# 2002 Enrolled Actuaries Meeting

# Questions to the PBGC

# and Summary of their Responses

March 2002

# Summary of Discussions between the Enrolled Actuaries Program Committee and Staff of the Pension Benefit Guaranty Corporation on January 24 and February 12, 2002

The following pages set forth the questions posed to Staff of the Pension Benefit Guaranty Corporation at discussions on January 24 and February 12, 2002, with representatives of the Enrolled Actuaries Program Committee. Included also are summaries of the responses to those questions. The summary responses to the questions are intended to reflect as accurately as possible the statements made by the government representatives. However, those responses are merely the current views of the individuals and do not represent the positions of the Pension Benefit Guaranty Corporation 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 this booklet or reviewed it to determine whether the statements herein are accurate or complete.

The following representatives of the Enrolled Actuaries Program Committee took part in the discussions:

Bruce A. Cadenhead, William M. Mercer, Inc.
Curtis M. Cartolano, Hewitt Associates LLC
James G. Durfee, Towers Perrin
Marjorie R. Martin, Aon Consulting
Jay P. Rosenberg, Buck Consultants, Inc.
Donald J. Segal, The Segal Company
Lawrence J. Sher, Buck Consultants, Inc.
Kenneth A. Steiner, Watson Wyatt Worldwide

The following representatives of the Pension Benefit Guaranty Corporation took part in the discussions:

Stuart A. Sirkin, Director, Corporate Policy and Research Department (CPRD)
C. David Gustafson, Chief Policy Actuary
Jane D. Pacelli, Chief Research Actuary
Gail A. Sevin, Manager, Policy, Regulations, and Legislative Analysis Division, CPRD
Harold J. Ashner, Assistant General Counsel for Legislation and Regulations
Deborah C. Murphy, Staff Attorney

The Program Committee would like to thank Jay P. Rosenberg, Buck Consultants, Inc., for his significant efforts in the development of this booklet. The Committee also thanks the many practitioners who submitted questions for this booklet.

## INDEX

## QUESTION 1

### Premiums — Discounting Contributions Receivable

Because of the terrorist attacks of September 11, 2001, the Internal Revenue Service is treating certain contributions to calendar-year pension plans as timely made for crediting to the 2000 funding standard account even though the contributions are made after September 15, 2001. If a contribution made after September 15, 2001, qualifies for this treatment, may the period from September 15, 2001, to the date the contribution is actually made be disregarded in discounting the contribution for purposes of determining the 2001 variable rate premium?

**RESPONSE:**

Yes. If a contribution to a calendar-year plan is made after September 15, 2001, but is properly treated, under IRS disaster relief rules relating to the terrorist attack of September 11, 2001, as having been made for the 2000 plan year, the contribution may be discounted from September 15, 2001, for premium purposes. Analogous rules apply for non-calendar-year plans.

## QUESTION 2

### Premiums — "Rolling Forward" a Prior Actuarial Valuation Under the General Rule

(a) In determining unfunded vested benefits (UVBs) for purposes of the variable rate premium, may an actuary start with the minimum funding valuation performed for purposes of section 412 of the Internal Revenue Code for the plan year preceding the premium payment year and "roll it forward" to the premium snapshot date — *i.e.*, adjust the results to reflect changes between the valuation date and the snapshot date?

(b) If so, what requirements must be met when rolling forward a valuation for this purpose?

**RESPONSE:**

(a) Yes. An actuary may roll forward the minimum funding valuation performed — for purposes of section 412 of the Code — as of the minimum funding valuation date for the plan year preceding the premium payment year.

