



A View From the SOA's Staff Fellow for Retirement

By Mary Stone

In the midst of the groundswell of cries against racism following the death of George Floyd and many others, before and after his death, I would like to take this opportunity to support the calls for equity and justice. Like perhaps many others, I do not think of myself as racist, but I am aware of my privilege and the implicit bias that goes with that. I have used this opportunity to educate myself on the history of slavery in the U.S. and the many long-standing consequences and continuing discrimination. We all benefit when we extend open arms to everyone, not just those who are like us. When we learn more about others with different experiences, we can develop a better understanding and avoid jumping to conclusions or passing judgment without seeing the full picture. The same goes for our work as retirement actuaries.

As the staff fellow for Retirement, I have had the opportunity to meet and work with actuaries in many different retirement specialties. Having spent most of my career at large consulting firms working with private sector single employer plans, I had little understanding of the practices and challenges faced by actuaries in the multiemployer and public sectors. At first, it was easy to approach these unfamiliar practice areas with perspectives developed from my private sector framework and as influenced by news stories or exposure to only one side of a multi-dimensional situation. I have come to better appreciate the challenges actuaries working in each of these sectors face. Here are some things I have learned.

Multiemployer pension plans are impacted by a variety of factors that differ from single employer plans. Funding of multiemployer plans is based on many components, including collective bargaining agreements, funding regulations and the role of the employer. Without a basic understanding of these elements



and how deeply each has influenced the multiemployer system over the past several decades, it is difficult to comprehend the current funded status and outlook for some of the multiemployer plans. There are approximately 1,220 multiemployer plans covering 10.8 million participants.¹ Of these, about 120 plans, covering 1.4 million participants, are projected to become “insolvent,” or run out of money, within the next 20 years. Plans in industries that have declined in recent decades face greater challenges than those covering industries that are thriving.

Several SOA research reports provide a historical perspective on the multiemployer pension system. One of the key dynamics of multiemployer plans is the relationship of collectively bargained contributions and plan liabilities. Collectively bargained contributions generally reflect the active workforce, while plan liabilities reflect all plan participants. The report “[Contribution Analysis for U.S. Multiemployer Pension Plans](#),” compares employer contributions to benchmarks for measuring whether pension plan contributions—absent other influences—reduced unfunded liabilities or met other benchmarks, such as regulatory requirements. An additional report, “[PBC and PBCR: Two Stress Metrics for U.S. Multiemployer Pension Plans](#),” presents two metrics to gauge financial stress among multiemployer plans resulting from the combination of unfunded liabilities and declining numbers of active participants.

When we learn more about others with different experiences, we can develop a better understanding and avoid jumping to conclusions or passing judgment without seeing the full picture.

Another factor that influences the funded level of multiemployer plans is the regulatory framework for employer withdrawal from a multiemployer plan.² When an employer withdraws from a plan, its participation ceases, meaning it stops making contributions. If the plan is underfunded, the employer is generally assessed withdrawal liability. Because of a variety of statutory and practical limitations, withdrawal liability actually paid may not be sufficient to cover all unfunded liabilities associated with the now-withdrawn employer. The report “[Employer Withdrawal Activity Overview: U.S. Multiemployer Pension Plans](#),” provides historical information about the withdrawal frequency, the level of the withdrawal liability as a percentage of the aggregate plan liability, orphaned participants, and how the dependency ratio (inactives to actives) varies for plans that have experienced a withdrawal and those that have not.

Compounding the interaction of the collective bargaining, declining numbers of active participants, withdrawal liability considerations and the impending insolvencies of the critical and declining plans, the multiemployer program of the Pension Benefit Guaranty Corporation (PBGC) is projected to exhaust its reserves in 2025.³ Premiums to the PBGC multiemployer program are lower than those for the PBGC single employer program. The premium for a multiemployer plan is \$30 per participant. The PBGC single employer program has a higher flat rate premium of \$83 per participant plus a variable rate premium of 4.5 percent of the unfunded liability, subject to an overall per participant cap of \$561. The level of PBGC guaranteed benefits for multiemployer plans is also much lower than those provided by the PBGC single employer program. The maximum annual benefit for a multiemployer participant with 30 years of service is \$12,870. The corresponding maximum annual benefit for a single employer plan participant retiring at age 65 is \$69,750.

