BCG Retirement News Roundup

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Boomershine Consulting Group (BCG) has launched this monthly news roundup of highlighted significant articles from the retirement industry – for clients and friends. Retirement plan news has become increasingly pertinent for many audiences these days, including:

- Retirement Plan Sponsors – addressing both private and public sector issues
- Employers – dealing with complicated decision making for their plans
- Employees – educating the Boomer generation that is nearing retirement
- Industry Practitioners - helping to understand and resolve today's significant challenges

We review numerous industry news services daily and will include a collection of timely and significant articles each month concerning compliance, actuarial plan costs (including assumption debates), plan design change issues and benefit trends, as well as other related topics.

Inside This Issue

Public Sector/Government Plans

Private Sector

Public Sector/Government Plans

GASB pushes for better disclosure of public retiree benefits

The Government Accounting Standards Board gave its preliminary approval Wednesday to new standards that would force greater transparency in the accounting of health care obligations to government retirees.

The seven-member GASB voted unanimously to advance two draft proposals addressing the reporting of what are known as "other post-employment benefits," or OPEB, including retiree health insurance.

Once passed, these measures would require governments to recognize the net liabilities of their OPEBs on the face of their financial statements.

Currently, the extent of these liabilities can be published in the notes of a financial statement. By requiring this reporting on the face of a financial report, GASB, which sets the financial reporting standards for the public sector, hopes to encourage further transparency on what it views as a vital governmental budget issue.

For decades, OPEB liabilities were never reported on balance sheets, and consequently those obligations went underfunded or even unfunded. That began to change in 2006, when GASB required cities and states to begin to report their health care liabilities to retirees.

The new OPEB reporting standards follow the same logic as the GASB's latest pension guidance, which go into effect for governments with effective fiscal years beginning after June 15. Those standards require state and local governments to report their net pension liability in their financial statements.

GASB cannot require cities and states to fund their reported liabilities; it lacks the authority to do so. Whether to force governments to ensure adequate funding was a question left to state and local elected officials.

That, of course, has proven catastrophic in some cases. A 2013 study by Pew Charitable Trust of the 30 largest cities in the country found unfunded pension liabilities of $99 billion, while unfunded retiree health care obligations amounted to $118 billion.

As Detroit prepared to go through bankruptcy last year, its $3.5 billion in unfunded pension obligations was widely known. Less apparent was the $6.4 billion in OPEB obligations, primarily in retiree health care. Underreporting and underfunding of those obligations accounted for more than one-third of all of Detroit's liabilities.

"OPEB represents a very significant liability for many state and local governments, one that is magnified because relatively few governments have set aside any assets to pay for those benefits," GASB Chair David Vaudt said in a statement. "It is vital, therefore, that taxpayers, policy makers, bond analysts, and others receive more and better information about these benefits so that they can better assess the financial obligations and annual costs related to the promise to provide OPEB."

The GASB is also proposing that if a government cannot meet its projected rate of return, leading to a future funding shortfall, then it would have to switch to a rate based on a 20-year tax-exempt high-quality general obligation bond. That could make a liability appear larger than before.

Governments would also have to immediately recognize OPEB expenses, instead of spreading them over many years, and would have to provide more extensive notes in their disclosures.

The drafts of the GASB's proposals will be posted on its website in June. A comment period will be followed by public hearings Sept. 10-12.

New Tennessee law requires full pension contributions by local governments

Tennessee Gov. Bill Haslam signed legislation on Wednesday that will require some local governments in the state to increase contributions to their pension funds.

It is effective immediately for contributions beginning July 1.

The Public Employee Defined Benefit Financial Security Act of 2014, which had been unanimously passed by both the state House of Representatives and Senate in April, requires local governments to contribute 100% of the "actuarially determined annual required contribution that incorporates both the normal cost of benefits and the amortization of the pension plan's unfunded accrued liability."

The act affects local government pension funds that do not participate in the $40 billion Tennessee Consolidated Retirement System, Nashville, and originated as a proposal by the office of David H. Lillard Jr., state treasurer. Local governments with pension funds in TCRS are already required to fund 100% of the ARC.

"Tennessee has a well-deserved reputation as one of the best financially managed states in the nation," Mr. Lillard said in a news release. "This landmark legislation continues that proud tradition by applying a common-sense approach to local government pension funding."

