

# TEXPERS OUTLOOK

## ISSUES IMPACTING PUBLIC PENSION FUNDS

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## Report: Public Pension Shortfalls are Misrepresented, Will be Manageable in the Long-Term


With many state governments facing budget shortfalls this year along with dwindling federal assistance, some policymakers have begun to call for drastic reductions of public sector pensions as a way to ease state budget shortfalls. A new report from the Center for Economic and Policy Research (CEPR) clears up many common misconceptions about public funds.

The report, "The Origins and Severity of the Public Pension Crisis," shows that the main reason public pension shortfalls exist at all is the downturn in the stock market following the housing crash in 2007-2009 – not inadequate contributions by state governments. The paper finds that if pension funds had just earned returns equal to the interest rate on 30-year Treasury bonds since 2007, their assets would be more than \$850 billion greater than they are today.

"Much of the recent discussion of public pensions is misleading," said Dean Baker, a co-director at CEPR and author of the report. "The shortfalls represent a small percentage of each state's economy and, barring another sudden reversal of the stock market, are manageable."

The paper looks at three main issues: the origins of the shortfall; whether public pension funds need to be as risk-averse in assessing rates of return as individual investors; and the actual scope and size of the pension shortfalls relative to future state income.

The report concludes that public pension shortfalls have been misrepresented in public debates and will prove to be a reliable source of retirement income for future retirees without bankrupting state governments.

The report is available at: <http://www.cepr.net/documents/publications/pensions-2011-02.pdf>. 

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## Legislation Mandating Increased Transparency for Public Pension Funds Reintroduced

U.S. Rep. Devin Nunes (R-Calif.) has reintroduced the Public Employee Pension Transparency Act, legislation he proposed near the end of the last session of Congress that died when the term expired. Nunes announced the new House bill (H.R. 567) along with Sen. Richard Burr (R-N.C.).

The legislation requires state and local pensions to provide “enhanced transparency” and establishes a clear federal prohibition on any future public pension bailouts by the federal government.

In introducing the bill, Nunes claimed that public employee pension debt “is masked by accounting practices that would never be tolerated in the private sector. It’s time to open up the books. Once we enact this bill, retirees, government workers, policy makers, and most importantly the people who are paying the bills, can make up their own minds about the soundness of public pensions.”

The legislation would require public plans to report their existing financial data as well as their accounting methods and assumptions. Public plans would also have to report their liabilities using “a uniform accounting standard that will provide realistic rates of return and tie assets to more reasonable fair market valuations,” according to Nunes’ statement on the legislation.

“Failure to report will result in the suspension of all federal tax-exempt bonding authority for the jurisdiction(s) whose employees are covered by the non-compliant plan.”

But state and local government organizations strongly oppose the new legislation on the same grounds as they opposed the old version, saying it represents a fundamental lack of understanding of the strong accounting rules and strict legal constraints already in place that require open and transparent governmental financial reporting.

They say the legislation conflicts with existing governmental accounting standards, would increase state and local government costs and undermine investor confidence in the municipal bond market.

Moreover, the legislation is unwarranted because state and local governments are not seeking a federal “bailout.” Not only have states been enacting reforms to bolster their retirement plans, but pension fund asset values have been growing since March 2009.

To bolster this point, TEXPERS Executive Director Max Patterson wrote a Feb. 2 letter to members of Congress, saying that local Texas public employees pension plans “are doing well,” despite recent national headlines about funding woes at other state and local government pension plans.

In addition, news reports about exorbitant public pension funds are sensational and are “not the norm,” he wrote. The idea that local and state pension funds will be seeking a bailout from Congress “is not supportable.”

“If another state is making that pitch, then it is not coming from the pension systems,” Patterson wrote.

He pointed out that local pension plans in Texas operate differently from other states, specifically with regard to the Texas systems’ principles of “local control” of pension benefits and investments.

“TEXPERS member pension systems have regular elections of board members and most have appointed members from their city councils or treasurer’s office,” he wrote.


As a result, Texas pension funds are more accountable because investment performance is constantly monitored and improved, and because benefit levels are carefully matched to investment performance and a city’s ability to pay.

If a pension plan becomes underfunded, there are several mechanisms that can be used to make adjustments and bring the plans back into balance, Patterson wrote.

In fact, several Texas pension plans made adjustments and took corrective action last year to ensure sustainability, he pointed out. These included plans in Austin, Fort Worth, and Dallas, and adjustments are currently under way in Houston.

