



CYPEN & CYPEN
NEWSLETTER
for
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Never Forget September 11, 2001
and
Always Remember May 2, 2011

1. PUBLIC PENSION PLAN INVESTMENT RETURN ASSUMPTIONS:

National Association of State Retirement Administrators has issued a new brief entitled “Public Pension Plan Investment Return Assumptions.” In the wake of the 2008-09 decline in capital markets, and Great Recession, global interest rates and inflation have remained

low by historic standards, due partly to so-called quantitative easing of central banks in many industrialized economies, including the U.S. Now in their eighth year, these low interest rates, along with low rates of projected global economic growth, have led to reductions in projected returns for most asset classes, which, in turn, have resulted in an unprecedented number of reductions in the investment return assumption used by public pension plans. Among the 127 plans measured, nearly three-fourths have reduced their investment return assumption since fiscal year 2010, resulting in a decline in the average return assumption from 7.91% to 7.52%. If projected returns continue to decline, investment return assumptions are likely also to continue their downward trend. One challenging facet of setting the investment return assumption that has emerged more recently is a divergence between expected returns over the near term, the next five to 10 years, and over the longer term, 20 to 30 years. A growing number of investment return projections are concluding that near-term returns will be materially lower than both historic norms as well as projected returns over longer timeframes. Because many near-term projections calculated recently are well below the long-term assumption most plans are using, some plans face the difficult choice of either maintaining a return assumption that is higher than near-term expectations, or lowering their return assumption to reflect near-term expectations. If near-term rates indeed prove to be lower than historic norms, plans that maintain their long-term return assumption are likely to experience a steady increase in unfunded pension liabilities and corresponding costs. Alternatively, plans that reduce their assumption in the face of diminished near-term projections

will experience an immediate increase unfunded liabilities and required costs. As a rule of thumb, a 25 basis point reduction in the return assumption, such as from 8.0% to 7.75%, will increase the cost of a plan that has a COLA, by three percent of pay (such as from 10% to 13%), and a plan that does not have a COLA, by two percent of pay. The investment return assumption is the single most consequential of all actuarial assumptions in terms of its effect on a pension plan's finances. The sustained period of low interest rates since 2009 has caused many public pension plans to reevaluate their long-term expected investment returns, leading to an unprecedented number of reductions in plan investment return assumptions. Absent other changes, a lower investment return assumption increases both the plan's unfunded liabilities and cost. The process for evaluating a pension plan's investment return assumption should include abundant input and feedback from professional experts and actuaries, and should reflect consideration of the factors prescribed in actuarial standards of practice. The Investment return assumption for the Florida Retirement System is 7.6%. To read the entire issue brief visit:

<http://www.nasra.org/files/Issue%20Briefs/NASRAInvReturnAssumptBrief.pdf>.

2. 2017 COMPLIANCE CHECKLIST: Prudential has produced a 20-page 2017 Compliance Checklist for qualified governmental and nonelecting church plans, non-ERISA 403(b) Plans, 457 plans and nonqualified executive benefit plans not subject to ERISA. The Compliance Checklist incorporates requirements for the foregoing

vehicles, and provides information on the materials needed to file, filing due dates and agencies to which the filings should be made. The Compliance Checklist is available at:

http://www.retire.prudential.com/media/managed/ComplianceChecklist_NonERISA_2017.pdf.

3. PBGC STATE-BY-STATE PENSION PLAN INFORMATION: Did you know that Pension Benefit Guaranty Corporation paid more than \$5.6 billion to 840,000 retirees in 2015? It is PBGC's long-standing mission to pay benefits to retirees on time and accurately. These hard-earned pensions provide the security of lifetime income for retirees all across the country. To help illustrate the scale and geographic distribution of those payments, PBGC has created a detailed, state-by-state map listing how much we pay in benefits to our participants in terminated single-employer pension plans. For example, in Florida in 2015, PBGC paid more than \$405 million to over 56,000 retirees. Approximately \$1.4 million current and future retirees in trustee single-employer pension plans rely on PBGC for their benefits. Check out the state-by-state map on PBGC.gov.

