SPRING 2011 :: VOL 41, NO 2

THE ASPPA Journal

ASPPA's Quarterly Journal for Actuaries, Consultants, Administrators and Other Retirement Plan Professionals

In This Issue:

Washington Update

DOL Finalizes Participant Disclosure Regulation for Participant-directed Individual Account Plans

The Value Enhanced Pension Practitioner: From Good to Great in Six Steps

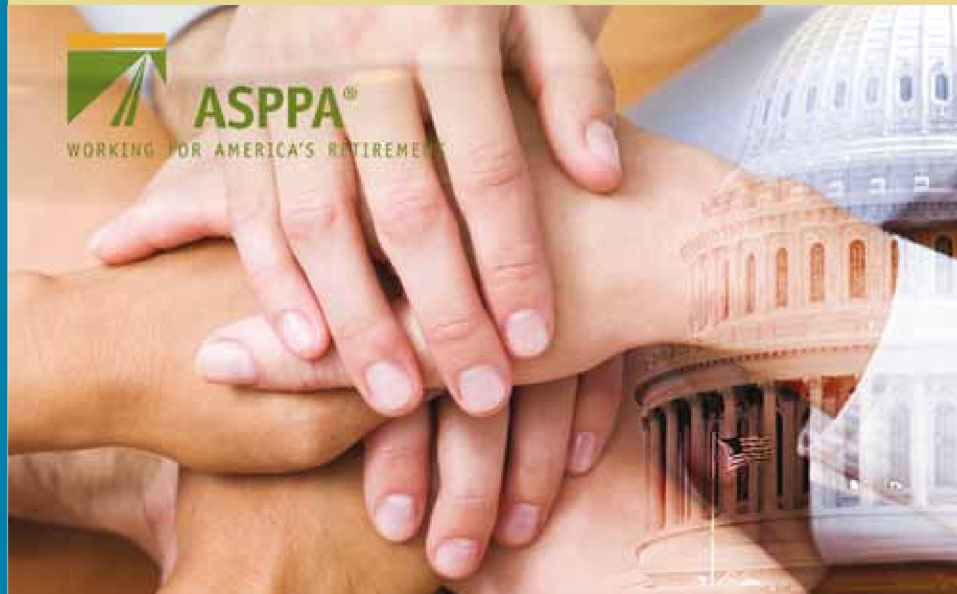
End of Year Valuation Issues for Defined Benefit Plans

Rethinking Risk

Practical ERISA 408(b)(2) Guidance for Service Agreements

WASHINGTON UPDATE

Retirement Policy in a World of Deficits



by Brian H. Graff, Esq., APM

Continuing political support for voluntary employer-provided retirement benefits could be seriously weakened in a world of burgeoning deficits that Congressman Paul Ryan (R-Wis.), incoming chairman of the House Budget Committee, and others have articulated. Whether we like it or not, those deficits exist, and tax expenditures clearly are part of the revenue picture that the National Commission on Fiscal Responsibility and Reform ("Commission") examined at the request of President Obama.

In its recommendations, that Commission proposed to either eliminate all the incentives for retirement savings or, alternatively, severely cut the annual limits on contributions. Specifically, the Commission's "Zero-Option Plan" would eliminate the deduction for retirement savings completely. Its alternative would reduce the 415(c) limit to the lesser of 20 percent of pay or $20,000. Such proposals, if enacted, would clearly decimate workplace savings programs. Why would they propose such a thing?

Continued on page 4

www.autorollovers.com
6 Rhoads Drive, Suite 7
Utica, NY 13502-6347
1.866.401.5272 x 6941

Give us your AUTOROLLOVER business, and we'll throw you a bone!

TPAs are paid $25 for every account that is rolled into the AUTOROLLOVERS Program!

In addition to paying you $25 for each IRA account*, signing up for AUTOROLLOVERS provides Plan Sponsors with the following benefits:

- A fully compliant Safe Harbor rollover solution
- Reduced Plan expenses
- Easy to sign up: one contract covers all rollovers
- No cost to Plan Sponsor nor to TPA
- Eliminate need to track former employees
- Avoid lost participants upon Plan termination

Participants enjoy:

- Low-cost IRA account
  - No account set-up fee
  - Low annual maintenance fees
- Stable value GIC fund as default investment option
  - Eleven additional mutual fund offerings for account diversification

ASPPA®
WORKING FOR AMERICA'S RETIREMENT

Editor in Chief
Brian H. Graff, Esq., APM

The ASPPA Journal Committee
William C. Grossman, QPA, Co-chair
James T. Comer, III
Kim A. Cooley, QKA, QPFC
Kimberly A. Flett, QPA, QKA
Catherine J. Gianotto, QPA, QKA
Ronald A. Hayunga, QKA, QPFC
Barry Kozak
Michelle C. Miller, QKA
Mary L. Patch, QKA, QPFC
John M. Phillips
David A. Pitts, MSPA
Steven F. Sullivan
Peter K. Swisher, CPC, QPA
David J. Witz

Editor
Chris L. Stroud, MSPA

Associate Editor
Troy L. Cornett

Production Manager
Troy L. Cornett

Technical Review Board
Michael Cohen-Greenberg
Barry Kozak
Marjorie R. Martin, MSPA
Robert M. Richter, APM
Nicholas L. Saakvitne, APM

Advertising Sales
Jeff Hoffman

Design and Layout
Lynn A. Lema

ASPPA OFFICERS

President
Thomas J. Finnegan, MSPA, CPC, QPA

President-Elect
Robert M. Richter, APM

Senior Vice President
Barry Max Levy, QKA

Vice President
Kyla M. Keck, CPC, QPA, QKA

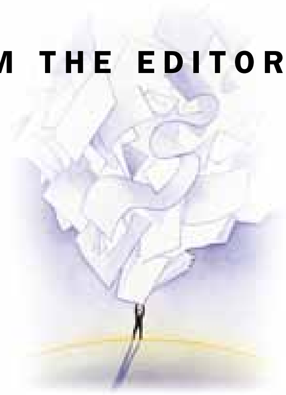
Vice President
Robert L. Long, APM

Treasurer
David M. Lipkin, MSPA

Secretary
Adam C. Pozek, QPA, QKA, QPFC

Immediate Past President
Sheldon H. Smith, APM

FROM THE EDITOR



Chaos Theory

by Chris L. Stroud, MSPA

The twentieth century gave rise to an official new field of study for mathematicians and scientists—"chaos theory." Since "chaos" is defined by Random House Webster's dictionary as "a state of utter confusion or disorder," I wondered how this type of title could become attached to something related to mathematics, which has always seemed pretty orderly to me. Then I also pondered—if "order" is the opposite of "chaos," where on the spectrum does planning for retirement fall and does chaos theory, whatever it may be, apply?

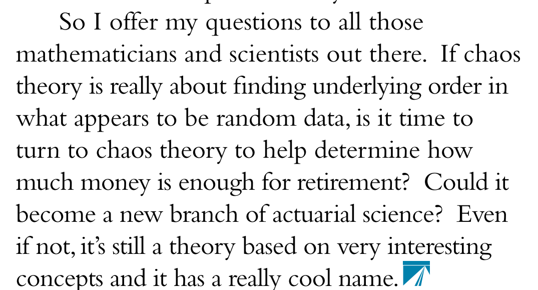
Traditional mathematics as I learned it was based on "linear" concepts, where equations can be created to provide a solution. But sometimes our world becomes very complex or "chaotic," with too many things going on simultaneously and interdependently to track with linear equations. Chaos theory is a way to mathematically make order out of chaos. I learned that chaos theory revolves around the study of "nonlinear systems." A "system" is typically defined as "the understanding of the relationship between things that interact." Fortunately, systems can be modeled and with the help of computers, we can replicate the variety of ways a system will behave when conditions are changed. When a "linear" system is analyzed in graph format, the solutions appear in a straight line. When systems are more complex and "nonlinear," the results are not as predictable and the graphs of the solutions do not form a straight line. Chaos theory was able to evolve in more recent years because of the power of computers. All those very smart people could now deal with many variables and complex, tedious calculations and iterations to provide solutions to complex problems.

Chaos theory looks at dynamic systems that are significantly impacted when something about the initial conditions change. In chaos theory, a small difference in an initial condition can create drastically different end results, making it almost impossible to accurately predict outcomes. Early applications of chaos theory included the study of weather prediction and also the effects of wind turbulence on airplanes. (If you are curious, research the "butterfly effect.") Chaos theory deals with the "noise" that adds complexity to the system (So, could health care costs, personal health, mortality, etc. be considered "noise?").

Let's pause for a moment and think about retirement and annuities. What would happen to the cost of annuities if suddenly someone found a cure for all cancers? What would that do to mortality tables and our own personal retirement savings targets? Longevity has certainly had an impact on our industry and on the quality of current and future retirement lifestyles of individuals. When a system (like retirement) depends heavily on initial conditions (like mortality), it seems to me that the general rule according to chaos theory is that one cannot create a model that will accurately predict outcomes exactly. However, one can create models that simulate the processes that a system may go through and can model a variety of possible solutions given changes in initial conditions.

When I think about my own retirement, there are so many variables that I wonder how I can ever plan for the right amount of retirement savings. How long will I live? How long will my husband live? What will our state of personal health be? What will the income tax rate be when I retire and every year thereafter? What will the stock market do and what will even conservative investments earn? Although our house is paid off, what will property taxes and insurance cost? What will gas cost in the future, and utilities and groceries? Will Social Security even be around to make its small contribution to our retirement? All those questions loom in my head before I even get to the part where I wonder if I'll ever be able to afford to fund the pursuit of my bucket list!

So I offer my questions to all those mathematicians and scientists out there. If chaos theory is really about finding underlying order in what appears to be random data, is it time to turn to chaos theory to help determine how much money is enough for retirement? Could it become a new branch of actuarial science? Even if not, it's still a theory based on very interesting concepts and it has a really cool name.



CONTINUED FROM PAGE 1

We're Number One

Recent estimates from the Joint Committee on Taxation (JCT) show that taxes deferred under workplace retirement plans, combined with deferred taxes on rollover individual retirement accounts, will make tax incentives for retirement savings the number one tax expenditure in 2013 (Chart 1). In case you are wondering, being number one in this case is not a good thing. First and foremost, it means that in a world of deficits we get a lot of unwanted and unwarranted attention.

There are some unfortunate and significant distortions associated with the perceived "cost" of tax incentives for employers to provide retirement benefits. Keep in mind that tax expenditures to promote retirement benefits are not like the tax expenditures for health benefits. The health care benefits offered to participants in a health plan are not taxed—not this year and not in the future.

Budget Scoring

Retirement benefits, by contrast, will ultimately be taxed. However, because of how tax spending is scored in Washington, DC, we don't get credit for those taxes. What goes out counts against us, but what comes in later outside the ten-year federal budget window we don't get credit for. As far as Congress is concerned, the concept of present value is misunderstood or is ignored.

Federal budget scoring produces a significant distortion in tax policy. If the voluntary employer-sponsored retirement system were to get credit for the amount of future tax dollars it generates, many of the tax expenditures that promote retirement savings would cost much less than they appear to cost under budget scoring procedures used by the Joint Committee on Taxation. Because of that distortion, however, Congress tends to do much less to promote retirement savings than it would if tax incentives for retirement savings scored better than they do.

JCT January 2010 Estimates*

Tax Expenditure	2010	2011	2012	2013
	Billions			
Employer-provided health exclusion	$ 106.6	$ 115.2	$ 122.0	$ 130.0
Home mortgage deduction	$ 103.7	$ 119.9	$ 128.2	$ 134.7
Defined contribution plans	$ 29.6	$ 32.6	$ 39.8	$ 49.7
Defined benefit plans	$ 37.5	$ 51.5	$ 66.3	$ 82.0
Self-employed pension plans	$ 12.9	$ 16.2	$ 17.3	$ 17.8
Total ER-provided retirement plans	$ 80.0	$ 100.3	$ 123.4	$ 149.5
Traditional IRAs	$ 21.5	$ 13.4	$ 14.3	$ 18.5
Roth IRAs	$ 3.6	$ 4.1	$ 4.9	$ 5.6
Saver's credit	$ 0.9	$ 0.9	$ 1.0	$ 1.0

*Chart 1 See http://www.jct.gov/publications.html?func=startdown&id=3642

contents

1 Washington Update

8 DOL Finalizes Participant Disclosure Regulation for Participant-directed Individual Account Plans

12 The Value Enhanced Pension Practitioner: From Good to Great in Six Steps

15 Nominations Open for ASPPA's Board of Directors

16 End of Year Valuation Issues for Defined Benefit Plans

22 Rethinking Risk

28 Practical ERISA 408(b)(2) Guidance for Service Agreements

31 GAC Corner

32 Malone Honored with 401(k) Advisor Leadership Award

34 From the President

36 Continuing Professional Education for ASPPA Members

39 Austin, Texas ERISA Study Group Becomes the "ABC of Central Texas"

40 Welcome New Members and Recent Designees

41 Calendar of Events

42 Fun-da-Mentals

In 2008, ASPPA did a study with the US Chamber of Commerce and others to show the effect of tax expenditures to promote employer-provided retirement benefits. The conclusion of that research was that the measurement of tax expenditures for retirement savings should be based on the present value of the expenditure. We are currently doing a follow-up study that will reveal the true "cost" of retirement saving incentives. Nevertheless, members of Congress are locked into a mindset of cash-basis expense reporting and will likely never appreciate the fact that, unlike the other tax expenditures, the expenditures for retirement benefits are tax deferrals and not tax exclusions.

Target of Critics

The voluntary employer-provided retirement system has attracted frequent criticism during the past few years. Much of the criticism grew out of the market adjustment that occurred in 2008-2009, when many people lost a considerable amount of their retirement savings in employer-provided plans.

Particularly for workers in their late 50s and early 60s who had an expectation of a certain amount of savings, it was devastating to see their account balances down by 20 to 30 percent. The market adjustment led to many questions about what is working and what is not working in the voluntary retirement system.

Fortunately, since then, the market has rebounded. Many of those accounts have recovered, but a question, a fair one, still lingers: Why do so many working Americans have no private savings or retirement benefits through their employers?

Retirement Plan Data

We do know, and there is widespread agreement on this claim, that workplace retirement savings plans work. Data provided to ASPPA by the Employee Benefit Research Institute (EBRI) on 401(k), 403(b) and 457 retirement savings plans show that employees earning between $30,000 and $50,000 are more than 15 times (71.5 percent vs. 4.6 percent) more likely to save for retirement if they can do so through an employer-sponsored defined contribution plan than they are if their only option is to save on their own through an IRA.

That gap in rates of saving cannot be ignored. It derives from a culture of saving that employers promote, with your help, by offering retirement benefits and matching contributions. It reflects the convenience of saving through payroll deductions. When workers are without that culture and convenience and must decide on their own to set up and contribute to an IRA, less than 5 percent choose to save. Traditional IRAs are not a highly effective incentive for workers without workplace retirement plans to save for retirement.

Another criticism of 401(k) plans is that they benefit only the rich. A *Time* magazine article several months back ran a cover with a headline, "It's Time to Retire the 401(k)." That article fostered the erroneous view that the only people benefiting from 401(k) plans are wealthy folks. However, if you look at income statistics on 401(k) plan participants, about 74 percent of participants are in households with annual gross incomes of less than $100,000.

Who Benefits?

If you look at the distribution of tax expenditures for 401(k) plans, 62 percent of deferred taxes benefit households with annual gross incomes of less than $100,000. Income statistics also show that 75 percent of the deferred taxes benefit households with annual gross income of less than $150,000 (Chart 2, Estimated Distribution of Federal Tax Expenditure

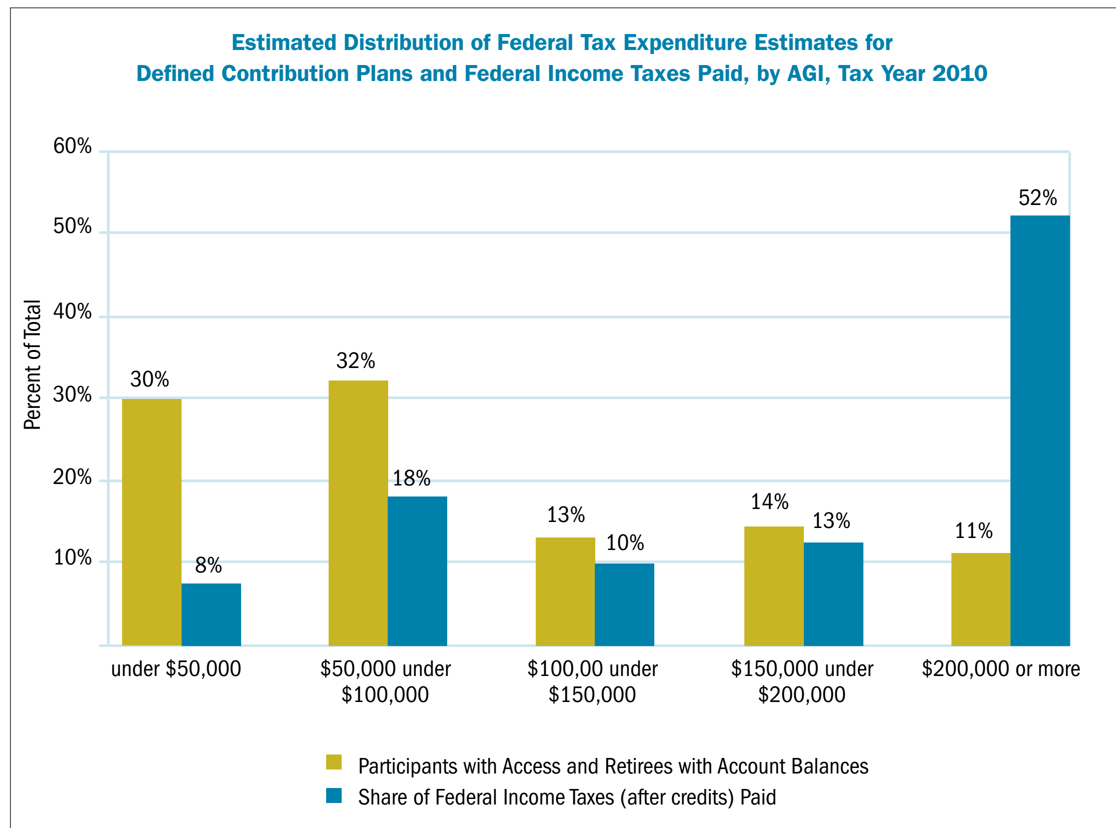
The ASPPA Journal is produced by The ASPPA Journal Committee and the Executive Director/CEO of ASPPA. Statements of fact and opinion in this publication, including editorials and letters to the editor, are the sole responsibility of the authors and do not necessarily represent the position of ASPPA or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

The American Society of Pension Professionals & Actuaries (ASPPA), a national organization made up of more than 7,500 retirement plan professionals, is dedicated to the preservation and enhancement of the private retirement plan system in the United States. ASPPA is the only organization comprised exclusively of pension professionals that actively advocates for legislative and regulatory changes to expand and improve the private pension system. In addition, ASPPA offers an extensive credentialing program with a reputation for high quality training that is thorough and specialized. ASPPA credentials are bestowed on administrators, consultants, actuaries and other professionals associated with the retirement plan industry.

