

PENSION BENEFIT GUARANTY CORPORATION

29 CFR PARTS 4022, 4044, 4050

RIN 1212-AA91

Valuation of Benefits; Use of Single Set of Assumptions for all Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is amending its regulations to provide for the use of a single set of valuation assumptions—those currently used by the PBGC to value benefits to be paid as annuities—for purposes of allocating assets to benefits under section 4044 of ERISA.

On the same day that it proposed this amendment, the PBGC published a notice of intent to propose rulemaking relating to the future of its lump sum interest rates. In a final rule published elsewhere in today's **Federal Register**, the PBGC is amending provisions of its regulations related to lump sum interest rates. That action is independent of today's final rule on valuation of benefits.

EFFECTIVE DATE: May 1, 2000.

FOR FURTHER INFORMATION CONTACT:

Harold J. Ashner, Assistant General Counsel, or James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024. (For TTY/TTD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

SUPPLEMENTARY INFORMATION: On October 26, 1998, the PBGC published a proposal (63 FR 57229) to simplify one aspect of its valuation rules. The PBGC received no comments on the proposed rule and is adopting it without modification.

Background

When a plan terminates in a distress or involuntary termination, the PBGC values the plan's benefits in order to allocate assets to benefits in accordance with the priority categories established under section 4044 of ERISA. This valuation and allocation affect the amount of the PBGC's employer liability claim and participant benefit entitlements beyond guaranteed benefits. The PBGC also values each benefit to determine whether it is *de minimis* (\$5,000 or less) and, therefore, payable as a lump sum under section 4022 (and, if so, in what amount).

The PBGC's regulations currently provide for the use of two sets of assumptions to value benefits for

allocation purposes—one for benefits to be paid as annuities and another for benefits payable as lump sums. When the PBGC values a benefit for lump sum payment purposes—*i.e.*, to determine whether the benefit is payable as a lump sum under section 4022 (and, if so, in what amount)—it uses the lump sum assumption set.

Currently, the assumptions used to value benefits (whether for allocation purposes under section 4044 or for payment purposes under section 4022) are found in part 4044 of the PBGC's regulations.

Amendment

Under the amendment in this final rule, all benefits will be valued for plan asset allocation purposes under ERISA section 4044 by using the PBGC's annuity assumptions, regardless of whether the benefit is to be paid as an annuity or is payable as a lump sum. The amendment does not change the way the PBGC values benefits for purposes of paying lump sum benefits under section 4022. The PBGC will continue to use its existing lump sum assumptions for lump sum payment purposes under section 4022 of ERISA. (See *Related action* regarding possible future changes.)

Because the assumptions the PBGC uses to value lump sums for payment purposes will no longer apply to the allocation of assets under section 4044, the amendment makes a nonsubstantive conforming change by moving the assumptions for lump sum payment purposes from Part 4044 to Part 4022. The PBGC expects that plan lump sum provisions referring to the PBGC's lump sum interest rates under Part 4044 will be interpreted as referring to the rates being moved to Part 4022. (As explained under *Related action*, while the PBGC will publish two sets of lump sum interest rates under Part 4022, the two sets will be identical until the PBGC, through rulemaking, provides otherwise.)

Finally, the PBGC is making nonsubstantive changes to the definition of "missing participant lump sum assumptions" and "missing participant annuity assumptions" in its Missing Participants regulation (Part 4050) to conform to the amendments to Parts 4022 and 4044.

Applicability

These amendments apply to any plan with a termination date on or after May 1, 2000.

Related Action

At the same time that the PBGC proposed this regulation, it published (at 63 FR 57228) a notice of intent to

propose rulemaking (the "NIPR"), addressing the future of the PBGC's lump sum interest rates under section 4022. In a final rule published elsewhere in today's **Federal Register**, the PBGC is amending provisions of its regulations related to lump sum interest rates. The amendments provide that the PBGC will publish two separate sets of lump sum rates "one for PBGC payments and one for private-sector payments. The two sets of rates will be identical until the PBGC, through rulemaking, provides otherwise. That action is independent of today's final rule.

Compliance With Rulemaking Guidelines

The PBGC has determined that this rule is not a "significant regulatory action" under the criteria set forth in Executive Order 12866. The PBGC certifies that the amendment will not have a significant economic effect on a substantial number of small entities. The amendments generally affect only the valuation of *de minimis* benefits and will have an immaterial effect on liabilities associated with plan termination. Accordingly, as provided in section 605(b) of the Regulatory Flexibility Act, sections 603 and 604 do not apply.

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

29 CFR Part 4050

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC amends parts 4022, 4044, and 4050 of 29 CFR chapter XL as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In § 4022.7, paragraph (d) is revised to read as follows:

§ 4022.7 Benefits payable in a single installment.

