



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 2017 through Third Quarter FY 2019

September 19, 2019

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”) 2017 through the Third Quarter of FY 2019.

At the outset, it is important for the Court and retirees to know that the NMI Government (“Government”) has been diligent in honoring its agreement to pay the Minimum Annual Payment in allotments of \$1,000,000 per week. Governor Ralph DLG. Torres and Lieutenant Governor Arnold I. Palacios, together with the members of the House and the Senate, have persevered through the natural disaster of Yutu and ongoing financial difficulties, which have left the Government with chronic cash shortages. They have worked with the Trustee to give the Settlement Fund the priority required to avoid significant draw downs on investments, and it is their commitment to the CNMI Government’s obligations, which has reversed the negative trajectory of the investment trend and allowed the Settlement Fund to accumulate reserves to cover benefit payments for a two (2) year period. The Trustee appreciates the dedication and commitment shown by the leadership of the CNMI Government.

A. CLASS MEMBERSHIP DATA

As of September 15, 2019, there are 2,904 Settlement Class Members. The overall Class Membership decreased by 55 members from FY 2017:

	September 30, 2017	September 30, 2016	September 30, 2015
Participant Counts			
Active Employees (Class I)	65	66	85
Active Employees (Class II)	<u>6</u>	<u>6</u>	<u>10</u>
Total Active Employees	71	72	95
Retirees	<u>2,888</u>	<u>2,956</u>	<u>2,998</u>
Total Participants	2,959	3,028	3,093

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 9/15/2019)

PLACE OF RESIDENCE	Total # of Members	NMISF Class Member Classifications					Total Benefit Payments
		Retiree Disabled	Retiree	Surviving Child Disabled	Surviving Child	Surviving Spouse	
ROTA	299	\$ 48,928.36	\$ 4,511,993.42	\$ 6,186.08	\$ 38,909.62	\$ 776,490.06	\$ 5,382,507.54
SAIPAN	2397	\$316,929.29	\$ 38,209,623.83	\$ 30,295.37	\$395,390.31	\$ 6,136,619.53	\$ 45,088,858.33
TINIAN	208	\$ 35,088.57	\$ 641.44	\$ 3,213,581.66	\$ 30,792.45	\$ 517,037.20	\$ 3,797,141.32
Total Payments @ 100%	2904	\$400,946.22	\$ 42,722,258.69	\$ 3,250,063.11	\$465,092.38	\$ 7,430,146.79	\$ 54,268,507.19
Total Payments @ 75%		\$300,709.67	\$ 32,041,694.02	\$ 2,437,547.33	\$348,819.29	\$ 5,572,610.09	\$ 40,701,380.39

Of the 2,904 members, 83% are members from Saipan, 10% from Rota, and 7% 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 9/15/2019)

PLACE OF RESIDENCE	Total # of Members	NMISF Class Member Classifications					Total Benefit Payments
		Retiree Disabled	Retiree	Surviving Child Disabled	Surviving Child	Surviving Spouse	
CNMI	2122	\$339,910.20	\$ 35,752,663.20	\$ 27,170.79	\$333,667.29	\$ 5,589,637.89	\$ 42,043,049.37
CONTINENTAL U.S.	558	\$ 61,036.02	\$ 7,721,838.07	\$ 9,952.10	\$ 70,207.84	\$ 1,296,437.90	\$ 9,159,471.93
FSM	13	\$ -	\$ 167,503.02	\$ -	\$ 1,425.08	\$ 94,916.47	\$ 263,844.57
GUAM	131	\$ -	\$ 1,453,076.24	\$ -	\$ 40,473.78	\$ 255,169.72	\$ 1,748,719.74
NON U.S.	54	\$ -	\$ 445,095.76	\$ -	\$ 9,938.69	\$ 147,420.85	\$ 602,455.30
REPUBLIC OF PALAU	26	\$ -	\$ 395,022.62	\$ -	\$ 9,379.70	\$ 46,563.96	\$ 450,966.28
Total Payments @ 100%	2904	\$400,946.22	\$ 45,935,198.91	\$ 37,122.89	\$465,092.38	\$ 7,430,146.79	\$ 54,268,507.19
Total Payments @ 75%		\$300,709.67	\$ 34,451,399.18	\$ 27,842.17	\$348,819.29	\$ 5,572,610.09	\$ 40,701,380.39