© ASPPA 2011. All rights reserved. Reprints with permission. ASPPA is a not-for-profit professional society. The materials contained herein are intended for instruction only and are not a substitute for professional advice. **ISSN 1544-9769**.

To submit comments or suggestions, send an e-mail to **theasppajournal@asppa.org**. For information about advertising, send an e-mail to **jhoffman@asppa.org**.

4245 North Fairfax Drive, Suite 750
Arlington, VA 22203
P 703.516.9300 F 703.516.9308
www.asppa.org



Estimates for Defined Contribution Plans and Federal Income Taxes Paid, by Adjusted Gross Income, Tax Year 2010).

The data belie the argument that the majority of tax expenditures for employer-sponsored retirement savings benefit the wealthy. Nonetheless, we need to remember that 47 percent of households pay no federal income taxes and therefore receive no benefit from those tax incentives. That is why households with annual income of less than $50,000 pay only 8 percent of individual income taxes. Households with annual income of less than $100,000 pay about 26 percent of individual income taxes. The fact that about 62 percent of the tax expenditures for defined contribution plans go to those families shows that the current tax preference actually shifts the benefit toward middle- and lower-income workers.

Get Involved

We know that employer workplace plans work. As Congress begins the debate on tax reform, the ASPPA Government Affairs Committee will be working hard to deliver our message. If tax reform is constructed in a manner like 1986, it will be disastrous. Now is not the time to be reducing retirement savings incentives that will ultimately reduce coverage. By contrast, we need to consider steps to expand retirement plan coverage—the only way working Americans have ever meaningfully saved.

But, we are going to need your help. It is going to take a concerted effort to prevent what happened in 1986 from happening again. Becoming politically active needs to be part of your business plan, because guess what, your business—the retirement plan business—will depend on it. So, go meet your local member of Congress at a town hall meeting and tell him or her how important retirement plans are. If you are coming to the ASPPA Annual Conference this year, make sure you sign up for the Visits to the Hill. Make a contribution to the ASPPA Political Action Committee (ASPPA PAC), for whatever amount. It will all make a difference.

*Brian H. Graff, Esq., APM, is the Executive Director/CEO of ASPPA. Before joining ASPPA, he was pension and benefits counsel to the US Congress Joint Committee on Taxation. Brian is a nationally recognized leader in retirement policy, frequently speaking at pension conferences throughout the country. He has served as a delegate to the White House/Congressional Summit on Retirement Savings, and he serves on the employee benefits committee of the US Chamber of Commerce and the board of the Small Business Council of America. (**bgraff@asppa.org**)*

The ERISA Outline Book

by Sal L. Tripodi, J.D., LL.M.

PRINT

The ERISA Outline Book is both a reference book and a study guide on qualified plans, presented in outline format and fully indexed. It's also the recommended study resource for the IRS Enrolled Retirement Plan Agent (ERPA) program.

12-MONTH ONLINE SUBSCRIPTION

The ERISA Outline Book-Online Edition is a fully searchable and cross-referenced Web site, containing the same information included in the print edition. The Online Edition is available as a single subscription or multiple-use license.

WHAT'S NEW!

Valued by every practitioner, *The ERISA Outline Book* offers vital information on everything you need to know, including:

- Service provider fee disclosure regulations
- New mandatory fee disclosures to participants
- Expansion of fiduciary definition
- Cash balance regulations
- Pension Relief Act of 2010 - special amortization elections
- New PTIN requirements
- Mandatory electronic deposit of withholding
- HEART Act guidance
- New chapter added for 403(b), 457(b) and nonqualified plans
- 2010 Cumulative List of Changes in Plan Qualification Requirements

Visit **www.asppa.org/eob** for more details or call ASPPA Customer Support at 1.800.308.6714.

ASPPA®
WORKING FOR AMERICA'S RETIREMENT

DOL Finalizes Participant Disclosure Regulation for Participant-directed Individual Account Plans

by Stephen M. Saxon

Late last year, the Department of Labor (DOL) released its final regulation for participant disclosures in participant-directed individual account plans (the "Regulation"). The Regulation largely follows the version the Department proposed in 2008, and it requires plan administrators of participant-directed individual account plans to provide participants and beneficiaries with information on plan administrative fees and information on the performance and fees of plan investment options. The Regulation is effective December 20, 2010, but does not apply to plans until the first plan year that begins on or after November 1, 2011.

When combined with the new disclosure requirements under ERISA section 408(b)(2) and Schedule C to the Form 5500, it is plainly evident that the landscape for reporting and disclosure has undergone substantial changes, particularly in the defined contribution plan arena. And, while overall responsibility for the participant level disclosure mandated under the regulation is the responsibility of the plan administrator, we think much of this work will be passed on to TPAs and other plan services providers.

Overview of the Regulation

Scope

Like the proposal, the Regulation reflects the Department of Labor's relatively recent view that the general fiduciary duty provisions of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), require plan fiduciaries to ensure that participants and beneficiaries responsible for investing their account within the plan are provided with "sufficient information" to make informed investment. According to the DOL, compliance with the Regulation will satisfy this fiduciary duty. The final Regulation imposes specific disclosure obligations on the plan "administrator" as defined in section 3(16) of ERISA. While the administrator is primarily responsible for ensuring that the disclosures are made, the Regulation also provides that a plan administrator will not be liable for "reasonably and in good faith" relying on information received from a service provider or the issuer of an investment option to satisfy the Regulation's disclosure requirements.

Consistent with the definition of participant in ERISA section 3(7), disclosure under the Regulation must be made to all participants, including employees *eligible to participate* in the plan, whether or not they are currently enrolled (*e.g.,* contributing), as well as beneficiaries who have the ability to direct the investment of their accounts. According to the DOL, the annual notice required by the Regulation will serve as an important reminder to a non-participating employee of his or her eligibility to enroll in the plan.

Importantly, the Regulation does not apply to IRAs or IRA-based plans, such as SEPs or SIMPLEs. The DOL declined requests by some commenters to extend the Regulation to defined contribution plans that are not participant-directed and declined to exclude "small" (under 100) plans from the Regulation's disclosure requirements.

Equally importantly, the final Regulation does not require a breakdown of the components of an investment alternative's expense ratio. Thus, plan administrators will not be required to provide an allocation of an alternative's expense ratio between investment and recordkeeping expenses. However, the administrator must disclose in each participant's Quarterly Statement whether, in addition to the expenses reported on the statement, some of the plan's administrative expenses for the preceding quarter were paid from the annual operating expenses of the plan's Designated Investment Alternatives (DIAs). According to the DOL, this requirement is intended to provide those participants in plans with revenue sharing arrangements that serve to reduce plan administrative costs with a better picture as to how those costs are underwritten, at least in part, by fees and expenses associated with investment alternatives offered under their plans.

Overview of the Required Disclosures

Under the Regulation, a fiduciary will satisfy its disclosure duty by disclosing to participants two types of information:

Plan-level Information ("Plan Information"):

- The names of *designated investment alternatives* and an explanation of the circumstances under which participants and beneficiaries may give investment instructions, including any restrictions;
- The general *administrative fees* that may be charged against the individual accounts of participants and the basis on which the fees will be allocated to participant accounts;
- Any expenses that may be charged against the participant's account on *an individual, rather than plan-wide, basis* (*e.g.,* loan or QDRO fees, brokerage windows, commissions, front or back-end loads or sales charges, and redemption fees); and
- A statement of actual fees charged to the participant's account, on a quarterly basis.

Information About Designated Investment Alternatives ("DIA Information"):

For each designated investment alternative, the following information must be provided:

- The *name* and *type* of the investment option and any *restrictions* applicable to purchase or sale;
- *Performance and benchmark information* for investments with varying returns and the fixed or annual rate of return, expenses and terms for fixed return investments;
- Fees charged directly against the participant's investment, such as sales loads or redemption fees ("*shareholder fees*");
- The *total annual operating expenses* of the investment expressed as a percentage (*i.e.*, expense ratio) and a dollar amount on a $1,000 investment;
- A *website* containing additional information about the option, including its *portfolio turnover ratio*; and
- Certain information on request, such as prospectuses, unit values and asset listing.

A key component of the final Regulation is a requirement that the plan administrator provide the DIA Information in a chart or similar format designed to facilitate a comparison of the options. A plan administrator who uses the model form provided with the Regulation, taking into account each designated investment alternative under the plan, will be deemed to have satisfied the requirement to provide information in a comparative format.

A key component of the final Regulation is a requirement that the plan administrator provide the DIA Information in a chart or similar format designed to facilitate a comparison of the options.

Disclosure "Points" Under the Regulation

The Regulation requires disclosure of the Plan Information and DIA Information at different times and in different formats.

- <u>New Participant Disclosure</u>: On or before the date he or she is first eligible to invest, each participant must be provided Plan Information and the DIA Information as to each designated investment alternative.
- <u>Annual Disclosure</u>: Plan Information and DIA Information must be provided to each participant annually.
- <u>Updates of Plan Information</u>: If any Plan Information disclosed in the New Participant or Annual Disclosure changes, participants must be given updated information at least 30 days but not more than 90 days *in advance* of the effective date of the change.
- <u>A Quarterly Statement</u> must be sent to each participant describing the actual dollar amount of the administrative and individual investment expenses actually charged to the participant's account during the preceding quarter.
- <u>On the Request of the Participant</u>, the plan administrator must provide supplemental information relating to the plan's designated investment alternatives (*e.g.,* prospectuses, financial statements, unit/share values and asset listings).
- <u>A Website</u> must be identified for each designated investment alternative and must provide more detailed and up-to-date information about the alternative's investment strategy, portfolio turnover rate and performance data.

The DOL believes that "as an interpretive matter," ERISA imposes on fiduciaries of all participant-directed plans the duty to provide information to participants necessary to carry out their account management and investment responsibilities in an informed manner.

Amendment of the Existing Section 404(c) Regulation

The DOL has also amended the section 404(c) regulation to integrate the requirements of the new disclosure Regulation in order to "establish a uniform disclosure framework for all participant-directed individual account plans."

Some Key Challenges for Providers

As acknowledged by the Department, plan sponsors will be relying heavily on plan service and investment providers as a source, a clearinghouse or a distributor of the disclosures required by the Regulation. Here's a sampling of the key issues and challenges that investment and administrative providers will likely be addressing in the months to come:

- Significant New Data to be Maintained: New types of information must be developed for each of the plan's DIAs, including "*total annual operating expenses*" for non-registered options which have not been required to maintain this information to date. In addition, there must be tracked for each option a "*portfolio turnover rate*." (According to the DOL, while not included in a DIA's expense ratio, "the cost of trading on a portfolio level does have an effect, in some cases a large effect, on the alternative's rate of return.")
- Individualized Quarterly Statements: Customized expense information will be required to be added to participant statements on at least a quarterly basis, undoubtedly requiring changes to recordkeeping systems.
- New Website Requirement: Websites must be identified or created for each DIA and must include performance data, portfolio turnover rate and fee and expense information. Procedures must be implemented to update the information as required (*e.g.,* quarterly for performance data).
- Fixed and Annuity Options: Providers of fixed return and annuity options will be required to develop tailored information for New Participant, Annual, Website and On Request Disclosures.

Action Items for Plan Sponsors

Because the new Regulation is based on the general fiduciary duties of section 404—and not section 404(c)—the new requirements will be applicable to every participant-directed individual account plan, even those not relying on the relief afforded by section 404(c). We expect that plan sponsors will want to start discussing with the plan's recordkeeper and other service providers the extent to which the service provider's systems can accommodate the Regulation's requirements, including maintenance of a Website to provide necessary information to participants and systems for providing both the automatic New Participant and Annual Disclosures, and the Quarterly Statements and On Request Disclosures.

As part of this process, plan sponsors should identify all "designated investment alternatives" under the plan, and determine whether it already receives and/or provides the necessary disclosures to participants. Sponsors, working with plan service providers, should identify appropriate benchmarks for each DIA (including determining whether it is appropriate to provide participants with a benchmark in addition to the required "broad-based securities market index benchmark" required under the rule). If a plan sponsor is considering changes to plan investment alternatives or plan service providers, it may be a good idea to make those changes well in advance of the final Regulation's applicability date in order to minimize change notices to participants.

Sponsors should also consider various participant communication "housekeeping" matters, including the adequacy of missing participant procedures, the plan's compliance with current electronic disclosure requirements, and how the sponsor expects to deal with the increased flow of participant inquiries that may occur once the first disclosures are provided.

Impact on Current Fee Cases

The DOL believes that "as an interpretive matter," ERISA imposes on fiduciaries of all participant-directed plans the duty to provide information to participants necessary to carry out their account management and investment responsibilities in an informed manner. According to the DOL, if a plan elected to satisfy the requirements of section 404(c) prior to the effective date of the Regulation, "the requirements of section 404(a)(1)(A) and (B) typically would have been satisfied by compliance with the disclosure requirement set forth at 29 CFR Sec. 2550.404c-1(b)(2)(i)(B)." The DOL "expresses no view with respect to plans that did not comply with section 404(c) and the regulations thereunder as to the specific information that should have been furnished to participants and beneficiaries at any time before this regulation is finalized and applicable."

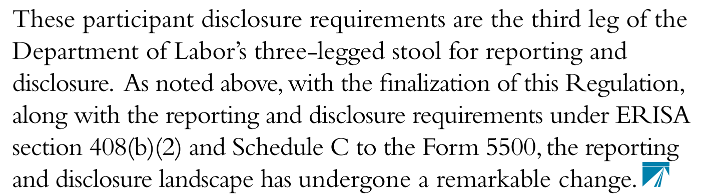
The decisions in the fee cases are providing shape as to what may have been required historically of fiduciaries under section 404(a)(1) in the absence of specific disclosure regulations. In *Hecker v. Deere & Co.*, 556 F.3d 575 (7th Cir. 2009) the Seventh Circuit described that a plan fiduciary could violate its duties to participants as a result of a "material" omission. That Court concluded that information regarding revenue sharing was not material and was not information that the participants needed to know to keep from acting to their detriment. According to the Seventh Circuit, the "total fee...is

the critical figure for someone interested in the cost of including a certain investment option in her portfolio and the net value of that investment." *Id*. at 586.

The Eighth Circuit, known to be participant-friendly on disclosure obligations, ruled that ERISA's specific statutory and regulatory disclosure rules "are supplemented" by duty of loyalty under 404(a)(1). *Braden v. Wal-Mart Stores, Inc.*, 588 F.3d 585 (8th Cir. 2009). Specifically, the Eighth Circuit found that, in some circumstances, the duty of loyalty requires fiduciaries on their own initiative to disclose "material" information that could affect a participant's interests. The Court defined "material" to mean information that, if not disclosed, "would mislead a reasonable employee in the process of making an adequately informed decision regarding benefits to which she might be entitled." *Id* at 599. As relevant to the fee cases, courts analyze "the effect information would have on a reasonable participant's decision about how to allocate his or her investments among the options in the Plan." *Id*. This standard is similar to rationale articulated by the DOL in the Regulation. In contrast to *Deere*, the Eighth Circuit in *Wal-Mart* determined that information regarding revenue sharing could be material and that the plan fiduciaries could be required in accordance with the duty of loyalty to "disclose latent conflicts of interests" that could affect a participant's ability to make informed decisions. *Id*. at 599-600.

The approach taken by the DOL in the final Regulation—describing a broad "duty to furnish" information under section 404—may lend further support to the disclosure arguments by plaintiffs in the fee cases.

Conclusion



These participant disclosure requirements are the third leg of the Department of Labor's three-legged stool for reporting and disclosure. As noted above, with the finalization of this Regulation, along with the reporting and disclosure requirements under ERISA section 408(b)(2) and Schedule C to the Form 5500, the reporting and disclosure landscape has undergone a remarkable change.