“The takeaway is simply that Texas pension plans, at the local levels, work well even under the most challenging economic environment of the past few years,” Patterson wrote. “There are no pension systems facing severely dangerous situations that would call for federal subsidization. I can assure you that Texas will not be calling upon Congress for a bailout now, or in the near future.”

The Public Employee Pension Transparency Act (H.R. 567) had 42 cosponsors as of press time and had been referred to the House Committee on Ways and Means.


On the Web at: [http://nunes.house.gov/index.cfm?FuseAction=PressOffice.PressReleases&ContentRecord\\_id=0b23a5c8-19b9-b4b1-12a2-7b0322e740bd](http://nunes.house.gov/index.cfm?FuseAction=PressOffice.PressReleases&ContentRecord_id=0b23a5c8-19b9-b4b1-12a2-7b0322e740bd), <http://www.govtrack.us/congress/bill.xpd?bill=h112-567> and <http://www.ntu.org/news-and-issues/government-reform/pensions/state-and-local-pension.html>. 

## Retirement Assets Total \$16.6 Trillion in Third Quarter 2010

Americans held \$16.6 trillion in retirement assets at the end of the third quarter of 2010, accounting for 36 percent of all household financial assets in the United States, the Investment Company Institute reported.

The findings are from “The U.S. Retirement Market: Third Quarter 2010,” which covers assets held in private-sector defined benefit (DB) plans, government pension plans, defined contribution (DC) plans – including 401(k), 403(b), and 457 plans – annuities, and individual retirement accounts (IRAs).

Between June 30, 2010, and Sept. 30, 2010, retirement assets rose 6.1 percent, from \$15.6 trillion to \$16.6 trillion. During the third quarter, total return on equities was 11.3 percent, while bonds returned 2.4 percent, according to the Standard & Poor’s 500 stock index and the Citigroup Broad Investment Grade Bond Index.

The report is available at: [http://www.ici.org/pdf/ppr\\_11\\_retire\\_q3\\_10.pdf](http://www.ici.org/pdf/ppr_11_retire_q3_10.pdf). 

## SEC Releases Money Market Fund Portfolio and ‘Shadow NAV’ Information to the Public


Investors can now, for the first time, access detailed information that money market funds file with the Securities and Exchange Commission (SEC), including information about a fund’s investments and the market-based price of its portfolio known as its “shadow NAV” (net asset value) or mark-to-market valuation. The information is available on the SEC’s Web site and will be updated monthly.

As part of its overhaul of money market fund regulation, the SEC last year adopted a rule requiring money market funds to file information about their holdings and portfolio valuations.

The agency uses this information in its real-time oversight of money market funds, but also believes that public disclosure can provide investors and market analysts with useful insight for their evaluation of these funds.

Funds began filing the information on the SEC’s new Form N-MFP in December. Under the rule, the SEC will release the information with a 60-day delay. The rule also requires money market funds to post more current but less detailed portfolio information on their own Web sites

within five business days after the end of the month.

The information on the SEC Web site is available at: <http://www.sec.gov/edgar/searchedgar/companysearch.html>. Further details are available at: <http://www.sec.gov/divisions/investment/guidance/formnmfpqa-info.htm>. 

## Legislation Aims to Equalize Social Security Payroll Tax Cuts for Lowest Wage Earners

House lawmakers have introduced legislation to correct what they see as a severe oversight in the tax compromise package passed in December that provides for a 2 percent Social Security payroll tax cut.

U.S. Reps. Rosa DeLauro (D-Conn.), ranking member of the Labor, Health, and Human Services Appropriations Subcommittee, and Maurice Hinchey (D-N.Y.) introduced the Extended Tax Relief for All Act.

This legislation would amend the tax compromise package to provide a refundable tax credit to individuals making less than \$20,000 a year.

The tax compromise package, which replaces the Making Work Pay (MWP) refundable tax credit, allows most individuals to take advantage of the 2 percent payroll tax deduction and pay less in taxes. But for those making less than \$20,000, the dollar amount of the 2 percent payroll tax reduction is actually less than the dollar amount of the MWP tax credit, according to the lawmakers.

“During the debate in December over extending the Bush tax cuts for all Americans a common refrain was that we ought to not raise tax rates on anyone, including the wealthiest two percent of Americans,” said DeLauro. “Unfortunately, under last year’s tax compromise, some of our workers are indeed paying more taxes.”

“It’s no wonder that billionaires are booming and the middle class is melting,” said Hinchey. “If you own an oil company, you’re getting one of the largest tax cuts in history this year, but if you pump gas and make less than \$20,000 a year, your federal tax burden will actually be higher than it was last year.”

