Fact Sheet

U.S. Department of Labor
Employee Benefits Security Administration
January 30, 2015

Final Regulation:
Annual Funding Notice for Defined Benefit Plans

The Department of Labor's Employee Benefits Security Administration (EBSA) published in the Federal Register a final rule to enhance retirement security and increase pension plan transparency by ensuring that workers receive annual notification of the funded status of their defined benefit pension plans.

Background

- EBSA is responsible for administering and enforcing the fiduciary, reporting, and disclosure provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA).

- EBSA oversees approximately 27,000 single-employer and multiemployer defined benefit pension plans subject to this regulation. An estimated 43.7 million participants and beneficiaries are covered by these plans.

- In 2006, section 501(a) of the Pension Protection Act (PPA) significantly amended section 101(f) of ERISA to require administrators of defined benefit plans that are subject to title IV of ERISA, not only multiemployer plans, to furnish annual funding notices. The PPA also shortened the time frame for providing funding notices and changed the content requirements.

- Pursuant to section 501(d) of the PPA, the amendments to section 101(f) applied to plan years beginning after December 31, 2007.

- On February 10, 2009, EBSA issued Field Assistance Bulletin 2009-01 providing interim guidance under section 101(f), pending adoption of a final regulation. Until the applicability date of the final rule, plan administrators may continue to rely on Field Assistance Bulletin 2009-01 or they may elect to comply with the requirements of the final regulations.

- On November 18, 2010, the Department published a proposed regulation soliciting public comments. EBSA received 11 comments which are available for public inspection.

- On March 8, 2013, EBSA issued Field Assistance Bulletin 2013-01 providing guidance needed as a result of amendments to section 101(f) of ERISA by section 40211(b)(2) of the Moving Ahead for Progress in the 21st Century Act. On January 15, 2015, EBSA issued Field Assistance Bulletin 2015-01 providing guidance needed as a result of the Highway and Transportation Funding Act of 2014. These Bulletins are not superseded by the final regulation.

- The Department published the final regulation on February 2, 2015. The final rule is applicable to notices for plan years beginning on or after January 1, 2015. Prior to this applicability date, however, the Department of Labor, as a matter of enforcement, will consider compliance with the final regulations as satisfying the requirements of section 101(f) of ERISA.

Overview of Final Regulation

The final regulation generally requires administrators of defined benefit plans subject to Title IV of ERISA to furnish a funding notice each year to the Pension Benefit Guaranty Corporation (PBGC), each plan participant and beneficiary, each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, each employer that has an obligation to contribute to the plan.

The final regulation is substantially similar to the proposed regulation, but some changes were made to simplify the disclosure and reduce cost burdens on plans, including the adoption of narrow exemptions and alternative methods of compliance. The final regulation also reflects changes made to section 101(f) by the Multiemployer Pension Reform Act of 2014.

Content Requirements

Content requirements include:

Funding Percentage – Annual notices must include the plan's funding percentage. Single-employer plans must report their "funding target attainment percentage" and multiemployer plans must report their "funded percentage." The funding percentage of a plan is a measure of how well the plan is funded on a particular date. In general, the higher the percentage, the better funded the plan. The funding percentage must be reported for the past three plan years.

Assets and Liabilities – Annual notices must include information regarding the plan's assets and liabilities. For example, notices must include a statement of the value of the plan's assets and liabilities on the same date used to determine the plan's funding percentage. Notices also must include a description of how the plan's assets are invested as of the last day of the plan year.

Material Effect Events – Annual notices must disclose amendments, scheduled benefit increases (or reductions) or other known events having a material effect on the plan's assets and liabilities if the event is taken into account for funding purposes for the first time in the year following the notice year. If an event first becomes known to a plan administrator 120 days or less before the due date of a notice, the plan administrator is not required to explain, or project the effect of, the event in that notice.

PBGC Guarantees and other Title IV Information – Annual notices must include a general description of the benefits under the plan that are eligible to be guaranteed by the PBGC, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply. Single-employer plan notices must include a summary of the rules governing plan termination and multiemployer plan notices must include a summary of the rules governing insolvency.

Timing

Funding notices generally must be furnished no later than 120 days after the close of the plan year. Small plans (plans with 100 or fewer participants) must furnish funding notices no later than the filing of the plan's annual report, including filing extensions.

Model Notices

The final rule includes two model notices (one for single-employer plans and one for multiemployer plans) to aid plan administrators in meeting their obligations.

Miscellaneous

The final regulation contains minor conforming amendments to two other Code of Federal Regulation sections. One change was made to the Department's summary annual report regulation (29 CFR 2520.104b-10) to implement the PPA's repeal of ERISA summary annual report requirement for plans subject to section 101(f) of ERISA. The other change was made to the Department's small plan audit waiver regulation (29 CFR 2520.104-46).

A copy of the regulation is available on the agency's Website at **dol.gov/ebsa** under "Laws & Regulations."