American Academy of Actuaries

Intersector Group Report to the American Academy of Actuaries[1] Pension Practice Council

Meeting with the Pension Benefit Guaranty Corporation – March 13, 2013

[1] The American Academy of Actuaries is a 17,500-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.

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Notes from Intersector Meeting with PBGC
Wednesday March 13, 2013

The Intersector Group is composed of two delegates from each of the following actuarial organizations: American Academy of Actuaries, Society of Actuaries, Conference of Consulting Actuaries, and ASPPA College of Pension Actuaries. Twice a year the Intersector Group meets with representatives of the Pension Benefit Guaranty Corporation (PBGC) to dialogue with them on regulatory and other issues affecting pension practice. Attending from Intersector Group: Tom Finnegan, Don Fuerst, Alan Glickstein, Eli Greenblum, Judy Miller, Heidi Rackley, Larry Sher, and Sarah Wright. David Goldfarb, Academy staff member supporting the Intersector Group, also attended.

These meeting notes are not official statements of the PBGC and have not been reviewed by its representatives who attended the meetings. The notes merely reflect the Intersector Group's understanding of the current views of the PBGC representatives and do not represent the positions of the PBGC or of any other governmental agency and cannot be relied upon by any person for any purpose. Moreover, the PBGC has not in any way approved these notes or reviewed them to determine whether the statements herein are accurate or complete.

1. Proposed date for next meeting: September 11, 2013

2. Update from PBGC:

   OMB has cleared the Reportable Events regulation, so it will be out soon. The goal is to "not bother those we (PBGC) don't need to bother."

   The 4010 software and instructions have been updated for MAP-21. PBGC made a redline of instructions available as an experiment and asked if we found it helpful. We all agreed it was and suggested PBGC continue to provide redline of future updates to instructions.

3. What is your current policy under 4062e? We hear you are redoing settlements entered into by employers with good credit ratings. How are the settlements being changed? Are amounts already contributed to be used to offset minimum contributions or just suspending extra payments, as long as the employer maintains the high credit rating? Should a plan sponsor contact the PBGC if it has not heard from the PBGC? What are the criteria for being financially healthy?

   Response: The November 2, 2012 news release had Q&As on the 4062(e) pilot project that address these questions. The first step in determining creditworthiness is that unsecured debt must be investment grade (Baa or higher from Moody's, BBB or higher from S&P). If neither agency has rated the debt, the appropriate threshold from Dun & Bradstreet will be used. However, if unsecured debt rating is ok, but there are signs of weakness such as pending transactions that would affect the rating, lack of ongoing operations, or lack of a significant ongoing US presence, the sponsor may not qualify.

   For settlements already in place, PBGC has a "forbearance program" under which PBGC will monitor the continued creditworthiness of the company for the next five years and only take action to collect liability if concerns about creditworthiness arise. If a financially healthy employer has made additional contributions pursuant to an agreement with PBGC on account of a 4062(e) event, the contributions cannot be returned to the employer, but PBGC will agree to let the employer add the additional contributions to prefunding balance, and no security is required.

4. Have you entered into an agreement with the Social Security Administration (SSA) or anyone else to review PIMS and other modeling, as required by MAP-21? [We know that SSA is doing an RFI, but what are the plans for the actual review of PIMS and ME-PIMS?]

   Response: No. SSA is taking a very strict view of the independence requirement. PBGC has had some input on the RFI, but that is all. The Pension Research Council (PRC) is a possibility. However, the upcoming PRC meeting discussing PIMS is not intended to be the review required by MAP-21. An actuarial firm had previously conducted a review of the multiemployer portion of the system that addressed both assumptions and the program, and raised some concerns before the GAO report came out. Concerns included removing the cap on contribution increases, recognizing declining membership, increasing the percentage of withdrawal liability collected to reflect actual experience, and modeling the “reasonable measures” adopted by plans in critical status. However, that review is not “independent” because PBGC contracts with the actuarial firm for other services.

5. MAP-21 requires PBGC to establish in essence an independent Ombudsman to deal with participant and employer issues. The actuarial profession might have some recommendations as to the capabilities of such person. Are you still looking?

   Response: Yes. Leslie Kramerich, Deputy Chief Policy Officer, is coordinating the search, and would welcome input on qualifications.

6. For plans using MAP-21 stabilized segment rates for 2012 minimum funding calculations, how is the $50 million threshold for sending the annual funding notice to PBGC determined? Should we continue to compare items 2a and 3 in the model funding notice FTAP table (which would be using stabilized rates)?

   Response: Yes. This is DOL’s territory, but funding target is funding target using stabilized rates unless specified otherwise, and there is no specification that this be determined without stabilized rates.

7. Questions on 4010 filings:

   a. Because of a short plan year, a plan may have two years ending within the sponsor's 4010 information year. In some cases, the end of the contribution grace period for the first year ending in the information year may be after the 4010 filing due date. For example, if a plan switches from an Oct 1 - Sept 30 plan year to a calendar plan year with a short year from Oct. 1 - Dec. 31, 2012; the grace period for the Oct. 1, 2011 - Sept. 30, 2012 plan year ends June 15, 2013 - two months after the 4010 filing for the 2012 calendar information year would be due. In determining the 4010 FTAP and 4010 funding shortfall at Oct. 1, 2012, should contributions for the plan year ending Sept. 30, 2012, that are expected to be made after the 4010 due date but by the end of the grace period be taken into account? Or should only contributions actually made by the 4010 due date be taken into account?

      Response: The regulation is not clear, so there is no answer at this time. If it makes a difference as to whether or not a filing is required, call PBGC and ask the question. If it’s a big deal, you might also want to request a waiver.

   b. Plans considered in 4010 filing gateway tests: If a plan is ignored in the 80% gateway test (because it was merged with another controlled group plan during the year), is it also ignored in the $15 million shortfall waiver determination? The $15 million shortfall waiver refers to all plans maintained by the controlled group and does not include the “on the last day of the information year” qualifier that appears in the 80%-funded gateway test.

      Response: The $15 million shortfall exception was not intended as a loophole for large plans, but as a small plan exclusion. However, since the regulation does not specify the date, PBGC probably cannot force inclusion. PBGC is not concerned about plans that moved outside the controlled group during the year, but in this circumstance, PBGC recommends calling to discuss the situation.

8. Additional discussion items not on the agenda:

   a. Second lump sum offerings. PBGC expressed concern about lump sums being offered to retirees in pay status and asked if any of the actuarial organizations were taking positions on this practice. The Intersector attendees were not aware of any organization taking a formal position.

b. Asset mix. PBGC expressed surprise that the reported portion of assets in fixed income investments has not been on the rise since many employers are supposedly committed to derisking strategies. Two possibilities were expressed – one that many sponsors are on a glide path that allocates more to fixed income when funding reaches specified thresholds, but because of declining interest rates, these thresholds haven't been reached yet. The other is that looking only at the fixed income allocation does not provide a complete picture. There is a growing portion of assets in alternative investments such as hedge funds, and many of those assets are fixed income in nature, not equity investments. PBGC asked for assistance in locating research that could help them understand what is happening with alternative investments.