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ENROLLED ACTUARIES REPORT

2011 Pension Symposium

Reinventing Retirement

Where do we go from here?

RATHER THAN FOCUS ON THE WHYS of the decline of defined benefit (DB) pension plans, attendees at the Pension Symposium on March 30–31 sought to come up with innovative solutions and public policy initiatives aimed at securing a retirement safety net for future generations.

The annual symposium is hosted by the Academy and the Conference of Consulting Actuaries and has been a fixture following the Enrolled Actuaries Meeting since 2004. The number of symposium participants intentionally is limited to ensure a collegial and interactive environment. In a departure from past symposiums, this year's expert panels were composed primarily of pension actuaries actively involved in the retirement security



Actuaries brainstormed ways to develop a retirement system with long-term sustainability at the 2011 Pension Symposium in Washington.

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VOL. 36 NO. 2 SUMMER 2011

DAVID WOELFEL

Setting Assumptions in Volatile Times

ACTUARIES FACE SIGNIFICANT CHALLENGES in attempting to set assumptions during monumental shifts in the world economy.

This was the sobering message from Dan Atkinson, chief technical actuary at Cassidy Retirement Group in Concord, Mass.; Colin England, consulting actuary at Bolton Partners in Baltimore; Stephen Goss, chief actuary for the Social Security Administration in Baltimore; and Peter Rossi, an actuary for the Department of

Defense's Office of the Actuary in Arlington, Va. They spoke at Session 804 of the 2011 Enrolled Actuaries Meeting.

The panelists agreed that it is important to know whether you are witnessing a period of cyclical change or a fundamental structural change. Don't overvalue the current state, they advised, but do anticipate a reversion to the mean with greater emphasis on the average. The panelists warned that when deciding that you are wit-

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Viewpoint

JAMES KENNEY

The 2011 Gray Book: A Cornucopia



THE GRAY BOOK never disappoints. It may terrify or infuriate, but it never disappoints. As always, this year's Gray Book offers actuaries a glimpse of tomorrow's regulations.

Perhaps the most interesting philosophical question raised by the 2011 Gray Book—one that provoked impassioned discussion at the Enrolled Actuaries Meeting—concerns the nature of benefit accruals after the Pension Protection Act of 2006 (PPA). This is most sharply reflected in the answers to Question 4 about the 2 ½ month rule of Section 412(d)(2) and Question 22 about the timing of Section 436 contributions associated with amendments increasing benefits.

Under Section 412(d)(2), a plan sponsor may elect to include the effect of an amendment increasing benefits in the valuation for a plan year as long as the amendment is adopted within 2 ½ months after the close of the plan year. In its answer to Question 4, the Internal Revenue Service (IRS) explicitly repudiates this rule and states flatly that an "amendment is only reflected if it is adopted and takes effect by the end" of the plan year.

The final regulations on minimum funding do require the amendment to "take effect" before the end of the plan year. Most actuaries have assumed that—according to Section 412(d)(2)—this meant the effective date of the amendment had to be on or before the end of the plan year, not that it must be adopted by then. The discussion of Question 4 centered on whether an amendment could "take effect" before it was adopted. The answer to this question has been changed materially by the benefit restriction rules of Section 436. This section makes the nature of benefit accrual more iffy, and it now appears that the IRS believes that benefits are not accrued until everything that is necessary to establish a legal entitlement to

them has occurred. The answer to Question 4 warns that even if the amendment had been communicated to participants and has been put into operation during a plan year, "adoption is required by the end of the plan year."

In a similar vein, the answer to Question 22 states that "an amendment takes effect under a plan on the first date on which ... a participant ... would obtain a legal right to the increased benefit," and then surprisingly adds, "since the plan could be amended prior to that date to eliminate the proposed benefit increase."

This evokes Section 411(d)(6), the prohibition against reducing accrued benefits through a plan amendment. I naively had assumed that once an amendment was adopted, the benefits granted by it became protected by Section 411(d)(6). Now it seems that such protection is tangled up with questions about the effective date, the adoption date, and whether any required Section 436 contribution was made in a timely manner "during the plan year in which the increase takes effect"—and not a day earlier or a minute later. (In this question, the plan sponsor wanted to make the contribution on Dec. 31 of the prior year since Jan. 1 is a holiday. The IRS nixed this.)

