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UPDATE

Actuarial and Benefits News

CONGRESS PASSES ECONOMIC RELIEF AND TECHNICAL CORRECTIONS BILL

On December 11, 2008 the Senate approved H.R. 7327, the "Worker, Retiree and Employer Recovery Act" (the Act) by unanimous consent. The bill was passed by the House on December 10 by unanimous consent, so the measure is cleared for the President Bush's signature. The economic relief portion provides only limited funding relief.

ECONOMIC RELIEF PROVISIONS

The bill would provide the following relief:

- Place a one-year moratorium on the minimum required distribution rules for 2009.
- Relief for single-employer plans:
 - "Smoothing" unexpected asset losses: The bill would permit employers to reflect anticipated earnings in "smoothing" the value of pension plan assets over 24 months, instead of the mathematical average that IRS now requires. Smoothed value is still limited to 110% of market value.
 - For plans that were exempt from Deficit Reduction Funding in 2007, adjust the transition to the new funding rules: PPA phases in full pension funding targets from 90% to 100% over five years (2008 - 92%, 2009 - 94%, 2010 - 96%, 2011 - 98%, and 2012 - 100%). If a plan misses its target in a phase-in year, the target increases to 100%. The bill would adjust the "phase-in" rule to allow plans that miss their phase-in funding target to retain the same target and not jump to the 100% target. For example, for plans that are less than 92% funded in 2008, their shortfall would be estimated relative to 92%, not 100%.
 - Temporary change of the limitation on benefit accruals. For purposes of staving off restrictions on benefit accruals as a result of being less than 60% funded, plans would be able to look back to the previous plan year.

■ Relief for multiemployer plans:

- Plans may elect to freeze their plans' status for one year: For plans starting between October 1, 2008 and October 1, 2009, multiemployer plans may elect to freeze their current funding status based on the previous year's level.
- Plans may elect to extend correction periods: Plans generally must bring their funded position up to statutory standards within a correction period (10 years or 15 years). This structure aims at enabling stakeholders to phase in the higher contributions or deeper benefit cuts. Plans may elect a three-year extension of the current funding improvement or rehabilitation period, from 10 to 13 years and from 15 to 18 years.

TECHNICAL CORRECTIONS

- Provide that employer funding requirements include administrative expenses that are paid out of the plan, and also include any salary increases during the year
- Allow IRS to prescribe rules on how plans using other dates shall value their assets, if a pension plan does not value its assets on the last day of the calendar year
- Give IRS the authority to prescribe disclosure rules for multiemployer plans instead of DOL



- Allow lump-sum distributions of \$5000 or less to be paid, even if an underfunded plan is otherwise prohibited from paying lump sums
- Clarify that the clock starts running for a multiemployer plan to agree on a funding improvement plan 180 days after the collective bargaining agreement expires
- Provide that cash balance plans to credit accounts with less than zero in any year
- Apply cash balance vesting rules to hours of service after June 29, 2005
- Allow public pension plans that offer “hybrid” individual account designs to use above market interest rates
- Permit pension plans of small employers to use an interest rate assumption of 5.5% for determining maximum lump sum benefits under IRC §415

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