



# Church Plan Clarification Act (CPCA) Impact

Conference Forum 2016



General Board

**Pension and Health Benefits**

*Caring For Those Who Serve*

# CPCA Provisions Enacted

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**Signed into law on December 18, 2015 as part of the “PATH” Act**

## **CPCA provisions include:**

- “Controlled group” rules specifically for churches and church-affiliated organizations
- Flexibility on transfers and mergers between different retirement plan types
- Relaxed “415 limits” for grandfathered 403(b) defined benefit plans
- Preemption of state laws that would restrict automatic enrollment features in church retirement plans
- Flexibility for church plans to invest in “collective trusts”

**Bonus: Two-year delay of Cadillac plan tax**

# Controlled Group Rules

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## Controlled group rules—who is the “employer”?

Requirement to treat separate entities as one employer for certain purposes :

- Retirement plan eligibility
- Nondiscrimination and coverage testing
  - Not applicable for all church plans
- Affordable Care Act (applicable large employer status)
- Section 415 limits – applied to all retirement plans of that employer
- Definition of “highly compensated employee” (HCE)
- Termination of employment (distributable event)

# Controlled Group Rules

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**CPCA adds controlled group rules specifically for church organizations**

- 2009 regulations apply to certain church-associated organizations, but not to churches
- For churches, old IRS guidance applied; often confusing and difficult to apply
- CPCA provisions fill the gap, offering guidance to all church organizations that are eligible to participate in a church plan\*

\* Churches, qualified church-controlled organizations (QCCOs) and non-qualified church-controlled organizations (non-QCCOs)

# Controlled Group Rules

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- CPCA controlled group rules make it less likely that separate church organizations must be treated as one employer
- For all entities eligible to participate in a church plan, entities must be treated as one employer if:
  - One provides at least 80% of the operating funds for the other; **and**
  - There is common management—the organization providing the operating funds is directly involved in the day-to-day operations of the other

# Plan Mergers/Transfers

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**What are plan-to-plan transfers and plan mergers, and when do they occur?**

- Were transfers and mergers permitted before CPCA?
- CPCA permits transfers / mergers between different plan types only if:
  - The 401(a) plan is a church plan
  - Both plans are maintained by the same church or convention or association of churches
  - Accrued benefit is not decreased; and
  - Benefit becomes fully vested after the transfer or merger
    - Will this be the sticking point?

# Plan Mergers/Transfers

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**What if plan sponsor has a non-church 401(a) plan  
and wants those accounts merged into UMPIP?**

## Are we sure it's not a church plan?

- Church plan litigation
  - Addresses who may establish and maintain a church plan
  - Plaintiffs argue that only churches may do so—  
not organizations associated with the church  
(e.g., hospitals or colleges)

# IRC Section 415 Limits (CRSP)

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- Contribution limits may apply to plans
  - Annual defined contribution plan contributions are limited
  - Benefits payable from a defined benefit plan are limited
- Generally, plans are subject to only one of the two limits
- Certain “grandfathered” 403(b) defined benefit plans subject to both limits
  - Present value of annual defined benefit accrual is subject to the contribution limit
- Under CPCA, such plans are subject only to the 415 limit for defined benefit plans
  - Applies prospectively and retroactively



# Automatic Enrollment

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Tax-deferred retirement plans allow participants to choose between receiving cash compensation or plan contributions (“elective deferrals”)

- Includes “401(k)” plans and “403(b)” plans
- Plans commonly require an affirmative election to make elective deferrals

# Automatic Enrollment

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- Recently, many plans have adopted “automatic enrollment”
  - Sometimes called a negative election
  - Default election applies unless participant elects otherwise
- Plans can also add an “automatic escalation” feature

# Automatic Enrollment

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- ERISA preempts any state laws that would prevent automatic enrollment
  - Added in 2006 by Pension Protection Act
- CPCA provides same preemption protection to church plans
- CPCA requires plans to:
  - Apprise the participant of rights and obligations under the arrangement
  - Provide participant with reasonable period of time after receipt of the notice to opt out of the arrangement
  - Explain how the contributions will be invested

# Automatic Enrollment

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- Absent an affirmative investment election, default investment must be selected with care, skill, prudence and diligence that a prudent person selecting an investment option would use.
- CPCA change is a big opportunity for church plans
- Automatic enrollment and auto escalation are becoming more popular

# Automatic Enrollment

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## Example:

- Plan sponsor adopts auto enrollment at a 3% contribution rate (pre-tax elective deferrals)
- Auto escalation feature increases this 1% each year until 10% is attained
- Contributions default to the LifeStage Investment Management Service
- Annual notice explains these features to participants, including the right to make other elections or opt out



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