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. If you would like to discuss any of these issues, please contact us.

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Public Sector/Government Plans

Baltimore judge rules city violated contracts by cutting police and fire pension benefits

A Baltimore circuit judge has ruled that city officials broke their contract with many police officers, firefighters and retirees in 2010 by cutting a key pension provision that has cost retirees millions in pension benefits.

Judge Julie R. Rubin ruled Tuesday that former Mayor Stephanie Rawlings-Blake's overhaul of pension benefits "unlawfully withdrew" a variable pension benefit that paid out more money to retirees when the stock market improved.

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"The city is going to owe a lot of money," predicted Lt. Victor Gearhart, the former first vice president of the Baltimore police union. "Justice will be done for the retirees since [Rawlings-Blake] illegally cut our benefits. A contract is still a contract and the city will learn to respect that."
In her ruling, Rubin did not state what damages — if any — the city would have to pay. But council members said they are bracing for a potential impact of being forced to pay out tens of millions of dollars in pension benefits dating back to the law's passage.

An actuary has estimated the city could be liable for as much as $57 million in payments should the unions ultimately prevail in court.

The next court date in the matter has not been set.

City Councilman Eric T. Costello, chairman of the council's budget committee, said city officials have set aside $24.3 million to pay out in case they lose the lawsuit.

“This has been ongoing for seven years,” Costello said of the legal battle. “I’d like to see it resolved as quickly as a humanly possible. This is something that’s outstanding that public safety officers are upset about and rightfully so. We want to get it resolved as quickly as possible.”

Rawlings-Blake overhauled the city’s police and fire pension system to prevent an imminent fiscal crisis, she said. The city’s pension fund for firefighters and police officers is funded at about 70 percent of the long-term costs of providing benefits. Its unfunded long-term liability is more than $1 billion.

City officials say the mayor’s legislation — which was passed by the City Council — ultimately cut about $400 million in long-term pension costs by reducing benefits, raising the retirement age and requiring higher contributions from workers.

The unions, in response, launched a campaign against Rawlings-Blake and her City Council supporters, picketing City Hall, posting billboards accusing elected leaders of turning their backs on public safety workers, and filing suit.

Since the law’s enactment, the city and public safety unions have traded court victories in the case.
In 2014, the 4th U.S. Circuit Court of Appeals in Richmond, Va., overturned a lower court's ruling in 2012 that a key provision of the 2010 law limiting cost-of-living increases for younger retirees was unconstitutional and not reasonable. But the appeals court concluded the police officers and firefighters could continue to contest the law in state court for "breach of contract."

Judge Barbara Milano Keenan of the 4th Circuit wrote at the time that the unions could try again to challenge the law using a different argument, specifically that the city has taken "private property for public use, without just compensation."

Under the mayor's overhaul, firefighters and police have been required to increase contributions to the pension fund — now 10 percent of their salaries. Officers were told that they would no longer be able to retire after 20 years, but would have to stay on the force for 25 years to receive their pensions.

Retired workers also lost what was called the "variable benefit," an annual increase tied to the stock market. Instead, the youngest retirees receive no annual increase through the variable benefit, and older retirees receive a 1 percent or 2 percent annual increase.

In 2012, U.S. District Judge Marvin J. Garbis took issue with that aspect of the law, ruling that the cost-of-living adjustments were unconstitutional in that they harmed younger retirees too severely.
The plan "had the pernicious effect of eliminating and/or reducing annual increases from retirees under 65 at the time of enactment and, consequently, significantly reducing their pensions when

they became 65," he wrote.

The law was "not reasonable," Garbis wrote at the time.

City Solicitor Andre Davis said Wednesday he looked forward resolving the matter in court. Several aspects of the union's suit still must go to trial according to Rubin's ruling.

"Under the judge's decision there's going to be a trial," he said. "We look forward to meeting with the judge."

Lester Davis, a spokesman for City Council President Bernard C. "Jack" Young, said his office is studying the matter.

"We have to sit down with the solicitor and get a clear understanding of the city's plan going forward," he said. "When folks dedicate themselves to public service, they deserve to be compensated in retirement. We also have to make sure we're not bankrupting the city so we can continue to take care of folks who put their lives on the line for the city."