(b) A rolled-forward valuation must satisfy the same requirements as an original valuation performed as of the premium snapshot date. The PBGC's regulation on Premium Rates (29 CFR Part 4006) says that UVBs must be determined,

- based on the plan provisions and the plan's population as of the premium snapshot date,
- in a manner consistent with generally accepted actuarial principles and practices,
- using the actuarial assumptions and methods used for determining the additional funding requirement under section 412(*l*) of the Internal Revenue Code for the plan year preceding the premium payment year (or, for a new or newly covered plan, for the premium payment year), except to the extent that other actuarial assumptions or methods are specifically prescribed by § 4006.4 of the premium rates regulation or are necessary to reflect the occurrence of a significant event between the date of the funding valuation and the premium snapshot date.

Section 4006.4 prescribes the use of a required interest rate in determining the value of vested benefits; rules for valuing assets; restrictions on the contributions that can be included in plan assets; and rules for discounting contributions.

The premium rates regulation defines UVBs for premium purposes as the excess, as of the premium snapshot date, of vested current liability (determined at the required interest rate) over plan assets. Thus, if an actuary rolls forward a minimum funding valuation performed as of an earlier date, the actuary must make any modifications necessary to reflect the experience gains and losses for the period from the earlier date to the premium snapshot date.

## QUESTION 3

### Premiums — Calculations Using Valuation Date in Prior Plan Year

How are premium determinations affected by section 412(c)(9)(B)(ii) of the Internal Revenue Code, which provides that a funding valuation in one year may be used for the following year in certain circumstances?

**RESPONSE:**

The PBGC expects to be able to provide guidance to premium payers after the Internal Revenue Service issues guidance on the application of this new rule. However, for purposes of the 2002 premium, it would not be appropriate to simply treat the results of the funding valuation performed as of the beginning of the 2001 plan year as if they had been determined as of the beginning of the 2002 plan year and then roll them back one day to the premium snapshot date, rather than rolling them forward to the snapshot date from the beginning of the prior year.

## QUESTION 4

### Premiums — Vested Benefit Liability for Benefit Assumed Payable As Lump Sum

IRS Notice 90-11 requires that for purposes of calculating current liability, the value of a benefit should be determined using the current liability interest rate, even if it is reasonable to assume that the benefit will be paid in a lump sum and the actuarial assumptions used to determine the amount of the lump sum differ from those used to determine current liability. In such a case, how is the benefit to be valued for purposes of determining the variable rate premium using the general rule method? Does it make a difference if the plan is a cash balance plan?

**RESPONSE:**

For purposes of determining the variable rate premium using the general rule method, the value of a vested benefit is equal to the plan's current liability for the vested benefit, except that the interest rate required under the PBGC's regulation on Premium Rates (29 CFR Part 4006) must be used instead of the current liability interest rate. Thus, if plan lump sum assumptions are disregarded in determining the plan's current liability for a vested benefit, they are similarly disregarded in determining the value of the vested benefit for purposes of the variable rate premium. Whether the plan is or is not a cash balance plan is irrelevant.

## QUESTION 5

### Premiums — Effect of Excess Assets on Liability for Premiums

(a) If a terminating plan has distributed all assets allocable to priority categories 1 through 6 under ERISA section 4044 in its 2002 plan year but still has undistributed excess assets in its 2003 plan year, how does this affect the plan's liability to pay premiums for the 2003 plan year?

(b) Suppose, instead, that at the beginning of the 2003 plan year, distributions for benefits in priority categories 1 through 6 have been made for some but not all participants, and there are excess assets in the plan. Suppose in addition that some of these excess assets are allocable to a participant who had already received a full distribution of benefits in priority categories 1 through 6 before the 2003 premium snapshot date (the last day of 2002). Must that participant be included in the participant count for purposes of the 2003 flat rate premium?

**RESPONSE:**

(a) In the preamble to the final premium regulation published in the Federal Register on July 10, 1989 (54 FR 28944, 28951), the PBGC stated as follows:

> [T]he obligation to pay premiums continues through the plan year in which all plan assets are distributed pursuant to a plan's termination or in which a trustee is appointed under section 4042 of ERISA, whichever occurs first. For purposes of this rule, a plan's assets are considered distributed pursuant to a termination procedure upon the distribution of all assets that must be allocated to Priority Categories 1 through 6 of ERISA section 4044(a), irrespective of whether there are any [excess] assets to be allocated and distributed under ERISA section 4044(d).

