

TEXPERS OUTLOOK

ISSUES IMPACTING PUBLIC PENSION FUNDS

Two Riverway, Suite 630
Houston, Texas 77056
713/622-8018
Fax 713/622-7022
texpers@texpers.org
www.texpers.org

BOARD OF DIRECTORS

President
EYNA CANALES-ZARATE
City of Austin Employees'
Retirement System

First Vice President
SHERRY MOSE
Houston Municipal Employees'
Pension System

Second Vice President
RECTOR McCOLLUM
Dallas Police & Fire
Pension System

Secretary
KENDALL THOMAS
Austin Police Retirement System

Treasurer
MICHAEL (MIKE) J. CURRAN
Metropolitan Transit Authority of
Harris County Retirement Plan

Board Member
RANDY AYLIEFF
Austin Fire Fighters Relief &
Retirement Fund

Board Member
ANDY BARBOZA
Corpus Christi Firefighters'
Retirement System

Board Member
J. LARRY DOSS
Houston Police Officers'
Pension System

Board Member
LYNDA JACKSON
Dallas Area Rapid Transit

Board Member
JOHN D. JENKINS
Dallas Employees'
Retirement Fund

Board Member
LARRY REED
San Antonio Fire & Police
Pension Fund

Past President
PAUL R. BROWN
Big Spring Firemen's Relief &
Retirement Fund

ASSOCIATE ADVISORS

JAMES THYNE
AllianceBernstein

DYICE ELLIS-BECKHAM
Invesco

WILLIAM J. AVERILL
Loomis, Sayles & Company, L.P.

Putnam Investments

RICHARD C. "RIC" BADGER
SMH Capital, Inc.

JOHN BLACK
State Street Global Advisors

MICHAEL LAMMERS
UBS Global Asset Management

STAFF

Executive Director
MAX PATTERSON

Contributing Editor
MATT AUKOFER

GASB Proposes Changes to Pension Accounting and Financial Reporting

The Governmental Accounting Standards Board (GASB) unveiled pension accounting proposals in early July that would fundamentally change how state and local governments report pension liabilities. State governments would be forced to report a net pension liability in their financial statements under the proposals.

GASB's proposed standards, dubbed exposure drafts, like its preliminary recommendations last year, would require governments to report the unfunded portion of their retirement plans as a liability on their balance sheets. The board is also proposing to change the formula states and localities use to convert projected pension benefit payments into present value, based on an assumed "discount rate."

Specifically, GASB recommends that pension plans use a historic rate of return – typically 7% to 8% – only to the extent the plan has sufficient assets, set aside in an irrevocable trust, to make projected benefit payments. When a plan reaches a point of no longer having sufficient assets set aside in a trust for long-term investments, it would have to shift to a lower, so-called risk-free rate of return pegged to a tax-exempt, high-quality, 30-year municipal bond index rate, typically, 3% to 4%.

As for the rate of return, GASB said: "if any projected benefit payments are discounted using the lower rate, then the present value will be higher. As a result, the liability would be larger."

The first exposure draft, Accounting and Financial Reporting for Pensions (amending GASB Statement No. 27), details proposed standards that would apply to certain financial statements of governments that provide pension benefits. The second, Financial Reporting for Pension Plans

GASB continued on next page

In this Issue:

- GASB Proposes Changes to Pension Accounting and Financial Reporting ... **Front-2**
- SEC Begins Revamping Rules Governing Security-Based Swaps ... **2**
- Texas Legislature Addresses Public Pensions During 82nd Session ... **pg. 3**
- Public Fund Actuary Held Liable for Failing to Calculate Benefits Payable to Surviving Spouses ... **pg. 4**
- Report Identifies Keys to Well-Funded Public Pension Plans ... **pg. 4**
- Social Security Field Offices Shave Public Hours Due to Budget Cuts ... **pg. 4**
- Social Security is Largest Source of Income for Three-Fifths of Americans over Age 65 ... **pg. 5**
- GAO Faults Social Security Administration over Its Plans to Shift to Online Statements ... **pg. 5**
- SEC Proxy Access Rule Vacated by U.S. Circuit Court ... **pg. 6**
- GAO Studies Difficult Choices Seniors Must Make to Ensure Income Throughout Retirement ... **pg. 6-7**
- JP Morgan Admits to Anticompetitive Conduct by Former Employees in the Municipal Bond Market ... **pg. 7**
- SEC Agrees with GAO Recommendation to Better Track Departing Employees ... **pg. 7**
- Legislation Would Bring Congressional Retirement Age in Line with Social Security ... **pg. 8**
- SEC Raises Performance Fee Rule Dollar Limit Used by Investment Advisers ... **pg. 8**
- Federal Reserve Finds Public Fund Assets Grew \$100 Billion in 1st Quarter, 2011 ... **pg. 8**

