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 Pensions Are Earning More Than 8%—That's Unlikely to Go On Much Longer

Funds such as Calstrs and Calpers are becoming cautious and more realistic about their investment targets

The nation's two biggest public pension funds are doing better in 2018. The problem: They don't think it will last.

The California State Teachers' Retirement System and California Public Employees' Retirement System both earned more than 8% for the second fiscal year in a row, thanks to a robust performance by stocks and private equity. Together they manage $575 billion for 2.8 million public workers and retirees.

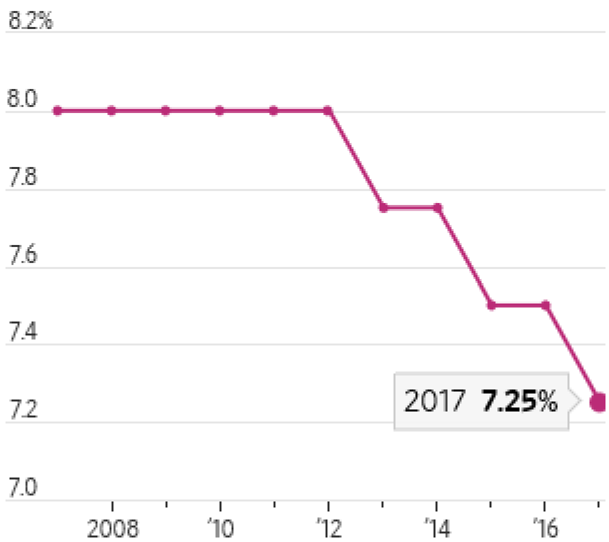
But the systems, known as Calstrs and Calpers, aren't counting on that type of performance over the long term. Both rolled back their investment targets this year in an effort to be more realistic about what they can earn in the future. Calstrs dropped its future goal to 7%. Calpers initiated a multistep drop this year that will end at 7% in 2021.

Many other public pensions around the country are turning more cautious about future results following a nine-year bull market for U.S. stocks, which remain the single largest holding for most retirement systems. The funds rely on a combination of investment income and contributions from employees, states and cities to fund their mounting obligations to retirees.

For many decades these funds clung to a belief that stocks, bonds and other holdings could earn at least 8% and that those gains would fund hundreds of billions of dollars in liabilities.

But many are now trimming those assumptions to 7% and lower. The median assumed rate of return held by 130 public pension funds tracked by Wilshire Consulting dropped in 2017 to 7.25%. That median rate was still 8% as recently as 2012.

Lowered Expectations
The rates of return that states assume they will earn on their pension investments have fallen over the past five years.



"We probably want to temper our enthusiasm when we have a year or two years of strong returns because one thing we know for certain is that there will be challenging years," said Wilshire Consulting Chief investment Officer Steve Foresti.

Pensions long have been criticized for using unrealistic investment assumptions, which proved costly during the last financial crisis. Many funds recorded big losses in 2008 and 2009, pulling their long-term returns well below the 8% barrier despite the bull market that followed. As of June 2017 the 10-year annualized median return for all public pensions tracked by Wilshire Trust Universal Comparison Service was 5.57%.

"Over 10 years, we struggled," Calstrs Chief Investment Officer Christopher Ailman said at a public meeting on Friday. Calstrs has returned an average annualized 6.3% over 10 years as of June 30.

But moving expectations below 8% isn't just an accounting move. It has real-life consequences for systems that use those predictions to calculate the present value of obligations owed to retirees. Even slight cutbacks in return targets often mean budget-strained governments or workers are asked to pay significantly more to account for liabilities that are expected to rise as lifespans increase and more Americans retire.

In California, some local-government officials are concerned their costs will rise aggressively as Calpers lowers its expected return rate. Calpers has said the state and school districts participating in its system would have to pay at least $15 billion more over the next 20 years once the system's assumed rate of return drops to 7%.

