

United States House of Representatives

WASHINGTON, DC 20515

October 26, 2005

Protect the Retirement & Pension Security of Working Americans; Support Cash Balance Pension Plans

Dear Colleague:

Cash balance plans - a type of defined benefit pension plan - represent an important component of worker retirement security. In fact, more than nine million workers today rely on these benefits for a safe and secure retirement. These pension plans combine the best features of both defined benefit and defined contribution plans. Like a defined benefit plan, employers fund these plans and bear all market risk, they are insured by the Pension Benefit Guaranty Corporation (PBGC), and they provide subsidized benefits upon death, disability, or plant shutdown. Like defined contribution plans, they are portable from job to job, may be rolled over to an IRA, and workers may track their benefits just like a savings account.

Unfortunately, some have painted a misleading and inaccurate picture about these pension plans. Despite these false claims, cash balance plans actually provide more generous benefits for the majority of workers than do traditional plans. These conclusions emerge from a growing body of independent research by economists and academics at some of the nation's most respected institutions, including the Federal Reserve Board, the Urban Institute, the Brookings Institution, and the Wharton School. **These plans are especially advantageous for women, lower-paid workers, older employees who continue working after early and normal retirement age, younger workers, and employees who change jobs during their careers.**

Moreover, the facts overwhelmingly demonstrate that cash balance plans comprise the only part of the defined benefit system that is growing; they now provide the PBGC with approximately 25 percent of its premium income. Because the total number of defined benefit plans has declined significantly over the last 20 years, from 114,000 in 1985 to 29,000 last year, it is now more important than ever to encourage employers to stay in the defined benefit system and offer these benefits to their workers.

THREAT OF LEGAL LIABILITY UNDERMINING WORKER RETIREMENT SECURITY

However, the threat of liability is creating ongoing legal uncertainty and undermining the retirement security of American workers. A few conversions from traditional plans to cash balance plans have raised policy questions about whether such conversions are age discriminatory. Notably, the vast majority of conversions have been handled properly, within the rule of the law, and to the benefit of workers. In a typical cash balance plan, a participant's account is credited each year with pay and interest credits. Cash balance opponents have argued that benefits for younger workers are ultimately higher than benefits provided to older workers because younger workers accrue interest and earn benefits over a longer period of time. This is tantamount to arguing that the concept of compounding interest is age discriminatory, which would make the most basic savings account illegal.

Recent court decisions made clear that no age discrimination occurs with these plans if the pay and interest credits attributed to older employee accounts are equal to or greater than those of younger workers. And the majority of courts have ruled that cash balance and other hybrid plans are NOT age discriminatory, including the most recent court ruling on June 10, 2004, in the *Tootle v. ARINC Inc.* case. Moreover, under the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code (IRC), benefits earned under a traditional plan cannot be reduced when they are converted to a cash balance plan. Despite assertions to the contrary, vested benefits earned by workers are never reduced in a cash balance conversion.

Many employers adopted cash balance pension plans with the full support of the Treasury Department after it publicly announced these plans met all the requirements of current law in the early 1990s. It is unfortunate that one case, in total contradiction to numerous other court rulings, has tainted generous worker benefits that enhance the retirement security of millions of working men and women.

PENSION PROTECTION ACT PROTECTS BENEFITS & PROVIDES LEGAL CERTAINTY

The *Pension Protection Act* (H.R. 2830), which was approved by the Education & the Workforce Committee on June 30, helps resolve the legal uncertainty surrounding cash balance plans and ensure they remain a viable part of the defined benefit system. The measure establishes a simple age discrimination standard for all defined benefit plans that clarifies current law with respect to age discrimination requirements under ERISA and the IRC on a prospective basis. It does not establish different rules for cash balance plans or conversions, but merely sets up a simple age discrimination standard that all defined benefit plans must meet prospectively. **Notably, it prohibits employers from reducing or cutting any vested benefits workers have earned during a conversion to a cash balance plan.** The Ways & Means Committee is expected to consider this legislation in the coming weeks.

Our ultimate goal is to ensure cash balance plans remain a viable option for employers who want to remain in the defined benefit system and workers who prefer the portable and secure benefit this option provides. This is a balanced proposal that protects the benefits workers have earned and provides the legal certainty needed to encourage employers to continue offering these benefits. Please call the Education & the Workforce Committee at x5-4527 if you have any questions about this issue, and join us in supporting the *Pension Protection Act* when it comes up for a House floor vote.

Sincerely,

/s/

/s/

John Boehner (R-OH)
Chairman

Bill Thomas (R-CA)
Chairman

Education & the Workforce Committee

Ways & Means Committee