Intersector Group Meeting with
the U.S. Department of the Treasury and the Internal Revenue Service (IRS) Notes
April 19, 2024 (virtual)

Periodically the "Intersector Group" ("the Group") meets with representatives of the IRS and Treasury Department ("Agencies") to discuss regulatory and other issues affecting pension actuarial practice. The Group is composed of two delegates from each of the following actuarial organizations: the American Academy of Actuaries (Academy), the Conference of Consulting Actuaries (CCA), the Society of Actuaries (SOA), and the American Society of Enrolled Actuaries (ASEA). Attending from the Group at the April 19 meeting were Bruce Cadenhead (Academy), Kelsey Mayo (ASEA), Eric Keener (SOA), Ellen Kleinstuber (CCA), Tonya Manning (CCA), Maria Sarli (SOA), and David Pazamickas (Academy). Philip Maguire, Academy staff member supporting the Group, also attended.

These meeting notes are not official statements of the Agencies and have not been reviewed by Agency representatives who attended the meeting. The notes reflect the Group's understanding of the current views of the Agencies' representatives and do not represent the positions of the Agencies, nor of any other governmental agency, and cannot be relied upon by any person for any purpose. Moreover, the Agencies have not in any way approved these notes nor reviewed them to determine whether the statements herein are accurate or complete.

Discussion topics were submitted by the Group to the Agencies in advance of the meeting and are shown in regular typeface below; a summary of the discussion is shown in italics.

Discussion Topics

SECURE 2.0 Cash Balance Guidance (Notice 2024-2, Section H)

Notice 2024-2 provides very helpful guidance for cash balance plan sponsors related to the SECURE 2.0 provision modifying how the interest credit applies when validating that a pay credit schedule complies with the backloading rules. At a high level, one might characterize the notice as providing an exemption to the 411(d)(6) anti-cutback rules for any plan design change that would satisfy the backloading rules using a reasonable projection of future interest credits, but that might not have satisfied those rules under the prior approach. For clarification, the prior approach generally required assuming that the most recent year's interest credit be used for projecting benefits. Given the potential volatility inherent in a variable interest crediting rate, backloading compliance is typically demonstrated assuming the lowest possible annual rate under the terms of the plan (but not less than 0%), giving rise to minimum interest credits and/or limits on the amount of age or service grading in a plan's pay credit schedule. Because of the SECURE 2.0 changes, plans may now be able to demonstrate compliance with backloading rules even after making some or all of the following changes:

- Reducing or eliminating a fixed minimum interest crediting rate,
- Adding an age or service-graded pay credit schedule (or increasing the amount of age or service-grading), or
- Adopting an investment-based interest credit.

The Notice appears to provide anti-cutback protection to plans making any of the above changes, subject to a few restrictions, as long as the plan provides ongoing pay credits that increase with age or service. The anti-cutback protection appears to apply to the future interest crediting rate for all non-retired participants.

Despite this helpful guidance, a few areas of uncertainty have emerged where additional guidance may be helpful:

- The Notice contains a request for comments, for which the deadline has passed. The request appears to focus on additional situations where anti-cutback relief might apply, rather than suggesting that the relief might be scaled back, but it would be helpful to know if sponsors should have any concerns with implementing any of the permitted changes.
- Anti-cutback relief appears to apply to a particularly wide range of situations, including:
    - A plan for which the ultimate pay credit rate is no more than 1/3 higher than the initial pay credit rate;
    - A plan for which only a portion of the active participants are receiving ongoing pay credits (where a change in the interest-crediting basis could be applied to all participants with cash balance account balances); and
    - A plan that is subsequently frozen in some future year (the Notice doesn't include any expectation around the period for which future accruals will continue).

