regulations. These up-and-coming ERISA professionals can be more easily trained and move along in their development faster with the counsel and encouragement of your experienced staff, the utilization of existing education and designation programs, and of course, with a clear view of your firm's Core Ideology. The staff will more readily embrace the firm's position toward training and continuing education if it is clearly communicated and if the rewards for success are apparent.

There are three Personal Growth components to consider, and improvements in each should be measured at least annually. The areas are Professional Development, Software and its Application, and Internal Policies and Procedures. The number of hours spent on each will vary by the job responsibility. For instance, actuaries and consultants will spend the largest proportion of their training time on professional development, a smaller amount on software, and an even smaller amount on internal policies (perhaps just a reminder class). Contrast this training agenda to that of a recordkeeper. Their annual training plate should contain a large portion of software application and procedures, a small amount of professional development and a small amount of internal policies. The managers and HR

staff may need most of their training to focus on maintaining and developing internal policies and procedures.

The achievement of basic and continuing education goals can be one the main bases for performance reviews and upward movement within your organization. Other criteria should include performance within the assigned quality control team(s), productivity, and the ability to be a team player.

### Sample concepts for Professional Development:

Within the Professional Development component of the training and education agenda, there are three levels of achievement:

1. *Introduction to Retirement Plan Issues and Concepts* – should be required of all staff in any position; to be completed within a prescribed time period
2. *Administrative* – focus is on application of rules and regulations – for customary administrators; follows success in basic training
3. *Consulting/Actuarial* – high-level, creative and complex – for the ERISA experts or managers and all pension actuaries; follows success in the first two levels

Designations make distinctive impressions. The American Society of Pension Actuaries (ASPA) has an impressive education package, which has appeal for all three of these professional accomplishment levels. These courses can fit right into the training agendas you set for your different positions. Visit [www.aspa.org](http://www.aspa.org) for information and examples.

Many successful, distinctive firms use attainment of designations as the most important, and certainly most objective, indicator of professional accomplishment.

### ASPA Exam Results Posted Online

Exam results for the December 2000 A-4, C-1, C-2(DB), C-2(DC), C-3, and C-4 exams are now posted by candidate name at [www.aspa.org/aspaedu.htm](http://www.aspa.org/aspaedu.htm). A list of candidates who earned the Pension Administrator's Certificate effective August 31, 2000 is also available on the site.



Actuarial firms have followed this philosophy for years. Now, consulting and administrative firms and even financial institutions are following suit, touting their firm's designated professionals as a competitive edge.

Continuing education should be a requirement for all professional staff, regardless of the achievement level selected, and can be accomplished by attending conferences (virtual or in person) and volunteering. Organizational involvement also provides a networking opportunity and an avenue for leadership growth within the community and the pension industry. The time devoted does not need to be overwhelming – it just needs to happen, and the corporate expectation must be clear. Leaders and problem solvers aren't often found; they are nurtured from within and encouraged to blossom and grow.



### Internal Policies and Procedures

As part of its strategic planning task, the executive team should establish the guidelines and directives within which the business will operate. The details of any specific procedure related to how work is performed or any specific policy related to business operation can effectively be established by utilizing the efficient involvement of your management staff and other talented and enthusiastic resources. This model of active participation helps alleviate staff frustration and burnout. Equally as important, it also allows the executive team more time to focus on their primary tasks of running

a successful business. With the proper staff in place, the executive team can place full confidence in the firm's management and staff to make decisions about day-to-day operations. A successful business supports an atmosphere and a forum in which caring, involved staff can offer their suggestions and for which periodic review and adjustment of procedures can be performed as needed to improve the quality of services provided. The step of creating Internal Policies and Procedures becomes the third circle, wrapping around the previous two circles, with the inward focus towards the Staff and the Core Ideologies.

The area of quality improvement is just one of the many areas needing well-defined procedures. Continual attention to quality and excellence can be the difference between a floundering, unfocused firm (that keeps doing everything the same way as yesterday) and an innovative, responsive firm that stands out from the pack. The team model described above can be effectively utilized to establish policies and procedures related to monitoring and improving the quality of services delivered.

