BCG Retirement News Roundup

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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.

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How did N.J. get into this pension mess?

Some 800,000 people, working and retired, are beneficiaries of New Jersey's pension system, a collection of funds going deeper into the red.

It's a system that Gov. Chris Christie, in his State of the State address last week, called "an insatiable beast."

In boom years, New Jersey leaders shortchanged the pension system, and those "sins of the past," Christie said, "have made the system unaffordable."

Fully funding the pension system this fiscal year would cost $3.9 billion, but Christie cut the pension payment to just $700 million to balance the budget — a move that landed him in court, battling an attempt by unions to force him to pay more.

Union leaders accuse the governor of going back on his word to have the state make full payments in exchange for higher contributions from workers. It's a hot issue in Trenton made even bigger with Christie considering a White House run.

The governor has called for more changes to the system to bring down costs, and over the summer assembled a bipartisan commission to issue recommendations.

That commission, which has yet to release its final report, echoed Christie's call for additional reforms.

Here's a recap of what's happening with New Jersey's pension mess:

What went wrong?

New Jersey's pension funds were flush at the turn of the 21st century. But since 1996, governors from both parties have been underfunding the system, making payments far below what actuaries recommend.

The state skipped payments altogether from 2001 to 2004, when the annual required contribution called for $2.8 billion. And while the state was taking a pension holiday, it increased benefits for employees.

Every time the state doesn't make a full payment, it's like paying only the minimum on your credit card bill while continuing to charge stuff. So while the ultimate cost of pensions grows, partial payments by the state in one year makes the next payment even bigger — and harder for the state to make. It's multiplied like crazy for the last decade.

The stock market had a hand in it, too. New Jersey lost $20 billion in the dot-com bust between 2000 and 2003, according to the Hall Institute of Public Policy, and was knocked around again by the Great Recession.

Is it true that Christie has contributed more than any other governor?

After skipping a $3.1 billion payment in fiscal year 2011, Christie contributed $484 million in 2012, $1 billion in 2013 and $696 million in 2014 — more than any of his five predecessors. He's expected to make a $681 million payment this year.

Former Gov. Christie Whitman's payments totaled roughly $1 billion, while the state contributed $100 million under James E. McGreevey and $2.1 billion under Jon Corzine.

But Christie's payments are still a fraction of what is needed to keep the pension system from piling up even more debt.

What did the 2011 pension law do?

The Legislature adopted and Christie signed into law a pension reform package to gradually increase the state's pension contribution over seven years until it reached the full annual required contribution.

Employees had to make concessions too: the law raised the retirement age, suspended cost-of-living increases for retirees, and required workers to contribute more toward their pensions and health benefits.

The contribution rate for workers enrolled in the Public Employees' Retirement System and Teachers' Pension and Annuity Fund increased will increase from 5.5 percent to 7.5 percent over seven years.

Police and firemen's rates increased from 8.5 percent to 10 percent of pay, and state police's contribution jumped from 7.5 percent to 9 percent. Judicial employees will phase in an additional 9 percent of their salary.

I thought those changes were going to save the system. What happened?

The state got bad news last spring, when tax collections came in much lower than the Christie administration expected, blowing holes in the previous and current fiscal years' budgets.

Christie reduced the pension payment for the fiscal year that ended June 30 from $1.6 billion to $696 million and the payment for the current fiscal year from $2.25 billion to $681 million.

The remaining payments are enough to cover employees currently receiving benefits, but it doesn't leave anything for the unfunded liability.

But even before the revenue emergency, Christie was warning that pensions and benefits needed to be revised again because their costs would swallow up a bigger chunk of the state budget each year.

Conceding he needed more help, Christie last summer appointed a commission to come up with recommendations on how to revamp the system. The panel has not yet come up with a final report, which is months late.

The unions have taken Christie to court over both pension cuts, and lost the first round in June. Superior Court Judge Mary Jacobson said the fiscal emergency backed the governor into corner, and making the full pension payment would produce "severe and immediate impacts on vulnerable populations."

Christie's administration challenged the legality of the 2011 pension law during a hearing Thursday, with lawyers calling it unconstitutional and saying Christie doesn't have to pay. Jacobson has not issued a ruling.

How bad is it?

New Jersey faces $37 billion in unfunded pension liabilities, according to a report from Christie's pension commission. Each household would have to write a check for $12,000 to close the gap, the commission said.

An actuarial rule change that assumes less optimistic investment returns doubled the unfunded liability figure to $83 billion, and pushed the dates that two of the largest pension funds will go broke to 2024 and 2027.

The state has $40 billion in assets, covering 32.6 percent of its $122.8 billion in liabilities.

How does that compare to the rest of the country?

New Jersey's pension shortfall ranks fourth worst in the country, behind Illinois, Connecticut and Kentucky.

Two-thirds of states contributed at least 90 percent of full funding in fiscal year 2013, according to Moody's. New Jersey contributed 28 percent.

What about unfunded health care benefit liabilities?

Retiree health benefits add another $53 billion in unfunded liabilities.

Those costs consume 8 percent of the state budget, and according to Christie's commission, could grow to 14 percent of the budget within 10 years.

Part of the problem, the commission says, is that 80 percent of public workers are enrolled in what would be considered a "platinum" plan under the Affordable Care Act.

"The state health programs provide generous benefits with little pricing incentive for employees to select anything but plans with the most comprehensive coverage and highest cost to the state," the report says.

In addition, the commission noted that beginning in 2018, the federal government will impose a 40 percent excise tax on such plans that would cost the state another $58 million that year and $284 million by 2022.

What about the municipalities?

Local government portions of the pension plans are much better funded than the state's. Moody's Investors Service said late last year that these local governments "currently are not affected by the state's severe pension underfunding problem."

Local funding for the Public Employees' Retirement System is 73.9 percent, and it's 77 percent for the Police and Firemen's Retirement System — the two state and local government shared plans. The state government portions are funded at 46 percent and 48.6 percent, respectively.

"Cities and counties have historically contributed to PERS and PFRS at much higher rates than the state," Moody's said. "These local governments' annual rates determined contributions., determined by state statute, have ranged from 84 percent to 92 percent of (annual required contribution) in recent years, versus the state's very low 4 percent to 28 percent."

Do Credit Ratings Matter Anymore?

Thanks to changes in the market, bond ratings don't mean what they used to.

Chicago's finances aren't in great shape. And they've been getting worse in recent years. The city's pension debt has ballooned to eight times its operating revenue.

Between 2002 and 2012, Chicago tripled its debt load. During that time, the city’s population -- its tax base -- fell. As a result of all those factors, the credit market has reacted harshly. Fitch Ratings has downgraded the city’s debt rating two notches, to A-, just since 2010. Meanwhile, Moody’s Investors Service downgraded Chicago three notches over that time, to Baa1. That’s just three steps away from junk bond status.

But then there’s Standard & Poor’s. Over the same period of time in which the other two ratings agencies have been gutting Chicago’s score, S&P has kept its rating for Chicago locked at A+. These aren’t minor differences. In fact, Chicago’s three credit ratings are now spread across four of the 10 possible rating levels for investment grade bonds.

So what gives? How could three agencies look at the same set of numbers and come up with such disparate results? And how could two groups see a financial decline when a third sees economic stability? “We’re talking about very dramatic differences,” says Matt Fabian, managing director of Municipal Market Advisors (MMA). “When the rating agencies are so divergent, what guidance are investors left with?”

It wasn’t very long ago that most governments could just buy a top-grade AAA rating no matter what their actual financial health was. Thanks to the bond insurance business, a government issuing bonds could just pay for an insurer to wrap the bonds with a AAA rating. Lower-rated bonds mean governments have to pay higher interest rates to investors. So in most cases it was still a better deal to pay a little extra for bond insurance upfront rather than higher interest rates down the road. The system worked -- as long as the insurance companies could offer a AAA rating. But as those companies became more aggressive with their own investments, they too became victims of the financial market collapse in 2008. Those companies were downgraded, and a business that had once insured nearly half of all municipal bonds dropped practically out of existence. It changed everything.

