



REPORT OF THE TRUSTEE

Civille & Tang PLLC

Joyce C.H. Tang

Betty Johnson v. Ralph DLG. Torres, et al., CV 09-00023

Combined Fourth Quarter FY 2019 through First Quarter FY 2022

December 10, 2021

I. OVERVIEW OF SETTLEMENT FUND OPERATIONS

The Trustee presents her report on the operations of the Settlement Fund for the Fourth Quarter of Fiscal Year (“FY”) 2019 through the First Quarter of FY 2022.

The past two years have been extremely challenging for all. Throughout the COVID-19 Pandemic, the NMI Government (“Government”) has been diligent in paying the Minimum Annual Payment (“MAP”) in weekly allotments. This has enabled the Settlement Fund to avoid drawing downs on investments and to invest its reserves. The Trustee appreciates Governor Torres and Secretary of Finance David Atalig’s dedication and commitment to meeting the Government’s financial obligations under the Settlement Agreement.

A. CLASS MEMBERSHIP DATA

As of September 30, 2021, there are 2,701 Settlement Class Members, 49 who are active employees and 2,654 who are retirees, 22 of whom who have since returned to government service. The overall Class Membership decreased by 137 members from FY 2019:

	September 30, 2020	September 30, 2019
Participant Counts		
Active Employees (Class I)	45	54
Active Employees (Class II)	<u>3</u>	<u>4</u>
Total Active Employees	48	58
Retirees	<u>2,741</u>	<u>2,780</u>
Total Participants	2,789	2,838

A current breakdown of the distribution of benefit payments based on the Settlement Class Members’ place of retirement and classification is presented in **Chart 1** below.

Chart 1
(Period Ending 9/30/2021)

PLACE OF RETIREMENT	Total # of Members	NMISF Class Member Classification					Total Benefit Payments
		Retiree Disabled	Retiree	Surviving Child Disabled	Surviving Child	Surviving Spouse	
ROTA	281	\$ 27,037.55	\$ 4,581,105.06	\$ 6,455.04	\$ 37,099.67	\$ 874,167.75	\$ 5,525,865.07
SAIPAN	2166	\$ 223,415.07	\$ 37,805,325.43	\$ 35,594.64	\$ 284,433.12	\$ 6,624,946.13	\$ 44,973,714.39
TINIAN	183	\$ 17,855.72	\$ 3,125,731.24	\$ -	\$ 30,015.32	\$ 594,642.64	\$ 3,768,244.92
Total Payments @ 100%	2630	\$ 268,308.34	\$ 45,512,161.73	\$ 42,049.68	\$ 351,548.11	\$ 8,093,756.52	\$ 54,267,824.38
Total Payments @ 75%		\$ 201,231.26	\$ 34,134,121.19	\$ 31,537.26	\$ 263,661.09	\$ 6,070,317.39	\$ 40,700,868.18

Of the 2,630 members receiving benefit payments as of September 30, 2021, 82% are members from Saipan, 10% from Rota, and 8% from Tinian.

A breakdown of the distribution of benefit payments based on the Settlement Class Members' current place of residence and classification is presented in **Chart 2** below.

Chart 2
(Period Ending 9/30/2021)

PLACE OF RESIDENCE	Total # of Members	NMISF Class Member Classification					Total Benefit Payments
		Retiree Disabled	Retiree	Surviving Child Disabled	Surviving Child	Surviving Spouse	
CNMI	1896	\$ 207,877.30	\$ 34,834,566.50	\$ 27,682.80	\$ 250,631.07	\$ 6,110,110.40	\$ 41,430,868.07
CONTINENTAL U.S.	538	\$ 60,431.04	\$ 8,127,533.85	\$ 14,366.88	\$ 62,007.12	\$ 1,507,437.80	\$ 9,771,776.69
FSM	13	\$ -	\$ 186,996.72	\$ -	\$ 2,478.24	\$ 55,092.24	\$ 244,567.20
GUAM	107	\$ -	\$ 1,449,978.05	\$ -	\$ 15,120.54	\$ 245,802.47	\$ 1,710,901.06
NON U.S.	49	\$ -	\$ 459,204.96	\$ -	\$ 15,432.82	\$ 120,725.13	\$ 595,362.91
REPUBLIC OF PALAU	27	\$ -	\$ 453,881.65	\$ -	\$ 5,878.32	\$ 54,588.48	\$ 514,348.45
Total Payments @ 100%	2630	\$ 268,308.34	\$ 45,512,161.73	\$ 42,049.68	\$ 351,548.11	\$ 8,093,756.52	\$ 54,267,824.38
Total Payments @ 75%		\$ 201,231.26	\$ 34,134,121.19	\$ 31,537.26	\$ 263,661.08	\$ 6,070,317.39	\$ 40,700,868.18

Of the total payments, 76% of the total benefits paid in FY 2021 were made to CNMI residents, while 18% were paid to members living in the continental United States. The remaining 6% reside in Guam, other Micronesian islands, and non-U.S. jurisdictions.

B. MINIMUM ANNUAL PAYMENT AND OTHER SOURCES OF FUNDS

1. Minimum Annual Payment (“MAP”)

Milliman, Inc., the Settlement Fund’s actuary consultant, confirmed that the MAP for FY 2019 was \$44 million, \$42 million for FY 2020, and \$40 million for FY 2021, and projected a MAP of \$38 million for FY 2022. *See Actuarial Valuation Report as of September 30, 2018* at 1, attached hereto as **Exhibit 1**; *Actuarial Valuation Report as of September 30, 2019* at 1, attached hereto as **Exhibit 2**; *Actuarial Valuation Report as of September 30, 2020* at 1, attached hereto as **Exhibit 3**. The receipt of payments by the Settlement Fund is published on the Settlement Fund’s website and updated regularly at <https://www.nmisf.com/rfp/annual-payment-status/>.

