

## Executive Comp - Compensation Committee Independence

### Standards

<b>Issue</b>	Strengthening the independence standards for compensation committee members
<b>Legislation</b>	Section 952 of the Dodd-Frank Act, Public Law 111-203 (H.R. 4173, which passed the House 237-192 on 6/30/10 and passed the Senate 60-39 on 7/15/10), requires the stock exchanges to mandate independence standards for compensation committees similar to audit committees (no outside fees from the company, other than directors' fees, and must not be an "affiliated person" under securities laws). H.R. 3272 by Rep. Ellison (D-MN) would require increased independence for compensation committee members.
<b>Administration</b>	Proposed the enhanced independence standards; President Obama signed H.R. 4173 into law 7/21/10.
<b>HR Policy Assn.</b>	Supports the Enhanced Independence Standards.

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## Executive Comp - Compensation Consultant Independence

<b>Issue</b>	Encouraging Boards compensation consultants to be independent from firms that perform other work for a company to limit the potential for conflicts of interest.
<b>Legislation</b>	Section 952 of the Dodd-Frank Act, Public Law 111-203 (H.R. 4173, which passed the House 237-192 on 6/30/10 and passed the Senate 60-39 on 7/15/10) requires compensation committees to consider SEC standards for independence when selecting a compensation consultant, counsel or outside adviser. Compensation Committees will be required to report in the proxy whether they retained an independent consultant. H.R. 2861 by Rep. Peters (D-MI) would have mandated SEC standards for compensation consultant independence.
<b>Administration</b>	Proposed enhanced compensation consultant independence standards and President Obama signed H.R. 4173 into law 7/21/10. SEC disclosure rules, effective 3/1/10, require greater disclosure requirements for compensation consultants whose firms or affiliates perform work for both the compensation committee and the compensation consultant in excess of \$120,000 annually.
<b>HR Policy Assn.</b>	Supports consultant independence.

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## Executive Comp - Deferred Compensation

<b>Issue</b>	Concern that nonqualified deferred compensation plans permit abuse of tax law by allowing participants to defer taxation until retirement when they may be in a lower tax bracket.
<b>Legislation</b>	A proposal by Senator Max Baucus (D-MT) in the 110th Congress would place a \$1 million cap on the amount of income that could be deferred annually without being subject to the back taxes and impose a 20 percent excise tax penalty on all deferred compensation if the cap is exceeded. The proposal would also deny companies a compensation deduction for deferred compensation in excess of \$1 million for former CEOs and other members of the "top five" most highly compensated executives under Section 162(m).  Sen. Kerry has announced he will seek to introduce legislation to limit nonqualified deferred compensation to \$1 million as part of other limitations on deferred compensation.
<b>Administration</b>	
<b>HR Policy Assn.</b>	Opposes limits on deferred compensation and taxation as a means to encourage sound executive compensation practices.

**Executive Comp - Deferred Compensation**

<b>Issue</b>	Prohibiting deduction of nonqualified deferred compensation to companies who choose to terminate their pension benefits.
<b>Legislation</b>	Restoring Pension Promises to Workers Act by Sen. Harkin (D-IA) in the 110th Congress would amend section 409A of the tax code to subject all nonqualified deferred compensation to a 20 percent excise tax, interest and penalties if the employer does not maintain at least one qualified DB plan subject to minimum participation, vesting, and benefit requirements specified in the bill.
<b>Administration</b>	No position at the present time.
<b>HR Policy Assn.</b>	Opposes mandating retirement benefits for any workers.

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**Executive Comp - Deferred Compensation**

<b>Issue</b>	Prohibiting foreign corporations headquartered in low- or no-tax countries from paying nonqualified deferred compensation to U.S. employees.
<b>Legislation</b>	Section 801 of Public Law 110-343, the Emergency Economic Stabilization Act, would tax nonqualified deferred compensation provided to U.S. employees of corporations headquartered in countries with low or no taxes that do not have tax treaties with the U.S. or if the corporation's income is not tied primarily to conducting business in the U.S. and would apply to U.S. taxpayers paid by a foreign employer. It would treat stock appreciation rights, restricted stock units and other performance-based compensation provided to U.S. expatriates by many foreign companies as nonqualified deferred compensation under section 409A of the tax code subject to interest and a 20 percent excise tax penalty.
<b>Administration</b>	Issued Interim Final Regulations 1/8/09
<b>HR Policy Assn.</b>	Opposes the overbroad restrictions on nonqualified deferred compensation.

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**Executive Comp - Disclosure**

<b>Issue</b>	Disclosure of Pay Versus Financial Performance
<b>Legislation</b>	Section 953 of the Dodd-Frank Act, Public Law 111-203 (H.R. 4173, which passed the House 237-192 on 6/30/10 and passed the Senate 60-39 on 7/15/10), requires the SEC to promulgate rules providing a "clear description" of the relationship of compensation "actually paid" and financial performance.
<b>Administration</b>	President Obama signed H.R. 4173 into law 7/21/10. In the past the SEC have raised the issue for pay for performance in rule making on risk and incentives but decided against.
<b>HR Policy Assn.</b>	Supports a board-centric approach to disclosure of the link between pay and performance, including a realized pay approach where appropriate.