Without the cloak of bond insurance, governments had to rely on their credit quality alone for the first time in decades. It was an unfamiliar practice, and not just for those issuing the bonds. Municipal market investors were, for the first time, required to look under the hood. What they found was often confusing. For one thing, the muni bond market is vastly different from the corporate market. And governments vary significantly from one another in terms of their level of disclosures and financial savviness. Complicating things further was the fact that credit ratings themselves increasingly began to vary. More and more, two different agencies would issue two different ratings for the same bond.

As a result, credit ratings -- which were once essentially the only thing that mattered to investors -- are today just one of the myriad things investors look at. A rating is an important starting point, but it doesn’t have to dictate the kind of reception a government will actually get in the municipal market. Investors want to look at a whole host of factors to assess a city’s fiscal health, and government finance officials are today much more likely to work directly with investors. Against that backdrop, the ratings agencies’ wildly divergent opinions on the overall health of the municipal market has led to increased skepticism about their own credibility.

In other words, if investors don't care about ratings as much as they used to, and if ratings agencies can't even agree on which way the muni market is trending, then what purpose do they serve?

Since the market crash, credit rating agencies' image as a whole has suffered greatly. They were blamed for helping to precipitate the crisis in the first place, by giving overly generous ratings to mortgage-backed securities that later turned sour. In February 2013, the Department of Justice even sued Standard & Poor's for $5 billion, claiming that it knowingly issued unduly high ratings. (S&P says the lawsuit is simply a retaliation for the agency's high-profile downgrade of the nation's credit rating in 2011.)

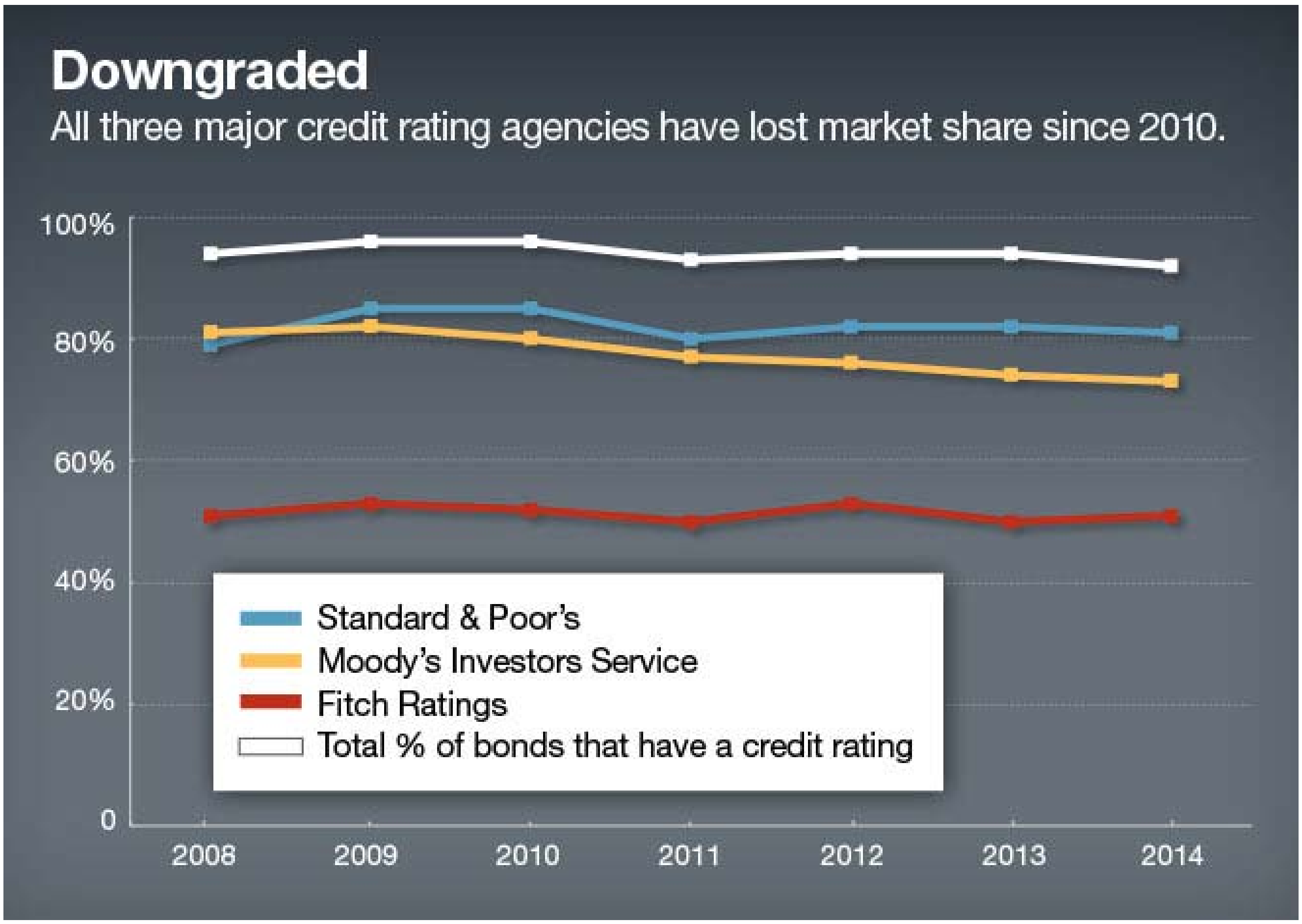
When it comes to the municipal market, some observers see credit rating agencies in the middle of an alarming shift. Increasingly, two agencies will issue a different rating for the same municipal credit. In fact, today about 40 percent of municipalities that have ratings from different agencies have what's called a split rating, according to data from MMA. From the agencies' perspective, the variance is simply a result of their different approaches. And those differences help inform the market, says Bob Kurtter, Moody's managing director of U.S. public finance. “For the most part we see things similarly, and in some cases we don't,” he says. “Investors are looking for a range in opinions and, for the most part, I think that's a good thing.”

But to those on the outside looking in, the divergence is sending a different message to investors, says MMA's Fabian. “It does undermine the agencies' credibility,” he says. “In theory, independent views should generally align with one another. So when they don't, it underscores a degree of subjectivity.”

Exactly which agency's creditability has suffered more is, well, subjective. Last summer, municipal credit analyst Tom Kozlik released a scathing report that called into question the revamped ratings methodology that S&P had been applying over the prior year to reassess its local government ratings. The new criteria score municipalities in seven categories: management, economy, budgetary flexibility, institutional framework (governance), budgetary performance, liquidity and debt/liabilities. As a result of the new criteria, S&P has issued about 10 times as many upgrades as it has downgrades over the past year (although most of its ratings did stay the same). S&P acknowledges that the number of upgrades was higher than its analysts initially expected. But the agency attributes that to the unexpectedly positive results from the qualitative portion of its analyses of governments. In other words, the more subjective measures -- particularly government management -- were looking pretty good.

Meanwhile, Moody's -- which has done a smaller revamp of its criteria, applying stricter standards to governments' pension liabilities -- has been issuing about twice as many downgrades as upgrades.

All of this has led governments to pick and choose the agency they think will give them the best rating, according to Kozlik's report. More governments today are issuing just one rating when they go to market, he says -- and their rating of choice is S&P. All three agencies have lost market share since their business boomed following the collapse of bond insurers, but S&P has held on to a greater share than either Moody's or Fitch. Even larger issuers, which traditionally have always needed to obtain more than one rating on new bond issues, are finding that they can get by with just one. Last year, Cook County, Ill., issued $90 million in sales tax bonds and only used an S&P rating. "Years ago we would have done all three agencies," says county Chief Financial Officer Ivan Samstein. "But we thought that we could go with just one rating, and we chose to use S&P."