Pension fund officials in other parts of the country are making the same decision to drop their future targets even as they report strong results for fiscal 2018. The Maine Public Employees Retirement System earned 10.3% for the year ended June 30 but this year dropped its long-term goal to 6.75%. It has now reduced its rate of return assumption four times since 2009.

The moves mean the system now has more work to do if it hopes to fund all future benefits. Had the fund maintained its precrisis 7.75% goal, it could today report having enough assets to cover 91% of its liabilities according to executive director Sandy Matheson. Instead it has 81%, she said.

"What we're looking for is a rate that can endure through good economic times and not-so-good economic times and low-interest-rate environments and high-interest-rate environments," Ms. Matheson said.

The Illinois State Board of Investment for years relied on an 8.5% assumed return rate for its state-employee retirement plan. In 2016 it dropped to 7%, one of many reasons it now has just 35% of what it needs to pay for future benefits.

"If we were still 8.5% it might be 50% or 60%—it would appear to be a lot better," said Illinois State Board of Investment Chair Marc Levine. But it would be total nonsense because you still owe the same amount of money. You're just fudging on the accounting."

How public sector employers are reducing their pension liabilities

Public sector employers are struggling with the same problems that private employers are when it comes to pension plans. Rising costs associated with these plans have forced many municipalities, school districts and colleges and universities to get creative with their benefits to not only save money but still attract and retain good employees.
The cost of pensions increased in more than 70% of cities, and one in three cities identified these expenses as the largest expense affecting their budgets, a 2016 survey by the National League of Cities showed.

The survey found that between 2009 and 2016, 33% of public sector employers increased employee contribution rates; 22% changed plan design; 17% reduced benefits; 12% reduced the cost of living adjustment; 8% increased eligibility requirements and 7% increased the vesting period.

Many have adopted hybrid plans, which are a combination of a defined benefit and defined contribution plan. Anti-spiking provisions have also become more prevalent, meaning that plans are increasing the number of years used in the plan's calculation to figure out an employee's final compensation, lessening the impact of a single year's substantial pay raise, according to the National League of Cities. Both of these options lower a plan's costs.

Anita Yadavalli, program director for city fiscal policy in the National League of Cities Center for City Solutions, says that a recent survey found that the cost of employee/retiree pensions is the third largest cost for most cities following infrastructure and public safety needs and 81% of those surveyed said that pension costs increased in the last year.

She said in a recent blog post that from 2001 to 2015, aggregate public sector pension funding declined from 100% to 73%.

The California Public Employees Retirement System covers 90% of cities in California, but the program is underfunded. A handful of California cities are "trying to work with Section 115 Retirement Trust so they can set aside funds to cushion for a rainy day for funding pensions," says Yadavalli. "This has been helpful for some cities that are able to have good forethought about what their pension payments will look like."
A Section 115 Retirement Trust is a way for cities to put money aside right now to help offset additional costs in the future.

"Largely, the things I kept seeing in the State of Cities report was intergovernmental relations and how cities are trying to cope within the confines of the state retirement system," she says. "Some of the cities are able to provide a solution within that scope, some cities in California are trying to save for the future through a Section 115 Retirement Trust Fund and Binghamton, N.Y. created a savings fund where it can offset increases in health and pension costs."

Memphis, Tenn., implemented a student loan repayment program to help attract and retain employees after a prior administration made changes to the city' pension program.

Many cities are working with unions to renegotiate their pension contracts. The city of Hartford, Connecticut, and Hartford Fire Fighters Association signed a contract increasing pension contributions from 8% to 11%, instituting a four-year wage freeze, setting a fixed pensions cap and raising the years of service requirement from 20 to 25 for new hires, according to NLC's State of the Cities report. In Salem, Massachusetts, the city worked with nine employee unions to ratify new contracts.

Other cities have put the question to their voters. Upper Arlington, Ohio, put an initiative before voters asking for additional funds to help pay for the city's portion of the Police and Fire Retirement and Disability Fund, according to the NLC.

