FLORIDA PUBLIC PENSION TRUSTEES ASSOCIATION

PENSION NEWS CLIPS AUGUST 2022 ON FLORIDA PENSION ISSUES

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Florida congressional delegation joins bipartisan fight to protect first responder pensions

By Peter Schorsch, Florida Politics, August 28, 2022

A bipartisan group of lawmakers says it's far past time for Peru to honor its obligations — for the sake of Florida first responders. For the last few years, Peru has had a well-chronicled refusal to make payments on bonds that are part of public employee pension plans in more than 200 jurisdictions in 30 states across America — an amount estimated in the billions of dollars. Many in Congress say enough is enough. In Florida, these bonds are part of pension plans for 50,000 police officers, firefighters, port workers and public employees in cities such as **Orlando, Fort Lauderdale, Hialeah, and North Miami Beach.** House Resolution 289 — urging the Secretary of State to take action regarding unpaid Peruvian agrarian reform bonds, secured 119 co-sponsors, including several members of the Florida delegation: Republicans Bill Posey, Brian Mast, Gus Bilirakis, and Maria Salazar, as well as Democrats Val Demings, Charlie Crist, Lois Frankel and Stephanie Murphy. A substantially similar floor amendment to the House National Defense Authorization Act (NDAA) bill, passed. The U.S. Senate has yet to pick up its version of the NDAA bill, which is expected in late September or October.

KEY WEST OFFICIALS POSTPONE 2 PRICKLY DECISIONS

By Mandy Miles, Keys Weekly, August 21, 2022

City commissioners on Aug. 16 also postponed two potentially hot-button issues until September, which is after the city's Aug. 23 mayoral election. A proposal to increase the pension payments to the city's retired police officers and firefighters will be heard on Sept. 20. If approved, retirees would receive nearly $200 more per month in their supplemental monthly benefit, which would increase from $269 to $450 per month. The proposal also would extend the length of time the supplement is paid from age 65 until the death of the retiree. Finally, the proposal also would provide retirees with a 13th monthly check for any year that the pension plan's net investment revenue exceeds 9%. The city's finance department does not support the proposal, which would cost the city an additional $1 million per year and would represent a 7.5% increase in payroll costs. Not surprisingly, the trustees of the pension plan support the proposed increase, saying it would be in the best interests of the retirees of the Plan and the citizens of Key West and that the increased monthly supplement would alleviate the hardships to retirees due to the economy. The benefit changes to the plan would also help attract and retain qualified police officers and firefighters thereby benefiting the citizenry of the city of Key West, the agenda item states.

DeSantis' proposed new rules for pension investments push Florida into fight against Wall Street

By Steve Contorno, CNN, August 18, 2022

As soon as next week, Florida pension fund managers could be barred from considering the social impact of their financial decisions as Gov. Ron DeSantis opens a new front in his anti-"woke" crusade, this time focused on Wall Street and corporate CEOs. In new draft rules posted on the website of the agency that oversees Florida's pension fund, state investment managers can weigh only the risk or return of an investment when directing the state's $200

billion in assets. The directive is DeSantis' initial salvo against what he has called "ideological corporate power," and it follows efforts by other GOP state leaders that are targeting companies that venture into the political arena. DeSantis has criticized financial institutions and corporate executives for considering factors like systemic racism and economic inequality when making business decisions, a practice known as environmental, social and governance, or ESG, investing. In an episode of Glenn Beck's online show, DeSantis told the conservative commentator that he expected the new rules to "make a big splash" when they pass. The rules are expected to be voted on next Tuesday when DeSantis, Attorney General Ashley Moody and Chief Financial Officer Jimmy Patronis meet as the State Board of Administration. Moody and Patronis are also Republicans and are closely aligned with DeSantis.