The Government continued to pay the MAP for FY 2019, FY 2020, and FY 2021, based on the agreed upon bi-weekly schedule. *See Schedule of CNMI Government Contribution Payments (FY 2019)*, attached hereto as **Exhibit 4**; *Schedule of CNMI Government Contribution Payments (FY 2020)*, attached hereto as **Exhibit 5**; *Schedule of CNMI Government Contribution Payments (FY 2021)*, attached hereto as **Exhibit 6**. To date, the Government has paid \$4.4 million for FY 2022 MAP. *See Schedule of CNMI Government Contribution Payments (FY 2022)*, attached hereto as **Exhibit 7**.

Since the last draw down in FY 2019, the Settlement Fund was able to avoid drawing down on its investments to cover expenses not covered by the MAP in FY 2020 and FY 2021. This was due in large measure to: (1) the Government’s agreement and diligence in making payments each week towards the MAP; (2) the enactment of Public Law 20-33, which established a Settlement Fund Revolving Fund Account funded by NMI Gross Revenue Taxes exclusively used to pay for MAP payments from beginning in FY 2018 through FY 2024; and (3) the strong performance of the Fund’s investment portfolio.

2. Alternative Payment of a Greater Amount

The Settlement Agreement requires the Government to make Alternative Payment of a Greater Amount (“APGA”) equal to the difference of 17% of the Government’s Total Annual Revenue, after deducting the amount of MAP paid. *Settlement Agreement* ¶ 4.2 (ECF No. 468-1, at 11).

Based on the Government’s audited financial statements for FY 2017, the Settlement Fund was entitled to APGA for FY 2017 in the amount of \$17,693,237.40. *See Alternative Payment of a Greater Amount (FY 2017-2019)*, attached hereto as **Exhibit 8**. In 2019, pursuant to Public Law 21-10, the Settlement Fund received full payment of the APGA for FY 2017.

Based on the Government’s audited financial statements for FY 2018 and FY 2019, the Government is not required to pay APGA for FY 2018 and FY 2019. *See id.* Whether the APGA for FY 2020 and FY 2021 will be assessed have not been determined because the Government’s audited financial statements for these years have not been finalized.

3. 25% Benefit Payment

The Government remitted \$13.6 million to the Settlement Fund for FY 2021, and \$13.98 million for FY 2020. *See Accounting of 25% Payments by CNMI Government FY 2019-2021*, attached hereto as **Exhibit 9**. For FY 2019, the Government remitted \$14.2 million to the Settlement Fund for the 25% benefit payments. *See id.* While not required, the Government has voluntarily made the 25% benefit payments under the Settlement Agreement. The Settlement Fund has assisted with the processing of the 25% benefit payments conditioned on the Government’s timely payment of the MAP obligations, and fulfilling payment obligations such as the APGA. As of the date of this Report, the Government remitted \$2.8 million to the Settlement Fund for the 25% benefit payments. *See id.*

4. Employer Contributions

The Government and its Autonomous Agencies are required to submit employer contributions (“ER”) after each pay period pursuant to Paragraph 5.0 of the Settlement Agreement. The ER payments received in FY 2019, FY 2020, FY 2021, and FY 2022 as of the date of this Report are presented in **Chart 3** below.

Chart 3

		FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022 (as of 12/9/2021)
Agency	Applicable ER Rate	ER Payments Received					
CNMI Government - Local	30%	\$ 504,130.68	\$ 532,619.71	\$ 529,237.42	\$ 432,683.65	\$ 367,268.53	\$ 42,590.77
CNMI Government - Federal	37.3909%	\$ 42,944.83	\$ 21,229.43	\$ 8,245.14	\$ 72,890.77	\$ 56,650.13	\$ 10,628.07
Commonwealth Health Care Corporation (“CHCC”)	37.3909%	\$ 279,471.12	\$ 354,270.69	\$ 285,050.37	\$ 241,536.86	\$ 285,643.35	\$ 39,215.59
Public School System (“PSS”)	37.3909%	\$ 679,599.02	\$ 571,473.47	\$ 485,746.04	\$ 373,879.57	\$ 446,127.14	\$ 78,678.42
Northern Marianas College (“NMC”)	20%	\$ 85,252.26	\$ 82,170.52	\$ 60,804.11	\$ 61,451.13	\$ 61,839.51	\$ 12,784.98
Commonwealth Utilities Corporation (“CUC”)	30%	\$ 166,516.23	\$ 178,807.38	\$ 264,437.09	\$ 156,271.19	\$ 132,142.81	\$ 27,283.90
Commonwealth Development Authority (“CDA”)	30%	\$ 75,255.12	\$ 82,127.00	\$ 76,413.17	\$ 66,858.27	\$ 69,758.55	\$ 10,448.79
Commonwealth Ports Authority (“CPA”)	30%	\$ 38,827.81	\$ 26,285.56	\$ 28,358.87	\$ 24,932.40	\$ 22,344.20	\$ 4,791.03
Tinian Gaming Casino Commission (“TGCC”)	37.3909%	\$ 4,314.32	\$ 4,314.32	\$ 4,314.32	\$ -	\$ -	\$ -
Tinian Mayor’s Office (“TMO”)	37.3909%	\$ -	\$ -	\$ -	\$ -	\$ 8,846.65	\$ -
TOTAL		\$ 1,876,311.39	\$ 1,853,298.08	\$ 1,742,606.53	\$ 1,430,503.84	\$ 1,450,620.87	\$ 226,421.55

With the exception of the Government, CHCC, and CUC, all other Autonomous Agencies are current on their ER obligations through November 20, 2021. The Settlement Fund anticipates receiving full payment from the Government and CHCC by December 17, 2021. With respect to the CUC, the Settlement Fund and the CUC have reached a tentative settlement regarding the CUC’s outstanding ER balance (as discussed in **Section III** below).