4. FLORIDA'S FIREARMS OWNERS' PRIVACY ACT DECLARED UNCONSTITUTIONAL: Taken from an opinion summarized by *Justia*, this case concerns certain provisions of Florida's Firearms Owners' Privacy Act (FOPA), Sections 790.338, 456.072, 395.1055 and 381.026, Florida Statutes. The district court held that FOPA's record-keeping, inquiry, anti-discrimination and anti-harassment provisions violated the First and Fourteenth Amendments, and permanently enjoined their

enforcement. Exercising plenary review and applying heightened scrutiny as articulated in *Sorrell v. IMS Health, Inc.*, the court agreed with the district court that FOPA's content-based restrictions -- the record-keeping, inquiry and anti-harassment provisions -- violated the First Amendment as it applies to the states. The court explained that, because these three provisions do not survive heightened scrutiny under *Sorrell*, the court need not address whether strict scrutiny should apply to them. The court concluded, however, that FOPA's anti-discrimination provision -- as construed to apply to certain conduct by doctors and medical professionals -- is not unconstitutional. Finally, the court concurred with the district court's assessment that the unconstitutional provisions of FOPA can be severed from the rest of the Act. Accordingly, the court affirmed in part, reversed in part and remanded so that the judgment and permanent injunction can be amended in accordance with this opinion. *Wollschlaeger v. Governor, State of Florida*, Case No. 12-14009 (U.S. 11th Cir. February 16, 2017). (*en banc*).

5. PUBLIC SECTOR GUIDE TO TEXT MESSAGING POLICY AND

RETENTION: *Governing* has put together a booklet entitled "The Public Sector Guide to Text Messaging Policy and Retention: 2017 Edition."

The guide contains practical steps that will help public sector organizations and departments develop a text message policy and retention strategy to protect against risk involved with use of this popular, universal form of communication. It also outlines smart text recordkeeping practices so you will be better prepared to respond to open records requests or other e-discovery needs when they arise. You

can access the handy booklet at: https://afd34ee8b0806295b5a7-9fbee7de8d51db511b5de86d75069107.ssl.cf1.rackcdn.com/Public_Sector_Guide_to_Text_Messaging_Policy_and_Retention_2017.pdf.

6. MORE THAN \$1 TRILLION WORTH OF JUNK DEBT RISK FACES

INVESTORS: The total amount of junk debt set to mature in the next five years: \$1.063 trillion -- is the largest sum the credit ratings agency has ever recorded for such a period, according to the *Wall Street Journal*.

The vast majority of this amount, \$933 billion worth of debt, is scheduled to mature after 2019. In the near term, the junk debt market could potentially encounter serious liquidity issues if there is not enough demand to cover the bonds that companies seek to issue. Junk-rated businesses currently have favorable conditions for issuing debt, as the average yield on junk bonds fell to as little as 5.72% earlier this month, the lowest since September 2014. However, the average yield on this kind of debt surged to nearly 10% one year ago, as markets responded to concerns that the U.S. economy was moving toward another recession. If market conditions falter, certain industries could prove quite vulnerable. Market experts identified emerging markets and the energy sector, which makes up roughly 15% of the high-yield market, as facing particularly high risk. Should default rates surge in the energy sector, it could affect other asset classes, providing the broader junk debt market with headwinds.

7. IS IT TIME TO RETHINK DB RETIREMENT PLANS?: If ever anything was ripe for a revolution in the employee benefits space, it

would be the regulation of single employer defined benefit plans. For more than four decades, DB plans have been ruled rather tyrannically by ERISA and its voluminous subsequent regulations. At the time ERISA was drafted, the chief concern of lawmakers was ensuring that pension promises made by employers to employees were 100% guaranteed. This seemed an appropriate goal for the era, considering the cutbacks participants had recently sustained from underfunded plan failures. Remember that 401(k) plans had yet to be invented, so DB was the only meaningful employer provided retirement benefit option available. We now know that those full guarantees are incredibly expensive disincentives to employers. Skyrocketing Pension Benefit Guaranty Corporation premiums and the threat of forced funding of full guarantees during times of business hardship are serious impediments to DB sponsorship. Medical insurers, recognizing the rapidly increasing incremental cost of coverage as levels approach 100%, have long used lower co-insurance levels (such as 80%) to strike a reasonable balance between protection and cost. Perhaps ERISA drafters should have taken a similar approach with DB pensions. But they did not, which has contributed to defined contribution becoming firmly established as the primary retirement benefit structure in the U.S. An entire generation of Americans has now passed through full careers with 401(k) as their primary source of retirement benefits. Many have only frozen DB pensions, or possibly none at all. The risk of some loss is now universally accepted as part of the retirement benefit contract. As such, the key need of employees today is no longer the full guarantee of their pensions. (Those with no DB benefits may not even be familiar with the

