

# MONTHLY BENEFIT

News and Developments  
Employee Benefits

## Milliman Releases 2018 Pension Funding Study

Milliman's *2018 Corporate Pension Funding Study* finds that overall contributions in 2017 to the 100 largest U.S. corporate defined benefit pension plans studied reached \$62 billion, matching the record-level amount contributed in 2012. Seventeen companies contributed at least \$1 billion to their plans, with seven of them remitting more than \$2 billion. The funded ratio for the Milliman 100 plans rose to 86% in 2017 from 81.1% in 2016, due largely to strong investment returns, a modest decline in life expectancy assumptions, and the higher level of plan contributions. Funded ratios for plans ranged from a low of 62.4% to a high of 155%.

## Upcoming Key Dates

**6/15/18** – Expiration of IRS temporary rule on participant-voting process when a sponsor of a multiemployer pension plan in “critical and declining status” proposes to reduce benefits.

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

## Legislative Activity on the Benefits Front

Having completed work on the fiscal year 2018 spending bill for federal agencies, members of Congress turned their attention to appropriations measures for the FY2019 that begins October 1. The House plans to consider the 12 appropriations bills in May, while the Senate is expected to move slower. The President, however, wants to rescind some FY2018 funding approved under the recent law (P.L.115-141), retroactively cutting as much as \$60 billion from various agency budgets. Congressional leaders appear unlikely to agree to those cuts, viewing such action as renegeing on the bipartisan law that took weeks of serious negotiations. The Administration could make a formal request, which would trigger spending freezes of up to 45 days in the affected agencies. Congress also could consider reduced spending for FY2019 to appease the White House.

Beyond the FY2019 appropriations bills, Congress has only a handful of items on its priority list for the remainder of the year before November elections. None of those items has direct, major implications for compensation or employee benefit programs.

### Bills on the Move

The House approved several bills to make organizational and other reforms at the IRS, including the “21st Century IRS Act” (H.R.5445), which generally aims to improve cybersecurity and taxpayer identity protection and to modernize the agency’s information technology. The bill includes a provision that would require the IRS to develop an internet platform to allow persons to prepare, file, and distribute the Form 1099 series (information returns), such as 1099-R (applicable to retirement plan distributions) by Jan. 1, 2023. Another bill (H.R.5443) would require electronic filing of Form 990 series (annual returns) by all tax-exempt organizations and have the IRS make them publicly available.

In the Senate, a resolution (S.J.Res.57) to overturn – for the first time – nonbinding federal agency guidance using the 1996 Congressional Review Act (CRA) process cleared on a 51-47 near party-line vote. The resolution of disapproval nullified a 2013 Consumer Financial Protection Bureau guidance bulletin on discriminatory loan rates offered to car buyers. By so doing, the Senate Republicans signaled their willingness to attempt to rescind any nonregulatory agency “guidance” (e.g., memorandums, notices, and other documents issued without a notice-and-comment period) using the CRA to potentially repeal policies or informal regulatory guidance going back many years. The Government Accountability Office would have to weigh in on whether a guidance document qualified as a “rule,” and if so determined, the clock under the CRA’s “recent rules” would begin for Congress to reverse it with a simple majority vote. Thus, some in Congress may have another avenue to overturn guidance documents on employee benefits that have been issued by the Labor, Treasury (IRS), or Health and Human Services Departments.

## Regulatory Roundup

### Jointly from Treasury, Labor, and Health and Human Services:

- Guidance on compliance with the Mental Health Parity and Addiction Equity Act: [proposed frequently asked questions \(FAQs\)](#) concerning nonquantitative treatment limitations (NQL) and plan disclosures, an updated [self-compliance tool](#), a [revised](#)

## Federal Budget Outlook

The Congressional Budget Office's [The Budget and Economic Outlook: 2018-2028](#) predicts wider budget deficits if current laws governing taxes and spending remain unchanged, totaling \$804 billion this year and exceeding \$1 trillion a year starting in 2020. Debt held by the public will hit \$28.671 trillion at the end of fiscal 2028, or 96.2% of gross domestic product. The CBO attributes the increase primarily to the tax and spending bills enacted since December 2017.

## CRS Reports

Newly available reports from the Congressional Research Service include:

- [Multiemployer Defined Benefit \(DB\) Pension Plans: A Primer and Analysis of Policy Options](#), which summarizes the reasons the plans are of current concern to Congress and examines provisions included and not included in the 2014 Multiemployer Pension Reform Act to shore up plan funding or otherwise improve plan viability.