Many public sector employers are worried about breaking with tradition and taking defined benefit plans away from their employees.

"Quite honestly, with the expense of defined benefit plans and the flexibility of defined contribution plans, the participants or employees would be much better off in the DC plan environment," says Troy Dryer, vice president of business development at Financial Processing Solutions in Denver, Colo.

In the last three years, many public sector defined benefit plans have been frozen to new hires and new employees are offered a defined contribution plan. This is very common in the K-12 and higher education realms, Dryer says.

In Texas, higher education employees have a choice between a DC or DB option. Participation in either plan is mandatory. Both plans are funded by the employer at the same level. The employer puts in 8% and the employee must put in 6.5%.

DC plans can also be more attractive to employees because they can choose when and how they want to withdraw funds from their retirement savings whereas DB plan participants are forced to live with their once a month check from the plan.

Maybe an individual wants to travel while they are younger and healthier, so they want to take more money out of their retirement savings early on and less later when they don't have the ability to do the more active things they want to do, Dryer says.

"You don't have that flexibility with a single check coming in from the DB plan," he says. Educating employees is a key component of any pension plan changes, Dryer says. Many of them have always worked in the public sector and they don't know anything about the defined contribution world. It is up to employers to teach them about their different savings options.

He believes public sector employers should take a page out of corporate America's book and start implementing plan design changes like automatic enrollment, automatic escalation and default investment options like target-date funds to help boost employee retirement savings.

"They need to look to the private sector side to see hey, what issues did they have? Where did they go? The private side is not as paternalistic about helping employees like governmental employers are," Dryer says.

Today's pension environment is tough for unions, but when they see that their city is going bankrupt, like Detroit, or their state pension plan is only 40% funded like Rhode Island, most unions are amenable to making changes to their collective bargaining agreements to make sure their members have access to a retirement benefit moving forward, he says.

Dryer points out that there are good and bad DC and DB plans. It all hinges on the governance of the plan and how the plan is designed.

Phil Murphy gives police and firefighter unions control of their pensions

Gov. Phil Murphy on Tuesday signed a law divorcing the pension system for police and firefighters from that of other New Jersey state and local public workers.

The unions have long desired control over their pension fund, which they say the state has mismanaged, and to split from the much weaker funds for teachers and others.

In signing the bill, Murphy called it a "good first step toward making sure that our retiring police officers and firefighters feel secure as they move toward retirement, while also protecting the financial interests of taxpayers."

The police and firefighter unions had feared lawmakers might someday pool assets to shore up those ailing funds and have disagreed with the state's investment strategy, namely its push into high-cost hedge funds. They also watched as insufficient state contributions weakened the pension funds.

"No longer will PFRS members be forced to suffer from the poor decision making and political expediency that marked the state's stewardship of our pensions over the years," Patrick Colligan, president of the Policemen's Benevolent Association, said in a statement.

Murphy, a Democrat, conditionally vetoed the bill in May, asking for some additional safeguards for taxpayers. The Democratic-controlled state Legislature agreed to the recommendations in late June.

The law gives them a year and one day -- July 4, 2019 -- to get their independent management board up and running.

Currently, the fund is managed by the state Division of Pensions and Benefits while the State Investment Council and Division of Investment direct the investments of its billions of dollars in assets.

A 12-member board of active and retired police and firefighters as well as representatives of state and local government will take over those duties.

The police and firefighters' pension system is funded through contributions from the state, local governments and employees.

The portion funded by counties and municipalities, which are required to make full contributions annually, is 73.1 percent funded, according to the state's statutory funding data. The smaller portion funded by the state, which has skipped or shorted contributions for more than two decades, is 41.8 percent funded.

Under the law, the trustees are authorized to increase or cut retirement benefits and raise or lower employee contributions, but only in consultation with actuaries and with support from eight board members.

