

# MONTHLY BENEFIT

News and Developments  
Employee Benefits

## Federal Reserve on Retirement Plan Assets

The Federal Reserve released *Financial Accounts of the United States, Z1* (formerly referred to as the “Flow of Funds Accounts”), reporting that corporate defined benefit and defined contribution plans had combined assets of \$8.064 trillion as of March 31, up 1.1% from three months earlier, and an 8.6% increase from a year earlier. Defined benefit plan assets totaled \$3.081 trillion as of March 31, while defined contribution plan assets totaled \$4.983 trillion.

[www.federalreserve.gov](http://www.federalreserve.gov)

## Upcoming Key Dates

**10/15/14** – New PBGC flat-rate premium filing due date for large single-employer and multiemployer calendar-year defined benefit pension plans.

**10/31/14** (unless a later date applies) – Compliance with new compensation committee independence standards for NYSE and NASDAQ listed companies.

**11/5/14** – Deadline for large health plans that are covered entities under the HIPAA rules to obtain a Health Plan Identifier Number.

**11/15/14** – First reporting of annual enrollment of covered lives by self-insured or partially insured group health plans, under the ACA’s transitional reinsurance program.

**11/15/14** – Start date of delayed open enrollment period for insurance purchases through an Exchange for 2015.

**12/31/14** – Expiration of the PPA’s multiemployer defined benefit pension plan special funding rules for calendar-year plans, unless Congress acts.

## Legislative Activity on the Benefits Front

The Senate Finance Committee took the initial step of formally considering a transportation/highway trust fund bill that includes a modification to the retirement plan distribution rules and a revision to the current tax code’s “normal retirement age” provisions. The draft proposal (no bill number assigned to date) from committee chairman Ron Wyden (D-WA) will continue to be considered when Congress returns from the Independence Day recess on July 7. Amendments to the proposal also will be considered, and some have employee benefits or compensation implications (e.g., transit benefit parity, worker/contractor classifications, and “prevailing wage” rates). The current law providing highway funding is set to expire at the end of September.

The proposal’s changes to the distribution rules, also sometimes referred to as “stretch IRA” provisions, would require that certain retirement plan distributions be paid out within five years of the participant’s death. This provision helps to raise revenue to offset the cost of the highway trust fund provisions. The draft proposal would:

- require retirement plan distributions (including annuity distributions under defined benefit plans and annuity contracts under defined contribution plans) within five years following the year of the participant’s death unless the beneficiary is an “eligible beneficiary” (generally, a surviving spouse, a disabled or chronically ill individual, a child under the age of majority, or an individual who is not more than 10 years younger than the participant);
- coordinate the minimum distribution requirement and the prohibited payment requirement applicable to single-employer defined benefit plans that are subject to funding-based limitations or benefits and benefit accruals;
- change the required beginning date for distributions for an employee who becomes a 5%-owner after age 70-1/2 but before retiring; and
- allow a retirement plan to set a normal retirement age as the lesser of a fixed age or number of years of service without running afoul of the tax qualification requirements.

## Other Legislation

The House on June 20 approved its version of the fiscal year 2015 “Department of Defense Appropriations Act,” which was amended on the House floor to include a prohibition on the use of appropriated funds to pay federal government contractors that are found to be in violation of the Fair Labor Standards Act.

And a new Senate proposal to extend the federal emergency unemployment compensation program includes, as other bills have, an extension of the pension funding relief under the “MAP-21” law. The new bipartisan proposal does not apply unemployment benefits retroactively, so it might face less opposition in the House, although it still does not overcome a key objection from House leaders, that such proposals include a job creation component.

## Public Pensions, Q1

The U.S. Census Bureau's *Summary of the Quarterly Survey of Public Pensions for 2014: Q1* reports that the 100 largest U.S. public pension funds in the first quarter of this year had a combined \$3.218 trillion in cash and securities, up 0.5% from three months earlier, and 9.4% higher than a year ago.

[www.census.gov](http://www.census.gov)

## Social Security and Same-Sex Marriage Developments

The Social Security Administration published new instructions that allow the agency to process more claims in which entitlement or eligibility is affected by a same-sex relationship.

