



PENSION & BENEFITS QUARTERLY

Webcor Field Trip: Transbay Terminal

On Friday March 6th, thirteen of your hearty and hale Western Pension members donned hardhats, safety vests, and stylish protective glasses for a Webcor-sponsored tour of the new Transbay Terminal currently under construction. The Transbay Terminal is the “Grand Central Station of the West,” joining eleven transit systems into a major hub just south of market. Overall construction cost is slated at \$4.5 billion (for comparison, the entire Bay Bridge replacement project was \$6.4 billion).



We next visited two areas of the construction site. We peered down into the excavated site, which is now not so deep. This is because the first transit level, consisting of the lower train platforms, has been completed, while work proceeds upward to the next transit level. We also watched as work continued on the steel skeleton (pictured) arising out of the central block of the project. From there, we viewed the area cleared for the bus ramps to run to and from the Bay Bridge.

Our group was first treated to a virtual tour of the project, followed by a discussion of the engineering and construction challenges led by project engineers and safety experts. We learned, for instance, that digging that huge hole near the Orrick and Schwab buildings was not step one, or even step three, of the project. Excavation was step five or six, depending on how you count! Step one was relocation of the many utilities in the site to other areas, followed by the establishment of the temporary transit center now in use.

Construction of this innovative and interesting complex is scheduled to finish in Fall 2017. In the meantime, you can take the virtual tour, and learn much more about the Transbay Terminal, at <http://www.transbaycenter.org>

Thank you to Webcor Builders for providing this tour and Jacqueline Tona, Director of Human Resources, for making this happen! Also thank you to Lori McKenzie and Tim Shortt for establishing our Field Trip program and bringing us such great tours. Please watch for more Western Pension Field Trips!



From this...

Exterior and Interior Platform, 1939



To this...

Cross-Section and Exterior, 2017

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THE 2014 NOBEL PEACE PRIZE CEREMONY

BY:
GEORGE PINTO

In December 2014, I had the rare, once-in-a-lifetime opportunity to attend the historic 2014 Nobel Peace Prize ceremony in Oslo, Norway. My older son Liam accompanied me, no doubt glad to be out of school for a few days. Prior to the Nobel Peace Prize ceremony, we stopped in Stockholm, Sweden, for some of the other Nobel Prize events for Medicine, Physics, Chemistry, and Economics. We were not able to attend any event related to the Nobel Prize for Literature.

The symbolism of the 2014 Nobel Peace Prize, shared by an Indian and a Pakistani (two countries with a troubled history) was not missed by the Nobel Peace Prize Committee. In making the announcement on October 10, 2014 of the award to Mr. Kailash Satyarthi (India, and a Hindu) and Ms. Malala Yousafzai (Pakistan, and a Muslim), Mr. Thorbjørn Jagland, Chairman of the Norwegian Nobel Peace Prize Committee, stressed the significance of the 2014 award by saying, "The Nobel Committee regards it as an important point for a Hindu and a Muslim, an Indian and a Pakistani, to join in a common struggle for education and against extremism." The press release stated that the Nobel Peace Prize "was awarded for their struggle against the suppression of children and young people and for the right of all children to education."

The Nobel Peace Prize is awarded in Oslo every year on December 10th, the anniversary of Mr. Alfred Nobel's death. The 2014 co-winner, Ms. Malala Yousafzai is the youngest-ever Nobel Prize winner and the fifth Muslim to win the Nobel Peace Prize since 2003. Malala, who was shot by the Taliban while going to school, has already achieved iconic status at a young age, which will help her struggle to educate children, especially girls. At age 17, most teenagers have a lot on their mind, a Nobel Prize not being one of them. Interestingly, Malala continues to lead a "normal" life, pursuing her studies in England; and she promotes her cause when school is out. She will be at San Jose State University delivering a lecture on June 26, 2015.



Ms. Malala Yousafzai (center) and her friends on the eve of the Nobel Peace award. Two of her friends in the picture were on the bus when she was shot by the Taliban; those two friends were also shot.

Lesser-known but immensely deserving and accomplished, is the 2014 co-winner Mr. Kailash Satyarthi. He gave up a well-paid career as an electrical engineer in 1980 to fight for children's rights. Physically beaten several times during his rescues of children from slavery and child labor, he has persevered undaunted by the task at hand (approximately 150 million children world-wide work instead of being in school and many are being trafficked, including in developed countries like the USA and UK). Mr. Satyarthi has rescued approximately 80,000 children to date and that number continues to rise. He works globally with a number of organizations on children rights.

The Nobel Peace Prize was formally awarded in Oslo City Hall in the presence of the King of Norway. The winners each gave a lecture on their work to an audience that included the Prime Minister of Norway and other notable politicians. In the crowd was Queen Latifah (who was MC of the Peace concert the next day) and other celebrities like Steven Tyler. In keeping with tradition, that evening the recipients stood on a balcony of the Grand Hotel and waved to a crowd, most holding lit candles which symbolize peace. The King of Norway hosts an elaborate banquet at the Hotel in honor of the winners. The 2014 recipients each received US \$750,000, a gold medal, and a diploma. If sold, the gold medal alone is worth several million dollars. But there is no price on the prestige and worldwide recognition the award brings, the Peace Prize being the jewel in the Nobel crown.

I left Oslo humbled and awed by the accomplishments of the winners and their incredible fight for children's rights. The worst crime is a crime against a child, and the events of those memorable days continue to remind me that a lot is yet to be done.

In January 2015, the Pope made Joseph Vaz a Catholic saint. Vaz was born in Goa (my ancestral state in India) and I was fortunate to be at the canonization event in Sri Lanka for this "Saint of Peace" as he is affectionately known. Peace seems to be relatively popular but not as popular, and profitable as war. Fortunately peace has its own warriors. Blessed are these and other peacemakers.

