Pension Protection Act of 2006
Summary of Key Provisions Impacting Governmental 457(b) and 401 Plans

The **Pension Protection Act of 2006** ("PPA") was signed into law (Public Law No. 109-280) by President Bush on August 17, 2006. The PPA is the package of pension and retirement reforms agreed upon by House and Senate negotiators that worked to reconcile different versions of the legislation (originally H.R. 2830 and S. 1783). The agreement was approved by the House on July 28, 2006 and the Senate on August 3, 2006.

Since the passage of the PPA, ICMA-RC has been working with both outside and internal legislative experts to review details of the Act and to develop the following summary. The summary is meant to assist governmental plan sponsors in understanding key provisions impacting 457(b) and 401 plans. We expect additional guidance from the Treasury/IRS on various issues, and we will provide details as they become available. Some provisions, particularly those dealing with automatic enrollment and investment advice, do not apply to governmental plans. However, we have included these sections as some employers use ERISA as a guide when designing plan provisions.

If you have any questions regarding the PPA's provisions, please contact ICMA-RC's Client Services Team toll-free at **1-800-326-7272**.

The following information provided by ICMA-RC is general information regarding your retirement benefits. It is not intended to provide you with a substitute for specific legal or tax advice.

Issue	Prior Law	Pension Protection Act	Comments
Permanence of Retirement Savings Incentives			
EGTRRA Provisions	The Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") made numerous changes affecting retirement plans. These provisions were scheduled to expire after 2010. The expiration of the EGTRRA provisions would have impacted (1) the expanded contribution limits for IRAs and retirement plans and (2) catch-up contributions for investors age 50 and older. A host of other important provisions, including enhanced portability allowing rollovers for governmental 457(b) plans were also scheduled to expire.	Makes permanent the provisions of EGTRRA that relate to retirement plans and IRAs. *Effective Date*: Effective on date of enactment.	A chart of provisions that would have been impacted if EGTRRA had not been made permanent by 2010 is available online at www.icmarc.org/xp/rc/plansponsor/regs/egtrra/EGTRRAPermanencyComparisonTable.pdf

Issue	Prior Law	Pension Protection Act	Comments
Permanence of Retirement Savings Incentives (Continued)			
Saver's Credit	The Saver's Credit is a non-refundable tax credit available to eligible taxpayers who make qualified retirement savings contributions. The maximum annual contribution eligible for the credit is $2,000. The credit rate depends on the adjusted gross income (AGI) of the taxpayer. The maximum credit available to tax payers is $1,000 (50% of $2,000). The Saver's Credit was scheduled to expire at the end of 2006. The 2007 AGI limits for the Saver's Credit are as follows: • Joint filers: o $0-$31,000 – 50% credit; o $31,001-$34,000 – 20 % credit; o $34,001-$52,000 – 10% credit • Head of Household filers: o $0-$23,250 – 50% credit; o $23,251-$25,500 – 20% credit; o $25,501-$39,000 – 10% credit • Single or Married Filing Separately: o $0-$15,500 – 50% credit; o $15,501-$17,000 – 20% credit; o $17,001-$26,000 – 10% credit	Makes the Saver's Credit permanent at the existing AGI limits. Effective after 2006, the PPA will index the Saver's Credit AGI limits for inflation in $500 increments. *Effective Date*: Effective on date of enactment.	The PPA also allows taxpayers entitled to a tax refund to deposit all or a portion of their refund, including amounts attributable to the Saver's Credit, directly into an IRA. The IRS has indicated that this option will be effective for the 2006 tax-year, i.e., for returns that are generally due April 15, 2007.

