BCG Retirement News Roundup

November 2015, Volume 4, Issue 11

Boomershine Consulting Group, 3300 North Ridge Road, Suite 300, Ellicott City, Maryland 21043

www.boomershineconsulting.com 410-418-5525

Boomershine Consulting Group (BCG) provides 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. If you would like to discuss any of these issues, please contact us.

Inside This Issue

Public Sector/Government Plans

Private Sector

Public Sector/Government Plans

Pennsylvania leaders reach tentative agreement on budget, pension reform

Pennsylvania Gov. Tom Wolf and state Republican legislative leaders have reached agreement on a tentative framework for a final budget that includes pension reform, said Jeffrey Sheridan, spokesman for the governor's office.

Details of the proposed pension reform that have been agreed upon by both parties are not currently being disclosed.

"All final details are being worked out," Mr. Sheridan said.

In July, Mr. Wolf, a Democrat, vetoed a pension reform bill that proposed that all new state and public school employees be enrolled in a mandatory defined contribution plan, as well as offering an optional cash balance plan.

Mr. Wolf said in a news release at the time that the bill, which was sponsored by Republican state Sen. Jake Corman, provided "no immediate cost savings to taxpayers" and didn't "maximize long-term savings for taxpayers."

In September, Mr. Wolf proposed a new pension system that included a mandatory 401(k)-style plan for all new employees making at least $75,000 in annual income. In addition, all employees would be given the option to participate only in a defined contribution plan at their time of hire. The plan also featured a risk-sharing component for all new employees. The $51.7 billion Pennsylvania Public School Employees' Retirement System and $27 billion Pennsylvania State Employees' Retirement System, both based in Harrisburg, together have an unfunded liability of $60.1 billion.

Government contribution rates for VRS are reduced

Local governments will pay lower contributions to employee pensions in the next two years under rates adopted Thursday by the Virginia Retirement System.

The VRS board of trustees certified contribution rates that decreased by an average of 1.76 percentage points of employee payroll over the 585 local government and other political subdivisions that rely on the state retirement system to manage employee pensions.

Chesterfield and Henrico counties will see declines of more than 2 percentage points of payroll in the contribution rates they pay for employees covered by local retirement plans.

"That's outstanding!" exclaimed Henrico County Manager John A. Vithoulkas. "What a difference a couple of years makes, as far as the outlook in VRS."

The new rates adopted by VRS will take effect in the fiscal year that will begin July 1 and apply through the fiscal year that ends June 30, 2018.

Rates adopted by VRS last month for teacher pensions also will fall in the next two fiscal years, even though local school divisions will pay slightly more under a state commitment to fund 90 percent of the certified rates in the biennium, up from 80 percent in this fiscal year and the previous year.

The budget commitment will require full state funding of VRS certified rates for state employees and teachers by July 1, 2018.

Localities also could be feeling the effects of a new hybrid pension plan that took effect for most employees hired after Jan. 1, 2014, said Chesterfield County Administrator James J.L. Stegmaier, who expressed surprise at the magnitude of the decline in contribution rates for county employees.

Employees under the hybrid plan, a combination of traditional pension and 401 (k) style contributions, receive lower retirement benefits than those under the traditional defined benefit plan.

"We're seeing much bigger turnover," Stegmaier said. "We're losing legacy plan employees and replacing them with hybrid plan employees. That's going to have a positive impact."

In the last fiscal year, the retirement system's investments performed below the 7 percent average annual return assumed in contribution rates adopted in 2013 for the 2014-2016 biennium, but VRS sets rates on an actuarial basis that smooths losses and gains over five years. Investment income accounted for the biggest gain reflected in the new rates, along with lower-than-expected increases in cost-of-living adjustments and pay increases.

The funded status of all local subdivision retirement plans improved, on average, from 87.2 percent to 91.5 percent on an actuarial basis. In Chesterfield and Henrico, local retirement plans are funded at more than 80 percent of future liabilities.

Unfunded liabilities for the plans rose by $238 million on a market basis because of investment performance in the fiscal year that ended June 30, but those liabilities declined by about $574 million on an actuarial basis, used to set rates.

Vithoulkas credited the General Assembly for reforming the pension system and moving toward full funding of the rates requested by VRS.

"The story is, if you have a liability and you fund it consistently over time, you can achieve results like these," he said.

Chattanooga wins pension lawsuit filed by retired police officers, firefighters

Judge rules city can cut the adjustment for costs of living

In a big win for Chattanooga Mayor Andrew Berke's administration, a federal court judge dismissed a lawsuit filed by four retired police officers and firefighters that challenged the city's decision to reduce the cost-of-living adjustments to their pensions.

U.S. District Court Judge Curtis Collier granted the city's motion for summary judgment in a decision issued Tuesday.