Murphy also tweaked the spinoff to keep the fund's $26 billion in assets with the state Department of Treasury, rather than requiring the state to immediately divest and deposit those funds with the board of trustees.

He'd also required that the pension fund use the same long-term assumed rate of return as the state-run system.

Be in the know: Fiduciary standards for state and local government retirement plans

Dan Notto, ERISA Strategist, discusses fiduciary standards for state and local government retirement plans and compares them to the relevant statutes outlined in ERISA.

The fundamental duties and obligations of plan sponsors and other fiduciaries that oversee retirement plans for private sector workers are set forth in the Employee Retirement Income Security Act of 1974 (ERISA) and are designed to protect plan participants and beneficiaries by holding fiduciaries to a high standard of conduct. Over the 40-plus years since Congress enacted ERISA, these fiduciary standards have been shaped and refined by court decisions and Department of Labor (DOL) guidance.

ERISA's fiduciary provisions do not apply to government plans, but that does not imply a lower level of accountability. To determine the responsibilities of trustees and other fiduciaries of state and local government plans, one needs to look to the statutes and regulations of the particular state. Interestingly, the language concerning fiduciary duties in many state statutes looks a lot like ERISA's.

Fiduciary duties under ERISA

Like the duties that apply to government plan fiduciaries, ERISA's fiduciary duties are generally derived from the law of trust. Trustees owe a duty of loyalty and a duty of prudence to their trusts' beneficiaries. These duties are expressed in section 404(a)(1) of ERISA as follows:

- Loyalty: "… a fiduciary shall discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and [ ] for the exclusive purpose of … providing benefits to participants and their beneficiaries … and defraying reasonable expenses of administering the plan."
- Prudence: "…. a fiduciary shall discharge his duties with respect to a plan … with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims."

In addition, fiduciaries must diversify their plans' assets, follow the provisions of their plans' documents and avoid conflicts of interest and other specified prohibited transactions.

Fiduciary duties under state law

So how similar are the laws outlining the responsibilities of fiduciaries of state and local government plans? In many states, the relevant statutes are nearly identical to ERISA. For example, the state of Illinois describes the duties of fiduciaries as follows:

- Loyalty: "A fiduciary … shall discharge his or her duties with respect to a retirement system or pension fund solely in the interest of the participants and beneficiaries and … for the exclusive purpose of … providing benefits to participants and their beneficiaries [ ] and defraying reasonable expenses of administering the retirement system or pension fund."
- Prudence: "A fiduciary shall discharge his or her duties with respect to a retirement system or pension fund … with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims."[1]

In other states, the laws are not identical to ERISA but essentially impose similar duties of loyalty and prudence on government plan fiduciaries. Take Arkansas, for example:

- Loyalty: "Trustees shall invest and manage the trust assets solely in the interest of the members and benefit recipients of the trust."[2]
- Prudence: "Trustees shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustees shall exercise reasonable care, skill, and caution."[3]

Importing ERISA into state laws

A few states specifically incorporate ERISA provisions or DOL rules into their laws. For example, after describing the fiduciary duties of loyalty and prudence using language similar to ERISA's, Florida's statute goes on to say:

- "The performance of the investment duties set forth in this paragraph shall comply with the fiduciary standards set forth in the Employee Retirement Income Security Act of 1974 ..."[4]

Another example is California, which specifically incorporates ERISA section 404(c) to relieve fiduciaries of local government 457 plans of responsibility for participants' investment choices.

- "Not with standing any other provision of law, participants choosing individually directed investments shall relieve the trustee and local agency of responsibility under the terms of the plan and trust. That relief shall be conditioned upon the local agency compliance with communication and education requirements similar to those prescribed in [section 404(c) of ERISA] for private sector employers."[5]

NEXT STEPS

Government plan fiduciaries should consider reviewing the laws in their state to determine the standards that apply to them. In doing so, they are likely to find that their responsibilities as fiduciaries are similar to those required of fiduciaries of plans subject to ERISA. Consequently, fiduciaries of state and local government plans may want to consider employing some of the best practices that ERISA fiduciaries have adopted over the years. Financial advisors and consultants can help educate fiduciaries about these practices.

