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J. Randolph Babbitt,

Administrator.

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Limitations on Guaranteed Benefits; Maximum Guaranteeable Benefit

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule removes Appendix D from Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans. Appendix D is a historical list of the maximum guaranteeable monthly benefit for each year as determined in accordance with section 4022(b)(3)(B) of the Employee Retirement Income Security Act of 1974. This information is available on PBGC's Web site (<http://www.pbgc.gov>).

DATES: Effective December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

SUPPLEMENTARY INFORMATION: Section 4022(b) of the Employee Retirement Income Security Act of 1974 (ERISA) provides for certain limitations on benefits guaranteed by Pension Benefit Guaranty Corporation (PBGC) in terminating single-employer pension plans covered under Title IV of ERISA. One of the limitations, set forth in ERISA section 4022(b)(3)(B), is a dollar ceiling on the amount of the monthly benefit that may be paid to a plan participant (in the form of a life annuity beginning at age 65) by PBGC. The ceiling is equal to "\$750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974 [\$13,200]." This formula is also set forth in § 4022.22(b)

of PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR Part 4022). Section 230(d) of the Social Security Act (42 U.S.C. 430(d)) provides special rules for determining the contribution and benefit base for purposes of ERISA section 4022(b)(3)(B).¹

PBGC has no discretion in the determination of the maximum guaranteeable benefit. The maximum guaranteeable benefit is determined by applying the formula in ERISA section 4022(b)(3)(B) to the contribution and benefit base. Each year Social Security Administration determines, and notifies PBGC of, the contribution and benefit base to be used under ERISA section 4022(b)(3)(B), and PBGC applies the statutory formula to arrive at the maximum guaranteeable benefit. PBGC has historically published a table showing the maximum guaranteeable benefit for each year in appendix D to the benefit payment regulation and updated the list each year by amending the table in the appendix. In recent years, PBGC has also published this information on its Web site (<http://www.pbgc.gov>; click on "Workers & Retirees," then on "Maximum monthly guarantee tables" under the heading "Benefits Information" in the center column).

PBGC has concluded that since the maximum guaranteeable benefits are easily accessible to the public on its Web site, it is no longer necessary to publish the information in the **Federal Register** (where annual updates to appendix D to the benefit payment regulation are published) or the Code of Federal Regulations (where the appendix itself is published). Accordingly, PBGC is removing appendix D from the benefit payment regulation. This action has no substantive legal effect.

General notice of proposed rulemaking is unnecessary. The maximum guaranteeable benefit is determined according to the formula in section 4022(b)(3)(B) of ERISA, and this amendment makes no change in its method of calculation but simply eliminates one of the methods PBGC

¹ For example, under section 230 of the Social Security Act, \$79,200 is the contribution and benefit base that is to be used to calculate the PBGC maximum guaranteeable benefit for 2010. Accordingly, the formula under section 4022(b)(3)(B) of ERISA and 29 CFR § 4022.22(b) is: \$750 multiplied by \$79,200/\$13,200. Thus, the maximum monthly benefit guaranteeable by the PBGC for plans that terminate in 2010 is \$4,500.00 per month in the form of a life annuity beginning at age 65. (If a benefit is payable in a different form or begins at a different age, the maximum guaranteeable amount is the actuarial equivalent of \$4,500.00 per month.)

currently uses to inform the public of the maximum guaranteeable benefit.

PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 4022

Pension insurance, Pensions, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 29 CFR part 4022 is amended 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. Appendix D to part 4022 is removed.

Issued in Washington, DC, this 15th day of November, 2009.

Vincent K. Snowbarger,

Acting Director, Pension Benefit Guaranty Corporation.

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans by substituting a new table for determining expected retirement ages for participants in pension plans undergoing distress or involuntary termination with valuation dates falling in 2010. This table is needed in order to compute the value of early retirement benefits and, thus, the total value of benefits under a plan.

DATES: *Effective Date:* January 1, 2010.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-