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New Retirement Plan Proposals Emerge from Conversation on Coverage

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The Conversation on Coverage, representing a new approach to forging consensus on retirement policy, has released four proposals for new types of retirement plans designed to increase coverage among the half of all private-sector workers who are not covered by a retirement plan in the workplace.

The proposals were unveiled recently by three Conversation on Coverage working groups with a total of 45 participating members, all experts in one or another areas of retirement policy.

The four new pension plans are as follows:

- The Guaranteed Account Plan (GAP), a hybrid plan with individual accounts funded by the employer with guarantees on the rate of return on employees' balances;
- The Plain Old Pension Plan (POPP), a modest career-average pay defined benefit plan, whose basic benefit can be increased in good years and reduced back to the basic benefit in other years;
- The Retirement Investment Account (RIA), which sets up a national central clearinghouse for retirement savings accounts for all workers who are not covered by a plan or not eligible for a plan at work; and
- The Model T, a simplified multi-employer plan that can be marketed to small businesses by financial institutions in local communities.

The final report provides a detailed description of the major provisions of the plans that have been developed by the working groups. Co-chairs of the working groups unveiled the details of the plan proposals at a press briefing at the National Press Club in the morning and a Congressional briefing in the Mike Mansfield room at the U.S. Capitol in the afternoon. The final report can be found at *www.conversationoncoverage.org*.

"It's an example of what can be accomplished when people agree to set aside their differences and try and find common ground," said Olena Berg Lacy, a former Assistant Secretary of Labor and a member of the steering committee that advised the Conversation on Coverage. "It's also an example of what can be done on a lot of policy fronts when people are willing to work together with good will," she added.

The Conversation on Coverage was first launched in 2001 by the Pension Rights Center. The working groups held their first meetings in May 2003, embarking on an effort that would span four years and encompass for each group dozens of all-day meetings and even an occasional two-day meeting.

By early 2007, the working groups had hammered out the details of their final proposals for new plans, finding common ground, despite their different interests and competing concerns.

"That has been the magic of the Conversation," said Karen Friedman, director of the Conversation on Coverage at the Pension Rights Center. "It has allowed people of differing viewpoints and ideologies to get to know one another, air their differences, and find ways of reaching agreement in off-the-record conversations—all outside the glare of the Washington policy process."

Participating members agree with Friedman's assessment. "It was very collaborative," said Lynn Dudley, vice president and general counsel at the American Benefits Council, an organization representing large private-sector employers. "People understood that their advocacy hats were off and looked at possible ways to expand coverage."

The type of consensus reached between members was different from the political compromise that takes place with a legislative package. "It was less a matter of finding compromises than looking for ideas that everybody agreed are good," said Norman Stein, co-chair of Working Group I and a professor of law at the University of Alabama.

New Plans with Defined Benefits

Working Group I, whose mission was to expand coverage by encouraging new types of plans with some of the features of defined benefit plans, produced two proposals, the Guaranteed Account Plan and the Plain Old Pension Plan. Both plans were designed to address concerns that employers have about the volatility of traditional defined benefit plans and the uncertain potential burden of large future pension funding obligations.

GAP is a new hybrid plan that starts with the regulatory framework of a money purchase pension plan (a defined contribution plan that is funded by employers) and adds a guaranteed return on employees' balances. In this plan, the employer assumes the risk of investing the money to obtain the promised rate of return, which can be a fixed or variable rate. The benefit can be paid as a lifetime annuity with a guaranteed survivor annuity for spouses. The annuity earned under the plan would be insured by the Pension Benefit Guaranty Corporation at a reduced premium.

More conservative and predictable funding rules for GAP reduce the volatility of the funding obligation and uncertainty about the annual contribution, according to working group co-chair Stein. Furthermore, the plan design allows the employer to fund a separate financial cushion in a side-car trust that can be used to keep the GAP fully funded. Employers can recover funds from the side-car trust by paying a tax penalty roughly equivalent to what they would have paid if the trust had never been set up.

POPP is a simplified version of a career-average pay traditional pension plan. In this plan, employees earn a basic modest benefit each year that is funded by the employer. The basic benefit, which can be as low as one percent of salary, can be increased in good years, and fall back to the basic benefit in lean years, without employers having to worry about the higher benefit becoming a permanent feature of the plan, as occurs with present law. Funding for POPP is based on conservative actuarial assumptions. The plan calls for the U.S. Treasury Department to publish contribution tables to make it easier for employers to know how much to contribute for their employees each year.

GAP and POPP incorporate features that make the plans more appealing to both employers and employees than current plan designs available in the marketplace, according to Stein.

Stein noted that the working group was able to develop plans with more appealing features by getting beyond the obstacles that often stymie efforts to come up with new proposals.