  It would be helpful to understand whether some of these fact patterns may raise concerns.
- The Notice does not override the SECURE 2.0 requirement that a reasonable projection of future interest crediting rates be used to test backloading. For any variable interest credit, future expectations may vary depending on the economic environment. For an investment return-based credit, changes in the asset mix will also affect expectations. It would be helpful to understand expectations around how this requirement would be evaluated. In particular, whether the rate of future pay credits may have to be reduced if expectations change at some point in the future.

The Group, noting that the guidance was generally well received and welcomed by the plan sponsor community, asked the overarching question "is this too good to be true?" Are there situations where caution may be warranted? For example, how big does the population getting significant age- or service-weighted credits need to be to obtain this relief, including for frozen and terminated participants? Some situations clearly qualify for relief, but are there situations where plan sponsors need to be cautious?

The Agencies pointed out to the Group that the language in Notice 2024-2, Q&A H-2 reads that "an amendment to a cash balance plan is made pursuant to section 348 of the SECURE 2.0 Act (and is therefore eligible for the treatment in section 501 of the SECURE 2.0 Act) ***only if:*** *(1) the plan is currently providing for principal credits that increase with a participant's age or service, and the amendment is to change the plan's interest crediting rate, or (2) the plan is implementing such a pattern of principal credits as part of the amendment."* ***[Emphasis added.]*** *The Agencies advised that caution would be wise in applying this language when deciding what amendments are permissible— make sure the situation fits this description.*

The Agencies also shared with the Group that even though this guidance took nearly a year, they made a concerted effort to get it out quickly. The Notice covers 15 different provisions of the SECURE 2.0 Act, while others did not get addressed in the interest of timeliness. For example, they deliberately decided they could not do the reasonable projection of future interest crediting rates in that one-year timeline. If there are specific questions to be addressed in future guidance, that would be very helpful for the Agencies to understand.

The Group noted that it was intended that some of the scenarios raised in our pre-meeting write-up would fit within the IRS' request for identification of topics of interest/concern.

Related cash balance topics

- The preamble to the hybrid plan regulations identifies potential concerns with allowing for participant direction of investments underlying the interest crediting rates. As these plans become increasingly popular, it would be helpful to understand if there has been any further thinking in this area. Examples of potential approaches that plan sponsors are considering include:
    - A choice at the time of initial participation in the plan between a limited number of asset pools (e.g., 2 or 3) within the plan with a specified target asset allocation.
    - Allowing a similar choice solely with respect to future accruals.
    - Allowing a periodic choice (e.g., at a limited number of future dates specified in the plan or defined by plan amendment) that would apply to the current account balance and future accruals.
    - Including a target-date approach among the options, where the asset mix would change over time. One consideration would be whether all target date options would have to be available to all participants to avoid concerns around age discrimination.

  The first two of these options appear to avoid many of the concerns discussed in the preamble.

  The Group noted that this is being raised with greater frequency due to SECURE 2.0 and Notice 2024-2, given the increased interest in these designs. The first bullet above,

referencing a choice of investment direction at time of plan entry, seems safest. But are the types of changes described above acceptable as well?

The Agencies have not thought about this issue in a while, and it is helpful to them to hear that concerns remain. The Group noted that Sponsors could help participants rebalance their allocation in the DC plan, if choice is not available in the DB plan; however, having choice available in the DB plan is preferable from a simplicity standpoint.

- Annuity conversion basis— some sponsors have inquired about the possibility of encouraging annuitization by subsidizing the annuity form of payment, relative to 417(e), in some manner. While this seems possible if the subsidy takes the form of an early retirement subsidy, it could raise concerns in other situations given that the lump sum would be less valuable than the annuity payable at normal retirement age, based on 417(e) assumptions. It would be helpful to understand the circumstances under which explicit subsidies might be provided.
  The Group asked if it is permissible to be modestly more generous than 417(e) rates when converting cash balance accounts to an annuity, in order to encourage annuitization. The Agencies indicated that as long as the selected assumptions fit within the classification of "reasonable actuarial assumptions," it should be fine. The Agencies also acknowledged that they don't provide a definition of "reasonable actuarial assumptions," while noting that the definition is clearly broader than just 417(e).

