KIRKLAND & ELLIS LLP

ALERT

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Pension Protection Act of 2006

This alert provides an overview of the Pension Protection Act of 2006 ("PPA") passed by the House on July 28, 2006 and by the Senate on August 3, 2006 and enacted with President Bush's signature on August 17, 2006. The PPA restructures the way employers fund defined benefit pension plans beginning in 2008. In addition to provisions making permanent the benefit additions and increases included in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) previously set to expire in 2010, the PPA also includes provisions governing participation, vesting and investing in defined contribution plans. The PPA prospectively clarifies the rules for hybrid pension plans, including cash balance plans, and while these rules are not applicable to current litigation, a recent appeals court ruling may help plan sponsors defend these plans. The PPA also affects compensation programs of certain senior executives and provides some prohibited transaction relief for investment transactions by plans.

The provisions of the PPA are extensive and future guidance is expected to clarify its implementation. This alert merely highlights the key provisions of the PPA.

Effective Dates

Generally, the PPA provisions are effective for the 2008 plan year, although many provisions are phased in, and certain special effective dates apply for collectively-bargained plans. However, certain PPA provisions are effective immediately upon enactment, including restrictions on executive compensation, the provisions making EGTRRA permanent and provisions regarding ERISA prohibited transaction relief. Other PPA provisions are effective for plan years beginning in 2007, including accelerated vesting, employer stock diversification requirements, investment advice provisions and certain participant disclosure rules. Plan amendments are not required before the end of the first plan year beginning on or after January 1, 2009, but plan administration must be changed to comply with earlier effective dates. The hybrid/cash balance plan provisions have special effective dates as described below.

Defined Benefit Pension Plan Funding

The most significant changes of the PPA involve the rules governing the funding of defined benefit pension plans. Historically, pension contribution requirements were designed so that a plan's assets would equal at least 90% of its liabilities. The PPA sets contribution requirements so as to fully fund pension benefits annually as they accrue and to amortize any shortfalls over a seven-year period.

Minimum Funding. The PPA changes the minimum funding standards for single-employer pension plans beginning with the 2008 plan year by increasing funding targets from 90% to 100% by 2011. Funding target increases are phased in gradually: 92% in 2008, 94% in 2009, 96% in 2010 and 100% in 2011. Beginning in 2009, the phase-in rules may not be used unless the plan met the funding targets for each of the prior years. For example, the funding target for 2008 is 92%, and if a plan is not 92% funded in 2008, the funding target for 2009 is 100%, as opposed to the 94% target that would apply under the transition rules. Additionally, the phase-in rules do not apply to plans not in existence prior to 2007 or to plans that were subject to deficit reduction contribution requirements for the 2007 plan year under the law in effect prior to the PPA. Any annual shortfall between plan assets and the plan's target funding percentage must be amortized over a seven-year period. The new funding rules are delayed until 2014 for certain plans that have entered into certain agreements with the Pension Benefit Guaranty Corporation ("PBGC") and special rules apply to multiemployer plans.

Airline Relief. The PPA includes special rules for commercial passenger airlines and airline catering companies. Generally, plans sponsored by these entities may elect to amortize any funding shortfalls over a ten-year period beginning in 2008. Alternatively, airlines can elect to freeze future benefit accruals and elect a seventeen-year amortization period with a specified interest rate for minimum funding contributions. If a plan sponsor later terminates a plan with the seventeen-year amortization period within specified time frames, the termination premium payable to the PBGC upon termination is increased from $1,250 to $2,500 per participant, and PBGC guaranteed benefits may be restricted. Based on concerns about the different treatment of airlines, we may see additional legislation affecting this airline relief.

Funding Assumptions and Asset Valuation. The present value of plan liabilities are calculated using specified interest and mortality assumptions. Under the Pension Funding Equity Act of 2005, a long-term corporate bond interest rate temporarily replaced the 30-year treasury rate in certain calculations of minimum funding requirements and PBGC premiums. The PPA extends the use of this rate for the 2006 and 2007 plan years. Beginning in 2008, a segmented yield curve based on short-term, medium-term and long-term corporate bond rates is phased in by 2010 to value liabilities more accurately as they are payable to retirees. Alternatively, plan sponsors may elect to use the full corporate bond yield curve without the segment approach. The PPA directs the Treasury to update mortality tables to be used by sponsors in determining pension liabilities.

