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Key Legislative Developments Affecting Your Human Resources

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Senate Chairmen Call for Pension De-Risking Guidance

Two Senate chairmen called for more executive branch guidance on pension plan de-risking. With Congress in recess until after the November 4 mid-term elections, this week's *Legislate* also reviews a recent hearing that focused on the student loan debt levels of retirees and workers who are near retirement age.

Pensions

The chairmen of the two Senate committees with jurisdiction over pensions sent a letter on Wednesday asking the Treasury and Labor Departments, the PBGC, and the Consumer Financial Protection Bureau to issue guidance on pension plan de-risking. Chairman Ron Wyden (D-OR) of the Finance Committee and Chairman Tom Harkin (D-IA) of the Health, Education, Labor, and Pensions Committee expressed concern with de-risking achieved through either the purchase of life insurance annuities or lump-sum cash-outs to settle participant benefits. The letter described de-risking through liability driven investments — which are investment strategies that insulate a plan from interest rate fluctuations — as a "win-win" strategy. Requested guidance included:

- Requiring advance notice to participants and the government, including disclosure of the consequences to participants — such as loss of PBGC protections and limitations of state guarantees
- Setting standards that employers must follow in choosing an annuity provider to ensure that the annuity replicates ERISA protections
- Requiring more disclosure on lump-sum cash-outs offered to retirees — such as warning about the lack of longevity protection in a cash-out and tax consequences

Information Collection Proposed by PBGC

On September 23, 2014, the PBGC **proposed** amending its premium filing forms to include plan sponsor reporting on de-risking — specifically, "undertakings to cash out or annuitize benefits for a specified group of former employees." The changes would apply to 2015 premium filings. Comments to the PBGC on the proposal are due November 24, 2014.

Legislation on de-risking is unlikely in the lame-duck session of Congress, but it could be a topic of interest in the next Congress — scheduled to begin in January 2015.

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Retiree Student Loan Debt

In September, the Senate's Special Committee on Aging held a hearing on retiree student loan debt levels. The panel heard from two government witnesses—the Government Accountability Office (GAO) and the Department of Education (DOE) — and a worker nearing retirement age who is struggling with student loan debt.

GAO testified that a small number of retirees carry student loan debt, although this number is growing:

- In 2010, 4% of households headed by those age 65 to 74 carried student loan debt. Mortgage debt (at 37%), credit card debt (32%), and vehicle debt (23%) were far more prevalent for these households.
- However, in 2004, only 1% of these households carried student loan debt.
- Student loan debt is less common as a household ages — in 2010, only 1% of households headed by those 75 or older held student loan debt.
- The estimated median student loan debt level in 2010 for those age 65 and older was $11,800.
- In 2005, the total federal student loan debt for those 65 and older was $2.8 billion; and in 2013 was $18.2 billion.

GAO testified that student loan debt may be particularly problematic for retirees because it cannot be discharged in bankruptcy, and Social Security benefits may be reduced to collect on delinquent loans. GAO reported that those 65 and older default on student loans at a much higher rate — with 27% of federal student loan debt held by those 65 to 74 in default in 2013 and 54% in default for those 75 and older. This is compared to a 12% default rate for those 25 to 49.

DOE testified that in recent years the number of non-traditional older students enrolling in post-secondary education programs has increased and that such students are eligible for loan-based assistance. DOE also described the various loan and grant-based programs that are available to students, disclosures that are made on loans, and the various loan repayment options.

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