"With our two proposals, we came up with very detailed proposals, not simply a broad sketch," said Stein. He believes the ability of the working group to agree on the details of the plan makes the difference between a broad concept that is useful and a practical road map that can really show how a good idea can be worked out in a practical manner.

Stein gave an example to explain how the process worked. Everyone is likely to agree on the worthiness of coming up with a hybrid or a career-average plan for small business. "The hard thing is not the concept; the hard thing is coming up with a way to make the concept work," he said. "We believe the proposals we created will serve the interest of both employers and employees." The details of the POPP and GAP plan design do just that, he added.

Retirement Savings for All Workers

Working Group II's Retirement Investment Account (RIA) proposal was designed to meet the goal of finding new ways to encourage more individual workers in the private sector to save for retirement, targeting those without workplace plans as well as those ineligible to participate in employer-sponsored plans.

Working group co-chair John Kimpel, former senior vice president and deputy counsel at Fidelity Investments in Boston, said the group wisely chose a very practical goal of "getting those not covered, covered," which helped set the Working Group II on the road to success from the beginning, he claims.

"Everyone could sign on for that," Kimpel said, because they all agreed it was a worthwhile mission. It would have been difficult to achieve the same level of agreement if the group had set out "to achieve such broad goals as reforming Social Security or the retirement system," Kimpel said.

Indeed, Friedman pointed out from the beginning of the Conversation on Coverage that Social Security was off the table and that the working groups were to focus on ways to expand pension and savings on top of Social Security.

To reach its goal, Working Group II came up with an ambitious proposal to develop a new national clearinghouse to administer lifetime portable accounts, or RIAs, for workers.

The plan establishes a government-sponsored central clearinghouse that would contract out a limited set of investment options to the private sector in an approach similar to that of the Thrift Savings Plan, a retirement savings plan for federal civilian workers.

The clearinghouse would be set up to receive contributions from employers that are made by employees through payroll deductions. The plan is aimed at workers who are not now eligible for a workplace plan or who work at an employer without a retirement savings plan.

Employers would be required to automatically enroll all eligible workers, who would be placed by the central clearinghouse into a default investment defined by Department of Labor regulations. Employees who opt out of the default investment would be able to choose investment options from a limited menu.

Without setting an amount for the contribution limit for employees, the group agreed that the maximum contribution level should be adjustable from year to year and be lower than the limit for a SIMPLE IRA, which is $10,500 for 2007 plus a catch-up contribution limit of $2,500 for employees age 50 and older. They also agreed the contribution limit should be higher than the limit for traditional IRAs, which is $4,000 for 2007, with a catch-up maximum contribution of $1,000 for people age 50 and older.

In setting guidance for contribution limits for the RIA, working group members said they wanted to make sure the RIA does not detract from employer-sponsored plans. But the majority of the members also wanted contribution limits high enough to make the RIA more appealing than the IRA. The plan will not initially have employer contributions.

Working Group II members recommend in the final report that the plan eventually have tax credits to encourage saving, and the group devised a set of principles that they thought should govern the design of those credits. The tax credit should be aimed at low- and moderate-income workers and should, to the extent possible, encourage or require the tax credit be deposited into the RIA or another retirement savings vehicle. The tax credit is viewed as a match by the government, and the matching rate should be set high enough to be a strong incentive for saving, the group agreed.

One of the breakthroughs for the group came after they were able to meet with experts from large financial companies that process contributions from small businesses for SIMPLE plans. From these experts, the group was able to learn that even employers without a payroll vendor could forward contributions electronically through Web-based programs. Forwarding money from employees contributed through payroll deductions was "in fact, an insignificant burden" on employers, Kimpel said. This contradicted the standard assumption that requiring small employers to forward contributions would be burdensome, he added.

The make-up of the working group was also helpful, Kimpel said. "People who participated were at the right level" within the organizations and companies where they work. Members more often tended to be people with hands-on experience or knowledge and "a little more into the trenches" of the workings of retirement plans, savings habits, and managing investment choices of employees than you would find on, say, a blue-ribbon panel. "There was some real kicking of the tires here, not what you usually see," he said.

Plans for Small Businesses

The last of the four proposals—the Model T—was designed by Working Group III with the mission of devising a plan that would appeal to small employers, which have the lowest coverage rates in the private sector. While 78 percent of workers are covered by a retirement plan at businesses with 100 or more employees, only 44 percent are covered at companies with 99 or fewer employees, according to the 2006 National Compensation Survey by the Bureau of Labor Statistics.

The Model T was designed to appeal to financial institutions who would, it was hoped, market it to small businesses in a local community as a multiple-employer plan. It could also be targeted toward regions or industry or business groups. The plan would be offered by banks, insurance companies, brokerage firms, and mutual fund companies.

