**Preliminary Proposal from the Joint Select Committee on Solvency of Multiemployer Pension Plans**

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Tomorrow, November 30, 2018, is the deadline for the Joint Select Committee on Solvency of Multiemployer Pension Plans (JSC) to vote on and propose new legislation that attempts to solve the multiemployer pension crisis. The JSC held several hearings during the first half of 2018 to better understand the current crisis and gain perspectives from all stakeholders. From those discussions, it appeared that low-interest, government-backed loans would be part of the proposed solution or the solution itself. However, there is much opposition to loan programs (especially as the only option), with many chalking them up to be a bailout of poorly funded plans at the expense of healthy plans and taxpayers.

**Key Points of the JSC Proposal**

Until recently, little has been seen by the public from the JSC since the last hearing held in late July. Although an official document has not been released, draft summary proposal information has been circulating. Key points include the following:

- Repeal of the Multiemployer Pension Reform Act (MPRA) and restoration of all suspended benefits previously approved by the Treasury Department under a MPRA application on a prospective basis.
- Increase the Pension Benefit Guarantee Corporation (PBGC) guarantee to $70 per month per year of service, with a $3,000 annual floor.
- Require plans projected to be insolvent within 5 years to reduce benefits to the new guarantee, stop future accruals (but not contributions, unless an Employer chooses to withdraw), and terminate the plan.
- Impose four additional PBGC premium components: (1) a variable-rate premium based on annual unfunded liability levels, (2) a $4 per month per active member paid by union and employers, (3) a tax on retirees of between 0% and 6% depending on the plan's zone status, with 0% being a green zone plan and higher percentages for yellow, red, and other plans, and (4) an exit premium for withdrawing employers.
- Increase the partition program of the PBGC to remove orphan liabilities from critical and declining plans.
- Transfer up to $3 billion annually from the U.S. Treasury to the PBGC to fund partitioned benefit payments not fully reimbursed by plan sponsors.
- Cap the funding discount rate at the corporate long bond rate plus 200 basis points, currently about 6.5%.
- Subtract credit balance from assets when determining funded percentage for zone status test. Plans would have the ability to voluntarily waive credit balance.

This is not a comprehensive summary of the JSC proposal, as the actual text of the proposal has yet to be released. **Tomorrow, November 30, 2018,** is the deadline set in law for a proposed solution. Plan sponsors and stakeholders should be prepared to discuss the proposal with their pension plan actuary and to allow their voices to be heard by Congress as they prepare to vote. Based on commentary coming from Capitol Hill, the current proposal is unlikely to secure the necessary bipartisan support. But, only tomorrow's news, or lack thereof, will tell.

**Is the Proposal an Equitable Solution for All Stakeholders?**

Plan sponsors and stakeholders should understand that proposals such as this can appear to be very politically palatable, but a closer examination will show that the bill is really favorable to the PBGC but highly unfavorable to most plans. Especially those plans struggling under current legislation but able to stay above water. This bill may allow its sponsors to make statements like: *Provides participants with a more valuable PBGC Guarantee*, *Prospectively eliminates benefit reductions approved under MPRA*, and *Simplifies funding assumptions and encourages plans to take fewer risks*.

The problem with statements like those are that, in reality, this bill will subject struggling plans to much higher PBGC premium costs and increase the likelihood that participants' benefits will be cut to the PBGC guarantee level (with future accruals eliminated), and do so sooner. Sponsors who are in recoverable shape and who may have been able to persist under MPRA rules may quickly transition to a situation where members observe a large part of their hourly wage package being used to fund a pension that has frozen and cut their benefits further than MPRA would have.

The JSC is clearly interested in improving the PBGC's condition, and the PBGC is the only clear winner in this proposal, except for a few plans that have become insolvent after the MPRA enactment date. What the current environment really calls for is more flexibility for plan sponsors to do what MPRA allows, but earlier and to a lesser degree. That is, a plan sponsor who waits until they can see insolvency in the near future may be forced to make drastic benefit reductions that may not have been nearly as drastic had they been able to make these decisions earlier.

The process undertaken for MPRA reductions is cumbersome and extremely specific in addition to being very expensive, administratively. Plan sponsors need a framework where they can work with their investment advisors and actuaries to operate their plans, just as any reasonable individual or group of individuals would operate a business. The employers and union representatives and members are the true stakeholders in these plans, and they should have a right to do what is best, together, for both the members and employers: Sooner rather than later, so that it can be less rather than more.

Cowden Associates is committed to partnering with our clients and currently has a representative in Washington, D.C. to lobby for responsible solutions to this crisis. We are available to discuss how these proposed changes may impact your pension plan and have the right tools to assist you in finding the best path forward.

For more information please contact:

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