Footnotes:

[1] 40 Illinois Compiled Statutes Section 5/1-109

[2] Arkansas Code Section 24-2-614

[3] Arkansas Code Section 24-2-611

[4] Florida Statutes Section 121.4501(15)(a)

[5] California Government Code Section 53213.5(b)

WHAT EXPLAINS DIFFERENCES IN PUBLIC PENSION RETURNS SINCE 2001?

Center for Retirement Research at Boston College explains the difference in public pension returns since 2001. Two key factors underlying the funded status of public pensions are the payment of the annual required contribution by plan sponsors and the investment return earned on pension fund assets. To date, CRR studies have focused on the importance of making the full payment of an appropriately set annual required contribution – highlighting how inadequate contributions can undermine funding progress. However, given that most public pension funds rely heavily on investment returns to fund future benefits, a key component of their long-term sustainability is the ability to achieve adequate returns. This brief documents the investment performance of public plans from 2001-2016 and investigates the two main factors underlying disparities among plans: 1) differences in asset allocation; and 2) differences in the realized returns within each asset class. The analysis is based on newly collected data from the Public Plans Data (PPD) website. The brief proceeds as follows. The first section documents differences in the average annualized investment returns for public plans from 2001-2016. On average, the annualized return for public plans during this period was 5.5 percent – well below the typical actuarially assumed return. However, the returns for plans in the top and bottom quartiles were 6.3 and 4.6 percent respectively – a difference that could account for roughly a 20-percentage-point disparity in their funded ratios.

The second section introduces the two factors that could cause the differences in returns: asset allocation and returns by asset class. The third section investigates the relative role of these factors in explaining differences in plan performance over the 16-year period. The final section concludes that asset allocation across plans is relatively similar while asset class returns show more substantial variation. Therefore, differences in returns turn out to be the major reason that lower-quartile plans underperformed the top-quartile plans over the period.

Private Sector

Retirement savings proposals introduced in Senate, under discussion in the House

A bipartisan group of senators introduced a package of retirement savings bills on Tuesday that includes making it easier for small employers to join pooled employer plans and giving employers incentives to use automatic enrollment and automatic escalation features.

Some of the features of the four bills in the package mirror ideas advanced by the Senate Finance Committee in the proposed Retirement Enhancement and Savings Act of 2018. RESA, introduced in March, also would ease non-discrimination testing rules for plan sponsors, lift a 10% safe harbor cap on default contributions for automatic enrollment and escalation in defined contribution plans, and give cooperatives and small-employer charities smaller Pension Benefit Guaranty Corp. premiums. Its progress is considered stalled in the House, but some of its ideas could be included in House Republicans' plans for another round of tax reform later this year, retirement security advocates said.

The latest package — introduced by Sens. Todd Young, R-Ind., Heidi Heitkamp D-N.D., Tom Cotton, R-Ark., and Cory Booker, D-N.J. — is aimed at expanding workplace retirement savings plans for an estimated one-third of full-time workers, and creating more savings vehicles in general. On the latter issue, the package calls for short-term savings accounts to help with financial emergencies, and allowing part of tax refunds to go into rainy day savings accounts.

Like RESA, one of the package's bills — the Small Business Employees Retirement Enhancement Act, S. 3219 — would lower the administrative cost of employers offering a 401(k) plan, but it also would reduce the fiduciary risk of selecting and monitoring open multiple employer plans and shift that responsibility to the pool providers.

Another bill in the package, the Retirement Flexibility Act, S.3221, aimed at getting more plan sponsors to use automatic enrollment and automatic escalation, would give them a safe harbor from certain regulatory testing of employee limits and employer matches.