If you ever get a chance to attend the Nobel Peace Prize events, including the actual ceremony, don't miss the opportunity. For more information please visit <http://nobelpeaceprize.org>

George Pinto is a Certified Public Accountant, specializing in ERISA plan audits. He is a member of Western Pension & Benefits Council, serving on the S.F. Chapter Board of Directors as Treasurer. He also teaches part-time in the Philosophy Department at San Jose State University. George can be reached at 1-408-230-4858 or george@cpas-svac.com.



Left to right: Liam Pinto, Mr. Kailash Satyarthi and his wife, and George.



PAST PRESIDENT'S COLUMN KENT BUCKLES



It has been a number of years since I have worked in the Bay Area, although we have maintained our home in the East Bay throughout. I think fondly upon the days when I was involved with Western Pension. Our meetings were typically at the Sheraton Hotel on Market Street, or at the Ferry Terminal.

Planning the meetings was always a challenge. Settling on topics and speakers that would inform and hopefully draw a crowd was the objective. It was always fairly obvious if you had hit the mark or not. Planning the Annual Meeting was a big job, but also was a lot of fun. During my tenure (1995-1997) we hosted at Lake Tahoe at the Hyatt.

I tell people who ask that I have been very lucky over the course of my career to work in various phases of the retirement industry. While in San Francisco, I worked for a benefits and consulting firm that had a large record-keeping unit. That company was acquired by a New York-based financial services firm where I worked for about three years. I then was recruited to lead a venture-backed TPA roll-up firm, which was about a seven-year stint until we sold the firm to a West Coast-based insurance company. I worked there for about three years before joining my current firm, a Southeast-based Trust Company.

As I said, I have been fortunate because I have been involved in different aspects of our industry, in different parts of the country. The industry has made great strides. Technology is greatly improved. The markets have generally been favorable. Savings are growing and at least for now employment is strong.

In the end, the most important part of what we do is relationship building. That includes relationships with other employees, clients and vendors.

Thanks for the memories. I wish you all the best.

(Note: Kent Buckles served as Chapter President 1995–1997.)

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Silver

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Charles Schwab
Hanson Bridgett LLP
Lindquist LLP
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Orrick, Herrington & Sutcliffe LLP
Prudential Retirement

Bronze

Burr, Pilger & Mayer
GCA Law Partners LLP
Mercer
Primark Benefits
Principal Financial Group
Silicon Valley Accountancy Corp.
Transamerica Retirement Solutions



MEMBER PROFILE

Richard Takahashi



Name:	Richard K. Takahashi
Company:	The Permanente Medical Group – TPMG
Title:	Benefits Manager
Education:	B.S. Political Economy of Natural Resources, UC Berkeley. MBA, University of Hawaii
Years in the industry:	25+
Please tell us about your first “real” job:	Trust Accountant in the Employee Benefits Division at American Trust Company in beautiful Honolulu, Hawaii. Everyone wore Aloha shirts on Friday.

BUSINESS BACKGROUND

Nature of your work: I provide health & welfare and retirement benefits to Kaiser Permanente physicians and retirees for Northern California.

How you got into the field: Luck – I just fell into employee benefits. While attending graduate school, I got a job at a small employee benefits trust company called American Trust in Honolulu.

What you like about the field: It encompasses such a wide variety of opportunities and skill sets that lie on different ends of the talent spectrum. For example, you may have to interpret a legal plan document and get into the technical aspects of ERISA and then turn around and write a communications piece to explain it to a lay person. Or one day, you could be dealing with a system issue (hopefully not a data breach), so you have to deal with operations and data files and the next day, hold a meeting with a future retiree that requires you to draw on your interpersonal skills.

I also like the fact that benefits is one of the few jobs that allows you to interact with employees from their first day of hire to their last. In between these events, as you administer the benefits program you have a chance to keep in contact with them during their entire career with the company. As a bonus, you may also get to help retirees. Your job is to keep everybody happy by providing great customer service. This can be very rewarding.

PERSONAL

Ways you spend free time: Working outside in my backyard vegetable garden. I like to cook and eat and try new foods. I enjoy long walks on the beach and playing with my two cats and of course spending time with my friends and family.

Guiding philosophy: Attitude counts, timing is everything, be inclusive not exclusive and laugh more.

Favorite charities: Doctors Without Borders, Red Cross and The Marine Mammal Center.

Last books read: Does *Wine Enthusiast* count? *Life of Pi*.

Restaurant recommendations: Kiraku in Berkeley, Bistro Liaison, Café Rouge, Gary Danko.

What will you do when you retire: I would like to be a food critic, because I have always been interested in food and the restaurant business. It's a tough job, but somebody has to do it.





Qualified Retirement Plans

Amended Safe Harbor Explanations for Eligible Rollover Distributions and Model Notices: On November 24, 2014, the Internal Revenue Service ("IRS") published Notice 2014-74, which updates two safe harbor explanations in Notice 2009-68 (issued in September 2009) used to satisfy the requirement under Internal Revenue Code ("Code") Section 402(f) for certain information to be provided to recipients of eligible rollover distributions. The amendments reflected in Notice 2014-74 relate to: (a) the allocation of pre-tax and after-tax amounts; (b) distributions in the form of in-plan Roth rollovers, and (c) certain other clarifications to the two safe harbor explanations. The first safe harbor applies to distributions that are not from a designated Roth account. The second applies to distributions from a designated Roth account. The amendments to the safe harbor explanations and model notices may be used for plans that apply the guidance in Notice 2014-54 (issued in September 2014) with respect to the allocation of pre-tax and after-tax amounts. Notice 2014-74 specifies that while the updated safe harbor explanations may be used to satisfy Code Section 402(f), they cannot be used to the extent they are no longer accurate because of a change in the relevant law occurring after December 8, 2014. The instructions in Notice 2009-68 on how to use the safe harbor explanations continue to apply. <http://www.irs.gov>

