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Pension Provisions in the American Rescue Plan of 2021

This In Focus describes all but one of the pension provisions in Title IX, Subtitle H, of the American Rescue Plan Act of 2021 (P.L. 117-2). Another In Focus details the special financial assistance to multiemployer plans in Subtitle H (CRS In Focus IF11765, *Special Financial Assistance to Multiemployer Plans*).

Description of Provisions

Temporary Delay of Designation of Multiemployer Plans as in Endangered, Critical, or Critical and Declining Status

Multiemployer defined benefit (DB) pension plans annually certify the plan's financial status—known as the plan's *zone status*. A plan can be in *endangered*, *seriously endangered*, *critical*, or *critical and declining* status (or no category if none of these apply). Multiemployer DB plans that report a status other than no category must take measures to improve their financial condition. Section 9701 permits plans to keep their zone status from the previous plan year, at the discretion of the plan, for either (1) the first plan year beginning during the period from March 1, 2020, through February 28, 2021, or (2) the succeeding plan year. If a plan was in endangered or critical status in the previous plan year, it does not have to update its funding improvement or rehabilitation plan (see next section of this In Focus) until the subsequent plan year. Plans that keep the previous year's status but become critical during the year of election are deemed to be in critical status. Among other conditions, plans in critical status do not pay the excise tax for failing to meet minimum funding standards.

Temporary Extension of the Funding Improvement and Rehabilitation Periods for Multiemployer Plans in Critical and Endangered Status for 2020 or 2021

Under current law, multiemployer DB plans in critical or endangered status must take measures to improve their financial condition. Plans in endangered and seriously endangered status must adopt funding improvement plans. These plans include a range of options (such as increased contributions and reductions in future benefit accruals) that, when adopted, will reduce endangered plans' underfunding by 33% during a 10-year period or seriously endangered plans' underfunding by 20% during a 15-year period.

Also under current law, plans in critical status must adopt a rehabilitation plan. A rehabilitation plan is a range of options that, when adopted, will allow the plan to emerge from critical status during a 10-year rehabilitation period. If a plan cannot emerge from critical status by the end of the rehabilitation period using reasonable measures, it must install measures either to (1) emerge from critical status at a later time (after the end of the rehabilitation period) or (2) forestall insolvency.

For plan years beginning in 2020 or 2021, Section 9702 lengthens (1) the funding improvement or rehabilitation period for plans in endangered or critical status, respectively, from 10 years to 15 years and (2) the funding improvement period for plans in seriously endangered status from 15 years to 20 years. Plan zone statuses are determined based on their election in Section 9701 of the law.

Adjustments to Funding Standard Account Rules

Multiemployer DB plans have 15 years to make up for plan underfunding resulting from *experience losses* (such as investment losses). This process of spreading out payments is known as *amortization*. Section 9703 permits two years of experience losses (such as investment losses and other losses related to the Coronavirus Disease 2019, including those related to reductions in contributions, reductions in employment, and deviations from anticipated retirement rates) to be amortized over 30 years instead of 15 years. Plans receiving special financial assistance (as described in the law and in CRS In Focus IF11765) are ineligible for this provision.

Extended Amortization for Single Employer Plans

The Employee Retirement Income Security Act of 1974 (P.L. 93-406) contains funding rules, such as contribution requirements, for single-employer DB pension plans. The funding rules allow single-employer DB plans to amortize underfunding resulting from, for example, investment losses, over seven years. Section 9705 permits plans to amortize underfunding over 15 years.

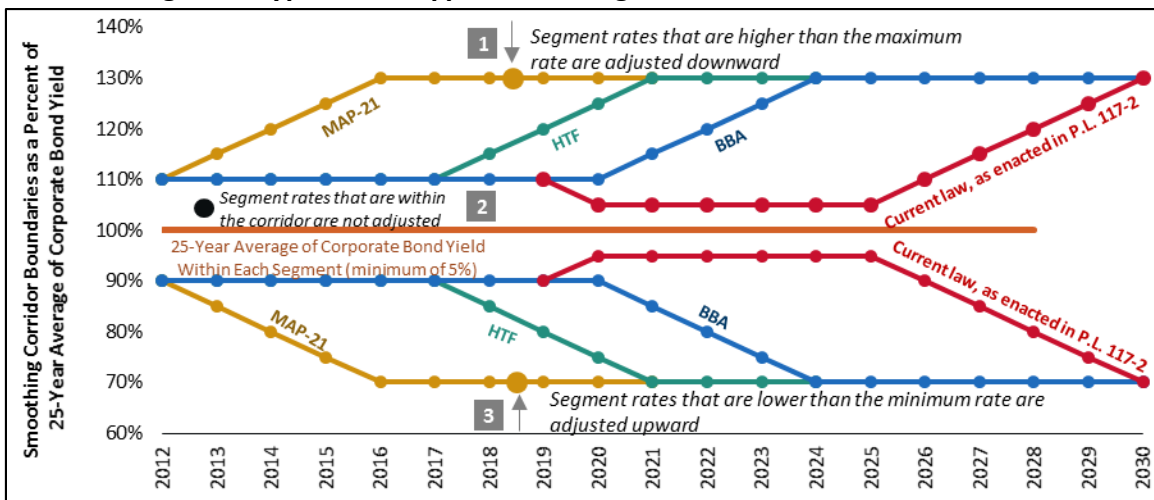
Extension of Pension Funding Stabilization Percentages for Single Employer Plans