- [Pension Benefit Guaranty Corporation: A Primer](#), providing background information on the agency.

- [When the City Goes Broke: Pensions, Retirees, and Municipal Bankruptcies](#), explaining how, under current bankruptcy law, Chapter 9 debtors have significant freedom to modify their outstanding pension obligations through the bankruptcy process and exploring proposals to alter the legal principles governing the adjustment of municipal pensions in bankruptcy.

- [Federal Requirements on Private Health Insurance Plans](#), providing background information on, and state and federal regulation applicable to, health plans (small group, large group, and self-insured) available in the health insurance market.

- [Paid Family Leave in the United States](#), which summarizes state-level family leave insurance programs, policies in other advanced-economy countries, and recent federal legislative action to increase access to paid family leave.

## Multiemployer Pensions

The Joint Committee on Taxation released [Present Law Relating to Multiemployer Defined Benefit Plans](#) for the first public hearing of the Joint Select Committee on the Solvency of Multiemployer Plans, which must produce a report containing findings, and recommendations by Nov. 30, 2018.

[form](#) for requesting NQTL information, a DoL [fact sheet](#) on 2017 enforcement, a DoL [report to Congress](#), and a [DHHS action plan](#).

- A [final rule](#) clarifying the agencies' November 2015 final rule under the Affordable Care Act (ACA), responding to a specific group's concerns challenging insurers' calculation of allowed amounts for out-of-network emergency services.

## From the Department of Treasury/IRS:

- [Memorandum of Agreement](#) between Treasury and the Office of Management and Budget that creates a framework for the review of tax regulations.
- [Notice 2018-43](#), inviting recommendations for items to include on the 2018-2019 Priority Guidance Plan.
- [Notice 2018-24](#), seeking comments on the scope of the determination letter program for individually designed plans during the 2019 calendar year, beyond providing letters for initial qualification and qualification upon plan termination.
- [Notice 2018-27](#) and [Questions and Answers about the Small Business Health Care Tax Credit](#), which provide guidance about calculating the credit outside of the Small Business Health Options Program (SHOP) marketplace under certain circumstances.
- [Revenue Procedure 2018-27](#), reinstating the \$6,900 maximum contribution for health savings accounts for family coverage under high-deductible health plans in 2018.
- [Eight FAQs](#) on the employer credit for paid family and medical leave.

## From the Department of Labor:

- [Field Assistance Bulletin \(FAB\) 2018-01](#), clarifying prior guidance to plan fiduciaries on proxy voting, shareholder engagement, and economically targeted investments.
- [FAB 2018-03](#) to address the Wage and Hour Division's enforcement of tip credit rules.

## From the Pension Benefit Guaranty Corporation:

- A [Policy Statement](#) providing guidance on alternative terms and conditions that multiemployer plans can use to satisfy withdrawal liability claims.
- Forms and instructions for standard and distress terminations for 2018, available at [Forms for Practitioners and Employers Webpage](#).
- [Updates](#) to My PAA, the agency's premium filing system, for 2018.

## From the Department of Health and Human Services:

- [Final rule](#), [fact sheet](#), and [news release](#) on the benefit and payment parameters for 2019, noting several key changes affecting insurance offered under the ACA such as the "essential health benefits" and benchmark plans, SHOP requirements and operations, transitional policies, and individual mandate hardship exemptions.
- [Final Rule](#) and [fact sheet](#) on Medicare plans, including the Part D prescription drug program changes for 2019 affecting the retiree drug subsidy.

## From the Securities and Exchange Commission:

- Two proposed rules, [Regulation Best Interest](#) and [Form CRS Relationship Summary](#), along with [Investment Adviser proposed interpretation](#), setting standards of conduct/conflict-of-interest rules for broker-dealers and investment advisers providing retail investment advice.

## From the Equal Employment Opportunity Commission:

- An [announcement](#) and [FAQs](#) extending the deadline for filing of this year's EEO-1 Survey from March 31, 2018, until June 1, 2018.

## From the U.S. Citizenship and Immigration Services:

- An announcement of the launch of [E-Verify.gov](#), an authoritative source on electronic employment eligibility verification, with information about E-Verify, Form I-9, employee rights, and employer responsibilities in the employment verification process.

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