Pension Benefit Guaranty Corporation ("PBGC") Issues Final Rule on Rollovers: On November 25, 2014, the PBGC published a final rule that amends the PBGC's valuation and benefit payments regulations to clarify the treatment of benefits resulting from a rollover distribution from a defined contribution plan to a defined benefit plan, where the defined benefit plan is terminated and trustee by the PBGC. Under the final rule, a benefit resulting from rollover amounts generally will be in the second highest priority of the asset allocation among various classes of benefits and generally will not be subject to the PBGC's maximum guaranty or phase-in limitations. The PBGC stated in Press Release No. 14-16 that "the agency hopes to encourage people to get lifetime income by removing potential barriers to moving their benefits from defined contribution plans to defined benefit plans." The final rule became effective December 26, 2014. <http://www.pbgc.gov>

Final Rule with Table for Determining Expected Retirement Ages: On December 1, 2014, the PBGC published amended rules on the allocation of assets in single-employer plans by substituting a new table for determining expected retirement

ages for participants in pension plans undergoing distress or involuntary termination with valuation dates falling in 2015. The table is needed to compute the value of early retirement benefits and, thus, the total value of benefits under a plan. The PBGC determined that notice of, and public comment on, the rule is impracticable and contrary to the public interest, and that plan administrators need to be able to estimate the value of plan benefits as early as possible before initiating the termination process. The rule became effective January 1, 2015.

<http://www.pbgc.gov>

2014 Cumulative List of Changes in Plan Qualification Requirements: On December 5, 2014, the IRS released Notice 2014-77 which contains the list of changes in plan qualification requirements. The 2014 Cumulative List is to be used by plan sponsors submitting determination letter applications for plans during the period beginning February 1, 2015, and ending January 31, 2016. Plans using the 2014 Cumulative List will primarily be single employer individually designed defined contribution plans and defined benefit plans that are in Cycle E. The 2014 Cumulative List includes one item of guidance issued after October 1, 2014, namely Notice 2014-66, which provides a special nondiscrimination rule for a qualified defined contribution plan that provides lifetime income by offering, as investment options, a series of target date funds that include deferred annuities among their assets, even if some of the target date funds within the series are available only to older participants. The IRS will not consider any guidance issued after October 1, 2014 (except Notice 2014-66), statutes enacted after October 1, 2014, qualification requirements first effective in 2016 or later, or statutory provisions that are first effective in 2015, for which there is no guidance identified in Notice 2014-77. The 2014 final hybrid plan regulations will not be considered unless the plan has been amended to satisfy the final regulations, and the determination letter application states that a determination is requested that the plan complies with those final regulations.

<http://www.irs.gov>

2014 Form 5500 and Form M-1: On December 15, 2014, the Department of Labor ("DOL"), IRS, and PBGC released advanced copies of the 2014 Form 5500 (Annual Return/Report of Employee Benefit Plan), Form 5500-SF (Short Form Annual Return/Report of Small Employee Benefit Plan), and related instructions. The copies are for informational purposes and cannot be used to file an annual return. Modifications to the forms and their schedules are described under "Changes

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to Note” in the instructions. Filers should monitor the EFAST website for the availability of the official electronic versions for filing using EFAST-approved software or directly through the EFAST website. The final 2014 Form M-1 annual report for multiple employer welfare arrangements and instructions were updated with minor clarifications.

<http://www.dol.gov>

myRA Guidance: On December 15, 2014, the DOL published an Information Letter on whether retirement savings accounts established under myRA would be covered under ERISA. The Information Letter states that, given the character of the myRA program, including its voluntary nature, its establishment, sponsorship, and administration by the federal government, and the absence of any employer funding or role in its administration or design, an employer would not be establishing or maintaining an “employee pension benefit plan” within the meaning of ERISA based solely on that employees participate through payroll withholding contributions and that the employer distributes information, facilitates employee enrollment, and otherwise encourages employees to make deposits to myRA accounts. The footnotes to the Information Letter state, in relevant part, that: (1) the DOL would treat an employer as making employer contributions to a myRA if the employer reimbursed employees for amounts they contributed to a myRA; and (2) an endorsement of an Individual Retirement Account product or provider by an employer ordinarily is a significant consideration in determining whether the employer has established or maintained a pension plan under ERISA.

<http://www.dol.gov>

Updated Procedures and Changes to Employee Plans Determination Letter Processing: On December 19, 2014, the IRS published Announcement 2015-1 describing changes to the processing of employee plans determination letters. The changes are reflected in Revenue Procedures 2015-1 through 2015-8, which were published on January 2, 2015 in Internal Revenue Bulletin 2015-1 and became effective on February 1, 2015. Revenue Procedure 2015-6 outlines the procedures for issuing determination letters on the qualified status of employee plans. Announcement 2015-1 sets forth the procedures for incomplete applications, and states that the IRS will not conduct technical review of an application until it is procedurally complete. During the course of the technical review, the IRS may issue a written request for additional information from the applicant. The IRS has also released fillable Reference Lists for each year in the period 2010

through 2014 to allow applicants to indicate the specific provisions of the plan document that reflect the required changes, and encourages plans to use the Reference Lists to check whether the plan document is updated. Completed Reference Lists should be included with determination letter applications to facilitate IRS review of the plan document.

<http://www.irs.gov>

2015 Covered Compensation Tables for Retirement Plans: On December 22, 2014, the IRS released Revenue Ruling 2014-34 providing the covered compensation tables for use in calculating certain benefits under qualified pension, profit-sharing, and stock bonus plans for the 2015 plan year. For purposes of determining covered compensation for the 2015 year, the taxable wage base is \$118,500.