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**Executive Comp - Disclosure**

<b>Issue</b>	Ratio of Median Employee to CEO pay
<b>Legislation</b>	Section 953 of Dodd-Frank Act, Public Law 111-203 (H.R. 4173, which passed the House 237-192 on 6/30/10 and passed the Senate 60-39 on 7/15/10), proposed by Sen. Robert Menendez (D-NJ), requires proxy disclosure of median employee pay (as calculated under the SEC's executive compensation disclosure rules) excluding the CEO, to CEO pay.
<b>Administration</b>	President Obama signed H.R. 4173 into law 7/21/10. SEC will promulgate rules.

HR Policy Assn. Opposes pay ratio disclosure.

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### Executive Comp - Miscellaneous Pay and Governance Changes

**Issue** Prohibiting severance to executives because of poor performance.  
**Legislation** S. 2813 and S. 3049, Corporate Executive Accountability Act, both by Sen. Robert Menendez (D-NJ), and H.R. 2861 by Rep. Peters (D-MI), would require the SEC to promulgate rules prohibiting severance to executive officers terminated for poor performance.  
**Administration** Has raised the issue whether "golden parachute payments" should be restricted in pay principles released in June 2009 applicable to financial institutions.  
**HR Policy Assn.** Opposes restrictions on executive compensation, except for where extraordinary federal assistance is provided.

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### Executive Comp - Miscellaneous Pay and Governance Changes

**Issue** Requiring companies to adopt clawback policies.  
**Legislation** Section 954 of the Dodd-Frank Act, Public Law 111-203 (H.R. 4173, which passed the House 237-192 on 6/30/10 and passed the Senate 60-39 on 7/15/10) requires the SEC to draft rules requiring the securities exchanges to create listing standards mandating that companies adopt no-fault clawback policies applying to all material restatements for current and former executive officers. S. 2813 by Sen. Robert Menendez (D-NJ) would mandate recoupment of incentive pay determined to be wrongly received in the event of a successful shareholder derivative suit, broaden the Sarbanes-Oxley clawback mandate and give shareholders a private right of action to enforce clawbacks. S. 3049, "Corporate Executive Accountability Act" also by Sen. Menendez, would mandate all companies implement a clawback policy that recoups incentive compensation from all employees in the event of a material restatement, expands the Sarbanes-Oxley clawback requirement and allows for a private right of action.  
**Administration** Supports clawback policy, President Obama signed H.R. 4173 into law 7/21/10.  
**HR Policy Assn.** Supports clawbacks as company policy but opposes legislative mandates. Supports the SEC's inclusion of Board discretion in regulations implementing clawbacks

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### Executive Comp - Miscellaneous Pay and Governance Changes

**Issue** Proxy Access -- Requiring Corporations to Give Certain Shareholders the Ability to Nominate Directors by using corporations' proxy statements  
**Legislation** Section 971 of Dodd-Frank Act, Public Law 111-203, provided the SEC with the authority to issue proxy access regulations.  
**Administration** Supports for proxy access. SEC approved a final rule on proxy access 8/25/10 by a 3-2 vote, taking effect in 60 days after date of publication in Federal Register. The action follows proposed rules issued on 5/20/09, but a delay ensued over concerns the Commission did not have authority to provide proxy access.  
**HR Policy Assn.** Opposes proxy access.

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### Executive Comp - Miscellaneous Pay and Governance Changes

**Issue** Governance changes impacting executive compensation.

<b>Legislation</b>	H.R. S. 1074 by Sen. Schumer (D-NY) would require separating the CEO and Chairman roles, majority voting and annual election of directors and the establishment of a board risk committee. would mandate majority voting and shareholder access to the proxy, H.R. 2861, by Rep. Gary Peters (D-MI) would require expanded disclosure of incentive performance targets.
<b>Administration</b>	No position.
<b>HR Policy Assn.</b>	Opposes federalization of corporate governance.

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### **Executive Comp - Miscellaneous Pay and Governance Changes**

<b>Issue</b>	Mandated Stock Retention Requirements.
<b>Legislation</b>	S. 3049, Corporate Executive Accountability Act, by Sen. Robert Menendez (D-NJ), would prohibit executive officers and board members from selling a portion of vested stock or exercising stock options within five years vesting.
<b>Administration</b>	No position.
<b>HR Policy Assn.</b>	Opposes mandates on the design and form of executive and director compensation.

