



The Cottonwood Group

Guidance Issued on Pension Protection Act Annual Funding Notice

February 2009

Background

The Pension Protection Act introduced a new reporting requirement for defined benefit pension plans---the Annual Funding Notice. The notice replaces the Summary Annual Report (SAR) and is initially required for plan years beginning in 2008.

Although the implementing legislation was enacted over two years ago, it was only February 10, 2009 that the Department of Labor (DOL) issued guidance on how to prepare the notice. Field Assistance Bulletin 2009-01 gives guidance on good faith compliance along with a model Funding Notice. Final regulations/guidance will be issued in the future.

This overview focuses on the Funding Notice for single employer plans.

Timing

For plans with over 100 participants, the Funding Notice is to be distributed to participants within 120 days following the close of the plan year. For calendar plan years, the 2008 Funding Notice is due **April 30, 2009**.

Smaller plans are allowed more time. A plan with fewer than 101 participants may distribute its Annual Funding Notice at the same time it files Form 5500 for the applicable year.

Content and Completion Issues

The model Funding Notice has been provided via email with this overview. Many entries to the Funding Notice can be obtained from prior year Form 5500 filings. However, unlike the SAR, the Funding Notice cannot be prepared completely by accessing Form 5500 data.

The Funding Notice is more detailed (and complicated to prepare) than the SAR. In particular, several items may pose challenges:

- Plan assets are to be determined as of the end of the reporting year, as is the case for Form 5500, but the information has to be reported well in advance of the Form 5500 due date (for plans with 100+ participants).
- Asset reporting is to show an allocation of year-end assets by category.
- Estimated accrued benefit liabilities are to be reported as of the *last day* of the plan year based on the discount rates in effect *at that time*, which is a new calculation needed solely for the Funding Notice.
- When a plan is amended (or a scheduled benefit increase takes effect) during the plan year following the reporting year (e.g., in 2009 for calendar 2008 reporting years), the Funding Notice must explain the amendment (or benefit increase) and quantify the effect on plan liabilities.
- The Funding Notice must contain a description of the plan sponsor's *funding policy*. A short, "standard" statement may be appropriate for most plans.
- The Funding Notice also requires a description of the plan sponsor's *investment policy*, which more often may be unique to a plan sponsor.

Complying with the New Requirement

Unless other arrangements are in place, Cottonwood will take the lead on preparing Funding Notices for ERISA-covered clients for plan years in which we provide actuarial services. We need your assistance with the following:

1. With regard to funding policy, we will include any description a plan sponsor wants to provide to us. Absent specific instructions, we will use language such as the following: "The employer funding policy is to make annual contributions at or above the minimum amount required under the IRC Section 430 and associated regulations."
2. We will need to receive a description of the investment policy for the Funding Notice, or plan sponsors can provide the information as an appendix to the notice. Before final guidance is issued, a brief statement may suffice. If you have not already developed a formal investment policy, your investment advisor should be able to assist you with this.

If you have any questions about the Notice requirements, feel free to call us.