GASB continued from previous page

(amending GASB Statement No. 25), details proposed standards for the financial statements of plans that administer the benefits.

TEXPERS is waiting to review the position statement being developed by the Government Finance Officers Association (GFOA) and then anticipates endorsing that position.

Governments would be required to report in their statement of financial position a net pension liability, which is the difference between the total pension liability and net assets (primarily investments reported at fair value) set aside in a qualified trust to pay benefits to current employees, retirees and their beneficiaries. If adopted, there would be significant changes to how a government would calculate its total pension liabilities and pension expenses.

The GASB proposals also would require that governments recognize their pension liabilities on the face of their financial statements rather than disclosing them in the notes, as is done currently. According to the GASB, “recognition in the financial statements, alongside other liabilities such as outstanding bonds, claims and judgments, and long-term leases, will clearly put the pension liability on an equal footing with other long-term obligations.”

The proposals also would require governments in all types of covered pension plans to present more extensive note disclosures and supplementary information.

Exposure drafts are usually the last public documents that the GASB issues before issuing the final statements.

They typically provide one last opportunity for public comment. GASB is requesting comments on the exposure drafts by Sept. 30, and will hold public hearings on Oct. 3, 13, and 20. There will also be discussion forums for users of government financial information on Oct. 4, 14, and 21.

If approved as final, GASB’s proposals would become effective June 15, 2012, for plans that have unrestricted assets of \$1 billion or more in the plan’s first fiscal year ended after June 15, 2010, and June 15, 2013, for all other employers and for governmental non-employer contributing entities.

These far-reaching changes impact every public employer providing pensions and similar defined benefits to employees. Parallel standards are expected to eventually extend to other postemployment benefits (OPEB) plans, including retiree medical benefits arrangements.

On the Web at: <http://www.gasb.org/cs/ContentServer?site=GASB&c=Page&pagename=GASB%2FPage%2FGASBSectionPage&cid=1176158721844>, http://www.gasb.org/cs/ContentServer?site=GASB&c=GASBContent_C&pagename=GASB%2FGASBContent_C%2FUsersArticlePage&cid=1176158721550, http://www.gasb.org/cs/ContentServer?site=GASB&c=Document_C&pagename=GASB%2FDocument_C%2FGASBDocumentPage&cid=1176158723597, http://www.gasb.org/cs/ContentServer?site=GASB&c=Document_C&pagename=GASB%2FDocument_C%2FGASBDocumentPage&cid=1176158723743, http://www.gabrielroeder.com/news/pdf_insight/Insight2011_07.pdf, <http://publications.milliman.com/periodicals/peri/pdfs/PERi-07-01-11.pdf>, <https://fm.pfm.com/gasb>, <https://www.cheiron.us/cheironHome/viewArtAction.do?artID=76>, <http://www.prnewswire.com/news-releases/pfm-group-issues-analysis-of-proposed-new-gasb-pension-accounting-rules-125954933.html>, <http://www.journalofaccountancy.com/Web/20114337.htm>. 🇺🇸

SEC Begins Revamping Rules Governing Security-Based Swaps

The Securities and Exchange Commission (SEC) has issued additional guidance to clarify which U.S. securities laws will apply to security-based swaps starting July 16 – the effective date of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

That Act created a new regulatory framework for over-the-counter derivatives, authorizing the SEC to regulate security-based swaps and the Commodity Futures Trading Commission (CFTC) to regulate other swaps. Under Dodd-Frank, starting July 16, security-based swaps are defined as “securities” subject to existing federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934.

The SEC’s order and interim final rule will help maintain the existing legal framework for security-based swaps under the Exchange Act until the agency adopts new rules for these transactions.

The agency previously issued guidance in this area on June 15 and was planning additional steps related to the July 16 effective date. Although these actions have been approved, the agency is seeking input from the public on the rules.