Florida Governor Bars State Funds From ESG Investing

By Larry Light, Plan Sponsor, August 24, 2022

Florida’s State Board of Administration trustees, led by Governor Ron DeSantis, voted to ban environmental, social and governance considerations from the asset allocator’s investment decisions. DeSantis and the SBA’s two other trustees passed the prohibition, which they insisted will prevent what he called “a handful of people” from imposing their political will on investing and thus harming Florida state and local government retirees. At a meeting of the governor’s cabinet, they knocked a growing trend in the investment community to consider racial awareness and climate change in making investment choices. DeSantis has also proposed that the GOP-controlled state legislature pass a law forbidding ESG investing. The Florida action prevents the SBA from investing for any reason not related to seeking the best financial return. The measure also blocks the organization from casting votes on “non-pecuniary” corporate proxy items.

Analysis: Florida governor's bid for conservative pension bloc faces hurdles

By Ross Kerber, Reuters, August 10, 2022

Florida's governor wants pension plans in conservative U.S. states to band together to fight shareholder initiatives on issues like climate change and diversity, but the idea may prove hard to pull off. The call by Ron DeSantis last month opened a new front in Republican efforts to push back against activist-led environmental, social and governance -- or ESG -- initiatives at corporate shareholder meetings. With assets of over $5.7 trillion under management, U.S. state and local defined-benefit pension plans are a powerful shareholder force that can help activists pass or defeat ESG issues on corporate ballots by declaring how they will vote and giving momentum to reform efforts, or slowing them. But getting them to vote together as a bloc -- as DeSantis wants -- will be tricky, given Republican-controlled state retirement systems have voted differently on the same issue and have oversight structures that complicate efforts to influence their voting. The public funds also are rarely the biggest investors in U.S. companies, limiting their influence.

State Anti-ESG Bills May Complicate Public Retirement Plan Investing

By Morgan Lewis, JDSupra, August 18, 2022

At the same time that the federal government, through the US Department of Labor, appears to be easing retirement plan fiduciaries’ paths to considering certain environmental, social, or governance (ESG) factors in making investment decisions, some states are passing legislation that would prohibit the states from doing business with managers who invest based on ESG criteria. These anti-ESG state legislative efforts could complicate the use of ESG by public retirement plans and put retirement plan fiduciaries and providers of retirement plan investment products in a tricky spot, looking to bridge their fiduciary obligations with these new limitations. These legislative activities could also create challenges for investment providers seeking to simultaneously serve both public and private retirement plans.

[What's at Stake When Public Pensions Take on the Big Banks]

Opinion, Governing, August 2, 2022

In a unique case alleging collusion in the securities lending industry, a federal judge in Manhattan recently opened the door for public pension funds from Iowa and California to file to certify as a class action their antitrust lawsuit against some of Wall Street's biggest investment banks. The case goes directly to the heart of an important, obscure and sometimes controversial niche in the institutional investment business: the lending of portfolio securities to third parties such as short sellers who pay a fee to borrow the stocks. Globally, this is a $2.5 trillion marketplace with fees industrywide measured in the hundreds of millions, so the stakes are very high. Although the case, Iowa Public Employees' Retirement System v. Merrill Lynch, Pierce, Fenner & Smith Inc. et al., cites practices from a decade ago, its outcome — if plaintiffs prevail — could include treble damages recovery of claimants alleged lost income from their past lending activities, fines on the banks and perhaps a more competitive marketplace. This case is notable on several fronts. First, it's a lawsuit that as a class action could eventually gain a following by hundreds of public pension funds. Second, it's an antitrust case about pension operations and revenues. And third, one defendant's multimillion-dollar out-of-court settlement has already been reported.

[Average Public Pension Assumed Rate of Return Hits 40-Year Low]

By Michael Katz, Chief Investment Officer, August 1, 2022

The average investment return rate assumption for U.S. public pension funds has fallen below 7.0%, to its lowest level in more than 40 years, according to the National Association of State Retirement Administrators. Among the 131 funds that NASRA measured, more than half have reduced their investment return assumption since fiscal year 2020 as rising interest rates and other factors have contributed to more volatile investment returns. For the 30-year period that ended in 2020, public pension funds accrued approximately $8.5 trillion in revenue, according to NASRA, of which $5.1 trillion, or 60%, came from investment earnings. Employer contributions accounted for $2.4 trillion, or 28%, and employee contributions totaled $1 trillion, or 12%. The NASRA issue brief shows that although the average nominal public pension fund investment return has been declining, the average real rate of return rose to 4.60% in fiscal year 2020 because the average rate of assumed inflation dropped more quickly.

