IBM Press room - 2004-09-29 IBM Settles Certain Claims in Pension Lawsuit

IBM Settles Certain Claims in Pension Lawsuit
Will Appeal Cash Balance Claims

ARMONK, N.Y. - 29 Sep 2004: IBM announced today that it has agreed in principle with plaintiffs to resolve certain claims in the class action lawsuit relating to its pension plan, Cooper et al v. The IBM Personal Pension Plan and the IBM Corporation. Under the agreement, the District Court will issue no rulings on remedies. The company will appeal the cash balance pension plan claims to the Seventh Circuit Court of Appeals and believes it is likely to be successful on appeal.

Today's agreement, still subject to final approval by the Court after notice to the class, provides that plaintiffs would be eligible to receive an incremental pension benefit worth approximately $300 million (which includes plaintiffs' attorneys fees to be determined by the Court) in exchange for the settlement of certain claims and a stipulated remedy in the event that IBM loses the remaining cash balance claims on appeal. Under the stipulated remedy, IBM's potential liability for the claims being appealed is capped at $1.4 billion. If IBM prevails on the claims being appealed, there will be no additional liability. Together with an ancillary claim that was settled earlier, IBM will take a one-time nonrecurring charge of approximately $320 million to 3Q earnings as a result of this agreement.

IBM continues to believe that its pension plan formulas are fair and legal. The company has reached this agreement in the interest of the business and IBM shareholders, and to allow for a review of its cash balance formula by the Court of Appeals.

"The position that cash balance plans are unlawful seriously jeopardizes the security of an already fragile U.S. pension system," said Randy MacDonald, IBM's senior vice president of human resources. "While IBM has the financial strength to deal with the ramifications of this case, many companies do not. If the ruling in this case is upheld, many companies will be forced to end their pensions, reduce the number of employees who receive pensions, or become noncompetitive which could result in job losses."

There are more than 1,200 U.S. cash balance and related plans in operation today that would be deemed illegal under the rulings in this court case. Since 2000, companies have terminated approximately 7,500 pension plans, according to the Pension Benefit Guaranty Corporation, more than 1,000 in 2004 alone.

"Anyone who thinks that a Court ruling against cash balance plans is good for American workers misses the fact that these plans ensure the survival of secure retirement income," said Mr. MacDonald.

Cash balance pension formulas are defined benefit plans that provide the employee with interest credit from the moment a retirement benefit is earned until it is taken. Although employees under IBM's plan earn interest credits at the same rate regardless of their age, the U.S. District Court for the Southern District of Illinois ruled that IBM's cash balance formula is unlawful because a younger employee will earn more years of interest by the time he becomes age 65 than an older
employee. The ruling effectively concluded that providing interest is unlawful age discrimination under the Employee Retirement Income Security Act (ERISA) of 1974, the federal law that sets standards for voluntarily established pension plans. This interpretation is not supported by judicial, regulatory or legislative authority. In fact, all other federal district courts that have reviewed claims asserting that cash balance plans are age discriminatory have found such plans to be lawful.

On September 15, 2004, IBM and the plaintiffs advised the Court that they had resolved an ancillary claim, a partial plan termination claim, which affects a limited number of former employees who worked for the company for less than five years.

An IBM Webcast and facts on today's agreement will be available today at http://www.ibm.com/investor/events/ir0604