Source: Municipal Market Advisors

So who's getting it right? S&P's sunnier outlook or the more negative viewpoint of Moody's and Fitch? Unsurprisingly, that depends on whom you ask. Samstein says the mere fact that he was able to sell $90 billion in bonds with just one rating, from S&P, means the muni market as a whole is more in line with S&P's more optimistic assumptions. And CFOs also have a duty to get the best price for taxpayers -- after all, he says, a lower rating would have increased the county's borrowing costs. Still, adds Samstein, who previously worked as a public finance credit analyst at Moody's: "Most of the market knows, if you're a sophisticated institutional investor, you shouldn't really trust the ratings by themselves."

Governments these days are selling their product to a much more knowledgeable investor. After the collapse of the bond insurance industry, financial firms had to get smart -- quickly -- about municipal bonds. Analyst desks began opening up or expanding at major financial firms across the country. The Securities and Exchange Commission even established a new Office of Municipal Securities to keep watch over the market. It's no longer a cut-and-dried picture, says Washington, D.C., CFO Jeff DeWitt. The difference now, he says, is that cities and states must market themselves to investors. "The bonds aren't going to get sold as well if you don't get involved."

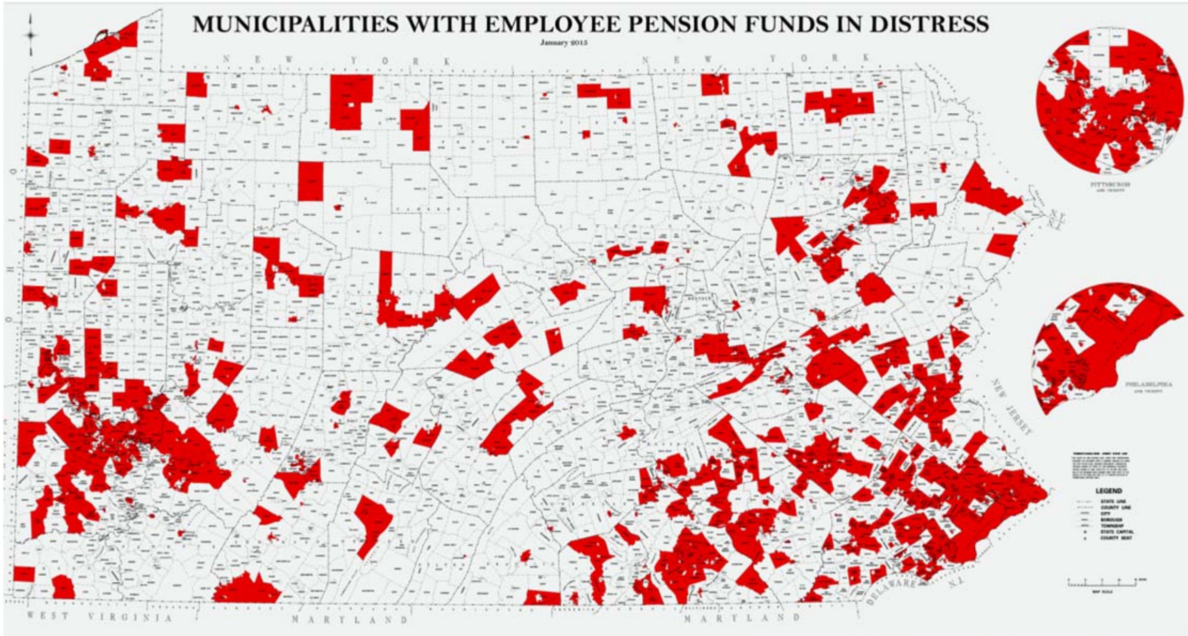
In fact the District of Columbia is looking to join the growing number of major municipalities that hold investor conferences, a convenient way for issuers in a particular region to connect directly with potential buyers. States like California and Massachusetts have well-established investor relations programs dating back several years. Last March, Massachusetts began selling bonds directly to investors, opening up a two-week period each month in which people can buy general obligation bonds directly from the state. The goal with MassDirect and all these types of programs is to create more competition for bonds, thus lowering the overall borrowing cost for governments.

The blossoming relationship between governments and investors means, among other things, that bond ratings don't carry the same weight as they used to. Of course, no CFO can schmooze his way out of an unfavorable financial status. A bad credit is a bad credit. But in the growing number of cases where municipalities receive two different ratings, finance officers can explain to investors why they believe the higher rating is more accurate and what the lower rating might not be taking into account.

A government's credit rating will always matter. An upgrade or a downgrade on a credit, especially a general obligation bond, still makes headlines. And ratings give everyone a rough idea of what kind of borrowing costs to expect.

But government finance officers are increasingly finding that a credit rating doesn't have to keep them from getting the deal they want -- if they're willing to work for it. "Before 2007, I rarely talked to an investor," says DeWitt. "They'd call occasionally to ask a few questions. But after 2007, I talk to them all the time."

Pennsylvania fiscal watchdog's municipal pension fix: what it means



Pennsylvania's local public worker retirement funds have a combined deficit of $7.7 billion. A few years ago, it was $7.2 billion. It went as low as $1 billion in the interim.

The figures fluctuate, but are consistently big enough to indicate the Commonwealth's municipal pension funds won't have enough money to pay retirees what's been promised. That means increased taxes, scaled-back services, or both of those things– possibly in combination with bankruptcy, says state Auditor General Eugene DePasquale. "We saw what happened in Detroit: retirees getting 10 cents on the dollars – basically, getting screwed. Because leaders in Michigan didn't do it. We have a chance to tackle this in a better way in Pennsylvania," DePasquale says.

DePasquale, whose office recently released an updated pension shortfall analysis and recommendations, says lawmakers need to act now to avoid a crisis later. "That is not just a Philadelphia issue, and it's not just a Pittsburgh issue. You're talking a significant chunk of the Pennsylvania population is in an area that has a distressed municipal pension plan," DePasquale says.

Potential solution: a statewide system

As many as 1,100 of the state's local pension funds are distressed, depending on how you define it. DePasquale says one change should be to manage the Commonwealth's 3,200 municipal pensions in one statewide system. That would help cut administrative costs and foster responsible forecasting and investment practices, he says. The singular fund would maintain defined benefits, and distinct classes for different types of workers and solvent versus insolvent plans. DePasquale also says current employees and new hires alike should be funneled into the consolidated fund.

Franklin & Marshall College's Center for Politics & Public Affairs Director Terry Madonna says that last part might not stand up to a legal challenge.

"The problem becomes when you get into the business of changing current or retired workers pensions, you risk running afoul of the Pennsylvania constitution," Madonna says.

Cities already have cut benefits retirees already were receiving, not to mention reducing promised future pension payments to current employees.

That's typically happened in bankruptcy court, though, where judges often relax contractual obligations. But underfunded pensions are a problem nationwide, so some financial experts and government officials are trying to rewrite promised retirement benefits for current workers.

And momentum is strong for a change, Madonna says. "There's a growing consensus that these municipal and other plans, just aren't fiscally sound, and there's been a growing movement to try to consolidate them," Madonna says.

DePasquale says his recommendations should curb some of the risk associated with defined benefit plans' dependency on actuarial forecasts that make assumptions about inflation, wage growth, worker turnover and longevity – and investment returns. Often, these funding shortfalls are a function of over-zealous investment return expectations. Those estimates determine what public employees need to pay into their pensions while they're still working to get what's been promised them during their retirement. So when the actual investment returns are lower than projected, the shortfall is compounded.

DePasquale also says cities should insist on actuaries and investment advisors using lower rates, and base payment on performance (or lack thereof). DePasquale, who's a Democrat, says his next step is meeting individually with members of the Republican-dominated state legislature.

The politics, the proposals

Madonna says DePasquale's proposal attempts political balance. Democrats typically won't support a transition to defined contribution plans, like a 401(k). That's traditionally what Republicans want because employers – in this case, local governments funded by taxpayers – commit only to what they can pay presently. They're not taking on the risk associated defined benefits' plans promised payments decades before they're actually made to retired public workers.

