



# AMERICAN ACADEMY *of* ACTUARIES

---

Mr. Harry Schneiderman  
Internal Revenue Service  
Attn: CC:PA:LPD:PR (Notice 2007-41)  
Room 5203  
P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20244

May 31, 2007

Re: Request for Comments on 2007 Guidance Priority List

Dear Mr. Schneiderman:

The American Academy of Actuaries'<sup>1</sup> Pension Committee appreciates the opportunity to provide input on the Internal Revenue Service's guidance priority list. The following is a list of items the committee would like to see addressed by the IRS, categorized by preference/priority. Most important is that we receive guidance on provisions of the Pension Protection Act of 2006 ("PPA06") in advance of applicable deadlines so adequate planning can be done. Therefore, those deadlines that apply earliest are of highest priority. For example, guidance on lookback rules and on April 1st measurement of funding status for calendar year plans is most important as plan sponsors need to begin planning how to address these provisions this summer. Also important is for the IRS to provide proposed guidance early, so comments can be made and final guidance issued on a timely basis.

Attached is a list of what we consider key issues awaiting guidance. This is not a comprehensive list of all the guidance needed but rather the most important needs for 2007. We list the issues in order of urgency within broad topic areas such as funding, hybrid plan, and benefit restriction rules.

We would be happy to discuss any of the above items with you at your convenience. Please contact Samuel Genson, the Academy's pension policy analyst (202.223.8196; [Genson@actuary.org](mailto:Genson@actuary.org)), if you have any questions or would like to discuss these items further.

Sincerely,

James F. Verlautz, MAAA, EA, FCA, FSA  
Chairperson, Pension Committee  
American Academy of Actuaries

---

<sup>1</sup> The American Academy of Actuaries is a national organization formed in 1965 to bring together, in a single entity, actuaries of all specializations within the United States. A major purpose of the Academy is to act as a public information organization for the profession. Academy committees, task forces and work groups regularly prepare testimony and provide information to Congress and senior federal policy-makers, comment on proposed federal and state regulations, and work closely with the National Association of Insurance Commissioners and state officials on issues related to insurance, pensions and other forms of risk financing. The Academy establishes qualification standards for the actuarial profession in the United States and supports two independent boards. The Actuarial Standards Board promulgates standards of practice for the profession, and the Actuarial Board for Counseling and Discipline helps to ensure high standards of professional conduct are met. The Academy also supports the Joint Committee for the Code of Professional Conduct, which develops standards of conduct for the U.S. actuarial profession.

## **Funding rules:**

- Details about the yield curve, including methodology for the three segment rates and the full curve.
- How to value lump sums for the funding target, including:
  - Mortality to use for future expected payment of lump sums.
  - Coordination of yield curves to be used for determining lump sums during the deferral period.
- How to smooth assets, including:
  - Acceptable methods.
  - If the methodology can be based on the difference between expected and actual return, the appropriate basis for selection of the rate of expected return.
  - How to transition from current asset smoothing methodology.
- Mechanics of credit balances
  - Technique for interest adjustments, e.g., for quarterly installments.
  - Ordering rules for contributions.
  - Determination of market rate to apply to credit balance.
- Details about application of the interest rate for the amortization of the shortfall, including:
  - Noting that in the standard amortization formula of  $1 + 1/(1+i) + 1/(1+i)^2 + \dots + 1/(1+i)^5 + 1/(1+i)^6$ , the sixth installment is represented by  $1/(1+i)^5$ . Is the first yield curve segment used for that installment (i.e., 6 payments at the first segment, 1 at the second), or the second yield curve segment (i.e., 5 payments at first segment, 2 at the second)?
  - Are segment rates used for amortization if the full yield curve is elected for valuation of the funding target and target normal cost?
- Details about at-risk assumptions, including:
  - As enacted, if there was already a non-zero probability of retirement less than 100% (e.g., 50%), then end-of-year retirement would be used for the at-risk assumption.
  - Clarification of the meaning of retirement when the plan pays lump-sum distributions.
  - Should benefit restrictions be reflected?
  - Use of a lump sum assumption when payment of lump sums are currently restricted
- How to treat bargained increases, including what to include as a component of target normal cost and what to include in shortfall amortization.

## **Hybrid Plan Rules:**

- Details on funding method to be used for hybrid plans to avoid potential overfunding that could occur if the assumed rate for projection of account balances exceeds the yield curve rates instead of just funding the immediate lump-sum balance.
- Whether Hybrid Plan rules apply to vested terminated employees or those who have received deemed cashouts.
- Determination of whether a plan can modify its definition of accrued benefit to rely on the new rule.
- Definition of market interest rate, including whether participants can elect from among various rates and how to apply the 5-year lookback rule.
- Guidance on treatment of variable index (e.g., S&P 500) and on how the rules apply to participant-directed plans.
- Determination of whether preservation of principal should be at benefit distribution or continuous.
- Treatment of variable annuity plans.

- Indexing of hybrid plans and whether rules apply only during pre-retirement periods.
- How the vesting rules should work, including whether they should be applied retroactively and how to treat defined benefit plans that have both hybrid and traditional benefits.
- How early retirement subsidies can be reflected in opening balances.
- Application of age discrimination rules to hybrid plans, including the basic application of ERISA §204(b)(1)(H).
- Definition of “similarly situated,” including the meaning and practical application of “could be” reference and clarification that the rule can be satisfied even if the hybrid plan benefit is defined in terms of an annuity, without necessitating amendment of the terms of the plan.
- Treatment of the immediate lump sum benefit as the accrued benefit, including clarification of whether pre-PPA06 rule continues to apply for other purposes, e.g., backloading.
- An alternative method is needed for providing top-heavy minimum benefits to non-key employees in hybrid plans.

### ***Benefit Restriction Issues:***

- Details about the presumption of the funding status, including the measurement to be made by using assets as of the valuation date and a roll forward of liabilities (e.g., similar to rules for multiemployer plans) and procedures for enrolled actuary certifications. And if an enrolled actuary's certification after the 10<sup>th</sup> month shows a funding status that would not require benefit limitation, whether the restrictions continue to apply anyway.
- Clarification of benefits and accruals after restriction period.
- Whether the distribution restriction applies to involuntary cash-outs for single-employer plans, or are they carved out of the restriction as for multiemployer plans.
- Whether restrictions take effect at the beginning of a plan year, although the determination of applicability of the restrictions will not be made until a date later in the year.
- Details on the coordination of the funding of any amendment with the amount included in shortfall amortization base, to avoid double-counting.
- Details about forfeiting credit balances, including:
  - Is credit balance “burned” under the presumed funded status rules?
  - If a plan amendment is immediately financed, must the credit balance nevertheless be “burned?”
- Whether shutdown restrictions apply only to granting of future shutdown benefits when a plan's funding slips below 60%, or if they also apply to shutdown benefit amounts in payment status with respect to previous events.