[State and local pension plans differ in managing COLAs]

By Larry Rothman, P&I, August 4, 2022

Out of 372 state and local pension plans, 98 either had no cost-of-living-adjustment rules or they were suspended for various reasons, based on data analyzed by Equable Institute. Another 70 had ad hoc COLAs created by state legislatures or pension fund boards. The balance, 204 plans, have automatic COLAs, but these have different options. While 118 pension plans have them tied to inflation, there were 46 that have a fixed amount (a specified dollar amount or percentage increase determined ahead of time), and 14 were linked to plan performance measures such as funded status or investment return. There were 26 plans that had their COLAs connected to both inflation and performance.

[3 Bills Aiming to Strengthen Social Security: A Closer Look]

By Brian Anderson, 401(k) Specialists, August 5, 2022

There are currently three proposed bills being floated by Democrats on Capitol Hill that seek to strengthen Social Security. #1 - Originally introduced in April 2019, the Protecting and Preserving Social Security Act was reintroduced on July 21, 2022 by Sen. Mazie Hirono (D-HI) in the Senate and by **Rep. Ted Deutch (D-FL)** in the House. According to the Social Security Administration's Office of the Chief Actuary, the legislation if enacted would extend the date of projected depletion of the OASI and DI Trust Fund Reserves from 2035 to 2052. The bill would also reduce the federal deficit by approximately $12.3 trillion by the end of the 75-year projection period. #2 - On June 9, Sen. Bernie Sanders (I-VT) and Rep. Peter DeFazio (D-OR) introduced the Social Security

Expansion Act, which also seeks to adopt the CPI-E as the formula for calculating Social Security cost-of-living adjustments (COLA). If the CPI-E had been used to index the annual COLA for the past 30 years, a an average beneficiary would have received about $14,000 more in benefits than the CPI-W has provided, according to The Senior Citizens League. It also would require higher earners to contribute to payroll taxes on wages above $250,000 (leaving a donut hole between $147,000 and $250,000), and, unlike the Protecting and Preserving Social Security Act, also would boost benefits by $200 per month ($2,400 per year). Finally, it would extend the solvency of the program for the next 75 years—past the year 2096—" all without raising taxes by one penny on over 93% of American households," Sanders claims. #3 - Of the three bills, the one that could see movement first is the Social Security 2100: A Sacred Trust, legislation which House Ways and Means Social Security Subcommittee Chairman John Larson (D-CT) introduced along with more than 200 cosponsors in the House that seeks to increase Social Security benefits across the board and strengthen the program. Social Security 2100: A Sacred Trust (H.R. 5723) includes 13 provisions that would increase Social Security benefits, 12 of which would be temporary, applying for only five years. The bill would also increase Social Security revenues by imposing the Social Security payroll tax on individual earnings above $400,000. Overall, it would reduce Social Security's 75-year shortfall by about half and postpone by about four years the program's reserve depletion date—by far the shortest extension of the trust fund depletion date of the three bills.

New Bill Could Get You Penalty-Free 401(k) Withdrawals for Common Retirement Expense

By Christine Williams, Yahoo, August 5, 2022

New legislation aims to ease some of the worries: House Financial Services Committee member Ann Wagner (R-MO) has introduced a bill to help reduce the cost burden of long-term care. Over half of all individuals over the age of 65 are expected to need some form of long-term care by 2030, and this new bill may help you pay for it. The Long-Term Care Affordability Act would allow individuals to withdraw funds from their retirement accounts, including **401(k)**, 403(b), **457(b)** and IRAs, to pay for long-term care insurance without paying the 10% early-withdrawal penalty. It would also exclude up to $2,500 in verified withdrawals from income tax. Given that the majority of Americans who purchase long-term care insurance do so before retirement, this would help encourage individuals at all ages to plan for the future.