The legislation (H.R. 772) had nine cosponsors as of press time and had been referred to the House Committee on Ways and Means.

On the Web at: <http://www.govtrack.us/congress/bill.xpd?bill=h112-772>. 

## SEC Expands Investigation of Potential Fraud at Two Detroit Public Pension Funds

The Securities and Exchange Commission (SEC) is expanding its fraud investigation into the investments made by two Detroit public pension funds, which lost \$480 million in risky investments since 2008, the Detroit Free Press reports.

The paper quoted a number of people familiar with city's police and fire retirement system and the retirement fund for general city workers who said the SEC recently requested records on the funds' alternative investments, as well as deals involving private companies, hedge funds and collateralized loan or debt obligations.


The people said the two funds have handed over to the SEC information on 150 to 170 investments and up to 1 million pages of records.

Meanwhile, the board of Detroit's Police and Fire Retirement System has agreed to cover the legal costs of attorney Ronald Zajac, who has long represented the pension funds. Zajac has informed trustees that he is now embroiled in the ongoing federal criminal investigation into the funds and is hiring his own criminal defense lawyer. Zajac has a five-year contract with the two pension funds that, combined, pay him about \$425,000 a year. He has worked with the funds for about 30 years.

James Moore, chairman of the police and fire fund, told the newspaper that "no negative inference or implication should be drawn from the fact" that Zajac has hired an attorney. Meanwhile, police and fire trustees recently also agreed to hire criminal defense lawyers for trustee Paul Stewart and former trustee Marty Bandemer.

Trustees for the general workers fund have decided not to pay Zajac's legal costs, that board's chairwoman, Susan Glaser, told the Free Press.

The FBI and a federal grand jury are also investigating the pension funds.

On the Web at: <http://www.freep.com/article/20110217/NEWS01/102170541/1055/Sports07/Detroit-pension-probe-grows-more-than-150-investments-eyed-by-investigators?odyssey=nav%7Chead>. 

## CalPERS Says It is Cooperating with Federal Bribery Probe Involving Placement Agents

The California Public Employees Retirement System (CalPERS) says it is cooperating with federal prosecutors who are investigating possible bribery in the system's use of placement agents, according to newspaper reports.


The request involves "millions of pages" of documentation involving millions of dollars exchanged between placement agents and outside money managers. The allegations have already resulted in a state lawsuit and new legislation that regulates the use of the middlemen. No criminal charges have been filed to date.

CalPERS officials acknowledged to the Sacramento Bee that an investigation is under way. CalPERS staff members told the board that the criminal investigations are "ongoing, and are expected to remain active for some time," the Wall Street Journal reported.

CalPERS admitted in October 2009 that former board member Alfred Villalobos had earned \$50 million as a placement agent, helping Wall Street clients secure investments from the fund.

Villalobos and former CalPERS CEO Fred Buenrostro subsequently were sued by the state, which alleged Villalobos bribed Buenrostro, former CalPERS board member Charles Valdes and former CIO Leon Shahinian, the Bee reports. All parties deny any wrongdoing.

CalPERS has hired the law firm Steptoe & Johnson to conduct its own investigation into the system's use of placement agents and has begun implementing some of the firm's recommendations.

On the Web at: <http://online.wsj.com/article/SB10001424052748704343404576146930563353202.html>, <http://www.sacbee.com/2011/02/15/3403115/calpers-acknowledges-federal-probe.html> and <http://www.calpers.ca.gov/index.jsp?bc=/about/press/pr-2011/feb/calpers-board.xml>. 

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## Budget for Social Security Under Attack

The Social Security Administration (SSA) is praising President Obama's budget request of \$12.522 billion for Social Security's administrative expenses, saying it is "critical" that Congress fully fund the budget request.

"This budget request is the minimum the agency

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needs to continue to reduce key backlogs and to increase deficit-reducing program integrity work,” said Michael J. Astrue, commissioner of Social Security. “It will allow us to build on the considerable progress we have achieved, progress that is vital to the millions of people who depend on our services and to the American taxpayer.”

But House Republicans are proposing to cut \$1.7 billion from the SSA budget for the remainder of this year. That has the agency “preparing for staff furloughs,” according to the National Committee to Preserve Social Security and Medicare (NCPSSM).

In a letter to House Social Security Subcommittee Ranking Member Rep. Xavier Becerra (D-Calif.), NCPSSM President and CEO Barbara Kennelly said the cuts would devastate an agency that she said is already underfunded.