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### **Executive Comp - Restrictions on TARP Companies**

<b>Issue</b>	Requiring recipients of assistance under the Troubled Asset Relief Program (TARP) to agree to additional restrictions on executive compensation.
<b>Legislation</b>	Sen. Chris Dodd Amendment to Title VII of the American Recovery and Reinvestment Act (Stimulus bill), Public Law 111-5, expands the executive compensation restrictions applicable to current and future TARP companies to prohibit bonuses, incentive payments and retention awards, with minor exceptions, paid to the proxy officers and up to the next 20 highest paid employees, depending on the amount of TARP aid received, expand the clawback requirement and termination payment restrictions, and apply say on pay to all companies receiving assistance. H.R. 384, by House Financial Service Committee Chairman Barney Frank (D-MA), would have adopted many of the same restrictions and given Treasury the authority to observe all Board and Board committee meetings. The bill passed the House 260-166 on 1/21/09 but is not expected to receive Senate action. H.R. 1664, by Rep. Grayson (D-FL) would have give Treasury the authority to prohibit any compensation payment that is unreasonable or excessive and prohibit any bonus, retention payment, or other supplemental payment that is not directly based on performance-based measures, with all standards set by the Treasury Secretary. The bill passed the House 247-171 on 4/1/09. S. 360/H.R. 357 by Sen. McCaskill (D-MO) and Rep. Moore (D-KS), would cap compensation for any employee of an entity receiving TARP funds at \$400,000. The McCaskill bill was included in the Senate-passed version of the stimulus bill but removed in conference. S. 431 by Sen. Whitehouse (D-RI) would set up a review panel to recoup excessive compensation from a TARP firm if the firm would become insolvent absent government funding.
<b>Administration</b>	The Administration did not support the bonus and incentive restrictions but included many of the other restrictions in announcing on Feb. 4, 2009 that it would promulgate additional guidance for future TARP companies. Treasury would have restricted cash compensation to \$500,000 for companies receiving extraordinary assistance and required the rest of the compensation be paid in restricted stock that did not vest until the government was repaid. Much of that announcement is superceded, and Treasury promulgated interim final regulations on 6/11/09.

**HR Policy Assn.** Recognizes that with substantial government assistance in a bailout come substantial strings, but believes that such restrictions should not make it more difficult for companies to turn their businesses around or emphasize salary at the expense of pay for performance-based pay. The Center On Executive

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### Executive Comp - Restrictions on TARP Companies

**Issue** Imposing taxes on companies receiving funds under the TARP program that pay their employees bonuses or on their employees receiving the bonuses

**Legislation** S.224, "Taxpayer Fairness Act," by Sens Barbara Boxer (D-CA) and James Webb (D-VA) would impose a 50% excise tax on certain bonuses received in 2009 received at companies that had received substantial TARP funds. H.R. 1586, by Rep Rangel (D-NY), would impose a 90% tax on bonuses paid to employees by TARP companies receiving more than \$5 billion in aid from 2008 forward, with certain exceptions; H.R. 1801, by Rep. Sherman (D-CA), would impose a 70% tax on employees who receive more than \$1 million, with certain limited exceptions, at companies receiving more than \$500 million in TARP funds; Compensation Fairness Act, S. 651, by Sens Baucus (D-MT) & Grassley (R-IA), would impose a 35% excise tax on TARP companies and their employees receiving any retention bonuses or any other bonus exceeding \$50K if not paid in restricted stock or options with a 3-year cliff vesting requirement; imposes a \$1 million limit on deferred compensation.

**Administration** Has voiced opposition to bonuses paid to employees of TARP companies and others receiving federal assistance but has retreated from supporting legislation.

**HR Policy Assn.** Opposes unconstitutional legislation to retroactively tax bonuses; recognizes legitimate right of government to impose restrictions on companies receive extraordinary federal assistance.

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### Executive Comp - Shareholder Votes

**Issue** Requiring support of a supermajority (60%) of shareholders for a publicly traded company to pay any employee more than 100 times the average compensation for all employees

**Legislation** "Excessive Pay Shareholder Approval Act," S. 1006, by Sen. Richard Durbin (D-IL) would require a 60% vote for any company to pay any employee more than 100 times the average compensation of all employees at the company and expand proxy disclosure requirements.

**Administration** No position.

**HR Policy Assn.** Opposes binding shareholder votes on compensation

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### Executive Comp - Shareholder Votes

**Issue** Some believe that executive compensation should be subject to annual nonbinding shareholder votes (e.g., say on pay) and change in control arrangements should be subject to a separate nonbinding vote as part of the merger approval process.

<b>Legislation</b>	Section 951 of Public Law 111-203 (H.R. 4173, which passed the House 237-192 on 6/30/10 and passed the Senate 60-39 on 7/15/10) requires an annual nonbinding vote on the proxy disclosures of all publicly held companies and a separate shareholder frequency vote will be required in the first year a company holds a say on pay vote after enactment to determine whether the say on pay vote will be held every one, two or three years. A separate shareholder vote on change-in-control arrangements, not previously approved, is also required. Section 3 of The "Shareholder Bill of Rights Act," S. 1074, introduced by Sens. Charles Schumer (D-NY) and Maria Cantwell (D-WA), would require annual nonbinding disclosure of golden parachute agreements in proxy materials relating to merger or other business combination or sale and require a separate shareholder vote on the agreement. A number of other bills included similar "say on pay" requirements (excluding the frequency vote), including H.R. 2861 by Rep. Peters (D-MI), H.R. 2251 by Rep. Kilroy (D-OH), and H.R. 3272 by Rep. Ellison (D-MN).
<b>Administration</b>	Supports "say on pay" for all employers and mandated shareholder votes on agreement for golden parachutes. President Obama signed H.R.4173 into law 7/21/10.
<b>HR Policy Assn.</b>	Opposes shareholder votes on executive compensation.