Detroit sues to stretch police and fire pension payments over 30 years

By Dana Afana, Detroit Free Press, August 5, 2022

Mayor Mike Duggan is pressuring city pensioners to accept a 30-year repayment schedule of pension payments that were delayed during the bankruptcy under a new lawsuit. Duggan's administration filed the lawsuit on Wednesday in U.S. Bankruptcy Court, requiring the Police and Fire Retirement System (PFRS) to honor the 30-year period in Bankruptcy Judge Steven Rhodes' supplemental opinion instead when payments resume in July 2023, according to the filing. The PFRS in November 2021 adopted a 20-year repayment plan beginning in the 2024 fiscal year. The city was given a "pension holiday" break from payments to PFRS and the city's General Retirement System for nearly 10 years as part of a restructuring plan after the historic bankruptcy in 2013. Due to actuarial mistakes in the bankruptcy Plan of Adjustment, accrued pension liabilities for the two legacy plans were understated by about $500 million, according to the lawsuit. To cushion the amount the city would have to repay in the 2024 fiscal year, the city created a Retiree Protection Trust fund. The city is expected to have paid in $445 million into the fund by June 2023.

June Slump Causes $262 Billion Drop in U.S. Public Pensions' Assets

By Michael Katz, Plan Sponsor, August 8, 2022

Large public pension funds had a difficult second quarter, as the 100 largest U.S. public pension plans lost a combined $262 billion in funding during June, according to actuarial and consulting firm Milliman. The deficit between the estimated assets and liabilities widened to $1.521 trillion at the end of the month from $1.259 trillion

at the end of May, as the public funds' asset value dropped to $4.318 trillion from $4.566 trillion. The estimated funded ratio for the 100 pension funds fell to 74.0% at the end of June from 78.4% at the end of May. The Milliman Public Pension Funding Index estimates that the plans reported an average investment loss of 5.13% for June alone, with losses ranging from 2.27% to 7.49% during the month. The falling markets sent eight of the plans below the 90% funded level, with just 19 of the 100 plans still above this mark, compared with 27 a month earlier and 46 at the end of 2021. At the same time, five plans fell below the 60% funded level, raising the total number of plans under this threshold to 26, from 21 at the end of May and 18 at the end of last year.

This Bill Could Delay Your RMDs in Retirement. Is That a Good Thing?

By Mike Obel, Yahoo Finance, August 12, 2022

A bill is headed for consideration by the full Senate that would move the age at which you have to start drawing down your retirement plan savings to 75. The House of Representatives passed a similar measure, so sponsors are hoping that if the whole Senate passes the bill, the proposed delay in having to start taking distributions from IRAs and similar plans will become law. Estate planning, like financial planning, can be complicated so consider working with a financial advisor to create or update a plan. The bill applies to most 401(k) and 403(b) plans.

Defined Benefit Plans May Have New Life

By Noah Zuss, Plan Sponsor, August 9, 2022

Defined benefit plans, the dinosaurs of the retirement world, may once again roam the private-sector benefits landscape, according to retirement industry veterans with pension actuarial expertise. For plan sponsors with a frozen defined benefit plan, it could be a good time to consider unfreezing, says Milliman. Regulatory relief from Congress in the American Rescue Plan Act, economic and labor market conditions, hybrid pension plan designs and the emergence of modern investment approaches such as liability-driven investing—which focuses on using fixed-income instruments with durations matched to plan liabilities—have coalesced into a favorable environment for plan sponsors to consider defrosting a frozen pension plan, Wadia argued in an article for Milliman. Innovative plan designs, including cash-balance and variable annuity plans, can enable employers to essentially eliminate the two biggest balance sheet risks posed by traditional pensions—those from interest rates and investment returns. ***Editor's Note***: In Florida, among local defined benefits plans, there are 99 closed plans and 13 frozen plans.