The cuts would result in seniors having to wait longer to get an appointment to file for benefits, not receiving a decision in a timely manner, getting a busy signal when they call the agency, not having their change of address or direct deposit information processed in a timely fashion, and “significant employee furloughs or even office closures,” Kennelly wrote in the letter.

Details are on the Web at: [www.socialsecurity.gov/budget](http://www.socialsecurity.gov/budget), <http://www.ssa.gov/pressoffice/pr/fy12-budget-request-pr.html> and [http://www.ncpssm.org/news/archive/opposing\\_ssa\\_cuts\\_letter](http://www.ncpssm.org/news/archive/opposing_ssa_cuts_letter).

Meanwhile, the Century Foundation has published an Issue Brief entitled, “Ten Reasons Not to Cut Social Security Benefits.” It covers the reasons why some prominent Democrats, as well as conservative Republicans who have been hostile to Social Security, should not curtail payments to program beneficiaries.

On the Web at: <http://tcf.org/publications/2011/2/ten-reasons-not-to-cut-social-security-benefits/pdf>. 

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## Iran Sanctions Legislation would Require Increased Investment Disclosure

Bipartisan legislation introduced in the Senate and House of Representatives would require companies to disclose any sanctionable investments in Iran in their quarterly and annual reports to the Securities and Exchange Commission (SEC), and require U.S. banks to report sanctionable activities by their foreign correspondent banks.

The Iran Transparency and Accountability Act (S. 366/H.R. 740) is designed to close banking and securities law loopholes by extending the SEC’s explicit authority

to require the disclosure of business dealings in Iran by reporting companies, and requiring new Treasury regulations calling for banks’ reports.

Studies indicate that at least eight companies with listed affiliates on the NYSE or NASDAQ support Iran’s energy sector, in addition to 18 U.S. banks that do business with foreign banks that also service Iranian institutions. Iran then uses these banking and securities law loopholes to gain access to U.S. markets, enabling them to circumvent sanctions, fund their nuclear ambitions, and continue supporting terrorist networks, according to lawmakers.

U.S. Sens. Kirsten Gillibrand (D-N.Y.) and Mark Kirk (R-Ill.), and U.S. Reps. Ted Deutch (D-Fla.) and Dan Burton (R-Ind.), introduced the Iran Transparency and Accountability Act in February.

Iran’s Islamic Revolutionary Guard Corps (IRGC) and its many front companies in the Iranian energy industry “pose significant legal and reputational risks to publicly traded companies” doing business in Iran, the lawmakers said. The IRGC has been identified by the U.S. as a key player in Iran’s nuclear program, the regime’s human rights abuses, and President Mahmoud Ahmadinejad’s efforts to suppress Iran’s democratic movement.

In addition to requiring reporting companies to disclose to the SEC sanctionable investments in Iran or business with the IRGC, the legislation would:

- Require the SEC to publicly post on its Web site the list of reporting companies investing in Iran, and provide that information directly to the President, the General Services Administration, and the appropriate Congressional committees.
- Require the President to investigate and determine within 180 days of receiving the SEC report any self-disclosures by companies that could lead to sanctions.

The new legislation builds on the Comprehensive Iran Sanctions, Accountability and Divestment Act (CISADA) signed by President Obama last year to require companies to divest from Iran’s energy sector or face sanctions.

The new bill would require the Treasury Secretary to promulgate rules within 90 days of passage to implement a CISADA requirement that U.S. financial institutions report on any correspondent accounts with foreign banks that violate Iran sanctions.

As Iran attempts to take advantage of loopholes, increased sanctions have the effect of isolating the

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country from international commerce. Almost all of the world's largest international traders in refined petroleum products divested from Iran following last year's passage of the tougher sanctions law, which also helped stem the flow of foreign investment and skilled labor for its energy sector that comprises 80 percent of Iran's export earnings.

Additionally, the U.S. State Department estimates that \$50 billion to \$60 billion in upstream energy investments have been frozen as a result of the threat of sanctions.

S. 366 had one cosponsor as of press time and had been referred to the Senate Committee on Banking, Housing, and Urban Affairs.

H.R. 740 had eight cosponsors as of press time and had been referred to the House Committee on Financial Services.


On the Web at: <http://www.govtrack.us/congress/bill.xpd?bill=s112-366> and <http://www.govtrack.us/congress/bill.xpd?bill=h112-740>. 

## **TRS Taps Deputy Director for Top Job**

The Teacher Retirement System of Texas (TRS) has appointed its deputy director, Brian Guthrie, to take over the fund's top job when CEO Ronnie Jung retires on Sept. 1, according to a report in the Austin American-Statesman.

