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November 24, 2014

Legislative and Regulatory Department
Pension Bnenfit Guaranty Corporation
1200 K Street, NW
Washington, DC 20005-4026

RE: Proposed Submission of Information Collection for OMB Review; Comment Request; Payment of Premiums

A Notice by the Pension Benefit Guaranty Corporation on 09/23/2014

Action:	**Notice of intention to request OMB approval of revised collection of information.**
Document Citation:	**79 FR 56831**
Page:	**56831 -56832 (2 pages)**
Document Number:	**2014-22580**

Ladies and Gentlemen:

Qualified Annuity Services, Inc. ("QAS") is a leading provider of Pension Risk Transfer (PRT) and group annuity placement services. We have served the defined benefit plan market since 1981. We have negotiated and placed contracts covering thousands of participants. We are a leading provider of terminal funding annuity programs for terminating Defined Benefit ("DB") plans. We designed the first pension risk transfer database and the first PRT settlement index in the US. We provide an ERISA fiduciary compliant service to make the selection of an annuity provider for terminating DB plans.

We are fully aware that many DB plans have different objectives and that a number of plans have been frozen from further benefit accrual. We can also understand the need for current and accurate information regarding the collection of PBGC premiums and appreciate the importance of this matter.

Therefore, we are pleased to have the opportunity to share our thoughts with you in regard to your Request for Information dated September 23, 2014 relating to this matter.

The PBGC indicates that it will seek in part to:

"Require reporting of certain undertakings to cash out or annuitize benefits for a specified group of former participants."

Background

In the past few years, large risk transfer transactions have occurred resulting in an acute awareness to risk transfer without the usual complete plan termination event. As more plan sponsors seek to reduce overall business balance sheet risk, a number of different steps can be taken to either eliminate or mitigate DB plan risks and, at the same time, secure the interests of participants. Different contract structures and tools are available to transfer all risks or partial risks otherwise retained by the DB plans.

During this time, life insurers have worked diligently with interested market participants to provide methods for accommodating a number of steps that can be taken to create arrangements to meet numerous important objectives:

1) reduce the overall burden faced by DB plan sponsors in retaining risks that are substantial when compared to the size of the business such as with airlines and auto companies and suppliers;
2) effectively weigh and balance the responsibilities of maintaining the business as an ongoing enterprise and providing meaningful benefits to participants once they retire;
3) mitigate investment risks within an abnormally low interest rate environment;
4) secure participant interests to the maximum extent possible; and,
5) effectively manage associated expenses for maintaining such DB plan arrangements within a growing complexity of rules and regulations.

Risk Transfer Versus Plan Termination

Historically, commercial annuities are used in plan terminations. However, annuities were very often utilized to settle pensions during the 1980's when high interest rates allowed plan sponsors to obtain relief by purchasing annuities for a group of retirees at very favorable rates in transactions known as accounting or pension settlements. Such transactions were also known as "carve outs" or "closed group annuities".

More recently, the term Pension Risk Transfer, or PRT, has been highly cited as more DB plans seek to manage the organic risks of pensions. These organic risks include issues such as longevity as demonstrated by the adoption and release of RP-2014 mortality by the Society of Actuaries. Various reports have concluded that DB plan liabilities will rise by 4-8%, a significant burden amplified during a period of low bond yields.

Insurers have been actively providing new types of solution for this market as they are ideally suited to provide solutions for risk transfer.

Settler Function

A DB plan can be maintained by following various rules and regulations. DB plans are offered as an employee benefit arrangement to provide secure income during retirement. Plan sponsors need not adopt DB plans, nor are sponsors required to maintain them if they no longer meet business and benefit objectives. A decision to terminate is "settled law...and is not subject to ERISA's fiduciary standards."[1] As this memo states, See Lockheed Corp. v. Spink, 517 U.S. 882 (1996):

> "As we said with respect to the amendment of welfare benefit plans in Curtiss-Wright Corp. V. Schoonejongen, 514 U.S._(1955), "[e]mployers or other plan sponsors are generally free under ERISA, for any reason at any time, to adopt, modify, or terminate welfare plans."