But Republicans in Harrisburg have seemed reluctant to support even a hybrid plan, which would combine the two types, Madonna says. Madonna's assessment is based on their reception of a hybrid plan for the state system of which they're a part.

Some legislators already are working on municipal pension bills, at least one of which proposes a hybrid plan. Seth Grove, a York County Republican entering his fourth term in office, plans to reintroduce a tweaked version of his bill. Grove is advocating a statewide pension fund for local police and paid firefighters that would, as DePasquale suggests, incorporate current and future hires. It mandates conservative investment assumptions and guarantees 30 percent below Pennsylvania's present norm, diverts additional investment earnings to unfunded liabilities of "old" pension funds and prohibits employers from pleding post-retirement healthcare.

Public safety personnel also must have 25 years of service and be older than 55 before they can retire and start collecting. While working, they'd kick in 6 percent - or 9 percent if not participating in Social Security - of their salary into an investment fund. Employers would contribute 4.5 percent. Investment earnings projections would use rates based on Moody's indexed bond yields of no more than 4.5 percent. That's two percentage points lower than the current median rate used by the state's municipal pension plans, according to the most recent Public Employee Retirement Commission report.

Grove's bill also calls for a 12-year vesting period and payouts that begin before age 71. These changes wouldn't affect disability, survivor benefits or workers compensation benefits, according to the legislation. Grove and DePasquale stress the statewide system makes pensions portable, meaning workers can move without fear of losing their retirement benefits.

Democratic Rep. Kevin Schreiber, also from York, says he's working on his own proposal, but isn't yet ready to discuss details.

Northern Trust: Managers overwhelmingly predict higher global market volatility

Money managers remain positive on U.S. economic and corporate growth but predict higher global market volatility in the first half of 2015, Northern Trust Corp.'s quarterly investment manager survey shows.

Eighty percent of managers expect market volatility to increase over the next six months, the highest level on record since the survey was launched in October 2008, and up 10 percentage points from last quarter.

Falling oil prices, geopolitical tension, economic slowdowns in Europe and Japan, and U.S. equity valuations raised volatility concerns this quarter, said Christopher Vella, Northern Trust's senior vice president and chief investment officer for multimanager solutions, in a news release.

Geopolitical risk remained the top concern for managers this quarter followed by a European economic slowdown. A majority of respondents (55%) expect eurozone economic growth to remain negative or flat in the next six months.

However, managers remain confident in the U.S. economy.

In line with last quarter, about 48% percent of respondents expect the U.S. economy to grow during the next six months.

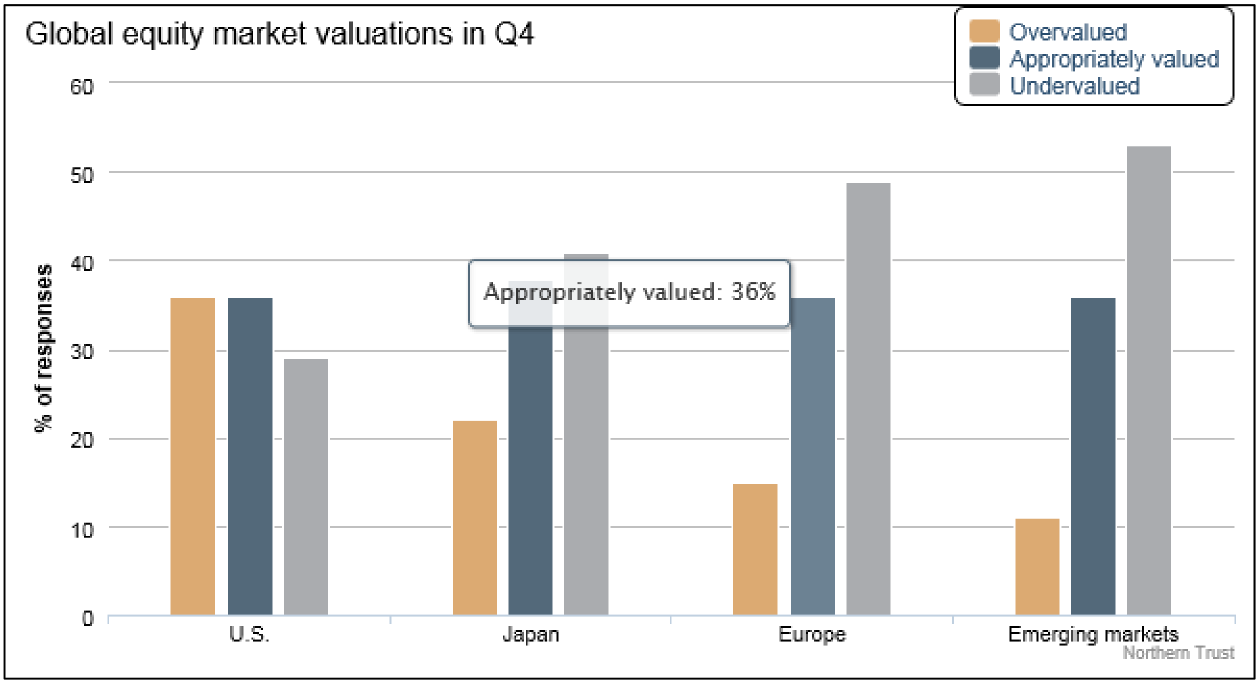
Another 49% predict steady or stable U.S. GDP growth, up two percentage points from the third quarter. The rest of the respondents expect GDP growth to decelerate.

Also similar to last quarter, 95% of respondents expect U.S. company profits to remain the same or increase over the next three months.

“Given the relative strength in the U.S. economy, most managers do not expect the dramatic decline in the price of oil or the strength in the U.S. dollar to derail the U.S. equity market,” said Mark Meisel, senior vice president and senior investment product manager for multimanager solutions, in the news release.

Thinking globally, 86% of respondents believe the oil price collapse will have a positive impact on global GDP, while 11% predict a negative impact.

Managers continue to view emerging markets equities as the most undervalued at 53%, but down slightly from last quarter's 59%. On U.S. equities, 36% of managers believe the asset class is overvalued, the highest level on record and up eight percentage points from last quarter.



New this quarter, Northern Trust asked managers how increasing asset flows and market share of passive/smart beta strategies affected their active management business. Fifty-one percent of respondents reported there has been no negative impact — 46% reported a modest negative impact — and 68% do not believe the increase will impact their ability to generate alpha.

About 100 money managers were surveyed Dec. 3-18.

Cincinnati Strikes Deal for Pension Solvency

The city of Cincinnati will pay higher contributions to its pension system under a new agreement.

The City of Cincinnati, along with retirees and various unions representing current employees, have reached a deal to fully fund the city's pension system within 30 years.

A statement from Cincinnati Mayor John Cranley's office says recent estimates put the unfunded pension liability at roughly $862 million.

Terms of the agreement include:

- $200 million in retiree health care savings;
- The cost of living adjustment (COLA) for both current retirees and active employees will go to 3% simple interest, instead of compound;
- Current employees and retirees will take a three-year COLA holiday; and
- The city will make a larger contribution to the pension annually for the next 30 years—news reports say the city will pay 16.25% of payroll annually.

According to Reuters, voters rejected an initiative in 2013 to shift new city workers to defined contribution (DC) plans.

"This settlement provides certainty and secures our financial position. The process to bring us to this point has not been easy, however I applaud all the parties for their diligent work and commitment to finding a resolution. This outcome will pay dividends for the city for generations to come," Cranley said in the statement.

Private Sector

Funded Status of U.S. Corporate Pensions Falls to 87.3 Percent, According to BNY Mellon ISSG

The funded status of the typical U.S. corporate pension plan fell 2.6 percentage points to 87.3 percent in December as assets fell and liabilities increased, according to the BNY Mellon Investment Strategy and Solutions Group (ISSG).

