

including for information required under subparagraphs (C) through (F) of paragraph (1).

(c) Notice to the Secretary and Pension Benefit Guaranty Corporation

The notice required under subsection (a)(2) shall include the following:

(1) The total number of participants and beneficiaries eligible for such lump sum option.

(2) The length of the limited period during which the lump sum is offered.

(3) An explanation of how the lump sum was calculated, including the interest rate, mortality assumptions, and whether any additional plan benefits were included in the lump sum, such as early retirement subsidies.

(4) A sample of the notice provided to participants and beneficiaries under subsection (a)(1), if otherwise required.

(d) Post-offer report to the Secretary and Pension Benefit Guaranty Corporation

Not later than 90 days after the conclusion of the limited period during which participants and beneficiaries in a plan may accept a plan's offer of a lump sum, a plan sponsor shall submit a report to the Secretary and the Director of the Pension Benefit Guaranty Corporation that includes the number of participants and beneficiaries who accepted the lump sum offer and such other information as the Secretary may require.

(e) Public availability

The Secretary shall make the information provided in the notice to the Secretary required under subsection (a)(2) and in the post-offer reports submitted under subsection (d) publicly available in a form that protects the confidentiality of the information provided.

(f) Biennial report

Not later than the last day of the second calendar year after the calendar year including the applicability date of the final rules under section 342(e) of the SECURE 2.0 Act of 2022, and every 2 years thereafter, so long as the Secretary has received notices and post-offer reports under subsections (c) and (d) of this section, the Secretary shall submit to Congress a report that summarizes such notices and post-offer reports during the applicable reporting period. The applicable reporting period begins on the first day of the second calendar year preceding the calendar year that the report is submitted to Congress and ends on the last day of the calendar year preceding the calendar year the report is due.

(Pub. L. 93-406, title I, §113, as added Pub. L. 117-328, div. T, title III, §342(a), Dec. 29, 2022, 136 Stat. 5376.)

Editorial Notes

REFERENCES IN TEXT

Section 342(e) of the SECURE 2.0 Act of 2022, referred to in subsec. (f), is section 342(e) of div. T of Pub. L. 117-328, which is set out as a note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-328, div. T, title III, §342(d), Dec. 29, 2022, 136 Stat. 5378, provided that: "The requirements of sec-

tion 113 of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1032], as added by subsection (b) [probably means subsec. (a) of section 342 of Pub. L. 117-328, which enacted this section], shall apply beginning on the applicable effective date specified in the final regulations promulgated pursuant to subsection (e) [set out below]."

REGULATIONS

Pub. L. 117-328, div. T, title III, §342(e), Dec. 29, 2022, 136 Stat. 5378, provided that: "Not earlier than 1 year after the date of enactment of this Act [Dec. 29, 2022], the Secretary of Labor, in consultation with the Secretary of the Treasury, shall issue regulations to implement section 113 of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1032], as added by subsection (a). Such regulations shall be applicable not earlier than the issuance of a final rule and not later than 1 year after issuance of a final rule."

PART 2—PARTICIPATION AND VESTING

§ 1051. Coverage

This part shall apply to any employee benefit plan described in section 1003(a) of this title (and not exempted under section 1003(b) of this title) other than—

(1) an employee welfare benefit plan;

(2) a plan which is unfunded and is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees;

(3)(A) a plan established and maintained by a society, order, or association described in section 501(c)(8) or (9) of title 26, if no part of the contributions to or under such plan are made by employers of participants in such plan, or

(B) a trust described in section 501(c)(18) of title 26;

(4) a plan which is established and maintained by a labor organization described in section 501(c)(5) of title 26 and which does not at any time after September 2, 1974, provide for employer contributions;

(5) any agreement providing payments to a retired partner or a deceased partner's successor in interest, as described in section 736 of title 26;

(6) an individual retirement account or annuity described in section 408 of title 26, or a retirement bond described in section 409 of title 26 (as effective for obligations issued before January 1, 1984);

(7) an excess benefit plan; or

(8) any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this chapter.

(Pub. L. 93-406, title I, §201, Sept. 2, 1974, 88 Stat. 852; Pub. L. 96-364, title IV, §411(a), Sept. 26, 1980, 94 Stat. 1308; Pub. L. 101-239, title VII, §§7891(a)(1), 7894(c)(1)(A), (11)(A), Dec. 19, 1989, 103 Stat. 2445, 2448, 2449.)

Editorial Notes

REFERENCES IN TEXT

Section 409 of title 26, referred to in par. (6), means section 409 of Title 26, Internal Revenue Code, prior to its repeal by Pub. L. 98-369, div. A, title IV, §491(b), July 18, 1984, 98 Stat. 848, applicable to obligations issued after Dec. 31, 1983.

