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.

Inside This Issue

Public Sector/Government Plans

Private Sector

Public Sector/Government Plans

SEC Launches Investigation of Practices in Retirement Plans for Teachers, Government Employees

Regulator looks to determine ‘if violations of the federal securities laws have occurred’

The Securities and Exchange Commission has sent letters to companies that administer retirement plans for teachers and other government workers, opening a probe of practices in a market that consumer advocates contend is subject to abuse.

The regulator “is conducting an investigation” to determine “if violations of the federal securities laws have occurred,” said an SEC document The Wall Street Journal reviewed.

Earlier this year, Jay Clayton, the chairman of the SEC, expressed concern about the prevalence of high-cost investment products in schoolteachers’ retirement accounts, said Michael Pieciak, commissioner of financial regulation for Vermont.

The agency is seeking details on how administrators—which often serve crucial roles in selecting investments for 403(b) and 457 retirement plans for employees including teachers and government workers—choose investment options and police themselves when conflicts of interest arise.

The agency also is requesting documents pertaining to any compensation the administrators have received since Jan. 1, 2017 for referring investors to specific investment options or companies.
It is unclear what triggered the investigation or how many 403(b) and 457 plan administrators have received similar letters. The SEC didn’t immediately provide a comment. The agency, which characterized the investigation as “a non-public, fact-finding inquiry,” has the authority to issue fines or even revoke licenses to sell the products it regulates, including mutual funds and variable annuities which are staples of these plans.

Sponsored by state and local governments, 403(b) and 457 plans are a variation of the better-known 401(k) programs in the private sector. As with 401(k) plans, 403(b)s allow workers to contribute up to $19,000 a year, or $25,000 for those 50 or older, to tax-advantaged investment accounts.

While state laws generally require government entities to manage their 403(b) and 457 retirement plans in employees’ best interests, they aren’t governed by the federal pension laws that privately sponsored 401(k) and 403(b) plans must adhere to. The enforcement and penalties for violations aren’t as stringent as with these federally regulated plans, said Bob Toth, an attorney in Fort Wayne, Ind., specializing in employee-benefits law.

Mr. Toth said that while “the SEC typically reviews broker dealers to make sure they are doing their job right and in accordance with regulations,” it is unusual for the agency to focus on 403(b) and 457 plans.

He added that many administrators of 403(b) and 457 plans fall under the SEC's purview if they are also registered as broker-dealers or registered investment advisers, which the agency regulates. The SEC also oversees individual registered representatives of such companies, some of whom also work for 403(b) and 457 plan administrators which aren't otherwise under the SEC's purview.

The 403(b) plans held about $1 trillion in assets in 2017, the most recent year for which figures are available, according to sources including the Investment Company Institute, the mutual-fund industry trade group.

In its probe, the SEC also requests "information and documents" pertaining to how administrators provide investment counseling to investors. It asks for explanations of any gifts administrators have received from companies that sell investments. The agency also is seeking organizational charts that show companies that own or have ties or partnership with 403(b) or 457 plan administrators.

News of the SEC investigation comes after New York State's financial-services watchdog last week opened a probe of insurance-industry practices in the 403(b) market. The New York Department of Financial Services has demanded that a dozen major life insurers detail how they market retirement-income products to teachers, in a bid to assess whether insurers or their agents are taking advantage of teachers in selling potentially high-cost and inappropriate retirement-savings investments.

Mr. Pieciak said the SEC's San Francisco office has been scrutinizing accounts and the investment options available to teachers. He said 403(b) plans are on the radar for other state securities regulators as well.

Pension Obligation Bonds May Soon Have Their Moment

Issuing bonds to wipe out unfunded liabilities is risky. For some municipalities, it might soon be worth a shot.

In some corners of the finance world, the phrase "pension obligation bonds" is practically a four-letter word. The debt, which raises money to plow into public retirement systems, is deemed risky and dangerous, nothing more than a gamble on future market moves by state and local government leaders who are too clever for their own good.