The PPA requires the valuation of assets either based upon current market value or using an unweighted average of the market value over the prior 24 months, provided the resulting values are between 90% and 110% of the current market value of the assets. Generally, plans with more than 100 participants must use the first day of the plan year as the valuation date.

The rules regarding the use of credit balances have been revised to restrict the use of these balances to reduce minimum funding contributions for plans that are less than 80% funded.

At-Risk Plans. The PPA includes additional provisions to bring large underfunded plans up to specified funded targets by imposing more stringent minimum funding standards, including more conservative actuarial assumptions that will increase contribution requirements (i.e., a participant is assumed to retire at the earliest retirement date as opposed to the normal retirement date, and is assumed to elect the highest present value of benefits). Plans with more than 500 participants are defined as "at-risk" if the plan's funded percentage for the prior plan year is less than (i) 80% using the general funding rules, and (ii) 70% using the at-risk rules. The 80% test is phased in at five percent increments beginning with 65% in 2008, and special rules apply to certain automobile and automobile parts manufacturers. Plans that are at-risk for two out of four plan years have additional contribution requirements.

Benefit Limits and Distribution Rules. Beginning in 2008, new defined benefit plan limits apply, although the effective date for these rules may be later for collectively-bargained plans. Plans which are less than 80% funded are generally prohibited from increasing benefits and the amount of any accelerated benefits, including lump sum distributions, are significantly limited. If plan funding falls below 60%, future benefit accruals generally must be frozen and the plan is prohibited from making accelerated benefit payments, including lump sum distributions, and prohibited from paying shutdown and other contingent benefits. Generally, a plan sponsor in bankruptcy which maintains a pension plan that is not fully funded may not increase plan benefits or pay accelerated benefits, including lump sum distributions.

The interest rate used to convert the normal form of annuity benefits into certain optional forms, including lump sum distribution, is also revised from a 30-year Treasury rate to a segmented corporate bond yield curve rate. Current rules remain in effect through 2007 and, beginning in 2008, the new rate is gradually phased in by 2012. The PPA directs the Secretary of the Treasury to publish updated mortality tables for use in calculating benefits under optional forms of distributions. The interest rates used to compare optional forms of benefits for purposes of benefit limitations are also revised.

Effective for plan years beginning after December 31, 2007, the PPA requires defined benefit and money purchase pension plans to offer a joint and 75% survivor annuity option. A plan which already includes a 75% (or higher) survivor annuity percentage must also offer a joint and 50% survivor annuity.

Beginning in 2007, the notice and consent period during which the normal form of benefit may be waived and optional forms of benefit may be elected is increased from 90 days to a 180-days. This same increase applies for the special tax notice regarding distributions.

For distributions beginning in the 2008 plan year, defined benefit pension plans may be amended to allow distributions to employees who remain employed after they have reached age 62.

Deductible Contribution Increases. The PPA allows employers to increase tax deductible contributions to defined benefit plans to build up plan asset reserves. Deduction limits are increased from 100% to 150% of the plan's unfunded current liability as calculated under current law for 2006 and 2007, and beginning in 2008 further deduction increases may apply.

The combined deduction limit applicable to sponsors of both defined contribution and defined benefit plans is revised. Beginning in 2006, contributions to all defined contribution plans up to 6% of compensation of plan participants do not count toward the combined deduction limit. Also beginning in 2006, the combined limit does not apply to multiemployer plans. Beginning in 2008, the combined limit does not apply for single-employer defined benefit plans insured by the PBGC.

Retiree Health Benefits. The PPA modifies rules governing the use of pension assets for retiree health benefits immediately upon enactment to allow more excess pension assets to be used for future retiree health benefits.

Executive Compensation Restrictions. Following the enactment of the PPA, an employer may subject senior executives to significant taxes and penalties if money is set aside or transferred to a trust (such as a Rabbi trust) to serve as a source of funds for nonqualified deferred compensation programs during certain restricted periods. Under this new provision, a restricted period is defined to include the time during which the plan sponsor is in bankruptcy, the period when the plan is at-risk, as described above, or, if the plan is underfunded at the time of its termination, the 12-month period beginning 6 months before the plan terminates. Any money set aside to fund nonqualified plan obligations during a restricted period will be immediately included in income and subject to an additional 20% tax and interest penalty as a violation of Section 409A of the Internal Revenue Code. The violation may have a negative collateral effect on the employee's participation in other similar deferred compensation programs. The PPA includes an additional penalty of 20% on any employer payments intended to gross-up employees for taxes and penalties, and the employer is not permitted to take a tax deduction on such gross-up payments.