Public defined benefit plans, endowments and foundations also lost ground during the month, ISSG said.

For the typical corporate plan in December, assets decreased 0.4 percent as liabilities increased 2.5, according to the BNY Mellon Institutional Scorecard.

The funded status for the typical corporate plan finished 2014 down 7.9 percent from the December 2013 high of 95.2 percent, according to the scorecard.

Falling international and emerging markets equities accounted for the decline in assets at U.S. corporate plans and public plans, while the declines in private equity and commodities led to negative returns for foundations and endowments, ISSG said.

The higher liabilities for corporate plans in December resulted from the Aa corporate discount rate falling 14 basis points to 4.00 percent over the month. Plan liabilities are calculated using the yields of long-term investment grade bonds. Lower yields on these bonds result in higher liabilities.

"The decline in interest rates, with the Aa corporate discount rate falling 93 basis points during the year, was the main driver for the fall in funded status during 2014," said Andrew D. Wozniak, head of fiduciary solutions, ISSG. "Asset gains simply could not keep up with the rise in liabilities. The falling rates of 2014 erased almost all of the gains in funded status in 2013 that resulted from rising interest rates during that year."

Public defined benefit plans in December underperformed their targets by 1.8 percent as assets declined 1.2 percent, according to the monthly report. For the full year of 2014, public plans underperformed their return target by 3.0 percent, ISSG said.

For endowments and foundations, the real return in December was -1.8 percent, as assets declined 1.4 percent, ISSG said. For the year, endowments and foundations are behind their inflation plus spending target by 2.7 percent, ISSG said.

Significant Multiemployer and Single Employer Benefit Rule Changes Take Effect

On December 16, 2014, President Obama signed into law the $1.1 trillion Consolidated and Further Continuing Appropriations Act of 2015 (Appropriations Act), which includes some significant changes to the rules governing multiemployer pension plans, as well as a few changes affecting single employer pension plans. With respect to multiemployer plans, these changes were included in a division of the Appropriations Act called the Multiemployer Pension Reform Act of 2014, which, among other things, clarifies the Pension Protection Act of 2006 (PPA) funding rules applicable to multiemployer plans and also provides more troubled plans with new tools to avoid insolvency. While the most talked-about changes relate to plans in critical (the "red zone") or endangered (the "yellow zone") status, there are also a number of changes of which even well-funded multiemployer plans should be aware.

Key provisions from the law affecting multiemployer and single employer plans, which generally took effect January 1, 2015, are detailed below.

Changes to the Multiemployer Plan Funding Rules Generally:

- Repeals the Sunset of PPA Rules. A number of provisions of the PPA relating to funding (including the rules related to zone status and automatic five-year extensions of funding amortization periods) were set to expire as of December 31, 2014. With the signing of the Appropriations Act, the provisions are now set to remain in effect indefinitely.

- Introduces the Option to Elect to Be in Critical Status. Under the Appropriations Act, for plan years beginning after December 31, 2014, a plan sponsor may elect, within 30 days after the actuarial zone status certification, to enter critical status even if the plan does not meet the normal critical status standards, as long as the plan actuary projects that it will do so in any of the succeeding five years. The purpose of this change is presumably to provide plans with the tools available in critical status (e.g., reductions in adjustable benefits) to get a "head start" in taking remedial steps to improve the plan's funded status.

Notably, there are a number of additional notices and disclosures under this new rule. First, all annual actuarial zone status certifications will now need to state explicitly whether the plan is projected to be in critical status in the next five years. Second, if a plan makes this election, it must notify participants, beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation (PBGC), and the Department of Labor (DOL). Third, the plan sponsor must notify the PBGC if it is projected to enter critical status in this five-year period but does not elect to be in critical status.

- Clarifies the Rules for Emerging from Critical Status. Previously, the criteria for exiting critical status differed from the criteria for entering critical status, resulting in a "revolving door" issue whereby a plan could exit critical status and immediately reenter it. The Appropriations Act addresses this issue, providing that plans can only emerge from critical status once the plan actuary certifies that the plan no longer possesses the characteristics of a critical status plan, and the plan is not projected to have an accumulated funding deficiency in any of the succeeding nine plan years.

- Provides that Certain Endangered Status Plans are No Longer Considered to Be in Endangered Status. A plan in endangered status is required to establish a funding improvement plan that will result in its improving its underfunding by one third over a 10-year period. Over the last several years, there have been some plans that met the criteria for endangered status but did not require any changes to contributions or plan benefits in order to satisfy the requirement to improve their funded status. Under the PPA, these plans still had to endure the burdens of being in endangered status even though their funding improvement plan would require no action. Under the Appropriations Act, however, these types of plans are not considered in endangered status as long as they were not in critical or endangered status in the preceding year. If a plan would be in endangered status but for this legislative change, the plan sponsor must still notify the bargaining parties and the PBGC that the plan would be in endangered status without this exception.

- Changes the Date an Endangered Status Plan's Target Funding Percentage is Calculated to the Time of Plan Certification. As noted above, a funding improvement plan for a plan in endangered status must improve funding by one third of its underfunding over a 10-year period known as the funding improvement period. Under the PPA, the starting point for the funded percentage was measured as of the beginning of the funding improvement period. Under the Appropriations Act, however, it is now calculated as of the beginning of the plan year for which the plan is certified in endangered status. Using this earlier date removes uncertainty and also removes a possible disincentive to make plan changes before the funding improvement period begins.

- Removes the Requirement that Funding Improvement Plans Avoid a Funding Deficiency Every Year. Under the PPA, the funding improvement plan of a plan in endangered status was required to avoid a funding deficiency for every year in the funding improvement period. The Appropriations Act removed this requirement for plans in endangered status (although it appears that an excise tax would still apply if there is a funding deficiency when a plan is in endangered status).

- Conforms the Restrictions for Endangered and Seriously Endangered Status Plans During Funding Plan Adoption and Funding Improvement Periods to Those for Critical Status Plans. Under the PPA, the restrictions applicable to endangered and critical status plans in their adoption periods and funding improvement/ rehabilitation periods differed to some extent. The Appropriations Act conformed these restrictions so that endangered status plans are now subject to the rules for critical status plans. Of note, this means that:

- Seriously endangered plans are no longer required to take reasonable actions during the adoption period to increase the plan's funded status and postpone accumulating funding deficiencies, and

- Once the funding improvement plan is adopted, endangered status plans are not prohibited from accepting a collective bargaining agreement (CBA) or participation agreement that (1) reduces the level of contributions for plan participants; (2) suspends contributions; or (3) excludes younger or newly hired employees from participation.

- Clarifies the Contribution Schedule Applicable When Bargaining Parties Fail to Reach Agreement after First Conforming CBA. The PPA provided for a default schedule where the bargaining parties did not adopt a funding improvement or rehabilitation plan schedule within 180 days after the existing CBA expires. However, this rule applied only to the expiration of the CBA in effect when the plan entered critical or endangered status and was silent as to subsequent CBAs. The Appropriations Act closes this gap, stating that if, 180 days after the expiration of a conforming CBA, the bargaining parties have not agreed to a contribution schedule, then the plan sponsor will implement the contribution schedule from the expired CBA (as updated).

- Clarifies Adjustments That Are Disregarded for Withdrawal Liability Purposes. Under the PPA, multiemployer plans in critical status had to disregard certain benefit reductions in determining the plan's unfunded vested benefits for withdrawal liability purposes. The Appropriations Act clarified the types of benefit reductions that are disregarded (including those related to benefit suspensions for plans in critical and declining status – discussed below – as long as the withdrawal occurred within 10 years of the suspension).

In addition, the PPA provided that critical status surcharges (applicable to employers prior to their adoption of a rehabilitation plan schedule) are generally disregarded in determining the unfunded vested benefits applicable to an employer. The Appropriations Act clarified that surcharges are also disregarded in determining the amount of an employer's annual payment. This rule applies to surcharges that accrue for periods on or after December 31, 2014.

