



AMERICAN BENEFITS COUNCIL

July 10, 2012

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Dear Mark, Vicki, and Andy:

On behalf of the American Benefits Council (the "Council"), I am writing today to ask for expedited issuance of guidance under the recently enacted "Moving Ahead for Progress in the 21st Century Act" (the "Act"). Specifically, there is a critical and urgent need for Treasury and the Internal Revenue Service to publish the 25-year averages of the segment rates pursuant to section 40211 of the Act.

The Council is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans.

As you know, for 2012, the Act generally requires the segment rates used for funding and certain related purposes to be within 10% of the 25-year average of prior segment rates. Under the Act, the Secretary shall determine such averages on an annual basis and may prescribe equivalent rates for years in any 25-year period for which segment rates are not available. This provision of the Act prevents today's low interest rates from unnecessarily inflating required funding contributions. The provision also prevents the low interest rates from having other inappropriate effects, such as triggering unjustified restrictions on participants' benefits.

Plan sponsors need to know the 25-year averages as soon as possible – ideally by the end of July in order to prepare for the September 15 deadlines noted below. A few of the many reasons for this urgency are set forth below:

- Business plans need to be made. Pending enactment of the legislation, many capital investments, job creation decisions, and acquisitions were being put on hold because of the apparent need to make enormous funding contributions triggered by the low interest rates. Because of uncertainty regarding the 25-year averages, many of those decisions continue to be on hold. The earlier the 25-year averages are published, the sooner companies can start making business investments and creating jobs.
- Many companies need to know the 25-year averages *well in advance* of the September 15, 2012 deadline (in the case of calendar year plans) for making contributions for 2011.
 - Contributions for 2011 can result in benefit restrictions being lifted for the remainder of 2012. If the averages are not published well enough in advance of September 15, companies may not be prepared to make additional contributions for 2011, which could mean several more months of restricting participants' benefits.
 - Contributions for 2011 can also affect the applicability of benefit restriction presumptions for 2013, further underscoring the need for publication of the 25-year averages well before September 15, 2012, so as to avoid unnecessary restrictions on participants' benefits.
 - Contributions for 2011 can also have a material effect on the applicability of critical funding rules such as the determination of whether (1) a plan is at least 80% funded in 2012 so that credit balances can be used in 2013 and (2) a plan is in at-risk status for 2013. Again, this makes it critical that the 25-year averages be published well in advance of September 15.

The Council would be very pleased to help in any way that we can. Several of our actuarial firm members have done extensive work with respect to the determination of the 25-year averages. The firms have spent a great deal of time on these numbers, as they are being used by clients and consultants to make rough projections regarding funding obligations. We intend to follow up very quickly with a submission regarding the averages determined by the actuarial firms. Following that submission, we would very much like the opportunity to meet with you to go over the work done by the actuarial firms and their methodologies, and to provide any additional information that would be helpful to you.

We also ask that in the publication of the 25-year averages, Treasury and the Service provide the monthly rates underlying the 25-year averages. This will be very helpful for companies in attempting to project future 25-year averages for planning purposes. In addition, we are assembling a short list of other critical guidance needed with respect to the funding stabilization provision of the Act. We anticipate submitting that list very soon.

Thank you in advance for your consideration of the need for expedited publication of the 25-year averages.

Sincerely,

A handwritten signature in black ink that reads "Lynn D. Dudley". The signature is written in a cursive, flowing style.

Lynn D. Dudley
Senior Vice President, Policy
American Benefits Council