Issue	Prior Law	Pension Protection Act	Comments
		Portability	
Rollover of After-Tax Amounts From a Qualified Plan Into a 403(b) Plan	After-tax contributions can be rolled over from a qualified plan into a defined contribution plan, so long as the plan provides for separate accounting of after-tax contributions. Such contributions, however, cannot be rolled over into a defined benefit plan or a 403(b) plan.	Permits the rollover of after-tax contributions from a qualified plan to another qualified plan (including a defined benefit plan) or to a 403(b) plan, so long as the receiving plan provides for separate accounting of after-tax contributions. *Effective Date*: Applies to tax years beginning on or after January 1, 2007.	The PPA has not clarified whether after-tax contributions from a 403(b) arrangement may be rolled over to a qualified plan (it only expressly addressed after-tax payments from a qualified plan to a 403(b) plan). However, based on informal guidance from IRS staff regarding a plain reading of the statute, we believe rollovers of after-tax contributions from a 403(b) arrangement may be rolled over to a qualified plan.
Rollovers by Non-spouse Beneficiaries	The spouse of a deceased participant in a qualified plan, tax-deferred annuity, or governmental 457 plan may generally rollover the participant's benefit to an IRA. Non-spouse beneficiaries may not make such rollovers.	Provides that the benefits received by a non-spouse beneficiary from a retirement plan may be directly transferred to an IRA. The IRA is then treated as an inherited IRA and benefits must be distributed in accordance with the minimum distribution rules that apply to inherited IRAs. The provision applies to amounts payable to a non-spouse beneficiary under a qualified retirement, governmental 457(b), or a 403(b) plan. *Effective Date*: Applies to distributions beginning on or after January 1, 2007.	This provision effectively provides for parity of retirement benefits inherited by a non-spouse through a retirement plan or an IRA. Unlike other rollover rights, plans have the option of offering this rollover opportunity to non-spouse beneficiaries but are not required to do so.
Hardship Distributions and Emergency Withdrawals	Current hardship distribution rules permit a 401(k) or 403(b) plan to allow for hardship distributions in the event of a qualifying hardship by the participant, the participant's spouse or dependent. Similarly, the rules under IRS Code sections 457 and 409A permit distributions to participants where an unforeseen financial emergency arises with respect to the participant, the participant's spouse or a dependent.	Directs the Treasury, within 180 days of enactment, to modify the current law to allow for distributions to participants in the event a beneficiary designated under the terms of the plan (even if not a spouse or dependent) experiences a qualifying hardship or unforeseen financial emergency. Applies to 457(b), 401(k), 403(b) and nonqualified deferred compensation plans subject to 409A. *Effective Date*: Effective on date of enactment.	The provision would permit, for example, a participant to receive an emergency withdrawal from his or her 457 plan based on an unforeseeable emergency experienced by his or her designated beneficiary (as defined by the plan) even if the designated beneficiary is not a spouse or dependent. Plan sponsors are not required to permit hardship distributions or emergency withdrawals with respect to non-spousal beneficiaries. This is an optional plan provision.

Issue	Prior Law	Pension Protection Act	Comments
Portability (Continued)			
Expanded Notice and Consent Period	In general, a plan must provide a distribution notice containing various required information no less than 30 days and no more than 90 days before the date of distribution. In addition, if the plan is subject to the joint and survivor annuity ("QJSA") requirements, special notice and consent rules apply.	Expands the period during which a plan must provide certain notices related to distributions to no less than 30 days **and no more than 180 days** before the date the distribution commences. Affected notices include the QJSA notice and the 402(f) notice (ICMA-RC's *Special Tax Notice Regarding Plan Payments)*. Directs the Treasury to modify regulations so as to require an explanation not only of the right to defer payment but also the consequences of a participant consenting to a current distribution rather than deferring payment. *Effective Date*: Applies to distributions beginning on or after January 1, 2007.	As part of the modification of the regulations, the IRS should provide updated 402(f) notice model language reflecting the new 180-day time period and consent rules.
Qualified Reservist Distributions	Unless certain criteria are met, a participant or beneficiary who receives an early distribution from a tax-favored retirement plan or traditional IRA is generally subject to a 10% early withdrawal penalty on the amount includible in income.	Provides that the 10% penalty does not apply to a qualified reservist distribution from an IRA or from elective deferrals under a 401(k) or 403(b) plan. To qualify, the distribution (1) must be made to a reservist who is ordered or called to active duty for a period in excess of 179 days or for an indefinite period, and (2) must occur during the period beginning on the date of such order or call to duty and ending on the close of the active duty period. *Eligible Individuals*: Persons ordered or called to active duty after September 11, 2001 and before December 31, 2007. During the 2-year period beginning on the day after the end of the active duty period (but in no event ending earlier than August 17, 2008), an individual may make "recontributions" to an IRA which in the aggregate do not exceed the amount of any qualified reservist distribution. Recontributions <u>cannot</u> be made into a 401(k) or 403(b) plan. *Effective Date*: Applies retroactively to distributions occurring on or after September 11, 2001. Reservists who have already received qualified reservist distributions may qualify for a refund of the penalty for early withdrawal.	This provision does not apply to governmental 457(b) plans, which are exempt from the 10% penalty for early distributions. Distributions of elective deferrals to a qualified reservist will not violate any distribution restrictions that are generally applicable to 401(k) or 403(b) plans. 401(k) and 403(b) plans are not required to permit qualified reservist distributions. Recontributions are not deductible, and are not subject to the dollar limitations otherwise applicable to IRA contributions.