There have been several proposed legislative solutions to the multiemployer funding crisis. The Bipartisan American Miners Act passed the House and Senate and was signed into law on Dec. 20, 2019. This legislation provides some relief to the pension benefits of the United Mine Workers of America. The Rehabilitation for Multiemployer Pensions Act (“Butch Lewis Act”) passed the House in July 2019, although no action has been taken in the Senate. In November 2019, Senators Grassley and Alexander released the Multiemployer Pension Recapitalization

and Reform Plan, which proposes a very different approach to a solution. Given the significant differences in approach, it is unlikely a resolution between the two will be reached soon.

Public pension plans vary considerably across the country in how well funded they are. Funding public pension plans involves many factors that differ from single or multiemployer plans, including, relatively long budget planning cycles and contribution decisions that may be subject to legislative processes. Further, funding is often not regulated. If funding is regulated, it is regulated at the state level, and the rules vary significantly by state.

With all these variables, it is not surprising that funding results vary by state and local systems. The range of cost methods also generate contributions that differ from some benchmark references commonly applied to single employer plans. In addition, actual contributions to public pension plans may vary from those determined as the result of an actuarial valuation. This can either arise due to the use of fixed-rate contributions (which are typically specified by state or local statutes) or when the agency or state legislature doesn’t fund the recommended level. SOA research “[U.S. Public Pension Plan Contribution Analysis](#),” provides a historical perspective on funding levels and compares the actual contributions made to actuarially determined contributions, and two measures that assess the degree to which the actual contribution made reduces the unfunded actuarial liability.

The variation in contribution allocation procedures permits flexibility in public pension plan funding that helps address principles of intergenerational equity and cost stability and predictability. The public pension system is subject to heightened transparency and agency risk. Although collectively bargained plans in the private sector, especially those with governance structures that follow a joint union-management framework, can experience the push and pull of the varying interests between members and plan sponsors, public pension plans face additional challenges focused on addressing the interests of current versus future taxpayers. This may create incentives to defer necessary contributions to future periods. Although information on public pension plans may be more visible than for other systems, triggering heightened scrutiny, the information can also be misunderstood.

One aspect of public pension funding that gets a lot of attention is the use of discount rates based on long-term expected return on assets for determining plan contributions. Since the investment of public pension assets typically include some investment in equities or alternative investments, the expected return on assets often exceeds the discount rates required for single employer pension plan funding, which must reflect high quality corporate bond yields.⁴ While it is important to examine a public plan’s discount rate, it is important to do so within the broader context of public plan realities. There are many differences between single employer and public pension plans that should be considered, and it’s important to view the entire picture rather than focusing on a single assumption.



Of course, all plans have been impacted by the COVID-19 pandemic as outlined in “[Defined Benefit Plans and COVID-19: Immediate Challenges for Plan Sponsors](#).” The multiemployer and public plan sectors face unique challenges, primarily related to the funding of contributions. The long-term ramifications of the COVID-19 pandemic are hard to predict at this point.

I encourage all retirement actuaries to become better educated on the various sectors of the retirement industry. Take time to meet actuaries from other sectors to learn about their experiences and challenges. We’ll all benefit when we have a better understanding of each other and focus on areas of common concern rather than our differences. ■



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ENDNOTES

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- 4 Internal Revenue Code § 430(h).



Funding Retiree Medical & Long-Term Care for the Second Half of the 21st Century

Solution: Make available and leverage all tax preferred savings options ... then ... save all you can!

By J. M. (Jack) Towarnicky



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The year 2050! It is less than 30 years away. In America, “People have within their own hands the tools to fashion their own destiny.”¹ However, most employers and employees have yet to pick up the tools that are best suited for funding post-employment medical coverage (retiree medical) and long-term care (LTC) costs—regardless of residential or custodial setting.²

