

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

PBGC Insurance Programs

The Pension Benefit Guaranty Corporation (PBGC) administers two insurance programs for private defined benefit plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program. The PBGC protects the pensions of nearly 44 million working men and women in about 32,000 private defined benefit plans, including about 1,700 multiemployer plans.

The PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trustee by the PBGC, and recoveries from the companies formerly responsible for the trustee plans.

To carry out these functions, the PBGC must issue regulations interpreting such matters as the termination process, establishment of procedures for the payment of premiums, and assessment and collection of employer liability.

Single-employer Program

Under the single-employer program, the PBGC pays guaranteed and certain other pension benefits to participants and beneficiaries if their plan terminates with insufficient assets (distress and involuntary terminations). At the end of fiscal year 2002, the PBGC was trustee of about 3,100 plans and paid \$1,537 million in benefits to about 362,000 people during 2002. Another 326,000 people will receive benefits when they retire in the future.

Most terminating single-employer plans terminate with sufficient assets to pay all benefits. The PBGC has administrative responsibility for these terminations (standard terminations), but its role is limited to seeing that proper procedures are followed and participants and beneficiaries receive their plan benefits.

The private defined benefit pension system has been under pressure for some time and has become a matter of public concern. In July 2003, the Administration proposed legislative changes to: (1) improve the accuracy of pension liability measurements by modifying the discount interest rate; (2) increase the transparency of pension

plan information and make public pension underfunding information provided to PBGC for companies with over \$50 million in underfunding; and (3) require immediate funding of accruals, benefit increases, and lump sum payments in certain situations involving a financially distressed company. The PBGC's guarantee limit would be fixed as of the date a plan sponsor files for bankruptcy. The Administration is exploring additional funding reforms to protect workers' retirement security.

Other Administration proposals before the Congress are: (1) reduced premiums for new plans and plans of small employers; (2) expansion of the Missing Participants program to terminated multiemployer plans and terminated defined contribution plans; (3) acceleration of benefit determinations in terminated underfunded single-employer plans by streamlining the valuation of recoveries on due and unpaid contributions and employer liability claims and simplifying benefit determinations for substantial owners; and (4) payment of interest on premium refunds.

Multiemployer Program

The multiemployer program (which covers about 9.5 million workers and retirees in about 1,700 insured plans) is funded and administered separately from the single-employer program and differs in several significant ways. The multiemployer program covers only collectively bargained plans involving more than one unrelated employer. The PBGC provides financial assistance (in the form of a repayable loan) to the plan if the plan is unable to pay benefits at the guaranteed level. Guaranteed benefits are less than single-employer guaranteed benefits.

Objectives and Priorities

PBGC regulatory objectives and priorities are developed in the context of the statutory purposes of title IV: (1) to encourage voluntary private pension plans, (2) to provide for the timely and uninterrupted payment of pension benefits to participants and beneficiaries, and (3) to maintain the premiums that support the insurance programs at the lowest possible levels consistent with carrying out the PBGC's statutory obligations (ERISA section 4002(a)).

The PBGC implements its statutory purposes by developing regulations designed: (1) to assure the security of the pension benefits of workers, retirees, and beneficiaries; (2) to improve services to participants; (3) to ensure

that the statutory provisions designed to minimize losses for participants and PBGC in the event of plan termination are effectively implemented; (4) to encourage the establishment and maintenance of voluntary private pension plans; (5) to facilitate the collection of monies owed to plans and to the PBGC, while keeping the related costs and burdens as low as possible; and (6) to simplify the termination process.

Regulatory Priorities

The PBGC has focused on changes that would simplify the rules and reduce regulatory burden.

Relief for Plans and Sponsors Affected by the September 11, 2001, Terrorist Attacks

In response to the needs of covered plans and sponsors affected by the September 11, 2001, terrorist attacks, PBGC provided the following relief for plans in designated federal disaster areas and others affected by the disaster:

Waived penalties for late payment of PBGC premiums.

- Extended the deadlines for fully funded terminating plans to give notices to participants and the PBGC and to transfer to the PBGC payments for missing participants.
- Extended the deadline for issuing the notice to participants that certain underfunded plans are required to provide to inform participants of plan funding levels and limitations on PBGC guarantees.
- Extended the deadlines for reporting certain Reportable Events.
- Extended the deadline for requesting reconsideration or appealing PBGC determinations under the PBGC's administrative review regulation.
- Provided case-by-case relief in other cases.

Relief for Small Businesses

A large percentage of the plans insured by the PBGC are small or maintained by small employers. The PBGC takes the special needs and concerns of small entities into account in developing its regulatory policies. For example, in recent years, the PBGC made the following changes, which are very helpful to small plans and their sponsors:

- Extended the time limits for various actions required to terminate a fully

funded single-employer plan in a standard termination.

