



## BENEFIT NEWS BRIEFS

### ***IRS Notice Proposes Change To Regulations To Prohibit Defined Benefit Plans From Allowing Retirees to Convert Their Annuity Into A Lump Sum***

In [Notice 2015-49](#), the IRS announced its intentions to amend the minimum required distribution regulations under Code Section 401(a)(9) to prohibit, in most cases, changes to the annuity payment period for ongoing (in pay status) annuity payments from a defined benefit plan, including changes accelerating (or providing an option to accelerate) ongoing annuity payments.

The Notice states that a number of sponsors of defined benefit plans have amended their plans to provide a limited period during which certain retirees who are currently receiving joint and survivor, single life or other life annuity payments from those plans may elect to convert that annuity into a lump sum that is payable immediately. These arrangements are sometimes referred to as “lump sum risk-transferring programs” because longevity risk and investment risk are transferred from the plan to the retirees. According to the Notice, the IRS concluded that a broad exception for increased benefits in Treasury Regulation Section 1.401(a)(9)-6, A-14(a)(4) that would permit lump sum payments (such as in the de-risking mentioned) to replace rights to ongoing annuity payments would undermine the intent of the regulation to prohibit such increases.

Generally, for a variety of reasons, multiemployer defined benefit pension plans do not use such de-risking measures. **As such, the proposal will have no effect on multiemployer defined benefit plans, unless such a plan was using this type of de-risking.** Plan Sponsors may wish to double-check with their plan professionals.

The prohibition will be effective as of July 9, 2015. Plans that have entered into de-risking programs prior to that date will be allowed to keep the program. However, no new de-risking programs can be created after that date.

We have received several inquiries as to the application of this Notice and its proposals to multiemployer defined benefit plans and issued this newsletter to explain that the change should not affect multiemployer defined benefit plans. For readers interested in more detailed reasons for the IRS proposal are directed to read the four-page Notice.

\* \* \*

**LEGAL DISCLAIMER:** Information contained in this publication is not legal advice, and should not be construed as legal advice. If you need legal advice upon which you can rely, you should seek a legal opinion from your attorney.