JUST THE FACTS

A Newsletter Prepared By First Actuarial Consulting, Inc.

April 2021

Multiemployer Pension Relief under the American Rescue Plan Act of 2021 (“Act”)

Financial Assistance for Severely Underfunded Multiemployer Plans

The Act creates a special financial assistance program to ensure the solvency of severely underfunded multiemployer plans by providing a lump sum payment such that the plans can pay all benefits through 2051. This funding is not a loan and there is no requirement to pay back any financial assistance received by the plans.

Eligibility

A multiemployer plan must satisfy one of the following to be eligible for financial assistance:

- Plan certified as “critical and declining” status in any plan year beginning in 2020 - 2022; or
- Plan had been approved for a suspension of benefits as of the date of enactment; or
- Plan certified as “critical” in any plan year beginning in 2020 - 2022, has a current liability funded percentage of less than 40%, and the ratio of active to inactive participants is less than 2:3; or
- Plan became insolvent after December 16, 2014, remains insolvent, and has not been terminated as of the date of enactment.

The Act also allows (but does not require) the PBGC to give priority consideration to certain plans by prohibiting a plan from submitting an application for up to two years from the date of enactment unless the plan satisfies any of the following criteria:

- the plan is insolvent or likely to become insolvent within five years after the date of enactment; or
- the PBGC projects that the plan would receive more than $1 billion in financial assistance following its insolvency if the special financial assistance is not provided; or
- the plan has suspended benefits in accordance with the MPRA as of the date of enactment; or

- the PBGC determines it appropriate based on other similar circumstances.

Restrictions on use of Special Financial Assistance
An eligible plan will receive a one-time special financial assistance payment from the PBGC within one year after its application is approved equal to the amount necessary to ensure that the plan can pay all benefits due through the last day of its plan year ending in 2051.

In determining the amount of financial assistance, the discount rate used is limited to the unadjusted IRS “third segment rate” for single-employer pension funding with respect to the month in which the application is filed or the three preceding months, plus 200 basis points in either case. Based on the current IRS segment rates this would yield an interest rate of about 5.50%.

The special financial assistance received must be segregated from other plan assets and must be invested in investment-grade bonds or other investments approved by the PBGC.

FACT Insight – using a bond rate plus 200 bps to determine the amount of financial assistance and then requiring the investment to be invested in bonds may result in a long-term shortfall and the plan may run out of money prior to 2051 due to the inability to earn the bond rate plus 200 bps.

A plan that receives financial assistance under this legislation will be deemed to be in “critical” status until the end of its plan year ending in 2051. In addition, a plan that previously suspended benefits in accordance with the MPRA must reinstate its suspended payments and provide retroactive adjustments to affected participants and beneficiaries, which can be paid in a lump sum or in installments over a five-year period.

Other Provisions Affecting Multiemployer Plans

Multiemployer PBGC Premium Increase
PBGC premiums for multiemployer plans, currently $31 per participant for 2021 plan years, are indexed for increases in national average wages and are projected by some actuaries to be around $40 per participant by 2030. For plan years beginning after 2030, the Act requires these PBGC premiums will increase to $52 per participant and will continue to be subject to future indexed increases.

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FACT Insight – if a plan is filing for financial assistance, it is important to consider the impact of these increased PBGC premiums - as well as future administrative and investment-related expenses - when projecting future cashflows and determining the amount of financial assistance that will be needed.

Temporary Delay for Designation of Funding Zone Status

A plan may elect to retain the zone status for its first plan year from the period beginning on March 1, 2020 and ending on February 28, 2021, or the next succeeding plan year. If this election is made the status of the plan will be the same as the status for the year preceding the year elected by the plan. A plan that was already in endangered or critical status during the preceding year is not required to update its funding improvement plan or rehabilitation plan, as applicable, for the year elected by the plan.

FACT Insight – if the trustees are making an election to hold their zone status the same as the prior year, certain disclosures will need to be re-filed and notices resent to the various parties within 30 days of the election being made.

Temporary Extension of Funding Improvement and Rehabilitation Periods

A plan in endangered or critical status for a plan year beginning in 2020 or 2021 may elect to extend its funding improvement or rehabilitation period, as applicable, by five years.

Adjustments to Funding Standard Account (FSA) Rules

A plan may elect to amortize over 30 years, rather than 15 years, certain experience losses incurred in the first two plan years ending after February 29, 2020. These experience losses are not limited to investments and may include loss of contributions due to a decline in work hours or the impact of retirement. But the plan must pass a solvency test over this 30-year period from the date of election.

A plan may choose to smooth relevant asset losses over as many as ten years (rather than the typical five years), but the plan must pass a solvency test over this 10-year period from the date of election. Also, a plan may allow its smoothed actuarial value of assets to be as much as 130% of its market value of assets (as opposed to the usual 120%).

A plan that makes any of these FSA elections would not be permitted to increase benefits for two plan years once an election is made unless additional funding becomes available.