  The Agencies pointed out that at some point of subsidization, the plan is no longer a lump sum-based formula, which can create other problems. The definition of a lump sum-based formula is that the annuity is equivalent to the account balance, using reasonable actuarial assumptions.

  The operative language in the 1.411(a)(13)-1 regulations gives you a pass on 417(e) if you have a lump sum-based formula. For example, assume the 417(e) assumptions produce a 10:1 ratio of lump sum per dollar of annual annuity at normal retirement date. Before the Pension Protection Act of 2006 (PPA), the minimum lump sum was based on the annuity, so a lump sum of less than 10 times the annual annuity could not be paid. After PPA, the "accumulated benefit" (the account) is considered and the annuity can be more or less than 1/10 of the lump sum (the account). While not required to be based on 417(e), the annuity must be actuarially equivalent to the accumulated benefit using reasonable assumptions. Thus, the amount of permitted subsidization is constrained.

- Late retirement continues to be a challenge for cash balance plans in determination letter and audit situations. This topic was discussed at the April 2021 Intersector meeting. Nevertheless, we still often get questions from IRS reviewers related to how cash balance plans provide the required actuarial increase in situations where benefits are not

suspended.

From a theoretical perspective, there are two basic approaches:

- Increase the account balance with interest at a rate that is sufficient to constitute an actuarial increase.
- Convert the benefit to an annuity and actuarially increase the annuity.

If the same interest rate is used for both purposes and there is no pre-retirement mortality assumed, these approaches are mathematically equivalent. The problem is that the relevant interest rates generally change over time. Protecting the annuity changes the nature of the benefit from a lump sum-based benefit to an annuity-based benefit. If the annuity at normal retirement age, and potentially at each age thereafter, is protected and the participant also receives the ongoing cash balance, if greater, then the result is a benefit that is more valuable than either a pure annuity or pure cash balance benefit, because it ensures that the participant will receive the greater of the two. It would be helpful to have guidance that clarifies that it is permissible to treat the growth in the account balance with interest at a rate no less than the plan's applicable actuarial equivalence rate, as satisfying the requirement to provide an actuarial increase.

The Group indicated that, after a lot of back and forth with examiners, you generally get to the place where the interest crediting rate is the actuarial increase, but not always. It would be helpful if we had actual guidance to that effect.

The Agencies noted that the late retirement question, as asked, assumes that mortality is not involved for the period between normal retirement age and late commencement age. The Group agreed that was the assumption. Furthermore, the Group indicated that it is typical in a cash balance plan that no additional compensation is needed as an increase in the annuity for the risk of forfeiture upon death because the death benefit is the full account balance.

The Agencies noted that they were not sure that was a safe assumption. They noted that there was a lot of discussion in the preamble to the 417(e) regulations addressing their view that just because there is a 100% death benefit doesn't mean that it's appropriate to assume there is no risk of forfeiture upon death. The Group questioned whether that logic still applied after the normal retirement date (NRD), when the death benefit in question would have been payable prior to the annuity starting date. In this situation, the participant has already received the death benefit protection by the time the benefit starts and the death benefit is therefore vested.

The Group noted that whether the actuarial increase can be interest-only or must be interest and mortality is a separate question from whether interest rate volatility after NRD must give rise to an additional benefit. That question relates to variable interest rate bases. For

example, the interest crediting rate may be tied to a Treasury yield and the annuity conversion tied to 417(e). In the current environment where interest rates are higher, the annuity conversion today is more favorable than it was a few years ago when interest rates were lower.

The Group asked if it is a concern when the actuarial conversion factor going from the accrued benefit to the annuity is a floating factor (417(e) for example). In other words, when you view everything on an annuity basis, if interest rates go down, there is a smaller annuity. For example, must a plan provide a higher interest crediting rate when interest rates drop to counteract the effect of the decrease in the resulting annuity value? Agents/field actuaries have taken different positions, sometimes saying the benefit at each post-NRD age must be protected.