The pension board made the unanimous decision following a months-long search for a new director. Jung announced last year that he was leaving the \$105 billion pension after seven years on the job.

Guthrie, a former budget aide to Gov. Rick Perry, was appointed deputy director of TRS in 2008. Jung will continue to serve the pension board as its executive liaison through January 2012. He will continue to receive his \$25,000 monthly salary for his work in that advisory capacity.

On the Web at: <http://www.statesman.com/news/texas-politics/teacher-retirement-system-board-chooses-new-director-1239108.html>. 

## **Bill Prioritizes Payment of Social Security Benefits if Federal Debt Limit is Reached**

Legislation introduced in Congress (S. 259/H.R. 568) would prioritize Social Security benefits for seniors and the payment of debt commitments should the United States reach its debt limit. Congress is expected to begin

debate on raising the debt ceiling in the coming weeks.


The House bill, introduced by U.S. Rep. Dean Heller (R-Nev.), is a companion bill to legislation introduced by Sen. David Vitter (R-La.).

"The administration and Congress need to have an honest debate about government spending and our nation's financial future," said Heller. "The truth is government spending has to be substantially cut if we are to set our nation on a fiscally sustainable path."

However, seniors should not be casualties to the politics of Washington, he added. Paying the country's debts and ensuring seniors receive their benefits should be priorities for both parties in Congress.

In the event that the debt of the federal government reaches the statutory limit, the bill would instruct the Treasury Department to make payments on the principal and interest on debt held by the public and the Commissioner of Social Security to pay monthly old-age, survivors', and disability insurance benefits. These payments would take priority over all other obligations incurred by the U.S. government.

The House bill had no cosponsors as of press time and had been referred to the House Committee on Ways and Means. The Senate bill had one cosponsor as of press time and had been referred to the Senate Finance Committee.

On the Web at: <http://heller.house.gov/News/DocumentSingle.aspx?DocumentID=224204>, <http://www.govtrack.us/congress/bill.xpd?bill=h112-568> and <http://www.govtrack.us/congress/bill.xpd?bill=s112-259>. 

## **Legislation Aims to Protect Investors Defrauded by Madoff**

U.S. Rep. Scott Garrett (R-N.J.), chairman of the House Financial Services Subcommittee on Capital Markets and Government-Sponsored Enterprises, has introduced H.R. 757, the Equitable Treatment of Investors Act, which would reaffirm and clarify key protections for ordinary investors that were put in place when Congress passed and amended the Securities Investor Protection Act (SIPA).

In particular, the bill aims to shield innocent individual investors who have already been defrauded and financially devastated by Bernie Madoff from further "clawbacks" by the Securities Investor Protection Corporation (SIPC) Trustee. Garrett previously introduced the legislation during the 111th Congress.

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“My bill clarifies that for the purposes of SIPC protection, customers of registered brokers are legally entitled to rely on their customer statements as evidence of what their broker owes them,” Garrett said. “Indeed, in a world where customers do not hold physical securities, it could not be any other way.”

Garrett said he is concerned that the trustee in the Madoff case is ignoring the law and failing to provide prompt assistance to the victims of the Madoff fraud. “He is taking positions on a wide range of issues that are contrary to SIPA, the Bankruptcy Code, and federal and state laws that are intended to protect investors against bad acts on the part of their brokers. This legislation is intended to clarify congressional intent in these areas.”

If current law is not followed, a customer would not have confidence in his or her dealings with a broker, he added, which is “contrary to the policy goal of encouraging investment.”

The bill had two cosponsors as of press time and had been referred to the House Committee on Financial Services.

On the Web at: <http://www.govtrack.us/congress/bill.xpd?bill=h112-757>. 

## SEC Begins Removing References to Credit Ratings for Securities

The Securities and Exchange Commission (SEC) is beginning a series of changes to its rules to remove credit ratings as one of the conditions for companies seeking to use “short-form” registration when registering securities for public sale.

The changes are part of a broader effort to comply with the Dodd-Frank Wall Street reform law to remove references to credit ratings contained within existing SEC rules and replace them with alternative criteria. Over-reliance on credit ratings has been cited as one of the factors that contributed to the financial crisis of 2008-09.

The changes focus on the use of credit ratings as a condition of so-called “short-form” eligibility. Companies that are “short-form eligible” are allowed to register securities “on the shelf.” Shelf registration provides companies considerable flexibility in deciding when to access the public securities markets.


The SEC’s proposed rule amendments would remove the Nationally Recognized Statistical Rating Organization (NRSRO) investment grade ratings condition included in SEC forms S-3 and F-3 for offerings of non-

convertible securities, such as debt securities.

