

The most current information on how financial professionals can increase cash flow & control costs.

February 11, 2022

KEY FINANCE FIGURES

	Curr*	Lst Mo	Lst Yr
■ Leading Rates %			
Prime Rate	3.25	3.25	3.25
Fed Funds Rate	0.25	0.25	0.25
■ Money Market Rates %			
<i>London Interbank (LIBOR)</i>			
1 month	0.10	0.10	0.13
3 months	0.25	0.22	0.22
6 months	0.43	0.33	0.24
■ Stock & Bond Indexes			
DJIA	34,367	35,951	30,960
S&P 500	4,411	4,697	3,855
NASDAQ	13,855	15,653	13,636
5-Yr T-Bill	1.54	1.25	0.42
10-Yr T-Bill	1.75	1.50	1.05
■ NACM Credit Managers' Index			
Sales	71.8	70.3	70.2
New credit apps	67.6	65.4	64.4
Dollar collections	64.4	60.4	62.8

*As of 1/24/21

The Cumulative Effect of CFO & Controller Alert

With the pace of change accelerating and the competition tougher, what's the best chance to keep up performance and get two steps ahead of the competition? A reliable source of continuous information.

It's the **cumulative effect** that helps, not any one reading. Our unique function is to deliver solid, focused information in your area of responsibility in a fast-read format twice a month to help performance.

The payroll misstep that landed this firm in court

■ Promotion to manager doesn't guarantee OT exemption

What's in a name? The possibility of a costly employee classification claim, it seems.

That's what happened to one of your peers lately ... with a member of its own Finance and Accounting team!

When a payroll staffer was promoted to "payroll manager" her compensation went down and her suspicions went up that she shouldn't be exempt from overtime under the Fair Labor Standards Act (FLSA).

With new overtime rules looming and even less room for error, check out what happened in this case and

how your company can be sure to sidestep this kind of costly compliance trouble.

Earns tens of thousands less in new job

In this case, the company's payroll person assumed the role of payroll manager.

In her new role, she'd be exempt from overtime, earning \$77,500. Only trouble? As an hourly, nonexempt employee, she'd made nearly \$100,000.

After a couple years of working as

(Please see Misstep ... on Page 2)

Latest EEO-1 reports due May 17, 2022

■ Employers get a shorter window for Component 1 data this time

Here we go again! Soon after your team gets W-2s out the door, it'll have to start compiling more payroll data.

The EEOC has announced the 2021 EEO-1 Component 1 Report will be due May 17, 2022.

Tentatively, the data collection will begin Tuesday, April 12, 2022, the EEOC recently said.

That's a shorter window than you usually get, so there's no time to lose.

Remember, all private sector employers with 100 or more employees (and federal contractors

with 50 or more employees) must annually submit demographic workforce data – i.e., race/ethnicity, sex and job categories – to the feds.

Goodbye, Type 6 Report

One big change if you have fewer than 50 employees: Starting with 2021 data, you can no longer use the Type 6 Establishment List Report. It's been discontinued.

Instead you'll have to use the Type 8 Establishment List Report.

Info: eocdata.org/EEO1/homel/index

Misstep ...

(continued from Page 1)

the payroll manager, she told her boss she disagreed with her classification as an administrative exempt employee.

The dispute ended up in court.

Naturally, the company wanted the misclassification claim tossed out, but with so many points of contention, it had no luck.

What it comes down to: Whether her duties let her exercise discretion and independent judgment in her position as payroll manager.

Take a look at how both sides saw it:

- *Processing certified and non-certified payroll.* The company's take: She was solely responsible to ensure federal and state compliance. The employee's take: She simply entered data.
- *Implementing new accounting and HR software.* The company's take: She was the primary vendor contact. The employee's take: She

did research, bringing back the best timekeeping options to the ultimate decision-makers.

- *Handling payroll tax matters and employment forms.* The company's take: She had the authority to deal with any problems. The employee's take: She could contact IRS and report back on the info.

So now it will be up to a jury to determine whether the payroll manager should have still been

Take a look at how both sides saw it.

eligible for overtime pay, despite her promotion and new title. Or the company can settle out of court – neither of which will be cheap.

Beware the 'title trap'

Don't let anyone in your company be fooled: Just because someone possesses the title "manager" doesn't mean they necessarily perform duties that would exempt them from overtime in the feds' eyes.

They may simply "manage" a given process, without the discretion and judgment that bumps them into exempt territory under the FLSA.