It's true that some of the most infamous municipal bankruptcies, from Detroit to the California cities of Stockton and San Bernardino, involved pension obligation bonds, or POBs. Indeed, an oft-cited study by the Center for Retirement Research at Boston College found that "the jurisdictions that issue POBs tend to be the financially most vulnerable with little control over the timing." Chicago, which has a junk rating from Moody's Investors Service, floated the idea of using POBs last year.

That kind of deal would be asking for trouble. For one, Chicago pays a hefty premium to borrow, making it tougher for investment returns to exceed the bonds' fixed interest rate and turn the financing into a victory. Also, the city would be buying into a stock market that remains close to all-time highs, just as concerns about a potential economic slowdown are reaching a fever pitch. It doesn't add up.

But consider a scenario 12 months from now in which the U.S. economy enters a recession. That's hardly a bold call: A Federal Reserve Bank of New York model in August put the odds at 1 in 3.

In such an environment, equities, which have become the cornerstone of public pension plans, will likely have slumped as corporate earnings suffer and consumers close their wallets. Benchmark U.S. Treasury yields, already near all-time lows, will head even closer to zero as investors seek safety.

Would POBs make sense financially at that point? Absolutely.

Take South Carolina. As of 2017, its pensions were 54.3% funded, the sixth-worst level in the nation. And yet it maintains a pristine triple-A bond rating from Moody's, so the yield on its 30-year tax-exempt debt is a measly 2%.

Now, POBs must be taxable securities, after the Tax Reform Act of 1986 closed a loophole that exploited an almost risk-free opportunity for states and cities to sell tax-free debt and buy higher-yielding Treasuries. So for South Carolina, that yield would have to be higher. Still, even if the state could borrow at 3%, is there really much doubt that a broad basket of public stocks, not to mention hedge funds and private equity firms, will beat that mark in the coming decades? From the height of the dot-com bubble in early 2000 until now, the S&P 500 has returned on average 5.4% annually. Since March 2009, it's delivered 17.5% a year. Adding in an allocation to the Bloomberg Barclays U.S. Aggregate Bond Index over either of those periods still leaves returns comfortably above the going rate on U.S. state obligations.

If this sounds like market timing, that's because it is. And with prudent management—and under the right conditions—it's not so much a gamble as an automatic stabilizer.

These massive funds have trillions of dollars in assets and depend on sustained market gains to meet their promises to retired public employees.

A recession is precisely the time for those focused on the long term to buy risky assets on the cheap. Yet that's exactly when states and cities see tax revenue dry up, affording them little room to ramp up investing. Instead, as they did during the last downturn, governments are inclined to skip pension payments as they grapple with budget shortfalls.

Matt Fabian, a partner with independent research company Municipal Market Analytics, could be called a POB skeptic. He published a report this year with a section titled "Fourteen Pension Obligation Bond Problems." But even he sees some merit in them when they're managed properly. "If there's a correction in the stock market, and you can time it at the bottom, sure," he says. "But think about the political will at that point. That's when you do it, but that's also when you don't do it."

It's true that austerity is still a virtue in many statehouses, unlike at the federal level. But financial advisers should have no trouble doing the math and coming up with scenarios in which selling POBs and investing in a mix of stocks and bonds would be a windfall with a high degree of confidence. Nothing is certain, of course, but using historical performance as a guide is at least informed speculation rather than an outright gamble.

Even when a positive spread between investment returns and the securities' interest rate is all but ensured, opponents of POBs may still have some valid criticisms. For one, issuing the debt is not a substitute for making required contributions. As Fabian points out, "pension bonds are rarely done to help the pension—they're done to help the budget." POBs should be considered a way to go above and beyond typical funding at an opportune time, when the prospects for future gains are greatest.

Another concern is that the transaction substitutes pension debt for comparatively inflexible muni bonds. The Government Finance Officers Association notes that POBs often restrict the option for borrowers to "call" the debt, "which can make it more difficult and costly to refund or restructure." The GFOA also correctly points out that the structures are sometimes tied to swaps and derivatives, and these can get messy. A plain-vanilla approach is the way to go.

In a blunt statement on its website, the GFOA says it "recommends that state and local governments do not issue POBs." Nothing indicates it plans to alter that stance anytime soon. That sort of warning could deter fiscally sound governments from even considering them when the going gets tough.