Instead of ratings, the new short-form test for shelf-offering eligibility of companies would be tied to the amount of debt and other non-convertible securities they have sold in the past three years.

NRSRO is a credit rating agency that issues credit ratings that the SEC permits other financial firms to use for certain regulatory purposes.

Public comments on the SEC’s proposal should be submitted by March 28.

On the Web at: <http://www.sec.gov/rules/proposed/2011/33-9186.pdf>, [http://www.sec.gov/cgi-bin/ruling-comments?ruling=s71808&rule\\_path=/comments/s7-18-08&file\\_num=S7-18-08&action=Show\\_Form&title=Security%20Ratings](http://www.sec.gov/cgi-bin/ruling-comments?ruling=s71808&rule_path=/comments/s7-18-08&file_num=S7-18-08&action=Show_Form&title=Security%20Ratings) and <http://www.sec.gov/news/speech/2011/spch020911mls.htm>. 

## CalPERS Revamps Real Estate Strategic Plan

The California Public Employees Retirement System (CalPERS) has overhauled its real estate strategy to focus on core investments with a significantly heavier weighting to the domestic U.S. market.

The public pension fund also revealed that it will concentrate on separate account mandates rather than investing in commingled funds, and seek to remove listed investments from its real estate allocation.

It is a significant departure for CalPERS and a development that the rest of the institutional investor community will be watching with interest.

Low-risk, core investments will now make up at least 75 percent of the pension fund’s real estate exposure, a radical turn on its current target of between 20 percent-80 percent.

Higher-risk, private equity-style investments will be downgraded from 40 percent to a target of 15 percent.

Even more striking is the decision to reduce CalPERS’ international weighting from 50 percent of the total property portfolio to around 10 percent.

CalPERS did indicate it would allocate capital to the emerging markets of Brazil, India and China to capture the demographic shifts taking place in those countries.

But it is the decision to eliminate real estate investment trusts (REITs), currently representing 7 percent of the portfolio, that has attracted immediate controversy.

The decision coincided with the launch of a report by the National Association of Real Estate Investment Trusts

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(NAREIT) that shows that real estate portfolios that blend listed and non-listed investments exhibit lower volatility.

The trade body was quoted in the Wall Street Journal as saying the move by CalPERS was “inappropriate” and “ill-advised.”

Wilshire Consulting, one of the pension fund’s investment advisers, also raised concerns about removing listed investments from the real estate portfolio.


The consultancy noted that CalPERS was still likely to retain an exposure to REITs through its global equities allocation, but warned that this had implications for liquidity management.

In a memo to CalPERS, Andrew Junkin, managing director and principal at Wilshire, said: “Removing any REIT allocation from the real estate portfolio forces every other asset class to be the ‘bank’ for liquidity needs of the real estate program.”

Junkin said this should not be a problem during normal conditions, but in times of illiquidity it could place stress on other asset classes and, by extension, the fund as a whole.

The Pension Consulting Alliance (PCA), another investment adviser, showed support for the fund’s new real estate strategy.

In a letter, it said: “PCA believes a focus on domestic core properties achieves the new role of the real estate asset class and reduces risk, as measured by volatility, in the overall portfolio. Additionally, the proposed strategic plan also incorporates lessons learned from the previous downturn where the System suffered substantial losses in the value of its real estate portfolio.”

On the Web at: <http://www.calpers.ca.gov/index.jsp?bc=/about/press/pr-2011/feb/calpers-adopts.xml>, <http://www.prweb.com/releases/2011/2/prweb8116940.htm>, <http://www.calpers.ca.gov/eip-docs/about/board-cal-agenda/agendas/invest/201102/item03-03.pdf> and <http://www.calpers.ca.gov/eip-docs/about/board-cal-agenda/agendas/invest/201102/item03-02.pdf> 

## **Court: Disclosure Requirements of Wall Street Reform Law Constitutional**

A federal appeals court has shot down Full Value Advisors LLC’s constitutional challenge of the U.S. Securities and Exchange Act’s disclosure requirements for institutional investment managers.

Full Value, a Delaware limited liability company and a private equity investment adviser, challenged the


constitutionality of Exchange Act Section 13(f), which applies to institutional investment managers holding at least \$100 million in securities and requires the filing of quarterly reports that essentially disclose their holdings.

The information on those reports is made public unless the SEC determines that an exemption applies. Managers can seek an exemption but must disclose sufficient information on Form 13F for the SEC to make a judgment on the request. In this case, Full Value made an application but omitted the required Form 13F information.