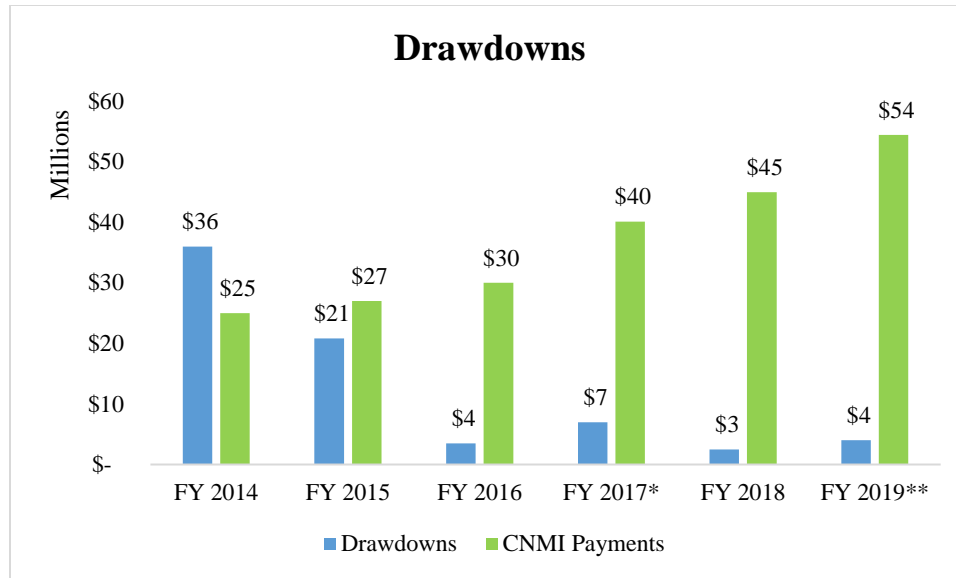
Of the total payments, 78% of the total benefits paid in FY 2019 were made to CNMI residents, while 17% were paid to members living in the continental United States. The remaining 5% reside in Guam, other Micronesian islands, and non-U.S. jurisdictions.

B. MINIMUM ANNUAL PAYMENT AND OTHER SOURCES OF FUNDS

1. Minimum Annual Payment (“MAP”)

In FY 2018, the Government timely fulfilled its obligation of paying \$45 million in FY 2018, and is expected to pay off the \$44 million for FY 2019 by the end of September. *See Schedule of CNMI Government Contribution Payments (FY 2018)*, attached hereto as **Exhibit 1**; *Schedule of CNMI Government Contribution Payments (FY 2019)*, attached hereto as **Exhibit 2**. Milliman, Inc., the Settlement Fund’s actuary consultant, confirmed that the MAP for FY 2018 was \$45 million and \$44 million for FY 2019. *See Actuarial Valuation Report* 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 Settlement Fund has drawn down on its investments to cover expenses not covered by the MAP. The table below illustrates the amounts drawn down by the Settlement Fund from 2014 to 2019.



*Includes FY 2014 and FY 2015 APGA amounts paid.

**Includes FY 2016 APGA amount paid.

From FY 2016 and onward, the Settlement Fund has been able to avoid drawing down on its investments in large part due to the Government’s agreement and diligence in making payments each week towards the MAP. In addition, Public Law 20-33 was signed into law, 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.

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 468-1 at 11). Fortunately, the Government had robust years in FY 2016 and FY 2017.

Based on the Government’s audited financial statements for FY 2016 and FY 2017, the Settlement Fund is entitled to APGA for FY 2016 and FY 2017, in the amount of \$11,534,522.38 and \$17,693,237.40, respectively. *See Alternative Payment of a Greater Amount (FY 2016-2018)*,

attached hereto as **Exhibit 4**. The Settlement Fund received full payment of the APGA for FY 2016, appropriated under Public Law 20-68. The FY 2017 APGA amount remains outstanding. There is a currently pending legislation appropriating \$1 million out of the \$15 million annual casino license fee for the FY 2017 APGA amount due is under review by the Senate. The Governor and the Trustee have discussed ways to fund the balance of the APGA due.

3. 25% Benefit Payment and Bonus Payment to Retirees

For FY 2019 (as of September 15, 2019), the Government remitted \$13.6 million to the Settlement Fund. *See Accounting of 25% Payments by CNMI Government FY 2018-2019*, attached hereto as **Exhibit 5**. For FY 2018, the Government remitted \$14.4 million to the Settlement Fund for the 25% benefit payments. *See id.* While the Government is not required to pay the 25% benefit payments under the Settlement Agreement, it has made payments voluntarily to the retirees. The Settlement Fund has assisted in the processing of the 25% benefit payments conditioned on the Government timely paying the Settlement Fund the \$1 million payments each week for MAP obligations, as well as fulfilling payment obligations such as APGA that are due and owing. As of September 15, 2019, the Government remitted \$13.6 million to the Settlement Fund for the 25% benefit payments. *See id.*

In addition to paying the 25% benefit payments, Public Law 20-34, Public Law 20-35, and Public Law 20-68 were also enacted to provide for a bonus payment to Settlement Class Members and Retirement Fund members in FY 2018 and FY 2019. The bonus payment to each eligible member was \$1,257.18 in FY 2018 and \$1,275.51 in FY 2019. Like the 25% benefit payments, bonus payments are purely voluntary payments and not required to be paid under the Settlement Agreement.

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 2017, FY 2018, and FY 2019 as of the date of this Report are presented in **Chart 3** below.

