## PENSION BENEFIT GUARANTY CORPORATION (PBGC)

### Statement of Regulatory and Deregulatory Priorities

The Pension Benefit Guaranty Corporation (PBGC) protects the pensions of about 44 million people in about 29,000 privately defined benefit plans. PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteed by PBGC, and recoveries from the companies formerly responsible for the trusteed plans.

To carry out these functions, PBGC issues regulations interpreting such matters as the termination process, establishment of procedures for the payment of premiums, reporting and disclosure, and assessment and collection of employer liability. The Corporation is committed to issuing simple, understandable, and timely regulations to help affected parties.

PBGC's intent is to issue regulations that implement the law in ways that do not impede the maintenance of existing defined benefit plans or the establishment of new plans. Thus, the focus is to avoid placing burdens on plans, employers, and participants, wherever possible. PBGC also seeks to ease and simplify employer compliance whenever possible.

**PBGC Insurance Programs**

PBGC administers two insurance programs for privately defined benefit plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program.

- *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.
- *Multiemployer Program.* The smaller multiemployer program covers about 1,500 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 unable to pay benefits at the guaranteed level. Guaranteed benefits are less than single-employer guaranteed benefits.

At the end of fiscal year 2010, PBGC had a $23 billion deficit in its insurance programs.

**Regulatory Objectives and Priorities**

As described below, PBGC's current regulatory objectives and priorities are to complete implementation of the Pension Protection Act of 2006 (PPA 2006) by issuing simple, understandable, and timely regulations that do not impose undue burdens that could impede maintenance or establishment of defined benefit plans. PBGC is also working on several regulatory projects not related to PPA 2006. These regulatory objectives and priorities are developed in the context of the Corporation's statutory purposes:

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

PBGC also attempts to minimize administrative burdens on plans and participants, improve transparency, simplify filing, provide relief for small businesses, and assist plans to comply with applicable requirements.

*Transparency*

The Corporation seeks to improve transparency of information to plan participants, plan sponsors, and PBGC, in order to make disclosure and reporting more meaningful and to encourage more responsible funding of pension plans.

PPA 2006 affected certain provisions in the PBGC's reportable events regulation, which requires employers to notify PBGC of certain plan or corporate events. In November 2009, PBGC published a proposed rule to conform the regulation to the PPA 2006 changes. The proposed rule would also eliminate most of the automatic waivers and filing extensions currently provided and make other amendments to enhance the regulation as a regulatory tool. PBGC expects to finalize this regulation, taking into account public comments, in late 2010.

PBGC has issued final rules to implement other reporting and disclosure provisions of PPA 2006. In November 2008, PBGC issued a regulation that requires disclosure of certain information to participants regarding the termination of their underfunded plan. In March 2009, PBGC issued a final regulation making PPA 2006 changes to the plan actuarial and employer financial information required under section 4010 of ERISA to be reported to PBGC by employers with large amounts of pension underfunding.

*Reducing burden through electronic filing*

PBGC has simplified filing by increasing use of electronic filing methods. Electronic filing of premium information has been mandatory for all plans for plan years beginning on or after January 1, 2007. Filers have a choice of using private-sector software that meets PBGC's published standards or using PBGC's software. Electronic premium filing simplifies filers' paperwork, improves accuracy of PBGC's premium records and database, and enables more prompt payment of premium refunds. Most of the premium changes under PPA 2006 have now been incorporated into software so that it will be easy to comply with the premium changes under the new law.

Employers with large amounts of underfunding in their plans must file actuarial and financial information under section 4010 of ERISA electronically. Electronic filing reduces the filing burden, improves accuracy, and better enables PBGC to monitor and manage risks posed by these plans. PBGC incorporated the PPA 2006 changes to this reporting into software so that it will be easy to comply with the reporting changes under the new law.

*Small businesses*

PBGC gives consideration to the special needs and concerns of small businesses in making policy. A large percentage of the plans insured by PBGC are small or maintained by small employers. The first regulation PBGC published under PPA 2006 implemented the cap on the variable-rate premium for plans of small employers; the final regulation was published in December 2007. In early 2011, the Corporation expects to issue a proposed regulation implementing the expanded missing participants program under PPA 2006, which will also benefit small businesses.

*Other PPA 2006 changes*

Under PPA 2006, if a plan terminates while its sponsor is in bankruptcy, and the bankruptcy was initiated on or after September 16, 2006, the bankruptcy filing date is treated as the plan termination date for purposes of determining the amount of benefits

PBGC guarantees and the amount of assets allocated to participants who retired or have been retirement-eligible for 3 years. In 2008, PBGC published a proposed regulation to implement this statutory change; PBGC expects to finalize the regulation in late 2010.

PPA 2006 changes the rules for determining benefits upon the termination of a statutory hybrid plan, such as a cash balance plan. PBGC plans to publish a proposed regulation in late 2010 to implement those rules in both PBGC-trusteed plans and in plans that close out in the private sector.

Under PPA 2006, the phase-in period for the guarantee of a benefit payable solely by reason of an ''unpredictable contingent event,'' such as a plant shutdown, starts no earlier than the date of the shutdown or other unpredictable contingent event. PBGC plans to publish a proposed regulation implementing this statutory change in late 2010.

*Compliance assistance*

PBGC has initiated a regulatory project to assist plans to comply with requirements applicable to certain substantial cessations of operations. ERISA section 4062(e) provides for reporting of and liability for certain substantial cessations of operations by employers that maintain single-employer plans. In July 2010, PBGC published a proposed regulation that provides guidance as to what constitutes a section 4062(e) event, on the reporting of such an event to PBGC, and on the determination and satisfaction of liability arising from such an event. Issuance of the guidance is expected to improve 4062(e) reporting as a regulatory tool.

*Reemployed service members' pension benefits*

In 2010, PBGC published a final regulation that implementing provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). USERRA provides that an individual who leaves a job to serve in the uniformed services is generally entitled to reemployment by the previous employer and, upon reemployment, to receive credit for benefits, including employee pension plan benefits, that would have accrued but for the employee's absence due to the military service. The regulation provides that so long as a service member is reemployed within the time limits set by USERRA, even if the reemployment occurs after the plan's termination date, PBGC treats the participant as having satisfied the reemployment condition as of the termination date. This ensures that the pension benefits of reemployed service members, like those of other employees, will generally be guaranteed for periods up to the plan's termination date.

PBGC will continue to look for ways to further improve its regulations.

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