This chapter, referred to in par. (8), was in the original "this Act", meaning Pub. L. 93-406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1989—Pars. (3)(A), (4), (5). Pub. L. 101-239, §7891(a)(1), substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Par. (6). Pub. L. 101-239, §7891(a)(1), substituted "section 408 of the Internal Revenue Code of 1986" for "section 408 of the Internal Revenue Code of 1954", which for purposes of codification was translated as "section 408 of title 26" thus requiring no change in text.

Pub. L. 101-239, §7894(c)(11)(A), substituted "section 409 of title 26 (as effective for obligations issued before January 1, 1984)" for "section 409 of title 26".

Pub. L. 101-239, §7894(c)(1)(A)(i), struck out "or" after semicolon at end.

Par. (7). Pub. L. 101-239, §7894(c)(1)(A)(ii), substituted "plan; or" for "plan."

Par. (8). Pub. L. 101-239, §7894(c)(1)(A)(iii), substituted "any plan" for "Any plan".

1980—Par. (8). Pub. L. 96-364 added par. (8).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7891(a)(1) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

Pub. L. 101-239, title VII, §7894(c)(1)(B), Dec. 19, 1989, 103 Stat. 2449, provided that: "The amendments made by subparagraph (A) [amending this section] shall take effect as if included in section 411 of the Multiemployer Pension Plan Amendments Act of 1980 [Pub. L. 96-364]."

Pub. L. 101-239, title VII, §7894(c)(11)(B), Dec. 19, 1989, 103 Stat. 2449, provided that: "The amendment made by subparagraph (A) [amending this section] shall take effect as if originally included in section 491(b) of Public Law 98-369."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-364 effective Sept. 26, 1980, except as specifically provided, see section 1461(e) of this title.

§ 1052. Minimum participation standards

(a)(1)(A) No pension plan may require, as a condition of participation in the plan, that an employee complete a period of service with the employer or employers maintaining the plan extending beyond the later of the following dates—

- (i) the date on which the employee attains the age of 21; or
- (ii) the date on which he completes 1 year of service.

(B)(i) In the case of any plan which provides that after not more than 2 years of service each participant has a right to 100 percent of his ac-

crued benefit under the plan which is nonforfeitable at the time such benefit accrues, clause (ii) of subparagraph (A) shall be applied by substituting "2 years of service" for "1 year of service".

(ii) In the case of any plan maintained exclusively for employees of an educational organization (as defined in section 170(b)(1)(A)(ii) of title 26) by an employer which is exempt from tax under section 501(a) of title 26, which provides that each participant having at least 1 year of service has a right to 100 percent of his accrued benefit under the plan which is nonforfeitable at the time such benefit accrues, clause (i) of subparagraph (A) shall be applied by substituting "26" for "21". This clause shall not apply to any plan to which clause (i) applies.

(2) No pension plan may exclude from participation (on the basis of age) employees who have attained a specified age.

(3)(A) For purposes of this section, the term "year of service" means a 12-month period during which the employee has not less than 1,000 hours of service. For purposes of this paragraph, computation of any 12-month period shall be made with reference to the date on which the employee's employment commenced, except that, in accordance with regulations prescribed by the Secretary, such computation may be made by reference to the first day of a plan year in the case of an employee who does not complete 1,000 hours of service during the 12-month period beginning on the date his employment commenced.

(B) In the case of any seasonal industry where the customary period of employment is less than 1,000 hours during a calendar year, the term "year of service" shall be such period as may be determined under regulations prescribed by the Secretary.

(C) For purposes of this section, the term "hour of service" means a time of service determined under regulations prescribed by the Secretary.

(D) For purposes of this section, in the case of any maritime industry, 125 days of service shall be treated as 1,000 hours of service. The Secretary may prescribe regulations to carry out the purposes of this subparagraph.

(4) A plan shall be treated as not meeting the requirements of paragraph (1) unless it provides that any employee who has satisfied the minimum age and service requirements specified in such paragraph, and who is otherwise entitled to participate in the plan, commences participation in the plan no later than the earlier of—

- (A) the first day of the first plan year beginning after the date on which such employee satisfied such requirements, or
- (B) the date 6 months after the date on which he satisfied such requirements,

unless such employee was separated from the service before the date referred to in subparagraph (A) or (B), whichever is applicable.

(b)(1) Except as otherwise provided in paragraphs (2), (3), and (4), all years of service with the employer or employers maintaining the plan shall be taken into account in computing the period of service for purposes of subsection (a)(1).

(2) In the case of any employee who has any 1-year break in service (as defined in section