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Disaster Relief Announcement 08-27

DISASTER RELIEF RELATING TO PBGC DEADLINES IN RESPONSE TO HURRICANE IKE IN TEXAS

September 25, 2008

Pension Benefit Guaranty Corporation ("PBGC") is waiving certain penalties and extending certain deadlines in response to Hurricane Ike that occurred on September 11, 2008, in Texas.

Persons Covered

This Disaster Relief Announcement provides relief relating to PBGC deadlines as described below to Designated Persons. A "Designated Person" is any person responsible for meeting a PBGC deadline (e.g., a plan administrator or contributing sponsor) that is located in the disaster area for which the Internal Revenue Service ("IRS") has provided relief in IR-2008-107, Sept. 18, 2008, in connection with filing extensions for Form 5500 series returns, or cannot reasonably obtain information or other assistance needed to meet the deadline from a service provider, bank, or other person whose operations are directly affected by Hurricane Ike that occurred on September 11, 2008, in Texas.

In IR-2008-107, Sept. 18, 2008, IRS provided relief in connection with filing extensions for Form 5500 series returns as a result of the disaster for taxpayers who reside or have a business in the disaster area. The relief generally extends from September 7, 2008 through January 5, 2009.

The disaster area consists of Angelina, Austin, Brazoria, Chambers, Cherokee, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Madison, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller and Washington counties.

If IRS adds additional areas in connection with those filing extensions, any person responsible for meeting a PBGC deadline that is located in those additional areas will also be a Designated Person.

Case-by-Case Relief

This Disaster Relief Announcement does not cover every situation in which PBGC disaster relief may be warranted. For example, it does not capture every person that might experience difficulty in meeting a PBGC deadline for reasons relating to Hurricane Ike that occurred on September 11, 2008, in Texas. It also does not grant specific disaster relief for all filings. For example, it does not provide relief for certain filings that involve particularly important or time sensitive information where there may be a high risk of substantial harm to participants or the PBGC insurance program, e.g., notices of large missed contributions under section 302(f) of ERISA (Form 200), advance notices of reportable events under ERISA section 4043, and annual financial and actuarial information from certain controlled groups under ERISA section 4010.

Those persons affected by Hurricane Ike that occurred on September 11, 2008, in Texas who need relief from PBGC that is not covered by this Disaster Relief Announcement should contact PBGC as soon as reasonably possible. To request case-by-case relief, contact Diane Morstein at PBGC by:

- calling 1-800-736-2444, extension 4136, or 202-326-4136 (for TTY and TDD, call 800-877-8339 and request connection to 202-326-4136);
- sending an e-mail to practitioner.pro@pbgc.gov; or
- writing to Diane Morstein, Pension Benefit Guaranty Corporation, Suite 610, 1200 K Street, NW, Washington, DC 20005-4026, Re: "Disaster Relief Announcement 08-27".

Claiming Disaster Relief

To claim disaster relief, follow the instructions (if any) for claiming disaster relief for the filing. If there are no instructions for claiming disaster relief for the filing, then for any permitted paper filing (including a paper filing that

is sent via fax or as an imaged attachment to an e-mail), include the words "Disaster Relief Announcement 08-27" at the top of the filing. If a person receives an inquiry or bill from PBGC that appears not to take disaster relief into account, the inquiry or bill should be returned to PBGC with the same wording written at the top. (PBGC may generate such an inquiry or bill if it is unaware that the filer is claiming disaster relief.)

Premiums

If the plan administrator of a plan is a Designated Person, PBGC will, for purposes of assessing any late payment or late information penalty, treat as timely any premium filing required to be made for the plan beginning on or after September 7, 2008, and on or before January 5, 2009, if the filing is made by January 5, 2009. Thus, for any such filing, PBGC will waive the applicable penalty, but not the applicable interest charge.

- Example: Plan A's plan administrator is a Designated Person. Plan A is required to make a premium filing by September 30, 2008. PBGC will, for penalty purposes, treat Plan A's filing as timely if it is made by January 5, 2009.