5. Judicial Building Loan

The Judicial Building Loan matured on March 1, 2015. The Government has continued to make regular monthly payments to reduce this debt. The original principal amount was \$15 million. The Government paid a total amount of \$1,000,494.13 in FY 2019; \$843,905.46 in

FY 2020; \$890,209.65 in FY 2021; and \$223,472 for FY 2022 as of the date of this Report. See *Judicial Building Loan Payments*, attached hereto as **Exhibit 10**. As of the date of this Report, the outstanding balance of the Judicial Building Loan is \$277,360.66. If the Government continues to make the regular monthly payments as it did in prior fiscal years, the loan could be paid off in 8 months.

For the past five years, the Government has been exploring the option of obtaining a USDA loan to pay off the Judicial Building Loan and cover other courthouse renovations. An amendment to Public Law 19-67, which authorized the Government to borrow from the USDA, is necessary to allow the Government to borrow from commercial lenders. This amendment is under review.

6. NMI Settlement Fund Building

As of May 15, 2020, the Settlement Fund has spent \$249,795.33 on the repair and maintenance of the building. The repairs include: the replacement of a chain link fence around the building's perimeter; replacement of the rooftop butler tin; repair and patchwork to roof, column, and ceiling cracks; resealing windows and doors; replacement of the ducting system on the second floor and repairs to the bathroom air duct on the third floor; replacement of the insulation on the roof's duct; and the repair and replacement of glass doors and typhoon shutters, among others.

From October 2018 through December 2019, FEMA leased space on the second floor and a portion of the third floor at a monthly rental rate of \$24,436.50, which covered office space, utilities, and cleaning of the common area. The FEMA lease was terminated in December 2019. The Settlement Fund received rental income totaling \$440,049.18 from the FEMA leases as of December 31, 2019.

C. AUDITED MEMBER FILES

As previously reported on March 13, 2015 (ECF No. 697, at 10), there were potential overpayments and underpayments to members detected by the benefit software:

	Overpayment		Underpayment	
Class 1	75 members	\$617,293	33 members	\$58,201
Class 2	193 members	\$820,068	80 members	\$209,182
Disability	8 members	\$56,448	11 members	\$63,143
TOTAL	276 members	\$1,493,809	124 members	\$330,526

Since then, the Settlement Fund conducted a manual audit of each of the 400 member accounts identified above and determined that 247 of the member accounts did not contain any issues, and one member account was counted twice.

The audit of the remaining 152 member accounts was based on the five-stage process described below:

Audit Stages	Overpayment		Underpayment	
	Class 1	Class 2	Class 1	Class 2
Stage 1 – File is reviewed to identify issues pertaining to under/overpayment and to ensure all supporting documents are available.	Class 1	-	-	-
	Class 2	-	-	-
Stage 2 – Data is recomputed by Member Services staff in accordance with the applicable laws and regulations governing the member’s annuity calculation.	Class 1	-	-	-
	Class 2	-	-	-
Stage 3 – File is forwarded to Member Services Manager for recalculation and final review.	Class 1	1	1	-
	Class 2	12	-	-
Stage 4 – Completed file is sent to the Audit department to ensure that calculations are accurate and in compliance with applicable laws and Fund rules and regulations.	Class 1	7	1	1
	Class 2	61	6	6
Stage 5 – Audited file is forwarded to Legal Department for legal review. For overpayments, adverse letters are issued by the Administrator. For underpayments, a findings and recommendations letter is forwarded to the Trustee for approval of underpayment pay out.	Class 1	8	8	8
	Class 2	47	-	-

A review of the remaining member accounts is ongoing and the amount of overpayment and underpayment has been updated as follows:

	Overpayment		Underpayment	
Class I	16 members	\$125,212	10 members	\$18,196
Class II	120 members	\$1,729,454	6 members	\$15,750
Disability	0 members	\$ -	0 members	\$ -
TOTAL	136 members	\$1,854,666	16 members	\$33,946

The Settlement Fund also prioritizes the review of member accounts based on the death of a retiree, a new application for retirement or survivor’s benefits, a retiree’s return to government service or reinstatement of retirement benefits upon termination of government reemployment, and

pending matters involving a retiree who waived an appeal of an adverse decision issued by the Retirement Fund, which were transferred to the Settlement Fund under the Settlement Agreement. This has resulted in the audit of 132 files, 57 of which have been resolved, 48 without issues, and the remaining 27 pending an administrative proceeding.

D. CONSULTANTS

The consultants assisting the Settlement Fund are: (1) Wilshire Investments as its investment consultant; (2) Milliman Inc. as its actuary consultant; and (3) Ernst & Young as its auditor.

1. Investment Advisor

Maggie Ralbovsky, a principal of Wilshire, is still the investment advisor for the Settlement Fund. Wilshire's contract was renewed for FY 2020, FY 2021, and FY 2022.

2. Actuary

Milliman, Inc. has acted as the Settlement Fund's actuary since March 2015. For FY 2018 through FY 2022, the Settlement Agreement requires an independent actuary determine the amount of minimum annual payments to the Settlement Fund sufficient to enable the Settlement Fund to pay 75% of Class Members' Full Benefits each year for the Settlement Fund's expected life. *See Settlement Agreement* ¶ 4.0 (ECF No. 468-1). A copy of Milliman's FY 2018, FY 2019, and FY 2020 Actuarial Valuation Reports are attached hereto as **Exhibit 1**, **Exhibit 2**, and **Exhibit 3**, respectively.

3. Auditors

Ernst & Young LLP (E&Y), auditors for the Settlement Fund, completed the audits for FY 2018 in September 2019, for FY 2019 in July 2020, and for FY 2020 in September 2021. E&Y

determined the Settlement Fund's financial statements were fairly stated in accordance with U.S. generally accepted accounting principles. A copy of the FY 2018, FY 2019, and FY 2020 audits are attached hereto as **Exhibit 11**, **Exhibit 12**, and **Exhibit 13**, respectively. The reports are also available at the Settlement Fund's website at <https://www.nmisf.com/audit-reports/>.

The completion of the Settlement Fund's FY 2021 audit is anticipated by the summer of 2022.