Another interesting set of questions dealt with what might be called "the strategy of pre-funding/carryover balance elections." Four questions addressed this fascinating topic (Questions 8, 11, 19, and 35). In its answer to Question 8, the IRS advised, "In general, all elections should be done by specifying the dollar amount but not specifying which balance is used." I had thought that such elections should specify which balance in order to be valid, but obviously not. By contrast, in its answer to Question 11, the IRS for the first time allowed that a formula could be used, as long as everything necessary to calculate a specific dollar amount as of the valuation date

Late Breaking Developments

FROM PBGC RISK-BASED PREMIUMS to funding relief elections, from in-plan Roth conversions to PPA and 401(k) compliance issues, panelists Ethan Kra, senior partner and chief actuary at Mercer in New York; Kent Mason, partner at Davis & Harman LLP in Washington; and John Moore, senior vice president at Aon Hewitt in Denver, covered a wide range of recent rulings, regulations, and litigation at this year's "Late Breaking Developments" session (203) at the Enrolled Actuaries Meeting. Top items included the following:

→ PBGC Risk-Based Premium

Under President Obama's proposed 2012 budget released in February 2011, the Pension Benefit Guaranty Corp. (PBGC) will be allowed to set its own premiums. The rates for sponsors of single-employer plans would, at least in part, take into account whether a sponsor is a "high-risk" company. Entities with a credit rating that is below investment grade would be considered high-risk for this purpose. Other entities, such as not-for-profit organizations or privately held companies, would be assigned a risk classification based on criteria established by federal regulators. A major increase in premiums payable to PBGC should be expected—even if the authority to set such premiums is retained by Congress—because of PBGC's search for new revenue sources.

→ Preparer Requirements

Practitioners who are paid to prepare Internal Revenue Service (IRS) Form 5500 and certain other tax forms were exempted from the general requirement to obtain a preparer tax identification number (PTIN) in Notice 2011-6 from the IRS. Practitioners who work on other forms, such as Form 5330, still need to obtain PTINs.

→ Funding Relief Elections

IRS Notice 2011-3 (for single-employer plans) and Notice 2010-83 (for multiemployer plans) provided much-needed guidance to plan sponsors that have elected—or are considering electing—relief under the Pension Relief Act of 2010. Approximately 80 percent of large single-employer plans did not elect the relief for 2009, according to recent reports, and, of those that made the election, approximately two-thirds elected to use the 15-year option. Approximately half of the attendees at the session indicated that they had at least one client that had elected relief.

→ In-Plan Roth Conversions

IRS Notice 2010-84 addressed technical issues for 401(k) and 403(b) plans that offer in-plan Roth conversions in plan years

beginning in 2010. Few plans were amended to allow such conversions in 2010 because there was a lack of clarity about how to handle the technical issues and there wasn't enough time to modify administrative systems to implement the transactions. Participants in those plans can elect in-plan Roth conversions only at the time of a distributable event. Those eligible for a conversion should take into account the potential for significant changes to future tax rates as well as any inability to undo the conversion if there are net investment losses on the amounts converted. The instructions to Form 1099-R also indicate that no withholding of federal income tax is required on converted amounts.

→ PPA and 401(k) Compliance

The IRS sent a questionnaire in May 2010 to a random sample of 1,200 employers that sponsor 401(k) plans to find out how they are complying with various Pension Protection Act of 2006 (PPA) provisions. The questionnaire focused on 401(k) plan operations, including eligibility, employee deferral rates, compensation definitions, and nondiscrimination testing, to identify areas that pose potential compliance issues as well as reasons that compliance standards may not have been met. Recipients who did not respond to the questionnaire could become subject to enforcement action. Findings from the study have yet to be released.

→ Disclosures for Target-Date Funds

As a result of the surging popularity of target-date funds among plan participants and the drastically different investment results generated by funds that have the same target date, the Department of Labor (DOL) proposed new regulations that would require plan sponsors to provide plan participants with more details about the operations of target-date funds. The disclosures would include the "glide path" on investment mix, an explanation of the fit of a particular dated fund to a participant, and a warning that such funds may lose money.

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→ Definition of Plan Fiduciary

Proposed DOL regulations would expand the definition of a plan fiduciary to include a wider range of plan investment advisers. The existing rules would be expanded to include entities that offer only one-time advice—for a fee—that is not necessarily the primary basis for decision-making and is not individualized to the particular circumstances of a participant. Enrolled actuaries who offer advice on prohibited transactions, sample trust agreements, services regarding valuation of a plan asset, or investment policies (such as liability-driven investments) could meet the definition under the proposed rule. The DOL wants to finalize its regulation during 2011, so actuaries should monitor the progress of this proposal.

→ Facility Closings Rules

The PBGC issued proposed rules relating to notice, liability, and recordkeeping requirements associated with the closing of operations at a facility that results in a termination of more than 20 percent of active participants in a pension plan. Under the proposed rules, the determination of whether the requirements are triggered ignores the possible circumstances surrounding the event, such as the move of operations from one facility to another, a sale of a business unit, a new joint venture, a change in a government contract, or a temporary suspension of operations. The PBGC currently is reviewing comments on the proposed rules, which were due last October.