With this spring's upcoming changes to the exempt threshold (*please see C&CA, 1/6/22*), you may be looking at job titles and descriptions more closely.

Don't take them at face value – be sure to do some digging into actual day-to-day responsibilities being performed.

A little extra legwork now could save you a big overtime bill down the road.

Cite: Primera v. Bethel Solutions Inc., No. 3:20-cv-00157-JMK, U.S. D.C., D. Alaska, 1/5/22.

Sharpen your JUDGMENT

This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.

■ Is ex-staffer liable for taking trade secrets to competitor?

CFO Bill Keeper was putting the finishing touches on a quarterly report when his phone started ringing.

"This is Bill ...," he answered.

It was company lawyer Roy Yerk. "Bill, I still can't get over how blatantly Hector Irvine ignored the non-compete and confidentiality clauses in his severance agreement," he said.

"It's worse than joining a competitor," said Bill. "Before Hector left, he forwarded software info and presentation slides that are company property to his personal email."

Trade secrets stolen?

"I think his lawyer is going to argue that we didn't make enough of an effort to keep that stuff secret," Roy replied.

"Is that the best excuse they have? Those files are available on a need-to-know basis only," Bill huffed.

"I can file a misappropriation of trade secrets complaint, but we have to prove that he did more than just possess proprietary information," Roy said.

"The info contained in those files was used to steal a potential client. It's a Defend Trade Secrets Act violation," Bill said.

Bill's company took the former employee to court and Hector tried to get the case dismissed. Was he successful?

- *Make your decision, then please turn to Page 6 for the court's ruling.*



EDITOR-IN-CHIEF: JENNIFER AZARA
jazara@CFODailyNews.com

EDITOR: BRIAN BINGAMAN
PRODUCTION EDITOR: JEN ERB
EDITORIAL DIRECTOR: CURT BROWN

CFO & Controller Alert (ISSN 1081-9592), Issue date February 11, 2022, Vol. 27 No. 620, is published semi-monthly except once in December (23 times a year).

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Inflation pains: Your small business customers are feeling the sting

■ *Will their plans to deal with it impact your biz?*

No one is immune from skyrocketing inflation. But the small businesses you deal with are getting especially pinched:

- 26% of small-business owners report a 20% increase in costs
- 16% report a 30% increase
- 13% have seen a 40% hike, while
- 16% report a staggering 50% jump in their costs.

So reports Business.org in its new report *The Effects of Inflation on Small Business*.

That's going to make it tougher for them to pay their own suppliers – aka you – on time and in full.

And while hopefully your A/R team is keeping its eye closely on past-dues,

you may feel the ripple effects in other ways, as well.

Their top solution? Buy less

Don't be surprised if you see a decrease in order volume from small business customers.

Reducing inventory is the No. 1 way they plan to offset current inflation woes – nearly half (46%) say they're making that move.

Which could have you coming up short of your own firm's revenue goals.

Now's the time to reach out to your smaller customers to see how you can work together.

Info: For full survey results, go to business.org/finance/accounting/effects-of-inflation-on-small-businesses

FOR MORE ...

For a strategy to help keep inventory at just the right levels, go to cfoandcontrolleralert.com/could-those-low-low-inventory-levels-come-back-to-bite-you-soon

Disability fraud: What cost this firm \$12M

■ *First employee sentenced to prison time, must repay \$460K*

What happens when an employee is out on disability who really doesn't need to be? A pretty costly situation for her employer.

How about 18 employees? Then it could cost millions.

That's just what recently happened to beer giant Anheuser-Busch. Eighteen employees – in cahoots with a chiropractor – bilked the system and their employer out of more than \$12 million.

Worse: The scams went on for years before they were detected.

The first employee involved was just sentenced, despite the fact that she started receiving payments in 2013. She will now spend 366 days

in prison and must repay more than \$460,000 in payments she'd received.

Too hurt for work, but not for play

How was the fraud exposed? Actions speak louder than words! Despite saying she was unable to work, she took vacations, attended concerts, went fishing and did yard work.

Often things like social media or even word of mouth expose these abuses. So having an anonymous whistleblower mechanism is a must.

Adapted from "Former Anheuser-Busch employee gets year in prison, must repay \$460k for disability fraud," by Robert Patrick, at stltoday.com

■ Can the economy retain its powers, Part 2

The recent announcement that inflation hit a 40-year high might not have surprised anyone who's been to the grocery store lately, but that didn't make it any less troubling.

In fact, it jumped to 7% at the end of last year.

So how much longer can we expect to be up against this?