### An example of a Quality Improvement Plan (QUIP) for a retirement planning business follows:

*Create major divisions of service areas. For example:*

- Routine Services
- Events Services
- Client Communication Services
- Installation/Conversion Services
- Internal Organization/Standards/Training

*Assign team of two or three staff members to each specific area.*

- Assume that each task force member will serve at least one year

- Staff may serve on more than one task force
- Task force must select its coach
- The coach is to be the meeting facilitator and responsible for reporting to the executive team
- First assignment is compiling documentation for current processes, etc.
- Frequent meetings initially to get the ball rolling and the systems in place

*Set QUIP expectations, such as:*

- Expect that each team will meet at least bi-monthly (once the first assignment is completed) to ascertain and effect any identified and agreed upon improvements
- Meetings should last no more than one hour (unless pre-approved)
- Reassign each staff member to at least two teams each year
- Utilize team meeting facilitation forms (all versions and refinements are to be identified and dated for easy recognition of old vs new)
- Expect that every task force team leader will have a complete set of coded and up-to-date service manuals or policies for their specific area available on your intranet

*Allocate your major service areas into easy-to-embrace "chunks."*

*For example:*

#### **Routine Services**

- DB checklist
- DC checklist
- DB Valuation Report
- DB Participant Statements
- DC Allocation Report
- DC Participant Statements
- Daily Processing Manual
- 5500 & Schedules Preparation
- PBGC and other Government Reporting
- Financial Analysis Services

- Section 125 Reports and Administration Events Services
- Terminations and Retirements
- Hardships/Loans/QDROs
- Death/Disability
- Distribution Directives
- Documents/Amendments/Determination Packages
- Plan Terminations Communication Client Services
- DC Plan Administrators Manual
- DB Plan Administrators Manual
- Enrollment Kits
- Internet Communications
- Client Fee Schedules and Billings
- Data Request Packages

#### **Installation/Conversion**

- Installation Process
- Conversion Manual or Policies

#### **Internal Organization/Standards/Training**

- Organizational Chart
- Employee Policy Manual
- Office Newsletter
- Office Standards
- Record Retention
- Disaster Recovery

*The executive team must give clear charges and direction to the QUIP task forces.*

The clear charges must be accompanied by nonnegotiable guidelines. Then (and this is often the hardest thing for the executive team to do), the executive team gives control of the implementation and management of this process to a team of staff professionals who are responsible for professional development, performance reviews, and HR issues. The QUIP management team provides individual performance information to round out (along with the training/continuing

education accomplishments and job performance) the performance review process. Expect that the QUIP management team will provide a report on a routine basis to the executive team pertaining to the focus points that each task force identifies and achievements of the focus point goals. The executive team should offer advice when asked, consider well-reasoned choices, facilitate improvement from within, and give kudos for achievement. The executive team *should not* micro-manage. The executive team members are the “navigators,” not the “engine,” of the machine you are building.



### **Marketing and Business Growth**

For any business to become and remain successful, significant efforts must be made in the areas of marketing and business growth. Thus, the outermost circle in the concentric approach to business management represents the fourth step of the process – Marketing and Business Growth. Although critical to the success of the firm, it is virtually impossible to have this “circle” firmly in place until the other circles have been correctly positioned. Just as the marketing staff participates in the other “circles,” development of an effective marketing plan must consider everything that has been developed in the “circles” so far.

There are many schools of thought on developing successful marketing plans. Selecting the proper approach often depends on your Core Ideology. One popular and informative resource available, designed specifically for the retirement planning marketplace, is *The Plan Sales System – a blueprint for building your 401(k) and retirement plan business*, by Catherine N.H. Lewis. The book provides a comprehensive, step-by-step system for growing a retirement plan business, targeting both new businesses and existing businesses desiring to remodel or expand.

#### **Sample considerations as you develop a Marketing and Business Growth plan:**

- What are the desired annual sales/revenues for years 1, 2, 3, 4, and 5?
- What is the long-term plan for the business? (*i.e.*, expand, merge, go public, etc.)
- How will you create visibility?
- What advertising mediums will you use?
- Will you need a dedicated sales staff or rely primarily on referrals?
- Is there a special “niche” on which you can focus for growth?
- Where do you think the retirement plan industry is going?

#### **Executive Summary**

Many issues related to our marketplace, especially the last question posed above, can send ripples throughout a firm. Since the retirement plan industry and technology continue to undergo rapid changes that directly affect all retirement planning businesses, successful firms must constantly monitor not just their strategic marketing plans, but these firms must also constantly re-inspect and adjust various aspects

of their “concentric circles.” In extreme situations, even the Core Ideology may need to be altered.