- Simplified its premium forms by introducing a new "Form 1-EZ" for use by single-employer plans that are exempt from the PBGC's variable-rate premium.
- Extended the filing date for PBGC premiums to match the latest Form 5500 filing date.
- Reduced penalties for late premiums that are paid before the PBGC notifies the plan of the delinquency.
- *Other Regulatory Simplifications and Relief*
- PBGC has provided additional regulatory simplifications and relief. Specifically, the PBGC:
- Stopped the reduction of monthly benefits under its actuarial recoupment method once the nominal amount of the benefit overpayment is repaid.
- Provided participants with benefits valued up to \$5,000 in PBGC-trusteed plans with the choice of receiving their benefit in the form of an annuity or a lump sum.
- Encouraged self-correction of premium underpayments by making it easier to qualify for safe-harbor penalty relief.
- Published a proposed penalty policy to provide guidance on assessment and review of penalties and on what constitutes "reasonable cause" for a penalty waiver.
- Simplified its valuation assumptions by adopting a single set of assumptions for allocation purposes.
- Decided to continue to calculate and publish its lump sum interest rates indefinitely and amended its regulations to make it easier for practitioners to refer to those rates.
- Amended its premium regulation to allow plan administrators to pay a prorated premium for a short plan year rather than paying a full year's premium and requesting a refund.
- Amended its premium regulation to simplify and narrow the definition of "participant" for PBGC premium purposes.
- Amended its benefit payments regulations to give participants more choices of annuity benefit forms, to clarify what it means to be able to "retire" under plan provisions for certain purposes under title IV of ERISA, and to add rules on who will

get certain payments the PBGC owes to a participant at the time of death.

- Amended its administrative review regulation to expedite the appeals process by authorizing a single member of the PBGC's Appeals Board to decide routine appeals.

In FY 2003, the PBGC issued a proposed rule that would: (1) remove requirements that might limit electronic filing with PBGC or electronic issuances to others; (2) simplify and consolidate PBGC's rules on filing and issuance methods, determining filing and issuance dates, and computing various periods of time for filings and issuances; and (3) provide rules for maintaining records by electronic means. (The PBGC implemented these changes in a final rule issued in early FY 2004.)

The PBGC is continuing to review its regulations to look for further simplification opportunities. The PBGC's regulatory plan for October 1, 2003, to September 30, 2004, consists of one significant regulatory action.

PBGC

PROPOSED RULE STAGE

133. ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS; VALUATION OF BENEFITS AND ASSETS

Priority:

Other Significant

Legal Authority:

29 USC 1302(b)(3); 29 USC 1341; 29 USC 1301(a); 29 USC 1344; 29 USC 1362

CFR Citation:

29 CFR 4044, subpart B

Legal Deadline:

None

Abstract:

The Pension Benefit Guaranty Corporation is considering amending its benefit valuation and asset allocation regulations by adopting more current mortality tables and otherwise simplifying and improving its valuation assumptions and methods.

Statement of Need:

The PBGC's regulations prescribe rules for valuing a terminating plan's benefits for several purposes, including (1) determining employer liability and (2)

allocating assets to determine benefit entitlements. The PBGC's interest assumption for valuing benefits, when combined with the PBGC's mortality assumption, is intended to reflect the market price of single-premium, nonparticipating group annuity contracts for terminating plans. In developing its interest assumptions, the PBGC uses data from surveys conducted by the American Council of Life Insurers. The PBGC currently uses a mortality assumption based on the 1983 Group Annuity Mortality Table in its benefit valuation and asset allocation regulations (29 CFR parts 4044 and 4281).

In May 1995, the Society of Actuaries Group Annuity Valuation Table Task Force issued a report that recommends new mortality tables for a new Group Annuity Reserve Valuation Standard and a new Group Annuity Mortality Valuation Standard. In December 1996, the National Association of Insurance Commissioners adopted the new tables as models for determining reserve liabilities for group annuities. The PBGC is considering incorporating these tables into its regulations and making other modifications.

Summary of Legal Basis:

The PBGC has the authority to issue rules and regulations necessary to carry out the purposes of title IV of ERISA.

Alternatives:

Not yet determined.

Anticipated Cost and Benefits:

Cost estimates are not yet available. However, the PBGC expects that this regulation will not have a material effect on costs.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
ANPRM	03/19/97	62 FR 12982
ANPRM Comment	05/19/97	
Period End		
NPRM	02/00/04	
NPRM Comment	04/00/04	
Period End		

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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