Local governments can work toward the 100% contribution requirement over six years, but local governments that would experience financial hardship can work with the Treasury Department if they can't reach 100% in that time frame.

Among local government pension funds that do not belong to TCRS is the $1.9 billion Memphis City Retirement System.

The act is cited as a primary driver for Memphis Mayor A.C. Wharton Jr.'s recommendation to close the defined benefit plan. On July 1, 2013, the city contributed $19.53 million to its pension fund for fiscal year 2014, just 20.4% of the annual required contribution of $95.6 million.

As of July 1, 2013, the Memphis City Retirement System had $2.592 billion in liabilities, giving the pension fund a 72.6% funding ratio.

The Week in Public Finance: Scary Pensions and Puerto Rico's Red Alert

A new report from the Center for State and Local Government Excellence said the upcoming accounting standards changes for reporting pension plan liabilities might not be the big bombshell that some folks previously thought. Many have said that the required changes, which call for a lower assumed rate of return in certain cases, could result in many plans' unfunded liabilities appearing to balloon in a single year. But the report's authors, Boston College's Alicia H. Munnell, Jean-Pierre Aubry, and Mark Carafelli, noted that the proposed new calculation is based on a number of assumptions, including future contributions from the government and from employees. How each pension plan interprets these assumptions will greatly affect how much each plan's liability changes.

Although governments often skip out on their pension contributions, "plan sponsors can easily assert that adequate contributions will be made and, therefore, assets will always be available to cover projected benefits," the report, released June 5, said. If this is the case, the new rules say the relevant discount rate reverts to the plan's expected long-run rate of return (which is between 7.5 percent and 8 percent in most cases).

The new rules will also require plans to report the market value of their assets (based on the prior year's investment return) instead of smoothing out the value over a period of years and using the average rate of return over that period. Up until this year, most plans' smoothing periods have still included the losses of 2008 and 2009, resulting in reporting a lower investment return. Since 2009, many plans have posted double-digit returns on their investment. This means that plans' actual values have been slightly higher than has been reported and that will be rectified starting in 2014.

Therefore, the report concludes, that overall liabilities of the roughly 150 plans included in its survey will remain at 72 percent in 2014.

But scary investment fees can endanger pensions

A new Pew Charitable Trusts study took a look at the increasing investment by pension funds in higher-risk assets like hedge funds and real estate. Written with the Arnold Foundation, the study warned that the shift in investment strategy has also meant higher fees paid to fund managers. During the 1980s and 1990s, plans significantly increased their reliance on stocks, also known as equities. And during the past decade, funds have turned to alternative investments such as private equity, hedge funds, real estate and commodities to achieve their target investment returns. Since 2006, the share of alternative investments in public plans' portfolios have doubled to comprise nearly one-quarter of the average plan's investment mix.

"These trends underscore the need for additional public information on plan performance, insight on best practices in fund governance, and attention to the effect of investment fees on plan health," the study said. "With $3 trillion in assets and the retirement security of 14.5 million state and local employees at stake, sound investment strategy is critical."

In short, increased investments in equities and alternatives could result in greater financial returns but also increased unpredictability and the possibility of losses on these assets, the study warns. Even a relatively small difference in return like 1 percent resulting from investment performance or fees equates to tens of million dollars in a multi-billion-dollar pension fund. Relying too heavily on these kinds of volatile investments could create massive instability in a fund that is supposed to provide retirement security for its members.

Busting up Puerto Rico's budget

Just one month ago, Puerto Rico Gov. Alejandro García Padilla was touting a balanced budget for 2015 – the commonwealth's first in more than a decade and coming one year earlier than the administration had projected. Now it looks as if that celebration was a little premature. Puerto Rico announced a $442 million revenue shortfall in April ($380 million because of corporate tax underpayments) and Municipal Market Advisors' bi-weekly market brief said that's making investors worried about the island's near-term liquidity, the FY 2015 budget and further borrowing plans.

The commonwealth has said that emergency cuts can get the government back on track (almost) to close out the fiscal year at the end of this month. But, notes MMA, a recent analysis by Sergio Marxuach, director of Public Policy at the Center for New Economy, showed that PR may carry a structural budget gap forward into FY 2015 as large as $1 billion.

"While the Governor has declared the budget 'balanced,' MMA's view is that this balance is illusory given the island's aggressive revenue estimates (up over $650M resulting from new revenue measures), continued reliance on a handful of corporations, over $500M of non-recurring revenues, speculative proposed budget cuts, questionable savings, and lastly, the effect of the budget on the general economy," the brief said.