Single-Employer Plan Terminations

Standard terminations. If the plan administrator of a plan that is terminating in a standard termination is a Designated Person, any of the following plan termination deadlines for the plan that fall on or after September 7, 2008, and on or before January 5, 2009, is extended to January 5, 2009:

- The deadline for filing the standard termination notice (Form 500) (29 CFR § 4041.25(a)). (This automatically extends the deadline for providing notices of plan benefits to participants and beneficiaries (29 CFR § 4041.24(a)) because that deadline is the date when the standard termination notice is filed.)
- The deadline for completing the distribution of plan assets (29 CFR § 4041.28(a)).
- The deadline for filing the post-distribution certification (Form 501) without penalty (29 CFR § 4041.29(b)). (This automatically extends the deadline for filing missing participant information and certifications without penalty and for paying missing participants' designated benefits to PBGC without interest (29 CFR § 4050.6(b)(2)).)

Distress terminations. If the plan administrator of a plan that is terminating in a distress termination is a Designated Person and the deadline for filing the distress termination notice (Form 601) (29 CFR § 4041.45(a)) falls on or after September 7, 2008, and on or before January 5, 2009, that deadline is extended to January 5, 2009. (Plan administrators of plans in distress terminations for which PBGC has issued a distribution notice should contact PBGC for case-by-case relief. See [Case-by-Case Relief](#) above.)

Reportable Event Notices

If a Designated Person is responsible for filing a reportable event post-event notice ([29 CFR Part 4043](#), Subparts A and B) for which the deadline falls on or after September 7, 2008, and on or before January 5, 2009, that person's deadline for filing the notice is extended to January 5, 2009.

In certain cases, PBGC's regulation on post-event notices of reportable events extends the reporting deadline until 30 days after a plan's Form 5500 due date. (See 29 CFR §§ 4043.23(d)(2), .29(d)(2), .30(d)(2), .31(d)(2), and .34(d)(4).) If such a 30-day extension applies to a Form 5500 for which there is a Form 5500 Disaster Extension, the 30-day extension period in PBGC's regulation automatically will begin to run on the Form 5500 Disaster Extension Date.

In the case of notices required in advance of the effective date of a reportable event ([29 CFR Part 4043](#), Subparts A and C), PBGC will grant relief where appropriate on a case-by-case basis. See [Case-by-Case Relief](#) above.

Annual Employer Reporting

PBGC's regulation on Annual Financial and Actuarial Information Reporting ([29 CFR Part 4010](#)) requires annual financial and actuarial information reporting in certain cases by contributing sponsors (and their controlled group members) maintaining plans with large underfunding or certain missed contributions or funding waivers. PBGC will grant relief where appropriate on a case-by-case basis for these reports. See [Case-by-Case Relief](#) above.

The regulation permits the filing of certain actuarial information by an alternative due date, which is 15 days after a plan's Form 5500 due date, if certain requirements are met (29 CFR § 4010.10(b)). If such an alternative due date is based on a Form 5500 for which there is a Form 5500 Disaster Extension, the 15-day period in PBGC's regulation will automatically be measured from the Form 5500 Disaster Extension Date.

Requests for Reconsideration or Appeals

The deadline for requesting review of a PBGC determination under PBGC's regulation on Rules for Administrative Review of Agency Decisions ([29 CFR Part 4003](#)) is generally 45 days (for an appeal) or 30 days (for a request for reconsideration) after the date of the determination. If a Designated Person is aggrieved by a PBGC determination, and the deadline for filing an appeal or a request for reconsideration of the determination falls on or after September 7, 2008, and on or before January 5, 2009, that person's deadline for filing the appeal or request for reconsideration is extended to January 5, 2009.

Multiemployer Plan Deadlines

- [Multiemployer premium deadlines](#). The disaster relief relating to premium deadlines (discussed under [Premiums](#) above) also applies to multiemployer plans.
- [Other multiemployer deadlines](#). Under PBGC's regulations governing multiemployer plans, various persons (e.g., the plan sponsor) are subject to deadlines for making filings with PBGC, issuing notices to persons other than PBGC, and taking other actions. If the person responsible for meeting the deadline is a Designated Person, and the deadline falls on or after September 7, 2008, and on or before January 5, 2009, PBGC will neither assess a penalty under ERISA section 4302 nor take any other enforcement action with respect to any failure to comply with the deadline during the period ending on January 5, 2009.

PBGC recognizes that persons other than PBGC may have rights to enforce some of these deadlines. PBGC expects these persons to act reasonably fully taking into account the effects of the damages from Hurricane Ike that occurred on September 11, 2008, in Texas in deciding whether and to what extent to exercise these rights. PBGC will grant other relief where appropriate on a case-by-case basis for deadlines relating to multiemployer plans. See [Case-by-Case Relief](#) above.

For general information on PBGC Disaster Relief, please call our toll-free practitioner number, 1-800-736-2444.