PBGC Premiums and Guarantees. The PPA makes permanent the termination premium, originally enacted under the Deficit Reduction Act of 2005. The termination premium of $1,250 per participant is imposed generally for the year of the termination and for each of the following two years and applies in the case of either a termination by the PBGC or a distress termination due to reorganization in bankruptcy. The former plan sponsor must pay the premium to the

PBGC after it emerges from bankruptcy. The premium is effective immediately upon enactment but does not apply with respect to plans terminated during bankruptcy for bankruptcy filings made before October 18, 2005.

The PPA also imposes variable rate premiums on all plans that are not fully funded and includes new rules for determining the amount of such premiums based on yield curve segment rates to be phased in beginning in 2008. However, the PPA includes some variable premium rate relief for small employers with twenty-five or fewer employees.

The PPA also provides that for bankruptcies filed thirty or more days after the enactment of the PPA, the amount of guaranteed benefits payable by the PBGC for a plan terminated before the employer emerges from bankruptcy is determined based upon the bankruptcy petition date instead of the plan termination date. Plan administrators of plans with contributing sponsors in bankruptcy must notify plan participants of the new limitations on PBGC guaranteed benefits.

In addition, the PPA has revised the PBGC guarantee limits for contingent benefits, such as plant shutdown benefits, for events occurring after July 26, 2005. Specifically, any benefits accruing as a result of the contingent event are phased in over a 5-year period after the occurrence of the contingent event for purposes of applying the PBGC guarantee. The PPA also revised the rules regarding the phase-in of guaranteed benefits for substantial owners.

Combined Defined Benefit/401(k) Plans. Employers with up to 500 employees will be able to maintain an "eligible combined plan" that consists of both a defined contribution plan (which must include a 401(k) feature) and a defined benefit plan. In general, each plan must continue to meet the requirements applicable to that type of plan (i.e., separate contribution and benefit limitations, pension funding requirements, separate participant account requirements). Each portion of the eligible combined plan must provide a minimum level of benefits and faster than normal vesting. The defined contribution plan will automatically satisfy the ADP test as a safe-harbor, both plan segments will meet the top-heavy requirements and the combined plan will be treated as one plan for reporting and disclosure purposes. These combined plans can be implemented after December 31, 2009.

Hybrid Pension Plans, including Cash Balance Plans

The PPA provides some measure of prospective legal certainty regarding certain cash balance and other types of hybrid defined benefit plans. Before the enactment of the PPA, hybrid plans — particularly cash balance plans — were attacked primarily under "whipsaw" and age discrimination theories. The PPA provides whipsaw and age discrimination relief essentially by enabling a defined benefit plan to define a participant's accrued benefit as a hypothetical account (or, in the case of a pension equity plan, as the current value of the accumulated percentage of the employee's final average compensation) as long as certain vesting and interest rate requirements are satisfied and the amount of periodic allocations to the participant's account are not dependent on age. Although the discussion below focuses on cash balance plans, these changes also apply to other types of hybrid defined benefit plans.

Whipsaw. Before the PPA, the IRS and the courts generally interpreted ERISA and the Internal Revenue Code (Code) to require cash balance plans to perform a "whipsaw calculation" if the plan promised interest crediting at a rate that was greater than the statutory discount rate (i.e., the 30-year Treasury security). This whipsaw calculation entailed projecting a hypothetical account to normal retirement age and then discounting that amount to present value. If the interest rate used in the projection was greater than the statutory discount rate, the participant's actual accrued benefit was viewed as greater than his or her hypothetical account balance under the plan. Thus, a plan would arguably violate ERISA and the Code if only the hypothetical account balance was paid. Because one of the primary rationales for cash balance plans is to mirror the easily-understandable individual account feature of a defined contribution plan, the whipsaw requirement gave employers an incentive to provide what many experts believed were below market interest crediting rates to ensure that only the account balance would need to be paid.

The PPA provides that a participant's accrued benefit under a pension plan may be defined by the plan sponsor as the hypothetical account balance. The PPA requires, however, that all benefits become 100% vested upon the participant's completion of three years of service.

