

MONTHLY BENEFIT

News and Developments

Employee Benefits

2017 Pension Funding Study

Milliman's *2017 Pension Funding Study* finds that corporate pension plans sponsored by 100 of the largest U.S. public companies ended 2016 with a funded ratio of 81.2%, down from 81.9% in 2015. The plans experienced a \$21.7 billion decrease in funded status, the result of a \$54 billion increase in the projected benefit obligation that was only partially offset by a \$32.3 billion in the market value of plan assets. Investment performance exceeded expectations, but the volatile interest rate environment saw the discount rate drop by 30 basis points.

Upcoming Key Dates

6/9/17 – Revised applicability date of the Labor Department's conflict-of-interest/fiduciary rule and portions of the related exemptions.

6/15/17 (fiscal years beginning after) – Application of GASB Statement 75 by governments, requiring reporting of retiree healthcare liabilities on balance sheets.

6/15/17 (reporting periods beginning after) – Effective date of GASB Statement 84, Omnibus 2017, unless earlier application elected.

7/31/17 (for plan years ending on/after 10/1/16 and on/before 10/1/17) – Fifth reporting and payment of the outcomes research ("PCORI") fee by self-insured group health plan sponsors and insurers.

10/1/17 – Effective date of the CFPB's final rule on consumer protections for prepaid accounts (e.g., payroll cards).

11/15/17 – Deadline for health insurance issuers and third-party administrators on behalf of self-insured group health plans to make 2016 (and final) transitional reinsurance payments under the split payment schedule.

Legislative Activity on the Benefits Front

Just hours before a pending April 28 midnight federal government shutdown, Congress sent to the President H.J.Res.99, a continuing resolution that provides funding for agencies through May 5. House and Senate leaders are optimistic that an agreement will be reached on appropriations legislation for the remainder of the 2017 fiscal year that ends September 30. They will be under pressure to meet the deadline, as the House is set to begin a 10-day recess after May 5. The short-term resolution, which the President signed, also temporarily extends funding for retired miners' health benefits; a permanent solution remains under negotiation, as is funding for miners' pension benefits.

During the week leading up to the vote on the resolution, House Republicans and the White House expressed optimism for renewed action on the "American Health Care Act" (AHCA, H.R.1628) to repeal and replace the Affordable Care Act (ACA). Leaders of the conservative and moderate factions had agreed to an amendment they hoped would satisfy both groups, but there remained insufficient support for Speaker Paul Ryan (R-WI) to seek another floor vote. The amendment generally would give states the ability to obtain waivers from the ACA's requirements for essential health benefits, limitations on the amount that premiums may vary by age ranges, and restrictions on considering health status to set premiums under certain conditions. The Congressional Budget Office also indicated it would require at least two weeks to provide a budget score for the proposal.

New Labor Secretary

The Senate on April 27 voted 60-38 to confirm Alexander Acosta as Labor Secretary and was sworn in the following day. Acosta is expected to review regulations issued by the former Administration, with Republicans hoping to reverse or water them down. These include the final fiduciary/conflicts-of-interest rule applicable to retirement investment advisers and a rule expanding the eligibility for overtime pay for workers.

In a related development, the House Education and the Workforce Committee approved the "Working Families Flexibility Act" (H.R.1180), which would amend the Fair Labor Standards Act to provide compensatory time off for private-sector employees in lieu of overtime pay. Compensatory time – at a rate of at least one-and-one-half hours for each hour for which overtime pay would otherwise have been required – could only be provided in accordance with a collective bargaining agreement or with the consent of the affected workers. Among other provisions, the bill calls for an expiration after five years.

Meanwhile, the President on April 13 signed H.J.Res.67 into law (P.L.115-24), nullifying the Labor Department's rule aimed at encouraging states' political subdivisions to set up automatic retirement savings arrangements for nongovernmental employees without running afoul of ERISA. The President will sign a separate House-passed resolution (H.J.Res.66) to void the rule for state-run plans if it passes the Senate.

Administration Unveils Outline for Tax Reform

On April 26, Treasury Secretary Steve Mnuchin and the President's Economic Adviser Gary Cohn released a one-page outline setting forth the President's plan for tax reform. The document itself is silent on retirement and other employee benefits, but Cohn stated

IRS Implementation of ACA's Employer Responsibility Provision

The Treasury Department's Inspector General for Tax Administration released [*Affordable Care Act: Assessment of Efforts to Implement the Employer Shared Responsibility Provision*](#), which found that as of Oct. 28, 2016, the IRS had processed 439,201 Forms 1094-C, *Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*, and nearly 110 million Forms 1095-C, *Employer-Provided Health Insurance Offer and Coverage*. The report also noted, however, that some of the processes did not function as intended, resulting in the IRS not having accurate and complete data for use in its compliance strategy to identify noncompliant employers potentially subject to the employer shared responsibility payment.