Just as a well-maintained machine will function continuously and effectively, a well-maintained firm properly structured for success will operate efficiently and profitably. Caterpillar Inc. provides this quote from Yoshihiro Yamazaki (the largest private owner of Cat equipment):

*“You should not inspect your machines at the end of the assembly line – you shouldn’t have to. You should be inspecting the process as the machines are being built.”*

#### **About the graphics:**

Graphics were provided by Lynn Lema, who specializes in graphic design and media for businesses. She can be reached at [llema@aol.com](mailto:llema@aol.com). ▲

*Carol Sears, FSPA, CPC, and Chris Stroud, MSPA, are both principals of the Benefits Consortium, an alliance of specialists who offer customized services to financial institutions and service providers, including staff and participant education, marketing and sales force training, and office workflow management.*

*Carol is a principal of Actuarial Consulting Group, Inc., a firm offering plan administration and consulting. Carol is also a Fellow of the Conference of Consulting Actuaries (FCA), a Member of the American Academy of Actuaries (MAAA), and an Enrolled Actuary (EA). Carol has served ASPA for many years, most recently as President and as ASPA’s Technical Education Consultant. Carol is currently ASPA’s representative to the ABCD Review Task Force and sits on the Joint*

*Board Advisory Committee. Carol is a frequent speaker at local and national employee benefit conferences.*

*Chris is a principal of Stroud Consulting Services, Inc., offering sales, management, and employee benefit consulting services to various firms, including SunGard Corbel. Chris is a Member of the American Academy of Actuaries (MAAA) and an Enrolled Actuary (EA). Chris is currently on ASPA’s Board of Directors and is the Editor of ASPA’s newsletter, The Pension Actuary. She also serves as the chair of the Pension Actuary Committee, as co-chair for ASPA’s new 2002 401(k) Sales Summit, and is a member of ASPA’s Screening Committee, Conferences Committee and ASPA’s Marketing Committee. Chris has spoken both locally and nationally on employee benefit topics.*

## **Your time is valuable. Let ASPA take care of your employee training needs!**

**ASPA’s Self-Study Daily Valuation (DV) Course will train and educate employees of all experience levels about the process and terminology associated with the world of daily recordkeeping.**

- ✓ Order ASPA’s Daily Valuation Course binder (includes exam)
- ✓ Make copies of the binder and exam and distribute to your employees
- ✓ Use the Daily Valuation Course binder to take the exam
- ✓ Upon successful completion, candidates will receive a Daily Valuation Certificate
- ✓ Continue taking ASPA’s exams and complete our newest credentialing program, the **Qualified 401(k) Administrator (QKA)**.

DV Course topics include:

The impact of daily trading and processing of transactions; Converting plans from the balance-forward environment to a daily valuation system; How transactions flow in daily valuation; Types of investments suitable for plans that are valued daily and the appropriate fees and expenses; Fiduciary liability when participants choose their investments; and Bundled services and strategic alliances.

For more information, contact ASPA’s exam department today at (703) 516-9300, e-mail [educaspa@aspa.org](mailto:educaspa@aspa.org), or visit our website at [www.aspa.org](http://www.aspa.org).

# Los Angeles Benefits Conference

**September 13-14, 2001  
Hilton Universal City & Towers**

**555 Universal Terrace Parkway  
Universal City, CA 91608**

You are invited to attend the Los Angeles Benefits Conference again this year! The 2001 conference offers a high level of education, knowledgeable speakers, and the latest information on pension issues. Don't miss this great opportunity!

**Conference Highlights:**

- Access to the newest information concerning benefits regulations, litigation, enforcement, and compliance
- Opportunities to interact with high level government speakers
- Three concurrent sessions
- Networking

- Continuing education credits
- Exhibits

**Topics:**

Developing Issues • IRS Q&A • Emerging Issues in IRS Audits • DOL Investigations and VFC • Coping with the Changes in the Distribution Rules • IRS Litigation Update • Cross-Testing, Combination of Plans • Who is the Employer? • Who is the Employee? • DOL Litigation Update • Innovative Plan Designs: Cash Balance and Hybrid Plans • IRS Correction Programs and 401(k) Plan Defects • Participant-Directed Investments: Investment Advice and Education • 401(k) Plan Design • Key Plan Issues in Mergers and Acquisi-

tions • Plan Expenses and Payments to Service Providers: Fiduciary and Prohibited Transaction Issues • Ask the Experts Panel

The Los Angeles Benefits Conference is the perfect opportunity to meet and discuss employee benefits issues with colleagues and government agency representatives from the Pacific Coast area and Washington, DC.

Plan to register before August 27, 2001, to take advantage of the early registration rate of \$450.

For more information on the Los Angeles Benefits Conference, contact ASPA's Meetings Department at (703) 516-9300 or [meetings@aspa.org](mailto:meetings@aspa.org).

## ASPA's 2001 Advanced DC & Form 5500 Workshops

For the 2001 calendar year, ASPA has scheduled two one-day workshops on two diverse topics of importance to the pension industry; Advanced Defined Contribution (DC) and Form 5500. The Advanced DC Workshop is intended for practitioners with more than three years of experience. The Form 5500 Workshop is an intermediate-level workshop. Attendees may earn up to seven ASPA CE credit hours. In addition, the Advanced DC Workshop offers seven non-core JBEA credit hours and the Form 5500 Workshop offers seven noncore JBEA credit hours.