The Agencies noted that it is helpful to understand that this is a concern. They are aware that in some cases field actuaries involved with plan reviews have taken different positions on this issue.

Funding method changes

The funding method change application process continues to be challenging for all involved. It appears that IRS' expectations around the elements that will be considered in scope for a ruling, as well as the range of acceptable approaches, have evolved since Rev. Proc. 2017-57 was issued. This evolution is particularly evident when it comes to rulings involving spinoffs, but applies to some extent in mergers and other situations that are the subject of these rulings. We understand that the IRS has been working on additional guidance in some of these areas and we think having that additional guidance will be extremely valuable. In the meantime, we would like to share a few ideas for possible ways to streamline the current process:

- Allow for greater flexibility with respect to calculation elements that would not significantly affect results. For example, allow for a less precise allocation of normal cost in a mid-year spinoff, where the difference between the proposed approach and a more precise calculation is less than X% of the resulting normal cost for any of the plans involved. Similarly greater flexibility could be permitted when the net normal cost is $0.

- Make it clear that certain transactions don't constitute a method change. For example, many beginning- or end-of-year spinoffs could be excluded if no methods are changing and there is nothing to be allocated between the plans, or the allocation is straightforward. For example, de minimis spinoffs or spinoffs of overfunded plans where there are no amortization charges and funding balances are allocated in a reasonable manner.

The Group noted that this topic is high on our priority list for the Agencies to develop guidance, since the approval process for these ruling applications has slowed down and is creating uncertainty for plan sponsors. There is a lot of back and forth, often generating significant cost for plan sponsors, on items that practitioners view as immaterial. The Group suggested that in some of the scenarios noted, the IRS could put the onus back on the plan's actuary to deal with some of the "details" once the IRS has given their ruling on the big picture issues. In addition, some of these scenarios (de minimis transactions, plans in surplus) could be viewed as not involving a change in funding method.

The Agencies identified three asks from the Group, based on the discussion:

- *Provide for more automatic approvals;*
- *Identify more clearly situations that are not a change in funding method; and*
- *Allow a little "mush" related to spinoffs when evaluating the questions related to (a) what counts as a spinoff, and then (b) what is a change in a funding method (e.g., is a potential change in funding method related to a spinoff being conflated with "how do you do a spinoff?").*

The Group noted that because there isn't clarity in what is a spinoff/merger and how does that play out in the context of the proposed method, actuaries often provide numerical examples of how a proposed method plays out in the specific situation. That may be perceived by the IRS as asking for blessing of a specific number/numerical outcome, which is not necessarily the intent. The Group suggested that one option for alleviating uncertainty, and the resulting volume of filings, is to relax the standards for evaluating multiple options against each other when they all produce the same end results (e.g., $0 MRC) or very similar results within a narrow range.

The Agencies indicated that they have been thinking about how to establish clear lines as to what is a change in funding method, as well as a specification as to exactly how to do a spinoff or merger. That is the direction they've been headed—providing substantive rules rather than automatic approvals.

The Agencies asked if laying out specific guidelines would eliminate the need for automatic approval, noting that the two questions— "Is there a change in funding method?" and "How do you calculate the MRC for the two plans involved?"—have been interwoven with each other.

The Group noted that the guidance on how to do the calculations would address many of the issues if the result was that, by following the guidelines, there is not a method change that requires approval. So, either it's not a method change, or it's a method change with automatic approval. The Group also noted that if the reviewing actuaries believe that something a plan sponsor is asking the IRS to rule on is clear in the regulations, they don't rule on that and instead instruct the plan's actuary to go look at the applicable regulations. Therefore, if the regulations were clear that could eliminate some of the questions that reviewing actuaries feel they need to rule on.