Thus, if a terminating plan has distributed all assets allocable to priority categories 1 through 6 under ERISA section 4044 in its 2002 plan year, it has no premium obligation for the 2003 plan year, even if excess assets remain to be distributed.

(b) The PBGC would not treat as a participant for purposes of the 2003 premium any individual who received a full distribution before the end of 2002 of his or her benefits in priority categories 1 through 6. This would be true even if the individual remained entitled to a distribution of excess assets in the 2003 plan year.

## QUESTION 6

### Premiums — Interpretation of Significant Event 7

Certain plans are required to take into account the occurrence of "significant events" in calculating unfunded vested benefits for purposes of the variable-rate premium. Significant event 7 (described in § 4006.4(d)(2)(vii)) is "[a]ny other event or trend that results in a material increase in the value of unfunded vested benefits." Does this include investment losses on a plan's assets if those losses result in a material increase in the value of the plan's unfunded vested benefits?

**RESPONSE:**

A plan need not recognize under significant event 7 investment losses sustained in the ordinary course of business, provided that the plan's assets are invested in accordance with applicable legal requirements.

## QUESTION 7

### Premiums — Full Funding Limit Exemption In Case of Spinoffs

Plan A is a calendar year plan that is exempt from the variable rate premium for the 2002 plan year because it was at the full funding limit for the 2001 plan year. Plan A spins off new Plan B as of the beginning of Plan A's 2002 plan year. There are no other spinoffs, mergers, or other transfers of assets or liabilities involving Plan A or Plan B.

(a) Does Plan B qualify for the full funding limit exemption from the variable rate premium for its first plan year?

(b) Suppose that instead of spinning off new Plan B, Plan A splits up into two new plans — Plans B and C. Assume again that there are no other spinoffs, mergers, or other transfers of assets or liabilities involving Plan A, Plan B, or Plan C. Do new Plans B and C both qualify for the full funding limit exemption from the variable rate premium for their first plan year?

(c) Do the answers change if the spinoff or split-up occurs as of the end of the 2001 plan year, rather than the beginning of the 2002 plan year?

**RESPONSE:**

The PBGC has been trying to develop rules of general applicability that would address the complexities that can arise in applying the full funding limit exemption rules to cases involving spinoffs and split-ups, but has not yet done so. However, the PBGC interprets its existing rules in the beginning-of-year spinoff and split-up situations described above as follows:

(a) Plan B qualifies for the full funding limit exemption for its first plan year.

(b) Plans B and C qualify for the full funding limit exemption for their first plan year.

(c) The answers do not change if the spinoff or split-up occurs as of the end of the 2001 plan year, rather than the beginning of the 2002 plan year. For this purpose, the end of the 2001 plan year is considered to be the same as the beginning of the 2002 plan year.

## QUESTION 8

### Premiums — Full Funding Limit Exemption In Case of Mergers

Plan A is a calendar year plan that is at the full funding limit for the 2001 plan year (and thus would qualify for the full funding limit exemption from the variable rate premium for the 2002 plan year). Plan B merges into Plan A as of the beginning of Plan A's 2002 plan year. There are no other mergers, spinoffs, or other transfers of assets or liabilities involving Plan A or Plan B.

(a) If Plan B was at the full funding limit for its plan year ending December 31, 2001, does surviving Plan A qualify for the full funding limit exemption for its 2002 plan year?

(b) Does it matter what Plan B's pre-merger plan year was (*i.e.*, whether it was a full plan year or a plan year that was cut short by the merger)?