Stephen M. Saxon joined Groom Law Group in 1979 following his graduation from Georgetown University Law School and currently serves as the firm's Chairman. He works on a wide variety of administrative, litigation and legislative matters involving tax-exempt organizations and ERISA. Steve specializes in matters relating to Title I of ERISA, with respect to which he has obtained scores of advisory opinions and exemptions. In addition, Steve has worked on numerous DOL audits of plans and financial institutions that service plans. He heads up the firm's special practice groups on pension plan investments and on 401(k) plan administrative and investment management matters. Steve has been selected by his peers to be included in "Best Lawyers in America," and is top ranked by Chambers. (sms@groom.com)

Bottom line profitability!

Improve staff productivity with ASC's full suite of integrated software systems

- Avoid redundant data entry with our integrated **5500, Plan Document, DC Recordkeeping & Compliance,** and **DB Valuation Systems**
- No additional server fees translates to increased bottom line profitability
- Help your clients avoid missing deadlines with ASC's 5500 e-filing system reminder emails
- Contact us today to learn more!

See for yourself!
Email info@asc-net.com today to schedule a webcast demo!

Retirement plan software, documents & 5500 forms

info@asc-net.com www.asc-net.com (800) 950-2082 x1

The Value Enhanced Pension Practitioner: From Good to Great in Six Steps

by Jeff Chang, APM, and Susan Neethling

The training and development of contract service providers and pension consultants usually includes a heavy emphasis on checklists, testing, compliance calendars and the satisfaction of various filing or disclosure deadlines. However, as this article illustrates, taking your practice from good to great involves some enhancements that aren't necessarily in the technical training manuals.

Based on many years of working with both plan sponsors and their service providers, we have observed a number of recurring tendencies that can give rise to administrative problems or operational defects. Following is a list of service enhancements that all contract service providers and pension consultants should consider adopting, particularly if you do not have much face-to-face contact with clients.

Climb Out of the Weeds (From Time to Time)

By definition, pension practitioners are detail-oriented and very compliant (meaning they follow the rules). A head-down, by-the-book approach to plan administration can work just great if all your assumptions are correct, the rules don't change and everything remains the same as it was the year before. But as we all know, things change: the law, plan documents, plan design and plan operation and your clients' businesses. The failure to raise your head above the weeds to see where you are heading (and where your client is heading) can result in serious oversights in plan administration and compliance efforts. For example, the recent issuance of final section 415 regulations changed the definition of compensation for both allocation and 415 limit purposes. And while many of us view these types of changes as primarily "technical," we must make sure to find out whether our clients understand the new rules and how they have administered the permissive aspects of the new rules. Commit to taking advantage of education programs and online resources to keep your knowledge up-to-date.

Always Refer to the Plan Document

In this age of client databases and electronic plan summaries, it is easy to base your advice and decisions on what is in front of you or what is most readily accessible in terms of plan provisions. However, there is no substitute for reading the plan document, whether it is to examine the provisions of a client's multiple plans to find out how or if the top-heavy provisions properly coordinate, or if the definitions of eligible compensation are consistent. In talking with consultants who rely heavily on electronic plan summaries to advise their clients, we often find that these summaries are not always kept up-to-date or detailed enough to rely upon. When was the last time you reviewed the plan document? Along these lines, it is important to remind yourself that the plan document you need to refer to generally consists of both an adoption agreement and a basic plan document. Far too often, we find practitioners only considering the client's adoption agreement.

Become More Aware of Your Clients' Businesses

Many service providers develop a cordial working relationship with the client contact who gathers census data, communicates testing results, makes sure the Form 5500 gets timely filed or extended, etc. Unfortunately, the pressure to assure efficient service delivery may lead many of us to spend less time chatting with our clients to keep up on the status of their businesses. This failure to know how your client's business is doing can cause you to overlook a reduction in force affecting 15 percent of your client's participants (as being within IRS guidelines and, therefore, no issues to be concerned about). Of course, what you don't know and have not been looking into is the fact that your client's business has been so bad for the past several years that last year's layoffs of 15 percent of the workforce followed similar layoffs of 10 percent and 7 percent in the two preceding years. Think partial plan termination! Becoming more aware of significant developments in your client's business can also help you spot evolving controlled group and affiliated service group issues, as well as the likelihood of merger and acquisition activity. Are you having conversations with your clients on a regular basis? How thorough are your requests to your clients for information?

Learn Your Client's Weaknesses

By now you should see a larger theme emerging—that is, great plan administration services demand, to some degree, a bigger picture, and more holistic approach than many of us currently give them. The adage "garbage in, garbage out" can apply to plan administration and compliance testing. Do you know the level of experience and retirement plan knowledge of the client contact who is completing important year-end census, deferral and match data? If this person is new, inexperienced, unfamiliar with the plan or just plain incompetent, you're going to have problems (and by extension, so will your client's plan).

If you have any reason to suspect that the plan census information you are receiving is not accurate or complete, you need to help yourself and your client understand staffing and procedural weaknesses at the client level.

Along these lines, it is always good to check with your client's payroll supervisor to make sure he or she is familiar with the timing rules pertaining to salary deferral and loan payment deposits. In order to take your practice to the next level, you need to take the time to educate your clients and help them understand their plan administration duties and responsibilities.

Certified Pension Consultant (CPC) Training at Your Convenience

Expand Your Client Base
Enhance Your Professional Image
Diversify Your Services

Expand upon your retirement plan experience by obtaining the Certified Pension Consultant (CPC) credential now from ASPPA.

ASPPA's CPC online modules are open to anyone seeking advanced pension consulting education. Earn 3 Continuing Professional Education credits while mastering topics such as Distributions/Loans, Fiduciary Responsibilities, Investments, Related Groups, Nonqualified Plans, ESOPs and Governmental & Tax-Exempt Plans. QPAs seeking the CPC credential are required to pass 4-6 core modules and 2 elective modules as well as a proctored exam.

Expand your retirement plan skills, expertise, and grow your business by obtaining the professional CPC credential from ASPPA.

The CPC modules are available for members for only $125 each and $150 for non-members (including study material) during two semesters. Discounted module pricing is also available. The next CPC proctored examination is offered June 14, 2011. Supplemental study tools are also available. For additional information, please visit www.asppa.org/CPC.

ASPPA®
WORKING FOR AMERICA'S RETIREMENT

Don't Assume Very Many Things

In the busy world of deadlines and with a never-ending task list, it's tempting for benefits practitioners to assume that once a to-do item has moved off their desk and out to the client, it is no longer their responsibility. Moreover, they may assume that documents that have been sent out to the client for signature have indeed been timely executed. Unfortunately, in the real world plan amendments and such things do get lost or ignored by our clients. Take the time to make a follow-up call or send an e-mail to

- confirm that the time-sensitive amendment you sent was timely signed and
- obtain a signed and dated copy for your files.

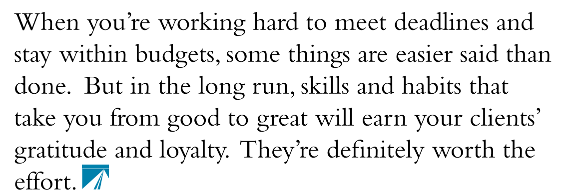
Under the heading of not assuming things, you also should not assume that your clients fully understand the myriad notices, forms and advisories you or your firm sends to them. For example, we are aware of a firm that regularly sent out to its clients a very thorough 15 to 20-page controlled group and affiliated service group questionnaire. Presumably, the form would help everyone to identify actual or potential testing issues. Unfortunately, the provider of the questionnaire assumed that the client contact knew what he or she was doing in completing the form (when in fact he or she had no clue) and as result learned that one subject plan had been improperly tested for well over five years!

Under this category it is critical for complete service providers not to assume that clients are administering their plans in accordance with the plan terms. We think you and your clients will be better served in the long run if you adopt a somewhat skeptical approach in this regard and regularly ask your clients how they are doing various administrative tasks and whether they have checked their actions against their plan document.

Keep Your Focus

Working with 50 to 100-page plan documents, as well as plan amendments and restatements for dozens and dozens of clients, is challenging and demands a great deal of concentration. Because a checklist or coding error can easily result in a plan document or operational failure, it is critical to make sure that the plan document work you are doing is as accurate and complete as possible. We find that whenever possible, it is helpful to deliberately break up your plan drafting sessions with other activities so that you can maintain a detailed focus and review your prior drafting work "with a fresh pair of eyes." If you find yourself losing focus or interest while drafting, learn to take an occasional break or figure out a way to share these responsibilities with a work partner. In addition, it never hurts to have your client run the plan amendment or restatement that you have prepared by a qualified employee benefits attorney.

Conclusion



When you're working hard to meet deadlines and stay within budgets, some things are easier said than done. But in the long run, skills and habits that take you from good to great will earn your clients' gratitude and loyalty. They're definitely worth the effort.

Jeff Chang, APM, has more than 30 years of ERISA experience. His law practice includes 401(k), profit sharing, pension and deferred compensation plans for government agencies, private industry and tax-exempt entities. He served as Co-chair of ASPPA's Government Affairs Committee and was on its Board of Directors. Jeff is a charter fellow in the American College of Employee Benefits Counsel, and was selected by his peers for inclusion in the publications The Best Lawyers In America® *and* Superlawyers®. *(**jcc@seethebenefits.com**)*

*Susan Neethling's practice includes qualified retirement plans, governmental benefit plans, nonqualified deferred compensation plans and all aspects of employee benefits law. She offers particular expertise in drafting and advising on 403(b) plans for schools and not-for-profit organizations. Her experience includes working for several large employee benefits consulting firms in Los Angeles and the Bay Area. Susan is a member of the Western Pension & Benefits Conference. (**sbn@seethebenefits.com**)*

Nominations Open for ASPPA's Board of Directors

Nomination Deadline—August 23, 2011

by Troy L. Cornett

ASPPA needs the full participation of all credentialed members to continue its high-quality educational programs and maintain its role as the premier advocate for the profession in Washington, DC. One of the ways that you can take action is by participating in the Board of Directors nomination process. To achieve its goals, ASPPA depends on a broad mix of individuals on its Board so that the needs and concerns of all stakeholders are effectively represented.

If you know a forward-thinking ASPPA credentialed member (FSPA, MSPA, CPC, QPA, QKA, QPFC, TGPC or APM) with admirable leadership skills, please check to see if your colleague would be interested in having his or her name submitted for nomination to the Board. If the person is interested, now is the time to begin the nomination process.

There are always more nominations than open seats on the Board, so not everyone nominated will be elected; however, you will know that you have done your part by participating in the process.

The Nominating Committee's Review Process

The Nominating Committee considers many criteria when choosing potential members of the Board, including the current makeup of the Board and the number of open slots. The goal of the selection process is to bring together individuals with diverse backgrounds and characteristics that represent the entire organization.

The committee often selects a candidate based on his or her ability to contribute particular expertise that is relevant to unique challenges the Board faces. When evaluating a nominee, the Nominating Committee considers several core characteristics, including:

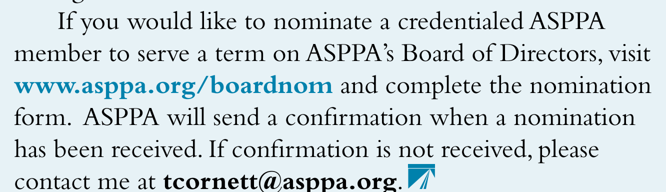
- Ability to meet ASPPA's core values of strategic thinking, responsiveness, courage and dedication;
- Willingness to serve in a leadership capacity;
- Activities within ASPPA, including demonstrating leadership in more than one area;
- Ability to represent the organization as a whole;
- Professional credentials;
- Time available for volunteer activities;
- Geographic location; and
- Current employer and type of firm.

Nominations must be received by ASPPA no later than 60 days prior to the Annual Business Meeting (which is held each year in conjunction with the ASPPA Annual Conference) in order to be considered for the upcoming year. In order for a nominee to be considered for the 2012 ASPPA Board of Directors, nominations must be received by August 23, 2011.

The Selection Process

The Nominating Committee's work begins in the spring and continues into the summer. They review the current Board, noting whose terms are expiring, how many open slots there will be and what characteristics are currently needed to maintain the desired diversity of the Board. The committee begins reviewing candidates as nominations are submitted or updated information on prior nominees is provided. Note that the Nominating Committee keeps nomination forms on file from previous years for candidates who did not become Board members; however, the Committee appreciates updated information on candidates who are still interested in serving. Updated information on previously nominated candidates can be e-mailed directly to me at **tcornett@asppa.org**.

Prior to the ASPPA Annual Conference, the Nominating Committee submits a slate of prospective nominees to the Board. This slate is then presented to the ASPPA membership for a vote at the Annual Business Meeting that takes place during the ASPPA Annual Conference.



If you would like to nominate a credentialed ASPPA member to serve a term on ASPPA's Board of Directors, visit **www.asppa.org/boardnom** and complete the nomination form. ASPPA will send a confirmation when a nomination has been received. If confirmation is not received, please contact me at **tcornett@asppa.org**.

Troy L. Cornett is the Director of Office and Human Resources for ASPPA. He is also the Board of Directors Liaison and the Production Manager and Associate Editor of The ASPPA Journal. *Troy has been an ASPPA employee since July 2000. (tcornett@asppa.org)*

End of Year Valuation Issues for Defined Benefit Plans

by Kevin J. Donovan, MSPA; G. Neff McGhie, III, MSPA; and Daveyne C. Totten, MSPA

Under the Pension Protection Act (PPA), the valuation date for single-employer defined benefit plans is generally the first day of the plan year; however, small plans may choose to use any other date during the year as the valuation date. There are many reasons why an end of year valuation date may make sense for small plans, such as better coordination of contributions with earned income for sole proprietor plans, funding based on actual data versus estimated data and simplification of general testing.

Unfortunately, because the rules under PPA have generally been written with beginning of year valuation dates in mind, guidance regarding end of year valuation dates is limited. This article provides a summary of issues that should be considered when using end of year valuation dates.

Valuation Date and Approval to Change the Valuation Date

In order to use a valuation date other than the first day of the plan year, a plan must have had 100 or fewer participants (including active and inactive participants, and any other individuals entitled to future benefits) on each day of the preceding plan year. In determining the number of participants, all single employer defined benefit plans maintained by the employer or members of the employer's controlled group are treated as one plan; however, only participants with respect to the employer are taken into account. For the first plan year of a plan, the determination is made based on the number of participants the plan is reasonably expected to have on each day of the first plan year [§430(g)(2)(B)]. If a plan qualifies, the valuation date may be any day during the plan year.

Because the valuation date is considered part of the plan's funding method, a change in the valuation date generally requires specific approval; however, there are a couple of exceptions to this general rule [§1.430(g)-1(f)(3)]:

- Any change in the valuation date that is required by IRC Section 430 is automatically approved. For example, if a plan ceases to be eligible to use a valuation date other than the first day of the plan year due to the number of participants exceeding 100 in the prior plan year, a change to a beginning of year valuation date would be automatically approved.
- Any change in a plan's valuation date made for the first plan year beginning in 2008, 2009 or 2010 is automatically approved.

Valuation of Assets and Liabilities

Under PPA, the funding target, target normal cost and value of plan assets are all determined as of the valuation date [§430(g)(1); §1.430(g)-1(b)(1)]. If the value of plan assets is less than the funding target, the minimum required contribution equals the sum of the present value of benefits accruing during the plan year (the target normal cost) and an amortization installment payment

for any shortfall (the shortfall amortization charge) [§430(a)(1)]. If the value of plan assets exceeds the funding target, the minimum required contribution is the target normal cost minus the excess, but not less than zero [§430(a)(2)]. These basics remain the same when using end of year valuation dates; however, there are some things to keep in mind.

If contributions for the current plan year are made prior to the valuation date for the year, the contributions (including interest at the effective rate between the deposit dates and the valuation date) must be subtracted from the value of plan assets. If the result of this subtraction is less than zero, the value of plan assets is set to zero [§1.430(g)-1(d)(2)].

The target normal cost for a plan using an end of year valuation date represents the cost of the benefits actually accruing during the plan year. The funding target represents the cost (determined on the valuation date) of benefits accrued as of the beginning of the plan year. It is important to note that benefits accruing during the year and benefits accrued at the beginning of the year that have been distributed during the year (and are therefore no longer included in the asset value at the end of the year) are not considered in determining the target normal cost and funding target when using an end of year valuation date.

Under PPA, the pre- and post-retirement interest rates previously selected by the actuary are replaced by prescribed rates. Most small plans use the prescribed three-tiered segment rates [§430(h)(2)(B)]. Final regulations specify that for plans with beginning of year valuation dates, the first segment rate applies to benefits expected to be paid during the five-year period beginning on the valuation date, the second to benefits expected to be paid during the next 15 years, and the third to benefits expected to be paid thereafter [§1.430(h)(2)-1(b)]. While guidance with regard to the determination of the applicable segment rate for valuation dates other than the first day of the plan year is reserved in final regulations [§1.430(h)(2)-1(b)(2)(ii)], it is stated in the preamble that the Treasury Department continues to believe that the method included in proposed regulations is the most appropriate. Proposed regulations define the first five-year period as the five-year period beginning on the valuation date, regardless of when that occurs during the plan year.