E. INFORMATION REGARDING SETTLEMENT FUND

Information regarding the Settlement Fund, including but not limited to the Government's MAP payments and investment reports, is posted regularly on the Settlement Fund website: <https://www.nmisf.com>. The Settlement Fund has published Newsletters to update its membership on the status of their fund. The Third Issue was published in December 2019, and the Fourth Issue in December 2021. Both issues are attached hereto as **Exhibit 14**. Newsletters are sent to Class Members electronically and by mail.

II. FINANCIAL REPORT

A. FINANCIAL OVERVIEW

1. Sources of Funds

The Settlement Fund receives income from four (4) sources: (1) the MAP and APGA; (2) contributions; (3) investments; and (4) building rental. A breakdown of the sources is shown in the table below.

Since FY 2020, the Settlement Fund has not had to draw down from its investments to cover the shortage for operations and the 75% benefit payments. For the periods ending September 30, 2019, September 30, 2020, and September 30, 2021, the Sources of Funds and Expenses were as follows:

	9/30/2021	9/30/2020	9/30/2019
Minimum Annual Payment	\$40,000,000	\$42,000,000	\$44,000,000
APGA	TBD	TBD	\$ -
Contributions	\$1,954,094	\$2,156,599	\$2,367,971
Investments	\$4,937,508	\$3,616,160	\$3,728,735
Rental	\$ -	\$73,310	\$366,740
Other Income	\$400	\$1,445	\$116,508
Litigation Proceeds	\$17,848	\$21,290	\$55,203
Total Expenses	(\$42,215,325)	(\$44,269,823)	(\$44,044,300)
Realized Gain/(Loss on Investments)	\$5,700,934	\$2,211,631	\$1,881,249
Difference	\$10,395,459	\$5,810,611	\$8,472,105

See Sources of Funds and Expenses for FY 2019, FY 2020, and FY 2021, attached hereto as **Exhibit 15**.

2. Budget for FY 2019, FY 2020, and FY 2021

A summary of the FY 2019, FY 2020, and FY 2021 budget and actual performance is presented in **Schedule 1** below.

**Schedule 1
FY 2019, FY 2020, & FY 2021
Actual Expenses v. Budget Results**

	Actual FY 2019 9/30/2019	FY 2019 Budget 9/30/2019	Actual FY 2020 9/30/2020	FY 2020 Budget 9/30/2020	Actual FY 2021 9/30/2021	FY 2021 Budget 9/30/2021
Benefits Payments						
Total Benefits Payment	42,445,631	44,890,000	41,863,359	43,000,000	40,682,538	43,000,000
Total Refunds	13,551	60,000	654,027	685,000	7,278	685,000
Total Benefits and Refunds Payment	42,459,182	44,950,000	42,517,387	43,685,000	40,689,816	43,685,000
General & Administrative Expenses						
Total Personnel Expenses	652,008	816,080	807,412	865,347	812,786	865,347
Total Professional Fees	383,489	945,000	493,492	858,000	380,709	858,000
Total General & Admin. Expenses	547,108	476,800	451,532	605,450	331,542	605,450
Total Fixed Assets	143,389	10,000	-	10,000	-	10,000
Total Expenditures	44,185,176	47,197,880	44,269,823	46,023,797	42,214,853	46,023,797

3. Proposed FY 2022 Budget

The Settlement Fund's proposed expenses for FY 2022 total \$43,059,007. See **Schedule 2** for a summary.

Schedule 2
FY 2019, FY 2020, FY 2021, & Proposed FY 2022 Budget

	FY 2019 Budget	Approved FY 2020 Budget	FY 2021 Budget	Proposed FY 2022 Budget	FY 2022 increase/ (decrease)	% (+/-) from previous budget
Benefits Payments						
Total Benefits Payment	44,890,000	43,000,000	43,000,000	40,965,000	(2,035,000)	-4.7%
Total Refunds	60,000	685,000	685,000	55,000	(630,000)	-92.0%
Total Benefits and Refunds Payment	44,950,000	43,685,000	43,685,000	41,020,000	(2,665,000)	-6.1%
General & Administrative Expenses						
Total Personnel Expenses	816,080	865,347	865,347	932,257	66,910	7.7%
Total Professional Fees	945,000	858,000	858,000	815,000	(43,000)	-5.0%
Total General & Admin. Expenses	476,800	605,450	605,450	291,750	(313,700)	-51.8%
Total Expenses	47,187,880	46,013,797	46,013,797	43,059,007	(2,954,790)	-6.4%
Total Fixed Assets	10,000	10,000	10,000	8,500	(1,500)	-15.0%
Total Expenditures	47,197,880	46,023,797	46,023,797	43,067,507	(2,956,290)	-6.4%

See Exhibit 16, detailed breakdown of the proposed budget for FY 2022.

The overall projected expenditures for FY 2022 are \$2,956,290 less than the FY 2020 approved budget. The increase of \$66,910 under personnel expenses is attributed to the need to adjust key employees' salaries to be in line with the salary range paid to federal employees without the locality pay, and to establish an additional position of compliance analyst. This is necessary in order to be competitive in the market place and to retain key employees with knowledge and experience of Settlement Fund operations.

As of the date of this Report, most class I members, who paid the actuarially determined equivalent of Class II member contributions in order to retire without penalty pursuant to Public Law 13-60, have received a refund of the overpayment of interest. The Settlement Fund discovered that the NMI Retirement Fund had incorrectly applied compound interest rather than simple interest in computing the amount due from each retiring Class I member. The remaining

members have not been paid because their claims are being reviewed due to one or more of the following issues: length of service, government reemployment, and underpayment of contributions.

B. INVESTMENT REPORT

1. Investment Balance as of 10/31/2021

At the end of FY 2019, the balance in the Settlement Fund's investment accounts was \$98,260,000. The balance as of October 31, 2021, is **\$130,509,577, a gain of \$32.2 million**. The investment portfolio for FYTD September 30, 2021 period returned 8.88%, compared to an actuarial expected return of 3.5%. The return for the month of October, the start of FY 2021 was 0.87%.

