Milliman

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AMERICAN RESCUE PLAN ACT OF 2021

SPECIAL FINANCIAL ASSISTANCE REGULATIONS

Webinar Q&A Summary

1. Are there any limitations on the asset allocation of the current portfolio? For instance, can the current portfolio increase its equity allocation due to the special financial assistance being in all investment grade bonds?

   The regulations did not address any restrictions on the existing plan assets except that plans receiving special financial assistance must maintain 1 year of benefit payments and expenses invested in fixed income. When combined with the special financial assistance, which must be invested in fixed income, plans could potentially increase equity exposure for existing plan assets.

2. Follow up to asset allocation. Does the one-year benefit payment restriction continue after SFA is exhausted?

   The Rule provides this condition to be satisfied during the "SFA coverage period", which is defined as the period beginning on the plan's SFA measurement date and ending on the last day of the last plan year ending in 2051. This means that even if SFA is exhausted before 2051, the plan's assets must be invested in permissible assets sufficient to pay at least one year of projected benefit payments and administrative expenses (or until the date the plan is expected to become insolvent if less than one year away).

3. Regarding repayment of suspended benefits - does Plan choose method or can member choose the lump-sum vs. 5 year?

   The plan trustees decide and will include their decision in the application.

4. How many plans will be eligible for assistance, but not receive any?

   It is hard to say exactly how many plans, but we would not be surprised if many plans will fall under this category or close to it, meaning the assistance they can get is small relative to their asset size. In particular, this can happen for many plans that meet the eligibility criteria for SFA via the critical status test (Critical Zone; <40% funded current liability; <2/3 active/inactive count ratio) because these plans may be operating under a Rehabilitation Plan that requires annual contributions significantly greater than annual costs (accruals for active members plus administrative expenses). Because the calculation of the amount of SFA needs to incorporate a plan's present value of future contributions versus costs, the result can be that despite a plan being significantly underfunded today, the future surplus annual contributions (in excess of costs) have already solved much of, if not all of, the plan's future needs to achieve solvency through 2051.

5. Any thoughts on timing of relief? Perhaps waiting to apply?

   Trustees should discuss potential pros and cons of waiting to apply for assistance. If they have the view that a market correction is looming or that spreads on bond yields will increase in the near term, there could be some advantage to waiting to apply. If a plan is projected to be insolvent within the next few years, there appears to be no advantage to waiting to apply.

6. Can a plan that has no future accruals right now increase benefits without increasing contributions?

   A strict reading of the Rule leads to an answer of no – a plan receiving SFA cannot increase future benefits without increasing future contributions (i.e., new money). However, plans in this position may wish to pursue dialogue with counsel and the PBGC if they conclude that contributions need to be decreased in order to lessen the risk of loss to plan participants and beneficiaries (e.g., due to employer withdrawals). In such a situation, some of the decreased contributions could then possibly be reverted to the plan to provide for benefit accruals and positioned as new money.