

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 over 35 million workers and retirees in private-sector defined benefit plans. The Corporation receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusted by PBGC, and recoveries from the companies formerly responsible for the trusted 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) 2019, PBGC paid over \$6 billion in benefits to about 932,000 retirees.
- *Multiemployer Program.* The multiemployer program covers collectively bargained plans involving more than one unrelated employer. PBGC provides financial assistance (technically in the form of a loan, though virtually never repaid) 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 2019, PBGC paid \$160 million in financial assistance to 89 multiemployer plans covering about 66,900 retirees.

While risks remain, the financial status of the single-employer program improved to a positive net financial position of \$8.7 billion at the end of FY 2019. The net financial position of the multiemployer program deteriorated during FY 2019 to \$65.2 billion, a record negative net position. Absent changes in law, the multiemployer program is likely to run out of money in the next several years.

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 securely-

funded 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, priorities, and strategic goals.

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 are:

- To enhance the retirement security of workers and retirees;
- To implement regulatory actions that ease compliance burdens and achieve maximum net benefits while protecting retirement security; 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 correct unintended effects, inconsistencies, inaccuracies, and requirements made irrelevant over time.

PBGC's regulatory review identified a need to improve PBGC's recoupment of benefit overpayment rules ("Improvements to Rules on Recoupment of Benefit Overpayments," RIN 1212-AB47). The "Benefit Payments" rulemaking (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.

Two rulemakings would modernize PBGC's regulations and policies by adopting up-to-date assumptions and methods that are more consistent with best practices within the pension community. PBGC has finalized a rule, effective on January 1, 2021, to modify the interest and mortality assumptions used to determine de minimis lump sum amounts under the benefit payments regulation (RIN 1212-AB41). Other modernization 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).

Multiemployer Plans

PBGC's multiemployer plan rulemakings focus on reducing burden and clarifying guidance. PBGC expects to finalize a rule 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 considers very seriously the impact of its regulations and policies on small entities. PBGC attempts to minimize administrative burdens on plans and participants, improve transparency, simplify filing, and assist plans to comply with applicable requirements. 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.

Open Government and Increased Public Participation

As part of promoting an open government, and in accordance with EO 13891, Promoting the Rule of Law Through Improved Agency Guidance Documents, PBGC launched a searchable guidance document database that provides users direct access to PBGC guidance documents and published a final rule providing PBGC's procedures on issuing guidance documents.

PBGC encourages public participation in the regulatory process. For example, PBGC's "Federal Register Notices Open for Comment" webpage highlights when there are opportunities to comment on proposed rules, information collections, and other Federal Register notices. PBGC also encourages comments on an ongoing basis as it continues to look for ways to further improve the agency's regulations. Efforts to reduce regulatory burden in the projects discussed above are in substantial part a response to public comments.