* * * * *

(d) *Determination of lump sum amount.* For purposes of paragraph (b)(1)(i) through (iii) of this section, the lump sum value of a benefit shall be calculated by valuing the monthly annuity benefits payable in the form determined under § 4044.51(a) of this chapter and commencing at the time determined under § 4044.51(b) of this chapter. The actuarial assumptions used shall be those described in § 4044.52, except that—

(1) *Loading for expenses.* There shall be no adjustment to reflect the loading for expenses;

(2) *Mortality rates and interest assumptions.* The mortality rates in appendix A to this part and the interest assumptions in appendix B to this part shall apply; and

(3) *Date for determining lump sum value.* The date as of which a lump sum value is calculated is the termination date, except that in the case of a subsequent insufficiency it is the date described in section 4062(b)(1)(B) of ERISA.

Appendix to Part 4022 [Redesignated as Appendix C to Part 4022]

3. The Appendix to Part 4022 is redesignated as Appendix C to part 4022, and the heading is revised to read as follows:

Appendix C to Part 4022—Maximum Guaranteeable Monthly Benefit

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. Section 4044.52 is revised to read as follows:

§ 4044.52 Valuation of benefits.

The plan administrator shall value all benefits as of the valuation date by—

(a) Using the mortality assumptions prescribed by § 4044.53 and the interest assumptions prescribed in appendix B to this part;

(b) Using interpolation methods, where necessary, at least as accurate as linear interpolation;

(c) Using valuation formulas that accord with generally accepted actuarial principles and practices;

(d) Taking mortality into account during the deferral period of a deferred joint and survivor benefit only with respect to the participant (or other principal annuitant); and

(e) Adjusting the values to reflect loading expenses in accordance with appendix C to this part.

6. In § 4044.53, the section heading and paragraph (a) are revised to read as follows:

§ 4044.53 Mortality assumptions.

(a) *General rule.* Subject to paragraph (b) of this section (regarding certain death benefits), the plan administrator shall use the mortality factors prescribed in paragraphs (c), (d), and (e) of this section to value benefits under § 4044.52.

* * * * *

§ 4044.54 [Removed and Reserved]

7. Section 4044.54 is removed and reserved.

Appendix A to Part 4044—[Amended]

8. In appendix A to part 4044, Table 3—Lump Sum Mortality Table is redesignated as appendix A to part 4022 and the heading is revised to read as follows:

Appendix A to Part 4022—Lump Sum Mortality Rates

Appendix B to Part 4044—[Amended]

9. In appendix B to part 4044:
a. The appendix heading is revised;
b. The heading “Table I—[Annuity Valuations]” is removed.

The revision reads as follows:

Appendix B to Part 4044—Interest Rates Used to Value Benefits

10. In appendix B to part 4044, Table II—[Lump Sum Valuations] is redesignated as appendix B to part 4022 and the heading is revised to read as follows:

Appendix B to Part 4022—Lump Sum Interest Rates

Appendix C to Part 4044—[Amended]

11. In appendix C to part 4044, the table is amended in the third column by removing the reference “Table I of appendix B for the valuation of annuities” and adding the reference “appendix B of this part for the valuation of benefits” in its place.

PART 4050—MISSING PARTICIPANTS

12. The authority citation for part 4050 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1350.

13. In § 4050.2, the definitions of *Missing participant annuity assumptions* and *Missing participant lump sum assumptions* are revised to read as follows:

§ 4050.2 Definitions

* * * * *

Missing participant annuity assumptions means the interest rate assumptions and actuarial methods for

valuing benefits under § 4044.52 of this chapter, applied—

(1) As if the deemed distribution date were the termination date;

(2) Using the mortality rates prescribed in Revenue Ruling 95–6, 1995–1 C.B. 80 (for availability, see 26 CFR 601.601(d));

(3) Without using the expected retirement age assumptions in §§ 4044.55 through 4044.57 of this chapter;

(4) Without making the adjustment for expenses provided for in § 4044.52(e) of this chapter; and

(5) By adding \$300, as an adjustment (loading) for expenses, for each missing participant whose designated benefit without such adjustment would be greater than \$5,000.

* * * * *

Missing participant lump sum assumptions means the interest rate and mortality assumptions and actuarial methods for determining the lump sum value of a benefit under § 4022.7(d) of this chapter applied—

(1) As if the deemed distribution date were the termination date; and

(2) Without using the expected retirement age assumptions in §§ 4044.55 through 4044.57 of this chapter.

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Issued in Washington, DC, this 9th day of March, 2000.

Alexis M. Herman,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

James J. Keightley,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 00–6646 Filed 3–16–00; 8:45 am]

BILLING CODE 7708–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR PART 4022

RIN 1212-AA92

Lump Sum Payment Assumptions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The PBGC intends to continue to calculate and publish lump sum interest rates determined using the PBGC's current methods (or a surrogate for those rates) indefinitely. For the time being, the PBGC will continue to use