JAY ROSENBERG is a director at Buck Consultants in Secaucus, N.J.

BRUCE GAFFNEY

A Deadly Serious Session!

MORTALITY RATES IMPROVED SIGNIFICANTLY during the 20th century, thanks to the development of antibiotics, other medical advances, and general improvements in hygiene and living standards. But what about the future? Will mortality continue to improve in the 21st century?

Panelists Christopher Bone, a principal at Edth Ltd. in Flemington, N.J.; Diane Storm, vice president of Actuarial Systems Corp. in Rochester Hills, Mich.; Alice Wade, deputy chief actuary, long range, at the Social Security Administration in Baltimore; and Laurence Pinzur, an actuary in Lebanon, N.J., addressed the actuary's responsibility to consider and reflect such improvement in mortality rates in his or her determinations. These questions were at the heart of Session 707 of the 2011 Enrolled Actuaries Meeting.

Optimists point to the Human Genome Project and other ongoing medical advances as indicators that mortality improvement will, in fact, continue in the future, the panelists said. They noted that pessimists cite the epidemic of obesity in the United States, HIV, and recent developments such as antibiotic-resistant bacteria as evidence that mortality will not continue to improve.

The panel reviewed the relevant provisions of Actuarial Standard of Practice (ASOP) No. 35, *Selection of Demographic and Other Noneconomic Assumptions for Measuring Pension Obligations*, that guide the actuary in the selection of mortality assumptions. As recently revised, ASOP No. 35 requires the actuary to consider whether or not to project mortality improvement in actuarial calculations. The standard states that uncertainty about the level or likelihood of mortality improvement does not, by itself, mean that an assumption of no improvement

is reasonable. The actuary, instead, must make an affirmative decision whether to reflect mortality improvement, and at what levels, based on the information available and the purpose of the measurement. Just as important, the actuary must disclose the approach he or she takes to mortality improvement, including explicit disclosure of no assumed improvement in the future.

The session also reviewed the various mortality tables developed by the Society of Actuaries' Retirement Plans Experience Committee (RPEC), most notably the RP-2000 Mortality Table (which includes projection of mortality improvement at Scale AA). The RPEC currently is working on a successor to the RP-2000 table, which could include a replacement for Scale AA.

In an overview of methods used historically to reflect mortality improvement, the panel discussed age setbacks, margins, and various projection scales, as well as the derivation, use, good points, and bad points of Scale AA. The panelists also reviewed various approaches to analyzing and modeling mortality improvement and explored in some depth the Social Security Administration's approach to reflecting mortality improvement.

Each actuary ultimately must decide how to reflect mortality improvement—or how much mortality improvement to reflect, panel members advised. Actuaries then can make the appropriate disclosures, including noting if no mortality improvement has been reflected, they concluded.

BRUCE GAFFNEY is a principal and consulting actuary with the Benefits Consulting Group of Ropes & Gray LLP in Boston. He is also a member of the Joint Program Committee for the Enrolled Actuaries Meeting and a contributing editor of the EAR.

KEITH SARTAIN

Health Care Reform's Effect on Valuations



WHILE MANY OF US MADE AN ATTEMPT to understand the effect that the Patient Protection and Affordable Care Act of 2010 (ACA) had on last year's valuations, much remains unclear.

In a session at the 2011 Enrolled Actuaries Meeting, Dale Yamamoto, president of Red Quill Consulting in Barrington, Ill., and Milind Desai, principal at Aon Hewitt in Waltham, Mass., considered the possible changes that the ACA and other health reform initiatives will bring to the way actuaries measure liabilities and expenses.

Retiree health care valuations call for expertise in both short-term aspects of claims analysis and longer-term projections and accounting requirements. This means retirement actuaries must work with a qualified health care actuary to determine how health care reform affects valuations. Yamamoto and Desai's discussion focused on five changes that have affected—or will affect in the next few years—retiree health care programs.

Early Retiree Reinsurance Program (ERRP)

Enacted in 2010, ERRP provides reimbursements to participating employment-based plans for a portion of the cost of health benefits for early retirees aged 55 to 64. The \$5 billion fund is expected to run out before the program's expiration at the end of 2013. Reimbursements must be used to reduce the sponsor's costs, the participants' costs, or both.

Accounting Implications: ERRP reimbursements may be treated as an actuarial gain. The sponsor's approach for using the proceeds, however, often is not developed clearly; proceeds may need to be shared with active employees to the extent they are part of the plan. Because ERRP is an uncertain, short-term program, it may make sense to account for it on a cash basis.