Mayor Berke praised the ruling, saying it preserved his pension reform plan. "Last year, the Fire and Police Pension was reformed to ensure the longterm fiscal health of the city and meet our obligations to first responders," he said in a statement. "We are excited this solution was validated by the court today, ensuring the city will be able to continue to provide competitive benefits for our police and firefighters for years to come."

In 2014, the City Council voted to reduce the cost-of-living adjustment, or COLA, for retired police officers and firefighters from a guaranteed annual 3 percent rate to an average of 1.5 percent, depending on the level of benefits a retiree was receiving. Reducing the cost-of-living adjustment level was part of a package of reforms produced by an 18-member task force Berke set up to reduce the city's $150 million unfunded pension liability and address what the mayor said was an increasingly unsustainable city contribution to the pension fund.

The reform also increased employees' pension contributions by nearly 40 percent, while saving the city more than $227 million over the next 24 years, the mayor's office said.

In response, two retired firefighters and two retired police officers filed a class-action lawsuit, claiming that the city was taking away a vested financial interest they felt was promised to them.

In his ruling, Judge Collier rejected that claim, agreeing with the city that the cost-of-living adjustment was not a contract. The initial city pension plan, adopted in 1949, did not contain

any adjustment for increases in the cost of living. That was added in 1980 and was pegged to the Consumer Price Index, with a maximum of 3 percent. That was changed in 2000 to a guaranteed 3 percent annual increase.

The judge noted that courts generally do not assume that lawmakers intend to establish a contract unless they specifically say so, citing a 2001 case in which a federal appeals court concluded, "the presumption is that 'a law is not intended to create private contractual or vested rights but merely declares a policy to be pursued until the legislature shall ordain otherwise.'"

He then turned to the city code that sets up the pension plan, noting that while it sets out the specific rights a retired police officer or firefighter has to a pension, it does not mention a cost-of-living adjustment. He concluded that the cost-of-living adjustment was not a vested right.

"The placement of the COLA in a provision of the City Code apart from the vesting provisions and the provisions listing retirement and pension benefits indicates that the COLA is not a vested financial benefit," Judge Collier wrote.

He added that the idea of a cost-of-living adjustment weighs against finding that it is a vested benefit.

"A COLA is an adjustment to the pensioners' benefit rather than a benefit itself," he wrote. "It is designed to ameliorate the effects of inflation It makes sense that the City would preserve its ability to adjust the COLA to respond to shifts in inflation rather than locking itself into a 3 percent COLA for all time."

Retired firefighter Greg Gaston, one of the plaintiffs in the case, said he was disappointed in the outcome, but said he and his fellow plaintiffs will appeal the ruling.

"It's not the end of it," he said. "I just believe right's right and wrong's wrong and the city ought to do what they promised."

Firefighter Chip O'Dell, who led protests against Berke's reform initiative in 2014, said many police officers and firefighters feel betrayed by the city.

"This is a benefit that was promised us back in 1999," he said in an interview Tuesday evening. "A lot of guys retired at 25 years because they were promised the cost-of-living increase. Berke jerked that out from under them."

Calpers Reports It Paid $3.4 Billion to Private-Equity Firms

Private-equity firms reaped $3.4 billion in profit sharing for investing on behalf of the California Public Employees' Retirement System since 1990, the sort of gains that have led to debate over why Wall Street pays lower taxes than most American workers.

The $295 billion pension fund Tuesday disclosed for the first time data on carried interest earned from buying and selling companies. That money is taxed as capital gains rather than income, which faces higher levies. Calpers shares the proceeds with managers of more than 700 private-equity funds, including those run by Carlyle Group LP, Blackstone Group LP and Apollo Global Management LLC.

Calpers invests 9.6 percent of its money in private equity, or about $28.9 billion. The pension said it earned $24.2 billion from such investments since 1990.