The segment rate set used under PPA is generally the rate set in effect for the month that includes the valuation date. For example, a calendar year plan with a beginning of year valuation date would generally use the segment rate set for January, whereas a calendar year plan with an end of year valuation date

Helping business owners find their way since 1930

Fiduciary Liability Insurance • ERISA/Fidelity Bonds • Errors & Omissions Insurance

Direct Online Insurance
from Colonial Surety Company
Protection for Pension Professionals
Direct insurance for Investment Advisors & Third Party Administrators
50 Chestnut Ridge Road • Montvale, NJ 07645 • 1.800.221.3662 • Visit us on the web at www.colonialdirect.com
Colonial Surety Company is an insurance company and direct underwriter of ERISA/Fidelity Bonds, Fiduciary Liability, and Errors & Omissions Insurance.
Colonial Surety Company is licensed in all 50 states and U.S. Territories. Colonial Surety Company is Treasury Listed, and rated Excellent by A.M. Best Company.

Final regulations provide no guidance with regard to the application of additional charges when late quarterly contributions are made to plans with end of year valuation dates.

would generally use the December segment rate set. A special rule allows plans to use the rate set for one of the four months preceding the valuation date as an alternative. Accordingly, for a plan using an end of year valuation date, the rate set for August, September, October or November could be used in lieu of the December rate set [§430(h)(2)(E)].

Satisfying Minimum Funding Standards

In determining whether minimum funding standards are satisfied, contributions are adjusted from the deposit dates to the valuation date using the effective rate for the plan year [§430(j)(2); Proposed §1.430(j)-1(b)(3)]. For plans using a beginning of year valuation date, the adjustment is always downward (a discount); however, for plans using an end of year valuation date, the adjustment can be either downward or upward, depending on when the contribution is deposited. When using an end of year valuation date, a contribution deposited during the plan year would be adjusted upward between the deposit date and the valuation date; whereas a contribution deposited after the end of the plan year would be adjusted downward.

Credit Balances and Schedule SB

Credit balances by definition are determined as of the first day of the plan year and must be adjusted when using an end of year valuation date. Generally, the credit balance (determined on the first day of the plan year) is accumulated from the beginning to the end of the plan year using the effective rate for the year in order to determine the amount available for use on the valuation date. Any unused portion of the accumulated credit balance at the end of the year is discounted back to the first day of the plan year using the effective rate, then accumulated forward to the first day of the following plan year at the actual rate of return in order to determine the remaining credit balance on that date [§1.430(f)-1(b)(3); §1.430(f)-1(b)(4)].

Lines 7 through 13 of Schedule SB bring the credit balances forward from the beginning of the prior year (after voluntary or deemed reductions, if any) to the beginning of the current year (after reductions, if any). The balances reported on these lines are the balances at the beginning of the applicable plan year, regardless of the valuation date, and some lines must be adjusted for end of year valuation dates:

- Line 8, which reports the portion of the credit balance used to offset the prior year funding requirement, should be the amount shown on line 35 from the prior Schedule SB, *discounted* from the end of the prior year to the beginning of the prior year using the prior year effective rate.
- The dollar amount entered on Line 11b, which represents interest applied to excess contributions made for the prior year, will always be zero if an end of year valuation date was used in the prior year, since the excess contributions entered on line 11a (line 38 from prior year) would be the excess contributions determined at the end of the prior year in this case.
- The amounts entered on Line 12, which represent reductions in the balances due to elections or deemed elections for the current year, if any, should be the reduction amounts as of the valuation date for the current year, *discounted* from the last day of the current year to the first day of the current year using the current year effective rate.

The amounts entered on Line 35 of the SB, which represent the balances used to offset the current year funding requirement, should be the amounts determined as of the end of the current plan year, since the entries in Lines 31 through 39 (relating to the minimum required contribution and satisfaction of minimum funding standards for the current year) are all determined as of the valuation date for the current year.

FTAPs and AFTAPs

According to the 2010 Schedule SB instructions, the FTAP (line 14) for a plan using an end of year valuation date is determined as follows:

- The actuarial value of assets at the end of the year (Line 2b), *minus*
- The credit balances entered on Line 13 increased to the end of the year with interest at the effective rate, *divided by*
- The funding target at the end of the year [Line 3d(2)].

For purposes of the AFTAP reported on line 15 of Schedule SB for a plan with an end of year valuation date, the FTAP is adjusted as follows:

- Both the assets and funding target are increased by the aggregate amount of annuity purchases for non-highly compensated employees for the two prior plan years;
- The assets are increased to include contributions for the current plan year, adjusted for interest using the effective rate between deposit dates and the valuation date (including receivable contributions);
- The credit balances used are the balances at the end of the current year, adjusted (if applicable) for any interest adjusted excess contributions (for the current year) added to the prefunding balance; and
- The funding target is increased by the amount of the target normal cost for the current year.

This "final" AFTAP is reported on the SB for the current plan year, even though it is not used to determine the applicability of section 436 benefit restrictions until the following year.

Questions remain with regard to how the AFTAP is determined if the valuation date is changed. For example, assume the valuation date is changed from the end of year in 2009 to the beginning of the year in 2010. What is the AFTAP used to determine the applicability of section 436 benefit restrictions for 2010? Is it the AFTAP reported on Schedule SB for 2009 (as described above), or is a new AFTAP determined based on the 2010 beginning of year valuation results? Informal verbal IRS guidance indicates that restrictions should be based on a new beginning of year AFTAP using the 2010 valuation results in this case, but there is no formal guidance.

Quarterly Contributions

Final regulations provide no guidance with regard to the application of additional charges when late quarterly contributions are made to plans with end of year valuation dates. Absent guidance, one reasonable approach is to discount late installments from the deposit date to the quarterly due date using the effective rate plus 5%, then adjust the result from the quarterly due date to the end of the year using the effective rate only. Note that the adjustment of the result from the quarterly due date to the end of the year will be upward for quarterly contribution due dates during the plan year, and downward for quarterly contribution due dates after the end of the year, as illustrated by the following examples:

- $50,000 quarterly due April 15, 2010 for 2010 calendar year deposited April 15, 2011 (6% effective rate):

  $\$50{,}000 / 1.11^{(365/365)} \times 1.06^{(260/365)} = \$46{,}954$

- $50,000 quarterly due January 15, 2011 for 2010 calendar year deposited April 15, 2011 (6% effective rate):

  $\$50{,}000 / 1.11^{(90/365)} \times 1.06^{(-15/365)} = \$48{,}613$

Shortfall Amortization Bases

Under PPA, the shortfall amortization payment is determined on the valuation date in the year the base is established, and the balance of the base in

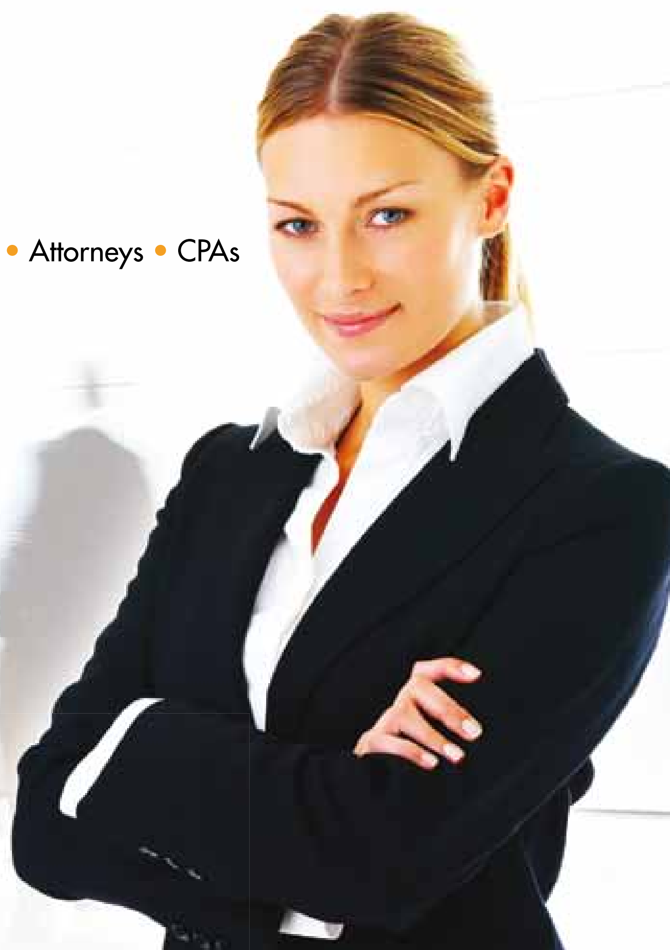
INCREASE VISIBILITY WITH YOUR TARGET AUDIENCE.

401(k) & 403(b) Advisors • TPA Owners • Consultants • Actuaries • Attorneys • CPAs

ACHIEVE YOUR MARKETING AND SALES OBJECTIVES.

Sponsorships • Exhibits • Advertising

STAND OUT FROM THE CROWD.



7,500 members strong and growing...

To leverage the power of ASPPA's audience, contact Jeff Hoffman 703.516.9300 or jhoffman@asppa.org

www.asppa.org

subsequent years is determined as the present value of the remaining amortization payments on the current valuation date, using the segment rates applicable to the current valuation date [§430(c)]. There is no formal guidance with regard to determining the balance of a base established in a prior year when the valuation date is changed. Informal guidance indicates that if the valuation date is changed, the amortization payment used to determine the present value of the payments on the current valuation date stays the same.

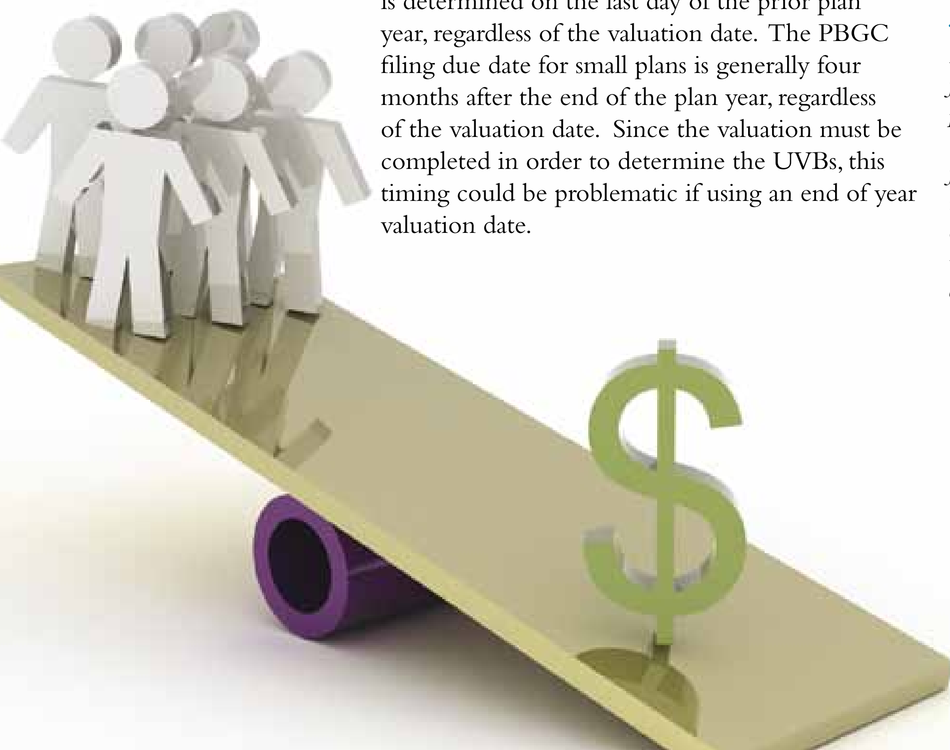
The PBGC has made it clear that the benefits to be valued as of the valuation date are those accrued as of the beginning of the year, regardless of when the valuation date occurs during the year.

Maximum Deductible Contribution

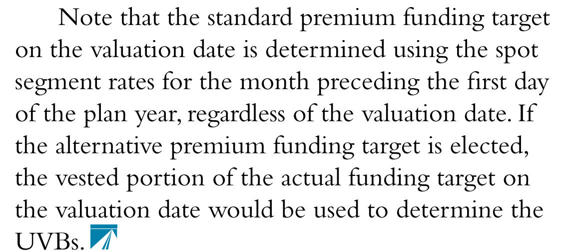
There is no substantive difference in the determination of the maximum deductible contribution under section 404(o) between end of year and beginning of year valuation dates; however, there would be a difference if regulations (or technical amendments) do not provide for an interest adjustment to the amount determined under 404(o) from the valuation date to the end of the year. As currently written, the maximum deductible contribution for a plan with an end of year valuation date would be higher than for a plan with a beginning of year valuation date, even if all assumptions were realized during the plan year, simply by virtue of the fact that it is determined at the end of the year, and the interest adjustment is automatically included.

PBGC Issues

The determination of unfunded vested benefits (UVBs) for purposes of the PBGC variable rate premium is based on the funding target and market value of assets on the valuation date. The participant count for PBGC premium purposes is determined on the last day of the prior plan year, regardless of the valuation date. The PBGC filing due date for small plans is generally four months after the end of the plan year, regardless of the valuation date. Since the valuation must be completed in order to determine the UVBs, this timing could be problematic if using an end of year valuation date.



The PBGC has made it clear that the benefits to be valued as of the valuation date are those accrued as of the beginning of the year, regardless of when the valuation date occurs during the year. It is unclear whether vesting is determined at the beginning or the end of the year when an end of year valuation date is used (end of year vesting is recommended).



Note that the standard premium funding target on the valuation date is determined using the spot segment rates for the month preceding the first day of the plan year, regardless of the valuation date. If the alternative premium funding target is elected, the vested portion of the actual funding target on the valuation date would be used to determine the UVBs.

*Kevin J. Donovan, MSPA, EA, CPA, is managing member of Pinnacle Plan Design, LLC. He is a CPA and an Enrolled Actuary. Kevin is former member of the ASPPA Board of Directors and a former Vice President of ACOPA. He is a frequent lecturer in the retirement plan area. He has spoken at numerous ASPPA conferences as well as conferences sponsored by NIPA, Sungard, the CCA, etc. Kevin has also authored several articles regarding retirement plan design. (**kdonovan@pinnacle-plan.com**)*

G. Neff McGhie, III, MSPA, EA, is an Enrolled Actuary, on the Board of Directors for ACOPA and author of the Defined Benefit Answer Book, *a Panel Publication. He is owner and operator of Sierra Pension Services, Inc., an actuarial consulting and pension administration company specializing in creative plan design work. Neff also provides actuarial consulting and valuation services for other pension administration firms. He is a frequent speaker on pension issues locally and in national conferences. (**sierrapension@mindspring.com**)*

Daveyne C. Totten, MSPA, MAAA, EA, is a senior actuary for Actuarial Pension Analysts, Inc., a consulting firm with primary offices located in Fayetteville, NY. Daveyne worked in the New York metropolitan area as a consultant and manager for ten years before joining APA in 1989, and she currently manages APA's Middlebury, VT office. She is also president of the Vermont Enrolled Actuaries Club and an ACOPA volunteer, serving on the ASPPA CPE Subcommittee and coordinating ACOPA articles for The ASPPA Journal. *(**totten@sover.net**)*

what happens in Vegas...

...stays in Vegas!

Western Benefits Conference

THE BEST OF BOTH WORLDS

July 24-27, 2011 • Bellagio Las Vegas

www.westernbenefits.org

WP&BC
WESTERN PENSION & BENEFITS CONFERENCE

Rethinking Risk

Defined benefit plan management is poised for significant change.

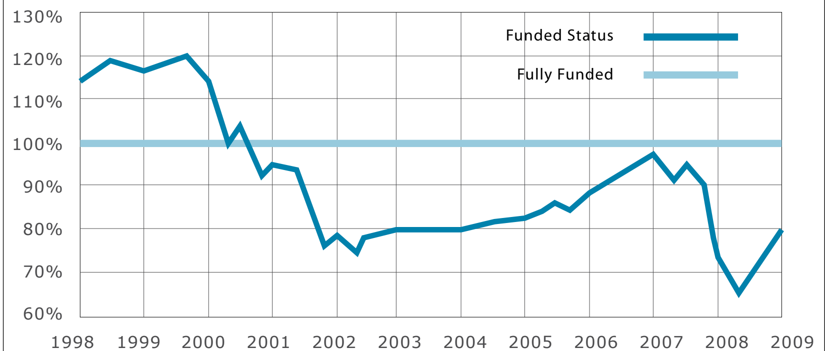
by Dylan J. Tyson

Fundamental shifts within the pension landscape are coming together to alter widely held pension risk management practices. Evolving corporate views of risk and reward, increasingly stringent funding requirements, on-balance sheet pension accounting and emerging product innovations are combining to change the face of defined benefit plan management.

Managing a defined benefit (DB) pension plan is challenging. The pension balance sheet contains myriad risks to be carefully managed. On the asset side, plan sponsors must consider equity risk, credit risk, interest rate risk and liquidity risk. On the liability side, sponsors are faced with interest rate risk, longevity risk, early retirement risk, expense risk and benefit election risk, among others. On top of these more quantifiable risks, pension plan sponsors are subject to less quantifiable regulatory risks, including such areas as plan funding and pension accounting.

High levels of market volatility, significant Pension Protection Act (PPA) funding requirements, changing pension accounting standards and competitive business conditions make the management of a defined benefit plan more difficult than ever. Plan sponsors who previously maintained well-funded pension plans are currently confronted with considerable plan deficits generating substantial contribution requirements and escalating stakeholder concerns. Over the past several years, DB plan sponsors have been forced to contribute billions of dollars to address sharp declines in plan funding. Absent significant market improvement, this cash call is likely to continue for the next few years for most plan sponsors as PPA regulations are fully phased-in and funding relief measures, enacted for 2009 and 2010 plan years, expire. At the same time, rating agencies and analysts increasingly are focusing on the pension plan's impact on the corporate capital structure where pension deficits diminish shareholder equity and affect a sponsor's financial strength and strategic flexibility.