The Advanced DC Workshop will cover a number of pertinent topics including: top heavy plans; 410(b) testing; 401(k) testing; mergers and acquisitions; participant loans; and new minimum distribution rules.

The panel of speakers includes: a lawyer, Ilene Ferenczy, CPC, head of employee benefits practice at Altman, Kritzer & Levick, PC; an actuary, Michael Bain, MSPA, President of CMC; and Cheryl Morgan, CPC, a pension consultant with more than 25 years of experience.

The Form 5500 Workshop will cover: Form 5500 preparation and filing; late filings; deficiency notices from PWBA; electronic filing; and small plan asset rules. The workshop will be taught by Janice M. Wegesin, CPC, QPA, President of JMW Con-

sulting, Inc., and author of the *Form 5500 Preparer's Manual*.

The workshops will be held in both Seattle, Washington and Pittsburgh, Pennsylvania on consecutive days. ASPA will offer a \$100 discount to attendees who register for both workshops at the same location. Please see the schedule below to make your plans to attend these educational workshops. For more information, watch your mail for the workshop brochure or check the ASPA website at [www.aspa.org](http://www.aspa.org).

| Location  | Advanced DC Workshop | Form 5500 Workshop   |
|---|----------------------|----------------------|
| Seattle, Washington<br>Washington Athletic Club             | Monday<br>August 20  | Tuesday<br>August 21 |
| Pittsburgh, Pennsylvania<br>Pittsburgh Marriott City Center | Monday<br>August 27  | Tuesday<br>August 28 |

## 2001 ASPA Annual Conference

October 28 - 31, 2001 · Grand Hyatt, Washington, D.C.

Mark your calendar now and plan to attend the 2001 ASPA Annual Conference. This year's Conference is one you definitely will not want to miss.

There are plenty of new and exciting things happening in 2001!

- For the first time ever, the concurrent sessions will begin on *Sunday*, so plan to arrive early.
- A free mini C-4 review course will be held on Sunday, October 28.
- The festivities begin early with a welcoming reception in the Exhibit Hall on Sunday evening.
- The March on Capitol Hill is back this year. ASPA has set aside time on Tuesday, October 30, for you to meet with members of Congress to discuss the issues that affect you and your business (see page 7).
- A pre-Halloween treat has been planned at this year's reception. There will be plenty of food and friends, and an exciting new band will perform a wide variety of danceable music.

Join us for a great Conference with countless opportunities for education and networking. Over 50 sessions will be presented by experienced and knowledgeable speakers from the private industry and various government agencies.

For more information on the ASPA 2001 Annual Conference, visit [www.aspa.org](http://www.aspa.org) or contact the Meetings Department at (703) 516-9300 or [meetings@aspa.org](mailto:meetings@aspa.org).

## Don't miss the 2001 ASPA Summer Academy

July 22-25, 2001  
The Sheraton Palace Hotel  
San Francisco, California

It's not too late to register for this informative conference! Visit us at [www.aspa.org](http://www.aspa.org) for a downloadable copy of the brochure.

### Registration deadlines:

Early registration ..... \$575  
(by June 30)

Late registration ..... \$725

Need to know the "nuts and bolts" about running, managing, and growing a pension operation? Then you won't want to miss the one-day ***Business Practices Workshop*** on **Saturday, July 21** at the Sheraton Palace in San Francisco. Visit us at [www.aspa.org](http://www.aspa.org) for more information and to register.

## The First Annual 401(k) Sales Summit – Coming in 2002!

401(k) Sales Summit • February 28 - March 2, 2002 • Doubletree Paradise Resort – Scottsdale, AZ

Do you actively sell, market, support, or influence 401(k) plans? If so, this is one event you won't want to miss!

**The 401(k) Sales Summit** is a "one-of-a-kind" conference guaranteed to bring your business to new heights. You'll learn unique prospecting insights, sales tools, and techniques to help grow your retirement plan business. Prominent keynote speakers will focus on industry trends and important economic factors affecting the ever-changing 401(k) marketplace. Hear from key decision-makers and industry experts and listen to practi-

cal advice from the "best of the best." Participate in informal workshops and breakout sessions guaranteed to improve your sales strategies and increase your overall effectiveness in serving key business owners and high net worth clients.

- Discover creative methods to build your retirement plan business
- Learn new techniques to grow assets under management
- Strategize, network, and share success stories with industry experts and your peers
- Get to really know the latest from industry-leading experts

- Relax and enjoy the beautiful scenery and landscape of the desert southwest
- Catch the beginning of baseball's spring training!

Mark your calendar and plan to attend the **401(k) Sales Summit**.