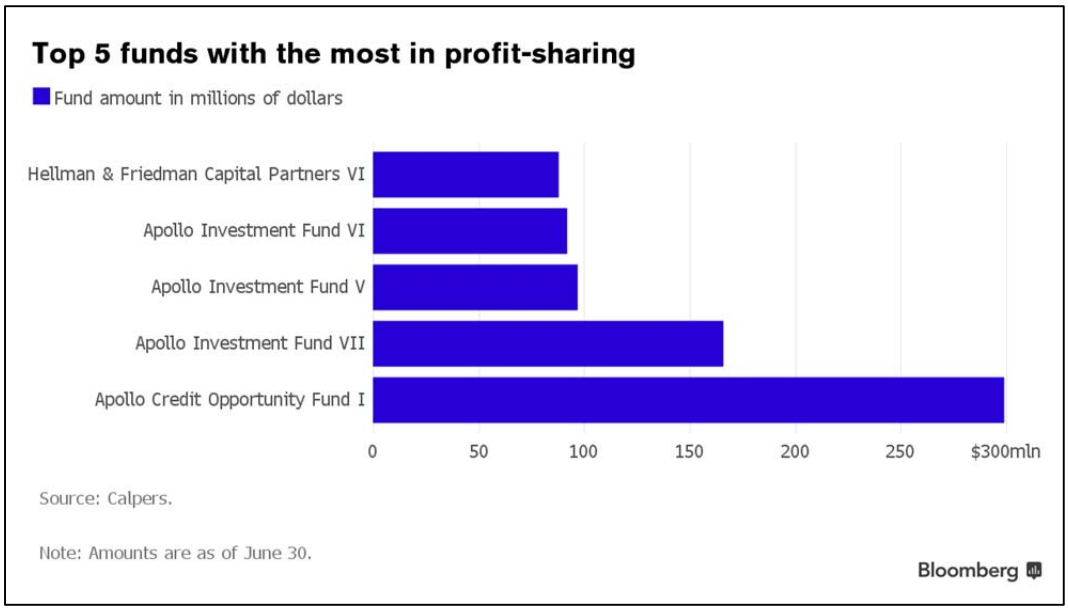
The disclosure by the nation's largest public retirement fund could spur similar revelations from pensions nationwide as Wall Street's favorable treatment has drawn scorn from presidential candidates of both parties. President Barack Obama wants to tax carried interest as ordinary income at rates up to 43.4 percent, instead of as capital gains at 23.8 percent. Democrat Hillary Clinton and Republicans Donald Trump and Jeb Bush have said they would rein in the discount.

"Private equity has the highest net returns in our portfolio," Ted Eliopoulos, Calpers' chief investment officer, said in a statement. "As a long-term investor, it is an important piece of our investment strategy and our mission to provide pension benefits for generations to come."

Private-equity managers typically charge investors a 1 percent to 2 percent annual management fee on committed capital that is taxed as income. They generally also keep 20 percent of investment profits as carried interest, which is taxed at capital-gains rates. In addition, firms sometimes waive some of the management fee in exchange for an equivalent amount from a transaction such as the sale of a company, lowering their tax bills even more.

Fee Struggle

Calpers said it earned $4.1 billion in the fiscal year that ended in June while its private equity firms earned $700 million from profit-sharing agreements. Since its inception in 1990, its private-equity program has earned 11 percent for Calpers.



Calpers, which is responsible for the retirement savings of its 1.7 million members, has drawn criticism for not including the profit-sharing amounts when it reports how much it paid private equity firms each year.

The pension plan faces a $116 billion unfunded liability, the gap between promised benefits and its projected value. It has been trying to reduce risk and costs -- including fees -- after the global financial crisis shrank it by a third, meaning that taxpayers had to contribute more to cover losses.

Some public pensions already report carried interest, including New Jersey's $79 billion fund. It reported that it paid about $600 million in private-equity fees and incentives in 2014, with $334.8 million going to carried interest, according to a January report from the New Jersey State Investment Council.

In July, 13 state and local finance officials sent a letter to the U.S. Securities and Exchange Commission urging it to improve private-equity and hedge-fund fee disclosure rules. New York City has told its fund managers that they risk getting kicked out of city's pension portfolio if they don't disclose all fees, both past and future.

Industry executives say that carried interest is a form of profit sharing, and that when it's high, the firm did well by the investor.

"The data released by Calpers today shows the success of its private-equity program, and is excellent news for California's public employees, pensioners, and the state budget," James Maloney, a spokesman for the Private Equity Growth Capital Council, a Washington trade

group, said in an e-mailed statement. "It also highlights the strong partnership between private equity and pensions; a partnership based on an alignment of each party's interest."

"Socially Responsible" Investing Under ERISA: New DOL Guidance

Fiduciary concerns may have prevented plan committees from considering "economically targeted investments" (ETI) – such as investments that observe environmental, social or governance responsibility (ESG) standards – as alternatives for their plans. Recent Department of Labor guidance, Interpretive Bulletin 2015-01 (the "Bulletin"), provides helpful clarity and should alleviate many of these concerns. (For convenience, we use the term "plan committee" to refer to the responsible investment fiduciaries of a plan.)

In this Alert, we outline a fiduciary process that committees should follow in evaluating ETIs versus other investment alternatives, based on the key points in the Bulletin.

Key Takeaways for Plan Committees

- ETIs are not "inherently suspect" and do not have to be subjected to "special scrutiny" above that required for other investments, despite how previous DOL guidance has been interpreted.
- Committees can take ESG considerations into account as primary factors when selecting between investment alternatives where those considerations are expected to affect investment returns.
- Committees can also consider ESG features as secondary factors to "break ties" between otherwise-equivalent alternatives (there may be multiple prudent choices available within a particular investment category, e.g., large cap value mutual funds.)
- When selecting investments in part because of ESG considerations, committees need to observe a prudent process to ensure that any ETI selected is reasonably expected to perform as well as other available alternatives within that category with similar risk.
- If a committee is not comfortable selecting ETIs, but wants to accommodate plan participants, it could consider providing a brokerage or mutual fund window through which participants may select investments, including ETIs. (The issue of selecting a brokerage window raises fiduciary considerations that a committee should evaluate. Those considerations are beyond the scope of this Alert.)