Moody's takes a somewhat more flexible position. "Our view is the issuance of POBs at the time of the transaction is really credit-neutral," says Tom Aaron, a public pension specialist at the credit-rating company. "But context matters a heck of a lot in terms of whether these things pan out."

In particular, "if the government continues making its full contributions, that's a different story than using the pension bonds as a temporary budget reprieve, because that turns it into an arbitrage play plus deficit financing," Aaron says. Of course, history has shown that's a big "if."

One thing that's different today is the stark drop in nominal bond yields vs. the end of the last recession. In June 2009, benchmark 30-year tax-free munis yielded about 5%. Now they yield a record low 2%. The GFOA calls POBs "very speculative," but they present a much lower hurdle with interest rates so suppressed.

One need only look at Illinois, which has the worst-funded state pension in the U.S. after years of skipped payments, to see how important it is to funnel money into retirement systems at the right time. Earlier this year, the state resorted to issuing POBs with a top yield of more than 6%. The S&P 500 would hit a new record high a month later. With $134 billion of unfunded pension liabilities, it's anyone's guess whether the state can find a path to solvency. Meanwhile, New

Jersey's Senate president in August claimed his state was "in worse shape than Illinois" because of its massive pension shortfall.

Fortunately, most other states and cities start from a stronger position. And though there's no magic number that defines a well-funded pension plan, clearly any sustained decline in stocks and other risky assets would leave many of them in an uncomfortable hole.

Lower-for-longer interest rates present a unique opportunity for government officials to dig out faster than before. Make no mistake—POBs are not a cure-all. But layered on top of required payments, they just might help defuse the ticking pension time bomb that seems destined to explode.

San Diego Labor Unions File Suit to Invalidate Prop B Pension Measure

City labor unions in San Diego have filed a lawsuit seeking to invalidate 2012's controversial Proposition B pension cut measure, which made San Diego the only city in California to eliminate pensions for most newly hired workers.

The lawsuit is an expected and necessary step to wipe out the measure, which was ruled illegal last year by the state Supreme Court because San Diego skipped key legal steps when placing it on the ballot.

If Proposition B is invalidated, it will pave the way for city officials and union leaders to negotiate an agreement to compensate about 4,000 city workers hired since 2012 without pensions.

Proposition B, which was approved by more than 65 percent of city voters, replaced traditional pensions with 401(k)-style retirement plans for all newly hired city workers except police officers.

The unions got permission this summer from state Attorney General Xavier Becerra to file the suit in Superior Court, which they did last Friday.

That permission came after the state's 4th District Court of Appeal ordered the city to compensate workers affected by Proposition B but declined to use its authority to invalidate the measure.

Instead, the appellate judges said the matter should be decided as part of a "quo warranto" lawsuit that must begin in Superior Court.

The San Diego City Council voted 6-3 this summer, along party lines, to join the labor unions in seeking invalidation of the measure.

The lawsuit will give Proponents of Proposition B an opportunity to argue that there is a way to compensate the 4,000 affected employees while still keeping Proposition B in place, meaning new hires would continue to not receive pensions.

Possible compensation for affected workers would be the city helping them create the pensions they would have had by buying "years of service" credit equal to the number of years they have worked for the city without a pension.

That would allow workers who prefer a traditional pension to create one nearly identical to what they would have had if Proposition B never happened. But workers who prefer the 401(k)-style retirement plans that Proposition B created could keep those and not have the city help them buy "years of service" credit.

The higher court rulings have said Proposition B was a city measure — instead of a citizens' measure — because then-Mayor Jerry Sanders used his power and influence as mayor to champion it.

Because it was a city measure, Sanders was required to negotiate the terms of Proposition B with union leaders before placing it on the ballot, the courts said, but he failed to do so.

How a Financial Wellness Expo Became the Hottest Ticket in Town

One of the biggest challenges for financial wellness programs is engaging employees. But what if I told you that one plan sponsor figured out how to pack a convention center with 3,000 people for a financial wellness expo? Yes, that is not a typo: three thousand people! This is not some retirement plan tall tale; the Oregon Public Employees Retirement System (Oregon PERS) has managed to do just that! As featured on our recent Revamping Retirement podcast, the PERS Expo, which will take place this year on October 9th, easily sells out the Salem Convention Center.