concept.) Rather, it is the availability of affordable and predictable lifetime income options to complement the pool of assets they have accumulated in their 401(k)s at an acceptable level of risk. Not all workplace perks are equal, but there are some that are extremely popular among employees, according to Glassdoor research. A number of DC-based solutions have come to market touting lifetime income. Many, however, are not widely used. Because they generally require people voluntarily to hand over substantial sums of money they have spent their careers accumulating to purchase potentially complex annuities at prices perceived to be unattractive. In its natural state, DB is better suited for providing lifetime income to rank-and-file employees. It delivers the advantages of longevity risk pooling and professional investment management without asking retirees to make stressful annuity purchase decisions.

Unfortunately, the types of DB plans that employers would voluntarily implement -- ones with design flexibility and risk sharing options to fit their needs -- are not permitted under law as it exists today. Henry Ford allegedly said that any customer can have a car painted any color they want so long as it is black. ERISA essentially takes a similar position: you can have any kind of DB plan you want as long as the pension is 100% guaranteed ... and normal retirement age is no later than 65 ... and benefits accruals are not back-loaded ... and eligibility begins at age 21 ... An entire room full of ideas exists to improve U.S. pensions, but ERISA only allows the use of the ones you can see through its keyhole. Toiling under the ERISA yoke for so long has made employers and retirement providers incapable of even considering new DB plans. Designs that would make DB plan sponsorship more attractive are

immediately discounted as impossible under the law. So promising ideas are quickly dropped, and the world tries valiantly to reconstruct DB lifetime retirement income solutions using only DC components. With revolutionary change in the air and current regulations struggling to address today's lifetime income needs, it seems that the beginnings of a grass roots movement may be in place. All interested parties have something to gain from loosening restrictions on DB plans, so they should be on the same side of this issue. Employers want design flexibility to attract and retain talent, to facilitate dignified retirement of their employees, and to effectively share cost and risk. They are willing to make reasonable contributions but do not want to take on irreversible or existential risk. Employees want lifetime income to complement their pool of retirement savings, but they are hesitant to part with their accumulated wealth to get it. They have enough experience with risk that they are now willing to accept a pension with a partial guarantee over a non-existent fully guaranteed one. They are also willing to make tax deferred contributions toward their retirements, but are prohibited from doing so inside DB plans. The government does not want to take on more private pension risk, but needs help delivering lifetime income to retirees as the finances of Social Security get squeezed. Insuring a lower percentage (like 80) and allowing employers and employees to share the remaining risk would significantly reduce PBGC exposure while still encouraging lifetime income solutions in the private sector. (Note: I am assuming these changes apply only to future benefit accruals; past DB benefits would continue to operate under current full guarantee rules.)

Identification and articulation are always easier than execution, but

common ground apparently exists to open a dialogue on this important issue. Emboldened by the seismic changes of the past year, I will open the discussion by calling for the emancipation of pension design from obsolete and overly restrictive limitations. If 2016 taught us anything, it is that the needs of stakeholders can't be ignored indefinitely. Tone-deaf institutions can quickly be discarded, and the status quo isn't as much of a sure thing as everyone thought. If you agree, I encourage you to accept my invitation to join the defined benefit revolution. Demand plan design options outside the narrow constraints of current ERISA rules. The future of American lifetime income security may depend on it. This piece is a point of view written by Mike Clark, an actuary, and published by *Employee Benefit Adviser*.