A summary of the FY 2019 investment reports, showing the beginning and ending investment balances, contributions, gains and losses, and fees, are provided in **Chart 4** below.

Chart 4

Investment Summary FY 2019						
	Beg. Balance	Net Contributions	Distributions & Adm Fees	Investment Gains/Losses	Inv. Fees	End. Balance
1st Quarter (Oct. - Dec. 2018)	\$ 82,895,000	\$ 9,000,000	\$ (4,013,000)	\$ (1,685,000)	\$ -	\$ 86,198,000
2nd Quarter (Jan. - Mar. 2019)	\$ 86,198,000	\$ -	\$ (13,000)	\$ 3,861,000	\$ -	\$ 90,046,000
3rd Quarter (Apr. - June 2019)	\$ 90,046,000	\$ 5,000,000	\$ (13,000)	\$ 2,204,000	\$ -	\$ 97,237,000
4th Quarter (July - Sept. 2019)	\$ 97,237,000	\$ -	\$ (14,000)	\$ 1,037,000	\$ -	\$ 98,260,000
		\$ 14,000,000	\$ (4,053,000)	\$ 5,417,000		

See *Flash Reports for August and September 2019*, attached hereto as **Exhibit 17**.

A summary of the FY 2020 investment reports, showing the beginning and ending

investment balances, contributions, gains and losses, and fees, are provided in **Chart 5** below. In FY 2020, the Settlement Fund purchased \$15 million in bonds.

Chart 5

Investment Summary FY 2020						
	Beg. Balance	Net Contributions	Distributions & Adm Fees	Investment Gains/Losses	Inv. Fees	End. Balance
1st Quarter (Oct. - Dec. 2019)	\$ 98,259,885	\$ 7,831	\$ (14,446)	\$ 2,405,448	\$ -	\$ 100,658,717
2nd Quarter (Jan. - Mar. 2020)	\$ 100,658,717	\$ -	\$ (14,360)	\$ (5,596,616)	\$ -	\$ 95,047,741
3rd Quarter (Apr. - June 2020)	\$ 95,047,741	\$ -	\$ (13,960)	\$ 6,614,183	\$ -	\$ 101,647,964
4th Quarter (July - Sept. 2020)	\$ 101,647,964	\$ 15,000,000	\$ (15,342)	\$ 2,266,421	\$ -	\$ 118,899,043
		\$ 15,007,831	\$ (58,108)	\$ 5,689,436		

See *Flash Reports for August and September 2020*, attached hereto as **Exhibit 18**.

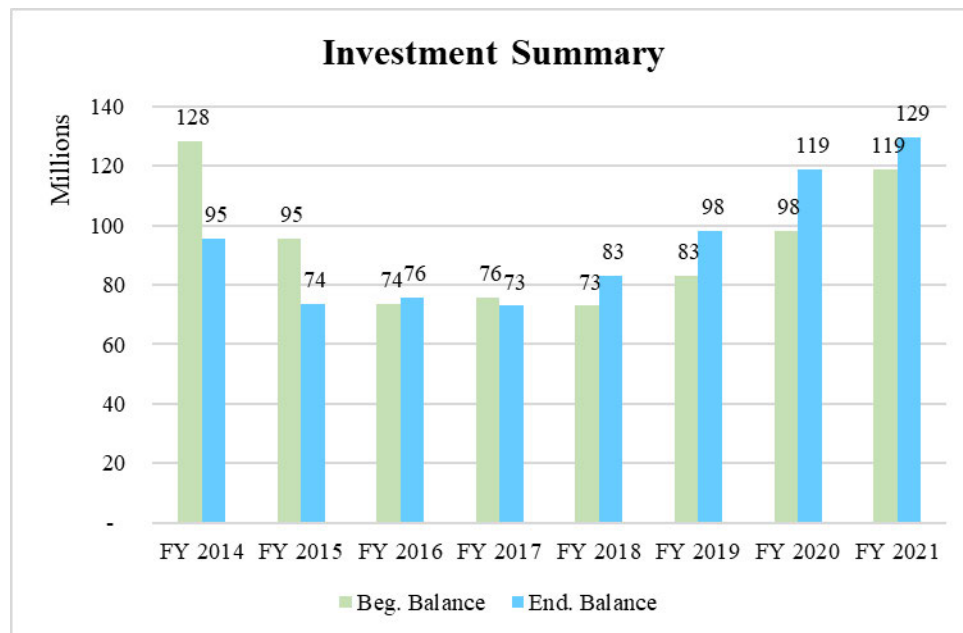
A summary of the FY 2021 investment reports, showing the beginning and ending investment balances, contributions, gains and losses, and fees, are provided in **Chart 6** below.

Chart 6

Investment Summary FY 2021						
	Beg. Balance	Net Contributions	Distributions & Adm Fees	Investment Gains/Losses	Inv. Fees	End. Balance
1st Quarter (Oct. - Dec. 2020)	\$ 118,899,043	\$ -	\$ (16,821)	\$ 6,209,426	\$ -	\$ 125,091,649
2nd Quarter (Jan. - Mar. 2021)	\$ 125,091,649	\$ -	\$ (16,045)	\$ 246,814	\$ -	\$ 125,322,418
3rd Quarter (Apr. - June 2021)	\$ 125,322,418	\$ -	\$ (17,599)	\$ 3,928,493	\$ -	\$ 129,233,312
4th Quarter (July - Sept. 2021)	\$ 129,233,312	\$ -	\$ (17,981)	\$ 177,963	\$ -	\$ 129,393,294
		\$ -	\$ (68,446)	\$ 10,562,696		

See *Flash Reports for August and September 2021*, attached hereto as **Exhibit 19**.

The Settlement Fund investment balance as of October 31, 2021, has surpassed the beginning balance of FY 2014 and the investment trend continues to increase as shown in the chart below.



