



AMERICAN BENEFITS  

---

COUNCIL

**BENEFITS BRIEFING WEBINAR:  
Hybrid Pension Plan Regulations  
December 3, 2014**

**Slides prepared by the Council**

**J. Mark Iwry**

Senior Advisor to the Secretary, &  
Deputy Assistant Secretary for  
Retirement and Health Policy  
*U.S. Department of Treasury*

**George H. Bostick**

Benefits Tax Council

**Harlan M. Weller**

Actuary, Office of Tax Policy  
*U.S. Department of Treasury*

**Kent Mason**

Partner

*Davis & Harman LLP*

# Effective Date

## • Hybrid Plan Rules

- Final rules addressing market rate of return released in September
- Generally apply to PY beginning on or after 1/1/16
- Provide guidance on certain issues not covered by final regulations issued in October 2010
  - Portion of new rules clarifying October 2010 regulations apply to PY beginning on or after 1/1/2011

# Final and Proposed Rule

- ◉ **Compliance prior to reg. effective date**
  - No inference regarding law in effect prior to regulatory effective date
- ◉ **Market rate of return**
  - Limited list
  - Maximum fixed rate of return: 6%
  - Maximum minimum rate of return: 5% (generally)/4% (if variable rate is based on segment rates)

# Select Issues

## ◉ Whipsaw

- Early retirement and optional form subsidies do not trigger whipsaw requirement
- Plans with whipsaw: ineligible for age discrimination safe harbor

## ◉ Participant-directed interest crediting rates

- Continuing to study permissibility
- If later ruled impermissible, anti-cutback relief will be provided to plans with this feature as of 9/18/14

## ◉ Backloading

- Problematic: pay credits that increase with age/service with investment-based rate of return that can be negative for a year
- Regulation: deemed zero rate of return if return for prior year was negative

# Transition Issues

- Also issued proposed transitional amendments (comments due 12/18, hearing 1/9/15)
  - No reliance
  - Plan amendments must be adopted and effective prior to first day of 2016 plan year
  - Generally provide pathways to compliance

# Pension Equity Plans

- ◉ Very little PEP-specific guidance
  - Regulations do clarify that a reduction in the PEP benefit is permitted if it results from a decrease in final pay or from an increase in integration level
- ◉ Separate pending project on PEPs
  - Status of 411(b)(1)(G) issue
- ◉ Status of enforcement

# Additional Guidance

- ◉ Projection issues for, e.g., 415 and nondiscrimination rules
- ◉ Other?
- ◉ Regulatory guidance?
- ◉ Timing?