Chart 3

	Applicable ER Rate	ER Payments Received		
		FY 2017	FY 2018	FY 2019 (as of 9/19/2019)
NMI Government - Local	30%	\$ 504,130.68	\$ 532,619.71	\$ 512,611.27
NMI Government - Federal	37.3909%	\$ 42,944.83	\$ 21,229.43	\$ 7,473.42
Comomonwealth Health Care Corporation ("CHCC")	37.3909%	\$ 279,471.12	\$ 354,270.69	\$ 285,050.37
Public School System ("PSS")	37.3909%	\$ 679,599.02	\$ 571,473.47	\$ 485,746.04
Northern Marianas College ("NMC")	20%	\$ 85,252.26	\$ 82,170.52	\$ 60,804.11
Commonwealth Utilities Corporation ("CUC")	30%	\$ 166,516.23	\$ 178,807.38	\$ 264,437.09
Commonwealth Development Authority ("CDA")	30%	\$ 75,255.12	\$ 82,127.00	\$ 73,928.68
Commonwealth Ports Authority ("CPA")	30%	\$ 38,827.81	\$ 26,285.56	\$ 27,334.60
Tinian Gaming Casino Commission ("TGCC")	30%	\$ 4,314.32	\$ 4,314.32	\$ 4,314.32
TOTAL		\$ 1,876,311.39	\$ 1,853,298.08	\$ 1,721,699.90

With the exception of the Central Government, PSS, and CUC, all other Autonomous Agencies are current on their ER obligations through August 31, 2019. The Settlement Fund anticipates receiving full payment from the Central Government and PSS by September 30, 2019. The delinquent amount owed by the CUC is being litigated in the NMI Superior Court in the case entitled *NMI Settlement Fund v. Commonwealth Utilities Corporation*, Civil Action No. 11-0114-CV (as discussed in **Section III** below).

5. **Judicial Building Loan**

The Judicial Building Loan matured on March 1, 2015. The Government has made regular monthly payments to reduce this debt. In FY 2018, it paid a total amount of \$1,100,545.94, and has paid a total amount of \$902,875.55 through August 31, 2019 for FY 2019. *See Judicial Building Loan Payments*, attached hereto as **Exhibit 6**. The outstanding balance as of September 15, 2019, is \$2,113,857.97 (including interest). Assuming the Government continues to make the regular monthly payments, it is possible the loan will be paid in full in 24 to 28 months.

The Government has been exploring the option of obtaining a USDA loan for \$12,000,000, which will pay off the Judicial Building Loan and cover other much needed courthouse renovations. An amendment to Public Law 19-67, which authorized the Government to borrow from the USDA, is under review by Governor Torres and the Guam USDA office to allow the Government to borrow from commercial lenders, a new requirement for USDA loan applicants.

6. **NMI Settlement Fund Building**

Like most of the buildings on Saipan, the Settlement Fund building sustained damage from Super Typhoon Yutu and also requires maintenance work. The Settlement Fund submitted a claim for \$109,580.95 and after deducting the deductible of \$25,000, received \$84,580.95 in insurance proceeds for typhoon repairs. As of September 15, 2019, the Settlement Fund has spent \$149,623.77 on the repair and maintenance of the building.

The Federal Emergency Management Agency (“FEMA”) leased the second and third floor spaces in November 2018, immediately prior to Yutu as FEMA was anticipating a super typhoon and sent FEMA staff to be on the ground to assist Saipan. As work was winding down, FEMA reduced its leased space to the second floor and a portion of the third floor.

FEMA currently pays a monthly rental of \$24,436.50, which covers office space, utilities, and cleaning of the common area. The office space rental from FEMA has garnered a total of \$342,303 in rental income for the Settlement Fund as of August 31, 2019. The rentals from FEMA cover the additional amounts over the insurance proceeds needed for repairs.

C. AUDIT SOFTWARE

As previously reported on March 13, 2015 (ECF 697, at 10), the benefit audit software reported large sums of potential overpayments and underpayments to members:

	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

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	
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	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	6	2	2
	Class 2	56	9	9
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	49	-	-

The Settlement Fund completed the initial audit of the remaining 152 members and determined the amount of overpayment and underpayment to this group is as follows:

Overpayment			Underpayment	
Class I	15 members	\$73,478	11 members	\$28,068
Class II	117 members	\$377,875	9 members	\$25,612
Disability	0 members	\$ -	0 members	\$ -
TOTAL	132 members	\$451,353	20 members	\$53,680

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 2019.

2. Actuary

Milliman, Inc. has acted as the Settlement Fund's actuary since March 2015. For FY 2017, 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 468-1). A copy of Milliman's FY 2017 Actuarial Valuation Report is attached hereto as **Exhibit 3**. The FY 2018 Actuarial Valuation Report is expected to be completed by December 2019.

3. Auditors

Ernst & Young LLP (E&Y), auditors for the Settlement Fund, completed the audits for FY 2015 and FY 2016 in February 2018 and for FY 2017 in December 2018. 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 2015, FY 2016, and FY 2017 audits are attached hereto as **Exhibit 7**, **Exhibit 8**, and **Exhibit 9**, respectively. The reports are also available at the Settlement Fund's website at <https://www.nmisf.com/audit-reports/>.

The Settlement Fund's FY 2018 audit is expected to be completed by the end of September 2019.