Issue	Prior Law	Pension Protection Act	Comments
Portability (Continued)			
Faster Vesting of Employer Non-elective Contributions	*Non-elective Contributions*: A participant must have a non-forfeitable right to 100% of their accrued benefit according to either a 5 or 7-year vesting schedule (100% after 5 years or 20% for each year of service after 3 years of service). *Matching Contributions*: A participant must have a non-forfeitable right to 100% of employer matching contributions after 3 years of service or a non-forfeitable right to 20% of such contributions for each year of service beginning with the second year of service and ending with 100% after 6 years of service.	This change makes the rule for non-elective contributions conform to the vesting rule in effect for matching contributions. Participants now have a non-forfeitable right to employer non-elective contributions to a defined contribution plan after 3 years of service or a non-forfeitable right to 20% of employer non-elective contributions for each year of service beginning with the participant's second year of service and ending after 6 years of service. *Effective Date*: Would be generally effective for contributions made in plan years beginning on or after January 1, 2007 for employees with at least 1 hour of service after such effective date (a special effective date applies to collectively bargained plans).	This provision does not apply to governmental plans that are exempt from ERISA requirements. However, this provision may provide a framework for governmental employers using ERISA as a guideline for its plan provisions. The accelerated vesting schedule for employer contributions would not apply to "old money." The provision would only apply to contributions for plan years beginning after the effective date. Nonetheless, many plan sponsors are likely not to split up the treatment of old and new money and instead apply the new schedule to all non-elective contributions.
Clarification of Minimum Distribution Rules	A participant in a qualified plan (including governmental plans) must begin receiving distributions by April 1 of the calendar year following the calendar year in which the individual attains age $70^{1/2}$ or the calendar year in which the individual retires.	Directs the Treasury to issue regulations under which a governmental plan shall, for all years to which required distributions (section 401(a)(9)) apply, be treated as having complied with section 401(a)(9) if the plan complies with a reasonable good faith interpretation of section 401(a)(9). *Effective Date*: Effective on date of enactment.	

Issue	Prior Law	Pension Protection Act	Comments
Expanding Coverage			
Payment of Health, Accident and Long Term Care (LTC) Premiums with Governmental Plan Assets (*eligible retired public safety officers*)	Distributions from qualified retirement plans are generally includible in the participant's income for the year distributed.	Provides that an eligible retired public safety officer may, after separation from service as a result of disability or attainment of normal retirement age, elect to have amounts not yet distributed from a qualified governmental plan (*i.e.*, 457(b), 401(k), 403(b) and a defined benefit plan) distributed directly to an insurer to pay for qualifying health care, accident or LTC premiums for the eligible public safety officer and his or her spouse and dependents. Such amounts are excludable from the participant's taxable income. *Exclusion Limits*: Up to $3,000 annually of the amount distributed is excludable from income to the extent it is used to purchase qualifying health care, accident or long-term care premiums. *Effective Date*: Applies to distributions beginning on or after January 1, 2007.	In order to qualify, payments must be remitted to the insurance provider directly from the retirement plan. The exclusion limit does not apply to self insured plans. Employers have the option of offering this provision within their plan but are not required to do so.
Purchase of Permissive Service Credit	Generally, participants of state and local government defined benefit plans may be credited with "permissive service credit" (i.e., service not otherwise credited under the plan) if the participant voluntarily contributes an amount necessary to fund the benefit attributable to the credited service. Amounts from 457, 401(a), or 403(b) plans may generally be used to purchase permissive service credit if certain requirements are met.	The purchase of service credit and transfer rules are amended to clarify that state and local governmental employees may purchase (1) enhanced benefits for a period of service already credited under the plan, and (2) credit for periods regardless of whether service was actually performed ("airtime"). The transfer rules include amounts transferred from 457(b), 401(a), or 403(b) plans. *Effective Date*: Generally retroactive to the Taxpayer Relief Act, of 1997, except changes relating to trustee-to-trustee transfers effective 2001 (EGTRRA's effective date).	A maximum of five (5) years of non-qualified service credit time (airtime) may be purchased. Once the amounts are transferred from the 457(b), 401(a), or 403(b) plan to the defined benefit plan, the distribution rules of the defined benefit plan apply.
Waiver of the 10% Penalty on Certain Defined Benefit Pension Plan Distributions *(eligible public safety officers)*	A taxpayer who receives a distribution from a qualified retirement plan prior to age $59^{1/2}$, death, or disability is generally subject to a 10% early withdrawal penalty, unless an exception to the penalty applies. Among other exceptions, the penalty does not apply to distributions made to an employee who separates from service after age 55.	Effective upon the date of enactment, the 10% early withdrawal penalty would not apply to distributions from a governmental defined benefit plan made to a public safety employee (i.e., a police officer, fire fighter, or emergency medical services employee) who separates from service after the attainment of age 50. *Effective Date*: Effective on date of enactment.	This provision will particularly benefit public safety employees who sever employment between the ages of 50 and 55 and take lump sum distributions from the Deferred Retirement Option Plan (DROP) account of the defined benefit plan. However, it is unclear as to whether the waiver applies to distributions taken when the DROP account is held in a self-directed defined contribution account. We are seeking additional guidance from the Treasury/IRS on this point.

