

comments on the paperwork burden is extended until January 29, 2002.

Issued in Washington, DC, November 19, 2001.

**Louis C. Cusimano,**

*Acting Director, Flight Standards Service.*

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## **PENSION BENEFIT GUARANTY CORPORATION**

### **29 CFR Parts 4011 and 4022**

#### **Disclosure to Participants; Benefits Payable in Terminated Single-Employer Plans**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule amends Appendix D to the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans by adding the maximum guaranteeable pension benefit that may be paid by the PBGC with respect to a plan participant in a single-employer pension plan that terminates in 2002. This rule also amends the PBGC's regulation on Disclosure to Participants by adding information on 2002 maximum guaranteed benefit amounts to Appendix B. The amendment is necessary because the maximum guarantee amount changes each year, based on changes in the contribution and benefit base under section 230 of the Social Security Act. The effect of the amendment is to advise plan participants and beneficiaries of the increased maximum guarantee amount for 2002.

**EFFECTIVE DATE:** January 1, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4024. (For TTY/TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** Section 4022(b) of the Employee Retirement Income Security Act of 1974 provides for certain limitations on benefits guaranteed by the PBGC in terminating

single-employer pension plans covered under Title IV of ERISA. One of the limitations, set forth in section 4022(b)(3)(B), is a dollar ceiling on the amount of the monthly benefit that may be paid to a plan participant (in the form of a life annuity beginning at age 65) by the PBGC. The ceiling is equal to "\$750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974 [\$13,200]." This formula is also set forth in § 4022.22(b) of the PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR Part 4022). Appendix D to Part 4022 lists, for each year beginning with 1974, the maximum guaranteeable benefit payable by the PBGC to participants in single-employer plans that have terminated in that year.

Section 230(d) of the Social Security Act (42 U.S.C. 430(d)) provides special rules for determining the contribution and benefit base for purposes of ERISA section 4022(b)(3)(B). Each year the Social Security Administration determines, and notifies the PBGC of, the contribution and benefit base to be used by the PBGC under these provisions, and the PBGC publishes an amendment to Appendix D to Part 4022 to add the guarantee limit for the coming year.

The PBGC has been notified by the Social Security Administration that, under section 230 of the Social Security Act, \$63,000 is the contribution and benefit base that is to be used to calculate the PBGC maximum guaranteeable benefit for 2001. Accordingly, the formula under section 4022(b)(3)(B) of ERISA and 29 CFR 4022.22(b) is: \$750 multiplied by \$63,000/\$13,200. Thus, the maximum monthly benefit guaranteeable by the PBGC in 2002 is \$3,579.55 per month in the form of a life annuity beginning at age 65. This amendment updates Appendix D to Part 4022 to add this maximum guaranteeable amount for plans that terminate in 2002. (If a benefit is payable in a different form or begins at a different age, the maximum guaranteeable amount is the actuarial equivalent of \$3,579.55 per month.)

Section 4011 of ERISA requires plan administrators of certain underfunded plans to provide notice to plan participants and beneficiaries of the plan's funding status and the limits of the PBGC's guarantee. The PBGC's regulation on Disclosure to Participants (29 CFR part 4011) implements the statutory notice requirement. This rule amends Appendix B to the regulation on Disclosure to Participants by adding information on 2002 maximum guaranteed benefit amounts. Plan administrators may, subject to the requirements of that regulation, include this information in participant notices.

General notice of proposed rulemaking is unnecessary. The maximum guaranteeable benefit is determined according to the formula in section 4022(b)(3)(B) of ERISA, and these amendments make no change in its method of calculation but simply list 2002 maximum guaranteeable benefit amounts for the information of the public.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

#### **List of Subjects**

##### *29 CFR Part 4011*

Employee benefit plans, Pension insurance, Reporting and recordkeeping requirements.

