

April 30th Deadline for Annual Funding Notices Rapidly Approaching

As required by Pension Protection Act of 2006 (PPA), administrators of defined benefit plans subject to Title IV of the Employees Retirement Income Security Act (ERISA), including single employer defined benefit plans, must provide an annual funding notice to each plan participant and beneficiary, the Pension Benefit Guaranty Corporation (PBGC), and to each labor organization representing plan participants. Multiemployer plans must also provide the notice to each employer that has an obligation to contribute to the plan. On February 10, 2009 the U.S. Department of Labor (DOL) issued Field Assistance Bulletin 2009-01, providing long-awaited guidance on the annual funding notices.

Effective Date

The annual funding notice requirements apply to plan years beginning on or after January 1, 2008. Generally, the notices must be provided within 120 days after the end of the plan year, which means that the first notice for calendar year plans must be provided by April 30, 2009.

Model Notice

Field Assistance Bulletin 2009-01 contains separate model notices for single employer plans and multiemployer plans, as well as several related questions and answers. These can be found at <http://www.dol.gov/ebsa/regs/fab2009-1.html>. While plan administrators are not required to use the model notices, their use will satisfy the annual funding notice requirements. Administrators who elect to use the model may supplement the notice with additional information necessary or helpful to understanding the mandatory information as long as the additional information does not have the effect of misleading or misinforming participants. The Field Assistance Bulletin provides that, pending further guidance, employers who use the model notices will be deemed to comply with the content requirements.

Despite the availability of a model, completing such a notice is not a simple matter and may require a well-coordinated effort by the plan's administrator, actuary, accountant and legal counsel. The model notices include numerous blank or optional provisions. Many of these items will require actuarial calculations and some items, such as descriptions of the plan's investment and funding policies and descriptions of material events will warrant careful scrutiny for legal implications.

Required Content

The annual funding notice must include the following:

- the plan's funding target attainment percentage for the plan year to which the notice relates and the two prior plan years;
- the value of the plan's assets and liabilities for the plan year to which the notice relates;
- participant information including the number of participants receiving benefits from the plan, the number of terminated participants entitled to future benefits from the plan, and the number of active participants in the plan;
- the funding policy of the plan and the asset allocation of investments under the plan; and
- an explanation of events that may have a material effect on the plan's assets or liabilities for the plan year.

For additional information or help in preparing the new annual funding notices, please contact Legacy Professionals LLP.