<http://www.irs.gov>

Automatic Approval of Change in Funding Method for Takeover Plans: On January 6, 2015, the IRS published Announcement 2015-3 which provides automatic approval of a change in funding method with respect to a single-employer defined benefit plan under certain circumstances in which the change in method results from a change in the plan’s enrolled actuary. A “takeover plan” is a plan that has changed both the enrolled actuary and the organization providing actuarial services. Announcement 2015-3 states the four conditions that must be satisfied for automatic approval. The automatic approval provided by Announcement 2015-3 applies retroactively to plan years beginning on or after January 1, 2013.

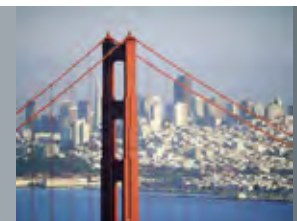
<http://www.irs.gov>

ERISA Section 4062(e) Developments: On January 22, 2015, the PBGC published a News Release explaining changes regarding ERISA Section 4062(e) under the Consolidated and Further Continuing Appropriations Act of 2015. The PBGC stated that future guidance will be issued. The PBGC also announced that it will not continue the six-month moratorium on the enforcement of ERISA Section 4062(e) that expired on December 31, 2014.

<http://www.pbgc.gov>

Guidance and Transition Relief for Charter Schools in Public Plans: On January 23, 2015, the IRS released Notice 2015-7, which describes rules that the IRS is considering relating to whether a state or local retirement system that covers employees of a charter school is a “governmental plan” within the meaning of Code Section 414(d). On November 8, 2011, an Advanced

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Notice of Proposed Rulemaking relating to the definition of a governmental plan was published and numerous comments were received. Notice 2015-7 describes the guidance under consideration, which would provide that employees of a public charter school may participate in a state or local retirement system if certain conditions are satisfied and discusses the potential for broader transitional relief once final regulations are issued. The IRS anticipates that the final regulations will provide that a state or local retirement system that covers employees of a public charter school that meets the requirements of the guidance under consideration for periods starting on and after the effective date of the final regulations will not fail to be a governmental plan, even if the plan covered those employees for periods before the effective date of the final regulations when the public charter school did not meet the requirements of the guidance under consideration. Comments are due by May 11, 2015.

<http://www.irs.gov>

Revised Standard and Distress Termination and Missing Participant Forms and Instructions: On January 29, 2015, the PBGC revised the standard and distress termination forms and instructions. These items are posted on the Plan Terminations page of the PBGC's website. Plan administrators with a plan terminating in a standard termination (or a distress termination that closes out in the private sector) must submit with the post-distribution certification the most recent plan document and proof of benefit distributions for lump sums paid and annuities purchased. This information must be provided with any post-distribution certification filed on or after March 1, 2015.

<http://www.pb.gc.gov>

Final Regulation on Annual Funding Notice for Defined Benefit Plans: On February 2, 2015, the DOL published a final regulation relating to the requirements for administrators of defined benefit plans to furnish a funding notice each year to the PBGC, plan participants and beneficiaries, labor organizations, and, in the case of a multiemployer plan, each employer that has an obligation to contribute to the plan. The final regulation is substantially similar to the proposed regulation, but some changes were made to simplify the disclosure and reduce cost burdens on plans, including the adoption of narrow exemptions and alternative methods of compliance. The final regulation also reflects changes made to ERISA Section 101(f) by the Multiemployer Pension Reform Act of 2014. The final rule is applicable to notices for plan years beginning on or after January 1, 2015, and addresses the content requirements and timing of funding notices, and

includes two model notices (one for single-employer plans and one for multiemployer plans). On January 14, 2015, the DOL published Field Assistance Bulletin ("FAB") 2015-1 which provides guidance under ERISA Section 101(f) relating to single-employer defined benefit plan annual funding notice requirements pursuant to the Highway and Transportation Funding Act of 2014, including a modified supplement to the model annual funding notice. Plan administrators are treated as satisfying the annual funding notice requirements if the plan administrator complies with FAB 2013-1 and FAB 2015-1, and has acted with a good faith, reasonable interpretation of the requirements regarding matters not specifically addressed in either FAB.

<http://www.dol.gov>

DOL Re-Proposes Fiduciary Rule: On February 23, 2015, the DOL sent its proposed "Conflicts of Interest Rule-Investment Advice" to the Office of Management and Budget for review. The proposal reflects the DOL's revised definition of a "fiduciary" for purposes of the ERISA standards of fiduciary conduct and the prohibited transaction rules under ERISA and Code. The DOL stated that it carefully considered comments received after September 2011, when the DOL withdrew its 2010 proposal. The DOL announced that the rule will be open for public comment and that a public hearing will be held. The White House released both a fact sheet and a related report from the Council of Economic Advisors. The DOL published a related set of FAQs.

<http://www.dol.gov>

User Fees and Change of Address for Submission of Applications for Approval of Section 403(b) Pre-Approved Plans: On February 26, 2015, the IRS issued Revenue Procedure 2015-22, providing new addresses for submitting applications for Code Section 403(b) pre-approved plan opinion and advisory letters. Revenue Procedure 2015-22 also inserts a user fee that was omitted from Revenue Procedure 2015-8. The modifications became effective on February 26, 2015.

