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Actuarial Assumptions for Determining an Employer's Withdrawal Liability

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Actuarial Assumptions for Determining an Employer's Withdrawal Liability

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Submitter Information

Name: Anonymous Anonymous

General Comment

Comments regarding PBGC's new rules on selection of interest rates for withdrawal liability calculations.

1. Previously, there was only one choice under 4213(a)(1) to use the actuary's best estimate. Now there is a choice between (a)(1) and (a)(2). Who is supposed to decide which of these is to be used. It seems that this would be part of the method and the trustees must now decide between:

Under 4213(a)(1) – use the actuary's best estimate
Under 4213(a)(2) - select a random rate within a range

If the trustees decide on (a)(2) then they must also agree on the appropriate rate to be used, but they will likely have differing views on what rate they want to use. If the trustees select (a)(1) then the lawsuits regarding the actuary's best estimate would likely continue.

Under the ASOPs, actuaries are required to use their best estimate unless the gov't or another entity overrides this. Therefore, it does not seem like the actuary can determine whether (a)(1) or (a)(2) should be used. If the trustees select (a)(2) then what type of supporting information should they have to support the rate they chose?

2. The proposed language allows any rates between 4044 and Funding rates to be used. It goes on to ask if the top of the range of permitted rates should be lower than the typical funding rate. With rising interest rates, we may get back to where we were many years ago with the 4044 rates being higher than the funding rate. If the top of the range is lower than the funding rate and the 4044 rates are higher than the funding rate then I guess we have only one rate to use.

3. The blended method that was approved was originally developed to lower withdrawal liability since at the time the 4044 rates were higher than the funding rate. It made sense in that economic environment that a plan would consider purchasing annuities for the withdrawn employer's participants. Unfortunately,

that did not occur.

In today's economic conditions, this method makes little sense. A fully funded plan on a long term funding outlook is charged a withdrawal liability since the liability is measured using plan termination rates – even though no termination or annuity purchase will take place. As the plan's funding level drops and approaches insolvency, the plan would use the long term funding rate that is based on a 20-30 year investment horizon even though the plan may only have 5 years of solvency left. At this point, the actuary would likely move to plan termination rates since insolvency is imminent.

Therefore, what you are left with is using the 4044 rates at both extreme endpoints and some random weighting of the 4044 and funding rate in between.

The inverse of this would seem a bit more appropriate where a well funded plan would use a long term rate and a plan approaching insolvency would use plan termination rates.

4. It would be helpful it the PBGC allowed an explicit use of an administrative expense load to the liability since the plan not only has to pay all future benefits but also has to administer the plan (send notices, pay PBGC premiums, cost of cutting checks, etc.)