On the Web at: <http://www.sec.gov/rules/interim/2011/33-9231.pdf> and <http://www.sec.gov/rules/exorders/2011/34-64795.pdf>. 🇺🇸

Texas Legislature Addresses Public Pensions During 82nd Session

Pensions were a large part of the discussions during the 82nd regular session of the Texas legislature, but lawmakers did not pass all of the bills relating to pensions, according to a summary of the session by lobbying firm HillCo Partners.

Lawmakers addressed one bill proposing to switch the Employees Retirement System of Texas (ERS) and the Teacher Retirement System of Texas (TRS) from defined benefit (DB) plans to defined contribution (DC) plans. It was shelved after sponsors learned it would cost the state budget more than \$3 billion over the next two-year budget.

In addition, lawmakers discussed a Pension Review Board (PRB) fee assessment to generate revenue to fund the PRB and House Bill 2731, which proposed various oversight changes for public pension plans.

The PRB funding proposal would have forced active and retired employees of public pension systems in Texas to pay a mandatory 50-cent fee to fund the PRB. This fee language was included in several bills, including the budget bill known as the General Appropriations Act.

TEXPERS provided lawmakers with comments and a legal opinion that pointed out potential conflicts of the fee assessment with the Texas Constitution and the Internal Revenue Code. The fee could be viewed as a diversion of pension funds that, by law, need to be held in trust for the sole benefit of the member and beneficiary. The PRB assessment language was ultimately removed and budget-writers opted to fund the PRB from general revenue instead of the proposed fee.

Rep. Vicki Truitt, chair of the House Committee on Pensions, Investments and Financial Services (PIFS), introduced H.B. 2731 as a way to begin a dialogue with the public pension community. The bill proposed several new statutes affecting Texas public retirement systems, many of which were deemed far-reaching by pension officials and other stakeholders.

TEXPERS Executive Director Max Patterson testified extensively on H.B. 2731 and had frequent discussions with Rep. Truitt's office regarding why the bill was unnecessary. Truitt remained open to amending the bill to make it less far-reaching. It was finally passed out of committee but it never made it to the House floor for debate.

Truitt also introduced House Bill 2460, which was passed and was signed into law, HillCo reported. It is designed to establish more transparency for local public pension systems by extending the application of the

state's public information laws to the governing bodies of public retirement systems. Before passage, the bill was amended to safeguard the personal information of public safety personnel.

The legislature also passed a bill to restructure the three funds currently used at the Texas Municipal Retirement System (TMRS) by combining them into one. This is a significant change that will provide for positive, long-term improvements to the system's structure, according to Senate Bill 350's sponsor, Sen. Tommy Williams.

Meanwhile, the City of Austin passed legislation amending the statute governing the city's municipal employees, police and firefighter pensions. Gov. Rick Perry did not sign the Austin bills, allowing them to go into effect without his signature, but did include a statement pointing out that local pension systems receive no state funding and that the legislature should not need to authorize such changes to benefit structures, HillCo reported.

Perry said he was concerned that the legislature continues to mandate local retirement benefits: "The Texas Legislature should get out of the business of approving local retirement benefits for cities," HillCo quoted Perry as saying. Local governments should work with the legislature to repeal the mandate requiring certain cities to come to the legislature for changes to their retirement systems, Perry said, indicating a possible interim review of the Texas Legislature's involvement with local retirement plans.

During the legislative session, lawmakers also heard testimony regarding the condition of statewide and local public pension funds in Texas, which indicated that the funds are in better condition than most systems around the country.

HillCo anticipates that the legislature will continue discussing the soundness of Texas public pensions, as well as a possible move from DB to DC and the overall structure of public pension systems. "These items are all likely to be considered during the interim as the Pension Review Board is reviewed by the Sunset Commission," HillCo wrote in its summary. 🇺🇸

NOTICE!

TEXPERS is moving end of August

New Address:
1225 N. Loop West #909
Houston, Texas 77008

Public Fund Actuary Held Liable for Failing to Calculate Benefits Payable to Surviving Spouses

The Court of Appeals of Maryland has held that the former actuary firm of the state's retirement system, Milliman, Inc., is liable for damages of \$73 million.