Chris Christie signs bill requiring stress tests, fee transparency at state pension funds

New Jersey Gov. Chris Christie on Monday signed into law a requirement that the largest pension systems in the New Jersey Pension Fund, Trenton, conduct stress tests to determine how well they can respond to changing market conditions.

The legislation will affect five of the seven pension systems in the $77.5 billion New Jersey Pension Fund — the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund, the Police and Firemen's Retirement System, the Judicial Retirement System and the State Police Retirement System. The teachers, public employees and police/fire systems account for about 97.5% of total New Jersey Pension Fund assets.

"The stress test analyses must provide a forward-looking projection, which considers the effects of long-term conditions and patterns of behavior of the investment market," said the legislation, which codifies practices by the trustees of the pension systems.

The stress-test goal is to "assess how well the investments of each of the state-administered retirement systems are likely to perform in periods when market returns are significantly above or below baseline assumed returns," the legislation said.

The legislation also requires the State Investment Council to report on — and make public — fees charged by external managers to the New Jersey Pension Fund, thus codifying current council practice. The council develops policies for the Treasury Department's Division of Investment, which handles investments for the New Jersey Pension Fund.

California's Brown Raises Prospect of Pension Cuts in Downturn

California Governor Jerry Brown said legal rulings may clear the way for making cuts to public pension benefits, which would go against long-standing assumptions and potentially provide financial relief to the state and its local governments.

Brown said he has a "hunch" the courts would "modify" the so-called California rule, which holds that benefits promised to public employees can't be rolled back. The state's Supreme Court is set to hear a case in which lower courts ruled that reductions to pensions are permissible if the payments remain "reasonable" for workers.

"There is more flexibility than there is currently assumed by those who discuss the California rule," Brown said during a briefing on the budget in Sacramento. He said that in the next recession, the governor "will have the option of considering pension cutbacks for the first time."

That would be a major shift in California, where municipal officials have long believed they couldn't adjust the benefits even as they struggle to cover the cost. They have raised taxes and dipped into reserves to meet rising contributions. The California Public Employees' Retirement System, the nation's largest public pension, has about 68 percent of assets needed to cover its liabilities. For the fiscal year beginning in July, the state's contribution to Calpers is double what it was in fiscal 2009.

Across the country, states and local governments have about $1.7 trillion less than what they need to cover retirement benefits -- the result of investment losses, the failure by governments to make adequate contributions and perks granted in boom times.

"In the next downturn, when things look pretty dire, that would be one of the items on the chopping block," Brown said.

Public Pensions Are Delivering on Promises to Retirees, Annual NCPERS Study Shows

Public retirement systems produced solid returns, kept a lid on expenses, and adopted more conservative investment assumptions during 2017, according to a wide-ranging annual study by the National Conference on Public Employee Retirement Systems.

The 2017 NCPERS Public Retirement Systems Study reflects how pension trustees, managers, and administrators are constantly pursuing fiscal and operational improvements, said Hank H. Kim, executive director and chief counsel of NCPERS.

“The nation’s pension systems are deeply committed to their mission of providing a secure retirement for millions of firefighters, police officers, teachers, and other public sector workers,” Kim said. “Over the seven years we have conducted this annual study, pension systems have grown increasingly confident in their ability to adapt to pressure and deliver on their promise to retired public servants.”

The 2017 NCPERS Public Retirement Systems Study draws on responses from 164 state and local government pension funds with more than 15.5 million active and retired memberships and market assets totaling $1.8 trillion. The majority—62 percent—were local pension funds, while 38 percent were state pension funds. NCPERS conducted the seventh annual study in September through December 2017 in partnership with Cobalt Community Research.

Among the key findings:
Public pension systems administered and managed funds at a lower cost than most mutual funds. The study found pension expense ratios averaged 55 basis points per dollar of investment. The 2017 Investment Company Fact Book pegs expense ratios at 63 basis points for equity mutual funds and 74 basis points for hybrid mutual funds. “Despite rhetoric extolling the advantages of defined contribution plans such as 401(k)s, the fact remains that pension funds consistently provide a higher level of benefits to members than most mutual funds do,” Kim said.