The Group also noted that there is a similar issue on the benefit restrictions where the Adjusted Funding Target Attainment Percentages for the two pre-merger plans are in different ranges. It's unclear how benefit restrictions apply after the merger. The Agencies are looking at this issue as well and wrestling with what the right answer should be.

The Agencies noted that the advantage of doing this sort of guidance through a regulation is that there is a public comment period, which the Group agreed is a valuable option to have. The Group asked where this sits within the IRS's priorities. The Agencies noted that there are a lot of other competing, and deemed higher, priorities that delay issuing guidance on this subject. The Group observed that this makes it unlikely that guidance will be out within a year, as there is also a lengthy clearance process to go through.

415 limits

- Multiple annuity starting dates

  A participant may have multiple annuity starting dates for a variety of reasons. The plan must ensure that §415 limits are satisfied at each annuity starting date. The regulations require that all distributions be taken into account, with appropriate adjustment, when determining whether §415 is satisfied at each annuity starting date. How to perform these calculations has been the subject of significant debate over the years. Reasonable approaches have been developed and have been described at a number of actuarial meetings. However, enforcement continues to not recognize all the reasonable approaches, resulting in significant costs to the plan sponsor to defend generally accepted and reasonable practices.

  Would it be useful to provide additional examples of current approaches to aid in education for both the industry and the field actuaries?

  The Agencies shared that while this topic was addressed at the recent Enrolled Actuaries Conference, holding discussions of information at an actuarial meeting with concurrent breakout sessions doesn't allow the Agencies to hear all the discussion. Therefore, it would be helpful for them to receive a comment letter from the Group illustrating various approaches for their consideration. Just because there is a meeting handout that illustrates something doesn't mean that actuaries can rely upon that handout. A comment letter can be shared among all team members and their leadership.

- Applicability of SECURE 2.0 changes for accrual rules to 415

  SECURE 2.0 revised the 411(b) accrual rule for cash balance plans to require that testing be done based on a reasonable projection of the interest crediting rate, not to exceed

6%. In the absence of any guidance to the contrary, it would be logical to extend this approach to other situations that require a definition of the accrued benefit. It would be helpful to know if the IRS plans to enforce a different view.

The Agencies have not discussed the SECURE 2.0 issue. The Group indicated that this is another issue where there is debate ongoing within the profession and guidance would be helpful.

Late retirement actuarial equivalence

Final 417(e) regulations did not address adjustments post-normal retirement age. This is expected to be addressed in future guidance. Practitioners would find this guidance helpful.

The Agencies noted the reason it was pulled out of the 417(e) regulations is that it's not a 417(e) issue. The proposed regulation was driving a result that is a 411(a) issue. No update is available from the Agencies about where this guidance resides on the priority list.

The Group noted that if we got clear guidance on cash balance plans, that would likely address many of the issues related to this topic.

Closed Plan guidance

The SECURE Act included nondiscrimination testing relief for certain closed defined benefit plans. There are questions, and potentially concerning interpretations, in the industry regarding various provisions, including which plans qualify for the relief, which plans are considered closed for purposes of Sections 410(b), 401(a)(4), and 401(a)(26) relief, etc. In particular, it is unclear whether the entire plan must be closed to qualify for relief and what is considered a discriminatory amendment modifying the closed participant group. Plan sponsors and their advisors would benefit from the IRS's guidance to ensure plan sponsors have appropriate guidance to continue their defined benefit plans.

Would it be useful to provide examples of specific provisions to assist with that project?

The Group noted that if the answer is "no, it can't be partially closed," there is a question related to a plan that is closed to non-bargained employees and open to bargained employees as to whether the relief applies because the bargained group is mandatorily disaggregated.

The Agencies noted that some additional input would be useful to them. They have a fairly well-developed draft of guidance, and it would be helpful for them to test their draft against some of the fact patterns we are seeing in practice.