New Jersey's Largest Pension Fund Votes to Sue Christie

The board overseeing the largest public-employee pension fund in New Jersey today voted to sue Gov. Chris Christie over his plan to take $2.4 billion meant for the pension system over two years, acting in response to more than 10,000 letters submitted by public workers worried about the financial security of their retirement plans.

The Public Employees' Retirement System voted 6-0 to hire private attorneys and "take all necessary and appropriate action to compel the governor" to make $3.8 billion in payments to the strained pension system over two years, instead of the $1.38 billion Christie is proposing amid a budget crisis.

With 280,000 active employees and 139,000 retirees as of 2013, PERS is by far the largest pension fund in New Jersey. The board is made up of financial managers representing Christie's administration and unionized workers. Its decision to join the court battle against Christie is a sign of growing unrest among workers and retirees over the Republican governor's budget plan.

Board Chairman Thomas Bruno said Christie signed a pension overhaul in 2011 that gave public workers a contractual right to the full $3.8 billion over two years. Under the state and federal constitutions, New Jersey cannot break its contracts, unions argue.

"We have more than 10,000 letters here," said Bruno, a retired state worker and former official with the Communications Workers of America union. "The board understands that it has ... a fiduciary obligation."

PERS members said they expect to join more than a dozen unions challenging Christie's maneuver at a hearing next Wednesday before Superior Court Judge Mary Jacobson in Trenton. Another pension fund, the Police and Firemen's Retirement System, has also voted to take legal action to block Christie's plan.

San Bernardino cuts deal to pay CalPERS debt

Bankrupt San Bernardino announced an agreement with CalPERS last week to pay off an unprecedented pension debt owed for skipping payments to the pension fund for a year — $13.5 million, plus several million more in penalties and interest.

Details of the agreement reached in closed mediation were not released. But the city said in a court filing the CalPERS agreement "will help form the basis" for a debt-cutting plan needed to exit bankruptcy.

Whether the city's "interim agreement" with CalPERS means the city's debt-cutting "plan of adjustment" to exit bankruptcy will exclude pensions is not revealed in the court filing.

San Bernardino has not publicly proposed a pension cut. A sketchy plan for operating in bankruptcy only proposed a "fresh start" that would "reamortize CalPERS liability over 30 years," perhaps cutting costs $1.3 million in the first year.

Last week, an attorney for San Bernardino emphasized the importance of the city's relationship with the pension system during his opening remarks at a status hearing with U.S. Bankruptcy Judge Meredith Jury.

"The importance of this agreement to mediation and the case cannot be overstated because of the size of the CalPERS claim, the importance of CalPERS and its relationship to the city and because the city believes based on discussions with unions and retirees that sustaining their relationship with CalPERS is very important," said Paul Glassman, the San Bernardino Sun reported.

The cash-short city's decision to skip employer payments to CalPERS, after an emergency bankruptcy filing in August 2012, would be grounds for termination of its

CalPERS contract, if the city was not in bankruptcy. The city resumed payments last July.

CalPERS responded by attempting to sue San Bernardino for payment in state court. The federal bankruptcy judge blocked the attempt, saying employee pay would be threatened and the ability to reorganize in bankruptcy undercut.

Then CalPERS opposed San Bernardino's eligibility for bankruptcy, followed by an appeal when the judge ruled the city eligible. The agreement announced last week delays action on the appeal.

CalPERS also filed a brief in support of an appeal by the state Department of Finance and the state Controller of the bankruptcy judge's ruling protecting $15 million in city tax revenue.

The judge blocked a state attempt to withhold $15 million in San Bernardino sales and property tax revenue. The state said the city had not returned a similar amount of unspent housing funds after the state shut down local redevelopment agencies.

Unlike San Bernardino, Vallejo and Stockton continued to make their full CalPERS payments after filing for bankruptcy. The unprecedented San Bernardino lapse in payments was mentioned as CalPERS took several protective steps.

In a move said to be already under way due to low interest rates, CalPERS lowered the earnings forecast for terminated plans from 4.82 percent a year to 2.98 percent, sharply increasing the debt that must be paid if employers leave the system.

In April last year, the CalPERS board approved a staff proposal to sponsor legislation that would "provide CalPERS with a present lien on all assets of a contracting public agency in the amount of all obligations owed to the system."

