AMERICAN ACADEMY *of* ACTUARIES

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September 25, 2015

Office of the General Counsel
Pension Benefit Guaranty Corporation
1200 K Street NW
Washington, DC 20005-4026

Re: Proposed rule related to Annual Financial and Actuarial Information Reporting

The American Academy of Actuaries'[1] Pension Committee ("committee") respectfully asks for your consideration of our comments regarding the proposed changes to the §4010 reporting requirements.

We first want to thank PBGC for recognizing that certain areas of additional reporting, such as those related to missed contributions or funding waivers, were in large part duplicative with other reporting requirements. The relief granted to sponsors in those situations will be much appreciated by the plan sponsor community.

We also want to recognize PBGC's continued commitment to focus reporting requirements on those plans that represent "a substantial risk and exposure to the pension insurance system." This focus on the largest, most significant risks strikes an appropriate balance between the burden and utility of reporting.

The committee also believes that the ability to use the same form-of-payment assumption as used for minimum funding purposes in determining the liabilities to be reported should be maintained, rather than eliminated. As PBGC has indicated that "this assumption has a relatively minor impact on the overall calculation" and these liabilities are not used for any other purposes, we suggest the PBGC maintain the ability to use the assumption used for minimum funding purposes. This would reduce the need to change calculations that already exist, and reduce additional burdens on plan sponsors.

With respect to the specific proposals, it is the committee's belief that the 500 participant threshold is too low (if a count approach is to be used at all) to appropriately focus reporting on those plans that pose a substantial risk and exposure. Based on the Form 5500 database maintained by the Department of Labor (DOL), there are approximately 2,600 plans with more than 500 but fewer than 2,500 participants as of the end of the 2013 plan year. The average funding target for those 2,600 plans is approximately $60 million (as of the beginning of the

[1] The American Academy of Actuaries is an 18,500+ member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

2013 plan year, on a stabilized basis).[2] In contrast, there are approximately 1,800 plans with more than 2,500 participants. Those plans have, on average, $1 billion in funding target. In fact, more than 85 percent of all funding target in the DOL database is attributable to these 1,800 plans.[3]

Based on these statistics and a goal of focusing PBGC's "resources on situations that pose the greatest risks to [the] system," we believe a higher participant threshold, such as 2,500, would better balance the need for additional information with the cost of providing that information. The fact that the majority of the additional cost associated with the filing is not directly variable with the size of the plan further supports the view that a focus on truly large plans is more appropriate.

Furthermore, many of these mid-sized (and larger) plan sponsors have, in the past, made cash contributions to the plans in order to avoid the burden of PBGC §4010 reporting. Thus, by virtue of eliminating the $15 million threshold for such sponsors, the rule change may inadvertently reduce the amount of cash contributions being made to the plan. Sponsors often focus on the $15 million threshold because the calculation does not subtract funding balances from the funded status determination and thus permits additional contributions to be retained in prefunding balance (or preserved as carryover balance) while providing an exemption from the additional §4010 reporting requirements.

Even with a higher threshold on the participant count, the committee does not believe that the $15 million underfunding threshold should be completely eliminated for larger plans. Rather, the threshold should be retained on a non-stabilized basis for these plans. While the stated objective of basing the waiver on the stabilized interest rates was to avoid being "overly complicated and administratively burdensome," we believe that many plans, in particular large plans, have already calculated these amounts for the Annual Funding Notice, calculating PBGC premiums under the alternative basis, determining maximum deductible contributions, or other reasons. In situations where they have not already been determined, the plan sponsor can determine for themselves whether a potential reporting waiver justifies the cost of doing the additional calculation.

The committee has one final suggestion to coordinate §4010 waivers with reportable event waivers. The preamble to the recently released reportable events regulation indicates that "PBGC remains convinced that adding a company low-default-risk safe harbor to the reportable events regulation furthers PBGC's goals of tying reporting to risk and avoiding unnecessary reporting." We suggest that §4010 reporting be waived for companies that meet the low-default-risk safe harbor, or alternatively allow the continued use of the $15 million waiver threshold on a stabilized basis for companies that meet the safe harbor.

In summary, we thank the PBGC for proposing to ease the burden of duplicative reporting and encourage. We encourage PBGC to adopt a higher participant count threshold for continuation of the $15 million underfunding waiver on a stabilized interest rate basis and retain the ability to use form of payment assumptions used for minimum funding. And rather than eliminating the

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[2] For some plans, the funding target reflects stabilized segment rates under MAP-21, while for other plans the additional HATFA stabilization is reflected.

[3] Department of Labor data available at: http://www.dol.gov/ebsa/foia/foia-5500.html#2013. We recognize that the participant count thresholds are to be applied on a controlled group basis, but plan-by-plan information is easier to obtain and remains indicative of the overall situation as many sponsors have only one plan.

underfunding waiver altogether for larger plans, we suggest that the $15 million threshold be applied on a non-stabilized basis for such plans.

The American Academy of Actuaries' Pension Committee appreciates the opportunity to provide input to the Pension Benefit Guaranty Corporation on this important guidance. We would be happy to discuss any of these items with you at your convenience. Please contact Matthew Mulling, the Academy's pension policy analyst (202-223-8196; mulling@actuary.org) if you have any questions or would like to discuss these items further.

Respectfully submitted,

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