Age Discrimination. Before the PPA, there were conflicting court decisions regarding whether cash balance plans discriminated on the basis of age. The PPA amends ERISA, the Code and the Age Discrimination in Employment Act of 1967 to provide that cash balance plans are not age discriminatory as long as the periodic amounts credited to a participant's account are not based on age. However, the plan must provide an interest crediting rate which is not greater than "a market rate of return," and if the plan has an interest crediting rate that can result in negative investment returns, the account balance may not be negatively adjusted. The PPA calls on the Treasury Department to issue regulations to define what constitutes a "market rate of return" for this purpose.

Plan Conversions. A traditional pension plan which is converted to a cash balance plan after the PPA's effective date will not be considered age discriminatory because of the conversion as long as the participant's accrued benefit after the conversion is no less than the participant's benefit prior to the conversion, plus the participant's accrued benefit under the cash balance formula for years of service after the conversion (i.e., an A+B formula). No "wear-away" is permitted. In addition, if a participant meets the eligibility requirements to receive an early retirement benefit or subsidy under the terms of the traditional plan, he or she must be eligible for the benefit or subsidy under the cash balance plan after conversion.

Effective Dates, No Inference about Prior Law. The provisions of the PPA regarding hybrid plans are generally effective June 29, 2005. However, the accrued benefit/whipsaw provisions are effective for distributions made after the date of enactment of the PPA. In addition, for plans already in existence on June 29, 2005, the market rate of interest and 3-year vesting requirements are effective after December 31, 2007. The PPA provides that no inference may be drawn from the changes being made. In other words, Congress did not want litigants, plan sponsors or others to assert either that (1) these provisions simply clarified the law as it existed before the enactment of PPA or (2) these provisions represent a change from the pre-existing law on these issues.

The Seventh Circuit's Cooper v. IBM Decision. Although the PPA specifies that no inference should be drawn about whether cash balance plans were discriminatory under the law as it existed prior the PPA, there was already a strong indication that the courts would continue to reject age discrimination theories against cash balance plans. Most lower federal courts that have heard the arguments concluded that most cash balance plans were not per se age discriminatory and, on August 7, 2006, the Seventh Circuit court of appeals rejected an age discrimination claim against the IBM cash balance plan. The Seventh Circuit noted that the age discrimination argument boiled down to an argument based on the time value of money, which though correlated with age, is not age discrimination prohibited by ERISA. "Treating the time value of money as a form of discrimination is not sensible," concluded the court, noting that under the IBM plan, annual allocations to participants' accounts did not vary by age.

Multiemployer Pension Plans

The PPA tightens funding requirements for multiemployer plans, generally effective for plan years beginning after 2007. Amortization periods for past service liabilities and experience gains and losses are reduced from 30 to 15 years, and liability for minimum required contributions (and not just withdrawal liability, as under the law in effect prior to the PPA) is imposed on all members of the contributing employer's controlled group. Multiemployer plans that meet new underfunded criteria that place them in "endangered" or "critical" status as defined under the PPA are required to adopt and comply with a "funding improvement plan" (for a multiemployer plan in "endangered" status) or a "rehabilitation plan" (for a multiemployer plan in "critical" status). For a plan in "critical" status, there are additional required contributions and benefit reductions. The funding improvement and rehabilitation periods for these plans generally last 10 years during which the plan must meet specific funding benchmarks, and penalties apply in the event of failure to meet the various requirements associated with implementation of the funding improvement and rehabilitation plans.

The PPA also modifies in certain respects the rules for assessing withdrawal liability. For example, a partial withdrawal will now occur if an employer permanently ceases to have an obligation to contribute under one or more, but fewer than all, of its collective bargaining agreements, but transfers the work to an entity that the employer owns or controls.

EGTRRA Permanence

EGTRRA included a sunset date of December 31, 2010 for certain retirement plan provisions, including catch-up contributions to 401(k) plans by participants age 50 and older, Roth 401(k) contributions, deemed IRA contributions and increased limits on retirement plan contributions and benefits. The PPA makes all such provisions permanent effective immediately upon enactment. The PPA also makes permanent Section 529 college funds and a saver's tax credit for certain contributions to 401(k) plans.