Exhibitors and sponsors are encouraged to support this inaugural event.

Watch for more information in future issues of *The Pension Actuary*, or contact Todd Brost at the ASPA office (703-516-9300) or [tbrost@aspa.org](mailto:tbrost@aspa.org).

# In-Housing Training and ASPA's Webcasts

**A convenient and inexpensive way to meet ASPA's CE requirements!**

by Cathy Green, CPC, QPA, and Marissa Pietschker, QPA

**W**ant to earn CE credit without leaving your office? Do you have a large number of ASPA credentialed employees who need ASPA continuing education credits? You and your employees can earn ASPA CE credits fairly inexpensively without leaving your office. ASPA is planning several online seminars this year that will allow you to hear and see the programs without ever leaving your desk. These webcasts allow each participant to earn two ASPA CE credits during the presentation, but you can also use the material from the webcasts to set up an in-house training or study group following the webcast. This is an excellent way for those who did not have an opportunity to participate in the webcast to earn credits. It is also a great opportunity to train your employees and allow them to earn ASPA CE credit at the same time.

How does it work? After listening to the webcast, set up a formal discussion group and designate someone who watched the webcast as the trainer or facilitator. Generate an outline based on the information provided in the webcast and distribute this to the group of attendees. All training program attendees can receive one ASPA CE credit per 50 minutes of group activity/discussion. Be sure to keep an outline with topic, date, time information, and an attendance list as backup documentation. A credentialed ASPA member must be present at the program, and the employer or a credentialed ASPA

member must sign the attendance form verifying attendance.

Depending on the topic, ASPA's webcasts may qualify for other organizations' CE requirements. Complete and submit the Continuing Education Checklist found on page 39 of the 2001 ASPA Yearbook to ASPA's Membership Department. If the filing process, deadlines, and fees are feasible, ASPA will process the request. It is important to note that the JBEA does not preapprove continuing education credit. The type of credit the JBEA is likely to grant will be indicated on the webcast flyer, but the final determination as to credit

granted, if any, rests solely with the Joint Board.

To view the webcasts, you will need a phone and a modem connection for internet access. Webcast registration normally costs \$125 for ASPA members and \$150 for non-members. For more information, please contact the ASPA office at (703) 516-9300, e-mail us at [webcast@aspa.org](mailto:webcast@aspa.org), or visit our website at [www.aspa.org](http://www.aspa.org). To learn more about other ways you can meet ASPA's continuing education requirements, contact ASPA's Membership Department at the ASPA office. ▲

---

*Cathy M. Green, CPC, QPA, is vice president of CMC in Glendale, CA. She is the chair of the Continuing Education Committee. Cathy, a member of ASPA's Board of Directors, also serves on the Conference Committee and is chair of the 2001 ASPA Summer Conference. In February, she served on the Strategic Planning and Implementation Team.*

*Marissa Pietschker, QPA, works for Suncoast Pension and Benefits Group, Inc. in Tampa, FL, and has worked in the pension field since 1982. She has been a member of ASPA since 1990 and received her QPA designation in 1993. Marissa currently serves as co-chair of ASPA's Continuing Education Committee.*

FOCUS ON ABCs

# Delaware Valley Recognizes Temple University Student

In an effort to give back to local communities, ASPA's Benefits Councils (ABCs) have established a scholarship fund in which each ABC has the opportunity to award a scholarship to a deserving student in their community. The ABC Committee established this scholarship program with the assistance of ASPA's Pension Education and Research Foundation (PERF).

One of ASPA's councils, the ASPA Benefits Council of Delaware Valley, has committed to providing an annual scholarship to an actuarial student who is participating in an internship program. Delaware Valley recently selected a scholarship recipient from Temple University's School of Business Management, located in Philadelphia. The scholarship, referred to as the "ASPA Benefits Council of Delaware Valley Scholarship," was awarded to Brian O'Malley, a student in the actuarial science program who will be graduating in December 2001. Brian has also been extended a courtesy membership in the Delaware Valley Council organization and has been invited to attend local council meetings.

Brian is a senior Actuarial Science and Risk Management double major at Temple University. He is also a member of Gamma Iota Sigma, the professional Risk Management, Insurance, and Actuarial

Science fraternity. In this capacity he has served one year as Career Placement Coordinator and has spent the current year as the Vice President of Career Placement. Brian has also spent the past two summers working as a retirement intern with William M. Mercer, Inc., where he worked with defined benefit plans. He learned the basics of actuarial valuations and performed benefit calculations on a regular basis. These internships allowed Brian to gain significant exposure into the pension field.