Average Funded Status of DB Plans in the Standard & Poor's 500



For the current S&P 500 constituent company, average funded status is presented since December, 1998. Funded status is computed on a monthly basis by Prudential as the Market Value of Assets divided by the Pension Benefit Obligation. Data compiled from 10-K filings by each company as reported on Bloomberg.

Experiencing a Decade of Downturns

The financial crisis of 2008-2009 had a detrimental impact on DB plans and their corporate sponsors. In a recent Towers Watson–Forbes survey, three of every four plan sponsors reported that their DB plan had a negative impact on the company's cash flow and financial statements[1]. But the recent financial crisis wasn't the first time in recent history when plan sponsors suffered significant losses. In fact, 2008-2009 represented the second time in a decade that US sponsors lost more than 35% of their DB plans' funded status to market declines.

While funded status provides a clear indicator of the pension challenge facing US corporations, it does not speak to its relative significance. To address this question, industry professionals compare the size of a company's pension obligation to the value of that company as a whole. A ready if imperfect measure of the magnitude of pension underfunding compares the corporate sponsor's pension benefit obligation (PBO) to the market capitalization of the corporation itself.

1 Towers Watson – Forbes Insights 2010 Pension Risk Survey, December 2010

A recent survey of corporate pensions conducted by Mercer categorizes a company's pension obligation as highly material if the pension obligation equals or exceeds 40%, while a significant obligation equals or exceeds 10% of the company's market capitalization. Using these standards, DB obligations are highly material for nearly one of every five companies and significant for one of every two companies and in the S&P 1500.[2]

Against this backdrop, corporate sponsors have begun to more fully appreciate their role as principal holders of risk. They have begun to recognize that the decision to sponsor a DB plan has slowly become a decision to run an insurance subsidiary complete with asset/liability management challenges, risk management concerns and fiduciary responsibility. This realization has inspired forward-thinking CFOs and treasurers to raise some fundamental questions: Are my DB liabilities becoming a threat to my business and financial health? Will my DB liabilities limit my strategic flexibility and impact my competitiveness? For many, the answer appears to be "yes."

Typical DB Plan Risks

Asset	Liability
· Equity	· Interest Rate
· Credit	· Longevity
· Interest Rate	· Early Retirement
· Liquidity	· Expense
	· Benefit Election

Rethinking Risk

In the United States, the primary driver of pension risk is asset/liability mismatch. Many plans' strategic asset allocations embrace risk-taking that is disconnected from the pension's ultimate goal—paying benefits. Sponsors of frozen plans—plans in which employees accrue no new benefits and for which the pension obligation is quite well-defined—will commonly invest 50-70% of plan assets in stocks, seeking to outperform an index such as the S&P 500. Meanwhile, the value of plan liabilities is closely connected to the level of interest rates and not to stock market performance.

Between 2002 and 2006, plan sponsors in the Standard & Poor's 500 contributed approximately $275 billion to shore up their defined benefit plans.

▲ ▲ ▲

2 How Does Your Retirement Program Stack Up – 2010, Mercer, June 2010

Enrolled Retirement Plan Agent (ERPA) Exam Preparation Tools

Summer 2011 Examinations: July 17 - August 31
Registration closes July 6, 2011.

ERPA Study Guide
Expanded syllabus that complements the official exam syllabus with cite references to *The ERISA Outline Book*.

Practice Examinations
Downloadable PDFs containing 75 questions each and answer keys. Test your knowledge today!

Online Review Courses
Updated review courses now available! Overview of the most challenging topics covered on the corresponding exam parts.

ERPA Conference
June 2-3, 2011, Los Angeles, CA
Register online at www.erpaconference.org

ERPA preparatory tools can be ordered at www.airellc.org.

Register for the Enrolled Retirement Plan Agent-Special Enrollment Examination (ERPA-SEE) at www.erpaexam.org.

For additional information, visit www.airellc.org.

As a result, fluctuations in the market value of plan assets can diverge widely from the market value of plan liabilities. This fundamental disconnect has produced breathtaking levels of pension volatility. This mismatch between assets and liabilities represents a risk position that is considered a form of corporate leverage. Leverage arises when the corporate sponsor effectively borrows money from covered employees and purchases equity investments that are meant to earn more than promised benefits—at considerable risk.

Pension strategy and business strategy are closely connected. While pension leverage and its attendant risk are not new, the environment surrounding pension risk-taking has changed substantially. Three key changes in the pension environment stand out: funding, accounting and economic.

Funding: Corporations must fully fund their plans—it's the law.

The Pension Protection Act of 2006 (PPA) has substantially stiffened the requirements surrounding pension funding. As a result, pension volatility and the resultant underfunding becomes a call on corporate cash more swiftly and severely than in the past. Yesterday's plan funding rules were less stringent, allowing plan sponsors to delay significant cash contributions even in the face of disappointing investment results.

Accounting: Pensions are not just a footnote anymore.

Once relegated to corporate footnotes, a pension's funded status now appears on the face of the corporate balance sheet. These changes are the result of the first phase of the Financial Accounting Standards Board's (FASB) initiative to reconsider accounting for pension and other benefits as laid out in FASB Accounting Standards Codification (ASC) 715. The second phase of pension accounting reform could be more fundamental. FASB is in the process of reconsidering current pension "smoothing" rules and whether changes in the fair value of assets and liabilities should be immediately recognized across corporate financial statements.

This pension accounting review began with a Securities Exchange Commission recommendation that FASB and the International Accounting Standards Board (IASB) convene a joint project on pension accounting with two primary goals: creating more transparency on surrounding pension funding and improving the consistency of accounting treatment between pension assets and other corporate assets. While the timing and ultimate impact of these changes on US corporations is still uncertain, what is clear is that the process is moving forward and that changes are anticipated to be significant. Certain US companies that compete globally are already anticipating these changes and providing more transparent reporting around their pension accounting.

ASPPA Conference Calendar

MAY

May 5-6, 2011
Mid-Atlantic Benefits Conference
Philadelphia, PA

May 9-11, 2011
NTSAA 403(b) Compliance Resolution Summit
Dallas Fort Worth / Irving, TX

May 12-13, 2011
Benefits Conference of the South
Atlanta, GA

May 24-26, 2011
Women Business Leaders Forum
Boulder, CO

JUNE

June 2-3, 2011
ERPA Conference
Los Angeles, CA

June 6-7, 2011
ACOPA Advanced Actuarial Conference
San Francisco, CA

June 23-24, 2011
Great Lakes Benefits Conference
Chicago, IL

JULY

July 11, 2011
Northeast Area Benefits Conference
Boston, MA

July 12, 2011
Northeast Area Benefits Conference
New York, NY

July 24-27, 2011
Western Benefits Conference
Las Vegas, NV

AUGUST

August 12-13, 2011
ACOPA Actuarial Symposium
Boston, MA

OCTOBER

October 23-26, 2011
ASPPA Annual Conference
National Harbor, MD

NOVEMBER

November 14-15, 2011
The ASPPA Cincinnati Pension Conference
Covington, KY

2011

www.asppa.org

ASPPA®
WORKING FOR AMERICA'S RETIREMENT

Economics: DB liabilities do not support risk-taking the way they once did.

Defined benefit plans once had the benefit of a very long time horizon to support pension risk-taking, but the natural maturing of plan populations combined with corporate decisions to de-emphasize defined benefit plans have resulted in a changed DB plan liability. Today's DB liability is shorter and better defined. Increasingly, defined benefit liabilities can be at least partially matched with fixed income assets—greatly reducing pension risk. This liability driven approach is especially attractive because with a shorter liability time horizon, the portfolio does not have sufficient time to heal from a market downturn before benefit payments are due.

De-leveraging the Pension Balance Sheet

Among the host of issues within the pension universe, today's plan sponsor is most concerned with the defined benefit plan's impact on their company's cash flow, income statement and balance sheet.[3] The key changes addressed above are reshaping plan sponsors' ability to live with the status quo.

Despite significant underfunding in pension plans nationally, six out of ten plan sponsors are likely to focus on reducing the risks within their pension plan, while only two in ten plan sponsors are contemplating the opposite.[4] With the majority of plan sponsors on a path to reducing pension leverage, risk reduction comes in two basic forms:

Reducing the level of risk within the plan.

Nearly two out of every three plan sponsors see pursuing better alignment of assets with liabilities *(e.g.,* Buy-ins, which are described below, liability driven investment) as the most likely option for risk reduction within their plan.[5]

Reducing the size of the plan.

With a goal of decreasing risk by decreasing the size of their plans, sponsors are most actively considering offering lump sums to terminated vested participants as PPA cash-out rules are phased-in[6] and purchasing annuities for some or all pension plan participants. Nearly one in three sponsors believes these actions are somewhat or very likely[7].

New Options for a New World

Whether the priority is reducing risk within the plan or reducing the size of the plan, new pension risk transfer options are available. In the US, pension risk transfer alternatives take two primary forms:

3 Towers Watson – Forbes Insights 2010 Pension Risk Survey, December 2010
4 Towers Watson – Forbes Insights 2010 Pension Risk Survey, December 2010
5 Towers Watson – Forbes Insights 2010 Pension Risk Survey, December 2010
6 PPA cash-out rules are scheduled to be fully phased-in beginning 2012
7 Towers Watson – Forbes Insights 2010 Pension Risk Survey, December 2010

2011 ASPPA Educator's Award

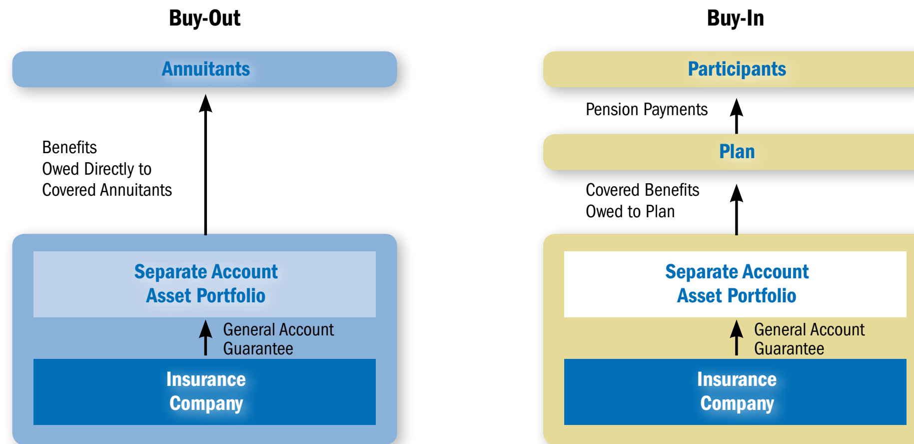
Call for Nominations

Submit nominations by June 1, 2011 for the 2011 ASPPA Educator's Award.

ASPPA's Educator's Award recognizes outstanding educators from ASPPA's membership who have made significant contributions to retirement plan education.

Visit www.asppa.org/educator to submit a nomination for this prestigious award.

2011



- Buy-out, which reduces pension risk by reducing the size of the plan; and
- Buy-in, which reduces pension risk of an ongoing plan.

Both Buy-out and Buy-in solutions are available today and can be customized to meet specific sponsor needs.

Buy-out

Buy-out completely transfers pension risk for covered liabilities to an insurer, who assumes all investment, longevity, benefit option and expense risk. Buy-out can be used to settle the liabilities of an entire plan, or simply a portion of that plan. Buy-out is appropriate for plan sponsors who want to reduce investment risk by settling liabilities of the pension plan, either in part or in whole.

Through Buy-out, a plan sponsor can:

- Eliminate pension volatility by permanently settling pension obligations;
- Avoid ongoing administrative, actuarial and investment management expenses for the settled liability; and
- Eliminate Pension Benefit Guaranty Corporation (PBGC) premiums for participants whose benefits are fully guaranteed.

Because a Buy-out transaction settles a portion of the plan's liability, settlement accounting rules (ASC 715) must be followed. In the current environment this generally results in a one-time loss recognition that is undesirable to many plan sponsors. A Buy-in, as described below, provides similar risk reduction without triggering a settlement, thereby eliminating recognition of the loss.

Buy-in

Buy-in provides a pension asset that perfectly matches pension liability cash flows. Much like Buy-out, the sponsor transfers investment, longevity, benefit option and expense risk, allowing pension plans to transfer risk today. Where Buy-in differs is that the sponsor avoids the immediate accounting recognition that arises under ASC 715 in connection with the settlement of plan liabilities.

Though Buy-in is new to the US, it's a proven commodity in the United Kingdom, where nearly $8 billion of pension risk has changed hands through Buy-in since 2007[8]. Buy-in is appropriate for plan sponsors who seek to reduce the risk, but not the size of the plan. Buy-in can be customized to cover nearly any pension liability configuration and is designed to help a plan sponsor:

- Reduce pension volatility—funding, accounting and economic;
- Maintain the funded status of the plan, holding required contributions steady; and
- Convert to Buy-out at any time, enabling sponsors to take a phased approach to risk reduction on the schedule of their choice.

Plan sponsors act as fiduciaries when investing in a plan asset as in a Buy-in or settling a plan liability as in a Buy-out. Because contractual payments are expected to continue for many years, clients are justifiably concerned about fully evaluating the counterparty risk that naturally arises—that is, the risk that the insurance counterparty meets its obligations on a timely basis.

Recent innovation in the US pension risk transfer market centers on providing plan sponsors with increased transaction security. For example, leading insurers now offer insulated separate accounts to safeguard assets in Buy-in and Buy-out transactions. These separate accounts are inaccessible to general creditors, providing an additional layer of protection for plan participants. The Department of Labor (DOL) has indicated that such structural enhancements are appropriate to consider in selecting the safest available annuity provider through DOL interpretive bulletin 95-1.

Toward a More Certain Future

While US plan sponsors contemplate a very different future, they can look to the UK to gain a glimpse of what the future may hold. UK plan sponsors have been systematically reducing their pension leverage, decreasing asset-to-liability mismatch and ultimately implementing pension risk transfer solutions in size.

▲ ▲ ▲

8 Lane Clark & Peacock LLP Pension Buyouts Report 2010

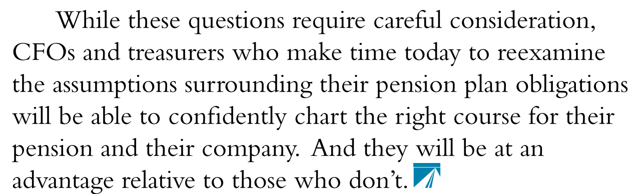
Since January 2007, UK plan sponsors transferred more than $15 billion in plan obligations[9]. UK plan sponsors are employing pension risk transfer as a means to:

- Achieve contribution certainty;
- Reduce or remove financial statement volatility;
- Reduce the size of their plans relative to the size of their firms;
- Transfer unrewarded risks, particularly longevity;
- Increase focus on their firm's core business; and
- Enhance strategic flexibility.

As US CFOs and treasurers re-assess their pension priorities, they must ask the same fundamental questions that UK plan sponsors have been addressing:

1. What corporate finance objectives am I trying to achieve?
2. What risk reduction and risk transfer strategies are best for my company?
3. Are there tax considerations that inform my decision of when and how to reduce my pension leverage?
4. What impact will these strategies have on my weighted average cost of capital and the stability of financial results going forward?
5. How should I prepare to transact?
6. When should I implement my strategy?

While these questions require careful consideration, CFOs and treasurers who make time today to reexamine the assumptions surrounding their pension plan obligations will be able to confidently chart the right course for their pension and their company. And they will be at an advantage relative to those who don't.



*Dylan J. Tyson, CFA, is senior vice president and head of Prudential's Pension Risk Transfer business. In this capacity, he is responsible for meeting the emerging needs of plan sponsors through product innovation. Dylan led the team that developed Prudential's Portfolio Protected Buy-in and Buy-out offerings, making separate account protection available to all plan sponsors regardless of size. Dylan oversees Prudential's $29 billion defined benefit annuity block and has gained more than 15 years of Institutional Investment Product experience in a variety of roles at Prudential. (**dylan.tyson@prudential.com**)*

9 Lane Clark & Peacock LLP Pension Buyouts Report 2010

Advance your career. Enhance your knowledge. Earn valuable Continuing Professional Education credits with ASPPA professional credentials.

Professional Credentialing Examinations Lead to an ASPPA Credential
TGPC · QPFC · QKA · QPA · CPC · FSPA

Spring Exam Testing Window
May 12 – June 24: Register by May 11

Fall Exam Testing Window
November 1 – December 14: Register by October 31

Register now at www.asppa.org/exams.

Discounted early registration fees available!

ASPPA®
WORKING FOR AMERICA'S RETIREMENT

More information available at **www.asppa.org/education**.
Certificate programs also available.

Practical ERISA 408(b)(2) Guidance for Service Agreements

by Laura S. Moskwa, CPC, QPA, and Carlos Panksep

The Department of Labor has now given us all a little more time to prepare, with the new effective date of January 1, 2012, for 408(b)(2) disclosure and service agreement requirements. While you have been given a slight reprieve, the job of updating your service agreements still exists – so let's take a practical approach to help you get that accomplished. What exactly do you, as a TPA and/or recordkeeper, need to consider when drafting your new service agreements in order to disclose all of the information that will be required?