(c) Would Plan A qualify for the full funding limit exemption for its 2002 plan year if Plan B was not at the full funding limit for its plan year ending December 31, 2001, but the combination of Plans A and B would have satisfied an "aggregate" full funding test for the plan year ending December 31, 2001, where —

> (1) the figures for Plans A and B for their respective plan years ending on December 31, 2001, would be determined for each plan in accordance with the actuarial assumptions and methods used by that plan for that plan's plan year, and
>
> (2) in other respects, the full funding limit determination would be made in accordance with PBGC Technical Update 00-4?

(d) If the answer to question (c) is yes, could the "aggregate" full funding test also be used to qualify the surviving plan for the full funding limit exemption for its 2002 plan year if it was not at the full funding limit for its 2001 plan year?

(e) Do the answers to questions (a) through (d) change if the transaction is a consolidation instead of a merger, *i.e.*, if the surviving plan is new Plan C? Does it matter whether the consolidation occurs at the beginning of one of the consolidating plans' plan years?

(f) Do the answers change if the merger or consolidation occurs as of the end of the 2001 plan year, rather than the beginning of the 2002 plan year?

**RESPONSE:**

The PBGC has been trying to develop rules of general applicability that would address the complexities that can arise in applying the full funding limit exemption rules to cases involving mergers and consolidations, but has not yet done so. However, the PBGC interprets its existing rules in the beginning-of-year merger and consolidation situations described above as follows:

(a) Surviving Plan A qualifies for the full funding limit exemption for 2002.

(b) It doesn't matter what Plan B's pre-merger plan year was. However, if Plan B were the surviving plan, Plan B's plan year would matter, because the response to question (a) assumes that the merger occurs at the beginning of the surviving plan's plan year.

(c) In the circumstances described, surviving Plan A qualifies for the full funding limit exemption for 2002.

(d) Yes. The "aggregate" full funding test can be used no matter which plan is at the full funding limit.

(e) The answers are the same in the consolidation situations. It does not matter whether or not the consolidation occurs at the beginning of one of the consolidating plans' plan years. A consolidation by its nature always occurs at the beginning of the consolidated plan's first plan year.

(f) The answers do not change if the merger or consolidation occurs as of the end of the 2001 plan year, rather than the beginning of the 2002 plan year. For this purpose, the end of the 2001 plan year is considered to be the same as the beginning of the 2002 plan year.

## QUESTION 9

### Premiums -- Participant Count (Deceased Participants)

If a plan administrator knows that a terminated vested participant is deceased, but does not know whether the participant has a surviving beneficiary, must the plan administrator take account of the participant and/or the potential beneficiary's benefit in determining the plan's premium?

**RESPONSE:**

For premium purposes, a plan may disregard a deceased terminated vested participant for purposes of the flat rate premium, and disregard any potential beneficiary's benefit for purposes of the variable rate premium, when the plan administrator reasonably believes that the deceased participant has no living beneficiary who may be entitled to benefits from the plan. There is no hard-and-fast rule about when this point may be reached. Factors to be considered include the length of time since the participant terminated employment, the length of time since the participant died, the participant's age at death, whether the participant was known to be married, how old the spouse (or other beneficiary) would be if still alive, when a benefit would (or would have) become payable to the participant and/or to a beneficiary, and what measures the plan has taken to locate any possible beneficiary.

Note that this response is limited to the premium area. The circumstances in which a benefit could be disregarded in other contexts, such as plan termination, may be different.

## QUESTION 10

### Standard Terminations — Use of Excess Assets

May excess assets that are not distributable to participants be used for termination expenses?

**RESPONSE:**

This issue is governed by ERISA Title I, rather than Title IV, and is thus within the purview of the Department of Labor, rather than the PBGC.

## QUESTION 11

### Standard Terminations — Failure to Make Election; Treatment as Missing Participant

If a participant in a standard termination refuses or otherwise fails to sign and return a benefit election form, may the plan treat the participant as a missing participant and pay the participant's designated benefit to the PBGC under the missing participants program?