As many plan sponsors can attest, it can be challenging to get thirty people to attend a financial wellness event, much less 3,000. So how did Oregon PERS do it? The PERS Expo is no ordinary financial wellness fair. It is more along the lines of a festival; a way for PERS members to get together and have fun while learning how to improve their financial future at the same time. Don't believe me? Watch this! Photo booth? Check. "Cash"-grab machine? Check. General fun atmosphere? Check! The concept is simple, in theory: If people are bored, it is tough to engage them - so let's have fun! But it can be tough in execution.

For Oregon PERS, engaging employees means re-imagining the traditional employee benefits fair concept, from the venue (renting a popular convention center rather than using its own facilities), to branding (this year's theme is "Your Path to Financial Wellness"), to use of technology (including an Expo App), to creating compelling content (with new features added each year, such as 2019's prize wheel), to event staffing that fully capitalizes on the face-to-fact interaction with members. Each element of the Expo is designed to thoroughly engage as many people as possible. And it is hard to argue with the results. Not only does the Expo have sold-out attendance each year, but it also drives significant changes in participant behavior, which justifies the cost and time commitment of putting on the event.

Already the winner of a number of awards for excellence, three straight NAGDCA Leadership Awards, I strongly suspect that the PERS Expo will serve as a model of employee financial wellness engagement for many other plan sponsors!

$250,000,000,000 and Counting

That's a quarter-trillion dollars, which is how much Illinois pension debt now totals, according to Moody's—which also suggests that any improvement is fleeting.

That's a quarter-trillion dollars, which is how much Illinois pension debt now totals, according to Moody's—which also suggests that any improvement is fleeting.

Thanks to a roaring stock market, Illinois and its taxpayers aren't quite as deeply in a pension hole as they were. But with gross unfunded pension IOUs still running at nearly a quarter of a trillion dollars—just for the state alone—the Land of Lincoln continues to drown in red ink.

That's the bottom line of the latest annual look at the conditions of the government retirement systems in the 50 states by Moody's Investors Service.

Moody's uses a lower discount rate than others who monitor state debt, which tends to increase the size of Illinois' hole. Ergo, according to the bond-rating firm, Illinois' adjusted net pension liability as of June 30, 2018, stood at a cool $240.8 billion.

That's more than any other state, with California coming in second—its population is more than three times ours—at $230.8 billion and Texas coming in third at $132.8 billion.

Difficult as it is to fathom, Illinois' figure actually was a little worse this time a year ago, topping $250 billion in unfunded liabilities. But according to Moody's, the whole reason for the decline was the market, which was really hot but lately has been pretty flat. With Illinois putting in only about two-thirds of what we need to hold even—Moody's "tread water" line—the hole probably already has resumed growing, it says.

The current hole is bad enough. According to the report, it represents 505 percent of own-source (non-federal) revenues, and has grown more than a quarter since fiscal 2014.

If there's a scintilla of good news in the report, it is that the good economy that has boosted investment returns also has boosted the income of state residents. Ergo, as a share of total state personal income, pension liabilities dropped from 36 percent to 33.2 percent in the most recent year.

When it comes to total state debt—total pensions, other retirement costs such as retiree health care, and general obligation bonds for infrastructure and other purposes—Illinois ranks second, at 38.2 percent of state GDP compared to Connecticut's 38.9 percent.

Keeping Illinois company in the high-debt category are New Jersey at 37.9 percent, Hawaii at 35.6 percent and Alaska at 30.6 percent. Every other state is below 30 percent.

Illinois lawmakers are expected to consider some modest changes to improve pensions in their veto session this fall, but they're likely to impact local systems rather than the five statewide systems covered in the Moody's report. More on that later.

Private Sector

PBGC Premium Increases Continue – How Sponsors Can Fight Back

The Pension Benefit Guaranty Corporation (PBGC) has announced the2020 Plan Year premium rates. This announcement reminds plan sponsors that providing the same pension benefits continues to be more and more expensive, especially if they maintain underfunded liabilities. Luckily, sponsors can implement a number of Simply Smarter SolutionsTM to mitigate this increased cost burden.