The ASPPA Service Provider Certification program (formerly known as the ASPPA Recordkeeper Certification program) is sponsored by ASPPA and administered by the Centre for Fiduciary Excellence (CEFEX). An ASPPA Certification Task Force, a cross-disciplined industry group established in 2007, developed and continues to maintain the Standards of Practice, which form a uniform standard of excellence for firms providing plan administration and/or recordkeeping services. When 408(b)(2) guidance is finalized, the ASPPA Service Provider Certification program will adopt a detailed checklist as part of those standards to verify that firms seeking initial certification and firms seeking re-certification have incorporated the new regulation's requirements. This checklist will be shared in advance with firms who participate in the certification program to help those firms prepare for 2012 compliance.

In conjunction with Reish & Reicher, CEFEX has summarized the requirements of the new regulation as follows:

1. Do you have a signed Service Agreement in place with each of your clients?
2. Does your Service Agreement:
   - Describe each of the services you provide?
   - Describe the direct or indirect compensation you or your affiliate receives?
   - Describe compensation that will be paid among you and an affiliate that is determined on a transaction basis or charged directly against the investment and reflected in the investment's net value?
   - State whether you will bill the client, deduct fees directly from plan assets, or be paid in some other manner?
   - Describe how prepaid fees (if applicable) will be calculated and refunded if the agreement terminates before the fees are fully earned?

ASPPA Certification Mark

   - Describe compensation, if any, that you or an affiliate will receive in connection with termination of the agreement?
   - Provide a mechanism for a responsible fiduciary to agree with changes, either affirmatively or through a "negative election" (if you're able to change your fee structure from time to time)?
   - Provide a reasonable and good faith estimate of the cost of the recordkeeping services (assuming you provide recordkeeping services to an ERISA plan and such recordkeeping services are provided without explicit compensation or the compensation is offset by other compensation received)?
   - State you are not a fiduciary when performing services under the Agreement?
   - State that you agree to disclose all information related to the Agreement and your compensation received there under that is requested by a client in order to comply with any reporting or disclosure requirements applicable to the client?

Keep Your Staff Best-in-Class!

QKA,QPA and TGPC Credentials are Easier to Obtain with ASPPA Webcourses.

ASPPA offers specialized webcourses specifically for retirement plan professionals. These courses are designed to be a valuable educational resource for a cross-section of industry professionals, including individuals beginning a career, veterans wanting to increase their knowledge, or exam candidates pursuing an ASPPA certificate or credential.

REGISTRATION FEES

Online access to each webcourse includes assessment and access for up to 6 months:

- Individual webcourse (single login): $299 member / $329 nonmember*
- Classroom viewing (single login): $1750-$2500
- Classroom viewing (single login) – up to 12 months access: $2500-$3750

*TGPC-1 and TGPC-2 webcourses available for $150 member / $165 nonmember.

Additional training packages with unlimited access for employees (multiple logins) for up to 12 months access are also available:

- Basic Training Package: $10,000 (RPF-1 & RPF-2)
- TGPC Training Package: $12,500 (RPF-1, RPF-2, TGPC-1 & TGPC-2)
- QKA Training Package: $15,000 (RPF-1, RPF-2, DC-1 & DC-2)
- QKA/TGPC/QPA Training Package: $25,000 (all webcourses)

More Individual, Classroom and Corporate viewing options this year!

ASPPA is here to provide the education your staff needs. For more information visit **www.asppa.org/webcourse**.

AVAILABLE COURSES

- **Retirement Plan Fundamentals - Part I (RPF-1) Webcourse**
  Presented by Ilene H. Ferenczy, J.D., CPC
- **Retirement Plan Fundamentals - Part 2 (RPF-2) Webcourse**
  Presented by Ilene H. Ferenczy, J.D., CPC
- **Defined Benefit (DB) Webcourse**
  Presented by Michael L. Bain, ASA, EA, MAAA
- **Plan Qualification and Compliance Basics (DC-1) Webcourse**
  Presented by Sarah Simoneaux, CPC
- **401(k) Plans and Intermediate Administration Topics (DC-2) Webcourse**
  Presented by Charles J. Klose, FSPA, CPC
- **Advanced Compliance and Administration Topics (DC-3) Webcourse**
  Presented by Laura Harrington, CPC, QPA, QKA
- **Tax-Exempt & Governmental Plan Administration (TGPC-1) Webcourse**
  Presented by Robert J. Toth, Jr.
- **Tax-Exempt & Governmental Plan Consultant (TGPC-2) Webcourse**
  Presented by Robert J. Toth, Jr.

CONTINUING PROFESSIONAL EDUCATION (CPE) CREDIT

Participants can earn up to 7 ASPPA and ERPA continuing professional education (CPE) credits for these webcourses. For a complete listing of topics included in each webcourse and more information, please visit www.asppa.org/webcourse.

ASPPA®
WORKING FOR AMERICA'S RETIREMENT

Leadership for Retirement Plan Professionals
www.asppa.org

“ExpertPlan has successfully undertaken four consecutive CEFEX assessments to the ASPPA Standard since the program’s inception and is very proud of the certification. We appreciate and value its relevance to us as a means of continually improving our operation. We want to be assessed to the highest standard and be transparent to our stakeholders and clients. We believe the program is critical to increasing accountability in our industry, thereby serving retirement plan participants.”

—Sid Garai, Chief Administrative Office, ExpertPlan, Inc., East Windsor, NJ

- State that you will disclose any changes to the information provided to a client within a reasonable period of time after you become aware of the change?

3. Do you have the ability to affect your own compensation or that of an affiliate without the prior approval of a fiduciary for the client (for example, as a result of incentive, performance-based, float or other contingent compensation)?
4. If you are providing recordkeeping services to an ERISA-governed participant-directed individual account plan with at least one designated investment alternative, do you provide the following information for each designated investment alternative:
   - Compensation that will be charged against the investment in connection with the acquisition, sale, transfer or withdrawal from the investment;
   - A description of the annual operating expenses if the return is not fixed; and
   - A description of any ongoing expenses in addition to annual operating expenses?
5. Do you or an affiliate expect to participate in or otherwise acquire a financial or other interest in any transaction to be entered into by the client?
6. Do you or an affiliate have any material financial, referral or other relationship or arrangement with a money manager, broker, other client of Service Provider or other person or entity that creates or may create a conflict of interest for you in performing services under your agreement?
7. Do you or an affiliate have policies to address conflicts of interest, such as procedures for offsetting revenue sharing received against the amount that it charges the client or paying such revenue sharing to the plan?
8. For ERISA plans, are you aware that if you discover an error or omission in the required disclosures, you must notify the Client of the error or omission within 30 days of discovery?

The ASPPA Standard of Practice describes how a service provider candidate of any size or type can help plan sponsors fulfill their fiduciary obligations. CEFEX uses two certifications classifications: “recordkeeping services” and “administration services;” a firm can be certified in either category or both categories. The Standards of Practice include best practices for governance, organization, human resources, operations, planning, systems and disclosure.

Through the CEFEX assessment process, recordkeepers and administrators receive the benefit of an independent review of the practices, allowing for confidential feedback in the form of “Opportunities for Improvement” or “Non-conformance Reports,” effectively providing certification candidates with industry-wide best practice benchmarking.

Plan sponsors who hire ASPPA-certified service providers can be assured that these firms have addressed the requirements of ERISA 408(b)(2) and comply with industry best practices. Certified firms have been independently assessed for adherence to these best practices by expert analysts, using the international ISO 19011 audit process. If a service provider is not certified, the plan sponsor should specifically inquire about the Service Agreement provisions summarized above.

We hope that this information will assist you in drafting your new service agreements in preparation for the finalized regulation and has raised your awareness as to how your firm will benefit by going through the process required for the ASPPA Service Provider Certification. In addition to business improvements, certified firms can realize up to 25% on Errors and Omissions insurance premiums, thereby helping them offset the cost of the certification.

For more information on the ASPPA Service Provider Certification program, visit

*Laura S. Moskwa, CPC, QPA, is the principal of Laura S. Moskwa Consulting, providing services to retirement plan providers primarily focusing on TPA service and product solutions. With more than 25 years in the pension industry, Laura has accumulated a broad range of experience. She worked for Transamerica Retirement Services as vice president and director of TPA services, where she developed and grew the TPA Channel program. Laura also worked at a broker dealer/RIA firm and as a TPA for 18 years. Laura currently sits on the ASPPA Board of Directors and is Co-chair of the Marketing Committee. Laura also sits on the Centre for Fiduciary Excellence (CEFEX) Registration Committee. (**laura@moskwaconsulting.com**)*

*Carlos Panksep is General Manager of the Centre for Fiduciary Excellence. He is from QMI, a division of the Canadian Standards Association, where he was responsible for Corporate Operations, including registration, certification, continual improvement, information technology and international operations. He also has more than 20 years of high tech management experience. He held senior product management, sales and marketing positions at Bell Canada, Canada’s largest telecommunications company. (**cpanksep@cefex.org**)*

“Our ASPPA certification assures our clients that DailyAccess Corporation is adhering to both best practices and the latest regulations. We believe our clients are best served by a recordkeeper that adheres to the proposed ERISA 408(b)(2) regulation as soon as possible. Plan Sponsors should be asking these important questions about disclosure and conflicts of interest.”

—Tommy Thomasson, President & CEO, DailyAccess Corporation, Mobile, AL

THE ASPPA Journal online

Visit www.asppa.org/taj to:

· Read the current issue of *The ASPPA Journal*!

· Browse through previous issues and supplements!

· Take and pass a quiz to earn CPE credits!

ASPPA Enrolled Actuary (EA) Examination EA-2A Review Course

September 30 – October 3, 2011 • Arlington, VA

2011 EA Exam Dates
EA-1: May 10, 2011
EA-2B: May 10, 2011
EA-2A: TBA

Register early and receive discounted rate. For more information and to register visit www.asppa.org/ea-review-courses.

Questions? Contact us via e-mail at education@asppa.org.

ASPPA® WORKING FOR AMERICA'S RETIREMENT

GAC Corner

ASPPA Government Affairs Committee Comment Letters and Testimony since December 2010

January 27, 2011

ASPPA, CIKR and NAIRPA submitted comments to the US Department of Labor on the proposed regulation regarding the definition of the term "fiduciary."
www.asppa.org/Document-Vault/Docs/GAC/Definition_of_Fiduciary_Comment_Letter.pdf.aspx

January 26, 2011

Thomas J. Finnegan, President of ASPPA, testified on behalf of ASPPA and ACOPA before a hearing at the Internal Revenue Service regarding additional rules for hybrid retirement plans.
www.asppa.org/Document-Vault/PDFs/ACOPA/asppa_copa_hybrid_testimony01.26.11.pdf.aspx

January 18, 2011

ASPPA and ACOPA submitted comments to the US Department of Labor on proposed rules regarding the Annual Funding Notice for Defined Benefit Plans.
www.asppa.org/document-vault/pdfs/ACOPA/2011-Comments/11911-comment.aspx

January 14, 2011

ASPPA filed comments with the US Department of Labor with respect to its proposed amendments to the qualified default investment alternative (QDIA) and the participant-level disclosure regulations for target date funds.
www.asppa.org/document-vault/pdfs/GAC/2011/1142011-comm.aspx

January 12, 2011

ASPPA and ACOPA submitted comments to the Internal Revenue Service and Treasury Department on proposed additional rules regarding hybrid retirement plans.
www.asppa.org/document-vault/pdfs/ACOPA/2011-comments/11311-comment.aspx

December 30, 2010

ASPPA filed comments with the IRS with respect to the Form 8955-SSA, Annual Registration Statement Identifying Participants with Deferred Vested Benefits and the accompanying instructions. The Form 8955-SSA replaces the Schedule SSA to the Form 5500.
www.asppa.org/document-vault/pdfs/GAC/2010/comm1230.aspx

For all GAC filed comments, visit **www.asppa.org/comments**.
For all GAC testimony, visit **www.asppa.org/testimony**.

2011 401(k) Advisor Leadership Award Recipient Michael J. Malone of MJM401k

2011 401(k) Advisor Leadership Award

Malone Honored with 401(k) Advisor Leadership Award

Recipient Selected by Morningstar and ASPPA

by Melinda Semadeni

Michael J. Malone, founder of MJM401k in Phoenix, AZ and Santa Monica, CA, received the 2011 401(k) Advisor Leadership Award during a general session at The ASPPA 401(k) SUMMIT in Las Vegas, NV on March 7, 2011.

Launched in 2008, the 401(k) Advisor Leadership Award recognizes a leading financial advisor or team for contributions that exemplify leadership, experience and expertise in the retirement plan industry. Sponsored by Morningstar, Inc., a leading provider of independent investment research, and ASPPA, the leader in retirement education and advocacy, the award reflects the multi-faceted efforts of advisors to serve their plan sponsor and plan participant clients, act as mentors, maintain high ethical standards and innovate in the retirement industry. Finalists were also judged on how they employ this expertise to help Americans build their retirement future through the private pension system.

John Rekenthaler, vice president of research for Morningstar, and Brian Graff, ASPPA Executive Director/CEO, presented the award to Malone and certificates to two finalists—Joe Connell, senior retirement plan consultant at Financial Concepts, Inc., in Minneapolis, MN, and Jim O'Shaughnessy, managing partner at Sheridan Road Financial in Northbrook, IL. All three finalists were selected from nearly 100 nominations submitted by peers and colleagues in the retirement industry.

From left to right: John Rekenthaler of Morningstar and award recipient Michael J. Malone

Prior to the award presentation, former advisor Will Marquis, who currently works as defined contribution and retirement product manager for Morningstar, moderated a general session with Malone, Connell and O'Shaughnessy in front of an audience of more than 200 advisors. The discussion centered on helping plan participants meet their goals for a comfortable retirement, finding vendors to meet plan sponsors needs, and looking for ways to improve the industry beyond their own practices. Malone shared his philosophy of advisory management and providing exceptional client service. "My goal is to make sure my clients have the best partnership with the provider—that's one of the reasons I started MJM401k. I always ask how the addition of a new feature will enhance the delivery of retirement income to participants—that may mean looking for lower fees and identifying areas where we can achieve participant behavior modification. We make sure the provider fulfills those expectations and is measured against that." Malone added, "We have a real understanding of the struggles they face, which has allowed us to be better consultants at a plan committee level. At MJM401k we look for providers' whose philosophical approach incorporates a sense of fee fairness and integrity."

"Malone represents what works well in the pension and qualified plan industry," said Marquis. "He brings passion, experience and knowledge to assist his plan sponsor clients and their participants to prepare for a more comfortable retirement. In addition, Michael makes solid contributions to the industry as a whole through his active leadership with many local and national organizations."

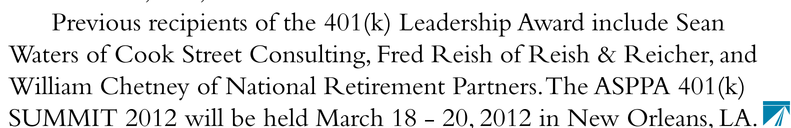
Malone is the founder and managing director of MJM401k, an independent

"Michael Malone is passionate about his work as an advisor—he's a 30-year veteran of the qualified plan industry, where he's built a practice that focuses on the needs of plan sponsors and participants," said Brian H. Graff, Esq., APM, Executive Director/CEO of ASPPA. "As a result, he has enhanced the capacity of American workers to achieve a secure retirement. His dedication to learning and sharing industry knowledge is manifest in his credentials as a Certified Pension Consultant (CPC) and Accredited Investment Fiduciary Analyst™ (AIFA)."

From left to right: Brian Graff of ASPPA congratulates winner Michael J. Malone

From left to right: Joe Connell of Financial Concepts, Inc., Michael J. Malone of MJM401k, and Jim O'Shaughnessy of Sheridan Road Financial

consultancy firm that serves 401(k) plan sponsors and committees. Prior to MJM401k, he served as a director and retirement plan consultant with both a regional and a national consulting and advisory firm. For more than 25 years, Malone has served as a national presenter on the plan design and investment aspects of pension and 401(k) arrangements, and also provided expert testimony to the ERISA Advisory Council at the US Department of Labor. His 401(k) plan consulting experience covers hundreds of corporate clients and tens of thousands of plan participants. A Connecticut native, Malone received a bachelor's degree in business and finance with honors from Providence College in Rhode Island. He resides in Phoenix with his wife, Ann, and their seven children.



Previous recipients of the 401(k) Leadership Award include Sean Waters of Cook Street Consulting, Fred Reish of Reish & Reicher, and William Chetney of National Retirement Partners. The ASPPA 401(k) SUMMIT 2012 will be held March 18 – 20, 2012 in New Orleans, LA.

From left to right: Will Marquis of Morningstar Inc. leads advisors Malone, Connell and O'Shaughnessy in a discussion at The ASPPA 401(k) SUMMIT

*Melinda Semadeni joined the ASPPA staff as Director of Media Relations in January of 2010. She has a background in journalism and public relations and recently produced a podcast series on savvy investing available on iTunes. Melinda enjoys working with ASPPA members to raise awareness of the organization. (**msemadeni@asppa.org**)*

FROM THE PRESIDENT

Getting the Word Out

by Thomas J. Finnegan, MSPA, CPC, QPA

As ASPPA members, we know that ASPPA is a driving force in the professionalism of the entire retirement industry. Our education, credentialing and continuing professional education programs increase the knowledge base in the industry and raise the level of quality in a broad range of practice areas across the industry. Adherence to ASPPA's Code of Professional Conduct, which sets the standard for our practice and behavior, defines our industry as a profession. ASPPA's Government Affairs Committee is one of the nation's strongest voices on retirement policy and routinely is able to enhance the US retirement system through its influence on legislation and regulation as well as its ability to help shape the debate on pressing retirement issues.