Brian was recently awarded the scholarship at the Thirteenth Annual Awards for Excellence Luncheon at Temple University. Marcia Hoover, QPA, Scholarship Chair, and a past president of the ABC of Delaware Valley, attended the luncheon and had only positive things to say about Temple's program. There are over 300 students enrolled in Temple's Risk, Insurance, and Healthcare Management Department in the Fox School of

Business, and the program is the largest of its kind in the world. The Temple program was ranked second in the nation for research by the *Journal of Risk and Insurance*. Temple offers both undergraduate and graduate degrees in Actuarial Science, Healthcare Management, and Risk Management and Insurance.

The ASPA Benefits Council of Delaware Valley is also in the process of contacting the universities in the Philadelphia area that offer actuarial science programs in an effort to establish closer ties with the educational community. The ABC of Delaware Valley Board of Directors is considering establishing mentoring programs, special instructional or professional educational sessions, and networking opportunities for students in the area. They are also encouraging actuarial students and professors to attend their local meetings, hoping to generate interest in the pension actuarial field among some of the bright young minds in the Delaware Valley area!

For information about the ABC of Delaware Valley's upcoming events, please contact Meetings Chair Art Bachman at [bachman@blankrome.com](mailto:bachman@blankrome.com) or at (215) 569-5715. ▲

A special thanks to Marcia Hoover, QPA, for her contributions to this article.



FOCUS ON TECHNOLOGY

# Revisiting eASPA!

by Michael L. Bain, MSPA



In the July-August 2000 issue of *The Pension Actuary*, we outlined some of the tentative plans involving the implementation of an interactive database with the ASPA website. After a successful database implementation for the National Office over the winter, we are now preparing the rollout of eASPA, ASPA's integrated online presence. We thank Chip Chabot, Webmaster, Geoff Brehm, Information Services Manager, Amy Iliffe, Director of Membership, and the other dedicated staff at the ASPA office for the efficient implementation of all these changes.

From the outset, one of the goals that eASPA had to accomplish was online registration for conferences, educational exams, and workshops. This functionality has been built into the initial rollout, with visitors able to register online for the Summer Academy, the Advanced DC and Form 5500 Workshops, the LA Benefits Conference, and finally, the ASPA Annual Conference. You will be able to register for the conference, select the sessions you want to attend (if applicable), and pay via a secure connection, all in one visit. After finalizing your registration, you will receive an e-mail confirming your registration, sessions, and transaction.

This same functionality applies to candidates attending workshops or taking exams. Registering online will speed up and simplify the exam enrollment process.

What if you are not a member and aren't even in the database? Never fear – you will be able to set up your personal database record and register for events, without having to wait.

Of course, members will be able to benefit with membership price breaks, but anyone can register for events online.

Another function immediately available via eASPA is online membership directory searches. Available for ASPA members only, you will be able to look up other members, using name, city, state, or area code. Finding fellow members nationwide is now easier than ever.

The last piece that will be available from the start is the ability for registered users (members and non-members alike) to edit their personal information and even set their own user name and password for future access. So, if you, as a member, change companies and want to make sure your ASPA mailings find you at your new office, all you will need to do is go online and update your information. Those changes flow directly into the database, eliminating confusion between addresses.

With the initial rollout of eASPA, registering for events and maintain-

ing your personal database information becomes easier than ever. Is that all eASPA will offer you? Heck no!

Already under development is an online dues payment system, allowing members to pay their annual dues quickly and easily, while updating their information or registering for a conference. Depending on the format of the exam, some of ASPA's tests may be administered online, such as *The Pension Actuary* continuing education quiz or the PA-1 exams. The results will flow directly into the database, eliminating most of the necessary bookkeeping, and candidates will know their results immediately. This ability is already in action, with the inauguration of the PA-1A online course, complete with quizzes, practice test, and the final exam, all administered online!

## PA-1A Online

In May, ASPA began offering the PA-1A self-study course and exam online. So far, the response has been great! (See the sign-up announcement on page 16.) We will be doing a write-up on the online course in a future issue of *The Pension Actuary*.

## Webcasts

Another aspect of ASPA's internet presence kicked off this year in April with the Form 5500 for 2000 webcast, presented by Janice M. Wegesin, CPC, QPA. Unfortunately, a last minute bout of illness prevented the live broadcast from happening as scheduled. Instead, Janice recorded

*Continued on page 27*

# PIX Digest

**T**he Pension Information eXchange (PIX) is an online service for pension practitioners. ASPA has co-sponsored the PIX Pension Forum for many years. For more information about PIX, call (805) 683-4334.

## **More Discussion on the New Minimum Distribution Rules**

*[Thread 94866]*

As most practitioners know, the IRS released new proposed regulations regarding the calculation of minimum distributions from IRAs and qualified plans in January 2001. The regulations are generally effective for 2002, but the IRS has stated that by adopting a model amendment, qualified plans may choose to use the new regulations for 2001 distributions. IRA participants are permitted to use the new regulations for 2001 without the need to amend IRA documents.