The appellate court granted the award to the Maryland State Retirement and Pension System (MSRPS) for damages resulting from what was described as "the firm's repeated errors in performing actuarial valuations for the State Police Retirement System, Law Enforcement Officers' Pension System, and Judges' Retirement System over a 22 year period," according to a statement by Maryland Attorney General Douglas F. Gansler and State Treasurer Nancy K. Kopp.

The court held that Milliman, the Maryland system's actuary from 1982 until 2006, was liable for failing to include in its calculations benefits payable to the surviving spouses of participants in the systems.

According to Gansler, under its contract with the retirement system, Milliman was required to perform annual actuarial valuations and to certify to the retirement system Board of Trustees the amount of state contributions that would be necessary to fund future liabilities.

Gansler said the court concluded that "Milliman made a mistake that was a breach of the professional standards of care that actuaries are obligated to meet in their work, that Milliman's mistake continued undetected for 22 years, and that this continuing mistake by Milliman was a breach of its contracts with the System."

The \$73 million in damages represents the value of the contributions and investment earnings on those contributions that were lost to the system as a result of Milliman's continuing errors.

On the Web at: http://www.sra.state.md.us/News/73_Million_Award_to_Retirement_System.aspx.

Report Identifies Keys to Well-Funded Public Pension Plans

A new report analyzes the long-term funding practices of six well-funded public pension plans – including the Teacher Retirement System of Texas – that maintained a strong financial position during the economic crisis. The report highlights the sound funding practices that helped

to ensure the long-term affordability and sustainability of these plans.

The report, "Lessons from Well-Funded Public Pensions: An Analysis of Six Plans that Weathered the Financial Storm," by the National Institute on Retirement Security (NIRS), examined each system's funding policy, benefit design and economic assumptions.

It identified key practices as having helped the systems remain well-funded during the economic downturn, including employer pension contributions that paid the full annual required contribution (ARC); employee contributions that helped to share the pension plan cost; benefit improvements that were actuarially valued before adoption and properly funded after adoption, and more.

The six state-level retirement systems covered were: the Delaware State Employees' Pension Plan; Public Employee Retirement System of Idaho; Illinois Municipal Retirement Fund; New York State Teachers' Retirement System; North Carolina Teachers' and State Employees' Retirement System; and Teacher Retirement System of Texas.

The report is available at: <http://www.nirsonline.org/index.php?option=content&task=view&id=613>.

Social Security Field Offices Shave Public Hours Due to Budget Cuts

Social Security field offices across the country will close to the public 30 minutes early each day, beginning Aug. 15, due to budget cuts.

Michael J. Astrue, commissioner of Social Security, released a statement saying the closures are necessary because "Congress provided our agency with nearly \$1 billion less than the president requested for our budget this fiscal year, which makes it impossible for us to provide the amount of overtime needed to handle service to the public as we have in the past."

Agency employees will continue to work their regular hours, but the shorter public hours should save the agency any potential overtime costs, he said.

At the same time, most Social Security services do not require a visit to an office. People can apply for benefits, sign up for direct deposit, replace a Medicare card, obtain a proof of income letter or inform the agency of a change of address or telephone number online at www.socialsecurity.gov or by calling (800) 772-1213 (TTY 1-800-325-0778).

www.texpers.org

Social Security Is Largest Source of Income for Three-Fifths of Americans over Age 65

The average annual Social Security retirement benefit in 2009 was \$13,406.40, slightly above the \$10,289 federal poverty line for individuals age 65 and older, but less than the minimum wage, according to a new report by the Economic Policy Institute (EPI).

While modest in size, Social Security benefits comprise a substantial share of household income for most elderly recipients. Social Security, while originally designed to complement savings and retirement income, instead serves as the primary source of income for these recipients.

According to 2008 data, for the poorest 40 percent of 65-and-older households, Social Security payouts constituted more than four-fifths of total income. Even retirement-age middle- and upper-middle-class households relied heavily on Social Security, with benefits making up nearly two-thirds of middle-class household incomes and more than two-fifths of upper-middle-class household incomes, EPI found.


The highest income group relied less on Social Security, but that was largely due to the fact that almost half of their income came from earnings, meaning that they were still working.

“Social Security benefits are not a windfall, but a lifeline,” EPI said. “With benefits so modest, Congress should be focused on raising them, not cutting them by reducing the cost-of-living adjustment or raising the retirement age.”

