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CLIENT BULLETIN

Options Being Considered by the Joint Select Committee

In *Client Bulletin 2018-66*, we discussed the upcoming November 30 deadline for the Joint Select Committee Of The Solvency Of Multiemployer Plans ("Joint Select Committee") to vote on: (1) a report that contains a detailed statement of the findings, conclusions and recommendations of the Joint Committee; and (2) proposed legislative language to carry out the recommendations.

The Washington Post has recently obtained a copy of *one proposal under consideration*. According to the story broken by the Post, and picked up by thehill.com and other outlets, one draft proposal being circulated among the Joint Select Committee staff would call for more sacrifices by all parties. It by no means represents a final deal, but, at the least, it is a solid trial balloon. According to reports, the proposal would:

- direct the U.S. Treasury to spend up to $3 billion annually to subsidize payments for retirees from certain underfunded pensions,
- require benefit cuts,
- institute higher PBGC premiums (ranging from $50 to $150 per participant),
- assess new fees levied against contributing employers,
- assess new fees against union members, and
- significantly boost fees on workers and retirees in healthy pension plans.

We have heard from other sources that a required discount rate of some "market rate" plus 2% would be used. The NCCMP has produced a study on the staggering **negative impact** changing the discount rate could have. While this proposed change is not as severe as in that study, a lower discount rate could still negatively affect plans in several areas:

- Overall Liability
- Funded Percentage
- Zone Status
- Contribution Requirements
- Contribution Volatility

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According to a more recent story from Pensions and Investments, the proposal rejected the idea of a federal loan program which was proposed in the Butch Lewis Act. As an alternative, the proposal offers various other changes to help stabilize the multiemployer pension system and PBGC. The article included some of the changes in the proposal including:

- increase to the PBGC minimum guarantee level to $70 per month per year of service, and at least $3,000 per year.
- a new variable rate premium for multiemployer plan sponsors,
- a new premium to be paid by retirees in struggling plans,
- a new exit premium for employers leaving a plan,
- the proposal calls for a cap on the assumed return of a long-term corporate bond rate plus 2%, which we understand would be about 6.5%,
- repeal of Multiemployer Pension Reform Act of 2014 (MPRA) and rescission prospectively of any cuts under MPRA – instead, if a plan is projected to be insolvent in five years, the plan benefits would be cut to the minimum PBGC guarantee benefit level and the pension plan would then be terminated, Better-funded plans that had a MPRA suspension in place would be eligible for the enhanced PBGC partition program, and
- additional funds to the PBGC of $3 billion per year for 30-years to help finance more partitioning and allow the PBGC to take on financial responsibility for a troubled pension plan's "orphans" – individuals whose employer no longer contributes to the plan.

According to reports, the proposals are crafted to require all parties involved to make significant concessions, with staff members stating that the *proposals are not set in stone*, and there is *no guarantee a deal will be reached* by the deadline. These are broad-brush stroke proposals and details are subject to change.

Conclusion

We have heard that a number of multiemployer plan trustees and representatives will be visiting the Capitol next week in an effort to bring about workable changes. We will report on events as they unfold and we obtain more details. We will watch the Joint Committee for action and follow the progress of any proposed legislation.

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