Aggregated one-year investment returns jumped to 7.8 percent, from 1.5 percent in 2016. Longer-range returns hovered at or near the assumed rate of return.

- The percentage of funds receiving their full, statutory contributions from governments rose to 74 percent, from 70 percent in 2016. In a related development, employer contributions rose to 22 percent, from 18 percent. “It is very encouraging to see more governments honoring their commitments to pension systems, and this is why we see employer contributions inching higher,” Kim said.

- The vast majority of participants in the 2017 study said they have either reduced their return-on-investment assumptions (64 percent) or plan to do so (21 percent.) The average investment assumption stood unchanged at 7.5 percent and the average inflation assumption ticked down to 2.9 percent, from 3 percent.
- The smoothing period for calculating investment returns continues to be shortened – down from 5.7 years to 5.0 years. “Asset-smoothing is the practice public pension systems commonly use to stabilize plan contributions by gradually recognizing investment gains and losses,” Kim said.
- Expense ratios across all pension funds were little changed from 54 basis points in 2016. Among a subgroup of 86 pension systems that participated in both the 2016 and 2017 studies, expenses dropped to 52 basis points.
- Average funding levels—the value of the assets in the pension plan divided by an actuarial measure of the pension obligation—declined slightly for the first time in four years as pension funds tweaked investment and inflation assumptions.

U.S. POPULATION MORTALITY OBSERVATIONS UPDATED WITH 2016 EXPERIENCE

The Society of Actuaries has developed this report to provide insights on the historical levels and emerging trends in U.S. population mortality. The most recently released U.S. population mortality experience from 2016 has been incorporated and added to prior available data to enable analysis of mortality experience over the period 1999-2016. This research is part of its ongoing longevity and mortality research initiatives. The report begins with a set of high level, summary observations obtained by looking across the overall population results and the results from the individual causes of death (CODs), subsequently analyzed in the report. Next, in section 4, the overall population mortality is reviewed. Results from the analyses of ten individual CODs follow in sections 5-14, with one section devoted to each of the CODs. The ten individual CODs were selected from the National Center for Health Statistics’ (NCHS) list of rankable causes of death. Given the continued interest in opioid-related deaths, the report concludes with a section devoted to deaths from opioid drug overdoses. Each of the ten individual COD sections and the opioid section also contain an analysis of mortality by income level. Here, the top 30% of the counties, based on the average, county-level median household income, were identified and the mortality for this population subset was compared to the overall population. The following observations were obtained by comparing and contrasting the overall population results from section 4 and the results from the individual CODs analyses:

· The overall age adjusted mortality rate (both genders) from all causes of death decreased 0.6% in

2016. This decrease in overall mortality may seem to run counter to the CDC's report that life expectancy at birth declined 0.1 years in 2016. Generally, a decrease in the mortality rate would be expected to produce an increase in life expectancy. However, both figures are correct. In this respect, 2016 was a somewhat anomalous year. In most years, when age adjusted mortality rates decrease, life expectancy at birth would increase. Conversely, when age adjusted mortality rates increase, life expectancy at birth would decline. This is what occurred in 2015, when age adjusted mortality increased by 1.2%, and life expectancy at birth declined by 0.1 years. The anomaly that occurred in 2016 is explained by the differing impacts on life expectancy of mortality rate changes of different ages. In 2016, increased mortality rates in the younger and middle ages (mostly due to accidents) reduced life expectancy at birth more than it was extended by mortality improvement at older ages. However, the overall age adjusted mortality rate for the entire U.S. population did decline by 0.6%.

Age adjusted rates are calculated assuming the mix of ages in the population stays the same each year. Life expectancy is a composite of mortality rates over a single person's future lifetime. This report focuses on age adjusted rates, as opposed to life expectancy, because actuaries generally require mortality rates, not life expectancies, as an input assumption for their work.

· The overall decrease of mortality in 2016 reversed the experience of 2015. Mortality improvement in older age groups offset large mortality increases, mostly due to external causes, in middle age groups. All age groups, except ages 25-34, had lower mortality in 2016 than 1999.

· The rate of overall mortality improvement has slowed in the most recent five years.