In addition, many young people don’t think Social Security will be there for them when they retire, according to the report, “A young person’s guide to Social Security.” Along with doubt about Social Security’s longevity, there is a general apathy toward learning its basic functions and how it operates.

“Young people are uninformed and therefore misinformed,” EPI said. “They do not understand how Social Security works, who it affects, and how it fits into their future plans.”

EPI seeks to address the skepticism and lack of interest and understanding with the report.

On the Web at: http://w3.epi-data.org/temp2011/Social%20Security%20guide_FINAL.pdf. 

Census Bureau Releases Latest Statistics on State and Local Government Retirement Systems

The U.S. Census Bureau has released its quarterly survey covering finances of selected state and local government employee retirement systems.

The survey provides national summary statistics on the revenues, expenditures and composition of assets of the 100 largest state and local public employee retirement systems in the United States.

It presents the most current statistics about investment decisions by state and local public employee retirement systems. The statistical tables are published three months after each calendar quarter and show national financial transactions and trends for the past five years. The latest report covers the 1st Quarter of 2011.

On the Web at: <http://www.census.gov/govs/qpr>. 


GAO Faults Social Security Administration over Its Plans to Shift to Online Statements

The Social Security Administration (SSA) is developing a new Web portal to allow individuals to access their personal Social Security statements online, but according to the Government Accountability Office (GAO), the system has not been fully tested and SSA officials do not know when the online statement will be available to the public.

The SSA also has not planned for publicizing the online statement or ensuring access for individuals without Internet access or English proficiency. And, without a total cost estimate for the project, it is unclear how many beneficiaries will request mailed statements after the online system is up and running. “It is unknown if SSA will realize the budget savings it expects from suspending statement mailings, at least in the short-term,” GAO said in its report.

“Although SSA expects to improve the usefulness of the statement for some by moving it to an online format, the agency is taking only limited steps to improve the statement’s overall content and design,” GAO said.

GAO is recommending that the SSA ensure access to the statement for all workers, including those without Internet access or English proficiency. In comments, SSA noted that paper statements will continue to be available, on request, in English and Spanish.

On the Web at: <http://www.gao.gov/products/GAO-11-787T>. 

SEC's Proxy Access Rule Vacated by U.S. Circuit Court

A three-judge panel of the U.S. Court of Appeals for the District of Columbia has vacated the Securities and Exchange Commission's 2010 "proxy access" rule (SEC Rule 14a-11).

This rule was designed to change shareholder nominations in elections for company boards of directors. In its ruling on *Business Roundtable and Chamber of Commerce of the United States of America v. Securities and Exchange Commission*, the court indicated that the SEC enacted the rule in violation of the Administrative Procedure Act because the SEC failed adequately to consider the rule's effect upon efficiency, competition and capital formation.

Unlike certain other aspects of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the SEC was authorized – but not required – to establish rules governing access to proxy statements. Rule 14a-11 was adopted on Aug. 25, 2010, in a 3-2 vote split along party lines and challenged by the Business Roundtable and U.S. Chamber of Commerce in a lawsuit filed on Sept. 29, 2010.

Rule 14a-11 would have required public companies to permit any shareholder or group of shareholders owning at least 3% of a public company's voting stock for at least three years to include director nominees in company proxy materials.

The rule applied to all public companies and registered investment companies subject to the proxy rules, unless applicable state or foreign law or a company's governing documents prohibited shareholders from nominating board candidates. At the same time it adopted Rule 14a-11, the SEC also adopted amendments to Rule 14a-8 that would permit shareholders to include proposals in the company's proxy materials to establish procedures for shareholders to nominate directors (such as proxy access bylaws), although the revisions to Rule 14a-8 were not challenged in the lawsuit.

In its ruling, the court stated that "the Commission inconsistently and opportunistically framed the costs and benefits of the rule; failed adequately to quantify the certain costs or to explain why those costs could not be quantified; neglected to support its predictive judgments; contradicted itself; and failed to respond to substantial problems raised by commenters."

The court also criticized the SEC's cost-benefit analysis relating to application of the rule to investment

companies registered under the Investment Company Act of 1940.

The ruling was hailed by U.S. Chamber of Commerce, the Investment Company Institute and the Independent Directors Council.