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 monthly 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 next issue will be published and mailed to members in October 2019. Mr. David Sablan wrote to Chief Judge Tydingco-Gatewood regarding the newsletter and obtaining information regarding the Settlement Fund's operations (ECF 738, 9/5/2019). Settlement Fund Trustee Joyce Tang and Administrator Lillian Pangelinan, and Investment Consultant Maggie Ralbovsky met with Mr. Sablan to discuss his concerns. During this meeting, they assured him that the Government has been making the MAP as required under the Settlement Agreement and advised him regarding the status of the Settlement Fund's investments. Mr. Sablan also requested that information regarding the Settlement Fund's investment performance be provided by mail to members as he believes that a number of the retirees do not have access or do not know how to access the Settlement Fund website. We informed Mr. Sablan that we will look into mailing brief quarterly or semi-annual reports to the members.

II. FINANCIAL REPORT

A. FINANCIAL OVERVIEW

1. Funding Sources

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

In order to meet its financial obligations in FY 2018 and FY 2019, the Settlement Fund drew down \$2.5 million in FY 2018 and \$4 million in FY 2019 from its investments to cover the shortage for operations and the 75% benefit payments. For the periods ending August 31, 2018, and August 31, 2019, the Sources of Funds and Expenses were as follows:

	8/31/2019	8/31/2018
Minimum Annual Payment	\$40,700,000	\$62,561,371
Contributions	\$2,190,842	\$2,244,492
Investments	\$3,204,310	\$2,717,145
Rental	\$342,303	\$ -
Other Income	\$122,492	\$11,434
Litigation Proceeds	\$55,203	\$12,708
Total Expenses	(\$40,351,709)	(\$41,001,595)
Realized Gain/(Loss on Investments)	\$2,268,266	(\$1,493,556)
Difference	\$8,531,707	\$25,051,999

*See Sources of Funds and Expenses for FY 2018 and FY 2019, attached hereto as **Exhibit 10**.*

2. Budget for FY 2018 and FY 2019

A summary of the FY 2018 and FY 2019 budget and actual performance is presented in **Schedule 1** below.

Schedule 1 FY 2018 & FY 2019 Actual Expenses v. Budget Results

	Actual FY 2018 8/31/2018	FY 2018 Budget 8/31/2018	Actual FY 2019 8/31/2019	FY 2019 Budget 8/31/2019
Benefits Payments				
Total Benefits Payment	39,680,175	41,149,167	38,940,391	41,149,167
Total Refunds	48,280	55,000	13,551	55,000
Total Benefits and Refunds Payment	39,728,455	41,204,167	38,953,942	41,204,167
General & Administrative Expenses				
Total Personnel Expenses	631,631	748,073	599,307	748,073
Total Professional Fees	475,432	866,250	319,112	866,250
Total General & Admin. Expenses	166,076	437,067	479,349	437,067
Total Fixed Assets	2,548	9,167	123,304	9,167
Total Expenses	41,004,143	43,264,723	40,475,013	43,264,723

3. Proposed FY 2020 Budget

The Settlement Fund's proposed expenses for FY 2020 total \$45,946,753. *See Schedule 2* for a summary.

Schedule 2
FY 2018, FY 2019, & Proposed FY 2020 Budget

	Approved FY 2018 Budget	FY 2019 Budget	Proposed FY 2020 Budget	FY 2020 increase/ (decrease)	% (+/-) from previous budget
Benefits Payments					
Total Benefits Payment	44,890,000	44,890,000	43,000,000	(1,890,000.00)	-4.2%
Total Refunds	60,000	60,000	685,000	625,000.00	1041.7%
Total Benefits and Refunds Payment	44,950,000	44,950,000	43,685,000	(1,265,000.00)	-2.8%
General & Administrative Expenses					
Total Personnel Expenses	816,080	816,080	865,347	49,267.00	6.0%
Total Professional Fees	945,000	945,000	858,000	(87,000.00)	-9.2%
Total General & Admin. Expenses	476,800	476,800	605,450	128,650.00	27.0%
Total Expenses	47,187,880	47,187,880	46,013,797	(1,174,083.00)	-2.5%
Total Fixed Assets	10,000	10,000	10,000	-	0.0%
Total Expenditures	47,197,880	47,197,880	46,023,797	(1,174,083.00)	-2.5%

See **Exhibit 11**, detailed breakdown of the proposed budget for FY 2020.

The overall projected expenditures for FY 2020 is \$1,174,083 less than the FY 2019 approved budget. The increase of \$625,000 under refund of contributions represent refund of the overpayments made by 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. 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. This amount will be paid out by November 2019.

The increase of \$49,267 in personnel cost is attributed to need to adjust key employees' salaries to be in line with the salary range paid to federal employees without the locality pay, as well as budgeting for an additional in-house counsel. Retaining the key employees is critical to the ongoing operation of the Settlement Fund.

The increase of \$75,000 in legal fees is to provide for fees for Class Counsel (subject to Court approval), in addition to hiring for administrative hearing officers and arbitrators.

The \$130,000 increase for utilities under General and Administrative Expenses covers FEMA's consumption (their monthly rental payments include utilities).