- A very large contributor to the recent slowdown in population mortality improvement since the late 2000's has been deaths due to heart disease. While the improvement rates for this #1 COD have continued to be mostly positive in recent years, they have shifted from material improvement levels to much smaller levels (e.g. average annual mortality improvement over 1999-2011 was 3.5%, but only 0.9% in 2011-2016.)
- Conversely, a notably consistent contributor to positive population mortality improvement since 1999 has been the reduction (average annual decrease of 1.5% from 1999-2016) of cancer deaths.

· Mortality was analyzed over the entire U.S. population (All Counties) and compared to mortality in the top 30 percentile counties (Top 30%), based on median household income.

· The age adjusted mortality in the Top 30% was materially lower than the All Counties mortality in all years between 1999 and 2016. The difference between the overall Top 30% and All Counties mortality rates increased slightly over time. This difference also increased for each COD covered in this report, except accidents. Also, the difference between the overall mortality rate in the Top 30% and in All Counties narrows as the age increases.

· The highest increase in 2016 mortality, 27.4%, occurred in the opioid COD, which contributed to the large 9.3% increase in the accident COD. Opioid deaths are mainly a subset of accidents and suicide. In 2016, opioid deaths made up 23% of the accident deaths and 4% of the suicide deaths. Age groups between ages 15-44 saw the greatest increases in accident deaths and opioid deaths.

- Even though the death rate due to opioid drug overdoses was about five times greater in 2016 than in 1999, it only accounted for a small proportion, less than 2% of the total 2016 deaths.
- The highest 2016 age group ratios of the Top 30% mortality to All Counties mortality occurred in the opioid 15-24, 25-34,75-84 and 85+ age groups. These ratios were greater than 105%.

· All the CODs except accidents had their lowest 2016 ratio of Top 30% mortality to All Counties mortality in the age groups between ages 25 to 64. With respect to all ages combined in 2016, assault deaths had the lowest ratio, 58%, while the highest ratios were 98% for Alzheimer's/dementia, 96% for opioids and 91% for cancer.

· Examining mortality by gender, female mortality is lower than male mortality for all CODs except stroke, which is similar, and for the combination of Alzheimer's and dementia, which is higher.

- Female to male mortality is comparatively much lower for external causes of death (accident, assault and suicide) than natural causes of death.
- A table lists the average annual rate of mortality improvement for heart disease and cancer by gender over recent and longer periods. Generally, females had higher improvement rates than males for heart disease, while males had higher improvement rates for cancer in the short and long-term, both nationally and for the Top 30%. An exception to this occurred for cancer experience during 2016 in the Top 30%, where the male improvement rate was less than the female improvement rate.

Private Sector

Washington Pulse: RETIRE Act Promotes Electronic Delivery of Retirement Plan Information

Tax reform legislation grabbed the headlines at the close of 2017. But another year-end bill could significantly change how retirement plans deliver participant and beneficiary communications. The Receiving Electronic Statements To Improve Retiree Earnings (RETIRE) Act would allow plan administrators to use electronic delivery as the default delivery method for virtually any required plan document. Participants and beneficiaries could still opt to receive paper copies of this information.

The bipartisan legislation (H.R. 4610) is sponsored by Representative (Rep.) Phil Roe (R-TN) and Rep. Jared Polis (D-CO), along with 26 Republican and Democratic cosponsors. It was previously introduced in 2015. Electronic-delivery proponents point out that consumers are increasingly handling their financial affairs online: they are more savvy with new technology, and many actually prefer to communicate and transact electronically.

Proponents also expect that electronic delivery will cost far less than printing and mailing paper notices, and these savings could be passed on to participants and beneficiaries. Electronic delivery could also reduce paper waste, create more efficient data storage, and provide greater security.
System Requirements for Using E-Delivery

To use electronic delivery as the default method for providing plan documentation, plan administrators must adhere to these requirements in the RETIRE Act.

- The system for providing documents must be "designed to result in effective access to the document by the participant, beneficiary, or other specified individual through electronic means." This can be done through
    - direct delivery of material to the recipient's electronic address;
    - posting material to a website or other repository to which the recipient has access, if the plan administrator also provides a proper notice of the posting; or
    - "other electronic means reasonably calculated to ensure actual receipt" by the intended recipient.