8. THE REAL REASON BIG SAVERS RETIRE EARLY: MINIMIZING

RETIREMENT SAVINGS NEEDS: The standard advice in saving for retirement is rather straightforward: save as much as you can, starting as early as you can, to maximize the amount of your savings and how long it has to grow, according to kitces.com. The more you can get into the retirement account and the longer that you can let it compound, the more affordable it will be to retire. However, the reality is that trying to increase savings actually has a dual positive effect on reaching retirement: not only does it mean there is more in the account to grow, but saving more reduces your retirement savings need. The reason, simply put, is that for any given level of income, the more you save, the less you are spending to live on -- and if you do not spend as much to maintain your lifestyle, you do not need as much saved up to replace it. In fact, the impact of

increased savings (and the associated reduction in spending) can actually go a long way to help bridge the gap for retirement, especially for late-stage savers. On the other hand, for those who are still younger, strategies that help to maintain (but not substantially increase lifestyle), and let future raises be directed towards savings instead, can dramatically accelerate the path towards early retirement as well by controlling the retirement savings need. In the extreme, highly frugal living allows for extreme early retirement, precisely because it facilitates both substantial savings, and does not necessitate much to achieve financial independence given that very frugality. The bottom line, though, is simply to recognize that the reason big savers who live modestly are more able to retire is not just because of the savings itself, but the fact that a moderate spending lifestyle can dramatically reduce retirement savings needs in the first place!

9. SIXTY-NINE PERCENT OF AMERICANS HAVE LESS THAN \$1,000

IN SAVINGS: Americans are falling short when it comes saving money -- specifically, setting aside money in savings accounts -- to create a financial cushion. In fact, they have gone from bad to worse, according to gobankingrates.com latest survey findings on savings amounts. In 2015, 5,000 adults were asked how much they had saved in a savings account. The results were startling: 62% said they have less than \$1,000 in savings. Recently, the author asked the question again, this time to more than 7,000 people to see if Americans' saving rates have improved in the last year or so. But the results are even more surprising -- the percentage of Americans with less than \$1,000 in savings has jumped to

69%.

10. SIGNS IT IS TIME TO QUIT YOUR JOB: Everyone has a bad day at work now and then. You may furiously leave your office swearing you will put your two weeks notice in soon. But how do you know when you should give your job a second chance, or when it is really time to quit? For one, you should always follow your gut. If you deeply hate your job, then you should absolutely start looking for other opportunities. If you are on the fence, then you should open your eyes to feelings, thoughts and happenings in your life that might point to the exit sign. Here are 13 signs from thebalance.com it is time to quit your job:

- **You dread going to work.** Do you go to sleep every night dreading the next day of work? While it is normal to have qualms about the work day, if you truly, deeply dread those eight hours at the office, it is time to put in your two weeks notice.
- **You are procrastinating more than you are actually working.** Everyone procrastinates on occasion, but if there is nothing you find engaging about your day-to-day work, you should consider if your current position is really a good fit for you. There should be at least some part of your job that is more interesting than scrolling social media.
- **It is taking a toll on your health.** Are your sick days adding up, out of the blue? Are you taking as much time off as you can possibly get? Are you resorting to a few (or many) glasses of wine each night to get over a bad day at work? Are you working so

many hours you have no time to exercise, eat healthy or get enough sleep? No job is worth sacrificing your wellness.

- **You vent about your job too much.** Think about your most common conversations. Are you constantly complaining about coworkers, about your workplace, about your job itself? A job should bring more positive than negative into your life.
- **You are overqualified.** There are times when we have to take subpar jobs just to get by, but if you are in a job that you are overqualified for, do not feel stuck. Stay on alert for positions that fit your skills, which will likely feel more fulfilling than a job that does not measure up to your level of expertise.
- **There is no room for advancement.** Do not waste time in a position that does not offer opportunities for growth. Committing your time and energy to a company that will not support the progress of your career, or grow with you, will end up hindering the development of your career in the long run.
- **The work environment is negative.** A negative environment is toxic; if your co-workers are constantly complaining, and your boss is persistently unhappy, the probability of your own contentment is extremely low. Moreover, a pessimistic atmosphere can even kill the passion you have for your career choice. If you find yourself in one, it is time to get out.
- **You are being recruited by other companies.** Are headhunters reaching out to you? If so, that is your green flag to move on, if you are unhappy with your current work environment.
- **The company culture is not a good fit for you.** If you crave a

flexible, work-from-home environment, but you are stuck at a traditional nine-to-five job, you will probably never be satisfied no matter how much you like other aspects of your position. If you have tried and failed to negotiate a schedule that works for you, consider jobs at other companies that will accommodate your preferred lifestyle.