New Premium Rates

All PBGC premium rates are indexed based on changes in the national average wage index, which increased 3.6%. The 2020 premium rates for single employer plans can be found in the table below, along with the 2019 rates for comparison.

Premium Type	2020 Plan Year	2019 Plan Year
Flat-Rate Premium	$83 per participant	$80 per participant
Variable-Rate Premium (VRP)	4.5% of unfunded liability	4.3% of unfunded liability
VRP per-participant cap	$561 per participant	$541 per participant
Total Premium for plans at VRP cap	$644 per participant	$621 per participant

An unwelcome milestone

PBGC premiums have now reached a new milestone: after spending 23 years at 0.9% of underfunding, the premium is now fully five times the 2013 rate. This unwelcome development for sponsors of plans underfunded on a PBGC basis reinforces the importance of optimizing the selection of the PBGC interest rate methodology. For more on how recent interest rate moves impact PBGC interest rate elections, see our **recent blog post** on the topic.

Reducing headcount through risk transfer

There are a number of ways plan sponsors can reduce plan headcount, thereby reducing the size and risk of their plan while also reducing annual PBGC premiums. Many sponsors have already implemented relatively simple risk-transfer projects such as lump sum windows for former employees with deferred vested benefits and retiree annuity purchases. These projects continue to provide quite a bit of value, with almost $65,000 savings *per year* for every 100-participant reduction in headcount for sufficiently underfunded plans.

Sponsors who have not yet implemented these garden-variety risk transfer projects should seriously consider doing so, especially if their plan year is off-calendar, as they may still have time to implement before 2020 PBGC premiums are determined. Even sponsors who have already gone through these projects should consider whether another bite at the apple would make sense. And in light of this recently-announced premium increase, sponsors should also consider less common headcount reduction strategies, such as lump sum windows for retirees, or a more complex transaction that would allow employees to access their benefits while working.

Closing the gap – cheaper than you think!

They say that cash is king, and many plan sponsors consider discretionary pension contributions a luxury. However, the truly unaffordable line item is maintaining PBGC underfunding. For sponsors with a PBGC deficit who are not subject to the per-participant cap, the debt-equivalent cost of this underfunding is approximately 8% (a liability discount rate of 3.5%, plus the additional 4.5% VRP). Many for-profit sponsors can borrow at a rate significantly below this 8% equivalent; meanwhile, many not-for-profit sponsors have asset pools outside their pension plan that would consider 8% an extremely good rate of return. Whether through a new debt issuance or an injection of unrestricted assets, many sponsors will find that keeping their plans fully funded on the PBGC basis is the most fiscally responsible path.

Holistic pension management

The PBGC milestone we have reached emphasizes the importance of an integrated approach to pension management. As more and more sponsors make contributions each year to avoid the increasingly painful VRP, it is ever clearer that plan sponsors and their advisors need to understand how investment strategy, contribution strategy and interest rate methods all impact annual funded status measurements.

To learn more about how you can mitigate the impact of PBGC premium increases on your plan, **reach out** to our pension risk management experts today.

Social Security Announces 1.6 Percent Benefit Increase for 2020

Social Security and Supplemental Security Income (SSI) benefits for nearly 69 million Americans will increase 1.6 percent in 2020, the Social Security Administration announced today.

The 1.6 percent cost-of-living adjustment (COLA) will begin with benefits payable to more than 63 million Social Security beneficiaries in January 2020. Increased payments to more than 8 million SSI beneficiaries will begin on December 31, 2019. (Note: some people receive both Social Security and SSI benefits). The Social Security Act ties the annual COLA to the increase in the Consumer Price Index as determined by the Department of Labor's Bureau of Labor Statistics.

Some other adjustments that take effect in January of each year are based on the increase in average wages. Based on that increase, the maximum amount of earnings subject to the Social Security tax (taxable maximum) will increase to $137,700 from $132,900.