Issue	Prior Law	Pension Protection Act	Comments
ERISA Reforms			
Mapping Investment Options	ERISA section 404(c) provides that where a participant or beneficiary exercises control over the assets in his or her individual account, no person who is otherwise a fiduciary shall be liable for any loss or breach resulting from the participant or beneficiary's exercise of control. The Department of Labor (DOL) currently takes the position that section 404(c) is not available to a fiduciary either (1) during a blackout period or (2) when participant account balances are "mapped" to new options without an affirmative participant direction. ERISA also requires administrators to provide advance notice of a "blackout period." Generally, the notice must be provided at least 30 days in advance. A "blackout period" is defined as a period of 3 or more consecutive business days in which individual participants may not direct trades, obtain loans or obtain distributions. Though state and local government plans are exempt from most provisions of ERISA, section 404(c) of ERISA is often used as a guide regarding the responsibilities of plan fiduciaries during blackout periods.	ERISA section 404(c) is amended in two respects. First, fiduciaries are provided with 404(c) relief during a blackout period if they authorized and implemented the blackout period consistent with the "requirements of this title." In addition, ERISA section 404(c)(4) has been added to provide generally that, if certain requirements are met, section 404(c) relief would be available for mapping that constitutes a "qualified change in investment options." A "qualified change in investment options" must meet the following requirements: • The participant's account is reallocated among one or more new investment options which have characteristics relating to risk and rate of return that are reasonably similar to the existing investment options immediately before the change; • Notice must be sent at least 30 days and no more than 60 days before the effective date of the change, explaining how the account will be invested in the absence of affirmative directions and including information comparing the new and existing options; • The participant must not have provided affirmative investment instructions contrary to the change before the effective date of such change; • The investments of the participant or beneficiary in effect immediately before the change must have been the product of the exercise of control by the participant or beneficiary. *Effective Date*: Applies to plan years beginning on or after January 1, 2008.	Further guidance may be needed for situations in which no obvious similar funds are available.

Issue	Prior Law	Pension Protection Act	Comments
ERISA Reforms (Continued)			
Non-Discrimination Rules	In general, only state and local government plans are exempt from the nondiscrimination rules under the Code.	Effective after the date of enactment, all governmental plans (not just state and local plans) would be exempt from nondiscrimination rules. *Effective Date*: Effective for any year beginning after date of enactment.	This primarily impacts plans offered by the federal government as state and local government plans are not subject to nondiscrimination rules under the Code.
Clarification of QDRO Rules	Generally, benefits provided under a qualified retirement plan may not be assigned or alienated. However, benefits may be assigned to a former spouse (or other alternate payee) pursuant to a qualified domestic relations order ("QDRO"). Special rules govern whether a domestic relations order is qualified.	Directs the DOL to issue, within 1 year after the date of enactment, regulations clarifying the status of certain domestic relations orders, including that a domestic relations order will not fail to be a QDRO solely because it is issued after or modifies a previous domestic relations order or QDRO, or because of the time at which it is issued. *Effective Date*: Effective on date of enactment.	