- **You cannot speak up at your job.** You should feel confident and comfortable enough at work to voice your opinion; share your thoughts and speak up for yourself. An oppressive environment just is not worth putting up with.
- **Your job does not speak to you.** Career-changers are becoming more and more common in this day and age, and you should not feel stuck on a career path that you do not connect with. If you have lost your passion for your job, open your mind to other opportunities that do speak to you, and start moving in a direction that you genuinely feel passionate about.
- **You find yourself justifying your job.** "Well, the pay sucks and my boss is a jerk, but my benefits are okay." "My co-workers are nasty and condescending, but at least my salary is decent." "I do not make any money but at least there is free coffee and snacks in the office." Do you find yourself justifying your job to yourself or others, while deep down you know the cons outweigh the pros? If there is more to complain about than to praise, know that you can find a job that offers more positive than negative, and you should get ready to start looking for it.
- **You are reading this article.** Why did you click on, or search for,

this article? Something must have resonated with you. If you are already contemplating quitting your job, that alone is a sign that it is indeed time to move on.

11. TAX BENEFITS FOR PARENTS: Taxpayers with children may qualify for certain tax benefits according to Tax Tips from the Internal Revenue Service. Parents should consider child-related tax benefits when filing their federal tax return:

- Most of the time, taxpayers can claim their child as a dependent. Use the IRS's Interactive Tax Assistant to help determine who can be claimed as a dependent. Taxpayers can generally deduct \$4,050 for each qualified dependent. If the taxpayer's income is above a certain limit, this amount may be reduced. For more on these rules, see Publication 501, Exemptions, Standard Deduction and Filing Information.
- **Child Tax Credit.** Generally, taxpayers can claim the Child Tax Credit for each qualifying child under the age of 17. The maximum credit is \$1,000 per child. Taxpayers who get less than the full amount of the credit may qualify for the Additional Child Tax Credit. Use the Interactive Tax Assistant to determine if a child qualifies for the Child Tax Credit. For more information, see Schedule 8812 and Publication 972, Child Tax Credit.
- **Child and Dependent Care Credit.** Taxpayers may be able to claim this credit if they paid for the care of one or more qualifying persons. Dependent children under age 13 are among those who qualify. Taxpayers must have paid for care so that they could work

or look for work. Use the Interactive Tax Assistant to determine if a child qualifies for the Child Tax Credit. See Publication 503, Child and Dependent Care Expenses, for more on this credit.

- **Earned Income Tax Credit.** Taxpayers who worked but earned less than \$53,505 last year should look into the EITC. They can get up to \$6,269 in EITC. Taxpayers may qualify with or without children. Use the 2016 EITC Assistant tool at IRS.gov or see Publication 596, Earned Income Tax Credit, to learn more.

Because of new tax-law change, the IRS cannot issue refunds before February 15 returns that claim the Earned Income Tax Credit or the Additional Child Tax Credit. This applies to the entire refund, even the portion not associated with these credits. The IRS will begin to release EITC/ACTC refunds starting February 15. However, the IRS expects the earliest of these refunds to be available in bank accounts or debit cards during the week of February 27, as long as there are no processing issues with the tax return and the taxpayer chose direct deposit.

- **Adoption Credit.** It is possible to claim a tax credit for certain costs paid to adopt a child. For details, see Form 8839, Qualified Adoption Expenses.
- **Education Tax Credits.** An education credit can help with the cost of higher education. Two credits are available: the American Opportunity Tax Credit and the Lifetime Learning Credit. These credits may reduce the amount of tax owed. If the credit cuts a taxpayer's tax to less than zero, it could mean a refund. Taxpayers may qualify even if they owe no tax. Complete Form 8863,

Education Credits, and file a return to claim these credits. Taxpayers can use the Interactive Tax Assistant tool on IRS.gov to see if they can claim them. Visit the IRS's Education Credits web page to learn more on this topic. Also, see Publication 970, Tax Benefits for Education.

- **Student Loan Interest.** Taxpayers may be able to deduct interest paid on a qualified student loan. They can claim this benefit even if they do not itemize deductions. Use the Interactive Tax Assistant to determine if interest paid on a student or educational loan is deductible. For more information, see Publication 970.
- **Self-employed Health Insurance Deduction.** Taxpayers who were self-employed and paid for health insurance may be able to deduct premiums paid during the year. See Publication 535, Business Expenses, for details.