<http://www.irs.gov>

Health & Welfare Plans

Proposed Regulations on Criteria for Limited Wraparound Coverage to be an Excepted Benefit and Pilot Program: On December 19, 2014, the Departments of Treasury, Labor, and Health and Human Services ("Departments") issued proposed regulations that establish five requirements under which limited benefits provided through a group health plan that wraps around either eligible individual insurance or coverage under a

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Multi-State Plan (limited wraparound coverage) constitute excepted benefits under the Health Insurance Portability and Accountability Act (“HIPAA”) and the Affordable Care Act. These five requirements replace the requirements in the Departments’ December 2013 proposed regulations on excepted benefits. The regulations also propose a temporary pilot program. Specifically, wraparound coverage could be offered as excepted benefits to coverage that is first offered no later than December 31, 2017, and that ends on the later of: (1) three years after the date the wraparound coverage is first offered; or (2) the termination date of the last collective bargaining agreement relating to the wraparound coverage.
<http://www.dol.gov>

Summary of Benefits and Coverage and Uniform Glossary: On December 30, 2014, the Departments issued regulations proposing revisions to the 2012 final Summary of Benefits and Coverage regulations (the “final SBC regulations”). The proposed regulations update the final SBC regulations to reflect changes in the law since 2012, incorporate guidance previously released in Affordable Care Act FAQs, and provide clarifications. The Departments also issued a revised model SBC template and updated Glossary. The proposed regulations go into effect, and the new SBC template and Glossary should be used, as of the first day of the first open enrollment period beginning on or after September 1, 2015.
<http://www.dol.gov>

2015 Poverty Levels: On January 22, 2015, the Department of Health and Human Services published a notice consisting of the annual poverty guidelines. Group health plans may consider these figures in determining whether or not health coverage is affordable for certain employees. The federal poverty line safe harbor generally treats coverage as affordable if the employee contribution for the year does not exceed 9.5% of the federal poverty line for a single individual for the applicable calendar year.
<http://www.hhs.gov>

Retiree Drug Subsidy (“RDS”) Center Help Line Discontinued: On February 3, 2015, the Centers for Medicare & Medicaid Services (“CMS”) announced that it will discontinue telephone support through its RDS Center Help Line on March 27, 2015. Plan sponsors will still be able to contact the RDS Center by using the new support request feature in the RDS secure website or by submitting email inquiries (with at-

tachments no larger than 25 megabytes). The announcement reminds plan sponsors that it may not include any Protected Health Information as defined in HIPAA, in emails or support requests.

<http://www.cms.gov>

Final Forms and Instructions for Health Coverage Information Reporting: On February 9, 2015, the IRS published final forms and instructions to assist with the information reporting requirements under the Affordable Care Act. On August 28, 2014, the IRS released draft instructions applicable to the draft versions of Forms 1094-B and C (Transmittals) and Forms 1095-B and C (Information Returns), which were released on July 24, 2014, and updated on October 15, 2014. Guidance is offered on how reporting entities must complete and submit the forms to the IRS, furnish statements to participants, and key terminology is clarified. Specific rules for information reporting by multiemployer plans and transition relief is explained. Additionally, the instructions address the modifications of data systems that may be necessary for reporting in 2016 (for coverage provided in calendar year 2015). Per the instructions, IRS Publication 5165, Affordable Care Act Information Returns Guide for Software Developers and Transmitters (“AIR”), is under development and should provide insight into communication procedures, transmission formats, business rules and validation procedures for returns filed electronically through the AIR system.
<http://www.irs.gov>

Guidance on Excepted Supplemental Benefits: On February 13, 2013, the Departments published FAQs about the Affordable Care Act (Part XXIII). Prior guidance provided a safe harbor for supplemental insurance products designed to fill gaps in primary coverage, such as coinsurance or deductibles. Per the FAQs, the Departments will continue to treat coverage as “similar supplemental coverage provided to coverage under a group health plan” within the enforcement safe harbor if it is a separate policy, certificate, or contract of insurance and if it satisfies all of the following requirements: (1) the supplemental policy, certificate, or contract of insurance must be issued by an entity that does not provide the primary coverage under the plan; (2) the supplemental policy, certificate, or contract of insurance must be specifically designed to fill gaps in primary coverage, such as coinsurance or deductibles; (3) the cost of coverage under the supplemental policy, certificate, or contract of insurance must not exceed 15 percent of the cost of primary coverage; and (4) the supplemental policy, certificate, or contract of insurance that is group health

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insurance coverage must not differentiate among individuals in eligibility, benefits, or premiums based on any health factor of an individual. The Departments intend to propose that coverage of additional categories of coverage would be considered to be designed to “fill in the gaps” of the primary coverage only if the benefits covered by the supplemental insurance product are not an essential health benefit (“EHB”) in the state where it is being marketed. If any benefit in the coverage is an EHB in the state where it is marketed, the insurance coverage would not be an excepted benefit. Pending publication of the proposed regulations, the Departments will not initiate enforcement if an issuer of group or individual health insurance coverage fails to comply with the provisions with respect to health insurance coverage that: (1) provides coverage of additional categories of benefits that are not EHB in the applicable State (as opposed to filling in cost-sharing gaps under the primary plan); (2) complies with the applicable regulatory requirements and meets all of the criteria in the existing guidance on “similar supplemental coverage”; and (3) has been filed and approved with the State. <http://www.dol.gov>

Transition Relief From Excise Tax for Small Employers: On February 18, 2015, the IRS published Notice 2015-17 which provides limited transition relief from the assessment of the excise tax under Code Section 4980D for small employers (i.e. employers who are not applicable large employers (“ALEs”)) who reimburse or pay a premium for an individual health insurance policy for an employee. Notice 2015-17 also addresses: (a) the treatment, for federal tax and for market reform purposes, of arrangements reimbursing premiums of 2% S-corporation shareholder-employees; and (b) the application of the Affordable Care Act’s market reform provisions to certain employer arrangements to fund Medicare premium payments or to provide a TRICARE-related health reimbursement arrangement (“HRA”). Relief is not provided to small employers who offered stand-alone HRAs or other arrangements to reimburse employees for medical expenses other than insurance premiums. Employers that offer health coverage through arrangements that constitute an “employer payment plan” will owe an excise tax if they fail to comply with the market reforms provisions. The excise tax will not be imposed for any failure to satisfy the market reforms by employer payment plans that pay or reimburse employees for individual health policy premiums or Medicare Part B or Part D premiums (1) for 2014 for employers that are not

ALEs for 2014, and (2) for January 1 through June 30, 2015 for employers that are not ALEs for 2015. After June 30, 2015, such employers may be liable for the excise tax. Clarifications regarding other aspects of employer payment plans and HRAs will be provided in future guidance.