B. INVESTMENT REPORT

1. Investment Balance as of 7/31/2019

At the end of FY 2018, the balance in the Settlement Fund's investment accounts was \$82,895,000. The balance as of July 31, 2019 is **\$97,396,394, a gain of \$14.5 million**. The investment portfolio for FYTD July 31, 2019 period returned 5.04%, compared to an actuarial expected return of 4%. The preliminary calculated return for the month of August was 0.78%, bringing the estimated FYTD August 31, 2019 return to 5.82%.

A summary of the FY 2018 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 2018						
	Beg. Balance	Net Contributions	Distributions & Adm Fees	Investment Gains/Losses	Inv. Fees	End. Balance
1st Quarter (Oct. - Dec. 2017)	\$ 72,879,000	\$ 7,500,000	\$ (92,000)	\$ 723,000	\$ -	\$ 81,011,000
2nd Quarter (Jan. - Mar. 2018)	\$ 81,011,000	\$ 4,000,000	\$ (16,000)	\$ (643,000)	\$ -	\$ 84,351,000
3rd Quarter (Apr. - June 2018)	\$ 84,351,000	\$ -	\$ (14,000)	\$ 35,000	\$ -	\$ 84,372,000
4th Quarter (July - Sept. 2018)	\$ 84,372,000	\$ -	\$ (2,512,000)	\$ 1,035,000	\$ -	\$ 82,895,000
		\$ 11,500,000	\$ (2,634,000)	\$ 1,150,000		

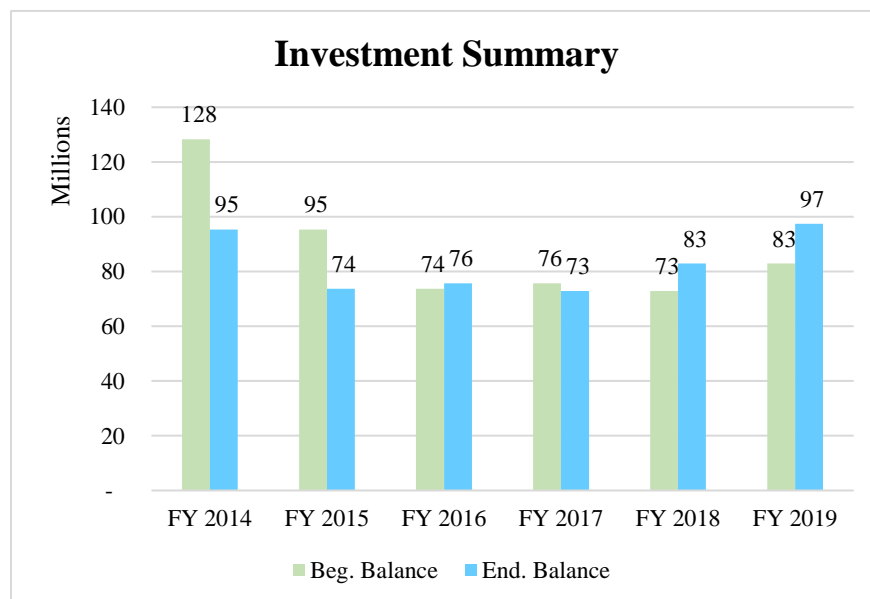
A summary of the FY 2019 investment reports, showing the beginning and ending investment balances, contributions, gains and losses, and fees, are provided in **Chart 5** below.

Chart 5

Investment Summary FY 2019 (as of 7/31/19)						
	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 (interim) (July 2019)	\$ 97,236,867	\$ -	\$ (4,629)	\$ 164,156	\$ -	\$ 97,396,394
		\$ 14,000,000	\$ (4,043,629)	\$ 4,544,156		

See *Flash Reports for June and July 2019*, attached hereto as **Exhibit 12**. Since the start of FY 2019, the Settlement Fund purchased \$14 million in bonds.

For the first time, the Settlement Fund investment trend is now increasing as shown in the chart below.

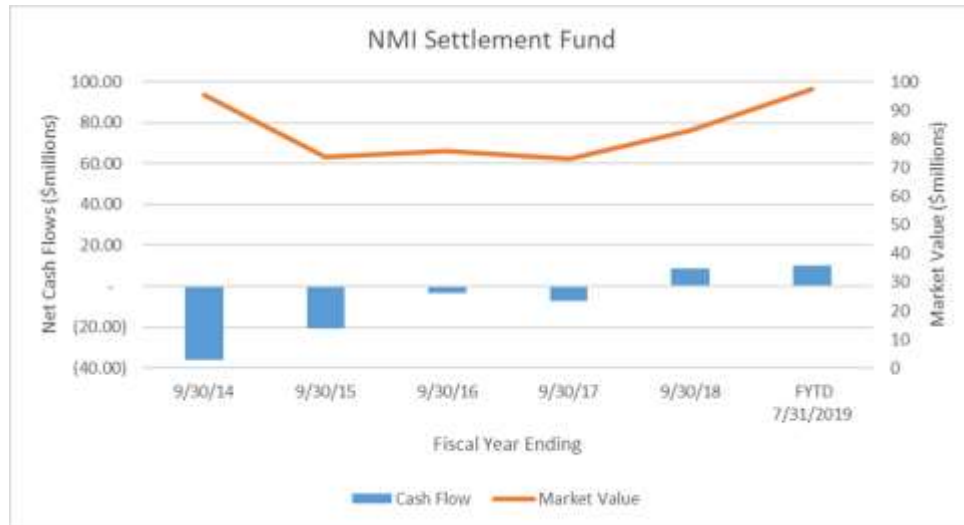


The investment reports are available on the Settlement Fund website:
<https://www.nmisf.com/investment-consultant-reports-2/>.