As the most valuable tax preference in America’s Internal Revenue Code (IRC), the Health Savings Account (HSA) offers both employers and employees a tax-preferred funding solution.³ The HSA is capable of “quadruple duty”—medical and LTC expenses/insurance premium **before** retirement, retiree medical and LTC, including “medical accessibility” expenses **during** retirement, provision of income after age 65, and legacy/survivor benefits. Unfortunately, 16 years after HSAs were added to the tax code,⁴ less than 25 percent of employers offer HSA-capable coverage.⁵ Worse, most offers of HSA-capable coverage intentionally or unintentionally discourage participation. Even worse, perhaps 95+ percent of workers who elect HSA-capable

coverage have not accumulated and invested any savings.⁶ And, amazingly, the most recent report to Congress on retirement preparation decision-making does not even mention Health Savings Accounts.⁷ Without change, most workers (today and tomorrow) will arrive at retirement without any tax-preferred assets specifically earmarked for retiree medical and LTC needs.

We don’t need an actuary to identify the risk exposure. For most workers, it exceeds their capability to save (See Sidebar #1: The Need). The need may also exceed the maximum tax-preferred funding. So, there is no doubt about needed action: **Make available and leverage all tax-preferred savings options ... then ... save all you can!**

WHO PAYS, HOW MUCH?

As Yogi Berra famously said, “It’s tough to make predictions, especially about the future.” Or, “the future ain’t what it used to be.” However, our future, at least when it comes to retiree medical and LTC seems crystal clear. Few workers and their employers prioritize this risk exposure. Even fewer are willing to forego current spending to fund these future needs. Few employers offer retiree medical coverage. Even fewer offer access to LTC. Even where retiree medical still exists, most private sector employers have limited access and coverage to

SIDEBAR #1: THE NEED

Estimates suggest a retired couple, both age 65 today, would need ~\$325,000 to have a 90 percent chance to fully fund retiree medical costs. At the 90th percentile, should both enter a nursing home, add in another ~\$364,000 for LTC expenses. For comparison, median net worth of American households where the head of household is age 55–64 is \$187,000 (\$224,000, age 65–74; \$265,000 age 75+).³⁵

Annual retiree medical expense at the median, the 50th percentile, is a more modest \$6,300/year (Note: Medians exclude LTC care expenses because less than half of today's retirees incur those expenses.)³⁶ One estimate notes that by 2030, one in five Americans will be age 65+, and, at some point in their lives, 70 percent of those age 65+ will need Long Term Services and Support (LTSS). Individuals and families pay 52 percent of LTC costs out of pocket. Medicaid pays for nearly 34 percent of LTC costs, primarily for low-income people or those who have spent down their financial assets to qualify for coverage. Private LTC insurance pays less than 3 percent.³⁷

Solution: Save all you can, leverage any and every available tax-preferred savings option. That would be the heuristic, even if we didn't suffer from significant, perhaps unsustainable coverage commitments, such as:

1. A Medicare hospitalization trust fund that is expected to be exhausted prior to 2026.³⁸
2. Medicare Part B and D costs which are funded mostly by general revenue (income taxes). As the last of the baby boom generation ages into Medicare, enrollment will spike concurrent with \$1+ trillion federal deficits over the next 10 years, projected to add \$13.091 trillion to the national debt (fiscal years 2021–2030).³⁹
3. Enrollment in taxpayer financed public exchange and Medicaid coverage may also increase significantly:⁴⁰
 - Due to COVID-19, 12.7 million are estimated to become eligible for Medicaid, adding to the 75+ million who were covered by Medicaid in 2019 (while dual-eligibles increase as baby boomers age-in); and
 - another 8.4 million are estimated to enroll in the public exchange marketplace, a doubling of those enrolled in taxpayer-subsidized medical coverage.

By 2030, 20 years before we start the 2nd half of the 21st Century, fewer Americans may be covered by employer-sponsored plans compared to the number enrolled in Medicare, Medicaid and the public exchange

a grandfathered group while concurrently curtailing employer financial support.⁸ Simply, most private sector workers never had retiree medical coverage and most never will.

Public employee retiree medical coverage is much more common, however, unfunded. State retiree medical unfunded liabilities exceed \$700 billion; and unfunded retiree medical is 40+ percent of the debt held by America's largest cities.⁹ Unlike private sector employers, public employers continue to offer the coverage, some have enhanced it even as liabilities grow. Most state and local leaders will require future taxpayers, many not old enough to vote and/or generations yet unborn, to pay for today's unfunded, public employee pension and retiree medical promises.