"Small business has always been a tough nut to crack, and it has been extremely hard to expand coverage in the small-business world," said Maria Freese, co-chair of Working Group III and director of government relations and policy for the National Committee to Preserve Social Security and Medicare in Washington, D.C.

"Part of the reason they're so volatile is that half of small businesses don't survive their first year and many have no health care coverage," she said. "Getting these small employers to focus on the long term with a retirement plan is difficult under these circumstances."

Further, Freese noted, "Most small businesses have a handful of people doing everything to keep the business afloat . . . . It is asking a lot of the small businesses to also be financial experts and do the technical vetting that goes with selecting a plan provider. It's asking a lot to expect them to manage a plan." It was these concerns that the working group chose to address in its design of the Model T, she said.

The Model T transfers the administration of the plan from the employer to a financial institution, a feature that the group believed would appeal to small employers. All employees—full-time, part-time, and contingent workers—are eligible to participate if an employer signs up for the plan. Contributions are made through payroll deduction. Self-employed and independent contractors can contribute directly. Funds are automatically placed in simplified investment options based on the type of default investment options defined by Department of Labor regulations. Other investments may be made available at the discretion of the financial institution.

One of the creative ideas that emerged from the working group is the Model T's two-tiered contribution-limit regime designed to encourage employer contributions, which are voluntary. The lower employee-contribution limit is $8,000. When a plan chooses this limit, there are no required employer matches or contributions.

If the employer is willing to give an across-the-board contribution to all eligible workers, the contribution limit is raised to $12,000. The employer contribution can be either a 100 percent match of employee contributions up to four percent—or a $750 contribution to each employee who receives a W-2.

Employers can decide annually whether to have either the $8,000 or $12,000 limit. This gives employers flexibility to make employer contributions in good years and scale back at other times.

While Working Group III had hoped to transfer some of the fiduciary liability from employers to financial institutions, such a transfer posed potential conflicts under the law. To avoid these conflicts, the Model T plan calls for the employer to be the fiduciary for selecting the provider, including the initial investment options, for remitting contributions and participant data in a timely manner, as well as for ongoing monitoring of the investment options.

To assist the employer in monitoring the simplified investment options, the Model T plan calls for the development of a standardized performance report to be prepared by financial institutions for employers to help them in their ongoing monitoring duties. The information provided would be in a format that would enable a small business owner to compare the plan's fees, services, and investment performance to a standard benchmark.

Having explored several ways to transfer some fiduciary duties away from the employer, the group recommended further study of some of the options the group explored, including reviewing what other countries are doing to relieve employers of fiduciary duties, as well as examining whether there could be a cost-effective system of independent fiduciaries and other approaches.

The Benefits of the Process

Members of the working groups found that not only did the process of the Conversation on Coverage lead to good proposals, but it had other benefits.

"The fact that the Pension Rights Center was able to bring together so many people with so many viewpoints for so long, and ultimately develop trust that didn't exist before the process began—that to me was the greatest accomplishment," said Melissa Kahn, co-chair of Working Group I and vice president of MetLife in Washington, D.C.

"Outside of the Conversation on Coverage, most of the people in our working group are on different sides of every issue 90 percent of the time," Kahn noted. It was the design of the process that allowed such a diverse group to come to agreement on new plan designs, she added.

The ground rules for the Conversation on Coverage evolved from careful deliberations and discussions within the steering committee before the Conversation on Coverage organized its working groups, according to Martha Hutzelman, chair of the steering committee and senior counsel at Kruchko & Fries in McLean, VA.

The recommendations that emerged from the first "brainstorming sessions" of people attending the initial conference in 2001 ultimately led to the formation of the steering committee and, in turn, the decisions that shaped how the Conversation on Coverage would be set up, according to Hutzelman. The steering committee itself was set up to represent a wide range of perspectives.

Conversation on Coverage director Friedman consulted regularly with the steering committee on how best to proceed. "The hardest job" for the steering committee was defining the mission of each working group, Hutzelman said. Making the right choices on defining the mission was a make-or-break task, she recalled.

Friedman consulted with the steering committee on the choices for the participants in the working groups. The ground rules were also set up so that the working groups could "bring people with diametrically opposed views into the same room and have a productive dialogue," Hutzelman recalled.

Under the ground rules, Conversation on Coverage participants were told that, when they made comments during working group meetings, they were speaking as individuals and not as representatives of their organizations. Participants were encouraged to "take off our advocacy hats," as Friedman put it when the working groups were launched in 2003, when she took a hat from her head and tossed it aside to dramatize the point.

It was also decided that, when agreement could not be reached on a particular point, the group would agree to disagree and identify possible options that could resolve the design dilemma. It was also decided that if nearly everyone agreed, except one or two people, the group would be deemed to have reached general agreement. Strongly-held alternate views were described in reports that were provided for each meeting. The groups did not take votes on issues, as voting was seen as promoting division.