After concluding negotiations with CalPERS, the court filing last week said San Bernardino officials are "now fully engaged" in negotiations with two holdout unions, police and firefighters.

An agreement reportedly may be near with police. But firefighters, worried the city may plan to contract for fire services, filed a request last week to be released from court-ordered mediation, saying talks with the city were stalemated.

The city filing said San Bernardino plans to ask the judge for authorization to impose a "last, best and final offer" if unions do not agree to new cost-cutting contracts when negotiation procedures are completed, probably by the end of August or sooner.

The San Bernardino City Council is scheduled to adopt a new budget today (June 23). To make the spending plan balance, deep spending cuts are said to be needed in addition to the debt deferrals allowed in bankruptcy.

“Since employee compensation represents approximately 75 percent of the city’s costs, many of the cost reductions inevitably are labor related,” said the court filing.

The city’s financial advisor, Michael Busch of Urban Futures, argued at the hearing last week that the city needs to cut employee pay to survive, the San Bernardino Sun reported.

“He divided firefighters’ compensation into three categories of 40 firefighters each,” the Sun said. “The top 40 average $197,000 per year, the middle $166,000 and the bottom-third $130,000 per year.”

The firefighters union, which has talked with the city outside of the closed mediation, did not mention pension cuts while listing the spending reductions sought by the city.

“The city is currently trying to eliminate from the City Charter those provisions that provide the salary formula for public safety and that protect the very existence of the City of San Bernardino’s Fire Department,” said the firefighters court filing.

“The city is also moving forward with (1) the closing of at least two, and as many as four, fire stations; (2) the elimination of between four six pieces of apparatus; and (3) the reduction of personnel associated with these cuts.

“The city is looking at changing work schedules and/or contracting out Fire Department services to other public and/or private entities.”

An unusual city charter provision, “section 186,” links the pay of San Bernardino police and firefighters to the average pay in 10 other cities, most much wealthier. Due to the link, police have twice received pay raises costing $1 million during the bankruptcy.

A citizens charter review committee appointed by the city council recommended, after several public hearings, that Section 186 be replaced with collective bargaining. The city council is expected to put the measure on the November ballot.

Stockton, which filed a month before San Bernardino, theoretically could be approved to exit bankruptcy as soon as a hearing July 8. The judge may be considering a separate ruling to clarify whether CalPERS pensions can be cut in bankruptcy like other debt.

In Detroit, a federal bankruptcy judge has ruled that the city’s pensions can be cut. Michigan Gov. Rick Snyder signed legislation Friday for a “grand bargain” providing state and foundation money to ease pension cuts retirees are being asked to approve.

In a plan negotiated with unions, active Detroit workers will be switched to a “hybrid plan” that combines a smaller pension with a 401(k)-style individual investment plan.

“Trading down to a less generous pension plan is often said to be a legal nonstarter for government workers, so if Detroit succeeds, its hybrid could become a model for other distressed governments from Main to California,” a page-one story in the New York Times said last week.

Private Sector

Surprise: Even wealthy retirees live on Social Security and pensions

Where do affluent retirees get their income? Portfolios invested in stocks and bonds, you might think - but you'd be wrong. Turns out many are living mainly on Social Security and good old pensions.

That's the surprising finding of new research from a surprising source: Vanguard, a leading provider of retirement saving products like individual retirement accounts and 401(k)s. Vanguard studied the income sources and wealth holdings of more than 2,600 older households (age 60–79) with at least $100,000 in retirement savings. The respondents' median income was $69,500, with median financial assets of $395,000. (The value of housing was excluded.)

The researchers were looking for answers to a mysterious question about the behavior of wealthier retirement account owners: Why do few of them draw down their savings? They found that nearly half the aggregate wealth of these households comes from the two mothers of all guaranteed income programs, Social Security (28 percent) and traditional defined-benefit pensions (20 percent).

The median annual income for these households is $22,000 from Social Security, with an additional $20,000 from pensions. Tax-deferred retirement accounts came in third among those who have them, at $13,000 (11 percent).

"Only a small number of the people who have 401(k)s and IRAs are really relying on them as a regular source of income," said Steve Utkus, director of the Vanguard Center for Retirement Research. "There's a lot more income from pensions than we expected," he adds.

