

## PENSION BENEFIT GUARANTY CORPORATION (PBGC)

### Statement of Regulatory and Deregulatory Priorities

The Pension Benefit Guaranty Corporation (PBGC) protects the pensions of about 44 million people in about 28,500 private defined benefit plans. PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trustee by PBGC, and recoveries from the companies formerly responsible for the trustee plans.

To carry out these functions, PBGC issues regulations interpreting such matters as the termination process, establishment of procedures for the payment of premiums, reporting and disclosure, and assessment and collection of employer liability. The Corporation is committed to issuing simple, understandable, and timely regulations to help affected parties.

PBGC's intent is to issue regulations that implement the law in ways that do not impede the maintenance of existing defined benefit plans or the establishment of new plans. Thus, the focus is to avoid placing burdens on plans, employers, and participants, wherever possible. PBGC also seeks to ease and simplify employer compliance whenever possible.

### PBGC Insurance Programs

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, PBGC pays guaranteed and certain other pension benefits to participants and beneficiaries if their plan terminates with insufficient assets (distress and involuntary terminations).
- *Multiemployer Program.* The smaller multiemployer program covers about 1500 collectively bargained plans involving more than one unrelated employer. 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.

At the end of fiscal year 2009, PBGC had a \$22 billion deficit in its insurance programs.

### Regulatory Objectives and Priorities

As described below, PBGC's current regulatory objectives and priorities are to complete implementation of the Pension Protection Act of 2006 (PPA 2006) by issuing simple, understandable, and timely regulations that do not impose undue burdens that could impede maintenance or establishment of defined benefit plans. PBGC is also working on several regulatory projects not related to PPA 2006. These regulatory objectives and priorities are developed in the context of the Corporation's statutory purposes:

- To encourage voluntary private pension plans;
- To provide for the timely and uninterrupted payment of pension benefits; and
- To keep premiums at the lowest possible levels.

PBGC also attempts to minimize administrative burdens on plans and participants, improve transparency, simplify filing, provide relief for small businesses, and assist plans to comply with applicable requirements.

#### Transparency

The Corporation seeks to improve transparency of information to plan participants, investors, and PBGC, in order to better inform them and to encourage more responsible funding of pension plans. PPA 2006 requires disclosure of certain information to participants regarding the termination of their underfunded plan. PBGC published a final regulation on this disclosure of termination information in November 2008.

PPA 2006 makes changes to the plan actuarial and employer financial information required under section 4010 of ERISA to be reported to PBGC by employers with large amounts of pension underfunding. PBGC published a final regulation implementing those changes in March 2009.

#### Electronic filing

PBGC has simplified filing by increasing use of electronic filing methods. Electronic filing of premium information has been mandatory for all plans for plan years beginning on or after January 1, 2007. Filers have a choice of using private-sector software that meets PBGC's published standards or using PBGC's software. Electronic premium filing simplifies filers' paperwork, improves accuracy of PBGC's premium records and database, and enables more prompt payment of premium refunds. Most of the premium

changes under PPA 2006 have now been incorporated into software so that it will be easy to comply with the premium changes under the new law.

Employers with large amounts of underfunding in their plans must file actuarial and financial information under section 4010 of ERISA electronically. Electronic filing reduces the filing burden, improves accuracy, and better enables PBGC to monitor and manage risks posed by these plans. PBGC incorporated the PPA 2006 changes to this reporting into software so that it will be easy to comply with the reporting changes under the new law.

#### Small businesses

PBGC gives consideration to the special needs and concerns of small businesses in making policy. A large percentage of the plans insured by PBGC are small or maintained by small employers. The first proposed regulation PBGC published under PPA 2006 implemented the cap on the variable-rate premium for plans of small employers. In early 2010, the Corporation expects to issue a proposed regulation implementing the expanded missing participants program under PPA 2006, which will also benefit small businesses.

#### Other PPA 2006 changes

Under PPA 2006, if a plan terminates while its sponsor is in bankruptcy, and the bankruptcy was initiated on or after September 16, 2006, the bankruptcy filing date is treated as the plan termination date for purposes of determining the amount of benefits PBGC guarantees and the amount of assets allocated to participants who retired or have been retirement-eligible for three years. In 2008, PBGC published a proposed regulation to implement this statutory change; PBGC expects to finalize the regulation in late 2009.

PPA 2006 changes the rules for determining benefits upon the termination of a statutory hybrid plan, such as a cash balance plan. PBGC plans to publish a proposed regulation in late 2009 to implement those rules in both PBGC-trusteed plans and in plans that close out in the private sector.

Under PPA 2006, the phase-in period for the guarantee of a benefit payable solely by reason of an "unpredictable contingent event," such as a plant shutdown, starts no earlier than the date of the shutdown or other unpredictable contingent event. PBGC plans to publish a proposed regulation implementing this statutory change in late 2009.

PPA 2006 provides for changes in the allocation of unfunded vested benefits to withdrawing employers from a multiemployer pension plan and requires adjustments in determining an employer's withdrawal liability when a multiemployer plan is in critical status. In December 2008, PBGC published a final regulation to implement these provisions and to provide other improvements to the withdrawal liability rules.

#### *Compliance assistance*

PBGC has initiated a regulatory project to assist plans to comply with requirements applicable to certain substantial cessations of operations. ERISA section 4062(e) provides for reporting of and liability for certain substantial cessations of operations by

employers that maintain single-employer plans. In early 2010, PBGC expects to publish a proposed regulation that would provide guidance as to what constitutes a section 4062(e) event, on the reporting of such an event to PBGC, and on the determination and satisfaction of liability arising from such an event.

#### *Reemployed service members' pension benefits*

In 2009, PBGC published a proposed regulation that would implement provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). USERRA provides that an individual who leaves a job to serve in the uniformed services is generally entitled to reemployment by the previous employer and, upon

reemployment, to receive credit for benefits, including employee pension plan benefits, that would have accrued but for the employee's absence due to the military service. The proposed regulation would provide that so long as a service member is reemployed within the time limits set by USERRA, even if the reemployment occurs after the plan's termination date, PBGC would treat the participant as having satisfied the reemployment condition as of the termination date. This would ensure that the pension benefits of reemployed service members, like those of other employees, would generally be guaranteed for periods up to the plan's termination date.

PBGC will continue to look for ways to further improve its regulations.

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