



Pension Analyst

# Compliance Bulletin

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## IRS extends deadline for certain PPA amendments

The Pension Protection Act of 2006 (PPA) requires sponsors of qualified retirement plans to adopt plan amendments reflecting PPA provisions on or before the last day of the first plan year beginning on or after January 1, 2009. Recently, the IRS published [Notice 2009-97](#) which extends the deadline for amending qualified retirement plans for certain PPA provisions to the last day of the first plan year beginning on or after January 1, 2010.

The extension *only* applies to PPA-related amendments regarding:

- Funding-based limits on benefits and benefit accruals that apply to certain underfunded single-employer and multiple employer defined benefit plans;
- Some, but not all of the requirements pertaining to [cash balance and other hybrid plans](#), such as vesting, age non-discrimination and market rate of return. However, the amendment deadline is not extended for eliminating whipsaw provisions; and
- The employer stock [diversification requirement](#) that applies to defined contribution plans.

Even though these amendment deadlines are delayed, plans must continue to operationally comply with these provisions. In addition, plan sponsors must still adopt plan amendments by the end of the 2009 plan year that incorporate other PPA provisions, such as the Qualified Optional Survivor Annuity (QOSA) requirement and nonspousal beneficiary rollovers.

The IRS indicates that final and additional proposed regulations regarding cash balance plans and final regulations regarding employer stock diversification requirements will be issued in the near future. As a result, the extended amendment deadline will give plan sponsors time to adopt plan amendments that reflect both the recently issued final regulations on funding-based restrictions and these additional forthcoming regulations.

## Anti-cutback relief

An amendment to an underfunded defined benefit plan to comply with the [benefit restriction](#) requirement may result in the elimination or reduction in a protected benefit. If this benefit cutback is made only to the extent necessary to comply with the benefit restriction rules, the amendment will not violate the anti-cutback rule as long as it is adopted by the extended amendment deadline.

In addition, an amendment to a cash balance plan to satisfy the special cash balance rules, which eliminates or reduces protected benefits, may be eligible for similar anti-cutback relief once the IRS issues final regulations for hybrid plans. To qualify for the exception to the anti-cutback rule, the plan sponsor must adopt the amendment by the extended amendment deadline and the elimination or reduction must be made only to the extent necessary to enable the plan to satisfy the special cash balance plan rules.

## Next steps

Sponsors of defined benefit plans, including cash balance plans, should carefully read the guidance described in this newsletter to determine how it applies to their plans. If they have any questions, they should consult their legal counsel and their plan's enrolled actuary.

Plan sponsors of defined contribution plans that offer employer stock investments should carefully read the guidance discussed in this publication to determine the impact on their plans. If they have any questions, they should consult their Prudential representative.

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