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### Executive Comp - Shareholder Votes

<b>Issue</b>	Taxation of Nonqualified Deferred Compensation of Foreign Expatriates in U.S.
<b>Legislation</b>	Section 305 of the Heroes Assistance and Earnings Relief Act, by Rep. Rangel (D-NY) would require foreign employees working in the U.S. to take nonqualified deferred compensation earned while in the U.S. into income on the day prior to departing the country and thus pay income tax on it.
<b>Administration</b>	
<b>HR Policy Assn.</b>	Opposes the restrictions on nonqualified deferred compensation.

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### Executive Comp - Taxation

<b>Issue</b>	Taxation of bonuses
<b>Legislation</b>	Wall Street Bonus Tax Act, H.R. 4426, by Rep. Welch (D-VT) would impose a 50% tax on all bonuses over \$50,000 received by executives and executive officers of current or former TARP recipients in 2010.
<b>Administration</b>	President Obama has announced a tax on former TARP banks to pay for TARP funds that have not yet been recovered by the Treasury, but no legislation has yet been enacted.
<b>HR Policy Assn.</b>	Opposes a tax on bonuses.

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### Executive Comp - Taxation

<b>Issue</b>	Some believe companies should be required to count stock options granted as a compensation expense in the year granted use the fair value calculated as of the grant date instead of when the options are exercised. They also believe that this value ought to be included as compensation in determining the \$1 million cap under section 162(m) of the Internal Revenue Code.
<b>Legislation</b>	Ending Excessive Corporate Deductions for Stock Options Act, S. 1491, by Sen. Levin (D-MI), would change the taxation of stock options to make them consistent with financial reporting and include the expense under section 162(m) of the tax code.

**Administration** No position.  
**HR Policy Assn.** Opposes the change in tax treatment for stock options and extending the reach of section 162(m).

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### Executive Comp - Taxation

**Issue** Denying the corporate tax deduction for any executive earning more than a multiple of the lowest-paid full-time employee

**Legislation** "Executive Pay Capped Deduction Act of 2009," S. 1007, by Sen. Richard Durbin (D-IL) would prohibit a company from deducting any part of an employee's pay if the pay exceeded 100 times the average compensation of all employees of the employer. "Income Equity Act" by Rep. Barbara Lee (D-CA) in the 110th Congress would deny a tax deduction for all compensation to executives whose pay exceeds 25 times the lowest paid employee and require the company to file additional executive and rank-and-file pay data with the Department of the Treasury.

**Administration** No Position.  
**HR Policy Assn.** Opposes tying tax deductions for compensation expense to pay ratios.

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### Executive Comp - Taxation

**Issue** Limiting Tax Deduction for Executive/Employee Compensation of non-TARP companies

**Legislation** Sen. Blanche Lincoln (D-AR) amendment to America's Healthy Future Act (Section 6014) would reduce deductible compensation under Sec. 162(m) from \$1 million to \$500,000, eliminate the performance-based exception, and apply the limitations to deferred compensation for all executives, directors and employees of health insurers receiving 25% or more of gross premium from basic health insurance requirements under the bill; Compensation Fairness Act (from 110th Congress), Sen. Kerry (D-MA), would eliminate the performance-based exception to the \$1 million limit on deductible compensation for proxy officers and index the \$1 million for inflation.

**Administration** Treasury Secretary Timothy Geithner has voiced support for limiting section 162(m), but has also said a careful examination is necessary before acting. President Obama has announced he will seek to impose a tax on former TARP recipients to recoup TARP funds that have not been recovered by the Treasury.

**HR Policy Assn.** Opposes further restrictions under 162(m) and believes that tax code limitations on compensation have created substantial unintended consequences.

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### Health Care - Comprehensive Health Care Reform

**Issue** The nation's health care system has been in need of comprehensive health care reform to address the nearly 46 million people who are uninsured, gaps in the quality of health care delivered despite the U.S. spending more per capita and as a percentage of GDP than any other nation, and skyrocketing increases in the cost of health care that are continued to outpace inflation.

**Legislation** The Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Bill were enacted on March 23 and March 30 respectively to overhaul the nation's health care system.

**Administration**

**HR Policy Assn.** The Association supports broad health care reform that will address the uninsured, contain costs, and improve quality. It is working to ensure PPACA regulations minimize administrative and cost burdens for employers and employees, and to support the speedy implementation of delivery system reform and transparency measures in the law. The Association will continue to advocate for legislative changes that are need to minimize PPACA's cost impact on employers and expand payment and delivery system reforms.

