

In response to the COVID-19 pandemic, the United States declared a national emergency on March 13, 2020. Recognizing that the outbreak creates challenges that are likely to hinder employers in discharging their obligations with respect to defined benefit pension programs, the Department of Labor (DOL), the Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC) have each recently issued guidance and relief related to requirements under their respective purviews. For plans subject to the Employee Retirement Income Security Act (ERISA), the key obligations and the corresponding relief initiatives are summarized below.

Responsibilities of pension plan sponsors include a wide variety of notices, participant disclosures, and other obligations under Title I of ERISA. These include, but are not limited to, furnishing summary plan descriptions, summaries of material modifications, annual funding notices, statements of accrued benefits, notices of reduction in future benefits, and other pertinent information to plan participants and other interested parties by specific deadlines.

In the Employee Benefit Security Administration Notice 2020-01 (EBSA 2020-01), the Department of Labor recently extended the deadlines for furnishing notices, disclosures and other documents under Title I of ERISA, over which the DOL has interpretive and regulatory authority. The EBSA relief is available if the plan sponsor makes a good faith effort to furnish the documents as soon as administratively practicable. For this purpose, a “good faith effort” includes using alternative electronic distribution methods which the sponsor reasonably believes would be effective, including email, text messaging, and continuous-access websites. The relief generally is available from the beginning of the emergency period, March 1, 2020, until 60 days following the termination of the emergency period, or such other date as the DOL may later prescribe.

Among the critical governmental filings for ERISA plans is the Internal Revenue Service/Department of Labor Form 5500 and related schedules. Generally, the Form 5500 is due seven months after the end of the plan year, with a possible extension of up to two and one-half months if timely requested from the IRS. The recent IRS Notice 2020-23 includes relief that extends the due date for many tax forms, including the Form 5500 and Form 990-B. It provides that any filing otherwise due on or after April 1, 2020 and before July 15, 2020 will now be due on July 15, 2020. The relief applies both to forms with original due dates falling within the prescribed period, as well as extended due dates that fall within the prescribed period.

For single-employer plans that are covered by the PBGC insurance program, the Comprehensive Premium Filing and payment of the premium are generally due within nine and one-half months after the beginning of the premium payment year. Mirroring the IRS's decision for extensions, the PBGC has announced that premium filings and payments falling due on or after April 1, 2020 and before July 15, 2020 will now be due on July 15, 2020. This extension applies as well for PBGC filings due under ERISA §4010, and employers with fiscal years starting January 1 through April 1 will have the due date for the 4010 filing extended to July 15, 2020.

Note that PBGC relief does not extend to filings or actions where an extension could increase the risk of harm to participants in the insurance program, such as advance reportable events notices, specific post-event reportable event notices, notices of large delinquent plan contributions, and certain actions related to distress plan terminations. Employers may, however, request case-by-case rulings from the PBGC for items of that nature.

If you have questions regarding the above relief measures, their effect on a specific plan, or on issues related to retirement programs in general, please contact McGriff Retirement Consulting. You can reach Eddie Vaughn at 336.291.1142 or EVaughn@McGriffInsurance.com, or Steve Bull at 336.291.1137 or SBull@McGriffInsurance.com.