

# Retirement Plan Update



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HEFFERNAN FINANCIAL SERVICES  
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## Bear Market Lows and Recoveries

So far, the financial markets and world economy are not starting off 2009 any better than 2008. In fact, no one knows if or when we have hit our current bear market low nor do we know when the market will go up after this painful downturn. But history does show us that investors are best served by ignoring the bad news and not trying to time the market. The chart below details bear market lows and the subsequent market recovery beginning on June 1, 1932 (the day the S&P 500 hit its lowest point since the 1929 stock market crash).

Bear Market Lows and Recoveries			
S&P 500 date of low	3 months after low	6 months after low	12 months after low
6/1/1932	96.61%	58.97%	137.60%
7/8/1932	56.13%	69.83%	189.59%
2/27/1933	33.00%	109.76%	105.43%
3/14/1935	28.25%	49.15%	88.37%
4/28/1942	18.73%	29.87%	64.26%
6/13/1949	18.17%	27.77%	52.74%
9/14/1953	10.53%	21.07%	45.46%
10/22/1957	6.91%	12.03%	36.30%
6/26/1962	8.27%	22.74%	37.42%
10/7/1966	13.38%	24.28%	37.34%
5/26/1970	18.41%	25.60%	48.96%
10/3/1974	15.08%	34.15%	44.43%
8/12/1982	38.14%	47.93%	66.11%
12/4/1987	20.44%	21.21%	25.92%
10/11/1990	7.70%	30.05%	33.55%
8/31/1998	22.02%	30.27%	39.81%
10/9/2002	19.98%	12.53%	36.15%
Median	18.73%	29.87%	45.46%

Dates for market lows are based on a decline of at least 15% in Standard & Poor's 500 Composite Index. A new decline is considered to have begun after the market recovered 100% of the value lost in the previous decline.

*\*Past performance is no guarantee of future results. Indices are unmanaged, do not incur management fees and expenses, and cannot be invested in directly. This chart is not indicative of the past or future performance of any specific investment.*

### Inside this issue:

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## DOL Withdraws 408(b)(2) Fee Disclosure Guidance

The Department of Labor's (DOL) Employee Benefits Security Administration (EBSA) is amending regulation under section 408(b) (2) of the Employee Retirement Income Security (ERISA), to make clear what constitutes a reasonable contract and to require more comprehensive written disclosure concerning plan contracts with service providers. The regulation focuses on disclosure of both direct and indirect compensation received by service providers and potential conflicts that may affect their objectivity. Starting this year, the proposed regulations were to be the following:

1. Plan sponsors would be given a detailed breakdown of operational expenses when they enter into a service agreement. This is to be done on an ongoing basis. The Department of Labor has just announced that they are withdrawing this proposed regulation.
2. The reporting requirements for expenses are included as part of the 2009 form 5500 Schedule C.
3. The participants will be given a service expense breakdown on their statements, incorporating with the information found on the Schedule C.

It has yet to be seen what the new administration will do with these proposed regulations. We will keep you informed of any new developments.

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## Temporary Relief on Written Plan Requirement for 403(b) Plans in 2009

In July of 2007, the IRS issued a new set of regulations with a large emphasis on 403(b) plan sponsors needing to comply with the new guidelines by January 1, 2009. One objective for the new regulations is to make the 403(b) plans similar to the 401(k) plans, while still taking advantage of the unique features available under the 403(b) plans.

The IRS has just given temporary relief for 403(b) plan sponsors in regards to compliance with the written plan requirement as published in Notice 2009-3. The original regulation stated that 403(b) plan sponsors must adopt a written plan by January 1, 2009. Under Notice 2009-3, plan sponsors now have until December 31, 2009 to adopt their plan. In order to qualify for this relief, plan sponsors must begin operating their plans in accordance with a reasonable interpretation of the new regulations as of January 1, 2009. Below is a list of conditions to ensure the sponsors they are in compliance:

- (1) On or before December 31, 2009, the sponsor of the plan has adopted a written 403(b) plan that is intended to satisfy the requirements of 403(b) (including the final regulations) effective as of January 1, 2009;
- (2) During 2009, the sponsor operates the plan in accordance with a reasonable interpretation of 403(b), taking into account the final regulations; and
- (3) Before the end of 2009, the sponsor makes its best efforts to retroactively correct any operational failure during the 2009 calendar year to conform to the terms of the written 403(b) plan, with such correction to be based on the general principles of correction set forth in the Service's Employee Plans Compliance Resolution System (EPCRS) at section 6 of Rev. Proc. 2008-50 (2008-35 I.R.B. 464).



## Temporary Relief on Written Plan Requirement for 403(b) Plans in 2009 (continued)

### Why the Relief?

The Internal Revenue Service understands that many 403(b) plan sponsors would not have a written plan in place by January 1, 2009. Also, 403(b) plan sponsors cannot apply for determination letters which means that sponsors cannot confirm with the IRS if their written plan is in compliance and fix it if it isn't up to par. 403(b) plan sponsors can request a private letter ruling but this does not allow for retroactive plan amendments to upgrade their plan for gaps.

### IRS Document Program Assistance

The Internal Revenue Service plans on implementing a document program for the 403(b) plan sponsors which will include a determination letter program, process for approval of documents, sample plan language and a remedial amendment period to allow for retroactive amendments.

### 403(b) Plan Compliance Checklist

Compliance plays a large role in managing a successful retirement plan program. Heffernan Financial Services has a detailed checklist to help you determine if your 403(b) plan is in compliance.

For more detailed information on the 403(b) plan temporary relief regulation and/or our 403(b) plan compliance checklist, contact Blake Thibault at (415) 808-1359 or John Prichard, Sr. at (415) 808-1317.