<http://www.irs.gov>

“Cadillac Tax” Guidance: On February 24, 2015, the IRS issued Notice 2015-16 describing potential approaches for several issues with respect to the 40% excise tax (also referred to as the “Cadillac Tax”) on high-cost employer-sponsored health coverage under Code Section 4980I, which applies to taxable years beginning after December 31, 2017. Notice 2015-16 addresses the following concerns: (1) the definition of applicable coverage; (2) the determination of the cost of applicable coverage; and (3) the application of the annual statutory dollar limit to the cost of applicable coverage, and outlines detailed approaches. Comments are due by May 15, 2015.

<http://www.irs.gov>

Regulations on the Health Insurance Providers Fee: On February 26, 2015, the IRS published final and temporary regulations and a notice of proposed rulemaking on how it will impose a fee on health insurers as mandated by the Affordable Care Act. The temporary regulations amend existing rules to incorporate guidance in IRS Notice 2014-47 (issued in August 2014). Specifically, starting in the 2015 fee year, an entity qualifies for an exclusion under section 9010 of the Affordable Care Act if it qualifies for an exclusion for the entire data year ending on the prior December 31, or for the entire fee year beginning on January 1. An entity that qualifies for an exclusion is not a covered entity for that fee year and must not report its net premiums written. The temporary regulations also impose two additional requirements: (1) a general consistency requirement that binds an entity to its original selection of either the data year or the fee year (its test year) to determine whether it qualifies for an exclusion for the 2015 fee year and each subsequent year; and (2) a special rule for an entity that uses the fee year as its test year. If an entity using the fee year as its test year does not report its net premiums written because it expects to qualify for an exclusion, but ultimately does not qualify for an exclusion, the entity must use the data year as its test year in all subsequent fee years. Notice 2014-47 provided that a controlled group must report net premiums written only for each person who is a controlled group member at the end of the day on December 31 of the data year and who would qualify as

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a covered entity in the fee year if it were a single-person covered entity (that is, not a member of a controlled group). Under the temporary regulations, a controlled group must not report net premiums written for any controlled group member who would fail to be a covered entity in the fee year if it were not a member of a controlled group. Comments on the proposed rule are due by May 27, 2015. These regulations are effective on February 26, 2015.

<http://www.irs.gov>

Windsor Guidance

CMS Ruling on Policies for Implementing the Windsor Decision:

On February 13, 2015, the Department of Health and Human Services, CMS published a Ruling stating policies for implementing the Supreme Court's decision in *United States v. Windsor*, 570 U.S. 12, 133 S. Ct. 2675 (2013) for purposes of certain entitlement, eligibility and enrollment provisions for Medicare. The Ruling states that the rules for recognizing a same-sex marriage (and treatment of a same-sex relationship that is not a marriage) for purposes of eligibility and entitlement controlled by Title II of the Social Security Act (the "Act") are different than the rules for recognizing a same-sex marriage (and treatment of a same-sex relationship that is not a marriage) for benefits provided under Title XVIII of the Act. Per the Ruling, in the absence of controlling law to the contrary, CMS maintains a policy of treating same-sex marriages on the same terms as opposite-sex marriages to the greatest extent reasonably possible and of recognizing marriages between individuals of the same sex who were lawfully married under the law of the state, territory, or foreign jurisdiction where the marriage was entered into ("celebration rule"), regardless of where the couple resides. The Ruling is applicable beginning February 9, 2015, with respect to appeals pending on, initiated, or reopened after February 9, 2015, for entitlement and enrollment determinations made on or after June 26, 2013.

<http://www.cms.gov>

Final Rule on Definition of "Spouse" under the Family and Medical Leave Act of 1993 ("FMLA"): On February 25, 2015, the Department of Labor ("DOL") issued a final rule amending the regulatory definition of "spouse" under the FMLA in light of the *Windsor* decision. The final rule tracks the proposed regulations that were issued in June 2014. The final rule changes the regulatory definition of "spouse" to look to the law of the place in which the marriage was entered into ("place of

celebration"), as opposed to the law of the state in which the employee resides ("state of residence"). The final rule's definition of spouse expressly includes individuals in lawfully recognized same-sex and common law marriages and marriages that were validly entered into outside of the United States if they could have been entered into in at least one state. The final rule is effective on March 27, 2015. A Fact Sheet, FAQs, and other related guidance is published on the DOL's website.

<http://www.dol.gov>

Supreme Court of the United States

Supreme Court Hears Arguments on Availability of the Affordable

Care Act's Tax Subsidies: On March 4, 2015, the Supreme Court of the United States (the "Supreme Court") heard oral arguments in *King v. Burwell* on whether the IRS may permissibly promulgate regulations to extend tax-credit subsidies to coverage purchased through Exchanges established by the federal government under the Affordable Care Act. The issue is the wording of Code Section 36B, which states individuals qualify for subsidies when they buy health insurance through an Exchange "established by the State." The Supreme Court is expected to issue its opinion in June 2015. Updates regarding the status of the case, including transcripts for all oral arguments, can be found on the Supreme Court's website.