So I was surprised recently when speaking with an ASPPA member who owns a TPA firm. He explained to me that, while he and one of his senior managers have ASPPA credentials, he doesn't support (or pay for) his employees pursuing credentials. He explained that his clients and their advisors don't know the difference between CPC and CPR, and if his clients don't care about the credentials, they didn't give him an advantage in the marketplace. He admitted though, that in past years he had lost some employees who wanted to pursue credentials and it was sometimes difficult to recruit new employees, but in the current economy it was less of an issue.

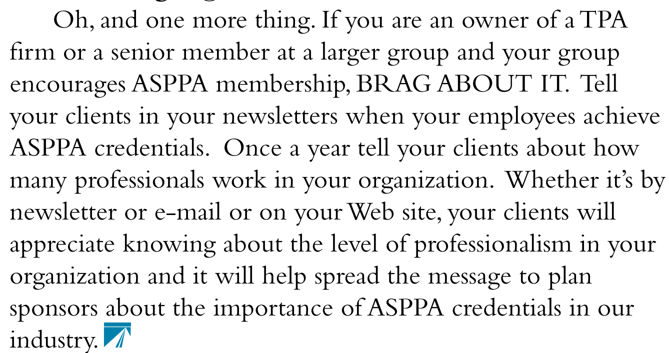
The conversation troubled me, but pointed to the one area where ASPPA, to date, has been unable to do an effective job ... getting plan sponsors and their advisors to appreciate the value of ASPPA credentials so that they insist on using ASPPA members as their retirement plan advisors and trusted professionals.

It's crucial to ASPPA's growth that retirement plan practitioners value membership in ASPPA. More importantly, it's crucial to the growth in professionalism in the industry that membership in ASPPA become important to clients, which in turn will cause membership in ASPPA to become essential to practitioners. Those of you who have been practicing for a long time already have seen the huge strides made in the quality of work in our industry over the last 25 years, but it's not enough. Plan sponsors are entitled to have the work on their plans performed by knowledgeable professionals who are subject to both continuing professional education requirements and a code of ethics. That's what ASPPA stands for—and it's why one of the goals in our strategic plan says that ASPPA membership must be **essential** to all retirement plan practitioners.

Right now we are working on ways to emphasize the importance of ASPPA credentials to plan sponsors. For instance, we are meeting with companies in the business of running Requests for Proposals (RFPs) to make sure that they are vetting the staff of those bidding on retirement plan work to ensure that those working on the plans are designated members of professional organizations subject to both a code of conduct (or other similar ethical standard) and continuing education. We would like to make sure that an RFP commonly asks about the number of professionals working on the plans and use this to make ASPPA membership important to the decision makers at the plan sponsor level.

Our Marketing department has worked hard over the last few years to make certain that institutional providers understand the importance of ASPPA credentials. As a result, many of these organizations have greatly increased their training and education leading to more and more ASPPA designees. These organizations are proud of the quality of their people and are starting to note the ASPPA credentials in promotional material. We hope that trend will continue and grow and that the institutional providers will help instill the importance of ASPPA credentials to plan sponsors.

The Marketing department and E&E and other groups within ASPPA are working on other ways to influence plan sponsors and their advisors, but it is not an easy road. ASPPA simply doesn't have the budget to get our message out to the general public, or even the entire plan sponsor community.



As I said in my talk at the ASPPA Annual Conference, my goal as President of ASPPA is to expand the professionalism in our industry. THE best way to do that is to have our customers insist on it. The question remains … How do we do it? If you know how we can accomplish this task, I want to hear from you personally. We need your ideas as to how to best direct limited resources ... please send them to me at **thomasfinnegan@savitz.com**.

Oh, and one more thing. If you are an owner of a TPA firm or a senior member at a larger group and your group encourages ASPPA membership, BRAG ABOUT IT. Tell your clients in your newsletters when your employees achieve ASPPA credentials. Once a year tell your clients about how many professionals work in your organization. Whether it's by newsletter or e-mail or on your Web site, your clients will appreciate knowing about the level of professionalism in your organization and it will help spread the message to plan sponsors about the importance of ASPPA credentials in our industry.

*Thomas J. Finnegan, MSPA, CPC, QPA, is a principal of The Savitz Organization in Philadelphia, PA, and holds a bachelors degree in mathematics from St. Joseph's University. Tom is an actuary with more than 20 years experience working with all types of qualified and non-qualified retirement plans. Prior to joining The Savitz Organization, Tom served as a senior actuary for a major employee benefits consulting firm and the director of retirement plan services for a mid-sized regional consulting firm. Tom is currently serving as ASPPA President. In addition to his involvement with ASPPA, he is a fellow of the Conference of Consulting Actuaries and a member of the American Academy of Actuaries. He is a frequent speaker at regional and national benefit and actuarial conferences and has authored articles for national actuarial publications as well as regional newsletters. Tom has also taught semester-long EA exam preparatory classes at Temple University as well as ASPPA exam courses. (**thomasfinnegan@savitz.com**)*

Should Colleagues Be Members?

ASPPA-Lutely!

Recommend ASPPA membership and education programs to your colleagues and new employees today!

ASPPA provides the resources to succeed. *And that's good for business.*

Visit www.asppa.org or call Jeff Hoffman at 703-516-9300 to enroll multiple colleagues.

CONTINUING EDUCATION

Continuing Professional Education for ASPPA Members

by Kim L. Szatkowski, CPC, QPA, QKA

ASPPA's core mission is to educate retirement plan professionals so that its members can preserve and enhance the employer-based retirement system. This educational goal does not stop once a member obtains a credential; ASPPA prides itself on keeping its members' education current.

ASPPA announced changes to its Continuing Professional Education (CPE) policies effective for the 2011/2012 reporting cycle in the Fall 2010 issue of *The ASPPA Journal*, in prior editions of *ASPPA eNEWS* and at the 2010 ASPPA Annual Conference.

These changes have been positively received by members and have improved the odds of credential use approval from various compliance departments now that all ASPPA CPE attendance must be verified.

This updated article recaps the recent CPE changes and answers frequently asked questions. Always refer to **www.asppa.org/cpe** for the most up-to-date information regarding CPE requirements.

Topics that Qualify for ASPPA CPE

Virtually *all* continuing professional education that promotes professional development in the retirement field will qualify for ASPPA CPE. These topics include credential information sessions, social networking, training on retirement services software and advanced IT training. Broad categories include topics such as:

- Qualified Plans
- Nonqualified Plans
- Tax Exempt & Governmental Plans
- IRAs
- Actuarial Issues
- Investments & Insurance
- Participant Issues
- Business Management, Operations & Development
- Personal Development
- Technology

ASPPA's CPE Requirement

ASPPA has a mandatory CPE program that affects all ASPPA members who hold the following credentials:

• QKA • QPA • CPC • QPFC • TGPC • APM

If you hold the FSPA or MSPA credential or if you are an Enrolled Retirement Plan Agent (ERPA), and are in good standing with the IRS/JBEA with regard to meeting all required CPE requirements for your related credential, you are deemed to have satisfied all ASPPA CPE requirements.

ASPPA's CPE program is dedicated to helping you stay abreast of developments in the retirement plan arena. ASPPA's CPE requirements apply to all members who hold the credentials noted above, regardless of when the credentials were awarded. Credentialed members must earn **40 CPE** credits in every two-year reporting cycle, and **two** of those CPE credits must be in **ethics/professionalism** topics.

If you are a newly credentialed ASPPA member, the number of CPE credits required is prorated based on the date of admittance within the two-year CPE cycle:

- First six months of the cycle: 30 CPE credits required (2 CPE credits of ethics/professionalism)
- Second six months of the cycle: 20 CPE credits required (1 CPE credit of ethics/professionalism)
- Third six months of the cycle: 10 CPE credits required (1 CPE credit of ethics/professionalism)
- Fourth six months of the cycle: 0 CPE credits required (0 CPE credits of ethics/professionalism)

ASPPA CPE Credit Calculation

CPE credits awarded vary based on the type of activity, but in general **1 CPE credit is awarded for every 50 minutes of activity, with a maximum of 25 CPE credits per any single event**.

Methods of Obtaining ASPPA CPE Credit

There are five primary categories of qualifying CPE:

I. **ASPPA Sponsored** (or co-sponsored)

II. **Non-ASPPA Sponsored** (A nationally recognized professional society or other nonprofit association, college or university, commercial vendor or government agency)

III. **Qualified In-house Training** (multiple employees and representatives of same company participating)

IV. **Qualified Study Groups** (multiple members from multiple firms)

V. **Other Professional Activities** (speaking, instructing, publishing an article or volunteering for ASPPA's Education and Examination Committee)

More details on types of CPE in each of these categories can be found at **www.asppa.org/cpe**.

ASPPA's CPE Offerings

Upcoming CPE events can be found at **www.asppa.org/cpeopportunities**.

ASPPA Conferences *(Members—please note NEW reporting requirements)*

Attendees are required to submit an attendance verification form on-site at the end of each ASPPA conference session attended to obtain CPE credits. This requirement includes conferences co-sponsored by ASPPA (*e.g.,* Western Benefits Conference) or its affiliates (*e.g.,* NTSAA).

ASPPA Web-based Education *(Employers—please note NEW 2011 webcast pricing)*

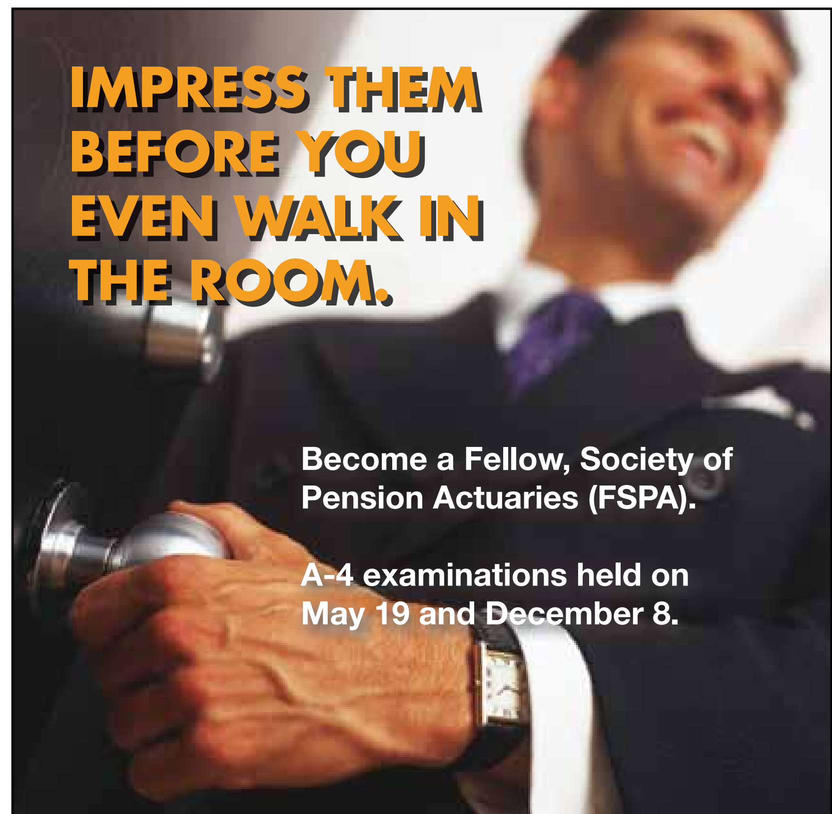
Register for an ASPPA webcast as a member at the reduced price of $105 and additional attendees from the same firm who are also members can register for $35 and also earn CPE credits. Attendance is verified by connection time tracked automatically by ASPPA for all registered attendees.

Webcasts can still be viewed in a classroom setting with similar pricing outlined above, but an attendee roster must be verified and submitted to the ASPPA office to earn CPE credits. In cases where there are more than 20 additional viewers, upgrading to the classroom pricing may be more economical as ASPPA offers unlimited classroom viewing for $1,000. Please contact **webcast@asppa.org** for registration information. ASPPA also offers multiple location viewings of live and recorded webcasts and packages for employers to purchase. Please contact **training@asppa.org** for additional pricing.

ASPPA's webcourses offer an assessment following viewing for attendance verification. ASPPA offers classroom viewing pricing for webcourses also, in which case classroom viewing CPE can be reported through the Qualified In-house Training guidelines.

ASPPA, Enrolled Actuary and ERPA-SEE Examinations

Receive a passing or near passing score on these examinations and earn 3 to 20 CPE credits, dependent on length, format and difficulty of the examination. See CPE Guidelines for additional details (**www.asppa.org/cpeguidelines**).



Register online at www.asppa.org/exams.
For more information visit www.asppa.org/fspa.

ABC Meetings and Live Review Courses (EA-2A, EA-2B, etc.)

Attendance will be verified and submitted to the ASPPA office by an ABC liaison or course Instructor.

The ASPPA Journal Continuing Professional Education Quizzes

Pass the CPE quiz for each quarterly issue of *The ASPPA Journal* and earn up to 3 CPE credits. Visit **www.asppa.org/taj** and select the "CPE Quizzes" tab to learn more.

Acceptable Methods of Verifying CPE

In an in-person educational setting, verification of CPE is straightforward—the event sponsor takes attendance. Sign-in/out sheets are most common for verification. The electronic scanning of attendance forms or badges are also acceptable.

In a live web or recorded education delivery setting, any of the following verification methods are allowed:

1. Connection time tracked and verified by Sponsor;
2. Sponsor provides quiz after recorded activity, and the quiz must be passed by attendee (*e.g.,* 70% correct);
3. Sponsor integrates keywords into presentation that must be successfully entered by attendee; or
4. Sponsor integrates electronic verification of attendance that attendee attests to at conclusion.

Note: The use of recorded material in lieu of a live speaker or instructor is an acceptable program format provided the appropriate distribution license is secured from the vendor.

Reporting CPE to ASPPA *(Sponsors—please note NEW reporting requirements)*

Attendance at any ASPPA event will be verified and CPE credits will automatically be populated in a member's online reporting form.

There is no pre-approval process for CPE Sponsors of non-ASPPA events, but both Sponsors and Members must follow the published Guidelines. Three important Sponsor Requirements are:

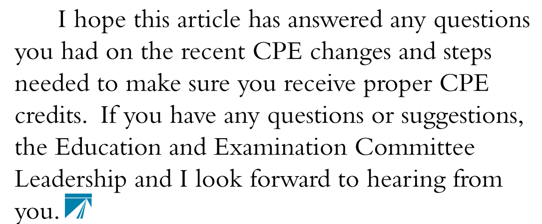
1. A detailed outline of the program topic(s) must be provided to each ASPPA attendee; and
2. Written attendance verification with ASPPA CPE credit amount (or minutes attended) must be provided to each ASPPA attendee. (Electronic delivery is acceptable.)
3. Qualified In-house Training or Qualified Study Group Sponsors must verify attendance and submit (within 90 days following the event) a roster along with the outline of the program and CPE credits earned to the ASPPA office at **asppacpe@asppa.org**.

All records should be kept for up to two years following the end of a CPE reporting cycle. The Member will manually report CPE credits in the ASPPA online reporting form.

All CPE credits reported are subject to audit.

Online CPE Reporting Form *(ERPAs and Actuaries—note NEW format)*

ASPPA's 2009/2010 CPE reporting form eliminated much of the burden that members had in reporting CPE at the end of the cycle, particularly for ASPPA Sponsored Events that were manually populated. For ASPPA's 2011/2012 CPE cycle, the form will also now track JBEA *(Core, Non-core and/or Formal)* and ERPA CPE credit to assist members who want to benefit from viewing their CPE credits earned from ASPPA in a single location even though they are not subject to ASPPA's CPE requirements. As published in **ASPPA *asap* 11-16: Actuarial Update: Final Joint Board Regulations**, ASPPA live webcourses qualify for JBEA Formal CPE when three or more paid attendees watch the program together. Manual reporting of outside events is also allowable.



I hope this article has answered any questions you had on the recent CPE changes and steps needed to make sure you receive proper CPE credits. If you have any questions or suggestions, the Education and Examination Committee Leadership and I look forward to hearing from you.

Kim L. Szatkowski, CPC, QPA, QKA, ASPPA's Chief of Pension Education, has more than 25 years of technical education experience in the retirement plan industry. Prior to joining the ASPPA staff in 2007, Kim was the national sales and marketing director for Actuarial Systems Corporation (ASC). Kim has owned a consulting firm specializing in third party administration and employee training, and has held a variety of management positions. In addition to teaching retirement education courses, she participated in the development of ASPPA's Qualified 401(k) Administrator (QKA) credential. She has also served as an Associate Editor of The ASPPA Journal *and is a founding member and past president of the ASPPA Benefits Council (ABC) of Central Florida. (**kszatkowski@asppa.org**)*

Austin, Texas ERISA Study Group Becomes the "ABC of Central Texas"

by Deborah J. Ebner

Since the late 70s, the ERISA Study Group (the "club") in Austin, Texas has been dedicated to topical discussions and professional development for members of the business community focused on pensions and retirement benefits.

The club was founded by a group of Austin lawyers shortly after the Employee Retirement Income Security Act was enacted by President Ford on Labor Day in 1974. Since its inception, the club has met bi-monthly for round table discussions and for presentations on the trends and/or newest guidance from the DOL or IRS.

