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PENSION ANALYST COMPLIANCE BULLETIN



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PBGC issues 2012 plan year guidance on reportable events

The Pension Benefit Guaranty Corporation (PBGC) has issued [Technical Update 11-1](#) to provide interim guidance for plan years beginning in 2012 for complying with the reportable events requirements until the final reportable events regulations become effective. If final regulations become effective in 2012, they will supersede the guidance in this Technical Update. The PBGC issued proposed reportable events regulations in 2009. Due to public comments, the PBGC intends to repropose the regulations. Technical Update 11-1 extends the PBGC's guidance issued previously in Technical Update 10-4.

Background

Sponsors of defined benefit plans must notify the PBGC when certain events occur. These "reportable events" include funding waivers, missed contributions and funding extensions. In some cases, advance reporting is required. A contributing plan sponsor is subject to advance reporting if:

- Neither the contributing sponsor nor the member of the plan's controlled group to which the event relates is a public company; and
- The contributing sponsor's controlled group maintains one or more plans that, in total (disregarding plans with no unfunded vested benefits), have unfunded vested benefits exceeding \$50 million and a funded vested benefit percentage of less than 90%.

Technical Update 11-1 provides guidance on two topics:

- Funding-related determinations for purposes of waivers, extensions and the advance reporting requirements; and
- Missed quarterly contributions.

Funding-related determinations

For purposes of the reportable events requirements, generally a plan's unfunded vested benefits and the value of its assets and vested benefits are determined for the 2012 plan year in the same manner as the [variable rate premium](#) (VRP) was determined for the 2011 plan year. *For example, in the case of a calendar year plan with a January 1 valuation date, the VRP values determined as of January 1, 2011, for purposes of the 2011 variable rate premium are also used for applying the \$50 million advance-reporting threshold test for reportable events beginning in 2012.*

Missed quarterly contributions

Plans with fewer than 25 participants

If a required quarterly contribution for the 2012 plan year is not timely made and that failure is not the result of financial inability (e.g., due to the timing of the funding valuation schedules), the PBGC will waive the reporting requirement if the plan had fewer than 25 participants for the 2011 plan year for whom flat-rate premiums were payable.

Plans with 25 or more participants but fewer than 100 participants

If a plan had at least 25 but fewer than 100 participants for the 2011 plan year for whom flat-rate premiums were payable, the PBGC will consider the reporting requirement to be satisfied if a notice is filed with the PBGC by the time the first missed-quarterly reportable event for the 2012 plan year would otherwise be due. The notice must include the following information:

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- The name of the plan, the employer identification number, and the plan number;
- The date the 2012 plan year began;
- That a quarterly contribution to the plan for the 2012 plan year has not been (or will not be) timely made;
- That financial inability to make the contribution is not the reason for not making the contribution;
- The last day for satisfying the minimum funding requirement for the 2012 plan year (the “final payment date”);
- That the filer understands that if the minimum funding requirement for the plan is not satisfied by the final payment date, a reportable event notice must be filed; and
- The name, telephone number, and email address of a person (who may be the filer) whom the PBGC may contact for additional information.

Reports must be made either in the manner required for reportable events or by email to post-event.report@pbgc.gov. [PBGC Technical Update 09-3](#) provides sample notice language.

Next steps

The PBGC intends to issue reportable event regulations that will supersede this Technical Update. Until then, plan sponsors should take note of the interim guidance described in this newsletter. Plan sponsors should contact their plan’s enrolled actuary if they have any questions regarding the impact of this guidance on their plans.

Compliance Bulletin by Prudential Retirement

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