On the Web at: [http://www.cadc.uscourts.gov/internet/opinions.nsf/89BE4D084BA5EBDA852578D5004FBBBE/\\$file/10-1305-1320103.pdf](http://www.cadc.uscourts.gov/internet/opinions.nsf/89BE4D084BA5EBDA852578D5004FBBBE/$file/10-1305-1320103.pdf), <http://www.uschamber.com/press/releases/2011/july/us-chamber-and-business-roundtable-applaud-court%E2%80%99s-decision-vacate-proxy-ac> and http://www.ici.org/pressroom/news/11_news_proxy_access.

GAO Studies Difficult Choices Seniors Must Make to Ensure Income Throughout Retirement

A new report from the Government Accountability Office (GAO) examines how seniors can stretch their retirement savings to help ensure that they don't outlive their savings.

GAO said increases in life expectancy, as well as the growing trend for plans to shift from defined benefit (DB) pension plans to defined contribution (DC) plans, put pressure on workers and retirees to make difficult decisions and manage their pension and other financial assets so that they have income throughout retirement.

GAO interviewed financial experts who recommended that retirees systematically draw down their savings and convert a portion of their savings into an income annuity to cover necessary expenses, or opt for the annuity provided by an employer-sponsored DB pension instead of a lump-sum withdrawal.

In addition, individuals should delay receipt of Social Security benefits until reaching at least full retirement age and, in some cases, continue to work and save, if possible.

Among the choices that retirees have made, GAO found that most retirees rely primarily on Social Security and pass up opportunities for additional lifetime retirement income. Taking Social Security benefits when they turned 62, many retirees born in 1943, for example, passed up increases of at least 33 percent in their monthly inflation-adjusted Social Security benefit levels available at the full retirement age of 66, GAO found.

Moreover, most retirees who left jobs with a DB pension received or deferred lifetime benefits, but only 6 percent of those with a DC plan chose or purchased an

GAO Study continued on next page

GAO Study continued from previous page

annuity at retirement, GAO found. Those in the middle income group who had savings typically drew down those savings gradually.

“Nonetheless, an estimated 3.4 million people (9 percent) aged 65 or older in 2009 had incomes (excluding any noncash assistance) below the poverty level,” according to the report, “Retirement Income: Ensuring Income throughout Retirement Requires Difficult Choices.” Among people of all ages the poverty rate was 14.3 percent.

“To help people make these often difficult choices, policy options proposed by various groups concerning income throughout retirement include encouraging the availability of annuities in DC plans and promoting financial literacy,” the report said.

On the Web at: <http://www.gao.gov/products/GAO-11-400>. 

JP Morgan Admits to Anticompetitive Conduct by Former Employees in the Municipal Bond Market

JP Morgan Chase & Co. has agreed to pay \$228 million to settle Department of Justice charges of anticompetitive activity in the municipal bond investments market. The agreement will pay for restitution, penalties and disgorgement to federal and state agencies, DOJ said.


The settlement comes on the heels of JP Morgan Securities LLC agreeing in June to pay \$153.6 million to settle Securities and Exchange Commission (SEC) charges that it misled investors in the sale of a mortgage-backed security. In that case, JP Morgan did not admit or deny the charges.

But as part of its agreement with DOJ, JP Morgan admitted, acknowledged and accepted responsibility for illegal, anticompetitive conduct by its former employees, DOJ said.

DOJ said that from 2001 through 2006, certain former JP Morgan employees at its municipal derivatives desk entered into unlawful agreements to manipulate the bidding process and rig bids on municipal investment and related contracts. These contracts were used to invest the proceeds of, or manage the risks associated with, bond issuances by municipalities and other public entities.

“By entering into illegal agreements to rig bids on certain investment contracts, JP Morgan and its former executives deprived municipalities of the competitive

process to which they were entitled,” said Assistant Attorney General Christine Varney in charge of the Department of Justice’s Antitrust Division.

On the Web at: http://www.justice.gov/atr/public/press_releases/2011/272815a.pdf. 

SEC Agrees with GAO Recommendation to Better Track Departing Employees

The U.S. Government Accountability Office (GAO) has just completed an investigation of Securities and Exchange Commission (SEC) employees who leave the SEC to work for firms regulated by the SEC, or law firms or consulting firms that represent them.