Between the Senate actions and House Ways & Means Chairman Kevin Brady, R-Texas, and other Republicans now considering retirement ideas, "there seems to be significant momentum on something crossing the finish line this year. Retirement security is finally getting the attention it deserves," said Shai Akabas, director of economic policy at the Bipartisan Policy Center, in an interview.

Bill would create private-sector version of Thrift Savings Plan

Legislation that would create a private-sector version of the $553.8 billion Thrift Savings Plan, Washington, was introduced Thursday by Sen. Jeff Merkley, D-Ore.

The proposed American Savings Act would make available to workers without workplace access to a retirement savings plan an "American savings account," with the same low-fee investment options that are in the TSP.

Under the proposal, employers not now offering plans would send 3% of workers' earnings to the accounts, but employees can lower that to 2%, raise it to as much as $18,000 per year, or opt out entirely. Participants could roll in their existing individual retirement accounts, or roll ASA funds into an employer-sponsored 401(k) or 403(b) plan.

"It shouldn't matter whether you work part time or full time, as an employee or as a contractor, or for a huge corporation or a tiny business: Every American worker deserves access to a financially secure retirement," Mr. Merkley said in a statement.

"This plan helps millions of American workers to save easily and automatically for retirement with tax benefits, rock-bottom fees and the same types of high-quality investment options already enjoyed by federal workers and members of Congress."

David Madland, senior fellow at the Center for American Progress and senior adviser to its American Worker Project, said that expanding access to a TSP-style plan "could help shore up our private retirement system, which is currently failing to meet the needs of a significant part of our workforce."

What's New for Employers & Practitioners

Premium Payment & Correspondence Mailing Addresses: Effective immediately, the PBGC has changed their mailing addresses for paper checks and correspondence from Bank of America to U.S. Bank. If a paper check or correspondence is mailed to Bank of America, it will be forwarded to U.S. Bank until 10/30/2018. Complete premium payment instructions can be found here, Premium Filing Payment & Instructions. (7/30/2018)

New Staff Guidance Q&A web page: PBGC has developed a new web page that compiles PBGC staff responses to questions received from practitioners about Title IV requirements that may be of interest to other practitioners. The questions cover issues such as bankruptcy claims, liens arising from large missed contributions, guaranteed benefits, and reportable events. Also included is a response to a question received several times in recent months about whether a two-step transaction, sometimes called a “reverse spinoff,” is an acceptable strategy for avoiding certain premium payments.

PBGC intends to update this web page periodically as additional questions arise. The new web page can be accessed by clicking the link above or via the Other Guidance page on the “Employers and Practitioner” menu of PBGC.gov. (7/25/2018)

My PAA Updates: Additional functionality has been added to the “Submit a Request” Quick Link button, located near the top of the Plan Page. Practitioners have the ability to submit a Penalty RFR, Premium Refund and now any other type of actionable request or correspondence directly to the PBGC. When a request has been successfully submitted, an automatic Service Request ID will be generated and all filing team members will receive a confirmation message. In addition, the “Check Status of Request” Quick Link button has been created to track certain plan specific requests. This page includes all requests that filing team members created via the “Submit a Request” Quick Link (mentioned above) in addition to other relevant plan items which may have been created internally by the PBGC. Lastly, practitioners can only submit on-screen My PAA filings for plan years beginning 2008 and forward; See Prior Year Instructions and Forms for reference. (7/23/2018)

2016 Pension Insurance Data Book: On July 18th, PBGC posted the second installment of the 2016 Data Tables, which includes statistics for PBGC's single-employer and multiemployer programs and for the private defined benefit pension system. This installment provides information about plan funding levels, demographics, and premiums, and multiemployer plan zone status, including, for the first time, information specific to critical and declining plans. (7/23/2018)