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## Immigration and Global Sourcing - Global Sourcing

**Issue** Increase number of available visas for skilled workers  
**Legislation** The economic stimulus (111-05) restricts the issuance of H-1B visas to TARP recipients who have ordered recent layoffs. The H-1B and L-1 Visa Reform Act (S. 887), by Sen. Durbin (D-IL) would limit the use of H-1B and L-1 visas. The STRIVE Act, introduced in the 110th Congress by Reps Gutierrez (D-IL) and Flake (R-AZ), would increase the threshold for H-1B visas from 65,000 to 115,000 with market-based escalator mechanism and exempt certain foreign nationals with advanced degrees; the Global Competitiveness Act, introduced in the 110th Congress by Sen. Cornyn (R-TX) would make available approximately 150,000 previously unused H-1B visas and 218,000 permanent employment-based visas from prior fiscal years while increasing the annual H-1B cap from 65,000 to 115,000 for fiscal years 2009 through 2011; The Employ America Act (S. 2804), by Sens. Grassley (R-IA) and Sanders (D-VT), would deny H-1B, L-1 and other skilled worker visas to employers which have issued a WARN notice.

**Administration**  
**HR Policy Assn.** Supports increases in H-1B visas and opposes restrictions on non-immigrant visas rendering them unavailable in situations where needed.

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## Immigration and Global Sourcing - I-9 Employment Verification

### Forms

**Issue** Reform employment verification (I-9) process  
**Legislation** The New Employee Verification Act (H.R. 2028) by Rep. Johnson (R-TX) would implement state-of-the-art electronic verification system for new hires; the SAVE Act, introduced in the 110th Congress by Rep. Shuler (D-NC), Sen. Vitter (R-LA), & Sen. Pryor (D-AR), require employers to verify all new and existing employees through EEVS; FY 2010 DHS Appropriations bill (H.R. 2892) would require federal contractors to use E-Verify for all new hires, as well as existing employees working on federal contracts, passed by both houses.

**Administration**  
**HR Policy Assn.** Supports increased availability of workers and reforms of employment verification system as long as that system is efficient and reliable. Founding member of HR Initiative for a Legal Workforce which supports state-of-the-art technology to protect against fraudulent documentation. Oppose requirement that employers use Basic Pilot Program in the absence of reform. Supports H.R. 2028. Plaintiff in lawsuit seeking to block Bush executive order requiring federal contractors to use E-Verify.

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## Labor Law / Relations - Supervisors

**Issue** Narrow the definition of exempt supervisors under the National Labor Relations Act

**Legislation** The Re-empowerment of Skilled and Professional Employees and Construction Tradesworkers Act (RESPECT) Act, introduced in the 110th Congress by Rep. Andrews (D-NJ) and Sen. Dodd (D-CT).

**Administration**  
**HR Policy Assn.** Oppose narrowing the definition of supervisor.

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### Labor Law / Relations - Union Organizing

**Issue** Recognition of unions without secret ballot elections ("card checks"), binding arbitration of first contracts, increased penalties for employer, but not union, labor law violations

**Legislation** The Employee Free Choice Act (S. 560; H.R. 1409) by Sen. Kennedy (D-MA) and Rep. Miller (D-CA).

**Administration**  
**HR Policy Assn.** Strong opposition to card check mandate and compulsory arbitration and other changes that would eliminate the balance in labor laws.

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### Labor Law / Relations - Union Organizing

**Issue** Assist union organizing efforts through requirements imposed on federal contractors by executive orders.

**Legislation**  
**Administration** President Obama's Executive Order 13496 requires federal contractors to post notices in their workplaces advising employees of their rights under the National Labor Relations Act; DOL issued regulations implementing E.O. 13496 on 5/20/10.  
**HR Policy Assn.** HR Policy Association filed comments on the proposed DOL regulations objecting to the content of the required notice and seeking clarification of what employer actions could result in contract debarment.

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### Labor Law / Relations - Union Organizing

**Issue** Debar companies who have a loosely defined "pattern" of failing to comply with labor, employment and other kinds of laws

**Legislation** \

**Administration** White House Task Force on the Middle Class has recommended a "responsible federal contracting" policy that would grade federal contract bidders on their labor policies.

**HR Policy Assn.** Oppose tying the debarment of federal contractors to compliance with laws that are unrelated to the integrity of the contract

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### Retirement Security - 401(k) Fee Disclosure/Regulation

**Issue** Requiring employers to clearly disclose the fees associated with maintaining a 401(k) plan that are paid by employees, as well as subsidies the employer receives from recordkeepers

<b>Legislation</b>	401(k) Fair Disclosure for Retirement Security Act (H.R. 1984/S. 401), by Rep. George Miller (D-CA) and Sen. Tom Harkin (D-IA), would require 401(k) plan administrators to disclose "in clear and simple terms" all fees charged to plan participants, provide detailed information on investment strategies, risks and returns when employees sign up for 401(k) plans; disclosure to employers and employees of potential conflicts of interest by the administrator; and inclusion of at least one lower-cost, balanced index fund in the investment lineup.
<b>Administration</b>	.
<b>HR Policy Assn.</b>	No position at the present time.