The SEC denied the application on the grounds that Full Value had failed to provide sufficient information on which to base a decision. Full Value appealed the SEC’s determination, claiming that the disclosure requirements constituted an impermissible regulatory taking of property under the Fifth Amendment and violated its free speech rights under the First Amendment.

The U.S. Court of Appeals for the D.C. Circuit rejected both arguments. It held that mandatory disclosure to the SEC did not violate either Amendment, and that neither the First nor the Fifth Amendment claims were ripe for review.

The court also held that the disclosure requirements are only part of a regulatory process designed to inspire confidence in the markets and to protect proprietary information in the process. The requirements of Section 13(f) are thus indistinguishable from other similar provisions that do not violate the constitution.

On the Web at: [http://www.cadc.uscourts.gov/internet/opinions.nsf/02141C8449A5110C8525782D0053AB3E/\\$file/10-1053-1291623.pdf](http://www.cadc.uscourts.gov/internet/opinions.nsf/02141C8449A5110C8525782D0053AB3E/$file/10-1053-1291623.pdf). 

## **Report: A Voluntary Default Savings Plan would Strengthen Retirement System**

While the Social Security system provides a solid foundation that keeps the vast majority of retirees out of poverty, it is insufficient to provide a comfortable retirement income. The Center for Economic and Policy Research (CEPR) has released a report proposing a system of supplemental retirement accounts that would help address the problem in the future.

The report, “A Voluntary Default Savings Plan: An Effective Supplement to Social Security,” outlines a voluntary system of supplemental retirement accounts involving default contributions of 3 percent of wages, up to \$1,000 a year, and compares it with standards of retirement income and other proposed systems.


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The CEPR supplemental saving plan is a mix of a defined contribution and defined benefit plan comparable to a cash-balance private pension plan with an option for workers to opt-out. To make the plan more affordable to lower-income workers, the report proposes a savings subsidy, in addition to a match, which would phase out to zero for those making over \$40,000 per year.

The government would administer the accounts to minimize administrative costs, although the investment of the funds could be managed privately, as with the federal employees Thrift Savings Plan. The accounts would offer a guaranteed 3 percent rate of return with a default pay-back in the form of an annuity.

The Tax Policy Center of the Brookings Institution and Urban Institute modeled the CEPR savings plan and demonstrated that it would lead to a substantial increase in retirement savings for workers in the bottom two quintiles of 15-20 percent.

On the Web at: <http://www.cepr.net/documents/publications/cepr-savings-plan-2011-02.pdf>. 

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## **SEC Study Recommends Easing Investor Access to Information about Investment Professionals**


The Securities and Exchange Commission (SEC) has published a staff study recommending steps to help investors better access information about investment professionals.

The recommendations of the study – which was required by the Dodd-Frank Wall Street reform bill – must be implemented within 18 months.

As things stand today, investors must search two separate databases for information about broker-dealers and investment advisers. The primary recommendation of the study is to enable investors to simultaneously search both databases using either FINRA's BrokerCheck Web site or the Investment Adviser Public Disclosure (IAPD) Web site and receive unified search results.

The study also recommends expanding the search functions of BrokerCheck and IAPD to permit searches for broker-dealers, investment advisers, registered representatives, and investment adviser representatives, based on ZIP code or other indicator of location. It also suggests enhancing BrokerCheck and IAPD by adding educational content, such as links and definitional material.

Easing access to this information can help investors make better-educated decisions in selecting a broker-dealer or investment adviser, as well as better protect themselves against fraud, the study says.

On the Web at: <http://www.sec.gov/news/studies/2011/919bstudy.pdf>. 

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## **Report Outlines Climate Change Investing Scenarios for Institutional Investors**

Institutional investors need to take a three-pronged approach to integrate climate change in their asset allocation, according to a report by financial services adviser Mercer.


First, they need to enhance their approach to asset allocation – by creating a risk factor analysis, for example. They need to discuss climate change both at the investment and the specialist level so trustees and investment committees are on top of the risk, according to a “Climate Change Scenarios – Implications for Strategic Asset Allocation.”

Second, as much as 40 percent of assets should be invested in climate-sensitive assets, such as infrastructure, real estate, private equity, timberland, agricultural land, green bonds and other listed or unlisted assets, the report said.

Third, investors should engage with policymakers because government policy presents a significant source of risk.

Various pension funds have already tried to integrate the climate change risk into their portfolios. Around 2 percent of a pension fund's capital used to be invested in alpha-seeking green assets. Now this number stands at 13 percent. By 2015, around 25 percent of the fund is expected to be invested to benefit a greener economy, Mercer said.

