ASHER, GITTLER, & D'ALBA, LTD.
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AMERICAN RESCUE ACT CONTAINS PROVISIONS TO ASSIST UNDERFUNDED PENSION PLANS

On March 11, 2021, President Biden signed the American Rescue Plan Act ("ARPA"). The ARPA contains a number of provisions that will assist Multiemployer Pension Plans. Although these provisions are targeted at assisting the most underfunded "red zone" plans, certain provisions will apply to all multiemployer plans. A short summary of the major provisions is below:

Plans May Elect to Maintain Zone Status

For one plan year which begins during the calendar year from March 1, 2020 to March 1, 2022, any multiemployer plan may elect to maintain the same zone status that it had in the previous plan year. In addition, if the Plan has an active funding improvement or rehabilitation plan, these plans do not need to be updated during this Plan year. Plans in critical or endangered status may elect to extend their funding improvement or rehabilitation plans by 5 years. The effect of these provisions is to allow plans who would otherwise be forced to go from green to endangered or critical in their annual Pension Protection Act valuation to have an additional year to recoup losses.

Plans May Amortize their Investment Losses

If a Plan suffered severe investment losses in either of the two Plan years ending after February 29, 2020, the Plan may elect to amortize these losses over a 30-year period, double the standard 15-year period. Additionally, Plans may also change their asset valuation methods to spread investment losses and to allow the smoothed actuarial value of assets to exceed the fair market value by 30%. The effect of these provisions is, again, to allow plans that suffered severe investment losses in 2020 to amortize these losses over a longer period, and hopefully avoid being driven into endangered or critical status under the Pension Protection Act.

Additional Funding Relief for Critical and Critical and Declining Plans

Certain distressed plans are eligible for additional relief. Specifically, eligible plans are plans that meet any of the following criteria:

1) Is in critical and declining status for any plan year from 2020 through 2022,
2) Has previously reduced benefits under the provisions of MPRA
3) Is in critical status for any plan year from 2020 through 2022, with a ratio of assets to liabilities of 40% or less, and a ratio of active to inactive participants of less than 2:3.
4) Became insolvent after December 14, 2014 but is not terminated.

These plans are eligible for special financial assistance, which will be paid as a single lump sum. The amount paid will be enough to keep the Plan will solvent through 2051. This amount is to be determined without regard to whether benefits are above or below the PBGC maximum guarantee level.

These payments will be paid by the PBGC, but are not to be paid by any existing PBGC fund. Instead, the Department of the Treasury will fund a new fund administered by the PBGC which will pay the eligible plans.

As a condition of accepting these funds, the eligible plans must agree to reinstate any benefits which were cut as part of the benefit suspension provisions of MPRA. The reinstatement will be both prospective and retrospective.

There are many other restrictions on the disbursement of the funds to eligible plans, but in all this will provide the participants of many critical and critical and declining plans retirement security.

Multiemployer PBGC Premiums

Finally, the ARPA provides that the PBGC premium rate for multiemployer pension plans will increase to $52, effective for plan years beginning after December 31, 2030. Afterwards, the rate will be indexed to inflation.

If you have any questions about any of the provisions of the act, or any other matter, please do not hesitate to contact Asher, Gittler & D'Alba, Ltd.

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