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### Retirement Security - Defined Contribution Plan Reforms

<b>Issue</b>	Annuities/Lifetime Income
<b>Legislation</b>	S. 2832, Lifetime Income Disclosure Act, by Sens. Jeff Bingaman (D-NM), Johnny Isakson (R-GA), and Herbert Kohl (D-WI), would require employers to provide employees an annual statement showing projected monthly annuity payments based on current earnings.
<b>Administration</b>	The White House Middle Class Task Force has announced its support for efforts to encourage ways of providing lifetime income to employees with defined contribution plans. In response, on 2/2/10, Department of Labor and Treasury released a joint request for information with comments due 5/2/10 and will hold hearings 9/14-15/10 to assess new developments in the market regarding annuities and other lifetime income products, why demand for such products is low and legal and regulatory impediments.
<b>HR Policy Assn.</b>	Supports facilitation of annuities and other lifetime income products.

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### Retirement Security - Hybrid (Cash Balance) Plan Reforms

<b>Issue</b>	Clarifying that existing and future hybrid (cash balance and pension equity) plans are legal under ERISA, tax and age discrimination law. Eliminating overpayments of benefits when calculating lump sum benefits due to below-market statutory interest rates.
<b>Legislation</b>	The Pension Protection Act, Public Law 109-280, included prospective safe harbor relief from discrimination lawsuits for hybrid plans, limited flexibility in conversions from traditional DB plans to hybrid plans and clarified that a market rate is to be used in calculating lump sum payments.
<b>Administration</b>	The Treasury Department and the IRS are in the process of developing implementing regulations for the hybrid plan provisions in the PPA. Treasury has also restarted its determination letter program that declares conversions to hybrid plans as acceptable or not under prior law and current law.
<b>HR Policy Assn.</b>	Supports the general approach in PPA, but prefers retroactive relief for prior hybrid conversions. Signed 6/13/07 letter to Congress seeking clarification from Treasury regarding implementation of PPA hybrid provisions related to choice of greater benefits under traditional DB or new hybrid plan.

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### Workplace Regulation - Alternative Dispute Resolution

<b>Issue</b>	Preclude the use of binding arbitration to resolve employment disputes
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**Legislation** The Arbitration Fairness Act (S. 931; H.R. 1020), by Sen. Feingold (D-WI) and Rep. Johnson (D-GA), would render unenforceable predispute agreements providing for binding arbitration of employment, consumer or franchise disputes; Amendment to DOD appropriations bill (H.R. 3326, P.L. 111-118) by Sen. Franken (D-MN) bars DOD contractors from requiring predispute arbitration agreements of most employment litigation as a condition of employment.

**Administration**  
**HR Policy Assn.** Supports maintaining pre-dispute arbitration agreements

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### Workplace Regulation - Background Checks

**Issue** Impose restrictions on background checks by employers on employees or prospective employees

**Legislation** Equal Employment for All Act (H.R. 3149), by Rep. Steve Cohen (D-TN), would prohibit the use of consumer credit checks against prospective and current employees for the purposes of making adverse employment decisions

**Administration**  
**HR Policy Assn.** Oppose new restrictions on credit checks beyond those currently imposed by the Fair Credit Reporting Act

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### Workplace Regulation - Child Labor

**Issue** Increased penalties for child labor violations.

**Legislation** Child Labor Protection Act, introduced in the 110th Congress by Rep. Woolsey (D-CA) would increase child labor penalties to \$11,000 per violation, allow DOL to assess a penalty of up to \$50,000 when a violation results in the death or serious injury of a child and up to \$100,000 for repeat violations.

**Administration**  
**HR Policy Assn.** Supports the effective enforcement of child labor laws.

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### Workplace Regulation - Contingent Workers

**Issue** Restrict ability of employers to classify individuals as independent contractors and require benefits for contingent workers (independent contractors, temporary and part-time employees)

**Legislation** The Employee Misclassification Prevention Act (S. 3254/H.R. 5107), by Sen. Brown (D-OH) and Rep. Woolsey (D-CA), would make misclassification of independent contractors a Fair Labor Standards Act violation; The Taxpayer Responsibility, Accountability, and Consistency Act (H.R. 3408; S. 2882) by Rep. McDermott (D-WA) and Sen. Kerry (D-MA), would narrow definition of independent contractor and enhance penalties and enforcement against misclassification; the Balancing Act of 2009 (H.R. 3047) by Rep. Woolsey (D-CA), require coverage under employers' pension and health care programs of certain independent contractors and part-time and temporary employees.