- The system must permit the recipient to
    - select from the various electronic methods that the employer makes available,
    - modify that selection at any time, and

  - elect to begin receiving paper versions at no additional direct cost.
- The system must protect the confidentiality of personal information relating to the recipient's accounts.
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Additional Requirements

While the RETIRE Act streamlines administration through electronic delivery, it also requires safeguards to protect the recipient.

- Plan administrators must provide a paper notice each year that describes the recipient's
  - current method of receiving plan notifications, and
  - right to change the method at any time (or to receive free paper versions) and how to make the change.

- The electronically delivered documents must
  - be provided in a way that reflects the original document (e.g., readability and content), and
  - inform the recipient of the document's significance.

Effective Date and Plans Types Affected

The opportunity for retirement plans to deliver information electronically under the RETIRE Act method would become effective for plan years starting in 2019 and would apply to retirement plans governed by Title I of ERISA—generally described as "qualified plans"—and to 457 plans.

Conclusion

Plan administrators can currently deliver required plan notices and other information electronically. But the existing methods leave much to be desired: the detailed requirements can place big barriers on the path toward more efficient delivery. So the RETIRE Act would be a step in the right direction, balancing the importance of plan participants and beneficiaries getting important information with the need for employers to save time and money.

Hunting for Retirement Plan Participants? New IRS Guidance and the Expanded PBGC Missing Participants Program Should Help

Plan administrators might feel it is the participant's responsibility to keep a plan administrator informed of their address changes; however, it is the view of the Department of Labor (DOL) that a plan administrator's failure to take reasonable steps to locate its participants is a breach of fiduciary duty. In addition, the IRS may disqualify a retirement plan that fails to make required minimum distributions to its participants or beneficiaries who cannot be located. Missing or non-responsive participants also create issues when trying to terminate a plan and distribute all of its assets.

The DOL has reportedly commenced a national audit campaign targeting plans with missing participants, and just last month, the Pension Benefit Guaranty Corporation (PBGC) issued final regulations expanding its existing missing participant program (previously limited to certain defined benefit plans) to a defined contribution plan.

The DOL has been very aggressive in a number of plan audits, asserting not only breaches of fiduciary duty, but also prohibited transactions where, in accordance with plan provisions, the benefits due to unresponsive or missing participants or beneficiaries are forfeited. Although the IRS routinely approves plan language permitting forfeiture of retirement benefits of missing participants or beneficiaries, subject to reinstatement upon a subsequent claim for benefits, the DOL has the authority to determine a plan administrator's compliance with the fiduciary requirements of ERISA.

The DOL, in FAB 2014-01, provided some guidance on locating missing participants in connection with the termination of a defined contribution plan. In this situation, the DOL noted that a plan fiduciary must, at a minimum:

- Check the records of the employer and any related plans of the employer;
- Check with the designated beneficiary of the missing participant;
- Use free internet search tools; and
- If none of the foregoing is successful, then, after considering the size of the account balance and the cost of additional search efforts, consider use of commercial locator services, credit reporting agencies, information brokers, investigation databases, internet search tools and similar services that may involve charges.

Pending additional guidance from the DOL, a plan fiduciary should consider following the steps outlined by the DOL in FAB 2014- 01.

The IRS addressed the issue of locating missing participants when auditing a plan's compliance with required minimum distributions following a participant's attainment of age 70½, or death. According to an October 19, 2017 IRS directive to its audit personnel, the IRS will not challenge a plan's failure to make required minimum distributions to a missing participant or beneficiary if the plan administrator has taken all of the following actions:

- Searched all of the records of the plan, related plans and the plan sponsor;
- Searched publicly available records or directories for alternative contact information;
- Used either a commercial locator service, credit reporting agency or proprietary internet search tool; and
- Attempted contact via United States Postal Service certified mail to the last known mailing address and through appropriate means for any address or contact information, including email addresses and phone numbers.

Plan administrators should routinely determine if there are missing or non-responsive participants or beneficiaries and attempt to locate them. If a third party performs these services, the plan administrator should review their processes to make sure they are adequate.