<http://www.supremecourt.gov>

Legislation

Consolidated and Further Continuing Appropriations Act of 2015

("CFCA Act"): On December 16, 2014, the President signed the CFCA Act into law, which included the Multiemployer Pension Reform Act of 2014 ("MPRA"). The CFCA Act provides that expatriate health plans, sponsors, and health insurance issuers have relief from certain Affordable Care Act provisions, clarifies the "normal retirement age," and redefines "substantial cessation of operations" under ERISA Section 4062(e). MPRA makes changes to current laws affecting multiemployer pension plans. Most provisions became effective for plan years commencing after December 31, 2014. The significant changes under MPRA include the following:

- A permanent extension of certain Pension Protection Act ("PPA") provisions that were scheduled to sunset at the end of 2014.
- Expanded disclosure requirements and a standard for enforcement of noncompliance.

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- The designation of a new funding status labeled “critical and declining status,” and that plan sponsors of plans in this status may have the option to suspend benefits for both active and retired participants.
- Amended plan partition rules and authority for the PBGC to approve a partition without a bankruptcy requirement, and increased authority for the PBGC to facilitate plan mergers, including the statutory authority to provide financial assistance under certain conditions.
- An increase to the PBGC premiums to \$26 per capita for 2015 for multiemployer plans (on January 14, 2015, the PBGC’s “Premium Rates” webpage was updated to reflect this increase).
- A PBGC guarantee for qualified pre-retirement survivor annuities (“QPSAs”). QPSAs will be paid to a spouse surviving (on or after December 16, 2014) after a participant dies even if plan is terminated or insolvent.
- Numerous technical corrections and clarifications to the PPA and the Code.

<http://www.gpo.gov>

Guidance on MPRA: The IRS is inviting public comment with regard to guidance required to implement provisions of MPRA. The PBGC published FAQs on MPRA and issued a request for information to seek comments on the processes associated with applying for partition or merger assistance, including how such processes should be coordinated with the benefit suspension process.

<http://www.irs.gov>; and <http://www.pbgc.gov>

Executive Compensation

Reporting of Specified Foreign Financial Assets: On December 12, 2014, the IRS published final regulations relating to the reporting of specified foreign financial assets. Code Section 6038D, enacted as part of the Foreign Account Tax Compliance Act, requires individuals to report interests in specified foreign financial assets when filing their federal income tax returns for tax years beginning after March 18, 2010, using Form 8938, Statement of Specified Foreign Financial Assets. The final regulations state that individuals must attach a statement to their income tax return to provide required information regarding specified foreign financial assets in which they have an interest. Pensions and deferred compensation are included as one of the types of foreign

assets that may have to be reported. The final regulations cover the following topics: (1) the requirement to report specified foreign financial assets; (2) specified foreign financial assets; (3) information required to be reported; (4) valuation guidelines; (5) exceptions from the reporting of certain asset; and (6) penalties. The final regulations became effective on December 12, 2014.

<http://www.irs.gov>

Guidance on 2015 U.S. Equity Plan Scorecard, Compensation Policies and Benchmark Proxy Voting Policies: On December 22, 2014, the Institutional Shareholder Services (“ISS”) published guidance on the new Equity Plan Scorecard (“EPSC”). The FAQs address general questions, factor-related questions, and methodology-related questions pertaining to the EPSC. On February 9, 2015, ISS published guidance on its 2015 Compensation Policies and 2015 Proxy Voting Policies. The FAQs on the 2015 Compensation Policies cover general executive pay questions, management say on pay evaluation topics, and numerous equity-related topics. The FAQs on Benchmark Proxy Voting Policies cover proxy access proposals, exclusions of shareholder proposals, and the Unilateral Bylaw/Charter Amendments Policy. All guidance is effective for meetings on or after February 1, 2015.

<http://www.issgovernance.gov>

Proposed Rules for Hedging Disclosure: On February 9, 2015, the Securities and Exchange Commission (“SEC”) published a proposed rule amending prior rules to implement Section 955 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which requires annual meeting proxy statement disclosure of whether employees or members of the board of directors are permitted to engage in transactions to hedge or offset any decrease in the market value of equity securities granted to the employee or board member as compensation, or held directly or indirectly by the employee or board member. The proposed disclosure would be required in a proxy statement or information statement relating to an election of directors, whether by vote of security holders at a meeting or an action authorized by written consent. Comments are due on April 20, 2015.

<http://www.sec.gov>

Our deepest thanks to Anjuli Cargain of Saltzman & Johnson for her work on the Quarterly Regulatory Update.





Pete the Planner at Our March Chapter Meeting

On March 19, 2015, Peter Dunn a.k.a. “Pete the Planner” spoke at our Chapter meeting at the Hyatt Regency, San Francisco. Pete is an award-winning comedian, financial author, host of the radio program “The Pete the Planner Show,” and a columnist for the Indy Star. He has also appeared on various television shows as a personal finance expert.

Pete’s topic was “How Financial Wellness Programming Can Help Plan Sponsors Improve Employees’ Lives.” Pete began the program by mentioning a current critical issue in the retirement profession: that employees have delayed retirement and are not ready for retirement because they have not saved enough. Deferral rates are too low, a large percentage of workers are behind schedule, and dollars set aside for retirement are simply not enough. Some of the reasons for this situation are a lack of financial awareness and archaic financial programming. Pete feels that a focus on having good credit scores instead of a focus on building net worth significantly contributes to the problem. In addition, modern tools like easy online banking have not solved the underlying savings problem - people did not have online banking going back in time, but armed with only a checkbook register, they had a better handle on their finances and were in better financial health than today.

