



Pension Analyst

Compliance Bulletin

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New law provides funding relief for multiemployer defined benefit plans

On June 25, 2010, President Obama signed into law the “Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010” (“PRA 2010”). This new law provides funding relief for multiemployer defined benefit plans, in response to the current unstable economic environment and continued market volatility. Specifically, it includes provisions that will reduce required contributions and extend the amortization period for investment losses.

PRA 2010 also includes funding relief provisions for single-employer defined benefit plans. A [separate publication](#) discusses the changes affecting those plans.

Funding relief

The new law provides temporary funding relief that extends the period for amortizing experience gains and losses and also expands the asset smoothing period. However, plans must satisfy specific [requirements](#) in order to take advantage of this relief.

Extended amortization periods

Before the enactment of PRA 2010, the amortization period for experience gains and losses was set at 15 years. The new law provides an option to amortize any experience gain or loss attributable to net investment losses incurred in either or both of the first two plan years ending after August 31, 2008, over a longer period of time. The extended amortization period is determined over a period:

- Beginning with the plan year in which the loss is recognized in the actuarial value of assets; and
- Ending with the last plan year in the 30-year period beginning with the year the net investment loss incurred.

“Net investment loss” is the difference between the actual and expected returns. PRA 2010 directs the IRS to provide guidance regarding this determination.

Expanded asset smoothing

Currently, multiemployer plans may average (“smooth”) investment losses in their asset valuation over a period of up to five years. If a plan satisfies certain [requirements](#), it now has the option to expand the smoothing period for either or both of the first two plan years ending after August 31, 2008, over a period not to exceed ten years, as long as the value of plan assets is not less than 80% nor greater than 130% of the fair market value of plan assets.

If a plan sponsor elects both the:

- Extended amortization relief; and
- Expanded asset smoothing relief

a reduction in unfunded liability resulting from expanded asset smoothing will be treated as a separate amortization base to be amortized over 30 years.

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Requirements for relief

To obtain this special funding relief, a plan must first satisfy a [solvency test](#). Once the plan sponsor elects the relief, the plan becomes subject to additional [benefit restrictions](#) and [reporting requirements](#), as described below.

Solvency test

A plan satisfies the solvency test if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenses over the amortization period, taking into account the amortization extension and the expanded asset smoothing elections.

Benefit restrictions

If a plan sponsor elects funding relief for any plan year, the plan may not be amended to increase benefits during either of the two plan years immediately following that plan year unless:

- The amendment is required as a condition for the plan to remain qualified or to comply with applicable law; or
- The plan actuary certifies that:
 - Any benefit increase will be funded with additional contributions not allocated to the plan immediately before the funding relief election; and
 - The plan's funded percentage and projected credit balances for the two plan years are reasonably expected to be at least as high as the percentage and balances would have been if the benefit increase amendment had not been adopted.

Reporting requirements

Multiemployer plans must notify:

- Participants;
- Beneficiaries; and
- Pension Benefit Guaranty Corporation (PBGC)

of their funding relief elections.

Further guidance is needed regarding the timing and content of these notices. In addition, the IRS will need to provide guidance as to what action plan sponsors must take to elect funding relief.

Effective date

The provisions of PRA 2010 are effective as of the first day of the first plan year ending after August 31, 2008. However, any election made by a plan sponsor that impacts the plan's funding standard account for the first plan year beginning after August 31, 2008, is disregarded for purposes of applying the funding rules for plans in [endangered or critical status](#).

The restriction on plan amendments increasing benefits is effective June 25, 2010.

Future guidance and Form 5500 filings

On July 30, 2010, the IRS issued [Notice 2010-56](#) which contains information regarding future guidance to be issued with respect to the PRA 2010 special funding rules and special rules for Form 5500 filings that must be filed before this guidance is issued.

Future guidance

The IRS intends to issue future guidance regarding the:

- Determination of the portion of the experience loss or gain attributable to net investment losses incurred in either or both of the first two plan years ending after August 31, 2008;
- Requirement under PRA 2010 that plan sponsors notify participants and beneficiaries of their intent to elect funding relief; and
- Effect of any funding relief election on the plan's certified status (i.e., endangered, critical or neither), including certifications already made.

However, the IRS has not indicated when this guidance will be issued.

Form 5500 filings

In the case of a plan year that ends before guidance is issued, the plan sponsor may elect funding relief provided under PRA 2010, regardless of whether the Form 5500 and Schedule MB have been filed for that plan year. *For example, the sponsor of a multiemployer plan with a calendar plan year can apply the funding relief provisions for 2009 even though the Form 5500 and Schedule MB have been filed for that plan year.* The IRS intends to issue future guidance that will address reporting requirements when funding relief is elected after the plan's Form 5500 and Schedule MB for the plan year have been filed.

Next steps

Prudential Retirement will continue to monitor and keep you informed as additional guidance is made available that clarifies the provisions of PRA 2010 discussed in this *Compliance Bulletin*.

If you have questions about the new law and its impact on your plan, you should contact the plan's enrolled actuary.



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