American Rescue Plan Act of 2021
Impact on Multiemployer Defined Benefit Plans – Part 2

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Previously, we provided a brief background on the American Rescue Plan Act of 2021 ("ARPA") and its potential impact on Multiemployer Defined Benefit Plans. This article provides more details on the various provisions impacting those plans.

<u>**Financial Relief for Underfunded Plan**</u>

ARPA provides an estimated $86 billion (as estimated in February by the Congressional Budget Office) in relief to support certain underfunded plans through 2051. To qualify for this relief, a plan must meet ***one of the following*** criteria:

- The plan is determined to be "critical and declining" from their actuarial valuation in 2020, 2021 or 2022,
- The plan is in "critical" status from their actuarial valuation in 2020, 2021 or 2022, has a "modified" funded percentage under 40% (likely similar to box 2c on Schedule MB) and has at least 3 inactive participants for every 2 active participants,
- The plan became insolvent after December 16, 2014, continues to be insolvent and has not terminated as of ARPA's March 11th effective date,
- The plan had a suspension of benefits under MPRA as of ARPA's effective date.

The relief will be administered by the Pension Benefit Guaranty Corporation ("PBGC") but funded by Treasury as a separate program. The PBGC is required to publish the filing requirements within 120 days (July 9th). For a plan that fully complies with the program, there is no requirement to pay back the funds. The Congressional Budget Office ("CBO") projects about 185 plans will qualify. The $86 billion and the 185 are simply estimates as the law does not restrict either. Depending on the PBGC regulations, either amount could increase or decrease.

Initial applications must be made by December 31, 2025. The PBGC can, but is not required to, prioritize based on: (1) plans with MPRA benefit suspensions; (2) plans presenting the largest liability to the PBGC (those requiring $1 billion or more of assistance); (3) plans expected to be insolvent within five years of the Law's enactment date; or (4) other criteria as determined by the PBGC.

The grant would be paid as a lump sum intended to fund all benefits through 2051. For the most part, this is the plan's full benefits and not just benefits up to the PBGC limits. Plans that previously cut already earned benefits would be required to retroactively restore those cuts. However, any adjustable benefits that were already eliminated prior to applying cannot be restored.

We expect PBGC regulations to clarify how much of the plan's current assets factor into the grant determination, if at all. The Law does require the granted money to be used only for benefit payments and plan expenses. However, it does not appear to require it be spent ahead of current plan assets. The Law does restrict how the money is invested to investment grade bonds or other investments permitted by the PBGC. Plans receiving the relief will be deemed in Critical Status through 2051.

PBGC Premium Increase

Currently, all multiemployer plans pay an annual premium to the PBGC. For 2021, the premium is $31 per participant. The premium is increased each year for inflation and is projected by the CBO to be $44 in 2031. However, under ARPA, come 2031, the premium will be re-set to $52 and inflation increases will continue thereafter.

Zone Status and Funding Improvement/Rehabilitation Plan Relief

For the two plan years starting after February 29, 2020, a plan is permitted to use the prior year's Zone certification. Electing plans must notify participants, beneficiaries, the PBGC and DOL. Once elected it can only be revoked with Treasury's consent.

For Endangered or Critical Zone plans, the Law also suspends the annual update to the plan's funding improvement plan or rehabilitation plan. This applies to the two plan years starting after February 29, 2020.

In addition, Endangered or Critical Zone plans are permitted to add 5 years to the plan's funding improvement or rehabilitation period.

Funding Relief for Plans Meeting Solvency Requirements as of February 29, 2020

The Law allows plans to use a longer amortization for certain actuarial losses for the two plan years starting after February 29, 2020. The amortization period would be extended from 15 years to 30 but only for investment losses and liability losses tied to COVID-19.

In addition to the extended amortization noted above, for plans using an asset smoothing method, the allowable smoothing period is increased from 5 to 10 years for asset losses incurred for the two plan years starting after February 29, 2020. The smoothed assets cannot be less than 80% of Market Value or more than 130%.

Plans electing either (or both) would be restricted from making benefit improvements for the two years following the election. Further, this funding relief would not be available to plans who receive the financial relief for underfunded plans noted earlier.

Conclusion

We will monitor closely the anticipated PBGC guidance and as a member of the American Academy of Actuaries Multiemployer Advisory committee, we have already been afforded the opportunity to provide our recommendations/feedback directly to the PBGC and Treasury.

If you believe your plan may qualify for any of the special relief or treatment noted in this article, we suggest reaching out to your actuary and/or fund counsel for more information. Of course, we at Zenith are also available to help in any way we can.