Group Insurance

Group insurance market reforms do not apply to stand-alone retiree medical plans (legal plans that map to a unique plan identification number and Internal Revenue Service Form 5500, and have fewer than two active employees). Some employers may choose to split their plans and create retiree-only plans to avoid group market reforms. On the other hand, an employer may want a consistent design for active employees and retirees and may want to provide the minimum essential coverage to ensure that retirees who are not eligible for Medicare are able to satisfy the individual mandate—which begins in 2014—when enrolled

in the sponsor's group health plan.

Accounting Implications: If the group market reforms apply, you may be able to treat the effect either as a prior service cost or as an actuarial loss because the change is required by law.

Removing the annual lifetime dollar limits on essential health benefits may increase expected claims dramatically if the limit is low (for example, \$10,000). Eliminating higher limits (for example, \$500,000) may add only 1 to 2 percent to claims.

Covering dependent children may add 1 to 14 percent to the dependent claim amount corresponding to the provision in place before the change.

Medicare Advantage

The ACA makes changes to Centers for Medicare & Medicaid Services (CMS) payments to Medicare Advantage (MA) plans for hospital and physician services to bring them to the level of Medicare fee-for-service costs. Beginning in 2014, MA plans will be required to maintain a minimum loss ratio of 85 percent or face penalties. Employers with MA plans could see significant volatility in premiums and plan benefits, in addition to participant disruptions and a general contraction of the market.

Accounting Implications: The short-term trend may be higher for MA plans. CMS payments to MA plans account for approximately 85 percent of program costs.

Retiree Drug Subsidy

The ACA eliminates the federal income tax deduction for prescription drug expenses allocable to the Retiree Drug Subsidy (RDS) for taxable years beginning after Dec. 31, 2012.

Accounting Implications: Prior to health care reform, taxable plan sponsors developed accounting results for their plans both with and without reflecting RDS. The change in tax treatment resulted in some large, one-time tax accounting charges in early 2010. Although they have received no authoritative guidance, audit firms generally agree to recognize any remaining differences on a straight line basis through the end of 2012 to ensure that Accounting Standards Codification (ASC) 715-60 and ASC 740 measurements are aligned in 2013 and beyond.

High-Cost Health Plans

The ACA will impose a nondeductible excise tax of 40 percent beginning in 2018 on plans with an aggregate value of health in-

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insurance coverage exceeding specified dollar thresholds. Without design changes, many retiree medical plans will be affected by the excise tax even though it may take much longer to apply to plans integrated with Medicare.

It came as a surprise to some session attendees that the excise tax potentially will affect all health care plans, whether sponsored by a nonprofit employer, a trade association, or a voluntary employees' beneficiary association.

The excise tax will be assessed against the third-party administrator and passed along to the plan sponsor. Another surprising consideration is that this nondeductible excise tax would need to be grossed up for corporate income taxes before being passed along to the plan sponsor. This would raise the impact of the excise tax from 40 percent to approximately 60 percent of the amount exceeding the thresholds. A question remains whether this would provide a competitive advantage to nontaxable insurers that would not have to gross up.

The panelists walked the audience through several individual examples that showed the effect that the excise tax has on plan costs. They also showed how blending individuals into a single plan may allow for lower excise taxes on the overall plan. (See chart.) How the regulations will handle blending remains to be determined.

An Example of How Excise Tax Affects Plan Costs

For 2018	Age	Coverage	Plan Cost	Excise Threshold	Excess	Excise Tax	with 35% tax rate gross up
Retiree 1	53	Single	\$14,000	\$11,510	\$2,490	\$1,000	\$1,540
Retiree 2	73	Single	7,000	11,510	0	0	0
Retiree 3	58	Family	35,000	34,940	0	0	0
Retirees 1 & 2 Blended	53/73	Single	10,500	11,510	0	0	0

Accounting Implications: Actuaries must make a best estimate of the potential impact based on available information. If some or all of the excise tax is expected to be passed on to retirees or mitigated through plan changes, this must be part of the substantive plan. As a practical matter, when dealing with a larger population, actuaries may need to model the excise tax liability by increasing future trends rates, the panelists advised.

KEITH SARTAIN, a principal for Aon Hewitt in Falls Church, Va., is a member of the Joint Program Committee for the Enrolled Actuaries Meeting.

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field. Panelists focused both on lessons learned from the decline in the number of DB plans and on current research, policy, and advocacy initiatives.