**RESPONSE:**

No. The missing participants program applies only to participants and beneficiaries who fall within the definition of "missing participant" in the PBGC's regulation on Missing Participants (29 CFR Part 4050). The plan administrator must be unable to locate the missing participant despite a diligent search. Thus, the program does not apply to a participant merely because the participant refuses or otherwise fails to sign and return an election form.

## QUESTION 12

### Standard Terminations — Small Annuity Benefits; Treatment as Missing Participants

Suppose a participant in a standard termination is entitled to a small (but not *de minimis*) benefit, but does not elect a lump sum payment and cannot be involuntarily cashed out under the terms of the plan. If the plan is unable to find an insurer willing to provide an annuity for the participant at a reasonable price, may the plan treat the participant as a missing participant and pay the participant's designated benefit to the PBGC under the missing participants program?

**RESPONSE:**

No. As noted in the response to the previous question, the missing participants program applies only to participants and beneficiaries who fall within the definition of "missing participant" in the PBGC's regulation on Missing Participants (29 CFR Part 4050). Small benefits that must be provided in annuity form must be provided for under an insurance contract in order for the plan to complete the termination. If plan assets are not sufficient to purchase an insurance contract that provides for the payment as annuities of all benefits so payable, and additional funds sufficient to enable the plan to obtain the contract are not contributed, the termination cannot be completed.

## QUESTION 13

### Standard Terminations — Payment of Designated Benefits for Missing Participants

May a plan undergoing a standard termination send a missing participant's designated benefit to the PBGC before it has completed the distribution of all other benefits?

**RESPONSE:**

Section 4050.6(a) of the PBGC's regulation on Missing Participants (29 CFR Part 4050) provides that "[e]xcept as otherwise provided in the missing participant forms and instructions, the plan administrator must submit the designated benefits . . . with the post-distribution certification." Under § 4041.29(a) of the PBGC's regulation on Termination of Single-Employer Plans (29 CFR Part 4041), the post-distribution certification cannot be submitted until all plan benefits through priority category 6 under ERISA section 4044 and the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR Part 4044) have been provided for.

## QUESTION 14

### Standard Terminations — Extension of Distribution Period

(a) If a plan is unable to complete distributions by the distribution deadline in a standard termination, can the plan get an extension of the deadline from the PBGC, even if the applicable distribution deadline is 120 days after receipt of a favorable determination letter from the IRS under § 4041.28(a)(1)(ii) of the PBGC's regulation on Termination of Single-Employer Plans (29 CFR Part 4041)?

(b) If so, how must the plan request the extension?

(c) What circumstances does the PBGC consider in deciding to grant such an extension?

**RESPONSE:**

(a) Under § 4041.30 of the termination regulation, the PBGC will extend the distribution deadline where it finds compelling reasons why it is not administratively feasible to meet the deadline and the delay is brief, whether the applicable deadline is the normal 180-day deadline under § 4041.28(a)(1)(i) or the alternative deadline under § 4041.28(a)(1)(ii).

(b) A plan administrator may request the PBGC to extend a deadline under the termination regulation. There is no prescribed form for such a request. (See the standard termination forms and instructions package for where and how to send the request.) If the extension request is filed later than 15 days before the deadline, it must include a justification for the failure to file earlier.

(c) The PBGC will consider the length of the delay and whether ordinary business care and prudence is exercised in attempting to meet the deadline. Failure to file an extension request at least 15 days before the deadline may be an indication that ordinary business care and prudence are not being exercised. In analyzing the degree of business care and prudence being exercised, the PBGC may also consider such facts and circumstances as the size of the plan, the nature of the event or circumstance causing the delay, whether that event or circumstance could have been anticipated, and how the plan responded to it.

## QUESTION 15

### Standard Terminations — "Woodwork" Participants

What happens if, after completion of a standard termination, a participant or beneficiary entitled to a distribution but mistakenly overlooked in the termination process appears "out of the woodwork"?

