

Response to Request for Information on Reducing the Regulatory Burden

April 20, 2011

Pension Benefit Guaranty Corporation Review Under E.O. 13563

The American Society of Pension Professionals & Actuaries (ASPPA) and the ASPPA College of Pension Actuaries appreciate this opportunity to comment on possible modifications to Pension Benefit Guaranty Corporation (PBGC) regulations and technology that would make PBGC's regulatory program more efficient and less burdensome.

ASPPA is a national organization of more than 7,500 retirement plan professionals who provide consulting and administrative services for qualified retirement plans covering millions of American workers. ASPPA members are retirement professionals of all disciplines, including consultants, investment professionals, administrators, actuaries, accountants and attorneys. Our large and broad-based membership gives ASPPA unique insight into current practical applications of ERISA and qualified retirement plans, with a particular focus on the issues faced by small- to medium-sized employers. ASPPA's membership is diverse but united by a common dedication to the employer-based retirement plan system. All credentialed actuarial members of ASPPA are members of the ASPPA College of Pension Actuaries (ACOPA), which has primary responsibility for the content of comment letters that involve actuarial issues.

Summary

Thank you for the opportunity to provide written comments for consideration in your review of current regulations. ASPPA and ACOPA value our partnership with PBGC in the stewardship of defined benefit retirement plans. As practitioners for small plans (generally defined as those having fewer than 100 employees), we offer the following observations and recommendations:

I. Reporting Exemptions - ASPPA and ACOPA recommend that the existing exemptions from reporting requirements for small and well-funded plans be expanded and similar exemptions extended to reporting under ERISA Sections 4062(e) and 4063(a).

II. Premium Filing Deadline for Small Plans with End of Year Valuation Dates - ASPPA and ACOPA recommend that the sponsor of a plan with an end of year valuation date should be permitted to have an enrolled actuary certify the plan is well-

funded, and therefore has no Variable Rate Premium, in order to meet the April 30th filing deadline.

III. My PAA Website Functionality - ASPPA and ACOPA recommend that the functionality of the PBGC's website, My PAA, should be reviewed and certain documents made more easily available in order to facilitate payment of premiums and penalty charges.

IV. Customer Service - ASPPA and ACOPA note that quality customer service is critical to regulatory efficiency and the PBGC excels in this area.

Discussion

I. Reporting Exemptions

For the reasons detailed in our letters of January 22, 2010 regarding proposed modifications to regulations relating to ERISA Section 4043, and October 12, 2010 regarding proposed modifications to regulations under ERISA Section 4062(e), ASPPA and ACOPA support the existing reporting exemptions for small and well-funded plans under ERISA Section 4043 and recommend that similar exemptions be extended to reporting requirements under ERISA Sections 4062(e) and 4063(a). Many plan sponsors and administrators find the time savings due to the reportable events waivers is significant and these waivers allow the PBGC to focus its resources on plans that pose significant financial risks.

A. Notice for Missed Quarterly Contributions

ASPPA and ACOPA appreciate the relief provided in Technical Update 10-4. This relief is available in 2011 until such time as the final revised reportable event regulations are issued. Given the recent decision to re-propose those regulations, ASPPA and ACOPA suggest that the relief be extended to all years after 2011. Practitioners should not have to be concerned that the rules will change for the worse in 2012, or any future year, until revised final regulations are imminent. In lieu of extending the current relief, ASPPA and ACOPA recommend PBGC expand the relief and require no reporting of missed quarterly contributions for small plans unless the plan fails to meet the minimum funding requirements for the applicable plan year. In that event, the reporting due date would coincide with the due date for the Form 5500 filing for the plan year, not the current post-event notification requirements.

II. Premium Filing Deadline for Small Plans with End of Year Valuation Dates

The Pension Protection Act allowed small plans the flexibility to use end of year valuation dates, and the April 30th premium filing deadline for these plans (assuming a calendar year plan year) has likewise offered small plan sponsors the flexibility to continue to use end of year valuation dates. However, because many small calendar year plans do not have their actuarial valuation for the prior year completed by April 30th,

meeting this deadline requires that the enrolled actuary get the files out and work on the plan twice – determining liability for vested benefits before April 30, then completing the rest of the work later in the year. This is inefficient, and adds to the cost of operating the plan.

ASPPA and ACOPA have previously requested that the four month deadline be extended to allow additional time to complete the actuarial work and reporting required. As an alternative, ASPPA and ACOPA recommend that the enrolled actuary be permitted to certify that a plan is over 100% funded and that no Variable Rate Premium is due without providing detail on the variable rate premium calculation entries. The PBGC could require reporting of the detailed information within 60 days of a PBGC request for the information for the plan in question, or require all plans relying on the certification to submit detailed information no later than the due date for the Form 5500 filing. This option would allow well-funded small plans to operate more efficiently than under the current rule.

III. My PAA Website Functionality

Most of our members find that the PBGC filing process is intuitive and easy to understand from the third party administrator perspective. The ease of use is slightly more limited from the perspective of our plan sponsors who only visit My PAA once a year and forget how to sign their filings and complete payment.

ASPPA and ACOPA suggest the following areas for improvement:

- The site navigation is slow and cumbersome. Since we do not know the internet provider and bandwidth of each ASPPA member, it is difficult to assess whether the issues are on the user side or if indeed, there is an issue with the My PAA site. Because we heard from multiple members, we offer the observation and would ask that the PBGC review whether there are technical issues on the site that may be improved.
- Interest and penalty charges could be handled more efficiently. A clearer demonstration of late interest and penalty charges should be included in the account history, with facilitated payment of the penalties. If there are penalties that a plan sponsor would like to pay, the site should allow printing of a voucher for the late charges so that the plan sponsor can send payment by check, as well as an online payment mechanism.
- The ability to print documents should be expanded. While some documents are available to print, others are not or are difficult to locate. For example, at any point in time after the form is electronically signed, it is difficult to locate a payment voucher. Many small plan sponsors pay by paper check, but do not follow the steps to print out the payment voucher immediately upon electronically signing their filing. Our members receive questions about the vouchers from plan sponsors and do not have access to the information. It would be more efficient if practitioners could print and forward the form to clients.

- Website messages should be clear. The website gives warnings that are indistinguishable from error messages. Feedback should be prefaced by noting whether errors have been detected or whether notices are warnings.
- Invitations should be shown as outstanding pending a response. When an invitation is sent to the plan sponsor for the authorization of premium payments, that invitation is not shown as outstanding. The invitation disappears until (and if) the client responds.

IV. Customer Service

ASPPA and ACOPA note that customer service is a key component of the ease of compliance with any regulatory regime, and our members consistently report that excellent customer service is received when calls are placed to the PBGC. The level of training, attention to detail, and follow through clearly show up in the ability to speak with associates at the PBGC who can help us resolve our PBGC matters. In particular, our members praised the responsiveness and the easily understood solutions that the PBGC associates presented during calls.



These comments were prepared by ASPPA’s Defined Benefit Subcommittee of the Government Affairs Committee and the ASPPA College of Pension Actuaries. Please contact Judy A. Miller, MSPA, Chief of Actuarial Issues at (703) 516-9300 if you have any comments or questions on the matters discussed above.

Thank you for your consideration of these comments.

Sincerely,

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