Public Pensions Contend with Falling Markets and Rising Inflation

By Jean-Pierre Aubry, Center for Retirement Research at Boston College, August 2022

The key findings of this research project are: FY 2022 has been hard for state and local pension plans, with large investment losses and rising outlays due to inflation. The aggregate funded ratio fell from 78 percent to 74 percent, negating much of the gains from the previous year. The impact of rising inflation on pension finances, though, has been muted by limits to plans' cost-of-living adjustments (COLAs). Click here to read the full brief.

IRS Extends SECURE, CARES Act Amendment Deadlines

By Brian Anderson, 401k Specialist, August 15, 2022

In a welcome and unexpected move, the Internal Revenue Service recently extended by 3 years certain deadlines for amending qualified retirement plans, non-governmental 403b plans, and IRAs under the SECURE Act, the CARES Act, and the MINERS Act. The IRS provided the late-summer gift to plan sponsors in announcing the extension with Notice 2022-33 on Aug. 3. The deadline applies regardless of whether the plan operates on a calendar year or non-calendar plan year basis. An exception had already been made for collectively bargained plans, which had until the last day of the first plan after the start of 2024 to adopt amendments. This extension applies to all amendments required by the SECURE Act and its accompanying regulations, including the required minimum distribution (RMD) rule changes. The extension also applies to optional amendments to defined benefit

retirement plans and governmental 457b plans to implement Section 104 of the MINERS Act, which permits lowering the minimum age for allowable in-service distributions from age 62 to age 59½. For the CARES Act, this extension only applies to amendments needed to reflect the 2020 waiver of required minimum distributions. The Notice states that the IRS anticipates issuing further guidance in the 2023 Required Amendments List.

Pension Veteran Tears Into Public Funds for 'Bogus Benchmarking'

By Neil Weinberg, Bloomberg, August 17, 2022

Richard Ennis knows a thing or two about how US public pension systems work. For half a century, he's managed money for some funds and advised untold others at EnnisKnupp, a consulting firm he co-founded. He's also the former editor of the Financial Analysts Journal and recipient of lifetime achievement awards for his work. Now semi-retired, Ennis doesn't pull punches: To him, the benchmarks that many public funds use to grade their investment performance raise questions about their integrity. "Bogus benchmarking is the single biggest problem in the field of institutional investing," he said. In his most recent broadside, Ennis wrote that the public officials who manage $4 trillion for 26 million working and retired teachers, cops, and other public employees routinely set their benchmarks too low and, in many cases, receive bonuses for their accomplishments. To Ennis, the problem isn't just that the benchmarks are too easy to hit. It's also that pension fund employees and consultants who put together investment portfolios are often the same ones devising such yardsticks to measure their performance. Ennis calls this benchmark bias. It can increase the already huge funding shortfalls at many public pension funds and shrink retirees' monthly payments. It can also result in lower paychecks for public employees and higher taxes for everyone else. During the past two decades, the ratio of state and local government payroll spending used to fund pensions has tripled, to 15%. Ennis took a deep dive into the benchmarks that 24 state pension systems used to rate their performance in the decade through June 2020. He constructed alternative benchmarks, using widely available data and indexes, to match the level of risk each fund took. Theoretically, the performance of the pensions and Ennis's risk-adjusted benchmarks should've matched. In fact, even though 19 of the 24 pension systems beat their own metrics, only two outperformed Ennis's. On average, returns fell behind by 1.41 percentage points annually, suggesting they left $60 billion a year on the table for 10 years.

