

## GRIST Alert: IRS proposes regulations on new PPA rules for cash balance and other hybrid plans

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December 27, 2007*

Cash balance plan sponsors hoping for broad guidance on the Pension Protection Act (PPA) requirement that their plans credit no more than a market rate of return starting in the 2008 plan year (to qualify for PPA's age discrimination relief) will be disappointed by just-released [IRS proposed regulations](#). The proposal merely codifies safe harbor rates published last year, adds a few tidbits on rate setting, provides anti-cutback relief for certain changes in interest crediting rates (and hints of broader future relief for plans moving away from above-market rates), and solicits input on various market-return issues.

The proposed regulations clarify some aspects of the three-year vesting requirement for hybrid plans. The new vesting rule apparently applies to pre-2008 accruals, at least for participants with service after 2007. The IRS declined to address whether participants who terminated before 2008 with at least three years of service must become vested, although pending technical corrections legislation would clarify that these participants are not subject to the new vesting rule. For plans with both hybrid and traditional formulas, a participant's entire benefit must vest after three years of service if any portion of the benefit is determined under a hybrid formula. Participants entitled to the greater of a hybrid benefit or traditional benefit must vest after three years, even if the traditional formula governs. The vesting standard is determined participant by participant.

In another clarification, the proposed regulations provide that the preservation-of-capital rule barring negative interest credits is applied just once at the participant's annuity starting date.

The proposal leaves several issues open, pending feedback from the public. The IRS has not exempted any opening balance conversions from the prohibition against wear-away, but solicits input on how such an exemption might be structured. In addition, the proposal offers no specific guidance for pension equity plans (PEPs) but asks for comments on various PEP issues. (The IRS has not yet opened the determination letter process for PEPs.)

Sponsors may immediately rely on the proposed regulations, which are slated to take effect in 2009. The comment deadline is March 27, 2008.

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WRG only: #20070253