That last finding may seem surprising, given all the publicity about shrinkage of defined-benefit pensions. Although most state and local government workers still have pensions, only a third of private-sector workers hold a traditional pension, down from 88 percent in 1975, according to the National Institute on Retirement Security. And NIRS data points to a continued slide in the years ahead.

“Will this look different 10 years from now - will we have less pension income and more from retirement savings accounts? I think so,” Utkus says.

Another interesting finding: Twenty-nine percent of affluent retirees get some income from work, with a median income of $24,600. And the rate of labor force participation was even higher - 40 percent - among households more reliant on retirement accounts.

“That’s only going to jump dramatically over the next few years,” Utkus says. “All the surveys show there’s a real demand for work as a structure to life. People say they can use the money, or they want to work to get social interaction.”

The findings are all the more striking because the big buzz in the retirement industry these days is about how to generate income from nest eggs. That includes creation of income-oriented portfolios, systematic drawdown plans and annuity products that act as do-it-yourself pensions.

Yet few retirement account holders actually are tapping them for income. The Investment Company Institute reports that just 3.5 percent of all participants in 401(k) plans took withdrawals in 2013. That figure includes current workers as well as retirees; the numbers are higher when IRAs are included, since those accounts include many rollovers from workplace plans by retired workers. With that wider lens, 20 percent of younger retired households (age 60-69) take withdrawals, according to a study for the National Bureau of Economic Research and the Social Security Administration’s Retirement Research Consortium.

The income annuity market has been especially slow to take off. One option is an immediate annuity, where you make a single payment at the point of retirement or later to an insurance company and start getting a monthly check; the other is a deferred annuity, which lets you pay premiums over time entitling them to future regular income in retirement.

Deferred annuity sales doubled in 2013, to about $2 billion, according to LIMRA, the insurance industry research and consulting group. But that's still a drop in the bucket of the broader retirement products market. And the Vanguard survey found that just 5 percent of investors surveyed held annuity contracts.

"The theme of translating retirement balances into income streams is emerging very slowly," Utkus says.

The Vanguard study also underscores the importance of smart Social Security claiming decisions, especially delayed filing. "There's been a sea change over the past year," Utkus says, with more people recognizing that delayed filing is one of the best ways to boost guaranteed income in retirement. Vanguard is "actively discussing

3 Retirement Plan Life Expectancy Tables

There are three life expectancy tables used by IRA and employer plan account owners and beneficiaries. These tables were last updated by IRS for optional use in 2002 and were mandatory in 2003. You cannot choose which table you would like to use. Each one must be used in certain situations.

Table 1: Single Life Expectancy Table
This table must be used by all beneficiaries of inherited accounts. Generally a beneficiary looks up their age in the year after the account owner dies to find their life expectancy factor (you look up the age the beneficiary is on the last day of the year). Beneficiaries use this factor to calculate the required distributions from the inherited IRA. They only go to this chart one time. Each year after that, the life expectancy factor is reduced by one.

Beneficiaries can name their own beneficiaries (successor beneficiaries). If the beneficiary dies while there is still a balance in the retirement account, the successor beneficiary continues to take distributions using the reduce-by-one method established by the original beneficiary.

This table will generate the largest required distribution of all three tables.

Note: The rules for using the Single Life Table are different for beneficiaries who inherit through a trust or an estate, and there is another set of rules for spouse beneficiaries who do not move the inherited retirement funds to their own accounts.

Table 2: Joint Life Table
This table is used only by account owners with a spouse that is more than 10 years younger and when the spouse is the sole beneficiary of the IRA. The account owner finds the factor using their age and their spouse's age (the age they are at the end of the year). The account owner will go back to this table each year to look up their factor as long as they continue to meet the criteria.

This table will generate the smallest required distribution of all three tables.

Table 3: Uniform Lifetime Table
This table is used by most account owners, except as noted for Table 2. It does not matter who the beneficiary of the account is. This table is never used by a beneficiary. The account owner looks up the age they will be at the end of the year on the table and goes back to the table each year to find the factor for the current year.

It is important that you know which table you need to use so that you can accurately calculate required distributions from your retirement accounts. Use of the wrong table could result in too much money being paid out for the year. That will unnecessarily deplete your retirement accounts and increase your income tax bill.

On the other hand, use of the wrong table could also result in too little being paid out for the year. That could lead to a penalty of 50% (that is NOT a typo) of the amount not distributed. Neither one of those results is a good thing.