Moreover, contribution increases that are either required or were made to enable the plan to meet the plan's funding improvement or rehabilitation plan will be disregarded for both allocation of unfunded vested benefits and the amount of the annual payment. This rule relating to disregarding contribution increases ceases to apply after the expiration of the CBA in effect when the plan emerges from endangered or critical status (except for purposes of calculating the highest contribution rate for plan years when the plan was in endangered or critical status). The rule is effective for contribution increases that go into effect on or after the first plan year beginning after December 31, 2014. The purpose of the rule appears to be to reduce the incentive for employers to withdraw prior to increases going into effect.

Changes Impacting Multiemployer Plans with More Significant Funding Issues:

- Allows Insolvent and/or Terminated Plans to Pay Qualified Preretirement Survivor Annuities (QPSAs). Prior to the Appropriations Act, QPSAs were considered forfeitable benefits where the participant was still alive at the time a multiemployer plan became insolvent or terminated. As a result, under PBGC rules, an insolvent or terminated multiemployer plan with assets not sufficient to pay all nonforfeitable benefits was not permitted to pay a QPSA to the surviving spouse of any participant who died after the plan became insolvent or terminated. Under the Appropriations Act, QPSAs are not to be treated as forfeitable benefits solely because the participant is still alive at the time of plan insolvency or termination. Thus, QPSAs can now be paid with respect to participants who die after the date of plan insolvency or termination. Significantly, this change is effective retroactively for QPSAs becoming payable on or after January 1, 1985, as long as the surviving spouse did not die before December 16, 2014 (the date of the Appropriation Act's enactment). This retroactivity does create some practical questions about the payment of a QPSA that otherwise would have commenced many years prior, including how to adjust the payment amounts given the late commencement, and where the payments are otherwise past the required beginning date. Also, note, this change does not apply to other death benefits that are still considered forfeitable and therefore not payable after insolvency or termination, including certain lump sum death benefits.

- Allows for the Suspension of Benefits of Certain Participants of Plans in "Critical and Declining Status". The Appropriations Act creates an exception to the anti-cutback rules of ERISA and the Internal Revenue Code to allow, under certain conditions, plan sponsors of plans in "critical and declining status" to suspend (temporarily or permanently) benefits already earned by participants, including those already in pay status. The purpose of these new rules appears to be to allow trustees an opportunity to save their deeply troubled plans that would otherwise be headed toward short-term insolvency by making more modest benefit suspensions early, instead of waiting for insolvency and facing more severe cuts at the hands of the government agencies.

Each year, the actuarial certification for a plan must include a statement as to whether a plan is, or is projected to be, in critical and declining status for the plan year. Annual funding notices must include this information and, for plans in critical and declining status, additional information regarding the plan's projected insolvency and the possibility of benefit reductions. To qualify as a plan in critical and declining status, the plan must meet the requirements to be in critical status, and must be projected to be insolvent either in the current plan year or the succeeding 14 plan years (the succeeding 19 plan years if the plan's ratio of inactive to active participants is greater than 2:1 or the funding status of the plan is less than 80%).

Once a plan is determined to be in critical and declining status, certain requirements must be met in connection with any suspension of benefits, including the following:

- The plan actuary must certify that the suspensions are projected to allow the plan to avoid insolvency.
- The plan sponsor must have a written record that it is projected to become insolvent (absent the suspension) despite its having taken (and continuing to take) all reasonable measures to avoid insolvency. The Appropriations Act contains a number of factors to be taken into account in making this determination.
- The plan sponsor must apply for IRS approval. The IRS must approve or deny the application for suspension of benefits within 225 days of receipt of the application. If approved, the suspensions are then subject to a vote of the plan participants and beneficiaries, which is generally administered by the IRS (although the plan sponsor must prepare the ballot subject to certain content requirements in the law). Unless the majority of all plan participants and beneficiaries vote no, then the benefit suspensions will take place. Even if there is a negative vote, the IRS (after consulting with the PBGC and the DOL) may permit the suspension in the case of a "systematically important plan", as defined in the Appropriations Act.
- Concurrent with its application to the IRS, the plan sponsor must provide notice of the proposed suspension to plan participants and beneficiaries, labor organizations representing plan participants, and employers with an obligation to contribute to the plan.
- In addition, certain plans with at least 10,000 participants must appoint (and pay the reasonable costs of) a retiree representative who will advocate for the interests of retired and deferred vested participants.

There are certain limitations on benefit suspensions, including the following:

- Monthly benefits cannot be suspended below 110% of the monthly amount guaranteed by the PBGC for each participant.
- Benefits cannot be suspended for those receiving benefits on account of disability.
- Benefits cannot be suspended for those who are at least 80 years old. (There is also partial protection for those between 75 and 80 years old.)

- Benefits can be suspended only to the extent reasonably estimated to achieve (but not materially exceed) the level necessary to avoid insolvency.

- Suspensions must be equitably distributed among the population. The Appropriations Act includes factors that may be taken into account in that regard.

- There are specific rules as to how post-suspension benefit improvements must be implemented.

- Allows for PBGC-Facilitated Plan Mergers in Specified Situations. The Appropriations Act provides specific authority for the PBGC to facilitate multiemployer plan mergers where the merger is in the interests of the participants and beneficiaries of at least one of the plans and is not reasonably expected to be adverse to the overall interests of the participants and beneficiaries of any of the plans. Assistance can include training, technical assistance, mediation, stakeholder communication and support relative to requests of other government agencies. The facilitation can include financial assistance if the following conditions are satisfied:

- At least one of the affected plans is in critical and declining status;

- The PBGC reasonably expects that the financial assistance provided will decrease the PBGC's anticipated long-term losses regarding these plans, and this action is necessary for the merged plan's solvency;

- The PBGC certifies to Congress that it will still be able to meet its current financial assistance obligations despite this assistance; and

- The financial assistance is paid exclusively from the PBGC multiemployer plan fund.

- Expands the PBGC's Authority to Partition Plans. Prior to the Appropriations Act, plans were only eligible for PBGC-facilitated partition when there was a substantial reduction in contributions as a result of an employer (or employers) being in bankruptcy. In those cases, only the liability associated with the service of the bankrupt employer(s) could be severed. Under the Appropriations Act, however, the bankruptcy of employers is no longer relevant. Now, the PBGC can order a plan partition if the plan sponsor requests PBGC assistance (and notifies participants of that request) and the following are satisfied:

- The affected plan is in critical and declining status;

- The PBGC determines that the plan sponsor has taken, or is currently taking, all reasonable steps to avoid insolvency (including by making the maximum amount of benefit suspensions);

- The PBGC reasonably expects that the financial assistance provided will decrease the PBGC's anticipated long-term losses regarding the plans, and that this action is necessary for the plan's solvency;

- The PBGC certifies to Congress that it will still be able to meet its current financial assistance obligations despite this partition; and

- The cost of the partition is paid exclusively from the PBGC multiemployer plan fund.

- Where a plan is partitioned, a new plan (with the same sponsor and administrator as the existing plan) is created that has the minimum amount of plan liabilities necessary for the existing plan to remain solvent. The existing plan must pay the new plan the portion of the monthly benefit that exceeds the PBGC guarantee. There are special rules for the calculation of withdrawal liability, which generally depend on whether the employer withdraws within 10 years of the partition.

- Repeals Reorganization Rules and Replaces Them with Rules for Critical Status Plans. Under prior law, plans with funding issues were occasionally considered to be in "reorganization status", and were subject to specific enumerated requirements, if the plan met certain criteria similar, but not identical, to the triggers for critical status. The Appropriations Act repealed the reorganization rules and replaced these with the rules for critical status plans. This change avoids the confusion of subjecting plans in similar situations to different requirements.

