

# Client Alert

## Multiemployer Pension Recapitalization and Reform Plan

On November 20, 2019, Senators Chuck Grassley and Lamar Alexander released a proposal that would significantly change the rules under which multiemployer defined benefit pension plans operate. The Multiemployer Pension Recapitalization and Reform Plan consists of a White Paper and a Technical Explanation. The proposal incorporates the work of the Joint Select Committee on Solvency of Multiemployer Pension Plans and has not yet been introduced as a legislative bill. On December 6, 2019 the National Coordinating Committee for Multiemployer Plans (NCCMP) submitted comments on the proposal. Links to these documents are at the end of this Client Alert.

### PBGC Premiums

The Pension Benefit Guaranty Corporation (PBGC) reports that without reforms the Multiemployer Insurance Program is projected to be insolvent by 2026. The proposal aims to adopt characteristics of the single employer pension insurance program and create a framework in which employers, unions, workers and retirees would all play a role in shoring up the PBGC's deficit.

Under the proposal, PBGC premiums for multiemployer plans would increase significantly. The flat-rate premium would increase from the current \$30 per participant (for 2020) to \$80 per participant. A variable rate premium would be required from plans that are underfunded on a current liability basis. The variable rate premium would equal 1% of the unfunded currently liability, generally capped at \$250 per participant. Stakeholder "co-payments" would also be added. For active employees, a monthly payment of \$2.50 per employee would be paid by both the union and the contributing employer. Retiree "co-

payments" would range from 3% of the retiree's benefit payment for endangered plans to 10% for partition plans.

### Actuarial Assumptions

Another major change would be in the selection of the discount rate, or assumed rate of return. Currently this rate is determined by the plan actuary based on his or her best estimate of expected future asset returns. The proposal would restrict the discount rate to the actuary's best estimate not to exceed a cap which is equal to the lesser of a 24-month average of the third segment rate of the yield curve plus 2%, or 6%. The rate would be used for plan funding and determination of the yearly zone status. To mitigate the immediate financial impact of this change there would be a phase-in period and increases in the plan liabilities due to the change would be amortized over 30 years for purposes of the funding standard account credit balance.

### Zone Status

There would be changes in the endangered, critical and declining zone statuses, and the current green zone would be re-categorized as "unrestricted" or "stable." An "unrestricted" plan would be a plan that is not endangered or critical and is either projected to be at least 115% funded in 15 years or has a current liability funded percentage of at least 80%. A "stable" plan would be a plan that is neither endangered nor critical.

## **Additional Changes**

Other changes in the proposal include:

- Expanding PBGC ability to assist troubled plans by partitioning participants of withdrawn employers and assigning them to the PBGC
- Increasing the PBGC maximum benefit guarantee approximately 60%
- Accelerating the time at which PBGC benefit limits are imposed (5 years before insolvency) and require plans to terminate and cease benefit accruals
- Endangered plans would be allowed to reduce adjustable benefits which is currently available only to critical plans
- Revising voting procedures for suspension of benefits under MPRA
- Making mergers of troubled plans into healthy plans easier to accomplish
- Liberalizing the benefit-suspension rules upon reemployment
- Providing guidance on “composite” plans for future accruals which would not be covered by the PBGC
- Changing the selection of and responsibility for future industry activity assumptions
- Various changes to withdrawal liability calculations and assessment

This is intended to provide a high-level summary of the proposal. We would welcome the opportunity to discuss in more detail the possible impact the proposal would have on your plan. If you have any questions please contact our office.

## **Links to Documents**

White Paper:

<https://www.finance.senate.gov/imo/media/doc/2019-11-20%20Multiemployer%20Pension%20Recapitalization%20and%20Reform%20Plan%20White%20Paper.pdf>

Technical Explanation:

<https://www.finance.senate.gov/imo/media/doc/2019-11-20%20Multiemployer%20Pension%20Recapitalization%20and%20Reform%20Plan%20Technical%20Explanation.pdf>

NCCMP Comments: <https://nccmp.org/wp-content/uploads/2019/12/NCCMP-Letter-to-Chairman-Grassley-and-Chairman-Alexander-December-6-2019.pdf>