What the Bulletin Says

The Bulletin explains: "an economically targeted investment broadly refers to any investment that is selected, in part, for its collateral benefits, apart from the investment return to the employee benefit plan investor." It goes on to stress that ERISA does not "permit fiduciaries to

sacrifice the economic interests of plan participants in receiving their promised benefits in order to promote collateral goals."

Primary Factors

In the Bulletin's preamble the DOL explains that, in some cases, ESG factors may be primary considerations:

Environmental, social, and governance issues may have a direct relationship to the economic value of the plan's investment. In these instances, such issues are not merely collateral considerations or tie-breakers, but rather are proper components of the fiduciary's primary analysis of the economic merits of competing investment choices…

…the Department does not believe ERISA prohibits a fiduciary from addressing ETIs or incorporating ESG factors in investment policy statements or integrating ESG-related tools, metrics and analyses to evaluate an investment's risk or return…[Emphasis added]

In other words, committees may consider these types of issues as primary factors in evaluating investment alternatives, where they are expected to affect an investment's risk/return profile.

Secondary Factors

The Bulletin also confirms that committees can consider environmental, social, governance responsibility and similar considerations as secondary factors to "break ties" between otherwise-equivalent alternatives. The Bulletin reinstates language from an earlier Interpretive Bulletin (94-1), which endorsed this "tie-breaking" approach, and withdraws a 2008 Interpretive Bulletin (2008-01), which the DOL said "has unduly discouraged fiduciaries from considering ETIs and ESG factors….[and] sets a higher but unclear standard of compliance for fiduciaries when considering ESG factors or ETI investments." Rather, as the Bulletin explains, the fiduciary standards for evaluating ETIs are no different than those for other investments.

Fiduciary Process for Evaluating ETIs

When evaluating whether an ETI is a prudent investment, committees should:

- Consider and compare the ETI against other alternatives with similar risk characteristics (same asset class, similar investment approach, etc.).
- Evaluate each of the alternatives using traditional metrics for considering investments (e.g., expense ratio, past performance, quality of management, etc.).
- Consider whether environmental, social, or governance factors associated with the ETI are "primary factors" that are expected to affect returns either positively – for example, by

improving stock performance through unique growth opportunities or reduced litigation risk – or negatively – for example, due to burdensome restrictions.

- Where appropriate, receive input from an independent investment advisor in evaluating the investment alternatives.
- Only select an ETI if either (1) it is superior to the other alternatives in terms of expected risk-adjusted returns; or (2) the available alternatives are effectively indistinguishable in terms of anticipated risk/return, and thus there is a "tie" that the secondary ESG factors can "break."
- Document the committee's decision-making process in its minutes, and retain the materials that were reviewed in the decision-making process (including any input from an investment advisor).

Even though the Bulletin may help encourage the consideration of ESG factors, the DOL admonishes that:

...an investment will not be prudent if it would be expected to provide a plan with a lower rate of return than available alternative investments with commensurate degrees of risk or is riskier than alternative available investments with commensurate rates of return. [Emphasis added]

That is, ETIs should only be selected where a committee can conclude reasonably that future returns are expected to be competitive, relative to risk.

Private Sector

State Savings Programs for Non-Government Employees

At the 2015 White House Conference on Aging, the President directed the Department of Labor to publish guidance to support the efforts of a growing number of states trying to promote broader access to workplace retirement saving opportunities for America's middle class workers. The Employee Benefits Security Administration (EBSA) is publishing in the Federal Register a proposed regulation describing a safe-harbor for state laws that require employers to facilitate enrollment in state-administered payroll deduction individual retirement accounts (IRAs). Under the terms of the safe harbor, state programs that mandate auto-enrollment in IRAs in accordance with the safe-harbor would not be treated as ERISA-covered plans. EBSA also released an Interpretive Bulletin regarding certain state laws designed to expand the retirement savings options available to their private sector workers through ERISA-covered retirement plans.

I. Background

Approximately 68 million US employees do not have access to a retirement savings plan through their employers. For older Americans, inadequate retirement savings can mean sacrificing or skimping on food, housing, health care, transportation, and other necessities, and places stress on social welfare programs as a source of income and economic security for older Americans. To address this problem, some states have adopted or are considering retirement savings programs for their private sector workers. Some have passed laws that would require employers not offering workplace plans to automatically enroll employees in payroll deduction IRAs administered by the states, which are also called "auto-IRA" laws. Other states are considering alternatives in which the states sponsor or facilitate plans covered by ERISA, such as state marketplaces, prototype plans, and multiple employer plans. A serious impediment to wider adoption of such state measures is uncertainty about the effect of ERISA's broad preemption of state laws that "relate to" private sector employee benefit plans and its prohibition on requiring employers to offer ERISA plans.

