

June 18, 2010

MEMORANDUM TO CLIENTS

RE: PBGC Technical Update 10-2 Provides "Box 5" Relief Procedure for Variable Rate Premium Payers, but with a Tight Deadline for Claiming Relief

For a large number of variable-rate premium payers, a failure to check "box 5" on the PBGC's comprehensive premium form created a potentially expensive "catch 22." PBGC initially invalidated these payers' efforts to use the currently less-expensive alternative premium funding target ("APFT") to compute their variable-rate premium, even though another box on the same form and the premium computation itself showed a clear intention to make that APFT election.

Facing criticism from Capitol Hill and elsewhere, PBGC announced on June 7, 2010 that it would back down from its initial position. On June 16, 2010, PBGC issued [Technical Update 10-2](#), which spells out the process by which affected premium payers may confirm their intention to make a timely APFT election and thereby obtain relief for the failure to check box 5.

Importantly, Technical Update 10-2 sets a tight deadline for claiming such relief. Plan administrators must send the necessary paperwork to PBGC within 30 days of the later of –

- the date of issuance of the Technical Update, or
- the date the comprehensive premium filing for the applicable plan year is due.

If you have questions about this note or Technical Update 10-2, please [click here](#).