Pete mentioned four roadblocks to improving net worth, which in turn delays retirement: 1. Poor housing decisions where people take on mortgage debt without hoping to pay it down or pay it off (example: a 58 year-old taking on



a 30-year mortgage); 2. Unreasonable health care strategies where dependents are allowed to be on their parent’s insurance policy until age 26 when they should be encouraged to have their own insurance; 3. Cost of children’s education and educational loans taken by parents, which in turn delays the parents’ retirement; and 4. Overall financial support of adult children, which fosters dependence instead of encouraging financial independence.

Pete’s proposed solution is to simplify one’s financial lifestyle by focusing less on credit scores (which means less debt and less loans), and instead focus on building net worth by budgeting. One should take regular stock of where the household is spending money: housing, transportation, food, savings, utilities, charity, medical, clothing, entertainment, gifts, and miscellaneous expenses. Pete’s advice was in vogue until a generation or so ago, prior to when getting into more debt became the norm. Pete believes budgeting will build net worth, which in turn will lead to better financial health, thus preventing delaying retirement. All in all, a good talk interspersed with humor.

George Pinto is a Certified Public Accountant, specializing in ERISA plan audits. He is a member of Western Pension & Benefits Council, serving on the S.F. Chapter Board of Directors as Treasurer. He also teaches part-time in the Philosophy Department at San Jose State University. George can be reached at 1-408-230-4858 or george@cpas-svac.com.



MEMBER EVENT AND ANNUAL MEETING



Membership Has Its Benefits!

*The San Francisco Chapter Membership
Appreciation Event is set for
Wednesday, April 29 at Sens Restaurant*

The San Francisco Chapter Board of Directors is always finding new ways to recognize the value of your membership.

Last year, we added “Field Trips” – casual get togethers at interesting venues around the Chapter for our members to learn something new and have a casual encounter to network with other members.

On Wednesday, April 29, 2015, we will hold a *Membership Appreciation Night*. This event is free to members and prospective members and will be held at the beautiful Sens Restaurant on the Promenade Level of Four Embarcadero Center.

Join us from 5:00 PM – 7:00 PM for a casual reception and hosted beverages. We will also enjoy live music, networking and a Chapter raffle.

All at no cost to our members because we appreciate you!



2015 Annual Meeting San Francisco, July 19-22

About the Conference

This year the Western Benefit Conference celebrates its Tenth Anniversary with an event that you won't want to miss!

Designed specifically for retirement and health and welfare benefits professionals, and with an emphasis on practical issues that are important to plan sponsors and their advisors, the Western Benefits Conference offers an ideal opportunity to interact directly with nationally renowned speakers and government representatives.

You will learn from the best in the business, as we examine the Past, learn to deal with the Present, and prepare for the Future – at the 2015 Western Benefits Conference!

Conference Highlights

- Sessions Tailored for Plan Sponsors, Attorneys, Consultants, Health & Welfare Professionals, Actuaries, Investment Advisors and TPAs
- Up to 18 hours of continuing education credit
- Informal Roundtable Discussions with Leading Experts on the Latest Hot Topics
- IRS Question and Answer Sessions
- Exhibit Hall Filled with Vendors Showcasing the Latest Products and Services
- Many Networking Opportunities

Registration Information

<http://www.westernpension.org>



UPCOMING EVENTS AND REMINDERS



DISCLAIMER

While the Western Pension & Benefits Council seeks to include accurate and up-to-date information in the Newsletter, the Western Pension & Benefits Council makes no warranties or representations as to the accuracy of the material included in the Newsletter and assumes no responsibility for any errors or omissions in the content. Information contained in the Newsletter is believed to be correct as of the date of submission; however, the accuracy of the information may be affected by subsequent developments.

The Newsletter is provided on the understanding that the Western Pension & Benefits Council is not engaged in rendering legal, accounting or other professional advice. If legal advice or professional assistance is required, the services of an appropriate professional should be sought.

MAR 25 Silicon Valley Spring Conference

8:00 AM – 11:30 AM

Hyatt Regency Santa Clara

APR 9 S.F. Chapter Meeting

**Beyond K: What Other Employee Benefits are Occupying our Clients' Attention?
Three Topics: ESOPs / Non-Qual Plans / Health Benefits**

4:00 PM – 4:30 PM — Registration & Social

4:30 PM – 6:00 PM — Formal Program

6:00 PM – 7:00 PM — Social Hour

Hyatt Regency, Embarcadero San Francisco

APR 29 Membership Appreciation Event

5:00 PM – 7:00 PM

Sens Restaurant, Promenade Level,
Embarcadero Center

MAY 13 S.F. Chapter Spring Conference

8:00 AM – 12:30 PM

Hyatt Regency Embarcadero, San Francisco

Check our website (www.wpbc-sanfrancisco.org) for additional meeting dates, including Brown Bag meetings and Field Trips.

EMPLOYMENT OPPORTUNITIES

If you wish to post an employment opportunity on our website, please read the following note.

Listings must comply with applicable regulations for employment advertising. Online job postings are free to WP&BC San Francisco Chapter members. Call Jenifer McDonald at the Chapter office for more information, (415) 730-5479. Email all listings to info@wpbcSF.com



CHAPTER INFO AND BOARD OF DIRECTORS



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Scott Floyd

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The Newsletter welcomes contributions from its members. If you would like to submit a topical benefits-related article or compile the quarterly regulatory update for an upcoming issue, please contact Mikaela Habib at: MHabib@truckerhuss.com

Membership in the WP&BC San Francisco Chapter is open to individuals who are productively, substantially and continuously engaged in work in the field of employee benefits. Any individual who has been engaged in work in the field of employee benefits may become a member upon submission of a completed membership application, payment of dues, and approval by the Chapter Board of Directors. To join, visit <http://www.westernpension.org>.