**RESPONSE:**

If the employer that maintained the plan is still in existence, the PBGC expects the employer to ensure that the participant receives the benefits and options to which the participant is entitled. (The term "employer" includes members of the contributing sponsor's controlled group, if any.) If the employer is no longer in existence, the PBGC provides the individual's guaranteed benefit in the same form as under a trusteed insufficient plan.

## QUESTION 16

### Standard Terminations — E-mail Acknowledgments

Can a plan filing a standard termination notice (Form 500) get an acknowledgment of receipt of the filing from the PBGC by e-mail?

**RESPONSE:**

Yes. The new termination notice forms include optional e-mail address blocks for the plan administrator and representatives of the plan administrator. The PBGC intends to begin acknowledging the receipt of standard termination notices electronically in April 2002 where e-mail addresses are provided, in addition to the written acknowledgments that are now provided.

## QUESTION 17

### Coverage — Application of Premium Definition in Part 4006 to section 4021(b)

How does the change in the definition of "participant" for premium purposes in the PBGC's regulation on Premium Rates (29 CFR Part 4006) affect coverage determinations under ERISA section 4021(b)(9) and (13)?

**RESPONSE:**

The change in the definition of "participant" for premium purposes has no effect on coverage determinations under ERISA section 4021(b)(9) and (13). As noted in the preamble to the final rule that changed the definition, —

> The definition of "participant" in the premium rates regulation applies only for premium purposes. Whether an individual is a participant in a plan for premium purposes has no bearing on whether the individual is a participant in the plan for any other purpose under Title IV of ERISA . . .. Similarly, an individual is not considered to be a participant in a plan for premium purposes simply because the individual is a participant in the plan for other purposes.

## QUESTION 18

### Valuations — Interest Assumptions

What is the relationship between the interest assumptions prescribed under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR Part 4044) and market interest rates?

**RESPONSE:**

The interest assumptions in the asset allocation regulation are not market interest rates — they are just interest "factors." The factors are derived so that, along with a given mortality table (currently 83 GAM), they will reproduce average group annuity prices. The group annuity prices are reported to us in quarterly surveys from insurance companies issuing group annuities and are net of administrative expenses. The PBGC interest factors stand in for all the many components used in annuity pricing that are not reflected in the given mortality table (e.g., assumed yield on investments, margins for profit and contingencies, premium and income taxes, marketing and sales expense).

If the PBGC's mortality table is varied, a different interest factor will result. For example, assume the average quarterly survey price of a monthly life annuity for a 65 year old male is $120 per dollar of monthly annuity. Using 83 GAM mortality would result in an interest factor of 5.88 percent. Using 94 GAM mortality would result in an interest factor of 6.41 percent. Yet both combinations (83 GAM with 5.88 percent or 94 GAM with 6.41 percent) produce the same price.

Because of this relationship among annuity prices, a mortality table, and the derived interest factors, it is never meaningful to compare PBGC's interest factors to market interest rates.

## QUESTION 19

### Employer Reporting — Determination of Expected Retirement Age (XRA)

Question 17 in the 2001 PBGC Blue Book asked how the actuary should determine a participant's "earliest retirement age" ("ERA") and "unreduced retirement age" ("URA") for the XRA table look-up when valuing benefit liabilities under ERISA section 4010. The PBGC responded that eligibility service should be frozen at the valuation date.

Consider a plan that provides the following benefits:

- Unreduced benefits at normal retirement age of 65;
- Unreduced benefits to participants who terminate service at or after age 55 with 10 or more years of service; and
- Actuarially reduced benefits at age 55 for participants who terminate service either before 55 or before completing 10 years of service.

(a) For participants with the following age and service on the valuation date, what are the values of ERA and URA used to look up the participant's XRA for purposes of valuing benefit liabilities under ERISA section 4010?

