Dear Connie:

I write to provide some perspective on the captioned subject as requested in the recently posted PBGC RFI that refers me to you.

I strongly support the captioned subject and its incorporation into law. Its incorporation would make it easier for plans struggling with funding and a shrinking contribution base another tool to help themselves. If so, please consider the following:

1. Change the name: I think of this more as a *feature* that can be added to any of the current statutory methods for assessing Withdrawal Liability. Because those methods use a various number of "pools" that operate differently, I suggest avoiding that word in the title and suggest something like: "Bifurcated Assessment Feature."

2. Allow Jumping: Allow an employer to settle their Old Assessment. Provide that an employer that settles is never charged a Withdrawal Liability related to the Old Liabilities provided they pay the greater of:

   a. full Old Assessment, or
   b. PV of 20 years of minimum payments at an interest rate equal to the rate used in "a" above less 50 basis points

   This employer still has Withdrawal Liability exposure but only to the New Assessment.

Structured this way the feature can only potentially improve the funding situation for Plans, and, in turn, the PBGC. I strongly agree that the "jumping" aspect cannot be used as a subterfuge to settle the Old Assessment for something less than the ***full*** amount under the current statute. The 50 basis point adjustment in 2b is to guard against this. Additionally, I find it reasonable to statutorily set a maximum for the interest rate used in 2a. The rate would be something above the mass withdrawal rate, but not as high as current popular assumptions. For example, a statutory maximum of 7.00% would help when an actuary would otherwise be using something higher to compute Withdrawal Liability under the current statute. Maybe tie it to the mass Withdrawal rate plus something.

I hope this helps,

Craig Voelker, FSA, EA, MAAA

Principal and Senior Consulting Actuary

O'Sullivan Associates

Hi,

I worked as a PBGC attorney for many years, frequently addressing withdrawal liability issues, including as lead attorney in enforcement actions.

I think the two pool proposal has merit.

Mandatory agency rules, oversight and enforcement authority with respect to plan adoption and promulgation of rules, as well as actual collection of liability, seem appropriate.

Best,
Bernard Klein

Daniel Liebman and Constance Markakis

I am a retired recipient of a pension benefit from PBGC from NORTEL (who went out of business - bankrupt). Based on that, I suspect that NORTEL is a NON-CONTRIBUTOR or no longer contributing to the PBGC fund. The questions proposed by the 'two pool' options basically address current employers who are contributing. I appreciate and understand why the current employers are concerned about their contributions being used to pay benefits to pension benefit recipients from employers who have gone bankrupt. Their concern is obvious that they want to make sure that there is sufficient funds available to provide for their employee retirement benefits.

My question is:

If the 'two pool' option is enacted, how does this affect current PBGC pension recipients from employers who went bankrupt and the pension benefits were inadequate?

Robert Heller

Really? If the employer is requesting this, can it really be good for the employee, PBGC, or the tax payer? Nothing more needs to be said. Sincerely, Thomas Miner

Re: PBCG Request for Information on Two Pool Withdrawal Liability dated Jan. 4, 2017

1. Any change to the methods used to calculate employer withdrawal liabilities must make retiree benefits preservation paramount. Such benefits are compensation for work already performed as agreed to in good faith by the individual or his representative and the employer. The individual cannot enforce his tenuous position by any means short of legal judgment.

2. Those under an obligation to make whole a withdrawal liability do not request a change unless it will mitigate their obligation in some dollar measurable way. Obligations to the PBGC that are relieved are done so at the expense of the US taxpayer, and/or the retiree, and/or other plan participants and should not be granted absent a worse alternative.

3. With points 1 and 2 above being paramount, any method of preserving funding to benefit the retired employee must and should be considered carefully and all employer liabilities should be satisfied at the earliest point in time possible and minimize risks or losses to the retiree. This is especially important when the employer makes his request for relief as part of a planned bankruptcy with the specific intent of abrogating his labor contracts which include retirement benefits.

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Rob Briggs

Jan. 15, 2017