Building on the theme of the Enrolled Actuaries Meeting's closing general session, "DB Plans: The Fall and the Rise," the first panel discussed the disincentives in today's political and regulatory climate for private-sector employers considering sponsoring DB plans. These include the inadequacies of the Employee Retirement Income Security Act (ERISA), a lack of appetite for pension-related legislation on Capitol Hill in a post-Pension Protection Act of 2006 (PPA) era, the changing labor force, and shifting demographic trends. The panel said that actuaries and other stakeholders should examine the layers of the DB promise and find ways to parcel it out through a variety of delivery mechanisms. Panel members also said that the profession needs to develop understandable language for communicating risk.

Primary resources for symposium attendees were papers solicited as a part of the Society of Actuaries Retirement 20/20 initiative, which seeks new retirement system solutions to meet

the economic and demographic needs of the 21st century. Andrew Peterson, SOA retirement staff fellow, and Christopher Bone, a principal at Edth Ltd. in Flemington, N.J., and one of the judges of papers submitted to the SOA, pointed to papers discussing the issue of guarantees and how to modify promises to make them work better, as well as considerations of what normal retirement age should be for a society and how it may differ among demographic cohorts.

Hoping to capitalize on the extensive work product from the Retirement 20/20 initiative, in late 2010 the Academy's Pension Practice Council and the SOA's Pension Section Council launched a joint initiative, Retirement for the AGES, that focuses on public policy for a retirement system with long-term sustainability. Several members of the Academy's PPC Forward Thinking Task Force provided an overview of the initiative during the third session. The panelists said that the initiative's main objective is to maximize coverage and adequacy of retirement income within a sustainable retirement system.

—JESSICA THOMAS

Valuing Lump Sums

THE ANALYSIS OF INTEREST-SENSITIVE LUMP SUMS is counterintuitive to many actuaries. As a result, some actuaries may be incorrectly incorporating the interest rate into their valuations.

In the wake of Pension Protection Act of 2006 (PPA) regulations, which require that interest-rate sensitivity be more carefully incorporated into the valuation, Session 602 of the 2011 Enrolled Actuaries Meeting offered an important opportunity for attendees to consider how they value lump sums and to discuss other compliance issues they need to keep in mind when completing lump-sum payment forms.

Lump-sum payment forms typically are interest-rate sensitive, and this sensitivity makes determining the value of a plan with a lump-sum option complex. Under the PPA, the lump-sum equivalent of an annuity is based on the current, long-term, high-quality corporate bond yield curve and mortality reflecting continuing longevity improvement. PPA also requires the use of an interest rate based on the current, long-term, high-quality corporate bond yield curve and mortality reflecting continuing longevity improvement in funding determinations.

Under the new rules, the determination of the lump-sum equivalent and the determination of funding liability coincide (more or less) with the determination of the obligation for purposes of the employer's accounting. But there are still some differences. These include a simplified three-segment curve for the lump-sum equivalent and the funding rules, a 24-month average for the funding rules, and a single weighted average rate used for the employer's accounting. When valuing the liability or obligation, most of these differences can be ignored over the long term.

A basic valuation of lump-sum benefits that is intended to incorporate the sensitivity of future lump-sum payments is simplified by the fact that the current high-quality, long-term corporate bond yield curve already incorporates the market's current expectation of future rates. This phenomenon—sometimes called the “annuity substitution principle”—leads to a conclusion that the liability determined as the current value of the annuity cash flow stream based on the corporate bond yield curve is the same as the liability that would result by discounting the lump-sum cash flow stream using implied forward rates.

As a result, the annuity substitution principle eliminates the need for the actuary to make an explicit determination of implied forward rates. The same principle, with modifications,

may simplify more complex cases, such as a plan that offers lump-sum payouts that are more valuable than the PPA lump-sum equivalent. When completing a forecast valuation, however, changes in the expected shape of the underlying yield curve should be considered.

A plan with a lump-sum optional payment form must be administered in compliance with certain regulations, including:

- Non-discriminatory availability of the option;
- Participant disclosures about the nature and relative value of optional payment forms;
- Limitations on lump-sum payments to the 25 top paid employees;
- Special lump-sum equivalence when applying maximum benefit limits under Internal Revenue Code (IRC) 415;
- Adjustment to the accrued benefit when re-employed after a lump-sum distribution;
- Restrictions on lump-sum payouts for underfunded plans under IRC 436;
- Constraints on election choices for executives under the IRC.

Actuaries need to be mindful of the complexities presented by lump-sum payments in actuarial valuations and in other areas. It is important that actuaries recognize that they don't have to make assumptions about future interest rates in their valuations because this information is embedded in the current spot-rate discount yield curve. As the PPA has clarified, the funding valuation world is now more in line with the accounting requirements.

LISA ULLMAN, an actuary at PricewaterhouseCoopers in Boston, and JEANETTE WAGNER, a consultant at Towers Watson in Houston, led the session on lump sums at the spring EA Meeting.



