Horizon Actuarial Services, LLC

Summary of the Pension Provisions of the American Rescue Plan Act of 2021

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARPA) into law. The law includes much needed relief provisions for multiemployer pension plans. These provisions are summarized below.

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Special Financial Assistance. ARPA creates and appropriates funding for a financial assistance program for distressed multiemployer plans to be administered by the Pension Benefit Guaranty Corporation (PBGC).

- Eligibility: Eligible plans include: (1) plans in critical and declining status; (2) plans in critical status with a current liability funded percentage less than 40% and an active to inactive participant ratio less than 2 to 3; (3) plans with an approved suspension of benefits application; and (4) plans that became insolvent after December 16, 2014, have remained insolvent, and have not been terminated. The eligibility criteria must be met between 2020 and 2022.

- Amount of Special Financial Assistance: The PBGC would provide direct financial assistance to eligible plans as a single lump sum payment in an amount needed for the plan to pay all benefits through 2051 without reductions in benefits. Special financial assistance would not need to be repaid by a plan.

- Actuarial Assumptions: In general, the assumptions used for determining eligibility and the amount of special financial assistance must be the same as those used in the plan's most recent zone certification filed prior to January 1, 2021. For purposes of determining the amount of special financial assistance, the interest rate assumption is limited to the 3rd segment rate plus 2.0% (approximately 5.6% as of February 2021). Assumptions, other than the interest rate, may be changed if deemed unreasonable and approved by the PBGC, in consultation with Treasury.

- Conditions: Plans receiving special financial assistance must invest proceeds in investment grade bonds (or other investments permitted by the PBGC), are deemed to be in critical status through 2051, and cannot apply for new benefit suspensions. In addition, the special financial assistance cannot be taken into account for determining the minimum required contribution.

  The PBGC, in consultation with Treasury, may impose restrictions on plans receiving financial assistance related to increases in future accrual rates and retroactive benefit improvements, allocation of plan assets, reductions in employer contribution rates, diversion of contributions/expenses to other benefit plans, and withdrawal liability. The PBGC is prohibited from imposing restrictions related to prospective reductions in plan benefits, plan governance, and funding rules.

- Priority Consideration: The PBGC, in consultation with Treasury in certain circumstances, may limit initial applications for financial assistance for up to two years to: (1) plans projected to become insolvent within 5 years, (2) plans that previously implemented benefit suspensions, (3) plans that would otherwise require financial assistance from the PBGC that would exceed a present value of $1 billion, and (4) plans that meet other criteria to be determined by the PBGC.

- Application Deadline: Initial applications must be submitted no later than December 31, 2025 and revised applications must be submitted no later than December 31, 2026.

- Benefit Suspensions: Benefit suspensions must be reinstated for any plan that receives financial assistance. Previous benefit suspensions to current retirees and beneficiaries must be repaid as a lump sum payment or as monthly payments over a period of five years. The PBGC must consult with Treasury regarding the amount of special financial assistance for plans that suspended benefits.

Funding Relief. ARPA provides funding relief similar to the relief provided in the wake of the Great Recession. The asset smoothing and the credit balance provisions are not available for plans receiving special financial assistance.

- Zone Status: Plans could elect to retain their prior year zone status for either the first or second plan year beginning on or after March 1, 2020.
- Funding Improvement and Rehabilitation Periods: Plans in endangered or critical status in 2020 or 2021 (after application of the zone status delay) could elect to extend their funding improvement period or rehabilitation period by 5 years.
- Asset Smoothing: Plans could elect to smooth investment losses incurred in each of the 2 plan years ending after February 29, 2020 over 10 years rather than 5 in the actuarial value of assets. In addition, plans could extend the asset valuation corridor from 120% to 130% of the current fair market value of assets for the two plan years beginning after February 29, 2020.
- Credit Balance: Plans could elect to amortize investment losses (or certain other losses related to COVID-19) incurred in each of the two plan years ending after February 29, 2020 over 29 years rather than 15 for purposes of the Funding Standard Account (FSA) credit balance. Other losses related to COVID-19 include experience losses related to reductions in contributions, reductions in employment, and deviations from anticipated retirement rates.
- Restrictions on Benefit Improvements: Plans that optionally elect any combination of asset smoothing or credit balance relief would be restricted from making benefit improvements for two years following the asset method change or establishment of an extended FSA base.

PBGC Premium Increases. The flat-rate premium paid to the PBGC would increase to $52 per participant starting in 2031 and would increase with wage inflation in each year thereafter. The flat-rate premium is projected to be $40-$45 by 2031 under current law; therefore, this represents an increase of roughly $7-$12 in 2031.

Notable Exclusions. Below is a summary of previously considered provisions for multiemployer pension plans that were NOT included in ARPA.

- Discount Rate Limitation: ARPA does not include any limitation on the actuarial discount rate used to calculate plan liabilities.
- Funding Rule Changes: There are no changes in the funding rules other than those noted above.
- PBGC Guaranteed Benefits: ARPA does not include an increase in the amount of the guaranteed benefit provided by the PBGC
- Composite Plans: ARPA does not include provisions to permit the adoption of composite plan designs.
- Withdrawal Liability: The provision from an earlier version of the bill that required plans to ignore the impact of special financial assistance for 15 years for withdrawal liability purposes was excluded from the final bill. However, PBGC was given authority to issue regulations regarding withdrawal liability for plans that receive special financial assistance and may impose a similar requirement.