

# MONTHLY BENEFIT

## News and Developments

Employee Benefits

### Milliman Public Pension Funding Index, Q1 2018

The 2018 first quarter results of Milliman's *Public Pension Funding Index (PPFI)* show that the nation's 100 largest public defined benefit pension plans experienced a \$93 billion loss in funding. The decline was attributed largely to volatile equity markets that produced an aggregate -0.75% investment return for these plans. In comparison, the PPFI investment return for the fourth quarter in 2017 was 3.24%. From January 1, 2018 to March 31, 2018, the PPFI pensions saw their funded status drop from 73.1% to 71.4%.

### Upcoming Key Dates

**7/31/18** – Reporting and payment of PCORI fee by affected self-insured group health plans and insurance issuers for plan/policy years ending in 2017.

**12/15/18** (fiscal years beginning after) – Effective date of FASB Accounting Standards Update 2017-06, Plan Accounting (Topics 960, 962, and 965)—Employee Benefit Plan Master Trust Reporting, for benefit plans that hold interests in bank-managed master trusts, unless earlier adoption elected.

**12/15/18** (annual periods after) – Effective date of FASB Accounting Standards Update 2017-07, Compensation—Retirement Benefits (Topic 715), for defined benefit plans or retiree health plans offered by nonpublicly traded companies, unless earlier adoption elected.

**1/1/19** (plan years beginning on/after) – Required use of IRS mortality assumptions by single-employer, multiple-employer, and CSEC pension plans, unless use of substitute tables was approved.

### Legislative Activity on the Benefits Front

The President on May 24 signed the “Economic Growth, Regulatory Relief, and Consumer Protection Act” (S.2155, P.L.115-174), a banking reform bill that rolls back some of the provisions that were included in the Dodd-Frank law that was enacted following the financial crisis a decade ago. The measure, which cleared the Senate in March and the House on May 22, includes a provision for private employers that offer company stock for compensation to employees, directors, officers, consultants, and other qualified participants. Under the new law, the amount of stock that companies may sell to their employees each year without having to provide additional disclosures (e.g., a summary plan description, if the shares are issued under an ERISA-covered plan) increases from \$5 million to \$10 million (to be inflation-adjusted every five years in \$1 million increments). The Securities and Exchange Commission must amend its rule within 60 days.

Following House approval on May 8, the President also signed a resolution (S.J.Res.57, P.L.115-172) that overturns nonbinding federal agency guidance using the 1996 Congressional Review Act (CRA) process. The resolution of disapproval nullified a 2013 Consumer Financial Protection Bureau guidance bulletin on discriminatory loan rates offered to car buyers. By so doing, Congress in the future may be able to rescind any nonregulatory agency “guidance” (e.g., memorandums, notices, and other documents issued without a notice-and-comment period) going back many years by using the CRA.

Members of Congress have turned their attention to appropriations measures for the FY2019 that begins October 1. Although these bills are not likely to affect employment-based benefits and compensation programs directly, they could entail funding reductions that may have some implications, such as DoL, PBGC, and IRS staffing or policy priorities.

### U.S. Supreme Court on Employment Agreements and Arbitration

The U.S. Supreme Court ruled 5-4 that employers may force workers to use individual arbitration instead of class-action lawsuits to press legal claims (*Epic Systems Corporation v. Lewis* (Nos. 16-285, 16-300, 16-307, 5/21/2018)) about employment agreements (in this case, covering overtime pay). The Court concluded that the 1935 National Labor Relations Act, which gives workers the right to engage in “concerted activities” for “mutual aid or protection,” does not override the 1925 Federal Arbitration Act, which says arbitration agreements “shall be valid, irrevocable, and enforceable.”

### Regulatory Roundup

#### From the Department of Treasury/IRS:

- A [proposed rule](#) to amend the current regulations for determining whether information returns (e.g., forms in the 1099 series, Form W-2, “Wage and Tax Statement”) must be filed using (electronic) magnetic media.
- [Notice 2018-42](#), providing standard mileage rates to compute the deductible costs of operating an automobile for business or other purposes.

## ESG Investments

The Government Accountability Office's [Retirement Plan Investing: Clearer Information on Consideration of Environmental Social and Governance Factors Would Be Helpful](#) recommends that the DoL clarify whether the liability protection offered to qualifying default investment options under a retirement plan allows for the consideration of environmental, social, and governance (ESG) factors.

## GASB Guide

The Governmental Accounting Standards Board released [Implementation Guide No. 2018-1](#), addressing new questions about application of the Board's standards on pensions, other postemployment benefits, the statistical section, regulatory reporting, and tax abatement disclosures. It also includes amendments to previously issued implementation guidance on relevant topics.