Social Security and SSI beneficiaries are normally notified by mail in early December about their new benefit amount. Most people who receive Social Security payments will be able to view their COLA notice online through their *my Social Security* account. People may create or access their *my Social Security* account online at www.socialsecurity.gov/myaccount.

Information about Medicare changes for 2020, when announced, will be available at www.medicare.gov. For Social Security beneficiaries receiving Medicare, Social Security will not be able to compute their new benefit amount until after the Medicare premium amounts for 2020 are announced. Final 2020 benefit amounts will be communicated to beneficiaries in December through the mailed COLA notice and *my Social Security's* Message Center.

The Social Security Act provides for how the COLA is calculated. To read more, please visit www.socialsecurity.gov/cola.

NOTE TO CORRESPONDENTS: Here is a fact sheet showing the effect of the various automatic adjustments.

Fact Sheet

SOCIAL SECURITY

2020 SOCIAL SECURITY CHANGES

Cost-of-Living Adjustment (COLA):

Based on the increase in the Consumer Price Index (CPI-W) from the third quarter of 2018 through the third quarter of 2019, Social Security and Supplemental Security Income (SSI) beneficiaries will receive a 1.6 percent COLA for 2020. Other important 2020 Social Security information is as follows:

Tax Rate	2019	2020
Employee	7.65%	7.65%
Self-Employed	15.30%	15.30%

NOTE: The 7.65% tax rate is the combined rate for Social Security and Medicare. The Social Security portion (OASDI) is 6.20% on earnings up to the applicable taxable maximum amount (see below). The Medicare portion (HI) is 1.45% on all earnings. Also, as of January 2013, individuals with earned income of more than $200,000 ($250,000 for married couples filing jointly) pay an additional 0.9 percent in Medicare taxes. The tax rates shown above do not include the 0.9 percent.

	2019	2020
Maximum Taxable Earnings		
Social Security (OASDI only)	$132,900	$137,700
Medicare (HI only)	No Limit	
Quarter of Coverage		
	$1,360	$1,410
Retirement Earnings Test Exempt Amounts		
Under full retirement age	$17,640/yr. ($1,470/mo.)	$18,240/yr. ($1,520/mo.)
NOTE: One dollar in benefits will be withheld for every $2 in earnings above the limit.		

The year an individual reaches full retirement age	$46,920/yr. ($3,910/mo.)	$48,600/yr. ($4,050/mo.)
NOTE: Applies only to earnings for months prior to attaining full retirement age. One dollar in benefits will be withheld for every $3 in earnings above the limit.		
Beginning the month an individual attains full retirement age.	None	
	2019	**2020**
Social Security Disability Thresholds		
Substantial Gainful Activity (SGA)		
Non-Blind	$1,220/mo.	$1,260/mo.
Blind	$2,040/mo.	$2,110/mo.
Trial Work Period (TWP)	$ 880/mo.	$ 910/mo.
Maximum Social Security Benefit: Worker Retiring at Full Retirement Age		
	$2,861/mo.	$3,011/mo.
SSI Federal Payment Standard		
Individual	$ 771/mo.	$ 783/mo.
Couple	$1,157/mo.	$1,175/mo.
SSI Resource Limits		
Individual	$2,000	$2,000
Couple	$3,000	$3,000
SSI Student Exclusion		
Monthly limit	$1,870	$1,900
Annual limit	$7,550	$7,670
Estimated Average Monthly Social Security Benefits Payable in January 2020		
	Before 1.6% COLA	**After 1.6% COLA**
All Retired Workers	$1,479	$1,503
Aged Couple, Both Receiving Benefits	$2,491	$2,531
Widowed Mother and Two Children	$2,889	$2,935
Aged Widow(er) Alone	$1,398	$1,421
Disabled Worker, Spouse and One or More Children	$2,144	$2,178
All Disabled Workers	$1,238	$1,258

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General Electric Freezing Pension Plan for 20,000 U. S. Employees

General Electric is freezing the pensions of 20,000 U.S. salaried workers to reduce billions in future pension obligations and trim debt.

About 700 employees in its supplemental pension program, geared toward executives, will also have their pension benefits frozen.

The company said the change won't impact already retired GE workers.