Prohibited Transaction Relief

The PPA permits plans to make investments free from certain prohibited transaction restrictions. The new law adds a statutory exemption for transactions between a plan and a service provider to the plan, an exemption to permit plans to participate in block trades without checking for parties in interest, an exemption permitting a plan to use custodians, trustees and other parties in interest to effect foreign currency exchanges and an exemption permitting an investment manager to trade securities directly between a plan and other clients of the manager (thus avoiding transaction costs). Most notably, hedge funds and other investment funds can now accept unlimited governmental and foreign pension plan money (and, in certain cases, more private pension plan money) without being subject to ERISA fiduciary requirements. While this is primarily a benefit to the fund managers, it will result in some plans being able to pursue certain investment options that were formerly closed to them. All these exemptions are effective immediately.

Defined Contribution Plans

While the pension provisions of the PPA have major future significance, certain provisions of the PPA affecting defined contribution plans will require immediate action from plan sponsors in order to be able to administratively comply for plan years beginning in 2007, including accelerated vesting and employer stock diversification rules.

Faster Vesting. Effective for plan years beginning in 2007, the vesting schedule applicable under the old law to employer matching contributions will apply to all employer contributions. Employer contributions made for plan years after December 31, 2006, must vest under one of the following schedules: (1) 100% after three years of service, or (2) 20% after two years of service and 100% after six years of service. There is a later effective date for plans maintained pursuant to a collective bargaining agreement and certain ESOPs.

Employer Stock Diversification. Effective for plan years beginning in 2007, certain defined contribution plans which hold publicly traded securities issued by the employer or a member of its controlled group must provide participants the option of diversifying those investments into at least three alternative investment options that have materially different risk and return characteristics. All participants must also be permitted to diversify investments in employer securities attributable to employee contributions, and participants with at least three years of service must be permitted to diversify such investments attributable to employer contributions. Except for participants who have attained age 55 with three years of service, there is a three-year phase-in of the diversification requirement as it relates to employer contributions made prior to January 1, 2007. An ESOP is not subject to the diversification requirement if it is a separate plan and does not hold employee or matching contributions subject to nondiscrimination testing. Also beginning in 2007, plans must notify participants of these diversification rights and the importance of diversification at least 30 days prior to the date the rights arise. The Secretary of the Treasury is to issue a model notice within 180 days of the enactment of the PPA.

Automatic Enrollment. The PPA encourages the use of automatic enrollment of new hires by specifically preempting state wage laws immediately upon enactment of the PPA if certain employee notices are in place. Additionally, for plan years beginning after December 31, 2007, the PPA creates an additional safe harbor option for plans to adopt automatic enrollment features that automatically satisfy ADP and

ACP nondiscrimination and top-heavy testing requirements.

Under the safe harbor, employers may automatically enroll eligible employees in a retirement plan and select a uniform percentage of compensation to be deferred under the plan. The percentage of compensation to be deferred must be at least 3% and may not exceed 10% for the first plan year. It may increase up to 4% for the second year, 5% for the third year and 6% for any subsequent plan years. Employees must be given the ability to elect out of the plan or to contribute a percentage of compensation different from the automatic enrollment percentage.

The safe harbor option requires the employer to match at least 100% of the first 1% of compensation deferred by non-highly compensated employees, plus at least 50% of the additional deferrals of up to 6% of compensation. Alternatively, the employer may choose to make a contribution of at least 3% of compensation for all non-highly compensated employees eligible to participate in the plan, regardless of whether the participants have elected to make contributions to the plan. Employer contributions made under the automatic enrollment safe harbor must become fully vested after the employee completes two years of service. Annual participant notices are required to qualify for the safe harbor.

Default Fund Safe Harbor. Effective January 1, 2007, the PPA provides fiduciary protection under Section 404(c) of ERISA to plan fiduciaries using default funds where participants fail to make investment elections if the plan meets participant notice and default fund requirements. The PPA requires the Department of Labor to issue regulations within 180 days of enactment defining what types of default funds meet the criteria, but generally, the funds will be those designed to achieve long-term capital appreciation and/or capital preservation. Additionally, beginning in 2008, Section 404(c) fiduciary protection may be extended when investment funds are replaced with new funds and/or during blackout periods, assuming specified participant notice and reallocation requirements are met.