Pension plans post negative quarterly returns

By Larry Rothman, P&I, August 18, 2022

The median public defined benefit pension plan lost 9.7% in the second quarter, and corporate DB plans had a median return of -10.5%, according to data provided by Callan. These were gross returns. Both bested a passive 60%/40% equity and fixed-income weight, measured by the S&P 500 and Bloomberg U.S. Aggregate Bond indexes, which lost 11.5%. Over the last decade, public DB plans generated a 7.8% annualized return, and corporate DB plans produced a 6.8% return. Both trailed the weighted U.S. equity and fixed income indexes' 8.6% return. The average public DB plan had over a 53% weight in equities and nearly 27% in fixed income. By contrast, corporate DB plans had nearly 39% of their assets in equities and almost 47% in fixed income.

What Is Rule 72(t)?

By Brian O'Connell, US News, August 23, 2022

If you need to withdraw funds from an individual retirement account or 401(k) account before age 59 1/2, there's usually a 10% early withdrawal penalty. Rule 72(t) allows retirement account owners to make penalty-free withdrawals before age 59 1/2 if they take the distributions in a specific way. "Rule 72(t) allows retirement account holders to set up regular withdrawals – defined as substantially equal periodic payments by the Internal Revenue Code – over the course of five years or until they turn 59 1/2, whichever is longer," says Mindy Yu, director of investing at Betterment at Work in New York. 72(t), however, provides a rigid set of steps that one can take in order to begin using funds for any reason they want, so long as one closely adheres to the rule. To take advantage of the 72(t) rule, a retiree must meet certain qualifications. "While you can schedule several SEPP

distributions a year, you must take at least one a year for five consecutive years or until you turn 59 1/2," Yu says. "Once distributions begin, the series of payments cannot be modified or a 10% early withdrawal penalty will be imposed retroactively, starting with the first year of distribution." You can't use the rule to take distributions from a retirement account associated with an ongoing job. You're not allowed to withdraw from retirement accounts managed by your current employer, as they're not eligible for SEPPs.
Editor's Note: If you have any questions about 72(t) distributions, consult with your pension office first.

Pension spiking problems persist

By Sarah Durand, Bluegrass Institute, August 22, 2022

Pension spiking provisions and sick leave policy costs to Kentucky taxpayers have been major topics for the Public Pension Oversight Board (PPOB) during this interim session. Currently, members of the Teachers' Retirement System (TRS) can accumulate unused sick days for a lump sum payout at their time of retirement. Though the payout is 30% of their daily pay rate, the sum is calculated using their final salary, not the salary earned when the sick day was accumulated, artificially inflating the payout. However, the major cost to taxpayers is the practice of adding that lump sum payout to the teacher's final salary. A teacher's overall post-retirement pension payments are determined by their salary the final three or five years (depending on the beneficiary's pension tier) of employment. Thus, adding that sick leave lump sum to the final salary once again artificially inflates the cost to taxpayers for the rest of that educator's lifetime - a practice known as "pension spiking."

Good Riddance Medicare Donut Hole!

Squared Away, Center for Retirement Research at Boston College, August 23, 2022

Medicare's donut hole is the bane of existence for retirees with expensive medications. They will get substantial relief in 2025, when the Inflation Reduction Act, signed by President Biden last week, will cap all retirees' annual drug copayments at $2,000. Monthly drug plan premiums are not included in this cap. The cap will effectively eliminate the donut hole that currently requires retirees to pay 25 percent of the cost of their prescription drugs until they reach a threshold amount. The threshold increases every year and hit $7,050 this year. A relatively small group of about 1.5 million retirees pay more than $2,000 for their prescriptions. But many of them are spending $5,000, $10,000 or more. The cap will apply to all Medicare beneficiaries, whether they get their prescription drug coverage through a Part D plan or Medicare Advantage insurance plan. The cap on total spending will protect any retiree who develops a medical condition requiring them to take very expensive medications. Currently, there is no limit on how much they may have to spend.

