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PBGC

Plan Sponsors Make Many Mistakes In Premium Filings, PBGC Speaker Says

The Pension Benefit Guaranty Corporation, in auditing premium filings for 2008 and 2009, is finding that plans are making “lots of mistakes” and the agency is sending them back for amendment, a representative of PBGC’s Policy, Research and Analysis Department, said April 13 at a meeting of the Enrolled Actuaries.

The biggest mistake PBGC is seeing is plans using the alternative premium funding target even though they did not elect to do so because the plan administrators thought they already had elected it in 2008, Amy Viener said. “Please go back and check,” she advised plan sponsors.

The election must be filed by April 30. “We are really picky about this,” Viener said. A plan administrator must make the election in the filing to use the alternative if they choose to do so, and that election is irrevocable for five years. If the election is made one day late, it cannot be used, Viener said. The plan cannot be amended after the fact for the election, she added.

Another common mistake PBGC is finding concerns the discount rate used, Viener said. Either the discount rate is wrong or the discount rate used is inconsistent with the standard or alternative method, using the yield curve with the standard method or the standard rate with the alternative method, she said.

PBGC is checking the discount rates being used in the filings and if it is wrong, is rejecting the filing, Viener said. However, “we will be nice about penalties” in certain situations, she said. For example, if the plan ad-

ministrator just forgot to check the box saying the plan is electing to use the alternative, PBGC probably will waive the penalties, she said. In addition, if the election is late, PBGC may reduce and/or waive part of the penalties, she said. “If you get a penalty letter, it is worth your while to appeal it,” she said.

The third common mistake concerns unfunded vested benefit (UVB) valuation date issues, Viener said. For example, the valuation date is not within the plan year, or the reported date does not work with reported segment rates for purposes of the alternative. The UVB rate must be the true valuation date for the plan year, she said.

Section 4062(e) Proposed Rules. At an April 14 session of the Enrolled Actuaries meeting, a PBGC employee said the target date for the proposed rules on Employee Retirement Income Security Act Section 4062(e) is July of this year.

Section 4062(e) provides that PBGC may make an immediate demand that an employer provide an escrow payment or post a bond if there is a cessation of operations at a facility and, as a result, over 20 percent of the plan’s active participants are separated from employment.

Harold Ashner, former PBGC assistant general counsel for legislation and regulations, who now is a partner in the Washington, D.C., law firm of Keightley & Ashner, said enforcing this provision has become a major initiative for PBGC since the agency issued a final rule on Section 4062(e) in 2006. The proposed regulation will work through many of the remaining issues on this provision, the PBGC employee said.

BY ANDREA L. BEN-YOSEF