

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
Government Affairs

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5310

November 14, 2003

The Honorable J. Dennis Hastert
Speaker
United States House of Representatives
235 Cannon House Office Building
Washington, DC 20515

Dear Speaker Hastert:

We understand that language prohibiting the Treasury Department from completing its rulemaking on cash balance plans has been accepted by the conferees on H.R. 2989, the FY 2004 Transportation, Treasury, and General Government Appropriations Act. We would like to reiterate our opposition to this language. It is critically important to the viability of the defined benefit plan system that the Internal Revenue Service ("IRS") continues its rulemaking process in this area.

Cash balance plans are legitimate employee benefit programs that provide fixed and secure retirement benefits that are backed by the Pension Benefit Guaranty Corporation ("PBGC"), respond to the needs of workers, and often provide greater benefits than under a traditional pension plan. And yet, lawyers are now counseling plan sponsors to freeze and terminate such hybrid plans because of undue legal uncertainties. There are over 1200 hybrid plans that cover more than 7 million workers, but without support from Congress and guidance from Treasury, these numbers will drastically decrease as plan sponsors adhere to this legal advice. Indeed, it is now safer to freeze or terminate a defined benefit plan and not provide any future pension benefits than to transition from a traditional pension plan to a cash balance plan. Consequently, millions of current workers, and an untold number of future workers, could lose access to a guaranteed, employer-provided retirement benefit.

We understand that there are concerns about the statutory authority of Treasury to address conversion issues. However, there is nothing to prevent Congress from addressing this issue while the IRS continues its rulemaking on age discrimination issues. This area of the law is extremely complex, and has involved countless hours of study and analysis by experts from each federal agency. Prohibiting the IRS from continuing its work, as this amendment would do, would cause great harm to the employer-sponsored pension system, leaving them in a state of suspended uncertainty. Such an outcome would not be in the best interests of workers or employers who offer retirement plans.

We hope we can work with you to reverse the adverse effects of this language so that plan sponsors and their employees have the necessary guidance to administer their cash balance pension plans.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten", written in a cursive style.

R. Bruce Josten