Investment Advice. The PPA paves the way for plan sponsors to provide plan participants with access to qualified investment advisers to assist employees in investing their plan assets by allowing eligible investment advisors (who receive fees from companies offering investment options under the plan) to provide investment advice under either a neutral fee-based arrangement or using an unbiased computer model. Plan fiduciaries retain responsibility to appoint and oversee the professional investment advisers, but may obtain relief from the specific investment advice provided to participants. Participants must be given notices regarding the advice, including disclosure of specific information and participants' right to obtain advice from their own advisors. These rules are effective beginning January 1, 2007.

Hardship Withdrawals. The Secretary of the Treasury is directed by the PPA to revise the hardship distribution rules within 180 days of enactment of the PPA to cover certain hardships suffered by a plan participant's spouse or dependent.

Participant Disclosure and Filing Requirements

The participant disclosure rules for single-employer defined benefit pension plans are revised to add a new annual funding notice in 2008 that will replace summary annual reports. A plan sponsor with at least 100 participants must provide a notice with specified funding information regarding the plan, including a comparison of assets to liabilities for the past three years, a summary of the plan's funded status, its funding policy and a general summary of plan termination and PBGC guarantee rules. The notice must be sent to each plan participant, beneficiary, labor organization representing employees and also to the PBGC within 120 days after the end of the plan year. This notice eliminates the requirement under prior law to provide summary annual reports to participants and beneficiaries and is similar to the annual funding notice required for multiemployer plans. The Secretary of Labor will publish a model notice within one year after the enactment of the PPA.

Plan sponsors and each member of the sponsor's controlled group must file additional detailed financial and actuarial information with the PBGC in what is known as a Section 4010 filing for years beginning in 2008 during which the plan is less than 80% funded.

The PPA revises the rules governing the distribution of benefit statements to all tax-qualified retirement plan participants beginning in 2007. A sponsor of a defined benefit plan is required to provide individual benefit statements every three years, and participants may request statements annually. Defined contribution plans with participant directed investments must provide quarterly statements, while plans without participant directed investments may distribute such notices annually. Model notices will be issued by the Department of Labor and will include model language stressing the importance of diversification.

Additional information must be included on annual reports filed with the IRS on Form 5500. For plan years beginning after 2007, all specified information on Forms 5500 is required to be filed electronically for posting on the Internet. If an employer maintains an Intranet for employees, such information is required to be posted on the Intranet. Additional rules simplify certain annual reporting requirements for single participant and small plans.

If a defined benefit plan is involuntarily terminated by the PBGC or terminated by a sponsor in a distress termination after the enactment of the PPA, the plan sponsor must provide all non-confidential information which is provided to the PBGC to any participant or beneficiary of the plan within fifteen days of a request for such information. A reasonable fee may be charged by the sponsor to cover the cost of copying.

Other PPA Provisions

Some of the other PPA provisions include:

- *Missing Participants.* The PPA paves the way for regulations to allow defined contribution plan assets payable to missing participants to be transferred to the PBGC.
- *IRA Rollovers.* The PPA revises many of the rollover rules, including allowing non-spouse beneficiaries to make rollovers under certain circumstances and revisions of the rules relating to rollovers to Roth IRAs.
- *QDROs.* The PPA requires the Department of Labor to issue regulations clarifying that a domestic relations order does not fail to be qualified solely because the order is issued after or revises another order or QDRO.
- *Military Withdrawals.* The PPA modifies the rules governing the early distribution excise tax for certain withdrawals by military personnel and is effective for distributions made after September 11, 2001.
- *Defined Contribution Plan Annuity Contract Option.* The PPA provides for new Department of Labor regulations to be issued within one year of enactment clarifying the fiduciary duties of defined contribution plan sponsors with an annuity contract option.
- *Increased ERISA Criminal Penalties.* For violations relating to interference with ERISA rights on or after enactment of the PPA, increased criminal penalties of a fine of $100,000 or a prison term of 10 years or both apply.
- *Increased ERISA bond amount.* Effective for plan years beginning in 2007, the maximum ERISA bonding requirement for plans holding employer securities is increased from $500,000 to $1,000,000.

The PPA is the most sweeping pension legislation in years, and it will change the way tax-qualified retirement plans are designed, funded and maintained. Sponsors of both defined benefit and defined contribution plans must review the PPA with their legal advisors, and all employers should review the law to determine the impact it may have on their compensation and other benefit programs.

Please contact the Kirkland & Ellis LLP employee benefits attorney with whom you normally work, or any of the following for information about the PPA.

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