By 2010 Central Texas was home to a diverse retirement plan/pension community ranging from recordkeeping, actuarial, third party administrators, consulting, legal and accounting practices, and financial service companies focused on retirement plans. The board recognized the club's viability would be enhanced and it would be of more value to its members if there was a way to leverage the expertise from the regional and/or national pension community and make it more readily available to the central Texas pension professionals. This realization caused the board to approach ASPPA about becoming an ASPPA Benefits Council (ABC). It was a natural segue because the club's membership had consistently been comprised of a large number of ASPPA members. Thus, after consultation with the club's members, the ABC of Central Texas was formed.

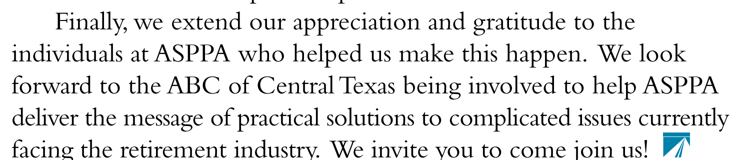
The ABC of Central Texas Board of Directors: (left to right) V.P. Membership and Accreditation, Kenneth J. Herbold, MSPA, COPA; V.P. Programs and Events, Mark H. Domel; Treasurer, Allison M. Gehring, QKA; President, Laurie Mechler, QKA, CEBS; Secretary and ASPPA Liaison, Deborah J. Ebner.

How will Being an ABC Enhance a Member's Experience?

Members benefit because of the resources that will now be available to the group. ASPPA provides support for all aspects of the ABC's operation. Everything from assistance with the mundane (albeit important) aspects of running the ABC, such as the development and maintenance of the ABC's Web site, preparation of financial statements, tax returns, meeting notices, etc., to the attributes that have made ASPPA a key link in the pension community, such as access to the outstanding list of national speakers. We are excited about this next phase in the club's history, which started off with a kick-off meeting in February where we hosted Brian H. Graff, Esq., APM, ASPPA's Executive Director/CEO, who presented a Washington Update to the members.

Additionally, the ABC of Central Texas looks forward to using this new platform to expand membership with a broader reach to the pension communities in Waco and San Antonio. We also look forward to having a local voice at the national level on retirement plan matters and increasing the presence of the ASPPA initiatives on behalf of pension professionals and actuaries.

Finally, we extend our appreciation and gratitude to the individuals at ASPPA who helped us make this happen. We look forward to the ABC of Central Texas being involved to help ASPPA deliver the message of practical solutions to complicated issues currently facing the retirement industry. We invite you to come join us!



*Deborah J. Ebner founded the ERISA Consulting Group, L.L.C. in 2009 to assist and work with plan sponsors and third party administrators on plan-related and recordkeeping matters that arise when sponsoring a retirement plan. Deborah has been an ERISA attorney for 15 years, including 12 ½ years with a full-service recordkeeping entity. Deborah currently serves as the secretary and ASPPA liaison of the ABC of Central Texas. (**deborah.ebner@erisacg.com**)*

Welcome New Members and Recent Designees

MSPA

William Connolly, MSPA
Larry N. Rothweiler, Jr., MSPA

CPC

Alan R. Blaskowski, CPC, QPA, QKA
Noah Buck, CPC, QPA, QKA
Althia C. Campbell, CPC, QPA, QKA
Jennifer Godwin, CPC, QPA, QKA
Brian A. Montanez, CPC, QPA, QKA, QPFC
Kathleen B. Moran, CPC, QPA, QKA
Dennis Povloski, CPC, QPA, QKA, QPFC
Jaime L. Smalley, CPC, QPA, QKA
Michael Vanderford, CPC, QPA, QKA
Tenille M. Woodward, CPC, QPA, QKA

QPA

Bryan Adams, QPA, QKA
Jeff S. Archer, QPA, QKA
Amy D. Bailey, QPA
Jennifer S. Barto, QPA, QKA
Lindsey Bratner, QPA, QKA
Cory W. Bruecken, QPA, QKA
Darbi L. Buchanan, QPA, QKA
Jamie Crosbie, QPA, QKA
Desiree Cruise, QPA, QKA
Tracy A. Curtis-Ashley, QPA, QKA
Michelle Dietsch, QPA, QKA
Lori Dillingham, QPA, QKA
John W. Driver, III, QPA, QKA
Fain P. Dye, QPA, QKA
Jonathan R. Eaves, QPA, QKA
Ryan Estomin, QPA, QKA
Mark Fishbein, QPA, QKA
Anita F. Fisher, QPA, QKA
Matt Fraser, QPA, QKA
Pamela G. Frazzitta, QPA, QKA
Barry Greenstein, QPA, QKA
Grant S. Halvorsen, QPA, QKA
Wendy R. Holliday, QPA, QKA
Christopher K. Jerolamon, QPA, QKA
Denise C. Lavalley, QPA, QKA
Christine LeBlanc, QPA, QKA, TGPC
Jessica W. Lee, QPA, QKA
Kimberly K. Lekki, QPA, QKA
Ashley Lewis, QPA, QKA
Jennifer Lilgeberg, QPA, QKA
Ramon A. Martinez, QPA
Lori McCall, QPA, QKA
Ronica C. McGovern, QPA, QKA
Debra J. Moran, QPA, QKA
Kimberly N. Parnell, QPA, QKA
Catherine A. Persons, QPA, QKA
Sherril Ramirez, QPA
Cynthia Ramo, QPA, QKA
Angela Ross, QPA, QKA
Anthony Santor, QPA, QKA
Steve A. Scotti, QPA, QKA
Wayne B. Smalley, QPA, QKA
Sean W. Thomas, QPA, QKA
Lana Y. Waltz, QPA, QKA
Norma L. Warden, QPA, QKA
Shawn Warnock, QPA, QKA
Ryan S. Wells, QPA, QKA
Melody S. Wilson, QPA, QKA
Paul E. Winkler, QPA, QKA
Galina Young, QPA, QKA

QKA

Tera Alabran, QKA
Gary A. Barber, QKA
Janice S. Beck, QKA
Melissa Berg, QKA
Autumn H. Bieg, QKA
Melissa Brady, QKA
Brandy L. Brandt, QPA, QKA
Lindsey Bratner, QPA, QKA
Patricia M. Caron, QKA
Leo Chiaraluce, Jr., QKA
Lucinda Christian, QKA
Amanda Collicker, QKA
Barbara L. Craighead, QKA
Eliza Davino, QKA
Matthew E. Day, QKA
Wendy Dixon, QKA
Jonathan R. Eaves, QPA, QKA
Develen Elvington, QKA
James Erck, QKA
Mark Dudley Farrin, QKA
Janice Fluke, QKA
Sterling R. Gabbitas, QKA
Amanda Geoppinger, QKA
Kellen George, QKA
Kay M. Gillis, QKA
Penny A. Gosse, QKA
Laurie Green, QKA
Melissa Green, QKA
Michael S. Hadcock, QKA
Grant S. Halvorsen, QPA, QKA
Marta L. Hurst, QKA
Michael Jackson, QKA
Kirsten Johnsen, QKA
Estrella D. Jones, QKA
Rebecca Kehr, QKA
Erin Kimbell, QKA
Sally Kirby, QKA
Sarah Knope, QKA
Christine Lestitian, QKA
Rebecca L. Lewis, QKA
Sidney Johanna Lopez, QKA
Jennifer L. Luedtke, QKA
Susan Macy, QKA
Courtney Marek, QKA
Lori McCall, QPA, QKA
Kim McClanahan, QKA
Megan M. McCormick, QKA
Carey S. McCrady, QKA
David B. McHenry, QKA
Susan Mills, QKA
Kelly F. Morris, QKA
Jayme Nalley, QKA
Julia L. Novia, QKA
Kathleen O'Connor, QKA
Shondra Odom, QKA
Mark Patrick, QKA
Jillian Perno, QKA, QPFC
Jeffrey S. Petersen, QKA
Rafael Pineda, QKA
Elizabeth Prenger, QKA
Jeannine Prokop, QKA
Donna Pytel, QKA
Kimberly Reid, QKA
Vincent E. Richards, QKA
Maya Richardson, QKA
Ashley Ritter, QKA
Angela Ross, QPA, QKA
Krista L. Salyers, QKA
Latricia D. Sanders-Charles, QKA
Anthony Santor, QPA, QKA
Jennifer A. Sarnowski, QKA
Brian J. Schiedel, QKA
Lindsey Schleenbaker, QKA
Christina Schuff, QKA
Heather N. Sciacca, QKA
Steve A. Scotti, QPA, QKA
Monica Searfoss, QKA
Kim Shaw, QKA
Renee B. Skinner, QKA
Brenda Slayton, QKA
Charles Smith, QKA
Julia Soboll, QKA
Mark Stewart, QKA
Charles F. Strunk, QKA
Jean R. Sturtz, QKA
James M. Swain, QKA
Heather Taylor, QKA
Molly D. Van Norden, QKA
Monte Vance, QKA
Benjamin W. Venable, QKA
Stacy L. Walters, QKA
John M. Walton, III, QKA
Brandon Williams, QKA
Diane H. Wilson, QKA
Lai Hung Yu, QKA
Julie Zybach, QKA

QPFC

Jennifer Borgesen, QPFC
Kirk W. Dahring, QPFC
Sean M. Duggan, CPC, QPA, QKA, QPFC
Kyle Everett, QPFC
Sandy K. Gehler, QPFC
Steven Gibson, QPFC
Jeff M. Laughlin, QPFC
Brian Thomas Murello, QPFC
Timothy E. Norman, CPC, QPA, QKA, QPFC
Richard A. Perry, QPA, QPFC
Theodore W. Rhinehart, QKA, QPFC
Matthew M. Richards, QPFC
Keith R. Sams, QPFC
Craig W. Shupee, QPFC
Joe L. Stone, QPFC
Jeremy Tollas, QPFC

TGPC

Alan E. Ashley, QPA, QKA, TGPC
Lisa Caito, TGPC
Randall J. Crouch, CPC, QPA, QKA, TGPC
Charlene S. Johnson, CPC, QPA, QKA, QPFC, TGPC
Cossette R. Lewis, QKA, TGPC
Denise K. Lof, CPC, QKA, QPFC, TGPC
William R. McDonnell, QPA, QKA, QPFC, TGPC
Candace Meyers, QKA, TGPC
Erin Patrick-Yoder, TGPC
Donna Porter, TGPC

APM

Susan Foreman Jordan, APM

AFFILIATE

Bonnie L. Baker
George R. Barker
Steve Bentley
Mark J. Borchert
Rosina Butera
Lesley Cline
Christabelle J. Cook
Paul M. DaSilva
Douglas R. Eagle
Marianne P. Evans
Pamela Ey
Gerald E. Gasber
Sharon Gershfeld
Joanne Gilmore
Lori L. Hall
Francis J. Hanley
Holly L. Harber
Jefferson Hornsby
Michael D. Isaac
Camille C. Johnson
Michele Kuntz
Arthur S. Leaffer
Summer K. Lee
Lee E. Lichtenstein
Kurt E. Linsenmayer
Peter B. Lucia
Kathy L. Lum
Sharon D. Mallory
Ross Marino
Janen D. Moyer-Presso
Steve Neperud
Brian D. Overby
Robert W. Patterson
Bridget Powers
Carol E. Rethemeyer
Greg Rhinehardt
Gregory E. Rivas
Christopher Kyle Ryan
Marietta Silva
Maribel Z. Squier
Eric Storjohann
Todd M. Virtue
Richard W. Wilberg
John L. Wilcox
Ryan Woodlee

Calendar of Events

ASPPA

Date*	Description	CPE Credits**
May 5 – 6	Mid-Atlantic Benefits Conference • Philadelphia, PA	15.5
May 9 – 11	NTSAA 403(b) Compliance Resolution Summit • Irving, TX	15.8
May 10	EA-1 and EA-2B examinations (administered by SOA)	
May 11	Final registration deadline for spring examinations	
May 12 – 13	Benefits Conference of the South • Atlanta, GA	15
May 12 – Jun 24	Spring examination window	
May 17	Webcast: Form 5500 Update	2
May 19	A-4 examination	
May 24 – 26	Women Business Leaders Forum • Boulder, CO	15
May 26	Postponement deadline for CPC examination	
Jun 2 – 3	ERPA Conference • Los Angeles, CA	16.5
Jun 6 – 7	ACOPA Advanced Actuarial Conference • San Francisco, CA	15
Jun 7	Webcast: Compensation Consternation	2
Jun 10	Postponement deadline for spring examinations	
Jun 14	CPC examination	
Jun 15	Registration deadline for first semester CPC modules	
Jun 23 – 24	Great Lakes Benefits Conference • Chicago, IL	15
Jun 30	First semester CPC modules submission deadline	
Jun 30	First semester webcourse access period ends	
Jul 1 – Dec 30	Second semester webcourse access period	
Jul 1 – Dec 15	Second semester CPC modules	
Jul 11	Northeast Area Benefits Conference – Boston, MA	8
Jul 12	Northeast Area Benefits Conference – New York, NY	8
Jul 24-27	Western Benefits Conference – Las Vegas, NV	20.5
Aug 12-13	ACOPA Actuarial Symposium – Boston, MA	15
Aug 31	Early registration deadline for EA-2A review course	
Sep 30 – Oct 3	EA-2A review course	

* Please note that when a deadline date falls on a weekend, the official date shall be the first business day following the weekend.
** Please note that listed CPE credit information for conferences is subject to change.

AIRE & ERPA

American Institute of Retirement Education
A Partnership of ASPPA & NIPA

Jun 2 – Jun 3
ERPA Conference

Jul 6
Registration Deadline for ERPA–SEE Summer 2011 Examination Window

Jul 7 – Aug 31
ERPA–SEE Summer 2011 Examination Window

Aug 15
ERPA–SEE Examination Postponement Deadline

ABC Meetings

ABC of Atlanta

May 12-13 Benefits Conference of the South
Jun TBD An All-day Special Event on ERPA Study Group with 2 hours Ethics – Ilene H. Ferenczy, CPC

ABC of Central Texas

Apr 20 Fiduciary Issues – Debbie Matustik
Jun 13 Full-day Seminar – McKay Hochman

ABC of New York

Jun 22 Full-day Seminar – Sal L. Tripodi, APM

For a current listing of ABC meetings, visit **www.asppa.org/abc**.

Fun-da-Mentals

Sudoku Fun

Every digit from 1 to 9 must appear:

- **In each of the columns,**
- **in each of the rows,**
- **and in each of the nine mini-boxes**

							2	1
	1	6						
	8				2	4	6	
8		5			9	1		
			2	3		7		
	3		6			8		2
		7					8	5
6					1	2		
			7					

Level = Moderate

Answers will be posted at www.asppa.org/taj.

MCHUMOR.com by T. McCracken

"This is our conference room modeled after the United Nations so that we can understand what our tech support people are saying."

Word Scramble

Unscramble these four puzzles—one letter to each space—to reveal four pension-related words.

IF NEED ___ □ ___ □ □ ___

MOP SLICE □ ___ □ ___ ___ ___ ___ □

PURE DOG □ □ □ ___ ___ ___ ___

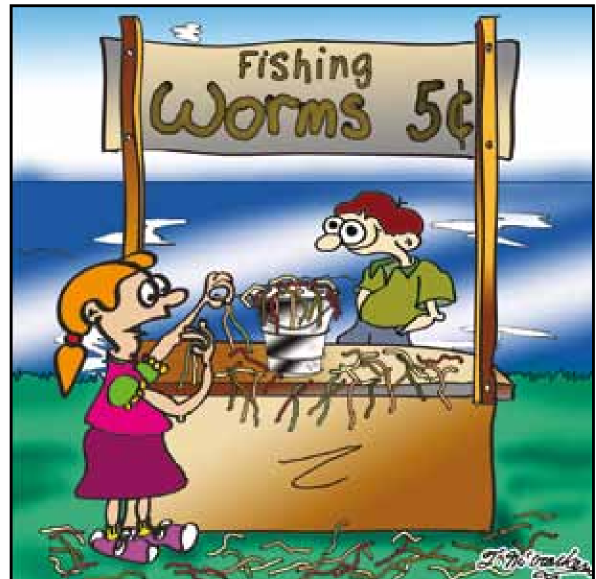
LET SLOW ___ □ ___ ___ □ ___ ___

BONUS: Arrange the boxed letters to form the Mystery Answer as suggested by the cartoon.

Mystery Answer:

It was " _ _ _ _ _ _ _ _ _ _ _ _."

Answers will be posted at www.asppa.org/taj.



What the boy's sister said about the money he made.

ftwilliam.com

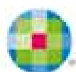
YOU'VE SEEN IT IN OUR

Form 5500 & Administration Software.

You'll love what we are doing this summer.

Our ftwPortal is coming...

We're always looking for ways to make your services more effective for your clients. We were the first in the industry to create an automated system to allow your clients to download and sign 5500 forms online, and our administrative software allows users to transmit census data and annual questionnaires via a secure web portal. Now, we are expanding this capability to our document and government forms software applications. The way you work with your clients will soon be faster, integrated and automatic.


Wolters Kluwer
Law & Business

Contact us for details at 800.596.0714 or visit us online at www.ftwilliam.com

Ready to grow your TPA practice?

DATAIR software can help.

DATAIR

(888) 328-2474 www.datair.com

Your one-stop shop for
401(k), Pension and Cafeteria software:
Administration ◆ Proposals
Documents ◆ 5500s and more!