2. Investments and Policy

When the Settlement Fund was formed in October 2013, \$128,417.24 was transferred to the Settlement Fund's investment account. After paying the PL 17-82 payments in November 2013 totaling \$40,615,807, the remaining balance in the account on December 31, 2013 was \$104,879,000. Because of the liquidity requirements needed to cover the Settlement Fund's operations and bi-weekly benefit payments (assuming zero investment income from the investment accounts and that the Government will continue to pay MAP), the investment account was expected to be depleted by FY 2019. The Settlement Fund's course has improved drastically due in large part to the Government's commitment to pay \$1,000,000 each week towards the reduction of the MAP and the payment of the AGPA, which gave the Settlement Fund a chance to invest its money.

To date, the Settlement Fund has achieved a return of 5.8% for this fiscal year. As of July 31, 2019, the balance in the Settlement Fund's investment account is \$97,396,394 – representing 92.87% of the initial corpus at December 31, 2013. The Settlement Fund's better than expected investment return was attributed in part to falling interest rates since the beginning of 2019, and the financial markets' responding positively to the perceived new round of stimulus coming from lower interest rates.



The Settlement Fund's obligations to pay benefits is a long-term obligation, which relies on annual appropriations – the MAP funding. This short-term mechanism of funding deprives the Settlement Fund of the ability to sustain long-term investment risks in order to obtain higher expected returns. The graph below shows the 75% benefit payment obligations from 2020 to 2044:



From the inception, the Settlement Fund's investment policy was very conservative because the Settlement Fund's reserves was not sufficient to cover at least two (2) years of benefit payments, and therefore, could not take high levels of capital markets risk.

Wilshire Investments is now recommending a change of asset allocation targets away from the previous glidepath strategy, to a moderate risk strategy with an expected return of 4.26%. Because of late cycle and lower interest rates, it is expected returns will be lower in the future. And given the lower future expected returns, and the need to generate the actuarial expected return of 4% annually, the Settlement Fund needs to take higher risk. With cautious optimism, it is now hoped the Settlement Fund can take moderately higher risk because of the positive trajectory of the Settlement Fund asset growth that now has sufficient funds in its reserves to cover two (2) years of benefit payments. This cautious optimism is subject to the continued support from the Government by honoring its Settlement Fund funding obligations.

2019 Glidepath Strategy

	FY 2019	FY 2020
Equity	6%	25%
High Yield	22%	20%
Core Bond	60%	40%
Cash	12%	15%
Expected Return	3.75%	4.26%
Expected Risk	5.00%	6.38%

Note: The above-expected returns were calculated based on Wilshire's 2019 mid-year updated financial markets outlook post recent interest rates decline.

Consistent with Wilshire's recommended FY2020 Glidepath Strategy, the Settlement Fund's assets will be allocated as follows:

Asset Allocation Chart
Target Allocation for FY 2020

	Estimated Balances			FY2020			Required	Recommended Transfers	Proforma	
	9/11/2019			Target Allocation			Transfers			
Description	\$	% Class	% Total	\$	% Class	% Total	\$	\$	\$	% Total
Global Equity										
Vanguard Total World Stock Index Fund (VTWIX)	5,151,387	100.0%	5.3%	24,159,329	100.0%	25.0%	19,007,942	19,000,000	24,151,387	24.7%
TOTAL EQUITY	5,151,387	100.0%	5.3%	24,159,329	100.0%	25.0%	19,007,942	19,000,000	24,151,387	24.7%
Fixed Income										
Vanguard Short-Term Bond Index Fund (VBITX)	10,807,366	11.8%	11.0%	14,495,597	20.0%	15.0%	3,688,231		10,807,366	11.0%
Hotchkis & Wiley High Yield (HWHIX)	27,945,184	30.5%	28.5%	19,327,463	26.7%	20.0%	-8,617,721	-9,000,000	18,945,184	19.3%
Dodge & Cox Income (DODIX)	52,733,378	57.6%	53.8%	38,654,926	53.3%	40.0%	-14,078,452	-10,000,000	42,733,378	43.6%
TOTAL FIXED INCOME	91,485,928	100.0%	93.4%	72,477,986	100.0%	75.0%	-19,007,942	-19,000,000	72,485,928	74.0%
Mutual Fund Cash	1,338,508		1.4%	1,338,508			0		1,338,508	1.4%
Total Fund	97,975,823		100.0%	97,975,823		100.0%	0	0	97,975,823	100.0%

3. Settlement Fund to Achieve Sustainability by 2024

The Trustee and Ms. Ralbovsky have met with the leaders of the NMI Government to discuss ways to achieve full financial sustainability by FY 2024. Assuming expected returns on investments of 4% per year, the present value of the future benefit payment obligations of the Settlement Fund equals \$575 million. After deducting the \$97.8 million in the investment account, a lump sum payment of \$477.2 million to the Settlement Fund today would enable the fund to be fully funded and financial sustainable.