A user posted a report quoting an IRS spokesperson saying that notwithstanding that qualified plans must be amended to use the new distribution regulations in 2001, the participant who receives the distribution may choose to apply the new regulations to his or her distribution.

What does this mean? Suppose a plan does not adopt the model amendment and calculates a participant's required minimum distribution to be \$5,000. Further assume that the new regulations would require a minimum distribution of just \$4,000. In this case, the plan will distribute and report the \$5,000 as a minimum distribution not eligible for rollover, but the participant could

choose to treat the amount over \$4,000 as an eligible rollover distribution and roll it over to an IRA.

Of course, for this to occur, someone will have to explain this to the participant and he or she would have to choose to make such a rollover. However, it seems almost certain that pension practitioners will have to be prepared to explain this to sponsors and participants, and later be able to explain to the IRS why their 1099-R reporting does not properly reflect an eligible rollover distribution. To avoid this scenario, plan sponsors may want to consider adopting the model amendment for 2001.

To read the entire thread, download the [file 2001rmd2.fsg](#).

## **Defaulted Plan Loans and Form 5500**

*[Thread 95735]*

A PIX user posted a question regarding defaulted plan loans to the sponsor's two principals. They had each borrowed \$50,000, not made payments, and, prior to the date of default, changed their collateral on the loans from the vested account balances to their company stock. They then wanted to consider the defaulted loans not to be taxable deemed distributions since the plan foreclosed on the company stock, not their account balances.

The PIX user is concerned that by substituting the collateral on the loans, they effectively renegotiated the loans, and thereby violated the \$50,000 loan limit, since the renegotiations would be treated as new loans subject to the \$50,000 limit reduced by the loan balance outstanding in the prior 12 months.

There are other concerns here as well. Is the company stock sufficient collateral? However, the PIX user's main concern was how to complete the 5500, since the loan transaction had occurred before the user's company services were engaged. This thread points out some of the problems practitioners face in dealing with loan reporting. It was pointed out that a common practice in the past was to leave the 5500 question blank and instruct the Plan Administrator to answer it. With the new bar codes on machine-printed 5500 forms, this is no longer a viable option. Problems could also arise if the practitioner reports the loan as a deemed distribution and the Plan Administrator changes the form, since the answer will no longer agree with the bar code.

This thread highlights the need for practitioners to gather more data from the Plan Sponsor to properly answer the related questions on the 5500.

To read the thread, download the [file defloan3.fsg](#).

## **When a Plan Trustee Terminates Employment**

*[Thread 95649]*

How many practitioners have updated their client information and

found that a plan trustee terminated employment with the company months ago, and nothing was done to remove him or her as a plan trustee?

This seems to happen all the time, and more often than not, the terminating trustee will not bother to resign as trustee. Usually nothing bad happens, and eventually the plan is updated to reflect the new trustees.

However, one PIX user has a client where things went terribly wrong. Two principals in a business were also plan trustees. Eventually the two could no longer get along, so one of them left. The remaining principal and trustee directed the fund company to pay out the former trustee's plan benefits to him and notified them that he had terminated.

The departed trustee received his distribution and requested a further distribution, which the fund company paid. Now the plan is short of funds for the other participants.

Undoubtedly the facts of this case will be argued in court, but the lesson to practitioners is clear. We should remind our clients that if changes occur in who is to have authority over plan assets, the changes must be made and properly documented quickly. If the situation warrants, legal advice should be sought to ensure that departing trustees do not have improper access to plan funds.

To read the entire thread, download [tteetrm2.fsg](#). ▲

#### Ideas? Comments? Questions? Want to write an article?

*The Pension Actuary* welcomes your views! Send to:

*The Pension Actuary*  
ASPAs, Suite 750  
4245 North Fairfax Drive  
Arlington, VA 22203  
(703) 516-9300  
or fax (703) 516-9308  
or e-mail [aspa@aspa.org](mailto:aspa@aspa.org)

Joint Board for the  
Enrollment of Actuaries  
Department of Labor  
Department of the Treasury

Department of the Treasury  
Internal Revenue Service  
Washington, DC 20224

## Announcement Of New JBEA Website

The Joint Board for the Enrollment of Actuaries is pleased to announce its recently established website. The site contains information for the enrolled actuary and for the individual who wishes to become an enrolled actuary.