Our entitlement systems, Medicare, Medicaid and public exchange coverage, also present looming liabilities.¹⁰ Today's federal leaders have discussed this challenge, on and off, for nearly three decades without action—except to improve benefits that increased taxpayer liability. Congress has yet to address the challenge.¹¹

Others proposed further enhancements. Our experience with Health Reform's CLASS coverage is one example.¹² Unlike Medicare Part D prescription drug coverage,¹³ which did not include a specific source of funding and added \$10+ trillion of unfunded liability, CLASS was added as a program whose premiums were statutorily required to be sufficient for the program to remain fiscally solvent over a 75-year period.¹⁴ CLASS was intended to:

- Be an employer-mandate, with automatic enrollment features;
- be 100 percent employee-paid, with an opt out option;
- cover nursing home and assisted living care, as well as home modifications that would enable seniors to remain at home, as well as cash payments for personal care and transportation assistance;
- offer a \$50 per day benefit;
- limit benefits to those who had paid into the program for at least five years;
- limit benefits to those who required assistance with two or more Activities of Daily Living; and
- require premiums ranging from \$5/month for those living below the poverty line, \$125/month for middle-aged individuals with average household income of approximately \$50,000/year, and more for those with higher incomes.

SIDEBAR #2: CONGRESS GIVETH AND TAKETH AWAY

Giveth: We've seen positive changes that help workers prepare for retiree medical and LTC needs:

- LTC out-of-pocket expenses are now treated much the same as IRC §213(d) medical expenses;
- more home equity and reverse mortgage alternatives are in place, but perhaps not so much more given the relative increased cost of providing custodial care;
- new tax-favored funding of LTC insurance⁴¹ and LTC out-of-pocket costs using HSA assets;⁴² and
- annuities and life insurance with LTC riders.⁴³

And, we've seen some take-aways, too:

- Curtailed tax-favored funding (IRC §419, IRC §501(c)(9));⁴⁴
- curtailed deferrals under IRC §125 to fund out-of-pocket expenses;⁴⁵
- failure to update IRC §401(h) since adoption in 1962 despite the prevalence of 401(k) and 403(b) plans;⁴⁶
- curtailment of most private sector, non-represented employee retiree medical;⁴⁷ and
- curtailment of affordable LTC insurance offerings—they came, then mostly disappeared.⁴⁸

However, once government actuaries estimated premiums for the proposed coverage would be \$235 to \$391 per month, a price few Americans would be willing to pay, Congress rescinded this voluntary program.¹⁵ Many other actions confirm Congress' inconsistency when it comes to encouraging workers to save for future medical and LTC costs. (See Sidebar #2: Congress Giveth and Taketh Away)

Too many American workers already live paycheck to paycheck—where even a one-week delay in their next paycheck would cause 70+ percent of survey respondents “some or significant difficulty.”¹⁶ So, how can we ask workers to fund retiree medical and LTC by diverting an already modest level of savings¹⁷ given:

- A substantial portion of eligible workers don't participate in their employer's 401(k) plan (24 percent);¹⁸
- of the workers who do participate in 401(k) plans, a substantial portion don't save enough to receive the full employer financial support (34 percent);¹⁹
- all wage earners are eligible for an IRA, but only 12 percent of eligible households contributed in 2018;²⁰
- few eligible for a 401(k) or 403(b) max out their contributions;²¹
- many employer-sponsored plans don't offer catch-up contributions (23.6 percent);²²
- only 15 percent of employees eligible for catch-up made those contributions in 2019;²³
- most employer-sponsored retirement savings plans don't offer 401(a) after-tax contributions (81 percent);²⁴
- only 8 percent of employees eligible for after-tax contributions made those contributions in 2019;²⁵

- only a handful of employer-sponsored retirement savings plans offer Deemed IRAs (< 1 percent);
- median tenure continues to be less than five years,²⁶ while 36 percent of terminating participants cashed out when changing jobs;²⁷
- a sizeable minority of households have no emergency assets;²⁸ and
- Congress repeatedly encourages pre-retirement distributions, leakage, by liberalizing withdrawal rules—most recently the Bipartisan Budget Act of 2018, SECURE and CARES.²⁹