Long-term part-time employees

The proposed long-term part-time employee (LTPTE) regulations issued in late November 2023 would permit excluding LTPTEs from nondiscrimination testing, but only if all LTPTEs are excluded from all coverage and nondiscrimination testing. Some clarification on how to apply this rule in practice may be helpful to plan sponsors, since sponsors can choose to rely on the proposed regulations prior to issuance of final regulations. For example: When disaggregating a defined contribution plan with elective deferrals, matching contributions, and non-elective contributions, would the exclusion need to apply for all three components, or could it be determined separately for each component? Also, if there are multiple plans in a controlled group, could the exclusion be determined on a plan-by-plan basis, or would it need to be applied for all plans in the controlled group?

The Agencies asked about the motivation for a "mix and match" approach. The Group noted that it is derived from testing results. The Agencies inquired as to whether this approach was being considered for the purpose of optimizing testing results or if something else is going on.

The Group noted that the difference in testing results using a "mix and match" approach versus an "all or nothing" approach might not be material in many cases, but it would be helpful to understand whether an "all or nothing" approach is required to ensure that the proposed rules are applied correctly by plan sponsors choosing to rely on them.

Signature Protocols

Plan administrators and actuaries continue to ask questions about the ability to use digital signatures, including inserting or "stamping" a document with a replica of an individual's wet signature, in lieu of physically printing a paper document to be signed. With the ability under 29 CFR § 2520.107-1 to store records using electronic media, the informative value of having a physical signature on a document that has subsequently been digitized is diminished.

When we met with IRS and Treasury in January 2023, the agencies shared with the Group that IRS, DOL, and PBGC had discussed this subject and were open to considering if a change in policy is appropriate. Any such change would require a regulatory proposal and comment period, and given the timing for finalizing the Form 5500 it was unlikely to be implemented before 2025.

If this is still under consideration, we are happy to discuss any aspects of this requested change in protocol that would be helpful to IRS/Treasury in crafting a proposed regulation. Any update that can be provided would be helpful.

The wet signature requirements were being heavily discussed about a year ago; however there hasn't been much on that recently. Each agency (IRS, EBSA, PBGC) has different requirements, so coordination among the agencies is the central issue in reaching a resolution on this.

As for retaining digital copies, the Agencies (IRS and Treasury) were unclear on what discussions have been had on this topic.

Currently, this issue is on the back burner.

IRS Guidance Protocols/Administrative Procedures Act

The Group understands that typically in a presidential election year there are often additional considerations with respect to the release of proposed regulations or the finalization of previously proposed regulations and other rulemaking documents. Historically, we have observed that sometime in late summer to early fall, it is common for there to be a moratorium on issuance of certain types of guidance until after the results of the presidential election are known.

The Administrative Procedures Act (APA) requires that certain types of regulatory guidance be subject to public comment. The APA also provides for agencies to claim "good cause" for waiving the requirement to publish proposed rules (e.g., if doing so is "impracticable, unnecessary, or contrary to the public interest") or to waive the delay in effective date requirements for major rules under the Congressional Review Act. One option that has been utilized in the past is to issue regulations as an interim final rule, which allows for an immediate effective date and an opportunity to solicit public comment prior to issuance of a (permanent) final rule.

It would be helpful if there is anything IRS/Treasury can share about how these requirements and the election year dynamic might impact the agencies' ability to issue various guidance that is under development in 2024 and if this changed the prioritization of any regulatory guidance currently under development.

The Agencies stated that they do not believe there is a "moratorium" that occurs. Often, there is a set of regulations/guidance that is considered a higher priority and, as a result, others get delayed. That may happen again during this presidential election cycle. Retirement plans currently aren't considered a high priority relative to the broad range of other issues the Administration has on its plate. The clearance channel may not be able to take the time to turn to these issues, which can be long and dense relative to other guidance topics outside of Employee Plans. It becomes burdensome for the people who are clearing it to understand what they are clearing. That can cause delays as people focus on other items that they understand better and can clear faster.

417(e) mortality assumption

A contributory plan determines lump sums as the greater of (i) a lump sum based on plan factors and (ii) a lump sum based on 417(e) factors.