[www.ssa.gov](http://www.ssa.gov)

## GAO on ACA Premiums

The Governmental Accountability Office released *Private Health Insurance: The Range of Average Annual Premiums in the Small Group Market by State in Early 2013* (GAO-14-524R), which shows the range of average premiums for health insurance policies sold to small employers in each of the 50 states and the District of Columbia during the first quarter of 2013.

[www.gao.gov](http://www.gao.gov)

## HIPAA Breaches

The Department of Health and Human Services issued *Annual Report to Congress on Breaches of Unsecured Protected Information for Calendar Year 2011 and 2012*, which includes a description of actions taken by "covered entities" and "business associates" in response to reported breaches under the Health Insurance Portability and Accountability Act (HIPAA) privacy requirements.

[www.hhs.gov/ocr](http://www.hhs.gov/ocr)

## Compensation Costs

The Bureau of Labor Statistics released *Employer Costs for Employee Compensation, March 2014*, which found that private employers spent an average of \$29.99 in compensation per hour worked. Health insurance was the largest individual employer benefit cost, at \$2.36 per hour, accounting for 7.9% of total compensation costs.

[www.bls.gov](http://www.bls.gov)

## Regulatory Roundup

### Jointly from Treasury, Labor, and Health and Human Services:

- *Final rule* on the orientation period under the Affordable Care Act's (ACA) 90-day waiting period limitation.

### From the Departments of Treasury/IRS:

- *Final rule* and updated *Frequently Asked Questions* (FAQs) on the Small Business Health Care Tax Credit.
- *Revenue Ruling 2014-18*, providing guidance on the conditions under which stock rights under tax code section 409A that are granted by a nonqualified entity will be exempt under taxation under tax code section 457A.
- *Technical Advice Memorandum 201425019*, which describes how an employee stock ownership plan (ESOP) loan repayment could comply with the plan document but fail in operational compliance.
- *2014 Report of Recommendations (Publication 4344, Rev. 6-2014)* from the Advisory Committee on Tax Exempt and Government Entities, providing an analysis of and recommendations for the preapproved and determination letter programs, as well as suggestions to help state and local governments comply with the ACA.

### From the Department of Labor:

- *Proposed rule, FAQs, and Fact Sheet* on a revised definition of "spouse" under the Family and Medical Leave Act.
- *Proposed rule, FAQs, and Fact Sheet* on establishing a minimum wage for federal contractors.
- *FLSA Overtime Calculator*, which provides information to help employers and employees understand federal overtime pay requirements.

### From the Pension Benefit Guaranty Corporation:

- *FY2013 Projections Report*, providing a range of estimates of the future status of private pension plans and their effect on the agency's financial condition.

## Supreme Court Rulings: Fiduciary, Contraceptives, Union Fees

The U.S. Supreme Court ruled:

- Fiduciaries of an ERISA-covered retirement plan that includes employer stock as an investment option are not entitled to any special "presumption of prudence" in the investment decisions made by the plan administrator (*Fifth Third Bancorp v. Dudenhoeffer* (No. 12-751, 6/25/2014)). Overturning the 2012 ruling by the Sixth Circuit, the high court unanimously held that the fiduciaries are subject to the same duty of prudence that generally applies to fiduciaries under ERISA.
- Closely held for-profit corporations are entitled to an exemption from the ACA's contraceptive coverage mandate (*Burwell v. Hobby Lobby Stores, Inc.* (No.13-354) and *Conestoga Wood Specialties Corp. v. Burwell* (No. 13-356), 6/30/2014). The 5-4 decision in the consolidated cases allows a for-profit closely held company to deny its employees the contraceptives they are otherwise entitled to under the ACA, based on the religious objections of the companies' owners.
- Public-sector unions may not collect fees from certain workers who object to being affiliated with a union (*Harris v. Quinn* (No. 11-681, 6/30/2014)). The Court held 5-4 that Illinois may not compel healthcare workers, hired as personal assistants by covered clients, to accept and financially support a union as their exclusive representative for bargaining with the state on Medicaid reimbursements. The Court distinguished the service providers as "partial public employees" from full-fledged public employees.

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