

Worker, Retiree, and Employer Act of 2008

Key Points



On December 23, 2008, President Bush signed the Worker, Retiree and Employer Recovery Act of 2008 into law. The legislation, which Congress passed by unanimous consent, includes provisions to provide much-needed relief for pension plan sponsors as well as individual investors.

Key Details

Among the most significant provisions in the bill are those that address the transition to the new Pension Protection Act (PPA) funding rules, the “smoothing” of pension plan assets and the restriction on benefit accruals. Specifically, the legislation:

- **Suspends a tax rule that requires seniors (age 70½ and older) to take minimum required distributions.** The bill suspends the rule requiring Required Minimum Distributions (RMDs) from tax-favored retirement accounts or payment of a 50 percent penalty on the amount they are required to withdraw. The bill suspends the penalty only for 2009, and the Treasury has indicated that it will not issue additional required minimum distribution relief for 2008.
- **Allows plans to phase-in to PPA funding targets.** The bill eases the transition to the new, more restrictive PPA funding rules. PPA phases in full pension funding targets from 90 percent to 100 percent over four years (2008 target – 92 percent; 2009 target – 94 percent; 2010 target – 96 percent; and 2011 target – 100 percent).
- **Under PPA, if a plan missed its funding target in any phase-in year, the target automatically increased to 100 percent.** The new bill adjusts the “phase-in” rule to allow plans that miss their funding target in any year to retain their original target instead of jumping to 100 percent. These provisions

apply for 2008, 2009 and 2010 plan years.

- **Permits 24-month asset smoothing.** The bill permits employers to “smooth” the value of their pension plan assets over a period not to exceed 24 months instead of using an “averaging” method. (Smoothing allows plan sponsors to take anticipated earnings into account when calculating asset values; averaging, as interpreted by the IRS, does not.)
- **Is intended to soften the impact of investment losses.** However, the bill does not expand the asset corridor, so a smoothed asset value would have to fall within 90 to 110 percent of the fair market value of assets as required under PPA. For 2009, the smoothed value of many plans’ assets will fall above the 110 percent mark, negating the benefits of smoothing.
- **Eases requirements that restrict the accrual of pension benefits.** The bill provides a look-back rule to help plans that drop below the 60 percent funding threshold avoid the restriction on benefit accruals. Plans will be able to look back to the previous plan year to determine their funded status as it would apply to workers’ abilities to accrue pension benefits.

While this is a welcome development, it will impact far fewer plans than easing the benefit restrictions that prohibit plans that are less than 80 percent funded from paying full lump sums would – a proposal the business community was urging Congress to adopt the 110 percent mark, negating the benefits of smoothing.

We hope you find this information helpful. Please keep in mind this is only a summary. If you would like more details about this change, or any other aspect of the new law, please do not hesitate to call and schedule an appointment with us.