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PBGC Finalizes Revised Valuation and Notice Rules for Insolvent Multiemployer Plans

PBGC has updated its regulations to reduce reporting and disclosure requirements for multiemployer plans that are terminated by mass withdrawal or in critical status and that are, or are expected to be, insolvent. The final regulations are effective for plan years ending after July 1, 2019 and are substantially the same as what was proposed in 2018.

Volume 42

Issue 47

May 8, 2019

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Background

In July 2018 PBGC had proposed revisions to its regulations for ailing multiemployer plans to reduce actuarial valuation and notice requirements and yet assure that PBGC and other interested parties receive appropriate information for managing benefit reductions and assessing the need for financial support. Our [July 31, 2018 For Your Information](#) provided details on the proposals.

Final rule delivers as proposed

In response to comments, PBGC is making modifications to the associated forms and instructions, but the [final update to the regulations](#) is consistent with what had been proposed. In short:

- **Actuarial valuations.** Insolvent plans receiving financial assistance (whether terminated or not) and plans terminated by plan amendment that are expected to become insolvent are only required to perform an actuarial valuation once every five (up from three) years if the plan has nonforfeitable benefits of \$50 million (up from \$25 million) or less. Alternatively, these plans may, within 180 days after the end of the plan year, submit their current SPD, most recent actuarial report, and other information specified on PBGC's website to allow PBGC to prepare the valuation.
- **Withdrawal liability filings.** Plan sponsors of certain terminated or insolvent plans will now be required to file with PBGC information about withdrawal liability payments and whether any employers have withdrawn but have not yet been assessed withdrawal liability. This filing is due

within 180 days after the earlier of the end of the plan year in which the plan terminates or becomes insolvent, as well as each plan year thereafter. Plan sponsors will not, however, be required to resend information previously filed with the PBGC.

- **Insolvency notices.** Most annual updates to notices of insolvency benefit level are eliminated after the first notice if the plan is insolvent in the current plan year or is expected to be insolvent in the next plan year. Subsequent notices are limited to years when there are changes in the benefit level paid and need only be provided to the PBGC and affected individuals.

Notice of insolvency and notice of insolvency benefit level are due by the later of 90 days before the beginning of the insolvency year or 30 days after the date the insolvency determination is made. The plan sponsor may provide one combined notice for the same insolvency year.

- **Financial Assistance applications.** An initial application to the PBGC for financial assistance must be filed no later than 90 days before the first day of the month the plan will be unable to pay full guaranteed benefits. Recurring applications must be filed as soon as practicable after determining an inability to pay guaranteed benefits when due for a given month.

Forms updates

In response to comments, PBGC will make a number of changes to forms and instructions. For example, withdrawal liability instructions will be modified to explain how the agency will handle disclosure requests and to be clear that information is not required for plan years ending before the final rule's effective date. In addition, the content requirements for the notice of insolvency, notice of insolvency benefit level, and applications for financial assistance will be moved from the regulations to the instructions.

Effective date

The valuation changes and the requirement to file withdrawal liability information apply to plan years ending after July 1, 2019. Other changes are applicable effective on July 1, 2019.

In closing

Multiemployer plan trustees should welcome the reduced valuation requirements and streamlined notice rules. Watch for additions to PBGC's website for updated instructions.

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