Seyfarth

Pension De-risking

Seyfarth's team of experienced attorneys can assist you with complex pension de-risking projects.

In recent years, the regulatory and economic environment has made traditional pension plans (i.e., "DB" plans) a source of unwelcome corporate risk. This has caused plan sponsors to explore ways to "de-risk" their plans. This can be done by reducing plan liabilities or by transferring the funding cost risk to a third party.

A popular way to reduce liabilities is to offer terminated participants the ability to take a lump sum distribution during a temporary election, or window, period. Under such a program, the participant may take a full plan distribution and either roll over the payment to an individual retirement account or take a direct cash payment. However, the plan sponsor has limited control over how many people ultimately elect to take a distribution.

Another way to reduce pension funding risk is for the plan to purchase an annuity contract designed to fund some or all plan liabilities. In this arrangement, the plan transfers plan liabilities to an insurance company and the insurer is responsible to pay the annuity amounts as they come due. This reduces risk by effectively transferring the funding risk to the annuity provider. Annuity contracts are also used to transfer liabilities to an insurance company in the event of a complete plan termination. If done properly, an annuity purchase can be an effective way to reduce pension funding risk.

Pension risk transfer activity has increased dramatically over the past few years and is expected to continue to increase. The size and complexity of these de-risking transactions and the impact on current and former employees make project execution critical. Seyfarth's pension plan team has extensive experience guiding employers through all types of de-risking projects.

Our team will work alongside you to:

- Review ERISA fiduciary duties and issues
- Identify factors and costs driving the interest in de-risking transactions such as dramatically increasing PBGC premiums, and relatively "low" cost of capital
- Evaluate legal and regulatory compliance concerns and provide possible solutions for reducing fiduciary and plan sponsor risk
- Develop new and evolving risk transfer alternatives that may be available to reduce balance sheet volatility

For more information, please contact a member of Seyfarth's Employee Benefits & Executive Compensation team.