The recent expansion of the PBGC program should also be welcomed news for plan sponsors and plan administrators terminating defined contribution plans in 2018 and beyond (the expanded program is generally not available to plans terminated prior to January 1, 2018). The new PBGC program is only available to defined contribution plans that are being terminated. Plan sponsors have two options when going to the PBGC: (1) elect to be a "transferring" plan, which means that the plan transfers all of its benefits to PBGC for distribution to participants; or (2) elect to be a "notifying" plan, which means that the PBGC is simply provided information regarding participants' accounts. Further, plan eligibility is contingent upon the eligible defined contribution plan conducting a diligent search for each missing participant within the nine month period ending on the date application is made to the PBGC to participate in the program.

In order to take advantage of the expanded PBGC program, plans must file a form with the PBGC (Form MP-200 and either Schedule A or Schedule B, depending whether the plan is a "transferring" or "notifying" plan). There is an administrative fee for accounts in excess of $250, which may be able to be paid from participant accounts and/or the plan's forfeiture account.

Plan administrators need to be both proactive and creative in their attempts to locate missing or non-responsive participants or beneficiaries. This may include searching social media sites, as well as contacting former employees who worked with the participant. Further, the steps taken to locate a missing participant or beneficiary must be documented and saved as proof of compliance with the administrator's fiduciary duties under ERISA and the tax law requirements to provide required minimum distributions to participants and beneficiaries on a timely basis. Certainly, if a plan administrator is interested in applying to the newly available PBGC program, this evidence will be necessary to satisfy a plan's eligibility requirements to participate in the program.

DB Sponsors: Consider Accelerating Contributions For 2017 Plan Year Amid Tax Reform

While the Trump administration's Tax Cuts and Jobs Act makes no direct changes to employer-sponsored defined benefit (DB) retirement plans' minimum funding or maximum deductibility laws, it could create an additional incentive for DB sponsors to accelerate contributions attributable to the 2017 plan year, according to one DB plan strategist.

Those that can benefit most from the tax-reform act are corporate DB plan sponsors seeking to maximize the tax effectiveness of their contributions to their plan, Justin Owens, director of client strategy and research at Russell Investments said in a January 3 blog post.

And DB plan sponsors should be aware that while the 2017 calendar year is behind us, they can still generally contribute for the 2017 plan year until September 15, 2108, assuming they operate on a calendar-year plan year, Owens reminded.

Attributed to 2017 Plan Year

"While pension contributions will continue to be tax-deductible in the coming years, the relative tax deduction could be higher if the contributions are attributed to the 2017 plan year (when a higher tax rate applied)," Owens said.

As an example, he presented a sponsoring company having $100 million in cash that it intends to contribute to the pension plan over the next few years, starting with 2018. Assuming a new, lowered 21% tax rate, this roughly would mean they could reduce their tax burden by $21 million over that time period—ignoring the effect of other deductions and discounting, the Russell Investments research director said.

But if the company accelerated those contributions to the plan to be attributable to 2017, under a 35% tax rate, then the reduction in tax could be $35 million, a $14 million tax savings. (Owens noted that many U.S. company tax rates were lower than 35% before the tax-cut legislation.) His example assumes all contributions still fall under the maximum deductible amount calculated by the plan's actuary.

In addition, he said, if the $100 million contribution were used to reduce a vested funding deficit, as used for Pension Benefit Guaranty Corporation (PBGC) purposes, the sponsor could save nearly $4 million in PBGC premiums each year that the contributions are accelerated. Owens said this reduction only applies until the plan is fully funded on a vested liability basis and assumes the per-participant cap didn't previously apply to it.

This kind of maneuver may be considered indirect or delayed savings, as many DB plan sponsors pay for PBGC premiums out of plan assets, Owens said.

Owens' example is simplified, but he suggests DB plan sponsors be familiar with the math behind the decision-making process for accelerating contributions.

The 9-month period in 2018 during which corporate contributions are allowed for the 2017 plan year "gives sponsors some time to thoughtfully consider discretionary contribution options and their effects on overall plan strategy. For a taxable DB sponsor, this option is likely worth exploring," Owens said in his blogpost.