Terminated and Insolvent Multiemployer Plans Proposed Rule: On July 16, PBGC will publish a proposed rule that would make more efficient certain reporting and disclosure of plan information by terminated and/or insolvent multiemployer plans to PBGC and participants and beneficiaries. Certain terminated plans and insolvent plans must provide notices of insolvency and notices of insolvency benefit level. The proposed rule would remove outdated information included in the notices and would eliminate the requirement to provide most annual updates to the notice of insolvency benefit level. Under current regulations, multiemployer plans terminated by mass withdrawal must perform an annual actuarial valuation of the plan’s assets and liabilities. Under the proposed rule, smaller plans terminated by mass withdrawal would be able to perform actuarial valuations less frequently. The proposed rule also would add new requirements for plan sponsors of certain terminated plans and insolvent plans to file their actuarial valuations and withdrawal liability information with PBGC. (7/13/2018)

Disaster Relief: On July 2, 2018, PBGC will issue a Federal Register Notice announcing changes to the way it provides disaster relief. The revised policy streamlines PBGC's practice of announcing relief by keying it to IRS' disaster relief news releases via a one-time Disaster Relief Announcement and makes other minor changes. PBGC's Disaster Relief announcement explains which filings are covered, what the relief entails, how/when to notify PBGC that your plan qualifies for the relief, etc. The Federal Register notice is available for public inspection now. (6/29/2018)

ERIC Offers Guidance on Missing Plan Participants

The ERISA Industry Committee (ERIC) today sent a letter to Assistant Secretary of Labor Preston Rutledge encouraging the Department of Labor (DOL) to focus its efforts on developing guidance related to the challenge of employers locating missing retirement plan participants. The letter also asks that until guidance is provided, for the DOL to stop issuing letters that allege an employer has committed a breach of fiduciary duty with respect to the practices utilized to locate missing retirement plan participants.

Employers engage in a multitude of search practices to locate so-called "missing" participants without official guidance from federal agencies on the exact processes they should utilize. Moreover, employers are subject to federal audits of these search practices. Official guidance is needed in providing greater certainty to employers in the operation of their retirement plan and in supporting their ability to locate former employees.

In its letter, ERIC laid out several examples of missteps by the DOL:

Issuing letters asserting breaches of fiduciary duty when there is no applicable legal guidance

Assuming that every missing participant can be found

Assuming that if a missing or recalcitrant participant responds to a DOL mailing (and corrects a missing address or commences payment), then the plan's previous search and communication efforts must have been faulty

DOL investigators taking legal positions that are contrary to long-settled fiduciary standards, including telling ERIC members that ERISA's fiduciary duties require "whatever it takes" to put participants into pay status and to locate missing participants

Not honoring the legal interpretations of the other Agencies, and in particular, IRS interpretations that are binding on the DOL.

ERIC encouraged the DOL and the other agencies to be consistent in their guidance and that the DOL guidance, specifically, be consistent with long settled fiduciary principles. Such guidance will provide plan administrators with a roadmap that they are certain to follow going forward and will provide DOL investigators with appropriate guidelines on the applicable legal standards and factual assumptions.

“Employers want to be in compliance, and to do so desperately need guidance from the federal agencies on the steps they must take to find missing plan participants. However, current enforcement actions are unnecessarily and unfairly adversarial, creating confusion and undermine industry efforts to be in compliance,” said Will Hansen, Senior Vice President of Retirement and Compensation, The ERISA Industry Committee. “ERIC looks forward to working with the DOL and the other agencies as they develop guidance that addresses the challenges of missing and recalcitrant retirement participants.”

Three Reasons Cryptocurrency Is Making Its Way Into Retirement Plans

Director of Strategic Planning at BitIRA, bringing cryptocurrency into the mainstream as an exciting new asset for retirement accounts

Let’s start with some assumptions.

Let’s assume that, as a typical Forbes reader, you’ve frequently heard or read about the importance of actively planning for retirement. Let’s further assume that -- more than likely -- you’re already diligently trying to max out annual 401(k) contributions, taking advantage of any available company matches, putting more money away in an IRA, etc. These things are probably step No. 1 for retirement planning.