TAX FAVORED FUNDING SOLUTIONS—CURRENTLY AVAILABLE³⁰

Current code and regulatory guidance offer plan sponsors favorable funding options and processes, including:

- For those who already offer retiree medical coverage, ensure it is sustainable and redesigned to encourage saving;³¹
- for those who do not currently offer retiree medical, make available retiree-pay-all, fully insured, employer-sponsored Medicare Supplement and/or Medicare Advantage options through a private exchange;³²
- for those who offer HSA-capable coverage, ensure designs reflect “best practices” that encourage selection of that coverage option, as well as enrollment, savings and investments in the HSA;³³
- for employers who offer retirement savings plans, or pension plans, ensure designs and processes encourage workers to save more than they believe they can afford to earmark for a future, uncertain retirement, change from saving for retirement to saving along the way to retirement—providing liquidity without leakage:³⁴

SIDEBAR #3: FUNDING SOLUTIONS—MINOR, LOW COST CHANGES THAT WOULD ADD SIGNIFICANT VALUE

“The best way to predict the future is to invent it.”⁴⁹ However, let’s start with inventions that tweak existing, related code and regulatory guidance to expand options to save and flexibility in how savings are used, including:

- **Encourage Savings—Reduce Leakage:** A significant portion of retirement savings are leaked prior to retirement. At the same time, in-service limits and penalty taxes on liquidity often discourage savings.
 - » **Solution:** Allow amendments to retirement savings plans that would prospectively eliminate or limit pre-retirement distribution provisions (without applying IRC §411(d)(6) anti-cutback rules).
 - » **Solution:** Increase the \$50,000 plan loan limit for the first time in 45+ years to its current day equivalent (~\$250,000, author’s calculations) so a retirement savings plan can be promoted to/as a ubiquitous, comprehensive, lifetime savings vehicle (for comparison, in 1976, the average assets/participant in a defined contribution plan were \$6,431).⁵⁰
 - » **Solution:** Permit loans from Individual Retirement Accounts (IRAs).
 - » **Solution:** Eliminate penalty-tax-free qualified plan and IRA distributions, except for death and disability.
 - » **Solution:** 401(h) for 401(k)—Extend IRC §401(h) to profit sharing plans to trigger “stretch” match designs.
- **Ubiquitous HSA:** Among covered workers with a general annual deductible, the average deductible amount for single coverage is \$1,655 (\$2,271 among small firms vs. \$1,412 among firms with 200 or more workers).⁵¹ So, many, perhaps most plans use a deductible that exceeds the HSA-capable coverage minimum—\$1,400.
 - » **Solution:** Allow “bronze” level coverage (point of purchase cost sharing of 70 percent/30 percent) as HSA-capable coverage — deductibles need not apply to primary services, maintenance Rx, telehealth visits.⁵²
 - » **Solution:** Allow insurance companies to offer Medicare Advantage options that are HSA-capable.
 - » **Solution:** Allow Medicare Advantage coverage expansion to include LTSS.
 - » **Solution:** Clarify use of automatic features, extend qualified plan QDIA provisions to HSA investments.
- **Expand Uses:** Existing code/regulations limit a participant’s flexibility in using tax-favored plan assets.
 - » **Solution:** IRC §401(a)(13) assignment and alienation provisions allow for a “voluntary and revocable assignment of not to exceed 10 percent of any benefit payment made by any participant who is receiving benefits under the plan” Confirm participants can assign or forego benefits to the plan in exchange for an equal amount of employer financial support towards the cost of retiree medical coverage.
 - » **Solution:** Clarify Deemed Roth IRA regulations⁵³ so participants can fashion longevity risk solutions - qualified plans could aggregate/consolidate retirement savings, plan sponsors could offer annuities without triggering fiduciary responsibilities and participants could apply the same investment choices to assets held in Deemed Roth IRAs without subjecting them to minimum required distributions.,
 - » **Solution:** Clarify and publicize the IRC §152 definition of tax “dependent” and confirm it may include a parent or older household member with respect to qualifying dependent day care/custodial expenses under IRC §129 as well as qualifying medical expenses under IRC §213, where older household members meet “relative” and “support” requirements.
 - » **Solution:** Expand the definition of disability for insurance policies that allow for continued accruals in 401(k) plans to include those unable to perform activities of daily living.⁵⁴

- Eliminate or curtail in-service, hardship and pre-retirement, post-separation withdrawals;
- adopt electronic banking, so loans can not only be repaid after separation but also initiated after separation (to minimize leakage—at separation and among term-vested and retired participants);
- change loan processing to a line-of-credit basis, so participants can confidently access funds while borrowing only what they need (emergencies, planned purchases, etc.) and only when they need it;
- create a commitment bond so that individuals must agree in writing to repay the loan and acknowledge that they are both the borrower and the lender, and that the lender is their future self.