Women in the Labor Force

The Bureau of Labor Statistics' [*Women in the Labor Force: A Databook*](#), which presents historical and recent information – including on labor force participation, earnings, education levels, and hours of work – for women in comparison with men, based on the Census Bureau's monthly Current Population Survey of 60,000 households.

Federal vs. Private-Sector Pay and Benefits

The Congressional Budget Office's [*Comparing the Compensation of Federal and Private-Sector Employees, 2011 to 2015*](#) finds that federal salaries, on average, are slightly higher than in the private sector for employees with similar education levels, and even greater if benefits are included. The report notes that most of the higher federal benefit costs stem from differences in retirement benefits, as the government offers both defined benefit and defined contribution plans, as well as subsidized health insurance to qualified retirees.

ACA Resources

The Congressional Research Service's [*Patient Protection and Affordable Care Act \(ACA\): Resources for Frequently Asked Questions*](#) provides basic ACA information sources for consumers, employers, and others. It covers the individual mandate, private health insurance, exchanges, employer-sponsored coverage, and public healthcare programs, as well as taxes, efforts to repeal or amend ACA, cost estimates and spending, and insurance coverage statistics.

at the press briefing, "We're going to eliminate most of the tax breaks that are mainly benefits to high-income individuals. Homeownership, charitable giving, and retirement savings will be protected. But other tax benefits will be eliminated."

The White House expects to flesh out the details for overhauling the tax code in the coming months, even as the House and Senate leaders and tax-writing committees work on their own plans. The outline does not specify any revenue offsets; Mnuchin stated that the Administration's plan "would pay for itself" through economic growth.

Regulatory Roundup

From the White House:

- [*Executive Order 13789*](#), directing the Treasury Department to review all significant regulations issued on or after Jan. 1, 2016, and to make recommendations to reduce those that impose undue financial burdens or complexity.

From the Department of Treasury/IRS:

- [*Notice-17-28*](#), inviting suggestions for items to be included on the agency's 2017-2018 Priority Guidance Plan.
- [*Memorandum TE/GE-04-0417-0016*](#), providing guidance for IRS examiners determining if a qualified retirement plan loan exceeds the \$50,000 limit where a participant has multiple loans in a 12-month period.
- [*Memorandum TE/GE-04-0417-0014*](#) for examiners reviewing benefit formulas in cash balance defined benefit plans' definitely determinable benefits.
- [*Web update*](#) on the types of ACA employer payments and how they are calculated.

From the Department of Labor:

- [*Final rule*](#) extending the applicability date of the conflict-of-interest/fiduciary rule for 60 days, to June 9.
- [*Notice*](#) seeking approval from the Office of Management and Budget to undertake a long-term research study tracking households over several years on how retirement planning strategies evolve over time.

From the Pension Benefit Guaranty Corporation:

- An [*announcement*](#) that "My PPA" has been updated with the comprehensive premium filings that were successfully submitted via all e-filing methods.

From the Department of Health and Human Services:

- [*Final rule*](#) aimed at stabilizing the individual and small-group health insurance markets in 2018 by limiting open enrollment dates, scaling back special enrollment periods, requiring payment of past-due premiums in certain cases, and widening the permissible variation in the actuarial value of plans.
- [*Memorandum*](#) on the Social Security Number Removal Initiative and how it will affect Retiree Drug Subsidy Program plan sponsors and vendors.
- [*Announcement*](#) of the 2018 Medicare Advantage and Part D payment policies, which includes halting the transition to a new system for paying employer group waiver plans.

U.S. Supreme Court on EEOC Subpoenas

The U.S. Supreme Court ruled 7-1 that appellate courts should use a deferential standard to review trial courts' decisions on whether to enforce U.S. Equal Employment Opportunity Commission subpoenas ([*McLane Co. Inc. v. EEOC*](#), (No. 15-1248, 4/3/2017)). The Court vacated a Ninth Circuit ruling that the EEOC can force companies to hand over personally identifiable information about employees in the course of an investigation and ordered the lower court to revisit whether grocery distributor McLane Co. Inc. must turn over worker's personally identifiable information.

Milliman Monthly Benefit News and Developments contains general information that is not intended to constitute the rendering of legal, tax, investment, or accounting advice. Application to specific circumstances should rely on further professional guidance.