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Defined Benefit Plans

Multiemployer Program Posts Record Deficit, Single-Employer Shortfall Shrinks, PBGC Says

The deficit of the Pension Benefit Guaranty Corporation's multiemployer plan program rocketed to an all-time high in fiscal year 2014 of $42.4 billion—more than five times its previous high in 2013—the agency said in its annual report.

The deficit has continued to climb largely because ''several additional large multiemployer plans are expected to become insolvent within the next decade,'' the agency said in a statement accompanying the Nov. 17 release of the report.

The PBGC has found that about 200 multiemployer plans that are at risk, with 16 added in 2014, altogether covering more than a million participants, an agency spokesman told Bloomberg BNA.

The PBGC's overall deficit climbed to a record $62 billion, largely due to the multiemployer program's worsening condition, the report said. The 2013 deficit was a then-record $35.6 billion (40 BPR 2654, 11/19/13).

The PBGC's rising deficit ''is not surprising'' and is in line with an exposure report the agency released in June (41 BPR 1394, 7/8/14), officials said on a media conference call Nov. 17.

Absent legislative changes, the multiemployer program faces a greater than 50 percent chance of insolvency by 2022, and a 90 percent chance of running out of money by 2025, the new report said, reiterating projections from the June report.

PBGC officials also said during the conference call that the agency projects that it won't run out of money to provide benefits for single-employer plans in the next decade.

The PBGC paid $97 million in financial assistance to 53 multiemployer plans covering 52,000 retirees in 2014, the report said. For single-employer plans, the PBGC assumed responsibility for about 53,000 plan participants in 97 trusteed single-employer plans in FY 2014, it said.

'Wake-Up Call.' The tone of concern expressed by lawmakers in the wake of the report suggests some prospect of legislative action on the horizon for multiemployer plans.

''We continue to be very concerned with the further deterioration of the multiemployer pension program,'' Sen. Ron Wyden (D-Ore.), chairman of the Senate Finance Committee, and Sen. Orrin G. Hatch (R-Utah), the presumed chairman of the panel in the next Congress, said in a joint statement.

''We're committed to addressing the problems'' with the multiemployer system, they said. ''We owe it American workers to do everything feasible to ensure that retirees receive the promised pension benefits they worked hard to achieve.''

Wyden's legislative proposal (S. 2260) to extend various tax breaks includes provisions that would postpone the sunset of multiemployer plan items in the Pension Protection Act for a year, and if those don't pass, a House lawmaker said he's prepared to offer a bill that would also include the provisions (see related articles in this issue).

'Time Bomb.' ''The multiemployer pension system is a ticking time bomb that will inflict a lot of pain on workers, employers, taxpayers, and retirees if Congress fails to act,'' Rep. John Kline (R-Minn.), chairman of the House Education and the Workforce Committee, said in a statement.

''Today's report is a sober reminder that time is running out and should serve as a wake-up call for those few naysayers who believe this is too hard to get done,'' he said. ''For months we have tried to reach consensus on a package of reforms that would give trustees new tools to avoid insolvency and protect retirees. The time to enact responsible reforms is now, before the bomb goes off.''

That package of changes is the National Coordinating Council on Multiemployer Plans' proposal ''Solutions Not Bailouts,'' which could help revive some plans, said Randy G. DeFrehn, executive director for the NCCMP. The proposal was issued in February 2013 (40 BPR 443, 2/26/13).

James A. Klein, president of the American Benefits Council, also said that the PBGC report should push Congress to address the PBGC's multiemployer program financial straits.

''Less than one-eighth of the improvement'' in the single-employer program's deficit was due to increases in the PBGC's premiums, Klein said. ''On the other hand, the multiemployer plans are operating in the same improving economic conditions that the single-employer plans are, so the fact that the multiemployer program deficit has grown more than five times validates that there are serious concerns there with that system, and consequently congressional partisan efforts should appropriately be focused with the multiemployer plan problems.''

The report also ''underscores the need for sponsors of single-employer plans to have certainty with respect to their funding obligations and no further need for premium increases,'' Klein said.

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Multiemployer Proposal. After the report's release, DeFrehn emphasized the urgent need for Congress to move forward with his group's proposal.

Central States, Southeast and Southwest Areas, Health and Welfare and Pension Funds is the single biggest multiemployer plan entity that's at risk, and the PBGC has identified it in prior reports as having an exposure risk of more than $20 billion, DeFrehn said.

If the NCCMP proposal were enacted, Central States could use its tools, and if it did so, the plan would survive and participants would receive approximately $72 billion in benefits over the next 50 years, DeFrehn said, citing testimony from Central States Executive Director Thomas C. Nyhan to a House committee in October 2013 (40 BPR 2556, 11/5/13).

But if no action is taken, Central States plan will pay out about $28 billion over the next 12 years before it's terminated and ''becomes a ward of the PBGC,'' DeFrehn said.

''It can't be more clear which option is best for the more than 400,000 participants of that plan and for hundreds of thousands of other participants in similarly situated plans,'' DeFrehn said.

PBGC officials said they had no position on the NCCMP proposal.

No Cutbacks. The most contentious element of the NCCMP's proposal would allow deeply trouble multiemployer plans to suspend a plan participant's accrued benefit.

Tax code Section 411(d)(6)—a provision known as the ''anti-cutback'' rule—prohibits plans from reducing by amendment a plan participant's accrued benefit.

Karen Friedman, executive vice president and policy director at the Pension Rights Center, said in the wake of the PBGC report's release that the PRC has ''always advocated for increases in premiums and we need to find ways to shore up the funding'' of employer plans.

''However, retiree benefit cuts as a way of fixing multiemployers is a nonstarter for us,'' she said.

Alternative proposals that could help the multiemployer system including facilitating mergers and alliances, and passing a specific fix for the United Mine Workers of America, as addressed by Sen. Jay Rockefeller (D.-W.Va.) in the CARE Act (S. 468), Friedman said.

Rockefeller is retiring at the end of the current session, but is committed to passing the legislation before he leaves office, said Nancy Hwa, spokeswoman for the PRC. The legislation was introduced in March 2013 (40 BPR 787, 3/26/13).

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