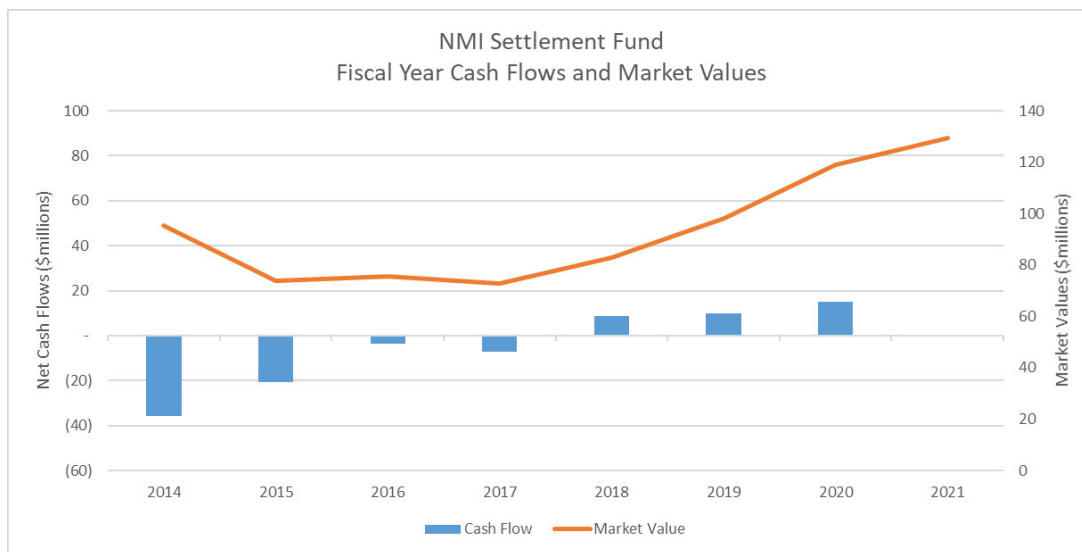
The investment reports are available on the Settlement Fund website: <https://www.nmisf.com/investment-consultant-reports-2/>.

2. Investments and Policy

As the world navigated through disruptions brought about by the global pandemic in the past two years, the financial markets went through episodes of extreme volatility and liquidity squeeze. Central banks around the world rushed to the rescue through injection of cash and intervention of the market. Many market sectors experienced distortion of valuation and unusual trading activities.

During this turbulent period, the Settlement Fund's investment portfolio performed steadily free of stress, which is attributable to its focus on high quality, ample liquidity, and

sufficient diversity. After a review of the investment management expense, the Settlement Fund replaced its high yield bond manager at the beginning of 2021, resulting in fee savings of over \$75,000 annually. With the guidance of Wilshire Advisors, the Settlement Fund has achieved a return of 8.8% for this fiscal year. As of October 31, 2021, the balance in the Settlement Fund's investment account is \$130,509,577 – surpassing the initial corpus on December 31, 2013, by nearly 25%.



The Settlement Fund's investment portfolio focuses on a diversified fixed income allocation in addition to an allocation to global equity. This is consistent with the Fund's desire for low risk and high liquidity. The Fund's investment success has benefited from superior performance of the high yield bond sector and value added services of the Fund's investment managers. Looking forward, however, the outlook remains challenging. As inflation pressure builds in the economy, the Federal Reserve will inevitably tighten availability of liquidity by raising interest rates. This will impact performance of all asset classes, equities and fixed income included.

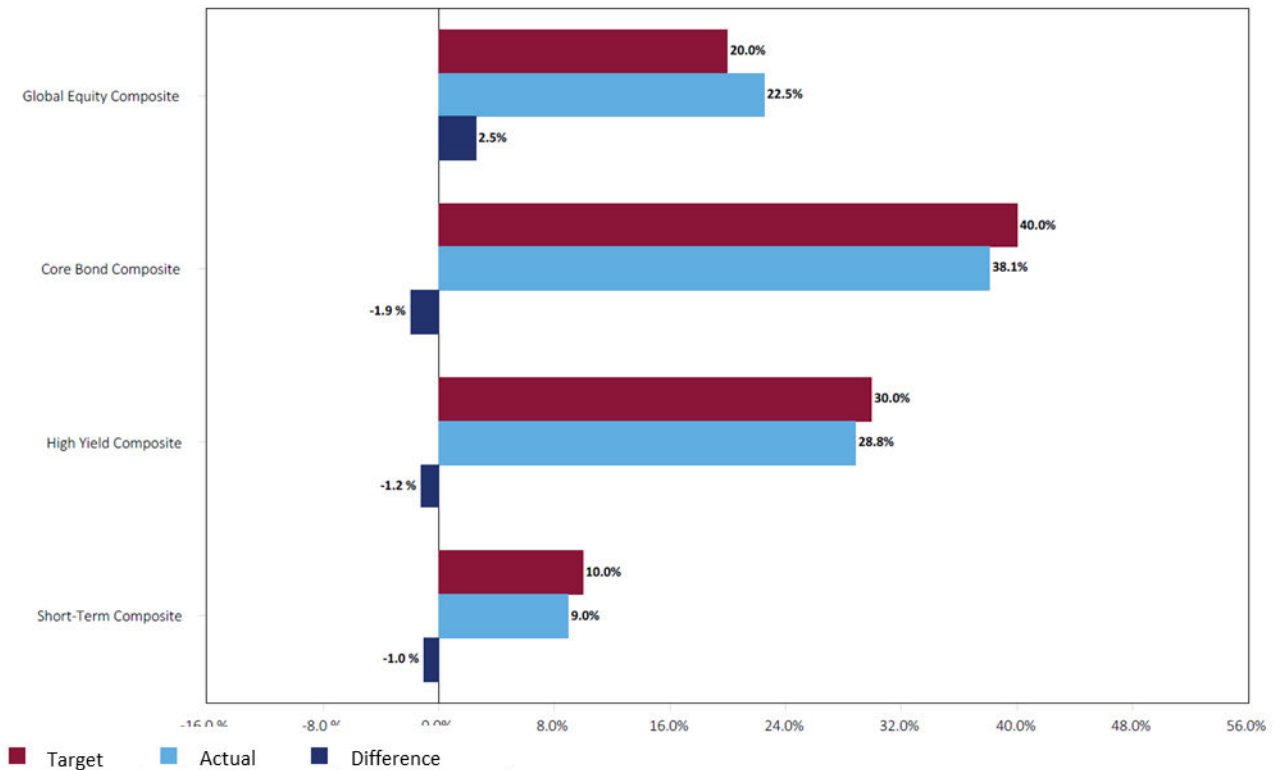
The Fund continues to review the available opportunity set that is suitable to the Fund’s conservative risk profile, and is currently pursuing an investment program based on the following asset allocation targets. This portfolio ensures ample liquidity and sufficient diversification.

