

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

The Pension Benefit Guaranty Corporation (PBGC) is a federal corporation created under title IV of the Employee Retirement Income Security Act (ERISA) to guarantee the payment of pension benefits earned by nearly 37 million workers, retirees and their families in private-sector defined benefit plans. PBGC receives no tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteeed by PBGC, and recoveries from the companies formerly responsible for the trusteeed plans. PBGC administers two insurance programs — one for single-employer defined benefit pension plans and a second for multiemployer defined benefit pension plans.

- *Single-Employer Program.* Under the single-employer program, when a plan terminates with insufficient assets to cover all plan benefits (distress and involuntary terminations), PBGC pays plan benefits that are guaranteed under title IV. PBGC also pays nonguaranteed plan benefits to the extent funded by plan assets or recoveries from employers. In fiscal year (FY) 2018, PBGC paid \$5.8 billion in benefits to nearly 861,000 retirees and beneficiaries in nearly 5,000 failed single-employer plans.
- *Multiemployer Program.* The multiemployer program covers 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 insolvent and thus unable to pay benefits at the guaranteed level. The guarantee is structured differently from, and is generally significantly lower than, the single-employer guarantee. In FY 2018, PBGC provided financial assistance to 81 multiemployer plans covering 62,300 retirees and beneficiaries.

PBGC's net position in the single-employer insurance program improved from a deficit of \$10.9 billion at the end of FY 2017 to a positive \$2.4 billion at the end of FY 2018. However, PBGC continued to have a deficit in its multiemployer insurance program, which decreased to \$53.9 billion at the end of FY 2018. PBGC's projections show that the financial position of the single-employer program is likely to continue to improve, but the multiemployer program is in dire financial condition and under current law likely to run out of funds by the end of FY 2025. If that happens, PBGC will not have the money to pay benefits at the current guarantee levels to participants in insolvent plans.

To carry out its statutory functions, PBGC issues regulations on such matters as how to pay premiums, when reports are due, what benefits are covered by the insurance program, how to terminate a plan, the liability for underfunding, and how withdrawal liability works for multiemployer plans. PBGC follows a regulatory approach that seeks to encourage the continuation and maintenance of defined benefit plans. So, in developing new regulations and reviewing existing regulations, PBGC seeks to reduce burdens on plans, employers, and participants, and to ease and simplify employer compliance wherever possible. PBGC particularly strives to meet the needs of small businesses that sponsor defined benefit plans. In all such efforts, PBGC's mission is to protect the retirement incomes of plan participants.

Regulatory/Deregulatory Objectives and Priorities

PBGC's regulatory/deregulatory objectives and priorities are developed in the context of the Corporation's statutory purposes:

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

Pension plans and the statutory framework in which they are maintained and terminated are complex.

Despite this complexity, PBGC is committed to issuing simple, understandable, flexible, and timely regulations to help affected parties. PBGC's regulatory/deregulatory objectives and priorities for the fiscal year are:

- To enhance the retirement security of workers and retirees;
- To implement statutory changes through regulatory actions that ease compliance burdens and achieve maximum net benefits; and
- To simplify existing regulations and reduce burden.

PBGC endeavors in all its regulatory and deregulatory actions to promote clarity and reduce burden with the goal that net cost impact on the public is zero or less overall.

Rethinking Existing Regulations

Most of PBGC's regulatory/deregulatory actions are the result of its ongoing retrospective review to identify and ameliorate inconsistencies, inaccuracies, and requirements made irrelevant over time.

PBGC proposed a rulemaking that makes miscellaneous technical corrections, clarifications, and improvements to four of PBGC's regulations. For example, the proposed rule would amend the reportable events regulation by eliminating possible duplicative reporting of active participant reductions, clarifying when a liquidation occurs, and providing additional examples of certain events. Another example is that the rule would amend the annual financial and actuarial information reporting regulation to eliminate a requirement to submit individual financial information for each non-exempt controlled group member among other clarifications and updates ("Miscellaneous Corrections, Clarifications, and Improvements," RIN 1212-AB34).

The "Benefit Payments" proposed rule (RIN 1212-AB27) would make clarifications and codify policies in PBGC's benefit payments and valuation regulations involving payment of lump sums, changes to benefit form, partial benefit distributions, and valuation of plan assets.

PBGC's regulatory review also identified a need to update the rules for administrative review of agency decisions ("Administrative Review," RIN 1212-AB35), to improve PBGC's recoupment of benefit overpayment rules ("Improvements to Rules on Recoupment of Benefit Overpayments," RIN 1212-AB47), and to modernize the rules for submitting filings to PBGC and issuing notices to others ("Filing and Issuance Rules," RIN 1212-AB46).

Two proposed rulemakings would modernize PBGC's regulations and policies to ensure that the actuarial and economic content remains current. The modifications PBGC is considering at this time are to the interest, mortality, and expense load assumptions used to determine the present value of benefits under the asset allocation regulation (for single-employer plans) and for determining mass withdrawal liability payments (for multiemployer plans) (RIN 1212-AA55). PBGC also has proposed to modify the interest and mortality assumptions used to determine de minimis lump sum amounts under the benefit payments regulation (RIN 1212-AB41).

Multiemployer Plans

PBGC's multiemployer plan rulemakings focus on reducing burden and clarifying guidance. PBGC expects to finalize a rule in FY 2020 that would simplify how multiemployer plans calculate withdrawal liability where changes in contributions or benefits are, by statute, to be disregarded in that calculation ("Methods for Computing Withdrawal Liability," RIN 1212-AB36). PBGC also plans to propose a rulemaking that would add a new part 4022A to PBGC's regulations to provide guidance on determining the monthly amount of multiemployer plan benefits guaranteed by PBGC ("Multiemployer Plan Guaranteed Benefits," RIN 1212-AB37). For example, the proposed rule would explain what multiemployer plan benefits are eligible for PBGC's guarantee, how to determine credited service, how to determine a benefit's accrual rate, and how to calculate the guaranteed monthly benefit amount.

Small Businesses

PBGC takes into account the special needs and concerns of small businesses in making policy. This is reflected in rulemakings such as the "Miscellaneous Corrections, Clarifications, and Improvements" proposed rule which would clarify rules and reduce requirements for plans and sponsors, including for small plans, resulting in administrative savings.

Open Government and Increased Public Participation

PBGC encourages public participation in the regulatory process. PBGC created a page on its website that highlights when there are opportunities to comment on proposed rules, information collections, and other Federal Register notices. PBGC's current efforts to reduce regulatory burden in the projects discussed above are in substantial part a response to public comments. PBGC encourages comments on an on-going basis as we continue to look for ways to further improve PBGC's regulations.