

MONTHLY BENEFIT

News and Developments

Employee Benefits

Pension Funded Status

In December, the 100 large defined benefit retirement plans in Milliman's *Pension Funding Index* experienced a \$128 billion increase in asset value and a \$190 billion decrease in pension liabilities, powering a \$318 billion improvement in pension funded status. The funded ratio was 95.2% as of Dec. 31, 2013, 18 percentage points higher than the 77.2% funded ratio at the beginning of 2013. The Milliman 100 funded ratio last exceeded 95% more than five years ago, when it settled at 99.4% in September 2008.

<http://us.milliman.com/pfi/>

Upcoming Key Dates

2/28/14 – Rescinded PBGC flat-rate premium due date for large single-employer and multiemployer calendar-year defined benefit plans (see **Benefits Alert 14-2**).

4/15/14 (unless a later date applies) – New deadline for amending a retirement plan and applying for a determination that a Puerto Rico-based retirement plan complies with the PR Internal Revenue Code of 2011.

6/15/14 (fiscal years beginning after) – Effective date of GASB Statement 68, *Accounting and Financial Reporting for Pensions*, for public sector pension plan sponsors and governmental nonemployer contributing entities.

7/1/14 (with earlier application permitted) – Applicable date of IASB's *Defined Benefit Plans: Employee Contributions (Amendments to IAS 19)*.

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

Legislative Activity on the Benefits Front

After weeks of private negotiations, the House and Senate agreed to a two-year budget agreement that replaces the across-the-board "sequestration" cuts, compromising on a spending limit of \$1.012 trillion for fiscal year 2014 – less than the \$1.058 trillion sought by Democrats but more than the \$967 billion advocated by Republicans. The agreement (H.J.Res.59) also set a \$1.014 trillion spending level for fiscal year 2015. By approving the measure, which the President signed on Dec. 26, Congress is likely to avoid a potential federal government shutdown starting on Jan. 15, when the temporary funding the agencies currently are operating under will expire. The leaders of the Appropriations Committees hope to have bills with specific allocations for the federal agencies on the floors of the House and Senate by that date.

The new law includes an increase in the annual premiums that sponsors of single-employer defined benefit pension plans pay to the PBGC to insure the plans in the event of a plan termination. Both the flat-rate and the variable-rate premiums will increase in the 2015 and 2016 plan years, with later adjustments based on the growth in the national wage index for Social Security (see **Client Action Bulletin 13-10**). In addition, the budget agreement includes a cap of \$487,000 on the amount of allowable private-sector compensation for executives in companies with federal government contracts. Future adjustments will be based on a new formula based on the Bureau of Labor Statistics' Employment Cost Index.

During December, Congress took no action on extending expiring tax provisions. Thus, the amount excludable for employer-provided mass transit benefits is reduced to \$130 per month; the amount excludable for parking is \$250 per month. Although Congress faces pressure to extend this provision, some key members of the tax-writing committees appear to prefer addressing these expiring provisions as part of tax reform. ■

U.S. Supreme Court Upholds ERISA Plan's Suit-Filing Deadline

In a unanimous decision, the U.S. Supreme Court ruled that a long-term disability plan's three-year limitations period in which a participant may file a lawsuit to recover benefits did not violate ERISA (*Heimeshoff v. Hartford Life & Accident Insurance Co.* (No. 12-729, Dec. 16, 2013)). The Court rejected the participant's contention that the period begins when she completed the plan's internal claims procedure and instead upheld the plan's date on which "proof of loss" is due.

According to the Court, "Absent a controlling statute to the contrary, a participant and a plan may agree by contract to a particular limitations period, even one that starts to run before the cause of action accrues, as long as the period is reasonable." The Court noted that in situations where a plan administrator's conduct causes a participant to miss the deadline for judicial review, district courts "are well equipped to apply traditional doctrines that may nevertheless allow participants to proceed." ■

GAO on Pension Plan Reports and Disclosures

The Government Accountability Office released *Clarity of Required Reports and Disclosures Could Be Improved (GAO-14-92)*, which examines the reports and disclosures that pension plan sponsors are required to make to government agencies and plan participants. The GAO recommended that Congress shift responsibility and resources to the Department of Labor for managing the pension benefit data that the Social Security Administration provides to retirees, and that the agencies improve their online tools on reporting requirements and facilitate better readability of disclosures.

