ERIC "Phase IV" COVID Response Compensation and Retirement Priorities

Maintaining the 500 Employee or Less Threshold for Paid Leave. We urge Congress not to extend paid leave to employers with more than 500 employees. As we have discussed, large employers already tend to provide generous paid leave benefits, so mandates are unnecessary. If Congress does expand paid leave to large employers, we encourage Congress to exempt employers that already provide paid leave. Furthermore, Congress should preempt state and local laws to ensure that employees won't have to deal with multiple different mandates.

Suspension of Matching Contributions in Safe Harbor Plans. We encourage Congress to allow plan sponsors who do not qualify for "economic loss"[1] and who did not provide a safe harbor notice in late 2019 to prospectively suspend safe harbor matching contributions without the need to prorate the Section 401(a)(17) limit for the pre-suspension period. In addition, we recommend extending by two years the period during which corrective QNECs can be made for a failed ADP test triggered by a suspension of non-safe harbor matching contributions.

Additional Assistance for Defined Benefit Plan Sponsors. Our member companies very much appreciate the delay of minimum funding contributions and the relaxation of benefit restriction status. However, our members have expressed that additional assistance is needed – particularly with respect to interest rates. With the sunsetting of the MAP-21 provisions and the sudden decline in interest rates, defined benefit plan sponsors are looking at unexpectedly large contribution requirements. There are several ways to assist defined benefit plans with this situation:

- Provide that the interest rate used to determine minimum funding should be no lower than it was pre-Coronavirus, e.g., that sponsors not be required to use an interest rate for the first two plan years beginning on or after January 1, 2020 any lower than the one used for the 2019 plan year.
- In addition, or as an alternative, provide pension rate stabilization by re-setting the corridors established by MAP-21, and extended by HAFTA, starting in 2020, using a thirty-year average of discount rates (so that, for example, funding interest rates for 2020 would not be less than 90% of the thirty-year average).
- Implement a simplified process for funding waivers for 2019 and 2020, with relaxed qualification criteria.
- Relax the rules regarding funding amortization. For example, a fresh start of funding amortization along with an extension between 10 and 15 years or a pause from any amortization payments for 2019, 2020 and 2021.

Relief from Single-Employer PBGC premiums. Given the current surplus in the single-employer program of the PBGC and the cash-flow crunch that many plan sponsors are facing, this is an

[1] Treasury Regulation 1.401(k)-3(g)(1)(i)(A)(1).

opportunity to remove or reduce single-employer PBGC premiums temporarily. The following are options that ERIC encourages Congress to consider:

- Eliminate variable-rate premiums for 2020 (and possibly 2021)
- Waive the flat-rate premium for 2020
- Reduce the PBGC premiums to 2012 levels