

BENEFIT NEWS BRIEFS

Informal MPRA Tips from Treasury, PBGC and DOL Courtesy of the American Academy of Actuaries

The Multiemployer Subcommittee of the American Academy of Actuaries (Subcommittee) met with members of the Department of Treasury (Treasury), the Pension Benefit Guaranty Corporation (PBGC), and the Department of Labor (DOL) at the end of February 2017 and discussed applications by multiemployer pension plans in critical and declining status to suspend benefits or partition liabilities, as permitted under the *Multiemployer Pension Reform Act of 2014 (MPRA)*.

To view the details of the meeting, the Discussion Notes are available at the Society of Actuaries webpage:

http://www.actuary.org/files/publications/Multiemployer_Meeting_Notes_Feb_22_2017.pdf.

The opinions expressed at the meeting were of the individual meeting participants and not the official position of the agencies. Even with that standard disclaimer, the Discussion Notes are a useful resource to summarize how these agencies saw the first 12 applications and what tips were offered to actuaries and plan sponsors at the meeting. The Discussion Notes focus on how the Treasury views certain key actuarial assumptions when it reviews *MPRA* applications. Below are a few key topics reflected in the Discussion Notes.

Key Actuarial Assumptions

Much of the discussion pertained to the selection of actuarial assumptions, with emphasis on the importance of selecting assumptions that are reasonable for the purpose of the projection of plan solvency. It was noted that assumptions that may be reasonable for an actuarial valuation are not necessarily reasonable for a solvency projection, especially for a plan with highly negative cash flows. Similarly, it was noted that an assumption that may be considered immaterial for a valuation may have a material impact on a solvency projection.

Current Mortality Rates

Plan actuaries were strongly encouraged to use the retirement plan mortality tables recently published by the Retirement Plan Experience Committee (RPEC) of the Society of Actuaries (SOA). Deviations from the tables or adjustments to the

mortality rates should be based on a study of plan experience, weighted by benefit amounts.

Mortality Improvement

Plan actuaries were also strongly encouraged to use the mortality improvement scales recently published by the RPEC with mortality improvements assumed to be generational, rather than finite. Any adjustment or deviations should be supported by information and analysis.

Investment Return

The investment return assumption should be appropriate for the purpose of a solvency projection, take into account relevant current economic data, and be free of significant bias. Adequately reflecting short-term expectations in a plan with declining assets is important since the projections are highly sensitive to the returns in the first few years.

Other Demographic Assumptions

Other demographic assumptions should be appropriate for the purpose of a solvency projection, consider applicable plan provisions, and take into account recent plan experience, including gain/loss analysis by source.

Retirement Ages

Plan actuaries were encouraged to assume a distribution of retirement ages to reflect plan experience. This applies separately to active participants and inactive vested participants.

Optional Form Elections

Plan actuaries were encouraged to develop an assumption based on plan experience since different actuarially equivalent optional forms of payment under the plan may have significantly different cash flows.

New Entrant Ages

When performing an open group projection, actuaries were encouraged to develop a distribution of ages for new active participants based on plan experience. Use of a single age for this purpose was considered overly simplified and inappropriate.

Exclusion of Certain Participants

Plan actuaries were cautioned against excluding older vested participants from the solvency projection.

Projected Contributions

Assumptions regarding future contributions are to be developed from input from the plan sponsor and analysis of historical trends. Plan actuaries should provide justification for the selected assumptions, including narratives of the input provided by the plan sponsor and the rationale for any deviations from historical trends.

Plan Sponsor Considerations

Effective Dates

Plan sponsors were advised to set the effective date for any proposed suspension of benefits in light of the amount of time required for the Treasury to review the application and to conduct the participant vote. Generally, plan sponsors should set the effective date at least 10 months after the application date, or 12 months if it is possible that a plan might be considered systemically important. "Systemically important" is explained on the next page.

"Bates Stamp" Each Page

The Treasury requested the plan sponsor to [Bates stamp](#) each page in the suspension application. A Bates Stamp is a numbering system for document management often used in litigation. There are software programs that allow Bates stamping of PDFs.

Readability Of Participant Notices

The plan sponsor should carefully consider the content and readability requirements for participant notices. The model notice provides a safe harbor, but the readability requirements apply to the individual benefit estimates and any other customized text.

Equitable Distribution

If the proposed suspension of benefits applies different reduction formulas to different participant groups, each benefit formula should be considered a separate group for the purpose of illustrating the effects of the reductions. If participants in the plan are subject to different benefit formulas, then each benefit formula also constitutes a separate group. The Treasury expressed a willingness to confer with plan sponsors before applications are submitted and discuss the proper approach to creating and consolidating groupings for the purpose of illustrating the effects of proposed suspensions.

Review Process

The review process generally starts with inquiries from the PBGC. The PBGC requests detailed participant data and calculations from the plan sponsor and plan actuary to determine that the underlying projection calculations are accurate, that the proposed suspensions correctly reflect statutory limitations, and whether or not the plan is systemically important.

Later in the process, the Treasury makes inquiries related to the acceptability of the actuarial assumptions, equitable distribution of the proposed suspensions, readability of the participant notices, and other issues related to the statutory and regulatory requirements.

Census Data

Data should be provided in Excel format. The complete valuation data file should be included.

Suspension Calculations

The census data should include calculations of the proposed suspension for each participant. Calculations should show the accrued benefit for each participant before and after the proposed suspension, measured at the effective date of the proposed suspension.

Systemically Important Calculations

Information will be requested unless it is readily apparent from the size of the plan that it is not systemically important. A plan is systemically important if the present value of projected financial assistance payments exceed \$1.0 billion.

Test Lives

PBGC will request “test lives” showing detailed projections with and without the proposed suspensions. The plan actuary should be prepared to send test lives to PBGC shortly after the application is submitted: at least one active participant, one inactive vested participant and one retired participant.

Draft Plan Amendment

The plan sponsor should draft a plan amendment reflecting the proposed suspension of benefits, even though it is not required as part of the initial application, as the Treasury may ask to review the draft amendment.

Prior Partial Lump Sum Payments

If a plan offers partial lump sum payments, the application should include a discussion of how prior payments are reflected in the proposed suspension plan.

Partitions and Facilitated Mergers

PBGC encouraged plan sponsors interested in a partition or facilitated merger to seek an informal consultation before submitting an application. The informal consultation could address the “impairment” test: whether granting the proposed partition would impair PBGC’s ability to provide financial assistance to other multiemployer pension plans. PBGC noted that how a partition is structured can significantly affect the impairment test.

For More Information

More information on *MPRA* is located on the [Treasury Department webpage](#).

For Research Department publications on *MPRA*, see the [Topical Index](#) at pages 39-40.

Action Item

If your Plan is considering a submission to the Treasury as permitted under *MPRA*, it may be helpful for your actuary review these Discussion Notes in order to avoid known pitfalls during the application process.

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