II. Proposed Regulation

The proposed regulation describes circumstances under which a state-required payroll deduction savings IRA program would not give rise to an employee pension benefit plan under ERISA and, therefore, should not be preempted by ERISA.

State Law and Role of the State -- The principal conditions of the proposed safe harbor focus on the role of the state. The state program must be established and administered by a state pursuant to state law. The state must be responsible for investing the employee savings or for selecting investment alternatives from which employees may choose. The state must be

responsible for the security of payroll deductions and employee savings. The state also must adopt measures to ensure that employees are notified of their rights under the program, and create a mechanism for enforcement of those rights. The state may administer its program or contract with private-sector providers to administer the state program.

Additional Conditions -- Other conditions of the proposed safe harbor focus on the role and rights of employees. For example, participation in the program must be voluntary for employees. Thus, if the program requires automatic enrollment, employees must be given appropriate notice and have the right to opt out. Moreover, since employees own their IRAs, they must have the ability to withdraw their money under normal IRA rules without any other cost or penalties.

Limited Role of Employer -- Under the proposal, the employer's activities must be limited to ministerial activities such as collecting payroll deductions and remitting them to the program; providing program information to employees; maintaining records of payroll deductions and remittance of payments; and providing information to the state necessary to the operation of the program. The employer may have no discretionary authority or control over the employees' IRAs or the operation of the IRA program. Employers cannot contribute employer funds to the IRAs.

Public Notice and Comment -- The proposed regulation has a 60-day comment period. Comments can be submitted electronically by email to e-ORI@dol.gov or by using the Federal eRulemaking portal at www.regulations.gov. All comments will be available to the public, without charge, online at www.regulations.gov and www.dol.gov/ebsa, and at the EBSA Public Disclosure Room.

III. Interpretive Bulletin

Today the Department also issued an Interpretive Bulletin to assist states interested in helping employers establish ERISA-covered plans for their employees. Under one approach, the state would establish a marketplace to connect eligible employers with retirement plans available in the private sector market. The marketplace would not itself be an ERISA-covered plan, and the arrangements available to employers through the marketplace could include ERISA-covered plans and other non-ERISA savings arrangements. Under another approach, the state would make available a "prototype plan" that individual employers could adopt. Each employer that adopts the prototype would sponsor an ERISA plan for its employees, and the state or a designated third-party could assume responsibility for most administrative and asset management functions of an employer's prototype plan. Under a third approach, a state would establish a "multiple-employer plan" or MEP that eligible employers could join rather than establishing their own separate plan. The MEP would be run by the state or a designated third-party.

Because ERISA broadly preempts most state laws that relate to employee benefit plans covered by the Act, some states may have been deterred from enacting measures to facilitate the establishment of such plans because of legal uncertainty about their status. The Department is issuing an interpretive bulletin explaining its view that the state law approaches described above should not be preempted by ERISA.

1. Preemption. The interpretive bulletin makes clear the Department's view that ERISA preemption principles leave room for states to encourage greater access to ERISA-based retirement savings options, as long as employers participate voluntarily and ERISA's requirements, liability provisions, and remedies fully apply to plans established through the state programs. Such state actions do not undermine the primacy of federal regulation with respect to covered employee benefit plans. They do not require employers to adopt or participate in ERISA plans, or mandate any particular benefit structure. Instead, they merely give employers an additional option for providing benefits to their employees in a way that is fully subject to ERISA's regulations, obligations, and remedies.

2. Multiple Employer Plans. The interpretive bulletin also makes clear that a state is able to sponsor and administer a multiple employer plan for the state's private sector employers ("state MEP"). The interpretive bulletin explains that, unlike financial institutions that sell retirement plan products to employers, a state can indirectly act in the interest of the employers and sponsor a MEP under ERISA because the state is tied to the contributing employers and their employees by a special representational interest in the health and welfare of its citizens. The state is standing in the shoes of the employers in sponsoring the plan.

3. Scope. The interpretive bulletin sets forth the Department's views of sections 3(2), 3(5), and 514 of ERISA as applied only to the three approaches described therein. The interpretive bulletin does not deal with state payroll deduction savings IRA programs that would be covered by the proposed regulatory safe harbor discussed in Section II above. States would have the option of requiring IRA programs under that safe harbor, facilitating or sponsoring ERISA-covered plans in accordance with this interpretive bulletin, or both.