Workers who save today just might be able to prepare for a median level of retiree medical and LTC expense in the 2nd half of the 21st Century.

Finally, don't forget to tout the unique capabilities of HSAs. Your plan sponsor clients might be persuaded to make a HSA-capable

health option and HSA available if you explain how the HSA can enable a legacy, serve as an anti-selection sentinel, offer a one-time funding opportunity (the last month rule), provide executive benefits, offer income tax averaging, fund an emergency account, estimate and prepare for out-of-pocket expenses “along the way” to retirement, augment savings for income replacement purposes, and, of course, provide tax-free reimbursement of qualifying expenses—today and tomorrow.

Modest changes to current code and regulations will enable more workers to prepare (See Sidebar #3, Funding Solutions—Minor, Low Cost Changes That Would Add Significant Value).

Get started. ■



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A Twist on DC Plan Design—Supports Lower Paid and Higher Paid Employees

By Ruth Schau

I was going to write about a nondiscrimination friendly defined contribution (DC) plan design long before COVID-19 hit our world, but now the design has even one more benefit. I'll explain as the design unfolds.

First, here's a little background to help set the stage.

Like qualified defined benefit plans, qualified defined contribution plans in the U.S. must meet nondiscrimination requirements to ensure that the plan doesn't unfairly benefit highly-compensated employees (HCEs), either in coverage or amounts. Defined contribution plans with employee deferral and employer matching contribution features demonstrate compliance with the nondiscriminatory amounts requirements by passing ADP and ACP testing or by adopting a safe harbor plan design. The Actual Deferral Percentage (ADP) test and Actual Contribution Percentage (ACP) test are the two tests that companies with non-safe harbor plans must pass to demonstrate compliance with the nondiscrimination requirements for amounts. The ADP test measures the employee's contributions (deferrals) to the plan. The ACP test measures the employer matching contributions to the plan.

Additionally (but not the focus of this article), DC plans must meet nondiscriminatory coverage requirements under IRC 410(b), and meet separate amounts testing requirements under IRC 401(a)(4) if any non-matching employer contributions are provided, as well as benefits, rights, and features testing under IRC 401(a)(4).

Although a DC plan can provide that all employees are eligible to participate, nondiscrimination testing may be problematic. Even if auto-enrollment/auto-escalation is employed,



nondiscrimination testing may result in failure. That's why safe harbor plans are adopted—to remove the possibility of ADP/ACP failures. There are several safe harbor plan design options that a plan sponsor can adopt and thus avoid the need to conduct nondiscrimination testing.

As we found in 2008/2009 and now again in our COVID-19 environment, safe harbor plans challenge organizations that want to revise plan designs mid-year. The IRS provides the safe harbor options so plans can automatically pass nondiscrimination tests, but there are many requirements and restrictions, including restrictions on mid-year design changes. As a result, reducing or suspending employer contributions mid-year could nullify the plan's safe harbor status and subject it to ADP/ACP testing.

So, how can we design DC plans to pass nondiscrimination testing and provide more flexibility for mid-year changes, if the "automatic" safe harbor option isn't feasible? I will share one design option below for your consideration. I think it's a powerful design and there are a lot of options to explore.

Example:

A plan provides greater of 100 percent match on \$2,000 or 50 percent match up to 8 percent of employee compensation.¹

I used a test group of approximately 500 employees. With all HCEs contributing the maximum, and non-highly compensated employees (NHCEs) contributing the typical wide range of contributions, Figure 1 shows the ACP test results I found.