Incentives needed to address falling U.S. savings rate: study

Greater incentives including expanding private-sector retirement programs are needed to encourage Americans to step up saving and curb the nation's dependence on foreign investors, according to a study released on Tuesday.

The household savings rate, which has been declining since 1984, when Americans were putting aside 10.7 percent of their after-tax income, is on track to fall to 3 percent in the 2030s from the current 4 percent, according to an Oxford Economics study.

The British-based data analysis firm warned that Americans would have to work longer, lower their standard of living or risk running out of money in retirement if they didn't begin to save more.

"To create the strong investment (and) labor recovery that we want to see in the U.S., that's going to need to be matched by savings by U.S. households if it's going to be truly sustainable and retirees are not in part increasing dependence on government for their well-being," Oxford Economics Chief Executive Officer Adrian Cooper said at a conference in Washington.

"Sadly, that's not the direction we're heading in right now," he added.

Lower-income households would need to save about 21 percent more pre-tax income to support an "adequate" standard of living, according to the study. The top 25 percent of households would only need to save 0.15 percent more.

Unless the savings rate increases to between 5 percent and 9 percent of gross domestic product, the United States would have to continue borrowing from foreign investors to keep the range of investment at an optimal 20 percent to 25 percent of GDP, the study said.

It recommended encouraging savings through payroll deductions. While larger companies offer 401(k) retirement plans that are funded in part by payroll deductions, smaller firms are less likely to do so.

It also said automatically enrolling employees in savings plans would be helpful, as would providing matching employer contributions.

Social Security Defines Policy for Same-Sex Married Couples Agency Extends Benefits Broadly, Subject to Legal Constraints

Social Security has published new instructions that allow the agency to process more claims in which entitlement or eligibility is affected by a same-sex relationship. These instructions come in response to last year's Supreme Court decision in U.S. vs. Windsor, which found Section 3 of the Defense of Marriage Act unconstitutional.

This latest policy development lets the agency recognize some non-marital legal relationships as marriages for determining entitlement to benefits. These instructions also allow Social Security to begin processing many claims in states that do not recognize same-sex marriages or non-marital legal relationships. We have consulted with the Department of Justice and determined that the Social Security Act requires the agency to follow state law in Social Security cases. The new policy also addresses Supplemental Security Income claims based on same-sex relationships.

"As with previous same-sex marriage policies, we worked closely with the Department of Justice," said Carolyn W. Colvin, Acting Commissioner of Social Security. "We are bound by the law within the Social Security Act, and we have to respect state laws. We remain committed to treating all Americans fairly, with dignity, and respect."

If a person believes he or she may be entitled to or eligible for benefits, they are encouraged to apply now.

Legal Alert: IRS Releases Additional Rulings on Lump-Sum Windows

The practice of offering lump-sum distributions has become increasingly popular among defined benefit plan sponsors looking to decrease volatility or other defined benefit plan risks. In some situations, plan sponsors offer the lump sum to participants in pay status as well as terminated vested participants who have not yet commenced payments. In late May 2014, the Internal Revenue Service (IRS) released a series of four private letter rulings concluding that defined benefit pension plan amendments allowing participants in pay status to elect, during a limited time period, lump-sum distributions of their remaining plan benefits were permissible under the required minimum distribution rules of the Internal Revenue Code (IRC).

The rulings follow two similar private letter rulings issued by the IRS in 2012, and highlight the fact that these types of arrangements require a range of considerations under the IRC and Title I of the Employee Retirement Income Security Act (ERISA), regardless of whether they are offered to terminated vested participants or participants in pay status.

The Rulings

The requesting plan sponsors all noted that they had experienced increased volatility in their pension plan obligations in recent years, which had made them less competitive in the global market. As a result, they wished to amend their plans to offer participants and beneficiaries in pay status a limited window of time in which they could elect to receive their remaining plan benefits in one lump-sum payment. Several of the requesting plan sponsors also noted that they would allow terminated vested participants to participate in the window, but did not request rulings with respect to those individuals.