In the report, “Securities and Exchange Commission: Existing Post-Employment Controls Could Be Further Strengthened,” GAO recommends that the SEC establish standards for the documentation of ethics advice on current and post-employment issues associated with the movement of employees between SEC and other employers.

GAO indicated that the SEC generally agrees with its recommendations and stated that the SEC has begun drafting standards.

The “revolving door” being used by former SEC employees came to light earlier this year, and raised questions about the potential impact on the SEC’s ability to effectively carry out its mission, including the potential for undue influence by former SEC employees on SEC investigations or other matters.

The GAO found that the SEC historically has not collected future employer information from separating employees on an agency-wide basis. As a result, the agency does not have complete information on where former SEC officials went to work following their SEC employment.

Based on available SEC attrition data, about 37 percent of the more than 2,000 employees who separated from SEC between October 2005 and September 2010 were in occupation categories that included examiners, accountants, economists, or attorneys – “occupations particularly relevant to SEC examinations and investigations,” GAO said.

The report noted that academic researchers and citizen advocacy groups told the GAO that this revolving door of employees created “the appearance of potential conflicts of interest when former SEC staff work for or represent regulated firms.”

On the Web at: <http://www.gao.gov/new.items/d11654.pdf>. 

Legislation Would Bring Congressional Retirement Age in Line with Social Security

U.S. Rep. Bobby Schilling (R-Ill.) has introduced legislation that would tie Members of Congress' access to their federal pensions to the Social Security retirement age of their constituents.

H.R. 2397, the Congressional Retirement Age Act of 2011, has been endorsed by the National Taxpayers Union (NTU). Identical legislation was introduced in the Senate by Sen. Sherrod Brown (D-Ohio).

Members of Congress can generally retire with a full pension at the age of 62, but if a Member has served for 25 years they can retire with a full pension as early as age 50. The working Americans that Members of Congress represent, on the other hand, are eligible to receive full Social Security benefits at age 65 at the earliest. Preliminary estimates from the Congressional Budget Office indicate that the legislation would save approximately \$10 million to \$15 million over 10 years.

Schilling has pledged to not accept the congressional pension.

"All Members of Congress should be able to agree that focusing on their retirement system first will provide a solid fiscal and moral foundation for building a consensus on necessary budget reforms throughout government," said Pete Sepp of the NTU. He added that NTU will work with Schilling and Brown to get the legislation to the president's desk "as soon as possible."

The bill had 18 cosponsors as of press time.

On the Web at: <http://www.govtrack.us/congress/bill.xpd?bill=h112-2397>.

SEC Raises Performance Fee Rule Dollar Limit Used by Investment Advisers

The Securities and Exchange Commission (SEC) has issued an order that raises two of the thresholds that determine whether an investment adviser can charge its clients performance fees.

Rule 205-3 under the Investment Advisers Act allows an investment adviser to charge client performance fees if the client meets certain criteria, including two tests that have dollar amount thresholds.

Under the order, an investment adviser will be able to charge performance fees if the client has at least \$1 mil-

lion under the management of the adviser, or if the client has a net worth of more than \$2 million. Either of these tests must be met at the time of entering into the advisory contract. The previous thresholds were \$750,000 and \$1.5 million respectively, and were last revised in 1998.

The Dodd-Frank Wall Street Reform and Consumer Protection Act required the SEC to issue an order to adjust these dollar amount thresholds for inflation by July 21, 2011, and every five years thereafter.

On the Web at: <http://www.sec.gov/rules/other/2011/ia-3236.pdf>.

Federal Reserve Finds Public Fund Assets Grew \$100 Billion in 1st Quarter, 2011

State and local government employee retirement fund assets totaled \$3.03 trillion on March 31, 2011, up from \$2.93 trillion on December 31, 2010, an increase of \$100 billion (or 3.5%, based on the unrounded asset values), according to the Board of Governors of the Federal Reserve's Flow of Funds statistical report, released in June.

As compared to the recent low of \$2.17 trillion on March 31, 2009, total assets have increased \$860 billion, or 40%.

In 2011, the state and local retirement funds' holdings of corporate equities totaled \$1.86 trillion (61% of total assets) up from \$1.64 trillion (59% of total assets) one year earlier.

On the Web at: <http://www.federalreserve.gov/releases/z1/current/z1.pdf>.