

**From:** [Margaret Berger](#)  
**To:** [RegComments](#)  
**Subject:** PBGC proposed regulation on benefit payments and allocation of assets (RIN 1212-AB27)  
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I would like to take the opportunity to comment on a single aspect of PBGC's proposed regulation on benefit payments and allocation of assets. My comments herein are solely my own opinion and don't reflect the views of my employer or any organizations for which I volunteer.

While I applaud the PBGC for attempting to streamline and document its procedures on the payment of benefits, I am concerned about the inequity inherent in proposed § 4022.7(b)(1)(iv). I appreciate PBGC's candor in clearly laying out how the benefits will be paid, but it simply does not feel fair that the spouse of a participant with a benefit worth \$6,000 will receive \$3,000, while the spouse of a participant with a benefit worth \$4,000 will receive the full \$4,000.

Looking at it another way, the spouse of a participant with a benefit worth \$8,000 will get the exact same benefit — \$4,000, assuming the QJSA is worth exactly half — as the spouse of a participant with a benefit worth \$4,000.

Ultimately, a single excess dollar of present value can lead to a spouse losing \$2,500: The spouse of a participant with a benefit worth \$5,000 would get the full amount whereas the spouse of a participant with a benefit worth one dollar more would only get \$2,500.50.

While I understand the logic behind the proposal, in that a benefit worth less than \$5,000 could have been cashed out had the PBGC been able to notify the participant before his or her death, these irrational outcomes are deeply troubling. Any of the three following alternatives would seem more equitable to spouses of deceased participants:

- 1) Pay benefits to spouses of participants who die after the plan's termination date based on the value of the 50% QPSA, rather than the value of the participant's benefit prior to death.
- 2) If the present value of a participant's benefit is between \$5,000 and \$10,000, pay the spouse a lump sum \$5,000 (or an equivalent annuity). This would still lead to the odd outcome that there would be no difference in the payment to anybody with a benefit between \$5,000 and \$10,000, but at least people whose benefit was worth more would not get a payment that is less. Nobody would get less than the value of the QPSA in any event.
- 3) Implement a more complicated structure that always pays spouses a larger amount for a bigger participant benefit. As one example, for participant benefits with a present value of between \$5,000 and

\$15,000, pay the spouse 25% of the excess over \$5,000. For instance, if the participant's benefit was worth \$6,000, the spouse would get a lump sum of \$5,000 plus an additional benefit worth \$250 (25% of \$1,000). If the participant's benefit was worth \$10,000, the spouse would get \$5,000 plus a benefit worth \$1,250 (25% of \$5,000) for a total benefit worth \$6,250. At \$15,000, the spouse's benefit would be \$5,000 + \$2,500 (25% of \$10,000) for a total benefit worth \$7,500. For a benefit worth more than \$15,000, the spouse would simply get the 50% QPSA. In this way, there would be no discontinuity at any point. Nobody would receive less than the value of the QPSA, and for all benefits worth \$15,000 or more, PBGC's payments would remain the same as they currently are.

Of course, other solutions might be possible.

Thank you for your consideration. I'm happy to discuss any of these suggestions at your convenience.

~Margaret Berger