

## Multiemployer Plan Benefit Suspension Voting Procedures Released

IRS temporary and proposed regulations establish the process for the administration of the vote required before implementing a multiemployer benefit suspension under the Multiemployer Pension Reform Act of 2014. The process specifies information that must be provided to the IRS, the use of designated service providers to administer the vote, and the permitted forms of communication for delivering the ballot packages (by mail with electronic backup) and collecting the vote (electronically and telephonically).

### Background

Under benefit suspension rules in the Multiemployer Pension Reform Act of 2014 (MPRA), plan sponsors of certain “critical and declining status” multiemployer plans are permitted to reduce the plan benefits payable to participants and beneficiaries (referred to as a “suspension of benefits”) if specified conditions are satisfied. In June, initial guidance was issued about conditions, government approval, and implementation of such a suspension. Our [June 29, 2015](#) *For Your Information* provided a review of that initial guidance.

Under MPRA, suspensions generally may not be implemented if a majority of all eligible voters vote to reject the suspension — that is, all non-votes count in favor of the suspension. If the plan is a systemically important plan (more than \$1.0 billion present value of projected PBGC financial assistance), Treasury can override a vote by participants to reject the benefit suspension. Although the June guidance included a list of the information that must be provided to participants in ballots, procedural specifications were not covered.

### Procedures for the Vote

In [temporary regulations](#) issued on September 2, 2015, IRS explains the administrative requirements for the participant vote including distribution of the ballot package, voting and tabulation procedures, and the determination of the voting result.



## Responsibilities

The IRS administers the vote, but they can choose to delegate distribution of the ballots and tabulation of the votes to one or more service providers. The plan sponsor must provide a list of all eligible voters within 7 days following the IRS approval of the application for a suspension of benefits. The list will need to include each eligible voter's last known mailing address, or, for those who cannot be located, an indication that the individual could not be located through reasonable efforts. In addition, the plan sponsor provides electronic mailing addresses and the previously provided individualized estimates of the effect of suspensions on an annual or monthly basis (updated if applicable).

The plan sponsor will also be required to electronically notify certain eligible voters that the ballot is being distributed by first-class mail and the date it will be mailed. These eligible voters include those who have been provided a suspension notice electronically and those who regularly receive electronic communications from the plan sponsor.

Furthermore, the temporary regulations require that the plan sponsor absorb all the costs associated with the distribution, including postage.

The DOL has a role to play in the process as well. The IRS allocated the responsibility to the DOL to compose the statement in opposition to the proposed suspension compiled from comments received on the proposed suspension. If there are no comments in opposition, the statement will disclose that fact.

## Distribution of the Ballot and the Vote

Within 30 days of IRS' approval of the suspension application, the ballot packages must be distributed by first-class U.S. mail. These packages may be supplemented by electronic reminders. Each ballot package will include a unique identifier that the eligible voters use to cast their vote.

Voting is paper-free. Votes must be cast using an automated system that accepts votes via the Web and telephonically. Votes cast using any other method are invalid.

The IRS will have 7 calendar days after the close of the voting period to certify whether or not the suspension has been approved or rejected.

## Effective date

The temporary regulations are effective on September 2, 2015 and apply on or after June 17, 2015, and expire June 15, 2018. In tandem with the release of the temporary rule, the IRS released a [proposed regulation](#) based on the text of the temporary regulations. Comments on the proposal must be received by November 2.

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