Issue	Prior Law	Pension Protection Act	Comments
IRA Related Amendments			
Direct Rollovers From Retirement Plans to Roth IRAs	Distributions from qualified retirement plans, 403(b) plans, and governmental section 457 plans may be rolled over into a traditional IRA but may not be rolled over directly into a Roth IRA. Taxpayers with a modified AGI of no more than $100,000 may subsequently convert their traditional IRA into a Roth IRA. Such amounts are includible in income but exempt from the 10% tax on early withdrawals.	Allows rollovers from a qualified retirement plan, 403(b) plan or governmental section 457 plan directly into a Roth IRA. The present law rules that apply to rollovers from a traditional IRA to a Roth IRA would apply, including the limitation on individuals with an AGI of more than $100,000. *Effective Date*: Applies to distributions beginning on or after January 1, 2008.	The primary benefit of this provision is to simplify the administrative process. Rollovers of plan money to a Roth IRA can currently be accomplished but it formally requires a rollover to a traditional IRA followed by a conversion to a Roth IRA. Income limitations on Roth IRA conversions will end in 2010. From that point forward, taxpayers at all income levels will be eligible for this direct rollover opportunity.
Income Limitations	If an individual (or his or her spouse) is an active participant in an employer-provided retirement plan, the deduction for traditional IRA contributions is phased out based on adjusted gross income ("AGI") levels. Different AGI levels apply if the individual is not an active participant in an employer-provided plan, but his or her spouse is an active participant. Individuals with an AGI above certain levels cannot contribute to a Roth IRA.	Beginning in 2007, the AGI limits for making (1) deductible contributions to a traditional IRA, and (2) contributions to a Roth IRA, are indexed for inflation (rounded to the nearest $1,000). *Effective Date*: Applies to taxable years beginning on or after January 1, 2007.	There are no changes to the 2006 AGI ranges for these purposes.
Direct Deposit of Tax Refunds	Generally, taxpayers may directly deposit their tax refund into a checking or savings account.	Directs Treasury to permit taxpayers to directly deposit their tax refund into an IRA, subject to the current law contribution limits. *Effective Date*: Applies to taxable years beginning on or after January 1, 2007.	This provision includes tax-year 2006 refunds received in 2007.
IRA Distributions for Charitable Purposes	In general, amounts distributed from an IRA are taxed as ordinary income.	Generally, IRA owners who are age 70½ or older may make tax-free IRA distributions (capped at $100,000) to a tax-exempt charity. *Effective Date*: Applies to taxable years beginning on or after January 1, 2006.	This is a temporary provision that is available only in 2006 and 2007. Amounts distributed are considered when determining whether any Required Minimum Distribution has been satisfied.

Issue	Prior Law	Pension Protection Act	Comments
Automatic Enrollment			
Automatic Enrollment	Several revenue rulings have provided guidance which allows governmental plans to include an automatic enrollment provision in 457(b) and 401(k) plans. However, some states prevent employers from implementing automatic enrollment due to payroll laws that require an employee signature prior to any deduction being taken from the employee's paycheck.	The PPA creates a set of automatic enrollment rules (outlined below). First, the PPA states that ERISA will preempt any state law that prohibits implementation of an automatic enrollment arrangement. This provision only applies if advance notice is given to affected participants regarding where amounts will be invested and how much will be deferred. In addition, amounts must be invested according to guidance proposed by the DOL on prudent default investment guidelines (discussed below). This change is effective as of the date of enactment. The preemption provision only applies to ERISA plans that provide for automatic enrollment. Since governmental plans are exempt from most provisions of ERISA, they are still bound by state payroll laws that may prevent automatic enrollment for plan participants. Second, the PPA directs the DOL to issue guidance on prudent default investments. The DOL has proposed guidance that describes categories of prudent default investment options (life-cycle or targeted-retirement-date funds, balanced funds, or professionally managed accounts). This fiduciary relief for default investments depends on whether advance notice is given to affected participants regarding where amounts will be invested and how much will be deferred. Third, plans that allow for automatic enrollment and meet certain notice requirements (as defined under the nondiscrimination testing safe harbor requirements) will be permitted to return automatic contributions to participants, but only if the participant requests an "erroneous automatic contribution" within 90 days of the date that the first automatic contribution was made. Erroneous automatic contributions are not subject to the 10% early distribution penalty. *(Continued on following page)*	These provisions are not applicable to governmental employers residing in states whose payroll laws prevent automatic enrollment. These provisions may, however, provide a framework for governmental employers residing in states that do allow automatic enrollment. However, governmental plans are exempt from most provisions of ERISA and employers are not required to comply or implement these automatic enrollment provisions. This is important to note since many governmental employers may not be willing to make the employer contribution required under the nondiscrimination safe harbor.