The Appropriations Act also expanded the required scope of notice of impending insolvency to include the PBGC, and not simply the plan participants and beneficiaries, employers with an obligation to contribute to the plan, and labor organizations representing plan participants and beneficiaries. This expansion provides for further inclusion of government agencies in the status of plans with severe funding issues.

Other Changes Impacting Multiemployer Plans:

- Adds Additional Plan Information Required to Be Disclosed and Retained. Section 101(k) of ERISA requires multiemployer plans to provide certain information to participants, beneficiaries, employee representatives and contributing employers upon written request. In addition, Section 101(l) of ERISA requires multiemployer plans to furnish estimates of withdrawal liability to contributing employers upon written request.

The Appropriations Act modified these rules by providing a cause of action for employee representatives and employers who do not receive the requested information.

In addition, it added the following to the list of documents that must be disclosed under Section 101(k):

- Current plan document and amendments;
- Most recent summary plan description;
- Current trust agreement and amendments;
- An employer's participation agreement relating to the current plan year or any of the preceding five plan years (only required in response to that employer's request);
- Form 5500 for any plan year;
- Annual funding notice for any plan year;
- Audited financial statements for any plan year; and
- The most recent funding improvement plan or rehabilitation plan for plans in endangered or critical status, and the accompanying contribution schedules (other than a schedule applicable to a specific employer).

A number of these disclosures are now limited by statute to the last six years of information. Further, the Appropriations Act added much of this information to the record retention requirement of Section 107 of ERISA.

- Increases PBGC Premiums for Multiemployer Plans from $13 to $26 Per Participant. For plan years beginning after December 31, 2014, the PBGC premiums per participant have been increased from $13 to $26, and will then be adjusted for inflation and indexed annually. In addition, the PBGC must report to Congress by June 1, 2016 whether these increased premiums are projected to cover the PBGC's obligations for the upcoming 10- and 20-year periods. If the PBGC concludes that the resulting sums will not be sufficient, it must suggest revised premium amounts sufficient to meet the obligations.

- Exempts Withdrawal Liability Settlements from Prohibited Transaction Rules. The Appropriations Act clarifies that "any arrangement relating to withdrawal liability involving the plan", which would appear to include settlements of withdrawal liability claims against former contributing employers, are not subject to the prohibited transaction rules prohibiting party-in-interest transactions (although they are still subject to the self-dealing prohibitions).

Important Changes and Resulting Implications for Single Employer Plans:

- Expands the Permissible Definition of Normal Retirement Age for Certain Defined Benefit Plans. The Appropriations Act also addressed an issue arising from the IRS's 2007 guidance stating that plans must have a normal retirement age of at least age 62. Specifically, it provides that defined benefit plans will not be treated as failing the normal retirement age requirements if they defined normal retirement as the earlier of a permissible age or the age at which a participant completes the number of years (not less than 30) of service. Plans are allowed to amend their normal retirement age language to include the above approved language moving forward, but only for individuals who were plan participants (or employees of the employer) on or before January 1, 2017.

- Updates the Rules Surrounding a "Substantial Cessation of Operations" Under ERISA Section 4062(e). When an employer who maintains a single employer plan substantially ceases operations (called a "4062(e) event"), the employer can be subject to a liability that equals the plan's unfunded benefit liabilities (measured on a termination basis) at the time of the 4062(e) event times the percentage reduction in active plan participants. After years of controversy surrounding its application, significant changes were made to this rule as follows:

- Section 4062(e) previously provided that an employer was considered to substantially cease operations if more than 20% of the plan participants were "separated from employment". The Appropriations Act reduces the percentage of the applicable workforce reduction that triggers a substantial cessation of operations from 20% to 15%, and now relates to the separation from employment of all eligible employees (in any pension benefit plan of the employer, which would include employees in a 401(k) plan for this purpose), not simply the affected defined benefit plan's participants.

- There are a number of important exclusions and inclusions to the calculations of the number of participants terminated. For example, certain employee terminations can be excluded from this calculation if those employees are replaced "within a reasonable time" by an employee who is a U.S. citizen or resident. In addition, in an asset or stock sale, termination of an eligible employee is not counted where a new employer continues the operation, continues to employ the eligible employee and maintains a pension plan that includes assets and liabilities attributable to the employee's benefit (or the employee was not a participant in a pension plan). In such a disposition, the termination is also not counted if that new employer continues the operation, replaces the terminated employee and maintains a pension plan that includes the assets and liabilities attributable to the employee's benefit in the pension plan (if any).

- There is also a three-year lookback period that aggregates terminations that are related to the permanent cessation of operations.

- The Appropriations Act also provides exemptions to the above rules regarding the treatment of employee terminations as substantial cessations of operations (including the notice requirements) when a plan is more than 90% funded or has less than 100 participants.

- Consistent with the PBGC's past practice, employers are now statutorily permitted to elect to satisfy the 4062(e) liability by making (generally over seven years) additional funding contributions to the affected plan. The new legislation also establishes that the PBGC cannot use funds allotted by this legislation to take action in connection with 4062(e) events.

- Finally, and perhaps most notably for large employers, the Appropriations Act directs the PBGC not to initiate any new enforcement action with respect to section 4062(e) that is inconsistent with its enforcement policy in effect on June 1, 2014. The PBGC implemented a 4062(e) Enforcement Pilot Program in 2012 under which the PBGC generally will take no action to enforce section 4062(e) liability against "creditworthy" companies or small plans with 100 participants or less. As a result, it appears that qualifying employers and plans will remain exempt from 4062(e) liability altogether.

The PBGC announced last week that, in light of the Appropriations Act, the PBGC will not be extending its self-imposed moratorium on the enforcement of Section 4062(e), which expired on December 31.

The Appropriations Act contains both minor improvements and significant changes to existing law of which all contributing employers to multiemployer plans and sponsors of defined benefit plans should be aware. The foregoing is intended to be a general summary of the significant changes present in the Appropriations Act relevant to both multiemployer and single employer plans, and is not intended to be an exhaustive review of the provisions thereunder. If you have any questions regarding the Appropriations Act and recommendations for effective compliance, please feel free to contact any of the Proskauer lawyers listed in this alert.

Cost of Retirement Income Jumped in 2014

A quarterly analysis from BlackRock finds the cost of purchasing lifetime income units increased significantly in the last 12 months, putting pressure on pre-retirees planning for life after work.

A sharp rise in lifetime income costs means many workers in their 50s and early 60s are less financially prepared for retirement than they were 12 months ago, despite 11% gains in equity markets over the same time period. Even a strong 14% return for the average 55-year-old retirement investor examined by BlackRock couldn't keep pace with the relative increase in lifetime income costs.

Chip Castille, BlackRock's chief retirement strategist, says markets in 2014 were mostly friendly to investors at the retirement horizon, despite some volatility. Portfolios held by 64-year-olds grew an average 19% in 2014 and outpaced the cost of future lifetime income, which rose a more modest 11%. BlackRock explains that, with just over $282,000 in median lump sum savings, this group of late-career workers has the equivalent of slightly more than $12,000 in estimated annual retirement income.

Castille says the CoRI Retirement Indexes demonstrate ongoing shifts in annuity and income product markets, as well as the impact of wider market moves on retirement-specific portfolios. "Projected income gives a much clearer picture of retirement savings and a new way to manage portfolio performance," he adds.

The indexes offer investors ages 55 to 64 a daily estimate of the "price" today of a dollar of annual retirement income starting at age 65. The CoRI Indexes, composed largely of U.S. government and investment-grade bonds, use current interest rates, annuity prices, inflation expectations, life expectancy and other factors to set the daily price estimates.

The final quarterly CoRI analysis for 2014 shows that, for workers around age 55, a dollar of estimated annual retirement income would have cost $12.47 a year ago. Twelve months later the cost is $16.62. As a result, workers' median nest egg value of $280,000 could only generate estimated retirement income of $16,849 a year starting at age 65, the analysis shows.

"What's interesting (and counterintuitive) about that result," BlackRock says, "even though the savings portfolio grew in value, it would be on track to generate almost $3,000 less in annual retirement income than the smaller nest egg 12 months ago."