This fact sheet has been developed by the U.S. Department of Labor, Employee Benefits Security Administration, Washington, DC 20210. It will be made available in alternate format upon request: Voice telephone: 202-693-8664; TTY: 202-501-3911. In addition, the information in this fact sheet constitutes a small entity compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

2016 Medicare Parts A & B Premiums and Deductibles Announced

Today, the Centers for Medicare & Medicaid Services (CMS) announced the 2016 premiums and deductibles for the Medicare inpatient hospital (Part A) and physician and outpatient hospital services (Part B) programs.

Part B Premiums/Deductibles

As the Social Security Administration previously announced, there will no Social Security cost of living increase for 2016. As a result, by law, most people with Medicare Part B will be "held harmless" from any increase in premiums in 2016 and will pay the same monthly premium as last year, which is $104.90.

Beneficiaries not subject to the "hold harmless" provision will pay $121.80, as calculated reflecting the provisions of the Bipartisan Budget Act signed into law by President Obama last week. Medicare Part B beneficiaries not subject to the "hold-harmless" provision are those not collecting Social Security benefits, those who will enroll in Part B for the first time in 2016, dual eligible beneficiaries who have their premiums paid by Medicaid, and beneficiaries who pay an additional income-related premium. These groups account for about 30 percent of the 52 million Americans expected to be enrolled in Medicare Part B in 2016.

"Our goal is to keep Medicare Part B premiums affordable. Thanks to the leadership of Congress and President Obama, the premiums for 52 million Americans enrolled in Medicare Part B will be either flat or substantially less than they otherwise would have been," said CMS Acting Administrator Andy Slavitt. "Affordability for Medicare enrollees is a key goal of our work building a health care system that delivers better care and spends health care dollars more wisely."

Because of slow growth in medical costs and inflation, Medicare Part B premiums were unchanged for the 2013, 2014, and 2015 calendar years. The "hold harmless" provision would have required the approximately 30 percent of beneficiaries not held harmless in 2016 to pay an estimated base monthly Part B premium of $159.30 in part to make up for lost contingency reserves, according to the 2015 Trustees Report. However, the Bipartisan Budget Act of 2015 mitigated the Part B premium increase for these beneficiaries and states, which have programs that pay some or all of the premiums and cost-sharing for certain people who have Medicare and limited incomes. The CMS Office of the Actuary estimates that states will save $1.8 billion as a result of this premium mitigation.

CMS also announced that the annual deductible for all Part B beneficiaries will be $166.00 in 2016. Premiums for Medicare Advantage and Medicare Prescription Drug plans already finalized are unaffected by this announcement.

To get more information about state-by-state savings, visit the CMS website at https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2015-Fact-sheets-items/2015-11-10.html

Since 2007, beneficiaries with higher incomes have paid higher Part B monthly premiums. These income-related monthly adjustment amount (IRMAA) affect fewer than 5 percent of people with Medicare. Under the Part B section of the Bipartisan Budget Act of 2015, high income beneficiaries will pay an additional amount. The IRMAA, additional amounts, and total Part B premiums for high income beneficiaries for 2016 are shown in the following table:

Beneficiaries who file an individual tax return with income:	Beneficiaries who file a joint tax return with income:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to $85,000	Less than or equal to $170,000	$0.00	$121.80
Greater than $85,000 and less than or equal to $107,000	Greater than $170,000 and less than or equal to $214,000	48.70	170.50
Greater than $107,000 and less than or equal to $160,000	Greater than $214,000 and less than or equal to $320,000	121.80	243.60
Greater than $160,000 and less than or equal to $214,000	Greater than $320,000 and less than or equal to $428,000	194.90	316.70
Greater than $214,000	Greater than $428,000	268.00	389.80

Premiums for beneficiaries who are married and lived with their spouse at any time during the taxable year, but file a separate return, are as follows:

Beneficiaries who are married and lived with their spouse at any time during the year, but file a separate tax return from their spouse:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to $85,000	$0.00	$121.80
Greater than $85,000 and less than or equal to $129,000	194.90	316.70
Greater than $129,000	268.00	389.80

Part A Premiums/Deductibles

Medicare Part A covers inpatient hospital, skilled nursing facility, and some home health care services. About 99 percent of Medicare beneficiaries do not pay a Part A premium since they have at least 40 quarters of Medicare-covered employment.

The Medicare Part A annual deductible that beneficiaries pay when admitted to the hospital will be $1,288.00 in 2016, a small increase from $1,260.00 in 2015. The Part A deductible covers beneficiaries' share of costs for the first 60 days of Medicare-covered inpatient hospital care in a benefit period. The daily coinsurance amounts will be $322 for the 61st through 90th day of hospitalization in a benefit period and $644 for lifetime reserve days. For beneficiaries in skilled nursing facilities, the daily coinsurance for days 21 through 100 in a benefit period will be $161.00 in 2016 ($157.50 in 2015).