2021 – 2022 Portfolio Targets

Equity	20%
High Yield	30%
Core Bond	40%
Cash	10%
Expected Return	2.75%
Expected Risk	4.00%

Note: Based on Wilshire’s 2021 mid-year updated financial markets outlook.

As of the end of FY 2021, the Settlement Fund’s actual allocation is very close to the targets:



C. MILLIMAN'S ACTUARIAL VALUATION REPORT

Paragraph 4.0 of the Settlement Agreement requires the Government to pay MAP each year to pay 75% of the Class Members' Full Benefits. The FY 2014 and FY 2015 MAP amounts were fixed at \$25,000,000 and \$27,000,000, respectively. Subsequent MAP amounts were to be determined by an independent actuary. The Actuarial Valuation Reports to confirm the MAP for FY 2019, FY 2020, and FY 2021, and the projected MAP for FY 2022 are attached hereto as **Exhibit 1**, **Exhibit 2**, and **Exhibit 3**.

Below are highlights from the Milliman's FY 2019 and FY 2020 Actuarial Valuation Reports:

- The Government paid MAP in the amount of \$45,000,000 for FY 2018, \$44,000,000 for FY 2019, and \$42,000,000 for FY 2020. Milliman has confirmed that the MAP for FY 2020 should be \$42,000,000, and FY 2021 should be \$40,000,000.
- Assuming life expectancies based upon the Pub-2010 mortality table set forward five years, the MAP is estimated to be \$38,000,000 for FY 2022. The MAP are estimated to decline by \$2,000,000 from FY 2023 to FY 2024, and by \$1,000,000 per year from FY 2025 to FY 2031, resulting in a MAP of \$26,000,000 for FY 2032 through FY 2040. After FY 2040, payments will equal to the benefits and expenses paid by the Settlement Fund.

Projected CNMI Payments		
FY 2021	40,000,000	40,000,000
FY 2022	38,000,000	38,000,000
FY 2023	36,000,000	36,000,000
FY 2024	34,000,000	34,000,000
FY 2025	33,000,000	32,000,000
(see Exhibit 6 for FY 2026 and later years)		

III. LITIGATION STATUS

A. *NMI Settlement Fund v. Commonwealth Utilities Corporation, Civil Action No. 11-0114-CV* (NMI Superior Court)

The claims filed against the Commonwealth Utilities Corporation (the “CUC”) arose from the CUC’s nonpayment of employer contributions due to the NMI Retirement Fund in FY 2008 through the date of the complaint—May 5, 2011. As of April 29, 2011, the CUC owed approximately \$3,175,255. The claims were identified as an asset to be transferred to the Settlement Fund in the Settlement Agreement. *See Settlement Agreement* ¶¶ 1.1, 8.0, 29.0(b) (ECF No. 468-1, at 4-5, 16, 34-36).

After multiple pleadings filed by the parties in the NMI Superior Court, the Settlement Fund filed a Motion to Enforce Final Judgment Approving Class Action Settlement Against the CUC on June 7, 2019, seeking this Court’s confirmation that the claims against CUC, which were transferred to the Settlement Fund as an “Asset of the CNMI Fund” under the Settlement Agreement, were not resolved under the Settlement Agreement.

The NMI Superior Court temporarily stayed proceedings from July 2019 through January 2020. During this time, the Government filed a Motion to Enforce before this Court, claiming the Settlement Agreement prohibits the Settlement Fund from filing suit against the Government for the CUC’s nonpayment of employer contributions. The Settlement Fund filed an opposition and cross motion to enforce the Settlement Agreement on September 10, 2019, arguing that the Settlement Fund has the right to pursue the claims against the Government because the Settlement Agreement carved out the claims against the CUC, and the NMI is in breach of the Settlement Agreement. The CNMI filed a reply and opposition to the Settlement Fund’s motion

to enforce the Settlement Agreement, and the Settlement Fund filed a reply to the CNMI's opposition.

This Court subsequently granted the Settlement Fund's Motion to Enforce Final Judgment and the CNMI's Motion to Enforce, and denied the Settlement Fund's Cross Motion to Enforce against the CNMI. The Court confirmed that the NMI Retirement Fund's claims against the CUC were assigned and transferred to the Settlement Fund as "Assets of the CNMI Fund"; the parties to the Settlement Agreement "agreed that the Settlement Fund would retain the right to collect unpaid employer contributions from the CUC" in this action; and that the claims in this action were not resolved by the Settlement Agreement. *See* Order (ECF No. 792). This Court also found that the Settlement Agreement released any claims against the CNMI filed by the Settlement Fund in the First Amended Verified Complaint against the CNMI in the NMI Superior Court, and enjoined the Settlement Fund from further prosecution this action against the CNMI.

Given this Court's Order, the Settlement Fund filed a Second Amended Verified Complaint against the CUC on March 16, 2020, asserting the following causes of action: (1) breach of contract; (2) violation of Article III, Section 20(b); (3) violation of 1 CMC § 8362; (4) violation of the Contracts Clause; and (5) unenforceable Memorandum of Understanding between the CUC and NMI Government. The CUC filed a motion to dismiss the case, arguing that the second cause of action (violation of Article III, Section 20(b)) is duplicative of the first cause of action (breach of contract) and that the fourth cause of action (violation of the Contracts Clause) is more appropriate against the NMI Government because the CUC was not responsible for the reduction of employer contributions in Public Law 16-2. The Settlement Fund opposed the motion to dismiss on May 18, 2020, arguing that dismissal is unwarranted because the Settlement Fund may separately bring the claim for violating Article III, Section 20(a) of the CNMI Constitution and

that the CUC cannot use compliance with Public Law 16-2 to be relieved of its obligations to pay employer contributions at the applicable actuarial rates. The CUC filed its reply on June 4, 2020, reiterating the arguments in its motion to dismiss.