That was the second piece of the puzzle addressed recently by a panel of economic experts assembled by Davidson College.

They shed light on the full picture when it comes to inflation, and offered a timetable for relief.

Factor 2: Inflation

While those numbers are startling for sure, forecasting expert Jaya Jha, Boone Assistant Professor of Economics, offers some context.

For one, until now, much of the inflation numbers we've seen have been due to sharp increases in a few key products: gas, hotel rooms, used cars and meat. It's starting to spread out now.

But we're also dealing with shadow inflation, which is much tougher to measure. Those are the things that accompany increasing prices, such as poorer customer service and fewer options on store shelves.

Which is why inflation hits so hard.

So when can we expect things to ease on this front?

Look to the end of 2022, says Professor Jha. That's when the inflation rate should land closer to 2.2%.

("Can the Economy Lose Its Powers?" presented by Davidson College, was held Tuesday, Jan. 4, 2022.)

Thinking of investing in new fintech tools? Factors you need to consider

■ Questions to ask before adding components to your tech stack

You know how vital it is to keep your finance, accounting and operations tech stack up to date, while making smart decisions about which tech and vendors to get behind.

If you're considering a tech tool upgrade, and you've narrowed down the contenders, it's important to ask fintech providers the right questions.

'Does this fintech tool ...?'

To make an informed choice between the finalists, here's how to discover who has the edge. Ask vendors if their tech tool:

- is being used by other companies in your specific industry
- needs a short time or lot of time to install
- is updated regularly. How will you be notified about updates?
- is backed by a support team. What are the service standards, including

maximum response time?

- has an outline you can review of the vendor's plan of action for how the product or solution will evolve over time
- has a service-level agreement
- has a security review process. What is the data security policy? Where is the data hosted?
- has an open application programming interface (API) to integrate with other systems you use. What type of API is it? What outside API integrations are currently offered?
- has a process for adding new features and API endpoints
- provides data conversion as a service, and
- can be customized for any special needs that you have.

Info: bit.ly/questions620

Expand employee benefits by going digital

■ Affordably adding value to your compensation package

With more digital-centric millennial and Gen Z workers in the workforce, it may be time to consider adding a la carte digital benefits that you don't already offer.

These benefits are purchased by employees at a group enrollment discount through an online marketplace set up by the employer.

Popular options include life, dental, and vision insurance, critical illness insurance and accident insurance. Other programs include identity theft protection, travel insurance and pet insurance.

Mostly paid for by payroll deductions, it allows employees to customize their benefits package.

Your company just covers the administrative fees, which can be offset by payroll tax savings.

Where to start

Step one is to survey your people to get a sense of what they're interested in, then research opportunities to leverage those benefits to attract and retain top talent.

An analysis of your current benefit plan costs and utilization is also in order.

It'll be key to remind employees to take advantage of all the new benefits you offer and their respective value.

Info: bit.ly/benefits620

MANAGING FOR RESULTS

■ How to handle conflicting feedback on your leadership

If feedback on the job you're doing seems wildly contradictory from one person to another, the problem might not be flawed data.

For example, if some employees say you're a micromanager, while others say they need more guidance, what can be done about it?

Mixed messages?

Start by making a list of five stakeholders you have a good rapport with and five with whom you have the opposite type of relationship. Write down what makes these relationships productive/unproductive.

Then ask yourself:

1. **Are certain people getting my best or worst?** For instance, are you harder on newer employees, whose skills may still be developing? If you've been unconsciously favoring one set of stakeholders at the expense of others, how can this become more balanced?
2. **Am I managing on auto pilot?** When directing someone you don't already have a solid personal connection with, consider what the person might need from you, how you can respectfully ensure you're on the same page, and how you can affirm or deepen trust with that person.
3. **Do I need to be more clear about my intentions?** If someone doesn't understand the outcome you're looking for, or why you're taking the action you are, your motives can be unintentionally misinterpreted.

(Adapted in part from "How to make sense of conflicting feedback on your leadership," at HBR.org)

Our subscribers come from a broad range of companies, both large and small. In this regular feature, three of them share success stories you can adapt to your unique situation.

1 Created budget schedules to keep tech up to date

Falling behind our competition because we held onto older, slower, less secure computers and smartphones was something we wanted to avoid.

Because of how many hours each day our staffers use these tools, justifying high-dollar purchases of new hardware was easy.

For example, people are practically attached to their smartphones. The hardware by itself represents just 10%

of the total cost of our phone budget.

Because most of the costs are from the phone plan, which will be high no matter what phone we're using, it makes sense to get new phones every two years.