**Administration**  
**HR Policy Assn.** Supports flexibility and clarity of current law in determining who is an independent contractor and retaining current requirements governing qualifications for employee benefit programs

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### Workplace Regulation - Discrimination - Age

<b>Issue</b>	Overturn the U.S. Supreme Court decision in <i>Gross v. FBL Financial Services</i> , which places the full burden of proof on an Age Discrimination in Employment Act (ADEA) plaintiff when the employee has established sufficient evidence of possible age-related discrimination.
<b>Legislation</b>	Protecting Older Workers Against Discrimination Act (S. 1756/H.R. 3721), which would overturn the Court's decision in <i>Gross v. FBL Financial Services</i> .
<b>Administration</b>	
<b>HR Policy Assn.</b>	HR Policy Association opposes expansion of the ADEA in a manner that would significantly increase litigation.

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### Workplace Regulation - Discrimination - Damages

<b>Issue</b>	Elimination of cap on compensatory and punitive damages in discrimination cases (\$50,000 to \$300,000, depending on employer size)
<b>Legislation</b>	The Equal Remedies Act, introduced in the 110th Congress by Sen. Kennedy (D-MA); Civil Rights Act, introduced in the 110th Congress by Senator Kennedy (D-MA) and Representative Lewis (D-GA).
<b>Administration</b>	
<b>HR Policy Assn.</b>	Opposed to elimination of caps on damages in discrimination cases

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### Workplace Regulation - Discrimination - Disability

<b>Issue</b>	Implementation of the ADA Amendments Act of 2008 (ADAAA; P.L. 101-336), which represented a compromise between the business community and disability groups in overturning certain federal court decisions.
<b>Legislation</b>	
<b>Administration</b>	On 9/23/09, the EEOC issued proposed regulations implementing the ADAAA expanding the scope of the ADA beyond what Congress intended, including a list of "per se" disabilities
<b>HR Policy Assn.</b>	HR Policy Association filed comments with the EEOC on 11/19/09 arguing that the proposed regulations "radically change the intent" and "erode the protections of workplace functionality" in the ADAAA.

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### Workplace Regulation - Discrimination - Sexual Orientation

<b>Issue</b>	Prohibit workplace discrimination on the basis of sexual orientation or gender identity
<b>Legislation</b>	The Employment Non-Discrimination Act (ENDA) (H.R. 2981/S. 1584), by Rep. Frank (D-MA), would ban workplace discrimination on the basis of sexual orientation or gender identity.
<b>Administration</b>	
<b>HR Policy Assn.</b>	No position

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### Workplace Regulation - Discrimination - Statute of Limitations

<b>Issue</b>	Under U.S. Supreme Court's decision in <i>Ledbetter v. Goodyear</i> , the period for filing pay discrimination charges under Title VII and related discrimination statutes currently limited to 180 or 300 days (depending upon the state) after the discriminatory act.
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<b>Legislation</b>	The Ledbetter Fair Pay Act of 2009 (P.L. 111-2), signed by President Obama on 1/29/09 permits an employee or potentially other individual who is “affected by” pay discrimination under Title VII, the ADEA, ADA and Rehabilitation Act, to file a discrimination charge at virtually any point after the alleged discrimination occurred, as long as the individual is receiving a pay or retirement benefits check that was potentially reduced by the alleged discrimination.
<b>Administration</b>	President Obama Signed P.L. 111-2 on 1/29/09
<b>HR Policy Assn.</b>	Opposes expansion of the time to file a charge because of the undue burden on the employer of defending a claim years later when evidence and witnesses are hard to identify.

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### Workplace Regulation - Discrimination—Religious

<b>Issue</b>	Expand Title VII’s requirements, which require employers to reasonably accommodate employees’ religious practices, to impose new restrictions on scheduling, dress codes, etc.
<b>Legislation</b>	The Workplace Religious Freedom Act, introduced in the 110th Congress by Rep. McCarthy (D-NY).
<b>Administration</b>	
<b>HR Policy Assn.</b>	Opposes expanding Title VII’s coverage

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### Workplace Regulation - Equal Pay and Comparable Worth

<b>Issue</b>	Unlimited damages and limit employer defenses for Equal Pay Act violations; mandate equal pay for comparable, but unequal, work
<b>Legislation</b>	The Paycheck Fairness Act, (H.R. 12; S. 182), by Rep. DeLauro (D-CT) and former Sen. Clinton (D-NY), would amend the Equal Pay Act to provide for unlimited compensatory and punitive damages, eliminate certain employer defenses and allow opt-out class actions, was passed by the House on 1/9/09 by 256 to 153.
<b>Administration</b>	
<b>HR Policy Assn.</b>	Opposes unlimited damages, limiting employer defenses, and mandating equal pay for dissimilar work

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### Workplace Regulation - Family and Medical Leave Act Expansion