Alternatively, additional funding could also be made over time. In this example, assuming additional contributions (above the required minimum contributions) would be made consistently through the next 5 years, to achieve sustainability by the end of FY 2024, the Settlement Fund requires \$325 million (includes the \$97.8 million in the Fund's investment accounts) by end of FY 2024, after which no further expected contributions are required:

\$ millions		
	Required by Settlement fund	For Long Term Sustainability by 2024
2020	43	88
2021	42	87
2022	41	86
2023	40	85
2024	39	84
Thereafter (nominal total)	500	NONE

If the Government were to pay an additional \$45 million per year in addition to the MAP for a period of five (5) years, the Settlement Fund would be able to adopt a more aggressive asset allocation to achieve a 5% expected return, and is expected then to be fully funded and sustainable.

Several ways that the Government can raise the additional \$45 million per year include: (1) reduce the rebate of taxes by 20% or more; (2) float tax free general obligation bonds (not pension obligation bonds as it is an expensive source of funding and the market appetite for CNMI pension obligation bonds is non-existent); and (3) raising money through the sale or lease of Government land.

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. While the amounts were fixed for FY 2014 and FY 2015 at \$25,000,000 and \$27,000,000, respectively, the MAP was to be determined by an independent actuary. The Actuarial Valuation Report to confirm the MAP for FY 2018 and FY

2019 is attached hereto as **Exhibit 3**. The actuarial report to establish the MAP for 2019 is expected by be delivered in October 2019.

Highlights from the Milliman's FY 2017 Actuarial Valuation Report:

- The Government paid MAP in the amount of \$33,000,000 for FY 2017. Milliman has determined that the MAP for FY 2018 should be \$45,000,000, and FY 2019 should be \$44,000,000.
- Assuming life expectancies based upon the mortality table used in the 2012 actuarial valuation of the Northern Mariana Islands Retirement Fund, the MAP is estimated to be \$43,000,000 for FY 2020. The MAP are estimated to decline by \$2,000,000 per year from FY 2021 to FY 2025 and by \$1,000,000 per year from FY 2026 to FY 2031, resulting in a MAP of \$27,000,000 for FY 2031 and FY 2032, and \$26,000,000 for FY 2033 through FY 2037.

Projected CNMI Payments (current mortality)

FY 2018	45,000,000	45,000,000
FY 2019	44,000,000	44,000,000
FY 2020	43,000,000	43,000,000
FY 2021	41,000,000	42,000,000
FY 2022	39,000,000	41,000,000

(see Exhibit 7 for FY 2023 and later years)

- Assuming improved life expectancies, the MAP for FY 2020 is estimated to be \$43,000,000. The estimated MAP for FY 2021 will be \$42,000,000, and will decline by \$1,000,000 per year until FY 2024, resulting in a MAP of \$39,000,000 for FY 2024. MAP for FY 2025 through FY 2037 is estimated to stay at \$39,000,000 per year.

III. LITIGATION STATUS

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

This action was originally filed on May 5, 2011 by the NMI Retirement Fund against the Commonwealth Utilities Corporation (the “CUC”) to collect outstanding employer contributions totaling \$3,175,225 plus \$740,462 in statutory penalties and \$527,716 in economic damages as of April 29, 2011. It was assumed by the Settlement Fund and was 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 468-1, at 4-5, 16, 34-36). By stipulation of the parties, the Settlement Fund substituted in as plaintiff on August 16, 2017. The Settlement Fund entered its appearance in this action. The Superior Court held a hearing on the motion for partial summary judgment initially filed by the Retirement Fund and subsequently denied the motion on April 11, 2018. The Superior Court ordered the parties to amend the pleadings in the case.

The Settlement Fund filed its First Amended Verified Complaint (“Amended Complaint”) on April 10, 2019, against CUC and the NMI Government. The Amended Complaint includes claims for breach of contract against the CUC and NMI Government; violation of Article III, Section 20(a) of the NMI Constitution against the CUC and NMI Government; violation of 1 CMC § 8362 against the CUC; violation of 1 CMC § 8385 against the NMI Government; violation of the Contracts Clause against the CUC and NMI Government; and void assignment of debt against CUC and the NMI Government.

On May 8, 2019, CUC filed a motion to dismiss the action, which the NMI Government joined, primarily arguing that the case should be dismissed because the Settlement Agreement resolved all CUC liabilities.