But it would be too costly to update everybody's computers and phones at the same time. We needed a reasonable timetable.

What gets replaced when

The next budget season, Finance and IT

collaborated on a prioritized tech upgrade budget schedule, broken down by employee, quarter and year.

Scheduling upgrades in increments of quarters and years keeps tech spend consistent and ensures that nobody gets left behind with out-of-date software or hardware.

We've stuck to that schedule and we get an appropriate amount of mileage out of our equipment.

(Brittany Swiecicki, Office Manager, Rosenblum Goldenhersh, St. Louis)

**REAL PROBLEMS
REAL SOLUTIONS**

2 A better handle on WFH ergonomics exposures

When work-from-home started at the beginning of the pandemic, many employees assumed it was temporary.

That meant, if they had ergonomic problems with their wfh set-up, they didn't complain much.

Now our company is seeing more complaints, injuries and workers' comp claims.

How do you support ergonomics when you aren't in the same place as the employee?

Just as you would do in the office, the goal is for employees to have neutral postures. A lot of people are working on dining room tables and other furniture not meant for office use.

From screens to chairs

Here are some steps to take to alleviate these problems:

- If they're using a laptop, make sure they have a keyboard, mouse and monitor
- Make sure they have a good

desk chair

- Encourage use of alternate work surfaces such as card tables,

that will help them work at a better height

- Have them use stands if their laptop is their primary screen
- Suggest they use a standing-height counter, and
- Encourage them to build movement into their days.

(Based on a presentation by Jeremy Wilzbacher, Sr. Consultant, Aon, Lander, WY, at ASSP 2021)

3 We have fewer payday surprises now

It doesn't happen often. But sometimes we're asked to make a deduction from an employee's pay so that person can reimburse us for something.

Perhaps it's a lost item. We all know mistakes happen, and the employee might be eager to set things right. Even so, we're careful about how we proceed.

For example, we have to take the requirements of state and federal minimum wage laws into

consideration. If we'd need to divvy up the total deduction among multiple paychecks, we'd do that.

Checking state laws

Another step we take is to check state laws on deductions from employees' wages. We know state laws frequently change, and we're located in several states.

A state may require an employer to get written authorization from an employee before making a deduction from pay.

But even if that's not necessary

according to the law, we get the employee's approval in writing ahead of time anyway.

We like to use a short and to-the-point statement. We include the reason for the deduction and the amount. Plus, we make sure the employee signs and dates the information prior to payday.

That way, in addition to following the law, we're preventing unpleasant surprises for employees. And payday goes as smoothly as possible.

(Becky Cavallaro, Payroll, Future Foam Inc., Council Bluffs, IA)

Retirement plan approaches changing rapidly: Are you confident your company is keeping pace?

■ *New benchmarks show a rapidly changing picture on this critical front*

Your peers have put their feet on the gas pedal hard when it comes to retirement plan administration in the past year and a half.

And they're coming at it from a ton of different fronts.

But if you're going to equip folks with the right tools and resources to manage their investments, you can probably do one other thing:

Increase their investment options.