"These are good plans, not perfect plans," Friedman said when the final proposals were released. "Not everyone agrees with every part of every plan, but there were trade-offs and compromises made in order to develop a plan that generally everyone agreed with," she explained. This view drove the process.

Participants were motivated to put in the long, hard hours partly because they believed in the goals of the Conversation on Coverage, Kimpel said, and partly because Friedman kept the working groups focused on the missions. Since the missions were appropriately defined in practical terms, it led the working groups to come up with "what works," said Kimpel. "The process needed someone to keep people on track and Karen was able to do that," he explained.

Along the way, the process produced its own benefits beyond the recommendations that were slowly being put together. "What I think is the best thing about it is the bonding between interest groups and a better understanding between interest groups," said Hutzelman.

The day the proposals were unveiled, Lacy highlighted the importance of the understanding that had emerged among the participants. "People have gained a level of trust and friendship that will play into policy," she said. "This will have benefits in ways we probably don't understand yet."

What's Next

The Conversation on Coverage will oversee a survey of plan advisors within the coming months to determine potential employer interest in two of the proposals—GAP and POPP. The survey, which is being conducted by the Employee Benefit Research Institute among members of the American Society of Pension Professionals and Actuaries, will gauge the "pick-up rate" for the plans, as well as the level of saving that might occur within the plans over time.

An initial informal survey of a small number of plan advisors in 2006 found interest in both GAP and POPP.

Charlie Ledbetter, a defined contribution plan advisor and principal for Mercer Health & Benefits in Denver, CO, took a look at the proposed plans after they were released in May. Ledbetter, whose practice focuses on small- to mid-sized employers, thinks that the larger employers within the market he advises might be interested in GAP.

Smaller employers might like POPP, Ledbetter said, "because their cash flow is so volatile" and POPP allows more flexibility in benefit contributions from year to year. Finally, he said, the Model T will appeal to the universal desire among employers for simplicity.

"Our clients tend to think the simpler the better, and the more incentives the better," Ledbetter said.

Members of the working groups will continue to meet to explore how the ideas might be advanced, including a potential demonstration project for the Model T in a single city. Meanwhile, several states, led by Washington state, are moving forward with proposals similar to the RIA, in which employers provide IRAs or 401(k)s to workers without retirement plan coverage. The plans would be administered by the states' public employee retirement system.

Before they were released, the Conversation on Coverage proposals were previewed to both Congressional staff and government agency personnel. During one of those briefings, one committee staff member asked if the three proposals, when combined, would close the coverage gap completely. Friedman replied that the proposals were designed independently with separate missions and each was designed to address a different piece of the coverage puzzle. "Together they will significantly expand coverage," said Friedman, "but they were never intended to achieve universal coverage."

"I don't think any of these proposals is a panacea, but they give different perspectives on how to deal with improving coverage," said Hutzelman. "Maybe the real answer is the accumulation of different parts of these proposals," she added. Importantly, she said, the proposed plans give legislators and policymakers "a perspective on where there is consensus among different stakeholders" in retirement policy.

Dudley, at the American Benefits Council, is finding there is Congressional interest in the proposals. "What I hear is that there are people on the Hill looking at it," said Dudley. She said that one possible outcome is that Congress will take pieces of the proposals from the Conversation on Coverage and use them "to make existing plans better."

Importantly, sources on Capitol Hill have said the members of Congress are interested in looking at ways to expand coverage. "There is a feeling that we have a retirement security crisis in this country," said Aaron Allbright, a spokesperson for Rep. George Miller (D-CA), chairman of the House Committee on Education and Labor. "Social Security is not enough for people to live on, and employers are moving out of defined benefit plans. For this reason, Congressman Miller is interested in seeing ideas put on the table to improve retirement security," Allbright said.

Indeed, some Congressional leaders have welcomed the efforts of the Conversation on Coverage, including Senator Chuck Grassley (R-IA), ranking minority member on the Senate Finance Committee. "Last year Congress passed landmark legislation intended to help more Americans save for retirement and require companies to keep their pension promises," Grassley told *Employee Benefit Plan Review*.

"The new law is a positive step forward, but we can and should do a lot more. Pension coverage remains stagnant," Senator Grassley said. "As a leader of the Finance Committee, I remain committed to giving all Americans the necessary tools to increase their retirement income. I look forward to working with all of the groups and experts that were a part of the Conversation on Coverage and coming up with new ways to help Americans save for retirement," he added.

One Capitol Hill source said that Congress is not yet ready to take up new legislation this year or probably not even next year, in view of the fact that last year it completed the Pension Protection Act of 2006. Even so, she added, this is the time to bring new ideas forward, and those ideas could find their way into pension legislation later. ✪

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