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nessing a permanent change, you must thoroughly understand the basis for the change and have good reasons to support setting assumptions based on that change. Consider, for instance, the latter half of the 1990s when many accepted that there had been a permanent change in the economy that would allow for years of steady economic growth with low inflation and minimal economic downturns. The subsequent 10 years, America's version of a lost decade, proved that this supposed "New Economy" was not, in fact, permanent at all.

Panelists discussed a number of important topics related to assumption-setting, including:

- The purpose of the analysis;
- The significance of assumptions in projections;
- The sources of assumptions;
- The importance of sensitivity analysis;
- The value of ensuring that assumptions are both individually reasonable and reasonable in the aggregate.

In audience discussion, it became clear that nearly all attendees agreed with the need to change investment strategy as a pension plan matures and becomes heavily retiree or large relative to the size of the employer. The panelists noted that in such cases it is necessary to change to an investment policy that limits the downside risk to the sponsor. When considering making changes to benefits, actuaries must think about whether the changes would alter the behavior of the participants and, if so, how. Although this forces actuaries—most of whom prefer to make fact-based decisions—to make more abstract judgments, it is a critical component of accurately identifying the cost of benefit changes.

When selecting assumptions for projections, the panelists advised that it is important to anticipate shifts in plan demographics and consider select and ultimate assumptions that reflect current economic times in the short term with a return to the mean in the long run. One could argue that this must also be considered in the selection of assumptions for many other purposes, including annual valuations.

England argued that the reason for the projection influences what assumptions should be considered for change. He said that a contribution forecast for a company emerging from bankruptcy requires the actuary to look closely at investment return and variance, as well as the possibility of plant closures. Other factors would include significant lump-sum distributions, the discount rate, and possibly even the elimination of long-term

mortality improvement. England also suggested that because voluntary retirement and termination rates are generally low in poor economic times, and disability rates and involuntary terminations rise during such periods, actuaries should account for these tendencies in their projections.

Using the Department of Defense (DOD) as an example,

Rossi highlighted how organizations that have unique missions or operate in unusual environments must take into account different sources of assumptions. He cited the need to be careful of cyclical periods of activity (such as elevated military activity in the case of the DOD) in collecting data and analyzing assumptions. DOD actuaries must assess whether the war on terrorism, for example, has created a "new normal" when it comes to mortality, disability, and retention.

Although the use of stochastic forecasts allows actuaries to measure uncertainty, Goss reminded attendees that the sensitivity of results to changes in specific assumptions is better at assessing risk. England added that actuaries should keep the interaction of their assumptions

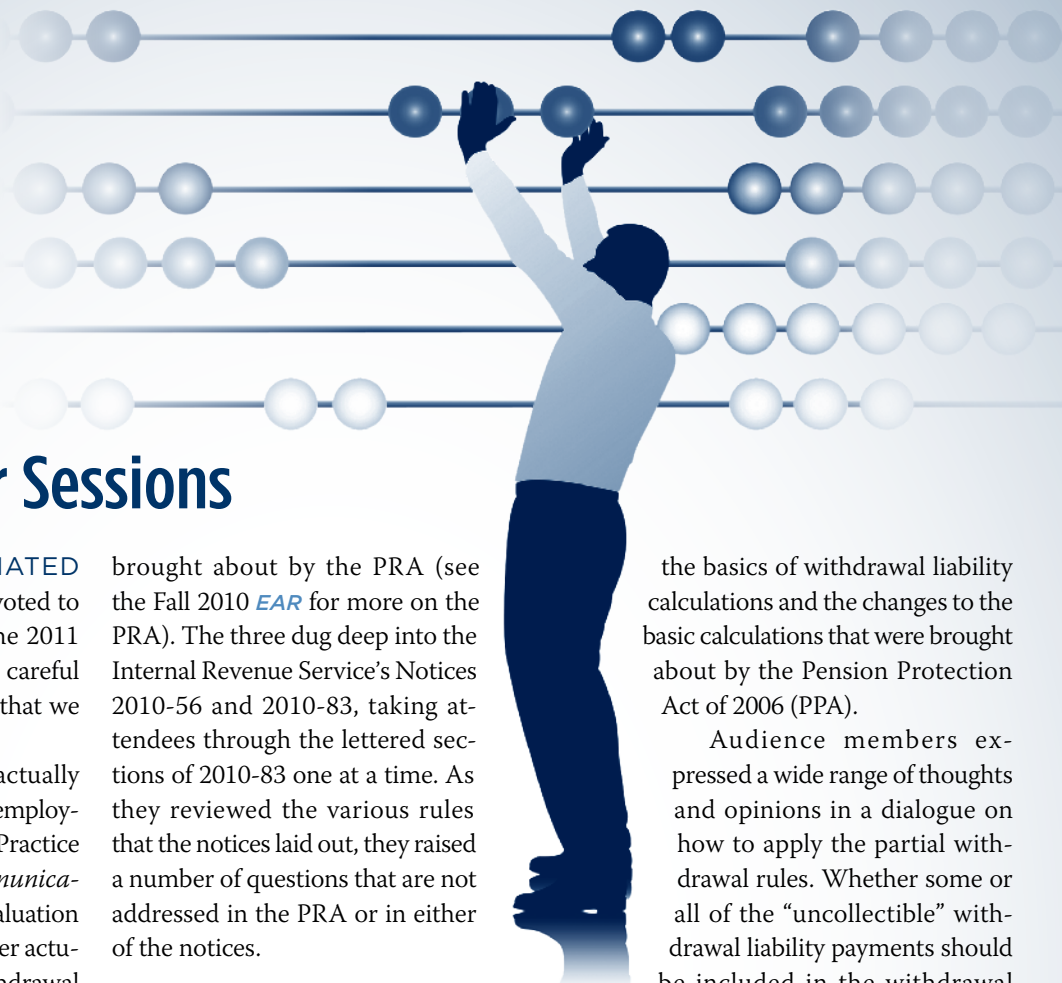
in mind and be aware of the possibility for offsetting deviations in experience study results. He also warned of the unintended consequences of cherry-picking assumptions for change. If, for example, a plan's gain/loss pattern has been reasonable and the client proposes a short-term reduction in expected salary increases due to poor economic conditions, England suggested the actuary also may want to consider a decrease in the assumed rate of voluntary terminations to reflect fewer job opportunities at other companies.