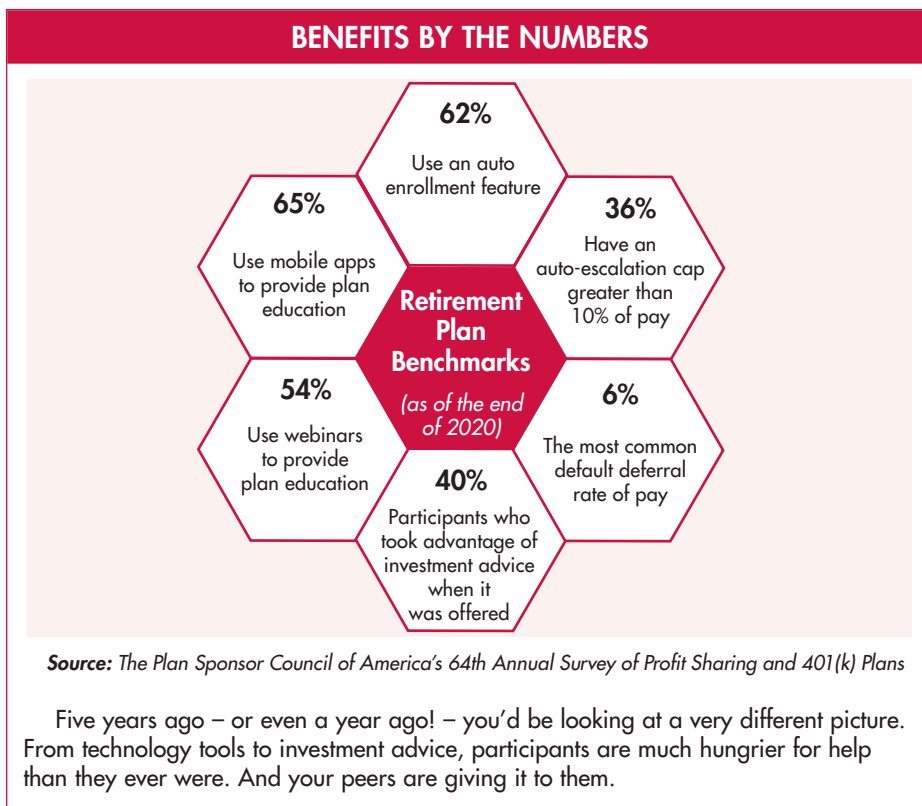
Average fund count: 21

For the first time in more than a decade, companies increased the number of investment options for their plan participants.

Compare your current offerings against this latest benchmark:

On average, plan lineups now include 21 funds.

If you're keeping pace with tech tools and investment advice, you can safely do the same.



Sharpen your judgment... THE DECISION

(please see case on Page 2)

No, the court ruled the company's lawsuit could proceed.

Hector argued that there wasn't enough evidence to prove he had improperly taken proprietary trade secrets from his former employer.

However, the judge disagreed and said that Bill's firm made a reasonable effort to keep software info and slides secret from its competitors by internal security measures and mandating confidentiality agreements like the one Hector signed.

The court also said there was reason to believe that the files Hector forwarded to himself were directly used to lure

a customer away from Bill's firm, and weren't developed independently or purchased legitimately from a third-party.

Analysis: Protect yourself from unlawful competition

To keep from being harmed by ex-employees, the language of non-compete and severance agreements has to be airtight and clear about how long the terms are in effect.

Non-compete agreements may include geographical boundaries and define what must remain confidential after someone leaves the organization, like facility information, prospective client lists, personnel info, etc.

Severance agreements should acknowledge that an exiting employee has returned all company property and that there's no proprietary company information on their home computer, cell phone or other electronic data storage device.

Cite: Symbria Inc. v. Callen, No. 20-cv-4084, US D.C. N.D. Illinois, 1/6/22. Dramatized for effect.

Experts give their solutions to difficult workplace problems

Finance professionals like you face new questions every day on how to deal with everything from accounting and tax regulations to management and employment law issues. In this section, experts answer those real-life questions.

Is ABC test only method for classifying workers?

Q: Classifying someone as a Form 1099 independent contractor (IC) at tax time, when they're actually a W-2 company employee in the eyes of IRS and Department of Labor (or the state labor department), can be a difficult and costly mistake to correct. How do we stay out of the cross-hairs?

A: Besides the common law "ABC" test that assumes workers are employees unless they meet three criteria of direction and control over the work being done, there's something called a "reasonable basis test," according to payroll expert Dayna Reum, CPP.

In the Premier Learning Solutions webinar "Top 10 Payroll Mistakes and How to Prevent Them," she broke the test down into three questions:

1. Has there been a prior court decision or IRS ruling around this particular situation or worker?
2. Are there previous IRS audit results that support your position?
3. Is there a longstanding recognized classification practice in your industry that applies?

If it's still too close to call whether a worker is an employee or independent contractor, Reum said you can ask IRS to make a definitive ruling by filing Form SS-8 (Determination of Worker Status for Purposes of Federal Employment Taxes

and Income Tax Withholding. The form is available at [irs.gov/pub/irs-pdf/irs8.pdf](https://www.irs.gov/pub/irs-pdf/irs8.pdf)

Is IRS cracking down on Form 1095 errors?

Q: We've heard that starting this year, IRS will be coming down harder on Affordable Care Act (ACA) reporting mistakes. Is this true?

A: Employers used to be able to avoid IRS penalties for ACA reporting errors as long as they could demonstrate a "good faith effort" to comply with reporting requirements.

But starting in 2022, warns Julie Athey, JD, Director of Compliance for The Miller Group in Kansas City, MO, Denver and Dallas, good faith effort relief no longer applies.

Penalties can be issued to ACA-mandated employers for incomplete or inaccurate Form 1094-C/1095-C info. Depending on how late the employer files and furnishes correct and complete forms, penalties for returns due in 2022 can be as high as \$280 per return – which can add up to big bucks.