Enrollees age 65 and over who have fewer than 40 quarters of coverage and certain persons with disabilities pay a monthly premium in order to receive coverage under Part A. Individuals with 30-39 quarters of coverage may buy into Part A at a reduced monthly premium rate, which will be $226.00 in 2016, a $2.00 increase from 2015. Those with less than 30 quarters of coverage pay the full premium, which will be $411.00 a month, a $4.00 increase from 2015.

Deductibles and Coinsurance for 2016

Part A Deductible and Coinsurance Amounts for Calendar Years 2015 and 2016

Type of Cost Sharing

Part A Deductible and Coinsurance Amounts for Calendar Years 2015 and 2016 Type of Cost Sharing		
	2015	2016
Inpatient hospital deductible	$1,260	$1,288
Daily coinsurance for 61st-90th Day	315	322
Daily coinsurance for lifetime reserve days	630	644
SNF coinsurance	157.50	161.00

For more information on the 2016 Medicare Parts A and B premiums and deductibles (CMS-8059-N, CMS-8060-N, and CMS-8061-N), visit: https://www.federalregister.gov/public-inspection.

Year-End Notices: Staying On Top Of The Requirements

As the calendar year comes to a close, plan sponsors should begin preparing annual notices. For plans using the calendar year, numerous notices are due to be given in the next few months. Here are some highlights of notices that must be sent to either participants, the IRS or the Department of Labor (DOL) in the next three months.

October to December
Many notices due during this time period deal with safe harbor plans and plans that include automatic enrollment opportunities. They include:

Safe Harbor 401(k) Plan Annual Notices. Sponsors of traditional safe harbor 401(k) plans must provide an annual notice to participants describing the safe harbor employer contributions. The notice must also provide details on other plan features, such as withdrawal provisions. You must give the notice at least 30 days, but not more than 90 days, before the first day of the plan year. Thus, for calendar-year plans, notice can be provided as early as October 2, but no later than December 1.

Safe Harbor Contingent Notices. Plans may also have to provide a safe harbor contingent notice if they want to preserve the ability to adopt a 3% qualified non-elective contribution safe harbor design before the end of the plan year. This notice must be given to eligible employees that this action may be taken. The timing of this notice is the same as for the safe harbor 401(k) annual notice.

Automatic Contribution Arrangement Notices. There are three types of automatic contribution arrangements:

1.Automatic contribution arrangements;

2.Qualified automatic contribution arrangements, which contain certain employee and employer contribution requirements that exempt the plan from annual nondiscrimination testing requirements, making it a “safe harbor” plan; and

3.Eligible automatic contribution arrangements, which permit penalty-free distribution of “accidental” automatic deferrals and provide a six-month period to distribute excess contributions and excess aggregate contributions without imposition of a 10% excise tax.

Notices for these arrangements must provide employees with information that enumerates their rights and obligations under the plan, explain the employee’s right to elect not to have deferral contributions made or elect a different contribution percentage, and detail the default investment provisions in the absence of an investment election.

Generally, for all three types of automatic contribution plans, you must provide an initial notice of eligibility to the participant, generally at least 30 days, but not more than 90 days, from eligibility. Then, annually you must give the notice at least 30 days, but not more than 90 days, before the first day of the plan year.

Required Minimum Distributions (RMDs). Employers must make RMDs by December 31 for eligible employees.

Annual Participant Fee Disclosure Notice. Employers must provide this notice, sometimes referred to as a Section 404(a)(5) notice, to participants annually within a 14-month period, recently amended from a 12-month period. Many plan sponsors choose to provide this notice with other year-end required notices.

January and Beyond
Starting in January, plan sponsors have IRS filings to be aware of:

IRS Form 1099-R. Plans use this form to report distributions, including direct rollovers, from qualified plans or 403(b) plans. You must provide it to plan participants by February 1 of the year following the calendar year in which the distribution was made. Plans will then have to file the form with the IRS by February 29 (or March 31 if filed electronically) of the year following the calendar year in which the distribution was made.

IRS Form 945. This form reports income tax withheld from distributions made from qualified plans and 403(b) plans. It must also be provided to participants by February 1 of the year following the calendar year in which the distributions were made. You can extend the filing deadline by 10 days to February 10 if tax payments were made on time and in full.

Get Noticed

These are just a handful of the annual notices and reports that employee benefit plans must provide each year. For a comprehensive list for your specific plan, contact your benefits specialist.

Hybrid Plan Rules Leave Those Using Whipsaw in Tight Spot

Final regulations giving hybrid defined benefit retirement plans more time to bring their plans into compliance are helpful, but some plans are still in the dark, retirement insiders told Bloomberg BNA.