Get related forms and publications on IRS.gov. IRS Tax Tip 2017-15.

12. ITEMIZE OR CHOOSE THE STANDARD DEDUCTION: With tax season upon us, Internal Revenue Service has provided us with another important Tax Tip. Most taxpayers claim the standard deduction when they file their federal tax return. However, some filers may be able to lower their tax bill by itemizing. Find out which way saves the most money by figuring taxes both ways. IRS offers the following six tips to help taxpayers decide:

- **Use IRS Free File.** Most taxpayers qualify to use free, brand-name software to prepare and file their federal tax returns electronically.

IRS Free File is the easiest way to file. Free File software helps taxpayers determine if they should itemize. It files the right tax forms based on the answers the taxpayer provides. Free File software does the math and allows the user to e-file the tax return - for free. Taxpayers can check on other e-file options if they cannot use Free File.

- **Figure Your Itemized Deductions.** Taxpayers need to add up deductible expenses they paid during the year. These may include expenses such as:
 - Home mortgage interest
 - State and local income taxes or sales taxes (but not both)
 - Real estate and personal property taxes
 - Gifts to charities
 - Casualty or theft losses
 - Unreimbursed medical expenses
 - Unreimbursed employee business expenses

Special rules and limits apply. Visit IRS.gov and refer to Publication 17, Your Federal Income Tax, for more details.

- **Know The Standard Deduction.** If a taxpayer does not itemize, then the basic standard deduction for 2016 depends on their filing status. If the taxpayer is:
 - Single - \$6,300
 - Married Filing Jointly - \$12,600
 - Head of Household - \$9,300

- Married Filing Separately - \$6,300
- Qualifying Widow(er) - \$12,600

If a taxpayer is 65 or older, or blind, the standard deduction is higher than the previous amounts. The deduction may be limited if the taxpayer can be claimed as a dependent.

- **Check the Exceptions.** There are some situations where the law does not allow a person to claim the standard deduction. This rule applies if the taxpayer is married filing a separate return and their spouse itemizes. In this case, the taxpayer's standard deduction is zero and they should itemize any deductions. See Publication 17 for more on these rules.
- **Use the IRS ITA Tool.** Go to IRS.gov and use the Interactive Tax Assistant tool. It can help determine whether a taxpayer can use the standard deduction. It can also help a filer figure their eligibility for certain itemized deductions.
- **File the Right Forms.** For a taxpayer to itemize their deductions, they must file Form 1040 and Schedule A, Itemized Deductions. Filers can take the standard deduction on Forms 1040, 1040A or 1040EZ.

IRS Tax Tip 2017-17.

13. NEW OFFICE ADDRESS: Please note that Cypen & Cypen has a new office address: Cypen & Cypen, 975 Arthur Godfrey Road, Suite 500, Miami Beach, Florida 33140. All other contact information remains

the same.

14. CRAZY STATE LAWS: *Good Housekeeping* reminds us that there are crazy laws in every state. In Colorado it is illegal to keep a couch on your porch. Boulder busted the University of Colorado for burning couches, causing a law to go into effect that keeps couches and porches mutually exclusive. This law is currently active -- but the verdict is still out as to whether it actually prevented any couch bonfires.

15. ZEN PROVEN TEACHINGS TO LIVE BY: Experience is something you do not get until just after you need it.

16. PONDERISMS: Why do people pay to go up tall buildings and then put money in binoculars to look at things on the ground?

17. TODAY IN HISTORY: In 1956, Russian party leader Khrushchev attacks memory of Stalin.

18. KEEP THOSE CARDS AND LETTERS COMING: Several readers regularly supply us with suggestions or tips for newsletter items. Please feel free to send us or point us to matters you think would be of interest to our readers. Subject to editorial discretion, we may print them. Rest assured that we will not publish any names as referring sources.

19. PLEASE SHARE OUR NEWSLETTER: Our newsletter readership is not limited to the number of people who choose to enter a free

subscription. Many pension board administrators provide hard copies in their meeting agenda. Other administrators forward the newsletter electronically to trustees. In any event, please tell those you feel may be interested that they can subscribe to their own free copy of the newsletter at <http://www.cypen.com/subscribe.htm>.

20. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.