IRS still says penalties may be avoided if the filer can show "reasonable cause" for any errors; however you need to be extra cautious this year in reviewing 1095 forms for errors prior to filing with IRS.

If you have a question you'd like our experts to answer, email it to Jennifer Azara at jazara@CFODailyNews.com

COMMUNICATION KEYS

■ Start a meeting with these fun ice breaker questions

To get people in the right frame of mind to talk and listen, sometimes all it takes is asking one general question. Here are three:

- What's your favorite food?
- What's one of the goals on your bucket list?
- What was your favorite class in high school and why?

Info: bit.ly/icebreaker620

■ Create your own presentation slide templates

Because of how often you have to present data and information, it's easiest to select a stock slide template in PowerPoint. But beware of using the same templates so much that your audience starts to recognize them.

Consider asking your company's marketing talent if there's a corporate-specific template available, or design your own custom template. It doesn't have to be fancy – just something different enough to grab your audience's attention.

Info: bit.ly/slide620

■ Leveraging social media for employee engagement

Because most of your employees are on social media, encourage them to like, comment and share interesting posts about your organization. Get the conversation started by embedding company social media channels into your intranet.

This can boost morale, educate employees about things they might not have been aware of, and combine relationship-building with your business's goals and philosophies.

Info: bit.ly/social620

Recent developments that can help your business stay ahead

IRS releases new W-4 just in the nick of time

Talk about no time to spare! IRS posted the 2022 Form W-4 to its website on Dec. 30, 2021.

Fortunately, there were no major changes this time around.

But Payroll will have to give folks a heads up fast: Employees claiming an exemption from federal income tax withholding have until Feb. 15, 2022, to give your company a Form W-4 indicating their status.

(They should write “exempt” in the space below Step 4(c).)

Info: irs.gov/pub/irs-pdf/fw4.pdf

Did you catch all these new sales tax rates?

A/R and A/P both won't want to have missed this – a whopping 20 states said Happy New Year with new sales tax rates effective Jan. 1:

- Arizona
- California
- Colorado
- Florida
- Georgia
- Illinois
- Kansas
- Louisiana
- Michigan
- Minnesota
- Nebraska
- North Dakota
- Ohio
- Oklahoma
- South Carolina
- South Dakota
- Texas
- Washington
- West Virginia, and
- Wisconsin.

Staffers need an eagle eye here: Changes include everything from county level rates to fuel-specific sales taxes to new boundaries drawn.

Q4 marks big increases in e-pays, Same Day ACH

The end of last year saw a major increase in electronic payments from your peers, reports Nacha.

Business-to-business epayments jumped 17.4% in the fourth quarter. But the real spike came in Same Day ACH payments.

Businesses made 169.3 million payments valued at \$268.4 billion.

Info: nacha.org/news/nacha-fourth-quarter-2021-release

Coming your way: Fast-tracked letter rulings

Have a tricky tax question you want answered right from the Taxman himself?

You may soon get those answers faster. IRS just announced an 18-month pilot program to fast-track certain private letter ruling requests for corporate taxpayers.

Revenue Procedure 2022-10 speeds the process for companies that meet certain qualifications.

The new timetable for securing a ruling? 12 weeks, unless you have reason to require an even shorter turnaround. To get the new faster response your company will need to:

- provide a statement explaining the reasons for requesting fast-track processing
- specify the length of time requested (if other than 12 weeks)
- identify anything that could affect the feasibility of fast-track processing, and

MEASURE UP

How Community Banks Describe Their State of Digital Transformation

Our bank has very clear objectives and a path forward to digital transformation

48%

We seem to have a plan but are struggling to execute that plan in a timely manner

30%

Digital transformation is a buzzword and I think we need help figuring out where to go

18%

We don't think digital transformation is necessary for our institution

4%

Source: WIPFLI's State of Community Banking 2022 research report

If a community bank has some – or all – of your business, you'll want to ask them their current digital transformation status. Seems there's a wide range of readiness that could impact your own company.

- address any other issues relevant to the transaction, including whether a ruling will be requested on each issue.

Info: IRS Revenue Procedure 2022-10, at irs.gov/pub/irs-drop/rp-22-10.pdf

Lighter side: It is easy being green

Midway through this harsh winter, you and your team may be longing for warm sunny days in the park.

Why wait when you can build a park in your office?

You don't need much space to compete with the world's smallest park.

Located in Portland OR, it's just two feet wide with a total surface area of 452 square inches.

Probably a little small for a Frisbee toss, though.