PPB and Fire Bureau have one of the most expensive pensions in the country

By Piper McDaniel, Portland Street Roots, August 25, 2022

Nearly half of all property taxes paid by Portlanders (Oregon) go to an unusual — and costly — pension program for police and fire personnel. For those who pay property taxes in Portland, their tax bill has a line-item reading "PORTLAND FIRE/POLICE PENSION." Portland's FPDR pension system is rare because it does not require employers or employees to contribute, and it doesn't fund pension payments through investments. The FPDR system is unusual for a few reasons. Firstly, it's funded almost exclusively by property tax revenue, and presently, it absorbs millions in taxes every year. The FPDR system is a "pay-as-you-go system," meaning funding for the pension isn't accrued in advance like a typical pension plan. Instead, the FPDR Board of Trustees determines the cost of pensions each year and requests corresponding funding from the Portland City Council, which then allocates that funding from property tax revenue. Traditionally, a pension plan is pre-funded like Oregon PERS (Oregon Public Employee Retirement System); this may be the only remaining pay-as-you-go plan in the country The second reason the FPDR is unusual is also why it's endured: funding for the FPDR pension system is written into the city charter. Portland residents voted to create the first pension system covering police and fire personnel back in 1902.

Milliman: Largest public pension plans' funding ratio rises to 77.3% in July

By Rob Kozlowski, P&I, August 24, 2022

The overall estimated funding ratio of the 100 largest U.S. public pension plans rose to 77.3% in July thanks to positive investment returns that nearly reversed June's decline, according to the Milliman 100 Public Pension Funding index. During the month of July, Milliman estimated that public pension plans had an aggregate investment return of 4.7%, with an estimated range of 2.1% to 8.2%. The estimated funding ratio had fallen to 74% as of June 30 from 78.4% one month earlier due to an estimated aggregate investment return of -5.1%. Of the 100 plans measured by the index as of July 31, 26 plans had funding ratios above 90%, compared with 19 a month earlier; while 22 plans were below 60% funded, down from 26 as of June 30. A total of 15 plans had ratios between 60% and 70%, 14 plans were between 70% and 80% and 23 plans were between 80% and 90%.

Good News for Seniors: RMD Formula Changing for First Time in Decades

By Patrick Villanova, Yahoo Finance, August 25, 2022

The IRS has good news for retirees: you can now keep more money in your tax-deferred retirement accounts thanks to lower required minimum distributions (RMDs). For the first time in 20 years, the Internal Revenue Service has updated its actuarial tables that dictate how much a person is required to withdraw from his or her retirement accounts starting at age 72. The new tables, which now project longer lifespans, are used to calculate RMDs from individual retirement accounts, 401(k)s and other retirement savings vehicles each year.

IRS Extends Due Date for Certain SECURE Act, CARES Act, and CAA Plan Amendments

By Charles M. Russman, Clark Hill, August 25, 2022

The Internal Revenue Service (“IRS”) published Notice 2022-33 on Aug. 3, 2022, extending the deadline for certain SECURE Act, CARES Act, and CAA non-governmental qualified retirement plan amendments until Dec. 31, 2025 (from Dec. 31, 2022). (Note that governmental retirement plans have a different extension, generally until 90 days after the end of the third regular legislative session beginning after Dec. 31, 2023). This welcome extension will allow for more guidance to be published before applicable amendments must be finalized. However, plans still need to amend for applicable CARES Act provisions this year. Even more importantly, this extension is only for amending the plan document, and plan administration must be consistent with the applicable law even before the postponed amendments are adopted. Below is a list of some of the more prominent provisions that have a postponed amendment due date: SECURE Act provisions increasing to age 72 (from age 70½) the age at which required minimum distributions (“RMDs”) must begin; SECURE Act provisions concerning when and how 401(k) and other defined contribution plans make RMD distributions after a participant’s death; SECURE Act provisions requiring inclusion of part-time employees who have worked more than 500 hours in three consecutive years; Optional SECURE Act provisions permitting in-service distributions for qualified birth and adoption expenses; Optional SECURE Act provisions Increasing the maximum automatic enrollment safe harbor percentage to 15% (from 10%) of compensation; Waiver of 2020 RMDs pursuant to the CARES Act; and Optional reduction of the minimum age (to 59½ from 62) for defined benefit plans for in-service distributions.