Prior to the final regulations, both factors assumed deferral to age 65 and include a mortality assumption in the deferral. This was applied to the full benefit.

Per final 417(e) regulations, mortality can only be assumed for the employer-provided portion of the benefit when determining the lump sum.

Practitioners are trying to determine if the plan can still assume mortality in the deferral of the employee-provided portion of the benefit when determining the lump sum based on plan factors.

The Agencies have not had a chance to think through this question. They appreciate it being brought to their attention.

IRC section 431(b)(7)(G) and an amendment to reinstate suspended benefits for a plan that received special financial assistance.

In general, the net increase in unfunded past service liability of a plan arising from plan amendments is amortized over a 15-year period in the funding standard account for a multiemployer plan. However, certain amendments related to "short-term benefits" are amortized in the funding standard account over a shorter period under IRC section 431(b)(7)(G). Multiemployer plans that previously suspended benefits and received special financial assistance are required to reinstate suspended benefits both retroactively and prospectively. The plan sponsor has the option to retroactively reinstate suspended benefits to individual participants and beneficiaries in a one-time lump sum payment or monthly installments over a period of 5 years. It is unclear to practitioners if IRC section 431(b)(7)(G) would require the increase in unfunded past service liability, related to a retroactive reinstatement of previously suspended benefits, to be amortized over a 1-year or 5-year period in the funding standard account (depending on the election of the plan sponsor) instead of 15 years.

It was not addressed because the Agencies hadn't thought about it. They will now start thinking about it. The Group noted that it had not come onto our radar until recently either.

The field actuaries know more of what the issues are that people are struggling with than those in Washington, DC, writing guidance. Thus, bringing these sorts of issues forth is helpful for them to know what people are struggling with.

Other discussion topics

The Group asked the Agencies if there are any other areas they would like to hear from us on. Two issues were discussed.

- *Priority considerations*
    - *The Agencies noted that the actuarial group has several projects underway and wanted to know which of these issues the Group would prioritize.*
        - *Section 404*
        - *Second generation 430/436 issues (e.g., mergers, spinoffs, etc.)*
        - *Closed plans*
        - *Cash balance plans*

  The Group shared that relative priorities depend on who you ask.

  Mergers and spinoffs take priority over Section 404. In the large plan market, spinoffs and mergers happen frequently and it can be very costly to file for a change in funding method.

  Generally, funding method changes are more impactful on a day-to-day administration basis for most plans.

  The concern from the Group on closed plans relates more to reputational risk in the industry, particularly in the small plan market. Closed plan relief is less of an issue for larger plans because a conservative approach can be taken with input from counsel.

  On cash balance plans, anything specifically tied to SECURE 2.0 deadlines needs to have certainty approaching the amendment deadlines. It was suggested that one possibility may be to start conservatively from an administrative standpoint when creating a new cash balance plan then address desired "liberalization" through the determination letter process. The Group remarked that ending up with a funding liability that is larger than the true economic value of the plan is troublesome and, for the industry, this issue is a relatively high priority.

  Finally, the Group remarked that relative priorities will change depending on the outcome of guidance—if there is only one reasonable interpretation on an issue, then that is important to know.

    The Group shared a concern about delayed determination letter applications, noting that this is leading in some situations to plan sponsors/administrators deciding not to file for a determination letter upon termination due to the uncertainty. For a plan sponsor, the question becomes what risk do they want to take—waiting a long time for a determination or proceeding without one?

The actuarial group has been working with the determination letter group to help them work through a backlog of filings that they were not aware of until recently. In doing so, they are finding a variety of issues with the filings that are causing further delays.

The Agencies shared that it's important to read the instructions and provide everything asked for with the filing—Form 5310 line item attachments, Form 6088 and associated attachments, etc. When these are not provided upfront, that adds time to the review process.

Once they get the backlog addressed, the Agencies expect that the processing time will be reduced.