www.gao.gov

CRS's Reports on the ACA

The Congressional Research Service released the following on the Affordable Care Act:

- *ACA: Resources for Frequently Asked Questions*, which provides basic information such as overviews of the healthcare law and resources about employer-sponsored coverage.
- *Private Health Plans under the ACA: In Brief*, which provides descriptions of health plans that may be offered inside and outside the exchanges and how the plans may interact with selected ACA provisions.
- *Legislative Actions to Repeal, Defund, or Delay the ACA*, which summarizes the various legislative efforts taken to repeal, defund, or delay the law since its enactment.

www.opencrs.com

E-Verify Updated MOUs

The U.S. Citizenship and Immigration Services has updated its Memorandums of Understanding for the E-Verify electronic employment eligibility verification program, effective Dec. 8, 2013. The MOUs affect an employer and third parties using E-Verify on its behalf or using them to input information into E-Verify.

www.uscis.gov

Government Benefits

The U.S. Census Bureau published its *Quarterly Summary of the Finances of Selected State and Local Government Employee Retirement Systems*.

www.census.gov

Regulatory Roundup

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

- *Proposed rule* amending regulations related to "excepted benefits," which generally are exempt from the health insurance market reforms added by the Health Insurance Portability and Accountability Act (HIPAA) and the Affordable Care Act (ACA).

Jointly from Treasury, Labor, and Pension Benefit Guaranty Corporation:

- Advance informational copies of the 2013 *Form 5500 (Annual Return/Report of Employee Benefit Plan)* and related instructions.

From the Department of Treasury/IRS:

- *Revenue Procedures 2014-1 through 2014-8*, updating the procedures for 2014 for the IRS to issue letters, rulings, determination letters, and technical advice on specific issues related to employee benefits.
- *Revenue Ruling 2014-3*, providing the 2014 compensation tables for calculating certain benefits under qualified pension, profit-sharing, and stock bonus plans.
- *Notice 2013-74*, providing guidance on in-plan Roth rollovers of otherwise nondistributable amounts and other rules applicable to all in-plan Roth rollovers in 401(k), 403(b), and governmental 457(b) retirement plans.
- *Notice 2013-84*, which contains the 2013 Cumulative List of Changes in Plan Qualification Requirements when submitting retirement plan determination letter applications in Cycle D.
- *Notice 2013-80*, providing the optional standard mileage rate for business use of an automobile.
- *Notice 2014-5*, providing temporary nondiscrimination relief for certain closed defined benefit pension plans.
- *Notice 2014-1*, providing guidance on elections and reimbursements in cafeteria plans in light of the U.S. Supreme Court's ruling on same-sex marriages.
- *Web postings and web updates* on: the additional Medicare tax and draft Form 8959 Instructions on reporting the tax; recurring issues found in determination case reviews; submitting voluntary closing agreement requests; and employer-provided health coverage information reporting requirements.
- Updated 2014 *Form W-2, Forms W-2 and W-3 Instructions*, and *Form W-4P*, as well as *Publication 15 (Circular E), Employer Tax Guide* and *Publication 15-B, Employer's Tax Guide to Fringe Benefits*, and updated versions of *Publications 4482* and *4483*, relating to 403(b) tax-sheltered annuity plans.

From the Department of Labor:

- *Semiannual Report to Congress – April 1 through September 30, 2013*, in which the Inspector General recommends that Congress strengthen or clarify the Department's authority to monitor pension plans.

From the Pension Benefit Guaranty Corporation:

- A *web posting* announcing the agency's policy change to recognize same-sex marriages in terminated single-employer and multiemployer pension plans.

From the Department of Health and Human Services:

- *Proposed rule* on the information, documentation, and certification requirements for controlling health plans (including self-insured group health coverage) to demonstrate compliance with certain standards and operating rules under HIPAA.
- *Verification of Household Income and Other Qualifications for the Provision of Affordable Care Act Premium Tax Credits and Cost-Sharing Reductions*, which contains information on how the health insurance exchanges will verify an individual's enrollment and eligibility for qualifying coverage in an eligible employer-sponsored plan.

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