General Electric announced it will freeze the pensions of 20,000 U.S. salaried workers, a measure designed to reduce its pension deficit and trim debt. The move will shave GE's pension deficit by as much as $8 billion and its net debt by as much as $6 billion.

As part of the pension freeze, the industrial conglomerate said it will freeze supplementary pension benefits for approximately 700 employees who became executives before 2011. Supplemental pension plans are typically designed for higher-ranking employees and offer benefits beyond the typical pension plan.

"Returning GE to a position of strength has required us to make several difficult decisions, and today's decision to freeze the pension is no exception," said Kevin Cox, chief human resources officer at GE.

As part of such efforts, the company said last month it would spend $5 billion to pay down debt. But the effort to reduce debt could also damage employee morale at a time when CEO H. Lawrence Culp Jr. is trying to turn around the troubled conglomerate.

"The impact on employee engagement/morale of some of these pension measures is unlikely to be positive, but in a situation of 'corporate battlefield surgery,' this tends to be a typical, if unfortunate casualty," noted Barclay's analyst Julian Mitchell in a Monday research note.

Culp, a turnaround specialist, was paid more than $15.3 million last year, or 345 times the 2018 median GE employee wage of around $43,500, according to Equilar.

What is a pension freeze?

A pension freeze effectively puts a hold on new benefits from accruing to a retirement account, according to the Pension Rights Center. GE said the 20,000 workers affected by the change won't accrue additional benefits nor make employee contributions after January 1, 2021.

GE said the pension freeze won't impact GE retirees already collecting pension benefits or employees with production benefits.

Like other corporations, GE has been phasing out its pension amid a push toward self-directed retirement plans such as 401(k)s. GE said it hasn't allowed new workers into its pension plan since 2012.

"Today's actions more closely aligns GE benefits with current industry standards and competitive market practices," the company said Monday in a statement.

Additionally, GE also said it's offering a lump-sum option to about 100,000 former employees who have not started their monthly pension payments. The company said it's sending out notices to those eligible employees, and will pay the lump sum in December.

Time-Limited IRS Determination Letter Program Open for Individually-Designed Cash Balance and Other Statutory Hybrid Plans

Summary

Companies that sponsor individually-designed cash balance plans or other "statutory hybrid plans" now have the opportunity to submit their plan to the Internal Revenue Service (the "IRS") for an updated determination letter regarding their plan's continuing tax-qualified status. The IRS will accept submissions for updated determination letters until August 31, 2020. Determination letters obtained under this temporary program will for the first time take into account all plan provisions related to the final hybrid plan regulations issued in 2014 and 2015.

Background

Prior to January 1, 2017, employers periodically submitted their individually-designed retirement plans to the IRS for updated determinations confirming that their plans continued to meet applicable requirements under the Internal Revenue Code (the "Code"). The updated letters, which took into account any changes made to the design of the plan, as well as amendments to reflect changes in applicable requirements under the Code, provided plan sponsors comfort that their retirement plans, in form, complied with the IRS requirements for a tax-qualified plan.

The IRS closed that determination letter program as of January 1, 2017. In its place, the IRS implemented a limited program under which plan sponsors generally could obtain favorable determination letters for their individually-designed plans only upon their establishment and termination.

Temporary Expansion of IRS Determination Letter Program

In 2014 and 2015, the IRS issued the hybrid plan regulations which made significant changes to the rules governing statutory hybrid plans. Statutory hybrid plans are defined benefit plans under which all or a portion of the accrued benefit is calculated as the balance of a hypothetical account maintained for the participant, an accumulated percentage of the participant's final average compensation or a formula with a similar effect, such as cash balance plans and pension equity plans.

As a result of the change to the IRS's determination letter program, employers who had amended their statutory hybrid plans to comply with the final hybrid plan regulations were not able to obtain determinations that their amended plans continued to meet the IRS requirements for a tax-qualified plan.

However, earlier this year, the IRS announced a temporary expansion of its determination letter program under which sponsors of individually-designed statutory hybrid plans can submit their plans to the IRS from September 1, 2019 through August 31, 2020 and obtain updated determination letters for their plans. A favorable determination issued by the IRS under the temporary determination letter program will cover a statutory hybrid plan's compliance, in form, with the final hybrid plan regulations. This will be the first time the IRS will review all plan provisions related to the final hybrid plan regulations.