Unfortunately, for most Americans, there is no step No. 2.

In the retirement business, this is called “contribute and coast,” and in general, it’s by default -- not by design. Effective retirement planning requires regular reassessment to make sure your investments are aligned with your goals and that you are actively shifting assets as the financial landscape evolves.

That evolution, in a nutshell, has caused many in the past year to take a close look at cryptocurrency.

Cryptocurrencies represent a fundamental new asset class -- one that bears careful consideration for investors. To understand why, consider the example of Real Estate Investment Trusts, or REITs. The concept of a REIT first emerged as an asset class for legal investment in 1960, and while investment grew slowly in the following decades, it didn't really take off until the 1990s. Those who got in early profited handsomely.

Similarly, cryptocurrencies represent one of the newest, fastest growing and most intriguing asset classes around. But do they belong in a retirement account? Many Americans believe so. Here are three reasons some are starting to create a cryptocurrency IRA as part of their overall retirement portfolio:

Reason 1: Diversification

As even neophyte investors know, diversification is a powerful strategy for minimizing exposure to any single asset class while still allowing for growth. In retirement planning, for example, a common way to diversify is to invest your savings into multiple mutual funds -- some for growth, some for income, etc. -- and then manually or automatically rebalance your portfolio every so often. This rebalancing is important to diversification, as it ensures the fastest growing part of your portfolio doesn't skew your desired allocation.

Yet most tax-deferred retirement accounts limit diversification to just two asset classes: stocks and bonds. True diversification means spreading investment across many different types of assets: not just stocks and bonds but also real estate, precious metals, etc. So, if you believe that cryptocurrency is an exciting new asset class with intriguing upside potential, it only stands to reason that you should consider including it in a diversified portfolio.

Reason 2: Government Hedge

It's broadly recognized that cryptocurrency isn't under direct control by any government, which is one of the characteristics that fuel its growth as an attractive form of alternative currency. That same consideration applies to cryptocurrency from an investment standpoint.

Government policies and pronouncements can strongly impact Wall Street and the bond market. Moreover, central banks can and do debase traditional currency such as the U.S. Dollar with changing approaches to trade and monetary policy. In contrast, cryptocurrency is largely immune to the impact of such changes by the government. In this regard, it can be considered a contrarian asset class, much like gold, which can move in the opposite direction of prevailing markets. This also adds credence to its use in diversification.

Reason 3: Long-Term Growth Potential

Let's make one thing clear: While cryptocurrency may prove to be a good long-term investment, at the moment, it's also highly volatile. And, as with any volatile investment, what can be good for your pocketbook over the long haul can be bad for your heart in the short term.

Do you know what else can be a volatile investment? Stocks. During the Great Recession of 2007-2009, U.S. equities lost approximately 50% of their value in fewer than 18 months.

Fortunately, we're not talking about day trading. Retirement planning is all about taking the long view, counting on the accrual of tax-deferred benefits over decades to reach an eventual milestone. That long investment horizon helped those saving for retirement ride out the Great Recession. Do you remember the low point for the Dow Jones Industrial Average during the crash? It was 6,547. But just as important, do you remember its highest point before the crash? That was 14,164. Approximately a decade later, the market is up dramatically over the Great Recession's high and low points.

Similarly, while Bitcoin (to use just one cryptocurrency example) is significantly down so far in 2018, it is dramatically up compared to 12 months ago. If you were a long-term investor, you'd be quite happy with your returns thus far, with Bitcoin doubling to tripling in value from its May-June 2017 range of $2,000-$3,200 to current June 2018 prices over $7,000.

Does cryptocurrency belong in your retirement account?

Only you can answer the question of whether cryptocurrency is a smart investment for your personal retirement goals. For an increasing number of investors and future retirees interested in diversification, a hedge against changing government policies and the prospect of long-term growth, the answer is yes. What's the process for safely and easily adding a variety of cryptocurrencies to your retirement plan? That's something we'll explore in a future article.