In summary, panelists offered three general conclusions about setting assumptions during volatile times:

- Actuaries should be aware of what others in the field are doing when setting assumptions based on their own analysis, with the understanding that there may be hidden forces within their analysis that require special treatment.
- The choice of assumptions is driven by the purpose and user of those assumptions—changes should be made only after analyzing the sensitivity and risks of doing so.
- The interaction of the changes is critical, if projections use different assumptions.



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HAL TEPFER

Multiemployer Sessions

TWO THEMES DOMINATED THE SIX SESSIONS devoted to multiemployer issues at the 2011 Enrolled Actuaries Meeting—“Be careful what you say” and “There’s a lot that we still don’t know.”

Being careful what you say actually surfaced in both single- and multiemployer sessions. Actuarial Standard of Practice (ASOP) No. 41, *Actuarial Communication*, applies—of course—to the valuation reports produced by multiemployer actuaries. But it also applies to the withdrawal liability calculations produced, the information provided to multiemployer sponsors to review the rules from the “relief” provision, the information that plan sponsors need to provide to participants (and others) who ask for it, and many other multiemployer actuarial assignments. (See the Spring 2011 *EAR* for more on ASOP No. 41.)

More significant was the fact that there’s still a lot we don’t know. The Pension Relief Act of 2010 (PRA) became law less than a year ago, and even though deadlines for adoption have—for many plans—passed, there still are issues that need the focus of multiemployer actuaries.

Pension Relief

In Session 105, Joseph Hicks, principal at the Savitz Organization in Philadelphia; Joshua Shapiro, deputy director at the National Coordinating Committee for Multiemployer Plans in Washington; and John Bohman, a partner at O’Donoghue & O’Donoghue in Washington, discussed some of the more significant changes

brought about by the PRA (see the Fall 2010 *EAR* for more on the PRA). The three dug deep into the Internal Revenue Service’s Notices 2010-56 and 2010-83, taking attendees through the lettered sections of 2010-83 one at a time. As they reviewed the various rules that the notices laid out, they raised a number of questions that are not addressed in the PRA or in either of the notices.

Zone Review

In a detailed overview of how to determine which “zone” a multiemployer plan falls into for a specific year, panelists Amanda Notaristefano, a consulting actuary at the McKeogh Co. in West Conshohocken, Pa., and Larry Weitzner, an actuary and managing consultant at Horizon Actuarial Services in Atlanta, addressed in Session 205 the implications of being in a status and what it takes to emerge from that status. They also talked about corrective actions that are available to endangered and critical plans. The speakers pointed out several approaches that have been used to address corrective actions and asked the audience for its thoughts. The consensus was that there is no one-size-fits-all approach. When session attendees were asked if they had applied for an extension of the amortization periods, approximately 10 percent said they had.

Withdrawal Liability

Session 405 was a refresher on withdrawal liability. Panelists addressed both

the basics of withdrawal liability calculations and the changes to the basic calculations that were brought about by the Pension Protection Act of 2006 (PPA).