What Employers Should Do Now

Sponsors of cash-balance or other statutory hybrid plans should consult with their legal advisors to confirm that their plans were timely amended to comply with the final hybrid plan regulations and determine whether to submit their plans under the temporary IRS favorable determination letter program, which will close on August 31, 2020.

Retirement Plan Cybersecurity the Issue in a New Lawsuit

A retirement plan participant who had $99,000 stolen from her account has sued the plan sponsor and plan providers.

A former participant in the Estee Lauder 401(k) plan has sued the plan sponsor and plan providers for failing to safeguard her retirement account.

According to the complaint, in September and October 2016, an unknown person or persons stole the participant's retirement savings by withdrawing a total of $99,000 in three separate unauthorized distributions from her account in the plan.

The lawsuit names as defendants Estee Lauder; Alight Solutions, whose predecessor Hewitt Associates was the recordkeeper to the plan at the time; and State Street Bank & Trust, the plan's custodian.

Alight Solutions said it has no comment. Estee Lauder and State Street did not respond to a request for comment.

The complaint says by June 30, 2016, the participant's account balance in the Lauder Plan had grown to more than $90,000. However, in October, she received by mail two documents entitled "Confirmation of Payment – 401(k) Savings Plan," one of which stated the plan had distributed $37,000 from the participant's account to a checking account at Suntrust Bank. The second stated that the plan had distributed $50,000 from her account to a checking account at TD Bank.

In addition, when the participant received by mail her plan account statement for the third quarter of 2016, it showed a withdrawal of $12,000. She received no confirmation letters for this withdrawal, but learned from Estee Lauder that the $12,000 had been distributed on September 29, 2016, to an account at Woodforest National Bank.

The complaint says the participant never requested or authorized any distribution from the plan and never had any account at Woodforest National Bank, Suntrust Bank, or TD Bank.

Upon receiving the first confirmation of payment, she telephoned the Hewitt Customer Service Center at the number on the confirmation form and was informed that her remaining account balance was $3,791. The Customer Service Center stated that it would investigate the unauthorized distributions, but never provided the participant with any information regarding its investigation.

According to the complaint, between October 24, 2016, and January 2, 2017, the participant made at least 23 calls to the Customer Service Center regarding the unauthorized distributions. Ultimately, it informed her that it had completed its investigation, no money had been recovered, and her plan account would not be made whole for the losses.

On or about October 25, 2016, the participant reported the unauthorized distributions to the San Francisco Police Department and the FBI, and placed a fraud alert on her credit file with Equifax. On November 7, 2016, State Street emailed her and requested that she complete an “Affidavit of Forgery” for each unauthorized distribution. The participant returned the requested affidavits the same day, but State Street did not contact her further.

The lawsuit claims that the defendants breached their fiduciary duties of loyalty and prudence by causing or allowing the unauthorized distributions of plan assets; failing to confirm authorization for distributions with the plan participant before making distributions; failing to provide timely notice of distributions to the plan participant by telephone or email; failing to identify and halt suspicious distribution requests, such as requests for multiple distributions to accounts in different banks; failing to establish distribution processes to safeguard plan assets against unauthorized withdrawals; and failing to monitor other fiduciaries’ distribution processes, protocols and activities.

In addition, Estee Lauder is being sued for not timely providing plan documents that were requested by the participant’s lawyer.

Among other things, the lawsuit seeks an order that the defendants restore to the participant’s plan account $99,000, plus investment earnings thereon from the distribution dates to the date of judgment.

The case highlights the importance of provider process reviews regarding cybersecurity. There are also things retirement plan sponsors and participants can do to safeguard accounts.

Andy Adams and Jay Schmitt, with Strategic Benefits Advisors, have provided information about what makes retirement plan data vulnerable and actionable steps to protect it from fraud.

The cybersecurity threat is so pervasive that lawmakers have asked the Government Accountability Office (GAO) to examine the cybersecurity of the U.S. retirement system.