PBGC staff give informal guidance on standard terminations

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Employers undergoing a standard termination of their defined benefit (DB) pension plan should take care when coordinating the dates of a lump-sum window and an annuity purchase, according to Pension Benefit Guaranty Corp. (PBGC) staff. The representatives, speaking informally at a meeting with the Intersector Group — eight delegates from four major professional organizations for actuaries — also addressed how certain administrative delays affect post-distribution certification filings (Form 501) and pointed out an increase in the threshold for a standard termination audit. The complete meeting notes are available on the American Academy of Actuaries website.

Coordinating lump sums with annuity purchase

The Intersector Group reported that in at least one recent instance, PBGC required a plan sponsor to delay lump sums paid in connection with a plan termination until after securing the annuity purchase. However, sponsors generally prefer to pay lump sums before the annuity purchase, since the sponsor can then provide a more accurate listing of participants covered by the purchase. The group acknowledged PBGC's concerns that the sponsor might be unable to secure an annuity purchase for the residual group or the plan might have insufficient funds after paying the lump sums to satisfy the annuity premium. However, the insurer market typically is already engaged by the time the lump sums are paid, and a standard termination requires the employer to commit to contributing sufficient funds to pay all benefits.

PBGC staff explained that the agency's main concern is that lump sums might be paid before the annuity purchase is certain to be completed. In that case, if benefits in lower-priority categories are paid before others in higher categories, a violation of ERISA Section 4044 would occur. However, the same might be true if the annuity purchase occurs before lump sums are paid. Acknowledging that paying the lump sums and purchasing an annuity at the same time is generally infeasible, the representatives nonetheless indicated that lump sums shouldn't be paid until the annuity purchase is "secured." This can occur, for instance, if the plan sponsor signs a contract with an insurer at an affordable price or obtains a commitment to bid from an insurer with sufficient information on the population. When lump sums are paid first, PBGC expects no significant delay between paying lump sums and purchasing the annuity.

Final distribution date

PBGC staff also clarified that plan sponsors may file the Form 501 post-distribution certification even when some participant checks remain outstanding. The agency considers the final distribution of assets to occur when checks are initially processed for distribution, not when cashed. Administrative cleanup — such as reissuing a check with a corrected address — generally needn't delay the certification. However, PBGC representatives cautioned that the number of participants requiring cleanup matters: If hundreds of individuals require cleanup, filing Form 501 might have to be delayed until the issues are resolved.

Standard termination audit threshold raised

Standard terminations of plans with more than 1,050 participants are now automatically subject to audit. Previously, plans with more than 300 participants were subject to automatic audit. For terminating plans with no more than 1,050 participants, PBGC will randomly select enough plans to meet the statutory requirement for a statistically significant sample. The agency's Q&As on standard terminations have been updated to reflect the new threshold.

Related resources

- Intersector Group notes from February meeting (American Academy of Actuaries, March 25, 2022)
- Standard terminations: Q&A (PBGC)

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