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PBGC Provides Temporary Flexibility for Variable-Rate Premium Calculations

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In late September, the Pension Benefit Guaranty Corporation (the "PBGC") published Press Release 20-04 and issued Technical Update 20-2 providing flexibility in the calculation of variable-rate premiums for plan sponsors who take advantage of extended pension contribution deadlines for 2020—even in certain circumstances where the plan sponsor has already completed its PBGC premium filing.

The Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") allows plan sponsors to delay until January 1, 2021 the payment of minimum required contributions to tax-qualified defined benefit pension plans that would otherwise be due in 2020. The IRS subsequently clarified in Notice 2020-61 that the extended deadline under the CARES Act also applies to discretionary contributions in excess of the required minimum. However, the impact of taking advantage of either of these extended deadlines on the calculation of PBGC variable-rate premiums due in the interim was unclear.

The PBGC's variable-rate premium is based on a plan's unfunded vested benefits. When calculating the unfunded vested benefits, "prior year contributions" are taken into account if paid by the date of the premium filing. The premium filing is normally due on the 15th day of the 10th calendar month that begins on or after the first day of the year for which the premium is being paid (*i.e.*, for a calendar year plan, the premium filing deadline is generally October 15th).

Under the PBGC's new guidance, the deadline to receive "prior year contributions" that are taken into account is extended to January 1, 2021 for premium filings due on or after March 1, 2020 and before January 1, 2021.

Importantly, the PBGC's guidance does not extend the deadline for premium filings, and filings cannot reflect contributions that have not been made. Plan sponsors that want to take advantage of the guidance must instead amend their filings by February 1, 2021 to revise the variable-rate premium calculation data after the eligible "prior year contributions" are paid to the plan. The plan sponsor can then elect to either receive a refund of their premium overpayment or credit that amount toward the following year's premium. The PBGC's Technical Update provides additional details on how to amend a premium filing.

The PBGC’s guidance provides welcome relief for plan sponsors that elect to take advantage of the extended contribution deadlines provided by the CARES Act and the IRS, and ensures that they are not “penalized” from a variable-rate premium perspective for doing so.

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