BlackRock says the main factor behind the increase in lifetime income costs was the continued slump in interest rates. The last year saw yields on 10-year U.S. Treasury notes fall "a staggering 28.62%," the analysis explains. Jeffrey Rosenberg, BlackRock's chief investment strategist for fixed income, adds that predictions of rising rates from many investment experts in 2014 did not play out.

The firm notes that the BlackRock 2015 Outlook predicts that "long-term interest rates may inch up this year," but BlackRock expects rates to be low for some time to come.

Americans Overwhelmingly Oppose Changing Tax Incentives for Retirement Saving

ICI Household Survey Finds Americans Appreciate 401(k) Features

Washington, DC, January 20, 2015—A strong majority of U.S. households—including those with and those without retirement plan accounts—disagree with proposals to remove or reduce tax incentives for retirement saving in defined contribution (DC) accounts, including 401(k) accounts, according to new survey findings by the Investment Company Institute. And, nine in 10 households with DC accounts agreed that these plans help them think about the long term and made it easier to save.

“Past budget and tax reform initiatives have proposed to limit the benefits of tax deferral on retirement plan contributions or cap the amount Americans can save in their 401(k)s, individual retirement accounts, and pensions,” said ICI President and CEO Paul Schott Stevens. “This ICI survey reaffirms our consistent finding that Americans strongly support current tax incentives for retirement saving and want those benefits to be preserved. All workers, regardless of income, benefit from the current tax treatment for retirement plan saving, and we urge policymakers, as they consider legislation in this area, not to curtail these important incentives to save for retirement.”

Importance of Tax Advantages to Americans Evident in Survey

ICI’s latest report, “American Views on Defined Contribution Plan Saving,” is based on survey results from more than 3,000 respondents in November and December 2014 about their views on DC retirement account saving, their reactions to proposed changes, and their confidence in 401(k) and other DC plan accounts. ICI found:

Eighty-eight percent of households disagreed with the notion that the government should take away the tax advantages of DC accounts, and 90 percent disagreed with reducing the amount that individuals can contribute to DC accounts.

Even among households not owning DC accounts or individual retirement accounts (IRAs), more than eight in 10 rejected the idea of taking away or reducing the current tax treatment of DC accounts.

Eight in 10 households with DC accounts said the tax treatment of their retirement plans is a big incentive to contribute.

Households Continue to Appreciate DC Plans' Key Features

ICI has surveyed DC savers and other U.S. households on their attitudes toward 401(k) and other DC plans annually since 2008. Each year, Americans have said they view DC plan accounts favorably and have expressed support for the key features of DC plans. Nine in 10 DC account–owning households said they appreciate paycheck-by-paycheck saving, and nearly all DC account–owning households agreed that choice in, and control of, the investments in their retirement plan accounts was important.

Households Confident DC Accounts Can Help Meet Retirement Goals

U.S. households, whether they owned retirement accounts or not, generally expressed confidence in DC plans' ability to help individuals meet their retirement goals. Eight in 10 households owning DC accounts or IRAs indicated such confidence. Even among households without a DC account or IRA, three in five reported having this measure of confidence.

Could change be coming to Social Security

A new Congress is in session, and a big question is this: Exactly what do they have in store for older Americans and retirees?

Are changes to Social Security and Medicare on the table, as some activists wonder? And, are changes in store for the tax advantages of our retirement savings accounts, like IRAs and 401(k)s?

There are a wide range of opinions on whether changes -- even slight -- will hit Social Security and Medicare. There is more of a consensus that some tax breaks on retirement accounts, mainly affecting higher-income Americans, may be susceptible to cuts.

"I don't think it's a concern for current retirees -- those in pre-retirement or already collecting," says CPA and retirement expert Ed Slott, who hosts Ed Slott's Retirement Roadmap on PBS. "Those people vote. Those entities will not be touched. They will talk about it. They will just trim around the edges. It's like a third rail -- nobody wants to touch that.

"The Millennials, people in their 30s and 40s, they may see something scaled back," he says. "Social Security was never meant as the sole source of retirement income. You will have to rely on your own savings and your own retirement account. It was always meant as a supplement."

"For younger people, I would plan on saving without it," he says. "Benefits are going to have to be curtailed, but not for many years."

Rich Fiesta, executive director of The Alliance for Retired Americans, a Washington, D.C.-based advocacy group, says he's worried.

"We're very concerned on Social Security after the action the House took on the first day," says Fiesta. "They are arbitrarily changing the rules that handcuffs Social Security in terms of the ability to move funds between the retirement trust fund and the disability trust fund. ... This last-minute rule change puts the Social Security system as a whole in jeopardy and could subject it to potential benefit cuts over the next two years."

Kristine Aretha, consultant with M&O Marketing in Southfield, Mich., says she expects Congress to target retirement accounts and life insurance to some degree.

"We have $18 trillion in debt. We have approximately $18.2 trillion sitting in retirement accounts," she says. "When we start connecting the dots, those vehicles are low-hanging fruit -- easy for them to come after."

"Since 2013, they've tried to attack these vehicles knowing the amount of money sitting there," she says. "The saddest part is that the retirement account and insurance are what protect mainstream America -- their constituents. It's the one way they can build and transfer wealth. So, I hate to see Congress take it away."

And like Slott, she says she thinks Social Security is safe. "They may tweak it a bit, but I don't think they will take it away."

Sen. Susan Collins, R-Maine, the new chairwoman of the Senate Special Committee on Aging, says she has three goals this term: retirement security, increasing research for diseases such as Alzheimer's and diabetes and protecting seniors against scams.

She says she is worried about the solvency of Social Security.

"I would like to see, in an ideal world, an increase in minimum benefits so that if you work your entire life, you don't retire in poverty."

What financial planners and advocates believe may be on the agenda for Congress:
Stretch IRAs

A stretch IRA is not a type of Individual Retirement Account, but rather it is a feature used in estate planning. In effect, a parent dies and leaves his or her IRA to a child or grandchild; they would inherit many of the tax features. In other words, they can keep the money in the account and not pay taxes until it is withdrawn.

"The beneficiary can take it and stretch the distributions over his or her lifetime. Congress was never thrilled with that. It was meant for your own retirement, not to benefit your children or grandchildren. I think that will be on the chopping block."

Anthony LoCascio, financial planner with LoCascio Consulting in Clinton, N.J., agrees the stretch IRA will be a target. He believes Congress will force beneficiaries of inherited IRAs to take distributions -- and pay the taxes -- either immediately or within five years.
Retirement benefits

"With the number of Baby Boomers -- there are 10,000 to 15,000 turning 65 every day for the next 15 years -- we will have a strain on Social Security retirement benefits," says LoCascio. "You will have to do something to adjust for the onslaught of recipients. By 2020 or 2025 there will be more people retired than working. You only have so much money. They will have to make adjustments. And one way would be by increasing the retirement age."

Collins says Social Security is a key part of income for retirees. "Nationally, one in four retired Americans has no source of income beyond Social Security," she says. "In Maine, the number is one in three. While Social Security provides an important safety net, with an average benefit of just $16,000 a year, it is hardly enough to finance a comfortable retirement."

Capping accounts

A Government Accountability Office report last year estimated 9,000 people had IRA balances of $5 million or more, resulting in talk in Congress to limit the amount you can save in a retirement account. When the report was released, Sen. Ron Wyden, D-Ore., then-chairman of the Senate Finance Committee, said the savings incentives in the tax code were not reaching the people who needed them the most. "You want people to be successful, but the IRA was intended for the typical person," he said at the time. "The typical person is light-years away from saving that amount."

Help for older Americans

"We're worried about funding for programs that seniors use a lot," says Fiesta. "America's getting older. The population is aging. There are a number of programs under the Older Americans Act, like Meals on Wheels, that we already think lack adequate funding. ... We are on guard and watching this Congress."