- Age 54 and 9 years of service
- Age 55 with 9 years of service
- Age 54 with 10 years of service

(b) How would the answers change if the plan provided actuarially reduced benefits at 55 only for participants who had completed 10 years of service and provided unreduced benefits at 65 for those who terminated before completing 10 years?

(c) Are the answers to question 17 from the 2001 Blue Book or question (a) or (b) above different if doing an allocation of assets under ERISA section 4044?

**RESPONSE:**

(a)

| Age/Service on Valuation Date | ERA | URA |
|---|---|---|
| 54/9 | 55 | 65 |
| 55/9 | 55 | 65 |
| 54/10 | 55 | 65 |

(b)

| Age/Service on Valuation Date | ERA | URA |
|---|---|---|
| 54/9 | 65 | 65 |
| 55/9 | 65 | 65 |
| 54/10 | 55 | 65 |

(c) No. The answers are the same.

## QUESTION 20

### Employer Reporting — Multiple Employer Plans; $50 Million Test

(a) In determining whether a controlled group meets the $50 million underfunding test in section 4010(b)(1) of ERISA, if a member of the controlled group is a contributing sponsor of a multiple employer plan, what portion of that plan's total unfunded vested benefits (UVBs) counts toward the $50 million?

(b) Does it matter whether assets and liabilities are allocated among plan sponsors under IRC section 413(c)(4) for minimum funding purposes (as opposed to making minimum funding determinations on a plan-wide basis)?

**RESPONSE:**

(a) Both ERISA section 4010 and the PBGC's regulation on Annual Financial and Actuarial Information Reporting (29 CFR Part 4010) base the $50 million dollar test on the aggregate UVBs of plans maintained by controlled group members. No special provision is made for counting less than the total amount of UVBs for a multiple employer plan maintained by a controlled group member (and by members of other controlled groups). However, § 4010.11 of the regulation provides for waivers in appropriate circumstances. A potential filer may contact the PBGC's Corporate Finance and Negotiations Department to discuss a waiver where inclusion of the total UVBs of a multiple-employer plan in applying the $50 million underfunding test would lead to a reporting requirement that would not further the purposes of the statute.

(b) The answer is the same whether assets and liabilities are allocated among plan sponsors under IRC section 413(c)(4) for minimum funding purposes or minimum funding determinations are made on a plan-wide basis.

## QUESTION 21

### Employer Reporting — Multiple Employer Plans; Reporting Assets And Liabilities

(a) When making a filing under ERISA section 4010 for a contributing sponsor of a multiple employer plan (or a controlled group including such a contributing sponsor), must the filer report the entire assets and benefit liabilities (BLs) of the plan, or an allocable amount of assets and BLs determined in a manner similar to that used in the plan's funding valuation under Internal Revenue Code (IRC) section 412?

(b) Does it matter whether assets and liabilities are allocated among contributing sponsors (or controlled groups that include contributing sponsors) under IRC section 413(c)(4) for minimum funding purposes (as opposed to making minimum funding determinations on a plan-wide basis)?

**RESPONSE:**

(a) The PBGC's regulation on Annual Financial and Actuarial Information Reporting (29 CFR Part 4010) requires that a filer report (for each plan other than an exempt plan) "the fair market value of <u>the plan's</u> assets" and "the value of <u>the plan's</u> benefit liabilities" (emphasis supplied). No special provision is made for counting less than the total amount of assets or BLs for a multiple employer plan maintained by a controlled group member (and by members of other controlled groups). However, § 4010.11 of the regulation provides for waivers in appropriate circumstances. A potential filer may contact the PBGC's Corporate Finance and Negotiations Department (CFND) to discuss a waiver where (for example) it might be unnecessarily burdensome to determine the plan's total BLs. The filer should be prepared to discuss with CFND the method for determining and allocating the assets and BLs.

(b) The answer is the same whether assets and liabilities are allocated among plan sponsors under IRC section 413(c)(4) for minimum funding purposes or minimum funding determinations are made on a plan-wide basis.