#### How do you access the website?

- Go to [www.irs.gov](http://www.irs.gov). This is the Digital Daily, which is the Internal Revenue Service homepage.
- Click on "Tax Info for Business"
- Then click on "Tax Professionals Corner"
- Finally click on "Joint Board for the Enrollment of Actuaries"

#### What can be found on the website?

- The latest news from the Joint Board
- How to become an enrolled actuary
- The application form to become an enrolled actuary
- Information about the Joint Board examination program, including how to study for the examinations
- Past Joint Board examinations
- Regulations governing enrolled actuaries
- Renewal of enrollment information

## CONTINUED FROM PAGE 25

### Focus on Technology

her presentation early one morning the following week and, for the next six weeks, registered attendees accessed the presentation at their own convenience. This experience provided valuable insight regarding the pros and cons of archived recorded presentations. For the following webcast, we implemented a new form of presentation archiving utilizing RealAudio® streaming media, offering more user control to attendees viewing the recorded presentation.

The second webcast in ASPA's Webcast Series for 2001 took place on May 24. Cheryl L. Morgan, CPC, presented the webcast on top-heavy issues, covering plan design, the im-

pact of 401(k) refunds, and rollover issues, among other things.

The next webcast tentatively on the docket is a government affairs update, hosted by ASPA Executive Director, Brian H. Graff, Esq. Watch the website for further information! ▲

---

*Michael L. Bain, MSPA, is president of CMC in Glendale, CA. Mike is ASPA's Technology Committee chair and a divisional chair on the E&E Committee. He has been involved with technology and systems integration since the outset of his career, including working for several pension software firms.*



# Bulletin Board

## EDUCATION

C-3 and C-4 Exams  
June 6 and Dec. 5, 2001

A-4 Exam  
Dec. 5, 2001

C-1, C-2(DB), C-2(DC)  
Fall exam window  
Oct. 15 - Nov. 30

## CONFERENCES

ASPA's Summer Academy  
July 22-25, San Francisco

Los Angeles Benefits Conference  
September 13 - 14

## WEBSITE

Deadline for responses to the financial survey: June 15  
Find the survey on the What's New page  
[www.aspa.org](http://www.aspa.org)



## 2001 Calendar of Events

|                   |  | ASPA | CE | Credit |
|-------------------|--|------|----|--------|
| June 6            | C-3 and C-4 examinations   |      |    | *      |
| June 14           | Northeast Key Conference, Boston, MA   |      |    | 8      |
| June 15           | Northeast Key Conference, White Plains, NY   |      |    | 8      |
| June 19           | Pension Reform Webcast   |      |    | 2      |
| June 30           | Summer Academy Early Registration Deadline   |      |    |        |
| July - October    | Registration for fall virtual study groups   |      |    |        |
| July 15           | Suggested start time for fall virtual study groups                                   |      |    | 20     |
| July 21           | Business Practices Conference, San Francisco, CA                                     |      |    | 7      |
| July 22 - 25      | Summer Academy, San Francisco, CA  |      |    | 20     |
| July              | Three Best of Great Lakes  |      |    | 8      |
| August 20         | Advanced DC Workshop, Seattle, WA  |      |    | 7      |
| August 21         | Form 5500 Workshop, Seattle, WA  |      |    | 7      |
| August 27         | Advanced DC Workshop, Pittsburgh, PA   |      |    | 7      |
| August 28         | Form 5500 Workshop, Pittsburgh, PA   |      |    | 7      |
| Sept. 13 - 14     | Los Angeles Benefits Conference, Universal City, CA                                  |      |    | 16     |
| Sept. 15          | Early registration deadline for fall exams   |      |    |        |
| Oct. 15 - Nov. 30 | C-1, C-2(DB), C-2(DC) fall exam window   |      |    | *      |
| October 28 - 31   | Annual Conference, Washington, DC  |      |    | 20     |
| October 31        | Final registration deadline for fall exams   |      |    |        |
| November 5        | Registration deadline for fall weekend courses (C-1, C-2(DB), C-2(DC), C-3, and C-4) |      |    |        |
| November 10 - 11  | C-1, C-2(DB), C-2(DC), C-3, and C-4 weekend courses, Chicago, IL                     |      |    | 15     |
| December 5        | C-3, C-4, and A-4 examinations   |      |    | *      |
| December 31       | Deadline for 2001 edition exams for PA-1 (A&B)                                       |      |    | **     |
| December 31       | Deadline for 2001 edition exam for Daily Valuation                                   |      |    | ***    |

\* Exam candidates earn 20 hours of ASPA continuing education credit for passing exams, 15 hours of credit for failing an exam with a score of 5 or 6, and no credit for failing with a score lower than 5.

\*\* PA-1A and B exams earn five hours of ASPA continuing education credits each for passing grades.

\*\*\* Daily Valuation exams earn 10 hours of ASPA continuing education credits each for passing grades.