Plan sponsors may freeze such DB plans as a first step toward termination. Obligations which have accrued must be met in full to the extent required under the regulations. Generally the decision to freeze a plan eventually leads to a plan termination. Costs are an overriding concern expressed by sponsors as a reason to terminate the plan. However, risks of maintaining a DB plan are rising in terms of business priorities.

Non Plan Termination Events

The general use of commercial annuities to fund DB plans predates ERISA. As such, life insurers have provided funding for DB plans for decades. The use of annuities for funding ongoing plans is not new. Currently, the commercial life insurers offering annuities to DB plans are fulfilling a much needed service in assisting plan sponsors in maintaining their DB plans. The wealth of information needed to digest a complex transaction requires astute analysis and careful planning. Settling DB plan benefits with commercial annuities facilitates the transfer of significant risks to responsible parties in the form of life insurers.

The purchase of annuities is a fiduciary function and is subject to ERISA's standards for "procedural prudence" whether the plan is terminating or the liability is being transferred. In order to satisfy regulatory requirements, such liabilities are only transferred if they are in the form of "irrevocable commitments."

Irrevocable Commitments

As stated further in the QAS Memo of Law from Turco:

> "A final observation to show the acceptability and advantage of an annuity purchase by a plan is PBGC premium calculation instructions. From the 2006 PBGC Premium Payment Package, Section, Definitions Relating to Premium computations states in the definition of participant: 'An individual is not counted as

[1] QAS Memo of Law, September 7, 2014 - Alfred A. Turco, Esq.

> a participant after all benefit liabilities with respect to the individual are distributed through the purchase of irrevocable commitments from an insurer or otherwise."

Revocable Commitments
A number of new tools available to plan sponsors today include "buy in" or "cash flow" contracts which invest plan assets in a manner consistent with efforts to offer levels of risk transfer. A "buy in" contract can mitigate longevity and cash flow risk together. A "cash flow" contract is designed to mimic an actuarial liability, but offers no longevity protection.

Considerations and Recommendations
We believe that the de risking paradigm is beneficial to the overall health of DB plans. None of the large annuity purchases involved termination of the entire plan. Each DB sponsor faces challenges and opportunities and may address them in various ways.

We recommend that the PBGC consider defining its reportable event conditions in a consistent manner and in recognition of current and potential risk transfer activity within the marketplace. These definitions are intended to provide some limitations and may frame those instances when actions lead directly or conditionally to the transfer of risk through the assumption of liabilities by commercial insurers:

1) the purchase of irrevocable commitments from insurers for all of the remaining liabilities of a plan when that plan makes final distributions with respect to the individuals through the purchase of irrevocable commitments from an insurer or otherwise in conjunction with a plan termination;

2) the purchase of irrevocable commitments from insurers covering a portion of the plan liability of a plan for which no further accrual of benefit will be made when that plan transfers all benefit liabilities with respect to the individuals through the purchase of irrevocable commitments from an insurer or otherwise in conjunction with a plan that has not terminated; or,

3) the entering into an agreement relating to any revocable annuity contract from insurers covering a portion of the plan liability of a plan for which no further accrual of benefit will be made with respect to the individuals to amend or convert such contracts to irrevocable commitments from an insurer or otherwise in conjunction with a plan that has not terminated.

Conclusions:
The design and development of new contract forms have been beneficial to the overall health of DB plans. When risk is transferred in one form, such as longevity, it may open new avenues to risk assumption, such as in the reallocation of more assets to return seeking investments. If risk transfer is effective, it lengthens overall durations of a plan's remaining liabilities. Whether de risking ultimately leads to fewer terminations is yet to be seen.

The proposed rules are consistent with objectives of the PBGC to gain a higher level of understanding as to de risking activity and to allow for monitoring of activities affecting premium collections. Overall, participants should be well served as insurers have weathered considerable stress over long periods of time. In many instances, the financial viability of the plan sponsor may be considered more robust once de risking has occurred. This may lead to fewer terminations and the potential for new ideas regarding the future disposition of defined benefit plans as a form of benefit for valued employees.

Thank you for your consideration.

Sincerely,
QUALIFIED ANNUITY SERVICES, INC.

Joseph B. Bellersen, Jr.
President