He said that 2017 was a "banner year" for discretionary pension contributions by DB plan sponsors. But despite ongoing funding relief, he said, Russell Investments expects that single-employer DB plans will absorb the highest level of contributions since 2012, the year that the Moving Ahead for Progress in the 21st Century Act (MAP-21) was passed, legislation that included the easing of pension funding requirements (see DOL Helps Plans Find How MAP-21 Changed Liability Calculations).

Influence of Rising PBGC Premiums

A key motivator for many plans to increase contributions for the 2017 plan year has been rising PBGC variable-rate premiums, scheduled to increase through 2019 and beyond, when they are pegged to inflation. Paying just the minimum to an underfunded DB plan in the current PBGC premium-rate environment is an inefficient use of cash, Owens said.

However, discretionary contributions create a ripple effect for plans. Owens said improved funded status could lead to greater overall allocations to liability-hedging fixed income positions and higher hedge ratios. It also could boost the employer's interest in "derisking" transactions, such as lump-sum offers and annuity purchases, which reduce pension benefit obligations on a company's balance sheet.

Text of Instructions for 2017 IRS Form 8955-SSA: Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits

Rev. Dec. 28, 2017. "The SSA no longer processes nonstandard pages 2. Report information about separated participants only on page 2 of Form 8955-SSA. If additional space is needed for separated participants, use additional pages 2 only. Do not add another page 1 of Form 8955-SSA, spreadsheets, or other nonstandard formats. A Form 8955-SSA need not be filed for a year if no information is required to be provided for that year by these instructions." [Also online: 2017 Form 8955-SSA (fillable PDF for download; may not open correctly in some browsers)]

Internal Revenue Service [IRS]

https://www.irs.gov/pub/irs-prior/i8955ssa--2017.pdf

PBGC- What's New for Employers & Practitioners

Annual Update of Maximum Civil Monetary Penalty: Federal law requires that PBGC amend its civil penalty regulations annually to incorporate an inflation adjustment on the maximum penalty that may be assessed when plans fail to provide certain required information (e.g., reportable event filings, 4010 filings, certain multiemployer plan notices). Accordingly, on January 12, 2018, PBGC will publish a final rule amending two regulations (29 CFR parts 4071 and 4302).

Although the maximum penalty is increasing, it's worth noting that it is uncommon for PBGC to assess information penalties. The agency's goal is to encourage compliance, not to penalize plans that inadvertently forget to file information. In most cases, when PBGC does assess an information penalty, it is for an amount significantly less than the maximum permitted. (1/11/2018)

2018 Premium Filings: My PAA is now ready to accept electronic premium filings for plan years beginning in 2018. In addition, if you have the plan in your My PAA account (which we highly recommend), you can submit an online Request for Reconsideration (of penalty) or a Request for a Premium Refund (by the PA/PA Rep). For additional information, see the following pages: Premium Payment Instructions & Addresses, What's New in My PAA & Reminders, Online Demos, and the Online Premium Filing with My PAA page (for FAQs, My PAA User's Manual, etc.). (1/10/2018)

2018 Premium Filing Instructions: The Comprehensive Premium Filing Instructions for 2018 Plan Years (including the illustrative form) have been approved by OMB and are now available on PBGC's website. Of particular note is a new section alerting practitioners to the most common premium filing mistakes. In addition, we've expanded the examples in the section about how to determine premiums in a year when a plan is involved with a Spinoff, Merger or Consolidation. My PAA will be ready to accept 2018 filings in the very near future. (1/8/2018)

Missing Participants Program Final Rule: On December 22, 2017, PBGC will publish a final rule expanding and updating its existing Missing Participants Program. Under the final rule, plan sponsors that terminate 401(k) and other defined contribution plans can turn to PBGC for help in distributing plan benefits to missing participants.

In addition to defined contribution plans, the expanded program now covers terminated PBGC-insured multiemployer plans and non-insured defined benefit plans sponsored by professional service organizations. The final rule also makes improvements to PBGC's pre-existing Missing Participants Program for PBGC-insured single-employer plans.

The final rule is available for public inspection. Additional information, including forms and instructions, are available on PBGC's Expanded Missing Participants Program Web page. (12/21/2017)