The report also finds that a delay in climate change policy action among governments and a lack of international coordination could cost institutional investors trillions of dollars over the coming decades.

On the Web at: <http://www.mercer.com/articles/1406410>. 

## PENSIONS UNDER ATTACK!

There have been ads placed in the TEXPERS Outlook, messages in emails and TEXPERS Board Members have spoken to you about joining the Legislative Focus Group. Your active participation in the Legislative Focus Group is extremely important, and it really can't be stressed enough that having you as part of the Legislative Focus Group will help to ensure the sound retirement of hundreds of thousands of Texas public employees.

Public plans have been under attack lately and the attacks have been relentless. With the start of the 82nd Legislative session on January 11, TEXPERS wants to make sure that we are all thoroughly prepared to defend your pensions if needed, and we need your help to do this.

Many of you have signed up and yet there are still some of you who haven't. And if you're one of those not already in the Legislative Focus Group, the time to get active is NOW. Join the Legislative Focus Group today. There's just too much at stake to risk your retirement.

Sign up: [www.texpers.org](http://www.texpers.org)

## **SPECIAL ANNOUNCEMENT!!**

NCPERS is offering complimentary 2011 membership to TEXPERS members\*. Member benefits include top-rated educational conferences and seminars, access to public pension experts, up-to-date legislative information affecting pensions, publications on legislation and regulatory issues and full access to all the resources on [www.NCPERS.org](http://www.NCPERS.org) to trustees and staff of your fund. Visit the NCPERS exhibit booth at the TEXPERS 22nd Annual Conference in Austin and learn more about this incredible value.

*\*NCPERS has extended this offer to all TEXPERS members who are currently not members of NCPERS. This value is being offered on the remainder of the year and is renewable at the regular membership fee of \$150-600 each year thereafter.*

**ONLINE REGISTRATION OPEN UNTIL MARCH 13!**

## *Where Do We **go** From Here?*

TEXPERS 22<sup>nd</sup> Annual Conference  
March 27-30, 2011 (CTT Course - March 26)  
Sheraton Austin Hotel at the Capitol  
Austin, Texas

register: **[www.texpers.org](http://www.texpers.org)**

### **NYSE Symposium**

**TEXPERS is taking on New York May 16-17  
for the TEXPERS NYSE Symposium, and you are invited!!  
We'll be paying a visit to the financial capital of the world to explore the  
New York Stock Exchange and see its operations.**

**Sponsored by AllianceBernstein, Invesco, Morgan Stanley,  
Schroder Investment Management, State Street Global Advisors and UBS,  
TEXPERS retirement system members will have a rare opportunity to  
tour the NYSE, learn about the exchange's investment activities and products  
and follow through the transaction process as it begins  
with the portfolio manager, moves to the broker and on to the exchange floor.  
You don't want to miss this invitation to experience a trade in action and  
to discover how the NYSE's functions affect the investment decisions  
made by public pension funds.**

**Sign up now as space is limited to the first 40 plan sponsors.  
There is no fee to attend and all the meals on the agenda are  
included with your registration. The only cost incurred by the  
registrant is airfare, ground transportation to and from  
the airport and hotel cost.**

**Open to:** TEXPERS Pension Fund Members only

**When:** May 16-17, 2011

**Where:** NYC

**Cost:** Airfare & Hotel

**(no conference registration fee; meals provided)**

# UPCOMING TEXPERS CONFERENCES

*Mark Your Calendars!*

## **TWENTY-SECOND ANNUAL CONFERENCE**

Sheraton Austin  
Austin, Texas  
March 27-30, 2011

## **SUMMER EDUCATIONAL FORUM**

Omni Mandalay  
Irving, Texas  
August 7-9, 2011

## **TWENTY-THIRD ANNUAL CONFERENCE**

Omni Corpus Christi  
Corpus Christi, Texas  
March 25-28, 2012

## **SUMMER EDUCATIONAL FORUM**

Grand Hyatt  
San Antonio, Texas  
August 19-21, 2012

## **TWENTY-FOURTH ANNUAL CONFERENCE**

Sheraton Austin  
Austin, Texas  
March 3-6, 2013

## **SUMMER EDUCATIONAL FORUM**

Grand Hyatt  
San Antonio, Texas  
August 4-6, 2013

## **TWENTY-FIFTH ANNUAL CONFERENCE**

Renaissance Worthington  
Fort Worth, Texas  
March 23-26, 2014