Audience members expressed a wide range of thoughts and opinions in a dialogue on how to apply the partial withdrawal rules. Whether some or all of the “uncollectible” withdrawal liability payments should be included in the withdrawal

liability calculations for remaining employers perfectly fit the category of items for which we don’t know the correct answer.

Constance Markakis, an attorney adviser at the Pension Benefit Guaranty Corp.’s (PBGC) legislative and regulatory department in Washington, talked about the PBGC’s recently issued Technical Update 10-3, which addressed the integration of PPA’s zone rules for withdrawal liability calculations. In particular, the update directs actuaries to disregard “critical zone” benefit reductions and lump-sum restrictions when determining unfunded vested benefits under Employee Retirement Income Security Act (ERISA) Section 4201, and to disregard surcharges when determining the allocation fraction under ERISA Section 4211. Markakis also examined the PBGC’s simplified method for performing certain related calculations and demonstrated how that adjustment would work with an illustrative example.

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Co-presenting with Markakis was Jim McKeogh, president of The McKeogh Co. in West Conshohocken, Pa.

Disclosure Rules

In Session 705, Lars Golumbic, who is a principal with Groom Law Group in Washington and focuses on litigation matters related to ERISA, joined me to address the disclosure rules under Section 101(k) (see the Spring 2010 *EAR* for more on the Department of Labor regulation issued on Feb. 26, 2010). Following a review of the basic rules, session attendees talked about some of the terms laid out in ERISA Section 101(k), including what a “regular actuarial report” means. Some participants said they believe that a report that is issued one time (and very likely will never be issued again) is not regular. The

calculations and consulting that many multiemployer actuaries perform in the period leading up to zone-status certification is an example of a one-time report. Golumbic and I pointed out that—much like other topics for multiemployer actuaries at the meeting—areas of ERISA Section 101(k) are not as clear as some would like. We also reminded attendees that ASOP No. 41 states that the concept of an actuarial report includes oral communication. This led to further discussion about the information that a plan sponsor would have to supply to a requesting participant if the report in question was provided only orally.

FASB Disclosure Requirements

Joyce Mader, a partner at O’Donoghue & O’Donoghue in Washington, and Cindy

Fraterrigo, a director at PricewaterhouseCoopers LLP in Chicago, presented some background in Session 805 on the rules that the Financial Accounting Standards Board (FASB) proposed on Sept. 1, 2010, regarding disclosures for employers that participate in multiemployer plans (see the Fall 2010 *EAR* for more on FASB’s proposed rules).

The FASB put the implementation date on hold last November while it addressed the more than 300 opinion letters it received. While, as of late March, no specific adjustments to the initial rules had been made, the FASB was doing some field-testing.

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was known as of the date of the election and that the information was included in the language of the election.

Question 35 discussed a parable of two actuaries, a wise actuary who issues a “range certification” and a foolish actuary who issues a “specific AFTAP (adjusted funding target attainment percentage).” The answer shows that in certain circumstances, a specific AFTAP could create a deemed waiver of the prefunding/carryover balance while a range certification would not. Perhaps a tongue-in-cheek paraphrase of the advice offered in this instance is: “Be as vague as possible—while still being specific.”

Finally, Question 19 further ensnares actuaries in the issue of whether benefits are paid (or accrued) during certain periods. All four questions are worth studying for the insight they offer into the evolving nature of AFTAPs, employer elections, and benefit entitlement.

There were two big surprises for me in the 2011 Gray Book. The answer to Question 32 specifically states that when a retiring participant elects a retroactive starting date, the back payments constitute a lump sum potentially restricted by Section 436. I was shocked by this. What is worse, the simple existence of such a provision in the plan document could trigger a deemed reduction in prefunding/carryover balances—even if no one ac-

tually takes advantage of it. This answer is worth reading, as it hints that thoughtful plan design would restrict the use of such retroactive starting dates to situations in which the back payment is \$5,000 or less. It doesn’t answer the logical next question: whether adopting such an amendment would violate Section 411(d)(6) because it reduces an accrued benefit. (For the record, my guess is that it wouldn’t.)

The other big surprise for me came in the definition of “normal retirement age,” which was discussed in Question 38. I thought I knew the answer: Age 65 and the fifth anniversary of participation. Not hard to figure out.

Only, it turns out, it is.

“Participation commences on the first day of the first plan year in which the participant commenced participation.” Leaving aside the mellifluous quality of that sentence, it leads to a startling result—in Part (c), the participant commences participation in the plan even before he or she is hired!

There is much more to ponder in this rather frightening Gray Book.

JAMES KENNEY, a pension consultant in Berkeley, Calif., is a contributing editor of the EAR.