FIGURE 1
ACP TEST RESULTS

ACP	Initial	With 3% auto enrollment
HCE	6.10%	6.10%
NHCE	4.99%	6.11%

CHANGING SAFE HARBOR CONTRIBUTIONS MID-YEAR

I don't want to make this article about changing contributions mid-year, but to be fair, there are a few instances where mid-year changes would not forfeit the plan's safe harbor status. For example, an organization needs to have financial difficulties meeting IRS requirements, or it needed the foresight to include in the annual notice to participants prior to the start of the plan year that a change is possible. In addition, IRS compensation limits need to be prorated, employee notices need to be provided, and there are still some grey areas to address ensuring that no HCE receives a match percentage greater than any NHCEs' match percentage. I'd anticipate that few, if any, plans would meet these requirements.

Note that the SECURE Act eliminates the notice requirement for non-elective safe harbor plans, although it still applies for matching safe harbor plan designs. IRS Notice 2020-52 provides welcome COVID-19 related relief for mid-year changes adopted during March 13, 2020 through Aug. 31, 2020

How many plans can really make use of a stretch match? This one might be able to depending upon plan demographics. The design produces great ACP results, which for a 403(b) plan that is all that is needed.³ Yes, that was my initial exploration of this idea. However, the ADP test may be more troublesome, and the plan may need to offer automatic enrollment support and/or use some of the excess ACP test results to support ADP.

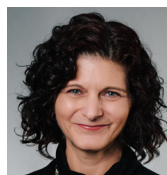
So, what happens if the ADP estimates don't produce passing results? There is still hope for this design if you can make use of the solidly passing ACP test results to bolster the ADP test results by use of the "borrowing method." To be able to do this requires immediate vesting, and no hardship withdrawals and no loans available from the portion of the employer match used to "borrow" from the ACP test to the ADP test. This could be a deal breaker for the employer, depending on factors such as employee turnover, as well as the

employer's philosophy regarding whether employer DC money should strictly be set aside for retirement, whether it can be accessed to meet current employee needs as they arise, and whether or not the recordkeeper can accommodate an additional employer match source type with the vesting, hardship, and loan constraints applied.

Note that the design blends a flat dollar amount with a percentage of pay. This could be considered a different pay philosophy as the flat dollar provides a higher level of benefits to lower paid participants.

The fixed dollar amount can be raised to increase the ACP passing even more if needed. As you explore the possibilities of this design further, you might identify the right combination solving some of your clients' issues especially with the safe harbor restrictions. If nothing else, you may get some interest and may have some fun modeling this design to meet a stated budget.

With a focus on helping lower paid employees and a desire to support higher paid employees in their desire to maximize retirement savings, you might find a unique approach using this design. Happy modeling. ■



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ENDNOTES

- 1 Note this sample design is modified from Google's DC design.
- 2 For those less familiar with DC plans, in a "stretch match," the employer matches 50 percent of employee contributions (as opposed to 100 percent) up to a higher total percentage of compensation (For example: 50 percent of the first 8 percent of employee compensation instead of 100 percent of the first 4 percent of employee compensation).
- 3 Section 403(b) plans are not subject to the ADP test. Instead, 403(b) plans must provide universal availability (allowing all eligible employees to participate).



Retirement Section Tidbits

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RESEARCH & REPORTS

Read the recently published report titled “[Defined Benefit Plans and COVID-19: Immediate Challenges for Plan Sponsors](#)” which summarizes observations raised during the conversation about current issues being discussed with clients to address immediate concerns and considerations about defined benefit plans. Its primary purpose is to assist defined benefit plan actuaries and plan sponsors with these issues and to stimulate further thinking and inform readers on how COVID-19 may reshape retirement in the future.

Read the recently published report titled “[Defined Contribution Plans, Emergency Funds and COVID-19: Challenges for Plan Sponsors and Participants](#)” for an overview of observations raised during the conversation about current issues being discussed with clients to deal with immediate concerns as well as broader considerations about defined contribution plans, emergency funds and financial wellness.

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SECTION COMMUNITY

Register for the “[How DB Plans Affect DC Plan Design](#)” webcast taking place on Aug. 27, 2020 from 1:00 to 2:30 p.m. ET to hear experts discuss how the presences of defined benefits (DB) plans impact plan design in the U.S. and Canada.