Legacy Advisor

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BENEFIT PLANS

Pension Funding Equity Act of 2004

Louise King, CPA

Low interest rates, significant investment losses, and a growing pool of retirees have seriously affected defined benefit pension plans. Recently sponsors of single employer and certain multi-employer defined benefit plans received temporary relief when the Pension Funding Equity Act of 2004 (Act) was enacted into law on April 10. The new legislation affects interest rates used to determine minimum funding requirements, maximum tax deductible limits, lump-sum benefits, and the variable rate premium payable to the Pension Benefit Guaranty Corporation (PBGC).

The Act provides temporary relief by allowing employers to immediately lower the amount of their required contributions to defined benefit pension plans. Among other changes, the Act replaces the 30-year Treasury rate previously used to determine a defined benefit plan's current liability with a rate based on high quality, long-term corporate bonds. Allowing the higher corporate bond rate to be used for projecting growth will reduce the amount of current contributions needed to fund future benefits.

Provisions for Multiemployer Plans

Multiemployer plans with a net experience loss in a plan year are required to amortize that loss over 15 years. The Act provides limited relief to those multiemployer plans most in need by allowing eligible plans to elect to defer for two years a maximum of 80% of the amortization of a net experience loss for a plan year beginning after December 31, 2001. In order to qualify for this relief, multiemployer plans must meet a number of requirements, including providing an actuarial certification that the plan is expected to have an accumulated funding deficiency for any plan year beginning after June 30, 2003 and before July 1, 2006 and having experienced a net investment loss

continued on page 3

Legacy News

Our partners and professionals have been busy attending and speaking at benefit plan conferences including the AICPA Employee Benefit Plan Conference held May 3-5 in Orlando, the Illinois CPA Society's Employee Benefit Plan Conference held in Chicago on May 25, and the Benefit Plan Professionals Institute scheduled June 14-16 in Lake Tahoe. The Firm also joined the AICPA Audit Quality Center for CPA firms. Details can be found in this issue.

If you would like to receive Legacy Advisor in your e-mail box instead of your mailbox, please let us know by sending a quick note to info@legacycpas.com. As a reminder, all of our back issues are posted on our website at www.legacycpas.com in case you ever need to reference an article.

Feel free to submit an article or a question to one of our editors, Louise M. King at lking@legacycpas.com or Larry Wojnarowicz at lwojnarowicz@legacycpas.com or our Marketing Director, Julie Tucek at jtucek@legacycpas.com. If it's a Frequently Asked Question (FAQ), we can explore it further in our next issue or post the information for everyone to read on our website.

We sincerely thank you for your continued support of the Firm. Our goal is to provide technical expertise and superior client service to all of our clients. Please do not hesitate to contact us at any time if you need anything or if you have feedback or suggestions for us.

- The partners and staff of Legacy Professionals LLP

On the Inside...

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AICPA Employee Benefit Plans Conference

The American Institute of Certified Public Accountants (AICPA) National Conference on Employee Benefit Plans (EBP) held May 3-5, 2004 in Orlando, Florida, was attended by 1,100 individuals. Partners Charlie Marini, Minneapolis office, and Tom Theis, Chicago office, represented Legacy Professionals LLP at this premiere event.

Attendees had the opportunity to interact with CPA colleagues, Department of Labor (DOL) and Internal Revenue Service (IRS) representatives, and other experts in employee benefit plan auditing. Sessions covered topics of current interest including DOL issues and initiatives; auditing best practices; the 2004 EBP AICPA Audit Risk Alert; the DOL Voluntary Fiduciary Correction Program and Delinquent Filer Voluntary Compliance Program; the impact of Sarbanes-Oxley on plans; Form 5500 preparation issues; and much more. There were also very well-attended question and answer sessions with DOL and IRS officials and AICPA committee experts.

One of the new "hot" topics covered at the Conference concerned current mutual fund industry abuses and related guidance issued by the DOL. Late trading is one practice being investigated. Late trading involves purchasing shares at the 4:00 p.m. price after the market closes. It is more common with international funds because of the timing of the market closing. Late trading is prohibited by the SEC and various state laws because it allows a favored investor to take advantage of postmarket-closing events not reflected in the share price set at the close of the market. Trustees and/or plan sponsors should be aware that it could be considered a fiduciary breach if it is determined that they were not prudent in selecting a mutual fund as a plan investment that had losses due to late trading.

For more information on fiduciary responsibility regarding mutual fund abuses, see our article "Fiduciary Responsibility" below.

