

Comments on Proposed Amendment to Rule Relating to Premium Rates and Payment of Premiums

September 23, 2013

Pension Benefit Guaranty Corporation
29 CFR Parts 4000, 4006, 4007, and 4047
[RIN 1212-AB26]

The American Society of Pension Professionals & Actuaries (“ASPPA”) and the ASPPA College of Pension Actuaries (“ACOPA”) appreciate this opportunity to comment on the proposed amendment to the rule relating to Premium Rates and Payment of Premiums issued by the Pension Benefit Guaranty Corporation on July 23, 2013 [RIN 1212-AB06].

ASPPA is a national organization of more than 16,000 retirement plan professionals who provide consulting, administrative and investment advisory services for qualified retirement plans covering millions of American workers. ASPPA members are retirement professionals of all disciplines including consultants, administrators, actuaries, accountants, attorneys and investment professionals. ASPPA is particularly focused 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 ACOPA, which has primary responsibility for the content of comment letters that involve actuarial issues.

Summary

ACOPA commends PBGC for the proposed amended rule’s focus on simplification and ease of administration. Once implemented, the uniform due date and look back rule for small plans will be a significant improvement over the current rule. *ACOPA recommends* that the final amendment to the rule extend the uniform due date to new and newly covered plans, provide transition year relief for small plans that will be required to make two premium payments in one calendar year, and extend the ability to file an estimated premium to plans of any size. These recommendations are described in greater detail in the **Discussion** section that follows.

Discussion

I. Extend the Unified Filing Date to New Plans

Under the proposed amendment to the rule, for new plans, or newly covered plans, the premium filing deadline is the later of the 9 ½ month deadline or 90 days after the later of the date the plan is adopted, or the date the plan is first covered by PBGC. This special due date is likely to result in missed filings. A simpler rule would be to provide that a plan adopted or first covered more than 6 ½ months after the first day of the plan year must file for the initial year by the due date of the premium for the following year.

ACOPA recommends that the special rule for new and newly covered plans be modified to maintain the single filing due date of 9 ½ months into the plan year by permitting a plan adopted or first covered more than 6 ½ months after the first day of the plan year to file for the initial year by the due date of the premium for the following year.

II. Provide Transition Relief to Small Plans

Under the proposed amendment to the rule, in the transition year small plans will be required to make two premium payments in 2014, with both based on the 2013 unfunded vested benefits (UVB) valuation date. As noted in the introduction, this will be beneficial or detrimental depending on whether the 2013 UVB is less than or greater than the 2014 UVB. ACOPA believes that after the transition year, the look back approach will make the premium process more efficient. However, there is concern that for some small employers, especially those with variable premiums due, the second premium payment may pose a cash flow problem. This could be mitigated by permitting payment of that premium to be smoothed over several years.

ACOPA recommends that employers be permitted to pay the premium due in 2014 for 2014 in three annual installments. For a calendar year plan, these installments would be due by October 15th in 2014, 2015 and 2016.

III. “True up” Period for Premiums

The proposed amendment to the rule allows plans to pay an estimate of the premium by the due date, then make a reconciliation filing within 6 ½ months of the original due date. Comments were requested as to whether extending this reconciliation period to small plans would be on the whole beneficial or create the potential for administrative error.

ACOPA recommends that the option to pay an estimated premium by the due date with a 6 ½ month reconciliation period be available to plans regardless of size. Uniform availability of this option is consistent with the “uniform due date” structure of the proposed amendment to the rule, and the existence of a different rule for large and small plans is far more likely to be confusing than offering the rule to all plans. Furthermore, the possibility of administrative error is not limited to small plans.

ACOPA suggests that PBGC consider further simplifying the filing process by eliminating the check box to designate the initial timely filing as an estimate, and permit plans of any size to do an amended filing within 6 ½ months of the original due date without penalty. The need to submit an amended filing should be rare, and this approach will eliminate both box checking errors and the need for unnecessary reconciliation filings when an estimate turns out to be final. More importantly, a plan that does a “final” filing but discovers an error and amends within 6 ½ months of the original due date would be treated the same as a plan that files an estimate followed by a timely reconciliation.



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, ACOPA Executive Director, at (703) 516-9300 if you have any comments or questions on the matters discussed above.

Thank you for your time and consideration.

Sincerely,

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