Issue	Prior Law	Pension Protection Act	Comments
Automatic Enrollment (CONTINUED)			
Automatic Enrollment Cont'd		Fourth, the PPA creates a nondiscrimination testing safe harbor. Most of the safe harbor provisions are not relevant to governmental employers, who are generally exempt from nondiscrimination testing. However, some provisions, particularly regarding notification, may be relevant. Under the nondiscrimination safe harbor, the following features are required: • Initial automatic enrollment contribution percentages between 3% and 10% • Automatic contribution percentages must increase to no less than: o 4% in the second year; o 5% in the third year; and o 6% in all subsequent years • The automatic election must be capped at 10% • Automatic elections cease to apply if the employee makes an affirmative election to opt out of the plan or adjust their contribution percentage • Participants in the plan prior to the date the plan is amended to include automatic enrollment may be excluded if there is an election on record. This means that existing employees that have not made an election generally must be enrolled in the automatic enrollment arrangement. • Employees must receive advance notice of their right (1) to opt out of plan participation, or (2) to elect a different contribution percentage • The advance notice must identify the default investment option for the automatic deferrals for employees who have not made an investment election • The plan sponsor must make employer contributions in one of the two following ways: o Match of 100% of the first 1% deferred and 50% of the next 5% deferred; or o Nonelective employer contribution of 3% • Employer contributions made to satisfy the safe harbor provisions must vest 100% within two years. *Effective Date: Applies to plan years beginning on or after January 1, 2008.*	

Issue	Prior Law	Pension Protection Act	Comments
Investment Advice			
Investment Advice	Individuals who provide investment advice to a plan sponsor or participant under a defined contribution plan assume fiduciary responsibility and may, under certain circumstances, violate ERISA's self-dealing prohibited transaction restrictions. However, the DOL has previously issued prohibited transaction relief for "education" provided by a related party and for "model-driven" advice generated by an independent third party (the "Sun America" opinion).	The PPA codifies the model driven prohibited transaction relief and allows related parties, called "fiduciary advisers", to provide advice under a flat or level fee arrangement. The exemption includes significant conditions. Most importantly, advice must be given pursuant to an "eligible investment advice arrangement". To be an eligible investment advice arrangement, either (1) any fee received by the adviser must not vary on the basis of investment options selected, or (2) the adviser must use a computer model. The computer model must: • Apply generally accepted investment theories that take into account the historic returns of different asset classes over a defined period of time. • Utilize relevant information about the participant (e.g., age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments). • Utilize prescribed objective criteria to make fund-specific recommendations. • Operate in a manner that is not biased in favor of investments offered by the adviser or an affiliate. • Take all investment options available under the plan into account and not be biased towards affiliated funds. The computer model-driven arrangements must have an unaffiliated "eligible investment expert" certify that these requirements above are met. The plan fiduciary (i.e. plan sponsor) must expressly authorize the advice arrangement and an independent auditor must conduct an annual audit of the arrangement and issue a written report to the authorizing fiduciary. The plan sponsor is generally relieved of fiduciary responsibility for the investment advice provided by an adviser and has no duty to monitor the specific investment advice given to participants. The plan sponsor is not, however, relieved of its responsibility for the prudent selection or monitoring of the financial adviser. *(Continued on following page)*	Although ERISA does not apply to governmental plans, the PPA as well as the DOL Sun America opinion provides procedural frameworks that public sector employers may wish to follow when working with their plan providers in providing advice programs to their employees. Further clarification from the DOL is expected concerning (1) whether the provisions of the PPA pertain to ongoing discretionary investment management of a participant's account (e.g., "Managed Accounts") or whether they are only applicable to "guidance" or "point-in-time advice", and (2) what qualifies as "level fees" or "fees that do not vary depending on the basis of any investment option selected". ICMA-RC is in the process of introducing Guided Pathways to our employer clients. Guided Pathways is a comprehensive suite of investment advisory services, including a new ongoing discretionary Managed Accounts service. ICMA-RC has designed Guided Pathways in accordance with the DOL Sun America opinion.

Issue	Prior Law	Pension Protection Act	Comments
Investment Advice			
Investment Advice Cont'd		The adviser must be a registered investment adviser, a bank or similar financial institution so long as the advice is provided through a trust department, an insurance company, or a registered broker dealer. The fees charged must be reasonable and at least as favorable as in an arms-length transaction. Other conditions that apply include comprehensive disclosure of fees and affiliations that must be (1) given to participants before advice is provided, and (2) regularly updated. *Effective Date: Applies to plan years beginning on or after January 1, 2007.*	