

# Washington Update: Retirement Policy Repercussions of the Financial Crisis & The Impending Election

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**Jamey Delaplane**



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# Overview

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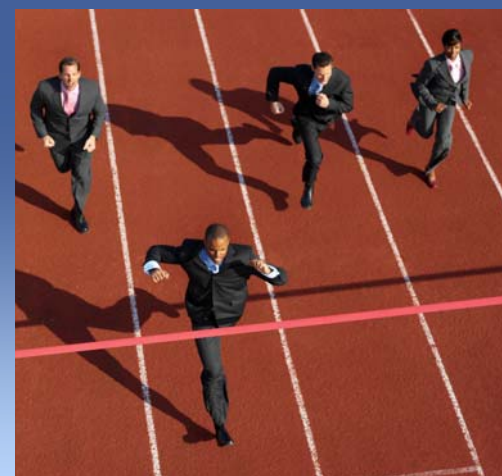
- 2008 Retirement Legislative Outcomes
- Retirement Plan Fee Disclosure & Other Regulatory Developments
- Repercussions of Financial Crisis
- Political Outlook
- Presidential Candidate Proposals
- Future Retirement Policy Initiatives
- Conclusions



# Retirement Legislative Outcomes

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- Pension Protection Act Technical Corrections
- 401(k) Fee Disclosure
- Energy/Commodities Speculation
  
- Retirement Plan Relief for Midwestern Disaster Victims
- Emergency Economic Stabilization Act
  - **Possible Purchase of Troubled Assets from Pension Plans**
  - **Executive Compensation Restrictions**



# Retirement Plan Fee Regulations

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- DOL Regulations on Provider Disclosure to Fiduciaries (ERISA Section 408(b)(2))
  - **Likely Timetable for Completion**
  - **Likely Effective Date**
- DOL Regulations on Participant Fee Disclosure
  - **Basic Approach**
  - **Central Issues in Comment Process**
  - **Likely Timetable for Completion**
  - **Likely Effective Date**



# Other Regulatory Developments

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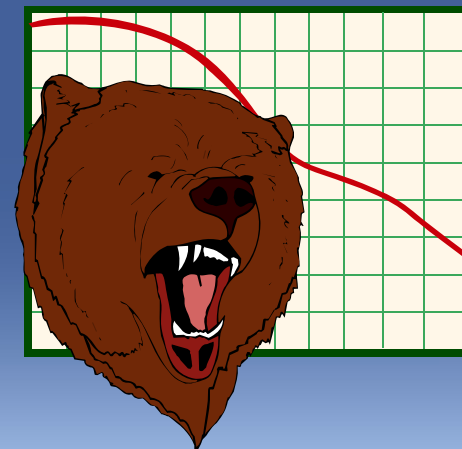
- Treasury/IRS
  - **Defined Benefit Plan Transfers**
  - **Auto Enrollment Arrangements (QACA/EACA)**
  - **Notices Re Consequences of Failing to Defer Plan Distributions**
- Department of Labor
  - **Investment Advice**
  - **Gifts/Gratuities/Educational Conferences**



# Plan Effects of Financial Crisis

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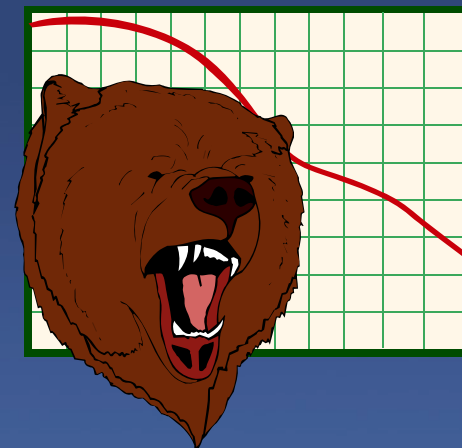
- Fuel on the Populism Fire
- Critics See as “Proof” That 401(k) System Fails
- New Focus on Shift of Risk to Participants
  - **Financing Risk**
  - **Investment/Diversification Risk**
- Resulting Heightened Attention to Investment Issues
  - **Extent of Equity Exposure**
  - **Extent of Employer Stock Exposure**
  - **Availability of “Safe” Menu Options**
  - **Active vs. Passive Management**



# Plan Effects of Financial Crisis

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- Reevaluation of PPA Changes/Regulatory Outcomes
  - **Investment Advice**
  - **QDIA**
  - **Fee Disclosure**
  - **Defined Benefit Plan Funding Rules**
- Critique of Existing Tax Incentive Structure
  - **Income Distribution**
  - **Inefficiency**
- Greater Interest in Government Structures/Solutions
- Heightened Focus on Executive Compensation
- New Level of Voter Anxiety About Retirement Security



# Crisis-Driven Retirement Proposals

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- Minimum Required Distribution Reforms
  - **Suspension of Required Distributions**
  - **Potential for Intermediate Relief from Treasury Department**
    - Distribution Measurement Date
    - Waiver of Penalty Taxes
  - **Exemption Amount**
  - **Tricky Administrative Issues**
- Penalty-Free Retirement Plan Distributions
- Reduced Taxation of Retirement Plan Distributions
  - **Exemption from Tax for Required Distributions**
  - **Reduced Tax Rate for Plan and IRA Distributions**
- Outlook for Enactment



# 2008 Election Outlook

## SENATE – Ds Gain 6+

- Republican Probable Losses:
  - **VA, NM, CO, NH, AK**
- Republican Possible Losses:
  - **MN, NC, OR, ME (KY, GA)**
- Democratic Seats at Risk: None

