



BENEFIT NEWS BRIEFS

Treasury Denies Road Carriers Local 707 Pension Fund's Application for Benefit Suspensions Under MPRA

PBGC Denial of Partition Assistance Basis of Denial

On March 15, 2016, the Road Carriers Local 707 Pension Fund [applied](#) for benefit suspensions under the *Multiemployer Pension Reform Act of 2014 (MPRA)*. The application was made in conjunction with an application to the Pension Guarantee Benefit Corporation ("PBGC") for financial assistance from the PBGC under *MPRA* in the form of a partition. On June 10, 2016, the [PBGC denied the request](#). As the application to Treasury was dependent upon PBGC approval of the partition application, the Treasury Department had no recourse but to [deny the application](#).

Under Section 4233(b)(3) of ERISA, as amended by the *MPRA*, a plan is eligible for a partition if, among other things, PBGC reasonably expects that: (A) a partition of the plan will reduce the corporation's long-term loss with respect to the plan, and (B) a partition of the plan is necessary for the plan to remain solvent. A plan must satisfy these requirements to be eligible for a partition. PBGC has the discretion on whether to order a partition.

In the letter denying Local 707's application for partition, the PBGC stated that the application failed to demonstrate that the Plan would remain solvent following a partition. The PBGC stated that the contribution base units, active participant counts and contribution levels projected in the application are based on *unreasonably optimistic assumptions*. As such, the PBGC concluded there is insufficient evidence to reasonably expect that the Plan would remain solvent following a partition.

The PBGC's denial of the partition application doomed the suspension application. The Treasury denial letter summed the matter up as follows:

"On June 10, 2016, PBGC denied the application for partition. The failure to obtain a partition is outcome determinative for the suspension application because Section 3.02 of the Application states that the Plan actuary's certification that the Plan is projected to avoid insolvency as a result of the

proposed suspensions 'assumes the issuance of a partition order from PBGC...' beginning July 1, 2016. Further, the Plan stated in the Application that it would be insolvent by April 2017 if the suspensions are implemented with the partition. Absent the assumed partition, the cash flow projections in the Application (updated to eliminate the assumed financial assistance from PBGC) demonstrate that the proposed suspension (without the partition) does not meet the statutory solvency requirement...."

Conclusion

Since the Treasury denial was predicated on the failure of the Plan to obtain a partition order from the PBGC, the Treasury denial was not as illuminating as the Central States denial. The next suspension application decisions are expected on applications for suspensions by Ironworkers Locals 16 and 17 Pension Fund.

* * *

MPRA Resources

The Treasury *MPRA* homepage is found at:

<https://www.treasury.gov/services/Pages/Benefit-Suspensions.aspx>.

A full list of Plans that have applied for benefit suspensions under *MPRA* is found at:

<https://www.treasury.gov/services/Pages/Plan-Applications.aspx>.

The PBGC also has a *MPRA* resources page found at:

<http://www.pbgc.gov/prac/multiemployer/multiemployer-pension-reform-act-of-2014.html>.

* * *

LEGAL DISCLAIMER: Information contained in this publication is not legal advice, and should not be construed as legal advice. If you need legal advice upon which you can rely, you should seek a legal opinion from your attorney.