

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting part 4044, appendix B, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

PART 4047—RESTORATION OF TERMINATING AND TERMINATED PLANS

Sec.

- 4047.1 Purpose and scope.
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AUTHORITY: 29 U.S.C. 1302(b)(3), 1347.

SOURCE: 61 FR 34073, July 1, 1996, unless otherwise noted.

§ 4047.1 Purpose and scope.

Section 4047 of ERISA gives the PBGC broad authority to take any necessary actions in furtherance of a plan restoration order issued pursuant to section 4047. This part (along with Treasury regulation 26 CFR 1.412(c)(1)-3) describes certain legal obligations that arise incidental to a plan restoration under section 4047. This part also establishes procedures with respect to these obligations that are intended to facilitate the orderly transition of a restored plan from terminated (or terminating) status to ongoing status, and to help ensure that the restored plan will continue to be ongoing consistent with the best interests of the plan's participants and beneficiaries and the single-employer insurance program. This part applies to terminated and terminating single-employer plans (except for plans terminated and terminating under ERISA section 4041(b)) with respect to which the PBGC has issued or is issuing a plan restoration order pursuant to ERISA section 4047.

§ 4047.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: controlled group, ERISA, IRS, PBGC, plan, plan administrator, plan year, and single-employer plan.

§ 4047.3 Funding of restored plan.

(a) *General.* Whenever the PBGC issues or has issued a plan restoration order under ERISA section 4047, it

shall issue to the plan sponsor a restoration payment schedule order in accordance with the rules of this section. PBGC, through its Executive Director, shall also issue a certification to its Board of Directors and the IRS, as described in paragraph (c) of this section. If more than one plan is or has been restored, the PBGC shall issue a separate restoration payment schedule order and separate certification with respect to each restored plan.

(b) *Restoration payment schedule order.* A restoration payment schedule order shall set forth a schedule of payments sufficient to amortize the initial restoration amortization base described in paragraph (b) of 26 CFR 1.412(c)(1)-3 over a period extending no more than 30 years after the initial post-restoration valuation date, as defined in paragraph (a)(1) of 26 CFR 1.412(c)(1)-3. The restoration payment schedule shall be consistent with the requirements of 26 CFR 1.412(c)(1)-3 and may require payments at intervals of less than one year, as determined by the PBGC. The PBGC may, in its discretion, amend the restoration payment schedule at any time, consistent with the requirements of 26 CFR 1.412(c)(1)-3.

(c) *Certification.* The Executive Director's certification to the Board of Directors and the IRS pursuant to paragraph (a) of this section shall state that the PBGC has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availability of deferrals as permitted under paragraph (c)(4) of 26 CFR 1.412(c)(1)-3) and any other factor that the PBGC deems relevant, and, based on that review, determines that it is in the best interests of the plan's participants and beneficiaries and the single-employer insurance program that the restored plan not be reterminated.

(d) *Periodic PBGC review.* As long as a restoration payment schedule order issued under this section is in effect, the PBGC shall review annually the funding status of the plan with respect

to which the order applies. As part of this review, the PBGC, through its Executive Director, shall issue a certification in the form described in paragraph (c) of this section. As a result of its funding review, PBGC may amend the restoration payment schedule, consistent with the requirements of paragraph (c)(2) of 26 CFR 1.412(c)(1)-3.

§ 4047.4 Payment of premiums.

(a) *General.* Upon restoration of a plan pursuant to ERISA section 4047, the obligation to pay PBGC premiums pursuant to ERISA section 4007 is reinstated as of the date on which the plan was trustee under section 4042 of ERISA. Except as otherwise specifically provided in paragraphs (b) and (c) of this section, the amount of the outstanding premiums owed shall be computed and paid by the plan administrator in accordance with part 4006 of this chapter (Premium Rates) and the forms and instructions issued pursuant thereto, as in effect for the plan years for which premiums are owed.

(b) *Notification of premiums owed.* Whenever the PBGC issues or has issued a plan restoration order, it shall send a written notice to the plan administrator of the restored plan advising the plan administrator of the plan year(s) for which premiums are owed. PBGC will include with the notice the necessary premium payment forms and instructions. The notice shall prescribe the payment due dates for the outstanding premiums.

(c) *Methods for determining variable rate portion of the premium.* In general, the variable rate portion of the outstanding premiums shall be determined in accordance with the premium regulation and forms, as provided in paragraph (a) of this section, except that for any plan year following a plan year for which Form 5500, Schedule B was not filed because the plan was terminated, the alternative calculation method may not be used.

[61 FR 34073, July 1, 1996, as amended at 79 FR 13562, Mar. 11, 2014]

§ 4047.5 Repayment of PBGC payments of guaranteed benefits.

(a) *General.* Upon restoration of a plan pursuant to ERISA section 4047, amounts paid by the PBGC from its

single-employer insurance fund (the fund established pursuant to ERISA section 4005(a)) to pay guaranteed benefits and related expenses under the plan while it was terminated are a debt of the restored plan. The terms and conditions for payment of this debt shall be determined by the PBGC.

(b) *Repayment terms.* The PBGC shall prescribe reasonable terms and conditions for payment of the debt described in paragraph (a) of this section, including the number, amount and commencement date of the payments. In establishing the terms, PBGC will consider the cash needs of the plan, the timing and amount of contributions owed to the plan, the liquidity of plan assets, the interests of the single-employer insurance program, and any other factors PBGC deems relevant. PBGC may, in its discretion, revise any of the payment terms and conditions, upon written notice to the plan administrator in accordance with paragraph (c) of this section.

(c) *Notification to plan administrator.* Whenever the PBGC issues or has issued a plan restoration order, it shall send a written notice to the plan administrator of the restored plan advising the plan administrator of the amount owed the PBGC pursuant to paragraph (a) of this section. The notice shall also include the terms and conditions for payment of this debt, as established under paragraph (b) of this section.

PART 4050—MISSING PARTICIPANTS

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