The parties have met to discuss settlement and have reached a tentative settlement. The terms of the agreement require CUC to pay a minimum of \$50,000 per month until the balance is paid in full, subject to annual review of its financial statements to determine if CUC is capable of paying more than the minimum payments.

B. *Ada v. Torres, Civil Action No. 20-0105-CV (NMI Superior Court)*

On March 12, 2020, CNMI Public School System Commissioner Alfred Ada and the Public School System (“PSS”) filed a lawsuit against Governor Ralph DLG. Torres and Secretary of Finance David Atalig alleging, among other things, that the PSS was not receiving its share of the 25% portion of CNMI general revenues based on the NMI Supreme Court’s determination of the composition of “general revenues” in *In re Certified Question Petition from Ralph DLG. Torres & Marylou S. Ada*, 2020 MP 2. The 25% of the general revenues claimed by the PSS would appear to include appropriations for the FY 2020 MAP to the Settlement Fund and the 25% benefit payments for Settlement Class Members.

To protect the Settlement Fund’s interest in the sources of funds appropriated for the MAP, on June 23, 2020, the Settlement Fund filed a Motion to Enforce Final Judgment Approving Class Action Settlement Against PSS (“Motion to Enforce Against PSS”), asking the Court to issue a declaratory judgment that PSS is not entitled to 25% of the funds appropriated for the Settlement Fund Revolving Fund.

On June 23, 2020, the Settlement Fund filed a motion to intervene in the PSS lawsuit, and moved to stay proceedings pending this Court’s determination on the Motion to Enforce Against PSS. On June 26, 2020, the Superior Court granted the motion to intervene based on the Settlement

Fund's interests in the PSS lawsuit, the potential impairment to the Settlement Fund in the appropriated funds, and the NMI Government's lack of adequate representation of the Settlement Fund's interests. The request for a stay was denied.

On February 23, 2021, this Court denied the Settlement Fund's Motion to Enforce (ECF No. 794), concluding that there was no breach of the Settlement Agreement based on the NMI Government's continued payment of the MAP; and that the NMI Superior Court action does not affect the interpretation or enforcement of the Settlement Agreement.

The Settlement Fund subsequently notified the NMI Superior Court of this Court's Order, and withdrew its request for dismissal with prejudice and stipulated to the PSS' motion to dismiss the action without prejudice. The Government also stipulated to the dismissal without prejudice.

On March 3, 2021, the Superior Court dismissed the action without prejudice, without ruling on the merits regarding general and special revenue.

C. ADMINISTRATIVE APPEALS

1. Appeals Pending Mediation

A summary of pending administrative cases is provided in the Pending Administrative Cases Report, attached as **Exhibit 20**. These appeals will proceed with mediation upon the Court's appointment of mediators.

2. Appointment of New Hearing Officer

After interviewing candidates, one hearing officer, who is licensed to practice law in the CNMI, has been selected based on qualifications, availability, and experience, to assist with the administrative proceedings. The hearing officer selected is attorney Deborah Fisher. The administrative appeal process will commence upon approval of the proposed contract.

IV. STATUS OF LEGISLATION

The Legislature considered several bills that may affect the Settlement Fund and its members. The proposed bills are available at www.cnmileg.gov.mp/.

Below is a summary of new measures affecting Class Members.

	BILL / INITIATIVE	STATUS
FUNDING	House Bill 22-74, HD3, SD1, CCS1 To appropriate funds for the operations and activities of the CNMI Government for FY 2022, including the \$39 million FY 2022 MAP obligation.	Signed into law on September 30, 2021, as Public Law 22-8.
	Senate Resolution 22-10 Urges Governor Torres to reserve funds for a retiree bonus or Cost of Living Adjustment to be distributed equally to all Settlement Class members and CNMI Fund members receiving an annuity.	Pending action by the Senate.
	House Bill 21-124, SD2, CCS1 To appropriate funds for the operations and activities of the CNMI Government for FY 2021, including the \$41 million FY 2021 MAP obligation.	Signed into law on October 1, 2020, as Public Law 21-35.
	House Bill 21-64, HD2, SD1 To appropriate funds for the operations and activities of the CNMI Government for FY 2020, including the \$43 million FY 2020 MAP obligation.	Signed into law on September 26, 2019, as Public Law 21-8.
	House Bill 21-78, HS1, SS1 To appropriate \$11,502,570 of the Sixth Year Casino License Fee, \$1 million of which is for the partial payment of the FY 2017 APGA amount due to the Settlement Fund.	Signed into law on October 18, 2019, as Public Law 21-10.

<p>NEW RETIREMENT PLAN</p>	<p>Senate Bill 22-71 To create a CNMI Term Pension Plan, which will be partially funded by deficient employer contributions collected pursuant to Section 8.1 of the Settlement Agreement.</p>	<p>Pending further action.</p>
<p>TRUSTEE'S FEES, REPORTING, AND ACCOUNTING STANDARDS</p>	<p>House Resolution 21-37 To strongly oppose the pay raise increase of Settlement Fund Trustee Joyce C. Tang and to respectfully request the CNMI Government to act on such matter.</p>	<p>A response disputing certain factual misrepresentations in the initiative was submitted to the author of the resolution on September 24, 2020.</p>

The Settlement Fund will continue to monitor and report on bills, which affect the Settlement Fund and Class Members.

Respectfully submitted this 10th day of December 2021.

CIVILLE & TANG, PLLC

/s/ _____
Joyce C.H. Tang
Trustee