PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

The Pension Benefit Guaranty Corporation (PBGC) protects the pensions of over 44 million working men and women in about 30,000 private defined benefit plans. The PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteed by the PBGC, and recoveries from the companies formerly responsible for the trusteed 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. The PBGC regulatory priorities are focused on improving transparency and increasing the use of electronic filing to simplify filing.

PBGC Insurance Programs

The 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.

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). Early in 2005, the Administration proposed reforms to improve funding of plans and restore the financial health of the insurance program, which had a $23 billion deficit at the end of fiscal year 2005.

Multiemployer Program. The smaller multiemployer program covers 1,600 collectively bargained plans involving more than one unrelated employer. The PBGC provides financial assistance (in the form of a 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. The multiemployer program, which is separately funded from the single-employer program, had a $300 million deficit at the end of FY 2005.

2006 Legislation

Legislation signed into law in 2006 - the Deficit Reduction Act of 2005 and the Pension Protection Act of 2006 - contain various provisions that are intended to improve plan funding, enhance pension-related reporting and disclosure, and strengthen the insurance programs.

Among the provisions that apply to single-employer plans are:

- *Plan funding:* Accelerated funding requirements for underfunded plans, with a higher funding target for plans considered to be "at risk" of termination based on the financial status of the plan sponsor; and funding relief for commercial airlines, with certain protections for the insurance program.
- *Reporting and disclosure:* Improved disclosure of plan funding to participants in all single-employer plans; reporting of additional information to the PBGC; and disclosure of additional information to participants regarding termination of their plans.
- *Benefits and guarantees restriction:* Restrictions on accruals and lump sums for plans below certain funding levels; guarantee limitations on plant shutdown benefits; and a guarantee freeze when a sponsor enters bankruptcy.
- *Premiums:* An increased flat-rate premium (including indexing for future wage inflation), a more accurate measure of plan underfunding for the variable-rate premium (capped for small employers), and a new termination premium.
- *Missing Participants:* Expansion of the missing participants program to certain plans that previously were not eligible to participate.

Among the provisions that apply to multiemployer plans are:

- *Plan funding:* Accelerated funding requirements for most multiemployer plans, and additional funding rules for plans that are in endangered or critical status.
- *Disclosure:* Improved disclosure of plan funding to participants in all multiemployer plans.
- *Premiums:* An increased flat-rate premium (including indexing for future wage inflation).
- *Missing Participants:* As noted above, terminating multiemployer plans will be covered for the first time under the expanded missing participants program.

Regulatory Objectives and Priorities

The PBGC's regulatory objectives and priorities are developed in the context of its statutory purposes: (1) encouraging voluntary private pension plans, (2) providing for the timely and uninterrupted payment of pension benefits and (3) keeping premiums at the lowest possible levels. The PBGC also attempts to minimize administrative burdens on plans and participants.

Over the last several years, the PBGC's regulatory priorities have focused on changes to improve transparency and to simplify filing with the PBGC by increasing use of electronic filing. In making policy, the PBGC gives consideration to the special needs and concerns of small business. With the passage of the Deficit Reduction Act and the Pension Protection Act, the PBGC is now applying this focus to implementation of the new laws.

Improve Transparency of Information

The PBGC has been moving forward to improve transparency of information to plan participants, investors, and the PBGC, to better inform them and to encourage more responsible funding of pension plans. In March 2005, the PBGC issued a final rule requiring the filing of certain additional items of supporting information for plan actuarial information and employer financial information that is required of certain employers with large amounts of pension underfunding. The PBGC is continuing to develop proposed amendments to the regulation that requires notice to the PBGC of certain events that threaten plan funding. The Pension Protection Act expands disclosure of plan funding information to plan participants and consolidates annual disclosure of plan funding under the Department of Labor, repealing Section 4011 of ERISA, under which some of that reporting has been within the jurisdiction of the PBGC. (Accordingly the PBGC is withdrawing from its Regulatory Agenda proposed amendments to improve the disclosure of plan funding information that certain underfunded plans are required to provide in an annual Participant Notice under Section 4011.) The new law also contains provisions for disclosure of certain information to participants regarding the termination of their underfunded plan.

Simplify Filing by Increasing Use of Electronic Filing

The PBGC introduced optional electronic filing of premiums in 2004 with an online filing system that employs PBGC software. In June 2006, the PBGC issued a final rule, effective July 1, 2006, that requires electronic filing of premium information for plans with 500 or more participants for plan years beginning on or after January 1, 2006 and for all plans for plan years beginning on or after January 1, 2007. The PBGC will grant case-by-case exemptions for filers that demonstrate good cause. Online filers will have a choice of using private-sector software that meets the PBGC's published standards or using the PBGC's software. Electronic premium filing will simplify filers' paperwork, improve accuracy of the PBGC's premium records and database, and enable more prompt payment of premium refunds. The PBGC is incorporating the new changes to the flat-rate and variable-rate premiums into software so that it will be easy to comply with the premium changes under the new law. The PBGC also is developing regulations to address implementation of the new termination premium.

Plan actuarial and employer financial information required to be reported to the PBGC by employers with large amounts of pension underfunding is required to be filed electronically under a final regulation issued in March 2005. Electronic filing reduces the filing burden, improves accuracy, and better enables the PBGC to monitor and manage risks posed by these plans. The PBGC is developing a regulation to incorporate changes to the reporting requirements under the Pension Protection Act.

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, mandatory electronic filing of premiums will apply six months later to plans with fewer than 500 participants than to larger plans. Also, the May 2004 proposed revisions to the penalty structure for failure to comply with the Participant Notice requirements scale down the penalty rate based on the number of plan participants. In addition, a regulation implementing the cap on the variable-rate premium for plans of small employers will be among the first regulations that the PBGC issues under the Pension Protection Act.

The PBGC will continue to review its regulations to look for further simplification opportunities.

BILLING CODE 7709–01–S