The window period lump-sum option was structured in the 2012 rulings and the 2014 rulings as follows. The affected payees could keep their current form of payout, or elect any of the applicable new options made available by the plan amendment:

PLR	Duration of Window Period	New Payout Option(s) Offered to Payees:
201228045*	60-90 days	• Lump sum • Qualified joint and survivor annuity (QJSA) • Qualified optional survivor annuity (QOSA)
201228051*	30-60 days	• Lump sum • QJSA • QOSA
201422028	60-90 days	• Lump sum • QJSA (married participants) • QOSA (married participants) • Single life annuity (SLA) (single participants) *NOTE: Beneficiaries and alternate payees only offered a lump sum.*
201422029*	30-60 days	• Lump sum • Normal form of plan payment • QOSA
201422030*	60-90 days	• Lump sum • QJSA • QOSA • SLA
201422031	60-90 days	• Lump sum • QJSA • QOSA *NOTE: Beneficiaries and alternate payees only offered a lump sum or single life annuity.*

*On the face of these rulings, there were no apparent distinctions between the forms of payment made available to participants and the forms of payment made available to beneficiaries and alternate payees.

Each requesting plan sponsor represented, among other things, that:

Its methods for valuing the lump-sum distributions would comply with IRC Section 417(e) and that the window would not trigger any of the benefit restrictions described in IRC Section 436; and

Applicable spousal consent requirements would be met. All elections would require spousal consent. In the event a participant had remarried since his or her initial annuity starting date, spousal consent would include, if applicable, the participant's current and former spouses.

At issue in these rulings (as well as the IRS's earlier 2012 rulings) was whether the proposed lump-sum distributions would violate the IRC's required minimum distribution rules. The required minimum distribution rules provide that once a participant or beneficiary begins receiving lifetime annuity payments, his or her monthly payment amount may not increase and his or her payment period may not be modified except in specific, limited circumstances. One such circumstance is when a plan amendment provides for the payment of increased benefits. Although the addition of the lump sum-option would result in an increased payment amount and shortened payment period, the IRS concluded that the election to cash out the remainder of the annuity would be permissible because the lump-sum option was being offered pursuant to a plan amendment and only during a limited window period. The IRS also noted in PLR 201422031 that, as long as the portion of any lump-sum distribution attributable to that year's required minimum distribution is not treated as an eligible rollover distribution, the lump-sum option itself would not trigger the excise tax under IRC Section 4974 for failure to take a required minimum distribution.

The 2014 rulings had been pending since as early as October or November 2012, and were issued on March 5, 6 and 7, 2014.

Other Considerations

Similar to its 2012 rulings, the IRS noted that it was only expressing an opinion with respect to the required minimum distribution issue, and not with respect to any other potential tax consequences, or any implications under Title I of ERISA. The rulings emphasize the fact that there are a number of additional issues that plan sponsors and fiduciaries should consider in designing these types of programs, whether offered to participants in pay status or not. Some of these issues include:

Spousal Consent – Lump-sum offers must comply with the same spousal consent rules that apply to initial benefit elections.

QJSA Rules – In addition to the lump-sum option, the plan must still make qualified joint and survivor annuities and qualified optional survivor annuities available to participants.

IRC Section 436 Benefit Restrictions – The plan's adjusted funding target attainment percentage (AFTAP) cannot fall below 80%, because this would trigger restrictions on the plan's ability to offer lump-sum distributions.

IRC Section 415 Benefit Limitations – IRC Section 415 imposes limits on the amount of a participant's plan benefit. For participants already in pay status, these limits must be satisfied on the participant's initial annuity starting date, as well as the subsequent lump-sum payment date.

IRC Section 417(e) Valuation Methods – IRC Section 417(e) contains specific rules regarding the interest rates that must be used in calculating lump-sum distributions.

Eligibility for Window – The plan sponsor will have to decide who will be eligible to elect lump-sum distributions (e.g., terminated vested participants, participants in pay status, beneficiaries, or alternate payees). The lump-sum window must also satisfy certain nondiscrimination requirements.

Disclosure of Lump Sum Consequences – Participants must receive sufficient information to understand the consequences of electing a lump-sum distribution and the value of the monthly annuity they are giving up. A plan sponsor and/or fiduciary might consider facilitating participants' access to professional financial advice.

Communication Timing – Plan fiduciaries must decide how far in advance participants should be notified of the lump-sum window.

Length of Window – Plan fiduciaries will have to decide on an appropriate amount of time to allow participants to consider and elect the lump-sum option.

Lost or Missing Participants – There may be participants who cannot be located for all or a portion of the election window.

Coordination with Other Benefit Plans – Taking a lump-sum distribution may have an impact on long-term disability payment offsets for participants on disability or the ability of retirees to use pension annuity distributions to pay retiree medical premiums.