The Settlement Fund filed an *Ex Parte* Emergency Motion for Temporary Stay of Proceedings and Request for Hearing and an *Ex Parte* Motion to Shorten Time for a Hearing on the *Ex Parte* Motion for Temporary Stay on June 6, 2019. The Settlement Fund sought a stay because the claims raised by the CUC and NMI Government in their motions to dismiss involve the interpretation of the Settlement Agreement, which requires the NMI District Court's review.

On June 7, 2019, the Settlement Fund opposed the motion to dismiss, reiterating that the CUC and NMI Government's claim regarding the resolution of CUC liabilities must be raised with the NMI District Court, which has exclusive jurisdiction over all matters relating to the Settlement Agreement. The consolidated reply by the CUC and NMI Government did not dispute the NMI District Court's exclusive jurisdiction over the Settlement Agreement or oppose a stay of the case pending the NMI District Court's review of the claims.

The Settlement Fund also filed a Motion to Enforce the Final Judgment Approving Class Action Settlement Against the CUC on June 7, 2019, seeking the NMI District 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.

On June 27, 2019, the Superior Court held a hearing on the *Ex Parte* Emergency Motion for Temporary Stay of Proceedings. On July 18, 2019, the Superior Court granted a temporary stay of the proceedings until October 18, 2019, and scheduled a status conference for October 23, 2019.

On August 27, 2019, the NMI Government filed a Motion to Enforce before this Court, claiming the Settlement Agreement prohibits the Settlement Fund from filing suit against the NMI 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 NMI 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 as of the date of this Report.

B. ADMINISTRATIVE APPEALS

1. Appeals Pending Mediation

A summary of pending administrative cases is provided in the Pending Administrative Cases Report, attached as **Exhibit 13**. These appeals will proceed with mediation upon the Court's appointment of mediators.

2. Appointment of New Hearing Officers

The Court previously appointed Joshua Berger and Maya Kara as Settlement Fund hearing officers. Mr. Berger has since retired, and Ms. Kara is unable to serve due to a conflict of interest. The Settlement has continued to mediate claims with members. The Fund will be issuing solicitations for hearing officer positions.

IV. STATUS OF LEGISLATION

The Twentieth 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
BENEFITS	House Bill 21-1 To establish a retirement plan for new government employees.	Pending action by House Judiciary and Governmental Operations committee.
BONUS	House Bill 20-145 To appropriate \$22 million set aside in the Casino GRT Account for the 25% payment of Settlement Class Members Full Benefits and a bonus for all retirees.	Signed into law on December 15, 2017, as Public Law 20-35.
FUNDING	House Bill 20-10, SD1 To establish a Settlement Fund Revolving Fund Account, consisting of business gross revenue taxes collected every FY pursuant to 4 CMC § 1301, exclusively for the MAP obligations for FY 2018 through FY 2024.	Signed into law on December 15, 2017, as Public Law 20-33.
	House Bill 20-129, HD1, HS1, SD1 To amend 4 CMC § 2308 to address the Trustee's concerns and reserve funds generated from the Casino GRT, specifically the first \$22 million of funds deposited in the Casino GRT Account to be earmarked and available for appropriation to cover or supplement the 25% payments and any bonus to all Settlement Class Members and CNMI Fund members.	Signed into law on December 15, 2017, as Public Law 20-34.
	House Bill 20-141, SD1 To give the Department of Finance the authority to pay the 25% retiree death benefit payments.	Signed into law on April 24, 2018, as Public Law 20-57.
	House Bill 20-173, SS1, CCS1 To appropriate funds for the operations and activities of the CNMI Government for FY 2019, including \$44 million for the FY 2019 MAP obligation.	Signed into law on September 27, 2018, as Public Law 20-67.

	House Bill 20-187, HD2 To appropriate \$20,884,522 from the Special Casino Gross Revenue Tax Account under 4 CMC § 2308, \$11,534,522 of which covers the FY 2016 APGA payment and \$3,500,000 for CNMI retiree bonuses for Settlement Class and CNMI Retirement Fund Members receiving an annuity.	Signed into law October 4, 2018, as Public Law 20-68.
	HB 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 and a 30% allocation of any unencumbered balance of the 1% Public Auditor's Fee in 1 CMC § 7831 to the Settlement Fund at the end of the FY.	Pending Governor Torres' review.
	HB 21-76 To repeal and reenact 4 CMC § 2307 and 4 CMC § 2308 to designate the casino annual license fee to supplement the 25% payments and any bonus to Settlement Class Members and CNMI Fund members receiving an annuity.	Pending review by the House.
	HB 21-78, HS1 To appropriate the 2019 Casino License Fee of \$15,502,570, \$1 million of which is for the partial payment of the FY 2017 APGA amount due to the Settlement Fund.	Pending action by the Senate.
GROUP HEALTH AND LIFE INSURANCE ("GHLI")	House Bill 20-101, HD1 To allow annuitants who did not enroll or re-enroll in health insurance within six months of the date of retirement to enroll later, as long as enrollment occurs during the open enrollment month, until December 30, 2020.	Signed into law on January 26, 2018, as Public Law 20-40.

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

Respectfully submitted this 19th day of September, 2019.

CIVILLE & TANG, PLLC

/s/ _____
Joyce C.H. Tang
Trustee