##### *29 CFR Part 4022*

Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR parts 4011 and 4022 are amended as follows:

#### **PART 4011—DISCLOSURE TO PARTICIPANTS**

1. The authority citation for part 4011 continues to read as follows:

**Authority:** 29 U.S.C. 1302(b)(3), 1311.

2. Appendix B to part 4011 is amended by adding a new entry in numerical order to the table to read as follows.

## Appendix B to Part 4011.—Table of Maximum Guaranteed Benefits

If a plan terminates in—	The maximum guaranteed benefit for an individual starting to receive benefits at the age listed below is the amount (monthly or annual) listed below:							
	Age 65		Age 62		Age 60		Age 55	
	Monthly	Annual	Monthly	Annual	Monthly	Annual	Monthly	Annual
*	*	*	*	*	*	*	*	*
2002 .....	\$3,579.55	\$42,954.60	\$2,827.84	\$33,934.08	\$2,326.71	\$27,920.52	\$1,610.80	\$19,329.60

\* \* \* \* \*

**PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS**

3. The authority citation for part 4022 continues to read as follows:

**Authority:** 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

4. Appendix D to part 4022 is amended by adding a new entry to the table to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

**Appendix D to Part 4022—Maximum Guaranteeable Monthly Benefit**

The following table lists by year the maximum guaranteeable monthly benefit payable in the form of a life annuity commencing at age 65 as described by § 4022.22(b) to a participant in a plan that terminated in that year:

Year	Maximum guaranteeable monthly benefit
*	*
2002 .....	3,579.55

Issued in Washington, DC, this 26th day of November 2001.

**Hazel Broadnax,**

*Acting Executive Director, Pension Benefit Guaranty Corporation.*

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**PENSION BENEFIT GUARANTY CORPORATION****29 CFR Part 4044****Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans by substituting a new table that applies to any plan being terminated either in a distress termination or involuntarily by the PBGC with a valuation date falling in 2002, and is used to determine expected retirement ages for plan participants. This table is needed in order to compute the value of early retirement benefits and, thus, the total value of benefits under the plan.

**EFFECTIVE DATE:** January 1, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4024. (For TTY/TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) sets forth (in subpart B) the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974. Under ERISA section 4041(c), guaranteed benefits and benefit liabilities under a plan that is undergoing a distress termination must be valued in accordance with part 4044, subpart B. In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA Section 4042(a), it uses the subpart B valuation rules to determine the amount of the plan's underfunding.

Under § 4044.51(b), early retirement benefits are valued based on the annuity starting date, if a retirement date has been selected, or the expected retirement age, if the annuity starting date is not known on the valuation date. Sections 4044.55 through 4044.57 set forth rules for determining the expected retirement ages for plan participants entitled to early retirement benefits. Appendix D of part 4044 contains tables

to be used in determining the expected early retirement ages.

Table I in appendix D (Selection of Retirement Rate Category) is used to determine whether a participant has a low, medium, or high probability of retiring early. The determination is based on the year a participant would reach "unreduced retirement age" (*i.e.*, the earlier of the normal retirement age or the age at which an unreduced benefit is first payable) and the participant's monthly benefit at unreduced retirement age. The table applies only to plans with valuation dates in the current year and is updated annually by the PBGC to reflect changes in the cost of living, etc.

Tables II-A, II-B, and II-C (Expected Retirement Ages for Individuals in the Low, Medium, and High Categories respectively) are used to determine the expected retirement age after the probability of early retirement has been determined using Table I. These tables establish, by probability category, the expected retirement age based on both the earliest age a participant could retire under the plan and the unreduced retirement age. This expected retirement age is used to compute the value of the early retirement benefit and, thus, the total value of benefits under the plan.

This document amends appendix D to replace Table I-01 with Table I-02 in order to provide an updated correlation, appropriate for calendar year 2002, between the amount of a participant's benefit and the probability that the participant will elect early retirement. Table I-02 will be used to value benefits in plans with valuation dates during calendar year 2002.

The PBGC has determined that notice of and public comment on this rule are impracticable and contrary to the public interest. Plan administrators need to be able to estimate accurately the value of plan benefits as early as possible before initiating the termination process. For that purpose, if a plan has a valuation date in 2002, the plan administrator needs the updated table being promulgated in this rule. Accordingly, the public interest is best served by