## Economic Well-Being

The Federal Reserve Board published the [Economic Well-Being of U.S. Households in 2017](#), which shows that less than two-fifths of nonretired adults think their retirement savings is on track, whereas over two-fifths think it is not on track and about one-fifth are not sure. One-quarter of the nonretired indicate they have no retirement savings or pension. Among those with retirement savings, a defined contribution plan such as a 401(k) or 403(b) plan is most common, reported by more than half of nonretirees. Traditional defined benefit pension plans are held by 26% of nonretirees.

## Projected Health Coverage

The Congressional Budget Office's [Federal Subsidies for Health Insurance Coverage for People under Age 65: 2018 to 2028](#) projects that the monthly average of 158 million people with employment-based coverage in 2018 will decline to 154 million in 2028. The CBO attributes about half of the reduction to the elimination of the individual mandate penalty, which will lead to 2 million fewer people enrolling in employers' plans in most years after 2018.

## Multiemployer Pensions

The Congressional Research Service's [Data on Multiemployer Defined Benefit Pension Plans](#) examines 2015 Form 5500 annual disclosure information and provides data on multiemployer plans categorized by: zone status; insolvencies by year; and the 25 largest plans.

- [Revenue Procedure 2018-34](#), announcing the Affordable Care Act (ACA) indexing adjustments for affordability and premium tax credit determinations for 2019.
- [Revenue Procedure 2018-30](#), announcing the 2019 health savings accounts (HSA) contribution limits.
- "Issue Snapshots" on: [Treatment of 415\(c\) Dollar Limitations in a Short Limitation Year](#); [Treatment of 401\(a\)\(17\) Limitation in Defined Contribution Plan in a Short Plan Year](#); [Borrowing Limits for Participants with Multiple Plan Loans](#); [Qualification Requirements for Non-Electing Church Plans under IRC Section 401\(a\)](#); [Vesting Schedules for Matching Contributions](#); [Plan Forfeitures Used for Qualified Nonelective and Qualified Matching Contributions](#); [Spousal Consent Period to Use an Accrued Benefit As Security for Loans](#); and [How to Change Interest Crediting Rates in a Cash Balance Plan](#).
- A [Third Quarter Update](#) to the agency's 2017-2018 Priority Guidance Plan.
- Summary reports from the Employee Plans Compliance Unit on the [Non-Cash Contributions Project](#) (data derived from Form 5500 Schedule H or I) and the [Party-In-Interest Transaction Project](#) (Form 5500 and related Schedule G and/or Form 5330).
- [Web posting](#) on steps applicable large employers can take regarding the acknowledgement Letters 227 sent to close an ACA employer shared responsibility payment inquiry.
- [Web posting](#) that announces the agency is accepting applications for pre-approved defined contribution retirement plan opinion letters for the third six-year remedial amendment cycle, as well as a [web posting](#) providing an "umbrella" closing agreement program to allow financial institutions or other service providers of pre-approved plans to correct the missed deadline for restatements on a larger scale by addressing employers affected by the failure as a group.

### From the Department of Labor:

- [Field Assistance Bulletin 2018-02](#), announcing a temporary nonenforcement policy on the prohibited transactions rules applicable to investment advice fiduciaries.
- [Annual Report to Congress on Self-Insured Group Health Plans for 2018](#), along with [Appendix A, Group Health Plans Report: Abstract of 2015 Form 5500 Annual Reports Reflecting Statistical Year Filings](#), which provides statistics describing group health plans that file a Form 5500; and [Appendix B, Self-Insured Health Benefit Plans 2018: Based on Filings through Statistical Year 2015](#), which explores statistical issues associated with Form 5500 health plan data and analyzes available data on the financial status of employers that sponsor group health plans filing the Form 5500.
- 2018 ERISA Advisory Council Issue Statements: [Lifetime Income Solutions as a QDIA -- Focus on Decumulation and Rollovers](#); and [Evaluating Regs and Guidance on ERISA Bonding Requirements and Exploring Reform Considerations](#).

### From the Pension Benefit Guaranty Corporation:

- [Notice](#) seeking Office of Management and Budget (OMB) approval of a survey, with modifications, of nonparticipating single premium annuity rates, as well as a [notice](#) requesting that OMB extend approval of a notice, with modifications, to enable the agency to pay benefits to participants and beneficiaries.
- [FY 2017 Projections Report](#), showing that the Multiemployer Insurance Program faces insolvency by the end of fiscal year 2025.
- [Strategic Plan for 2018-2022](#), identifying five priorities for the insurance program.
- Executive Director W. Thomas Reeder's [testimony](#) before the congressional Joint Select Committee on Solvency of Multiemployer Plans.

### From the Securities and Exchange Commission:

- Investor Bulletin on [Health Savings Accounts](#) to help employees make the most out of their HSAs.

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