## HOUSE – Ds Gain 15 to 20+

- Republican Retirements, Etc.
  - **30 to date**
- Strong Democratic Recruiting
- Democratic Pick-Ups Will Be in Districts Bush/Cheney Won

## WHITE HOUSE – Leans Strongly Obama

- Economic Crisis Switched Momentum to Obama
- Obama Passed Test of Presidential Viability (1980 Reagan Parallel)
- Debates Broke for Obama; Steady vs. Erratic; Palin a Net Negative
- Key States – OH, CO, NV, FL, VA



# Three Possible Political Scenarios

## Scenario 1 – Divided Government

Senate  
54-55  
Democrats

House  
5-10 More  
Democrats



## Scenario 2 – Democratic “Control”

Senate  
55-56  
Democrats

House  
10-20 More  
Democrats



## Scenario 3 – Democratic Landslide

Senate  
57-58  
Democrats

House  
20+ More  
Democrats



# Candidate Retirement Policy Agendas

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- Obama
  - **Mandatory Auto Enrollment in DC Plans**
  - **Mandatory Payroll Deduction IRAs**
  - **Governmental Matching Contribution**
  - **Defined Benefit Plan Investment Transparency**
  - **Enhanced Bankruptcy Protection for Benefits**
- McCain
  - **Absence of Pension/Savings Proposals**
  - **Mentions in Republican Party Platform**
- Repercussions of Differential Emphasis
- Place of Retirement Policy in Overall Agenda



# Expanding Coverage

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- Context
  - **Frustration Regarding Lack of Plan/IRA Coverage**
  - **Size of Tax Expenditure on Retirement Savings**
- Coverage Proposals
  - **Payroll Deduction IRA Mandate**
  - **Discretionary Auto IRA**
  - **SIMPLE IRA Promotion**
  - **Mandatory/Governmental Systems**
- Outlook & Employer Plan Repercussions



# Progressive Tax Incentives

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- Context
  - **General Concern About Income Inequality**
  - **Specific Concern About Who Aided by Retirement Tax Incentives**
- Policy Proposals
  - **Expanded Saver's Credit**
  - **Governmental Matching Contribution**
  - **Conversion of Pre-Tax Exclusion/Deduction to Credit**
- Outlook & Employer Plan Repercussions



# Fee Regulation & Transparency

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- Context
  - **New Administration Reaction to Final DOL Fee Regulations**
  - **Hill Reaction to Final DOL Fee Regulations**
  - **New GAO Reports Coming on 403(b), 457 and IRA Markets**
- Policy Proposals
  - **More Aggressive Requirements for Fee Disclosure to Plan Sponsors and Participants**
  - **Likely Development of IRA Fee Disclosure Proposals**
    - Focus on IRA Rollover Situation
- Outlook & Employer Plan Repercussions



# Regulation of Investments

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- Context
  - **Thrift Savings Plan Experience of Members of Congress**
  - **Skepticism Re Many Financial Vehicles/Investment Providers**
  - **Current Financial Crisis**
- Policy Proposals
  - **Index Fund Mandate**
  - **Constraints on Certain Investments**
    - Employer Stock
    - Commodities
    - Hedge Funds/Private Equity
  - **New Disclosure Requirements**
  - **QDIA Oversight**
- Outlook & Employer Plan Repercussions



# Enhancing Plan Equity

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- Context
  - **Concern That Plan System Favors High-Income Individuals, Sponsors and Providers**
- Policy Proposals
  - **Restrictions on Nonqualified Deferred Compensation**
  - **Review of Non-Discrimination Rules/Social Security Integration**
  - **Reduced Vesting Schedules**
  - **Regulation of Plan Eligibility**
  - **Bankruptcy Changes**
  - **Expanded ERISA Remedies**
- Outlook & Employer Plan Repercussions



# Promotion of Default Systems

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- Context
  - **Decline of DB Plans/Dominance of Individual Account Plans**
  - **Belief in Wisdom of Defaults Contained in PPA**
- Policy Proposals
  - **Auto IRA**
  - **Mandatory Auto Enrollment for DC Plans**
  - **Expanded Auto Rollover**
  - **Auto Diversification**
  - **Auto Distribution**
- Outlook & Employer Plan Repercussions



# Focus on Retirement Income

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- Context
  - **Prevalence of Lump-Sum Distributions**
  - **Challenge of Translating Savings Into Income**
  - **Longevity**
  - **Concern About Burden on Public Programs**
- Policy Proposals
  - **Tax Exclusion for Annuity Distributions**
  - **New Default Distribution in DC Plans**
  - **Promotion of Longevity Insurance**
  - **Fiduciary Clarifications Re Distribution Education**
- Outlook & Employer Plan Repercussions



# Takeaways: Playing Defense

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- Financial Crisis (and Democratic Control) Add to Scrutiny of DC Plans
- Strong Desire of Policymakers to Respond to Voter Retirement Anxiety
- Government Oversight and Mandates Likely to Increase
- Coverage, Tax Structure and Fee & Investment Regulation Will Be Top Retirement Issues
- New Retirement Tax Incentives Unlikely & Possible Threats to Existing Incentives
- Greater Than Usual Odds for “Big” Changes



# Wrap-Up

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- Questions and Answers

- Contact Information

**Jamey Delaplane**

**Davis & Harman LLP**

**(202) 662-2294**

**[jmdelaplane@davis-harman.com](mailto:jmdelaplane@davis-harman.com)**

