Multiemployer Alert

Update on Issues Affecting Taft-Hartley Plans

FEBRUARY 2019

PBGC Issues Proposed Rule on Methods for Calculating Withdrawal Liability

On February 6, 2019, the Pension Benefit Guaranty Corporation (PBGC) issued a proposed rule to amend and simplify the calculation of an employer's withdrawal liability and annual payment amount for plans that have had certain benefit reductions, benefit suspensions, surcharges, or contribution increases required by a funding improvement or rehabilitation plan. The proposed rule effectively memorializes changes in law prescribed by the Pension Protection Act of 2006 (PPA) and the Multiemployer Pension Reform Act of 2014 (MPRA). It provides simplified methods that may be used to implement these changes. Any comments on the proposed rule must be submitted on or before April 8, 2019.

Under the PPA and MPRA, changes that should not be reflected in the calculation of withdrawal liability generally fall into one of two categories:

1. Reductions in liability resulting from the reduction or elimination of adjustable benefits for critical plans, or the implementation of benefit suspensions for critical and declining plans should be ignored when calculating a plan's unfunded vested benefit liability for withdrawal liability purposes, and
2. "Red zone" surcharges and post-2014 contribution increases (i.e., those required by a funding improvement or rehabilitation plan that go into effect for plan years after December 31, 2014 and do not provide an increase in benefits) should be ignored when calculating an employer's allocation of unfunded vested benefit liability as well as in determining the highest contribution rate used to determine a withdrawing employer's annual payment amount.

Highlights of the Proposed Rules

- The PBGC previously issued Technical Update 10-3 providing a simplified method to reflect liability reductions resulting from the elimination of adjustable benefits. The simplified method under the proposed rule is essentially the same as Technical Update 10-3.
- Two alternatives for reflecting benefit suspensions: the Static Value Method and the Adjusted Value Method. Both methods allocate the value of the suspended benefit to a withdrawing employer by their allocation fraction.
- Guidance on disregarding post-2014 contributions increases required by a funding improvement or rehabilitation plan in the allocation fraction, including a simplified method for ignoring them in the numerator of the allocation fraction, and two alternatives for ignoring them in the denominator.
- Simplified methods for handling contribution increases required by a funding improvement/rehabilitation plan apply once a plan is no longer in "yellow zone" or "red zone."

In the coming weeks we will provide a more detailed analysis of this proposal. If you have any questions regarding how the proposed rule impacts your plan, please contact your Milliman consultant.