By Tom Theis, CPA, Chicago office
ttheis@legacycpas.com

Fiduciary Responsibility

In response to mutual fund industry abuses, the Department of Labor (DOL) issued a guidance statement on fiduciary duties. The guidance addresses the obligations of fiduciaries to review mutual fund investments with respect to reported and potential late trading and market-timing abuses. Plan fiduciaries must act prudently when making mutual fund investment or investment options decisions. This requires a deliberate process by fiduciaries to be as well informed as possible. To that end, the guidance states that for mutual funds that have been identified as "under investigation by government agencies," fiduciaries should consider:

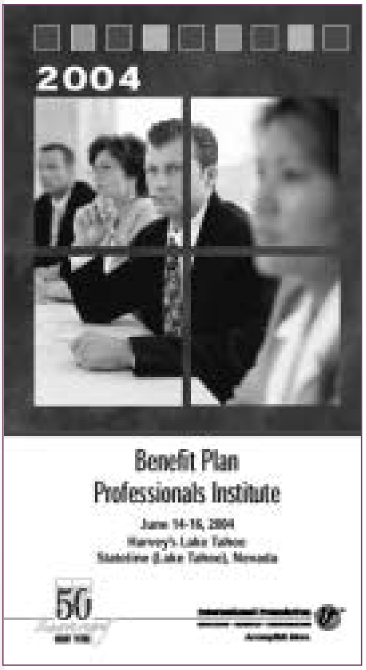
- **the nature of the alleged abuses;**
- **the potential economic impact of those abuses on the plan's investments;**
- **the steps taken by the fund to limit the potential for future abuses; and**
- **any remedial action taken or contemplated to make investors whole.**

In addition, plan fiduciaries need to consider the possibility of abuses by funds that have not been identified by regulators. Fiduciaries will need to determine if the fund has sufficient procedures and safeguards in place to limit abuse when making investment decisions.

The guidance statement is available on the Employee Benefit Security Administration's (EBSA's) website at www.dol.gov/ebsa/newsroom/pr021704.html

By Donna Hubert, CPA, Chicago office
dhubert@legacycpas.com

Cann to Speak at Benefit Plan Professionals Institute in Lake Tahoe



Under revised Form LM-2 reporting requirements, many labor organizations will be required to file the new Form T-1, Trust Annual Report. Form T-1 is used to report a trust's financial information in a format similar to the Form LM-2. The T-1 must be filed with the labor organization's Form LM-2 for each trust in which the organization is considered "interested." Education and training funds, credit unions, and labor management co-operation committees are some examples of trusts for which a Form T-1 may be required. The T-1 is not required if a fund files a Form 5500.

Bob Cann, Director of Compliance Services, from Legacy Professionals LLP's Chicago office, will be speaking about the new T-1 Form at the International Foundation of Employee Benefit Plans' Benefit Plan Professionals Institute in Lake Tahoe, Nevada. The conference is scheduled for June 14-16, 2004.

Bob's presentation will cover: who must file Form T-1 and when, what information is needed to prepare the form, filing exceptions, reporting options, itemized receipts and disbursements, and more.

Bob Cann can be contacted at rcann@legacycpas.com if you have any questions.

For more information on the conference, visit http://www.ifebp.org/education/bppinst.asp

IFEBP Annual Conference September 17-22

Save the date for the International Foundation of Employee Benefit Plan's Annual Conference. Partners from Legacy Professionals LLP will be speaking, moderating, and attending sessions at this blockbuster conference, which is scheduled for September 17-22 in New Orleans. Legacy Professionals LLP will once again be exhibiting at the three-day trade show.

Pension Funding Equity Act of 2004

continued from page 1

of 10 percent or more of the average fair market value of plan assets for the first plan year beginning after December 31, 2001. There are also restrictions regarding amendments to the plan during the deferral period.

New Ongoing Reporting Requirement

Effective for plan years beginning after December 31, 2004, multiemployer plans will be required to provide an annual plan funding notice to participants and beneficiaries, labor organizations representing participants and beneficiaries, contributing employers, and the PBGC. In addition to information identifying the plan, the notice must include:

- **Information on whether the plan is fully funded and, if not, the actual percentage of funded current liability;**
- **The value of the plan's assets, the amount of benefit payments, and the ratio of assets to payments for the plan year;**
- **A summary of rules governing insolvent multi-employer plans;**
- **A general description of benefits guaranteed by the PBGC.**

Like the Summary Annual Report, the annual plan funding notice must be provided no later than two months after the filing deadline for the plan's annual report, including extensions.

Let us know if you have questions.

By Louise King, CPA, Munster office
lking@legacycpas.com

Legacy Joins AICPA Audit Quality Center for Employee Benefit Plan Audits

Legacy Professionals LLP has joined the American Institute of Certified Public Accountants (AICPA) Employee Benefit Plan Audit Quality Center for CPA firms. The new Center is a national community of CPA firms that demonstrates a commitment to employee benefit plan audit quality and raises awareness about the importance of employee benefit plan audits. The Center provides members with best practices, guidelines, and tools CPAs need to perform quality benefit plan audits and better serve their clients.

Members of the Center demonstrate their commitment by voluntarily agreeing to adhere to Center membership requirements, including designating a partner responsible for its employee benefit plan audit practice, establishing firm-wide training and quality control programs, performing annual internal inspection procedures, and making the firm's peer review report findings publicly available.

Legacy audits over 400 employee benefit plans and is very pleased to be a part of the AICPA Audit Quality Center.

Editor's Note

Legacy Professionals LLP provides audit, tax, payroll audit, claims audit, and consulting services to over 400 employee benefit plans. Please feel free to contact us for additional information. Or, if you have any questions, comments, or feedback, the editor, Louise M. King, CPA, can be reached at lking@legacycpas.com or at 219-836-1065 or 773-374-1177.

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info@legacycpas.com
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LEGACY
PROFESSIONALS LLP
CERTIFIED PUBLIC ACCOUNTANTS
30 North LaSalle Street
Suite 4200
Chicago, IL 60602