A pension plan's benefits are a plan liability spread out over many years in the future. These future benefits are calculated and reported as present values (also called current values) through a process called *discounting*, which requires the use of a specified interest rate. Under current law, this rate is based on three different *segment rates*, which are calculated as the average of the corporate bond yields within each segment for the preceding 24 months.

The Moving Ahead for Progress in the 21st Century Act (MAP-21; P.L. 112-141) created a mechanism, called a *funding corridor*, to determine the minimum and maximum interest rates as a percentage below and above the 25-year average of historical corporate bond yields. **Figure 1** shows the funding corridor. If the 24-month segment interest rate is higher than the maximum (point 1), it is adjusted downward to the maximum. If the segment rate is within the corridor (point 2), the rate is not adjusted. If the 24-month segment interest rate is below the minimum

percentage of the funding corridor (point 3), the interest rate is adjusted upward to the minimum.

Figure 1. Hypothetical Application of Segment Rate Stabilization Provision



Source: Congressional Research Service.

Notes: MAP-21 = Moving Ahead for Progress in the 21st Century Act (P.L. 112-141); HTF = Highway and Transportation Funding Act of 2014 (P.L. 113-159); BBA = Bipartisan Budget Act of 2015 (P.L. 114-74). The segment rates are calculated as the average of the corporate bond yields within the segment for the preceding 24 months. The three segment rates are calculated as the average of the corporate bond yields for the preceding 24 months with maturities of (1) less than five years, (2) five to 20 years, and (3) more than 20 years, respectively.

In **Figure 1**, the orange line shows the average of a segment’s interest rates for the prior 25 years. The gold, green, and blue lines indicate the minimum and maximum rates around the 25-year average under MAP-21 and two extensions (P.L. 113-159 and P.L. 114-74). The red lines indicate the minimum and maximum rates around the 25-year averages as outlined in Section 9706. The funding corridor narrows from the current floor of 90% to 95% and from the current ceiling of 110% to 105% for years 2020-2025. After 2025, the corridor is to begin widening. Interest rates are currently—and likely will be for the foreseeable future—below the floor. A widening corridor results in a progressively lower floor for the adjusted interest rate, which increases the present value of future benefit obligations and causes required plan contributions to increase. Section 9706 also sets a floor of 5% for the 25-year average of corporate bond yields (the horizontal orange line in **Figure 1**). For more information on the funding corridor, see CRS Report R46366, *Single-Employer Defined Benefit Pension Plans: Funding Relief and Modifications to Funding Rules*.

Modification of Special Rules for Minimum Funding Standards for Community Newspaper Plans

Section 115 of the SECURE Act, enacted as part of P.L. 116-94, provided special funding rules for pension plans operated by certain community newspapers. For these plans, P.L. 116-94 increased the interest rate to 8% and extended the amortization period from seven to 30 years. Section 9707 extends these funding rules to additional community newspaper plans.

Expansion of Limitation on Excessive Employee Remuneration

Title 26, Section 162, of the *U.S. Code* limits the tax deductibility of annual employee compensation above \$1,000,000 for certain covered employees in public

corporations. Section 9708, added by Senate substitute amendment no. 891, expands the definition of *covered employees* to include the employer’s five highest compensated employees (other than those already included in Section 162) starting in 2027.

The amendment removed a provision that would have frozen annual cost-of-living adjustments for certain DB and defined contribution limits.

Policy Discussion

Funding relief for pension plans, whether through extended amortization or changes to interest rates, allows employers to contribute less to their plans in the near term, which could be beneficial to plan sponsors in the case of financial difficulty. When employers contribute less to their pension plans, their taxable income increases, which results in increased Treasury revenue. Funding relief can also result in plans being less well-funded. This increases the amounts plans pay in PBGC variable-rate premiums. PBGC could pay more in the event of termination of single-employer plans or insolvency of multiemployer plans.

As additional plan sponsors receive special funding rules (such as those for certain community newspaper plans), other plan sponsors might request similar treatment.

For FY2021-FY2031, the Joint Committee on Taxation estimated the revenue from the single-employer extended amortization and funding stabilization provisions at \$22.8 billion, the community newspaper provision at \$311 million, and the employee remuneration limitation provision at \$7.8 billion. For FY2021-FY2031, the Congressional Budget Office estimated the multiemployer plan provisions (which included the special financial

assistance provision not discussed in this In Focus; see IF11765) at a cost of \$81.2 billion.

Elizabeth A. Myers, Analyst in Income Security
John J. Topoleski, Specialist in Income Security

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