Recently released final regulations from the Internal Revenue Service and Treasury Department allow hybrid plans that have noncompliant interest crediting rates to be amended to bring rates into compliance with market rate-of-return rules by Jan. 1, 2017, an extension from 2016 in the proposed rules.

However, the rules didn't include transition relief for plans using the whipsaw calculation, Kathryn L. Ricard, senior vice president for retirement policy at the ERISA Industry Committee in Washington, told Bloomberg BNA on Nov. 24.

In a typical whipsaw calculation, the value of a participant's cash balance account will be projected to normal retirement age using the plan's interest crediting rate, then discounted back to its present value using a variable interest rate set by the tax code.

Whipsaw calculations have been controversial, and plan sponsors such as PricewaterhouseCoopers LLP, Hanover Insurance Group Inc., S.C. Johnson & Sons Inc., Alliant Energy Corp. and AK Steel Corp. have faced lawsuits over their use of them.

While the IRS and Treasury had given plans time to eliminate whipsaw calculations in the past, it was never made explicitly clear that they were required to do so, Richard Shea, a partner at Covington & Burling LLP in Washington, told Bloomberg BNA on Nov. 24.

“Sponsors in this situation are really, really angry. Their view is for a period of almost 20 years they were told, if your interest crediting rate isn’t one of the rates in Notice 96-8, you must do whipsaw and if you don’t, your plan is bad,” Shea said.

But now, they're being told that if they use whipsaw, they have a problem. To say that and “then not to provide transition relief when it’s actually needed adds insult to injury,” Shea said.

Ricard backed up Shea's assessment, saying that “the rub” lies in the fact that the IRS and Treasury hadn't made it clear “in previous iterations” that whipsaw needed to be eliminated.

Unclear Future

Though the IRS and Treasury know this is a loose end, it's unclear what they're going to do about it, Ricard said.

“We were hoping that they would put something in the preamble that would address it,” possibly providing a road map for amending plans with whipsaw, Ricard said.

Shea agreed that the future is unclear for plans with whipsaw.

One thing is for certain, the extended effective date of Jan. 1, 2017, will give more time for plans to digest the changes, and possibly for Treasury to consider giving transition relief to plans with whipsaw.

"This either gives people more time to adjust to bad news, although it's unclear what they're supposed to do, or it gives Treasury more time to assess its position and figure out how to address the concerns raised," Shea said.

Law Closes Lucrative Social Security Loophole

Married couples have no shortage of options for deciding when to collect Social Security benefits. But the budget deal that President Barack Obama recently signed into law gets rid of one of the key strategies that has increased lifetime Social Security benefits by up to roughly $60,000 for some high-earning couples according to The Washington Post. The strategy is known as file-and-suspend, in which one spouse could file to receive Social Security retirement benefits and then suspend the payouts. That tactic allows both people to delay Social Security retirement benefits while one person collects spousal benefits based on the other's work history. The couple could essentially live off the spousal benefits and other savings until they could both receive larger Social Security retirement benefits at age 70. (Social Security retirement benefits grow by about 8% for each year beyond full retirement age that a person delays collecting, up until age 70.) The move had come to be known as a loophole because it allowed couples to collect some cash from Social Security while still growing their benefits. Higher earners collecting the maximum Social Security received the largest payout from the strategy, but all workers could use the approach to boost their income in retirement. Under the new rules, retirees will be able to claim spousal benefits only if their spouse is already collecting Social Security retirement benefits. And people will only be able to receive either their own benefit or their spousal benefit, whichever is greater. Retirees will no longer be able to receive spousal benefits first and then switch to their own retirement benefits later on. Similarly, divorced people will be able to collect only their benefit or benefits based on their ex-spouse's record, whichever is greater. Like spousal benefits, current rules let divorced people collect ex-spousal benefits while allowing their own benefits to grow until age 70. Retirees still have some time to evaluate their options, the change will kick in about six months from now, meaning people age 66 and older, or who will turn 66 during the next six months, still have time to file and suspend their benefits. And people who are already using the strategy to collect spousal benefits alone can keep doing so. The rule also makes an exception for people who are 62 now or who will turn 62 this year. They will still be able to claim spousal benefits alone after they reach their full retirement age and then collect their own larger benefits at age 70. Married couples will still have other strategies to maximize their Social Security benefits, advisers say. Each spouse can use the basic strategy of delaying retirement benefits until age 70 to receive the larger payments. If the couple cannot afford for both to wait, one spouse can collect his or

her Social Security retirement benefits first while the higher earner spouse delays benefits until 70. That move could grow the higher earner's monthly benefits and later ensure a greater survivor's benefit. Of course, delaying benefits pays only for people who live long enough to make up for the benefits they would have received had they started collecting earlier. Someone who waits until 70 to start collecting Social Security retirement benefits would need to live at least until 80 to come out ahead and have more money in total than if he or she had started receiving reduced benefits at age 62.