<b>Issue</b>	Expand permissible uses for leave under the Family and Medical Leave Act
<b>Legislation</b>	Department of Defense Authorization Act (H.R. 2647) would expand the definition of covered active duty service member under FMLA to include certain veterans undergoing medical treatment, passed by the House on 6/25/09 by 389 to 22; Family Leave Expansion Act (H.R. 824) by Rep. Maloney (D-NY) would expand FMLA to include grandparents, adult children, same-sex spouses, domestic partners, parents-in-law, and siblings; The Paid Vacation Act of 2009, by Rep. Grayson (D-FL), would mandate one week of paid annual leave for employees; the Balancing Act of 2009 (H.R. 3047) by Rep. Woolsey (D-CA), would expand FMLA-eligible leave to include school and community activities attended by family members, routine medical care needs for same (including visits to nursing and group homes) or to address the effects of domestic violence.
<b>Administration</b>	
<b>HR Policy Assn.</b>	Opposes expansion of FMLA

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## Workplace Regulation - Family and Medical Leave Act Expansion

<b>Issue</b>	Mandate paid Family and Medical Leave Act leave
<b>Legislation</b>	Family Leave Insurance Act (H.R. 1723) by Rep. Stark (D-CA), would create a Family Leave Insurance Fund, providing up to 8 weeks of paid leave for FMLA reasons, funded by a wage tax on employers; the Balancing Act of 2009 (H.R. 3047) by Rep. Woolsey (D-CA), would provide paid FMLA leave through an insurance program funded by employer and employee premiums.
<b>Administration</b>	
<b>HR Policy Assn.</b>	Opposes mandated paid FMLA leave.

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## Workplace Regulation - Layoff Notification

<b>Issue</b>	Expand requirement that employers provide 60 days notice prior to certain layoffs and plant closings
<b>Legislation</b>	The Federal Oversight, Reform, and Enforcement of the WARN Act (FOREWARN) (S. 1374/H.R. 3042), by Sen. Brown (D-OH) and Rep. Miller (D-CA) would increase the amount of required notice from 60 to 90 days and substantially increase the number of instances and recipients of WARN notices; The Alert Laid-Off Employees in Reasonable Time (ALERT) Act (H.R. 2077), by Rep. Gutierrez (D-IL), would require sixty days notice any time an employer lays off fifty or more employees among all of its U.S. operations within a 30 day period; The Employ America Act (S. 2804), by Sens. Grassley (R-IA) and Sanders (D-VT), would deny H-1B and other skilled worker visas to employers which have issued a WARN notice.
<b>Administration</b>	
<b>HR Policy Assn.</b>	Oppose expansion of the WARN Act

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## Workplace Regulation - Occupational Safety & Health

<b>Issue</b>	Increase civil and criminal penalties for workplace accidents
<b>Legislation</b>	The Miner Safety and Health Act of 2010 (H.R. 5663), by Rep. Miller would amend the OSH Act to increase potential prison terms to up to 20 years for certain workplace accidents, require immediate abatement of alleged health and safety violations and expand litigation by whistleblowers
<b>Administration</b>	Supports H.R. 5663
<b>HR Policy Assn.</b>	Opposes OSH Act provisions of H.R. 5663

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## Workplace Regulation - Paid Leave

<b>Issue</b>	Require employers to provide paid sick leave
<b>Legislation</b>	Healthy Families Act (S. 1152/H.R. 2460), by Sen. Kennedy (D-MA) and Rep. DeLauro (D-CT), would mandate employers provide seven days' paid sick leave, broadly defined, to employees working at least 30 hours/week; Emergency Influenza Containment Act (H.R. 3991), by Rep. Miller (D-CA), would require employers to provide employees a maximum of five days of paid sick leave if the employer requires an employee to take leave because of contagious symptoms; Pandemic Protection for Workers, Families and Businesses Act (H.R. 4092/S. 2790), by Rep. DeLauro (D-CT) and Sen. Dodd (D-CT) would require employers to provide a minimum of seven days of paid sick leave for illnesses, which have the symptoms of a contagious illness.

**Administration**  
**HR Policy Assn.** Opposes mandated paid sick leave.

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## Workplace Regulation - Scheduling

**Issue** Flexible scheduling arrangements are worked out between employers and employees. Some would like to give employees a legal right to force employers to bargain over such issues.

**Legislation** Working Families Flexibility Act (H.R. 1274) by Rep. Maloney (D-NY), would give employee federal right to request changes in scheduling and/or worksite and require employer to provide detailed written response.

**Administration**  
**HR Policy Assn.** Rather than imposing new mandates, supports removing legal barriers restricting the ability of employers to agree to flexible scheduling arrangements with their employees.

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## Workplace Regulation - Whistleblower Protections

**Issue** Increase protections for employees who disclose corporate wrongdoing

**Legislation** The Whistleblower Protection Enhancement Act of 2009 (H.R. 1507), by Rep. Chris Van Hollen (D-MD), would provide uncapped compensatory damages for whistleblowers alleging mismanagement of federal contracts and other errors.

**Administration**  
**HR Policy Assn.** Opposes proposals that are not consistent with existing whistleblower protections, such as those that are overbroad or provide new, unjustified remedies

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