



AMERICAN ACADEMY *of* ACTUARIES

March 12, 2003

Mr. Steven Kandarian
Executive Director
Pension Benefit Guaranty Corporation
1200 K Street, NW
Washington, DC 20005-4026

Re: The Multiemployer Pension Plan Amendments Act of 1980 (MPPAA)

Dear Mr. Kandarian:

The American Academy of Actuaries’¹ Pension Practice Council created a task force to identify, analyze, and when appropriate, bring issues that are unique to multiemployer defined benefit pension plans to the attention of the legislative and regulating bodies with jurisdiction over these plans.

Members of the task force appreciate the opportunity to provide comments on two issues that have been identified with respect to the calculation of withdrawal liability under Title IV of the Employee Retirement Income Security Act (ERISA). Both have come about largely because of the behavior of the financial markets since MPPAA was enacted.

“Fresh Start”

The first issue has to do with the calculation of withdrawal liability using the so-called presumptive method (ERISA Section 4211(b)). Under this method, there are up to 20 “pools” of withdrawal liability as the initial Unfunded Vested Benefit liability (UVB) and successive changes in UVB are amortized over 20 years. Actually, there could be an additional 20 pools to maintain amounts of withdrawal liability that have been deemed uncollectible. For many plans, these pools may never have been calculated, because many plans have been fully funded for many years or because the plan had never experienced withdrawal liability (the case for many construction industry plans). Now, because the drop in asset levels has created UVBs for the first time in many years, withdrawal liability needs to be calculated.

We request that the PBGC specifically authorize (but not require) a “fresh start” in calculating withdrawal liability where a plan’s UVB was zero in the prior year in the aggregate. In effect, all prior pools would

¹ The American Academy of Actuaries is the public policy organization for actuaries of all specialties within the United States. In addition to setting qualification standards and standards of actuarial practice, a major purpose of the Academy is to act as the public information organization for the profession. The Academy is nonpartisan and assists the public policy process through the presentation of clear actuarial analysis. The Academy regularly prepares testimony for Congress, provides information to federal and state elected officials, regulators and congressional staff, comments on proposed federal and state regulations and legislation, and works closely with state officials on issues related to insurance. The Academy also develops and upholds actuarial standards of conduct, qualifications and practice, and the Code of Professional Conduct for all actuaries practicing in the United States.

be deemed to be zero. We believe that this approach is reasonable in these circumstances, will greatly simplify the calculation, and will avoid the unnecessary expense of recreating history (particularly difficult when plans have been merged or when plans have changed actuaries over the years).

Deemed Contribution

The second issue has arisen in recent years and would have been difficult to foresee when MPPAA was enacted. Some multiemployer plans have experienced contribution “holidays” where the union and the employers have negotiated a temporary cessation in contributions to these plans sometimes lasting several years. These “holidays” have been prompted sometimes by the prospect of an employer not being able to receive a tax deduction for contributions to plans that had become fully funded or because there was a more urgent need for the contributions to be made to a sister health and welfare fund. For whatever reason, the fact remains that, for some plans, employer contributions have been temporarily eliminated or substantially reduced.

Under all of the methods for calculating withdrawal liability except the direct attribution method (ERISA Section 4211(c)(4)), a plan’s UVB is allocated based on the relative size of employers’ contributions to the plan. This allocation is distorted at best and, at worst, impossible to calculate (imagine the “rolling five” method after a five-year contribution holiday).

We request that the PBGC consider specifically authorizing plans to use “deemed contributions” in the calculation of withdrawal liability whereby an employer’s contributions for a given plan year will be deemed to be what they would have been absent the holiday or temporary reduction in contributions.

We thank you for your consideration of these requests and would like to meet with you to discuss these ideas further. Please contact Heather Jerbi, the American Academy of Actuaries’ pension policy analyst, at 202-223-8196 if you have any questions or would like more information.

Respectfully,

James J. McKeogh, FSA, MAAA
Chair, Multiemployer Task Force
American Academy of Actuaries

Members of the American Academy of Actuaries’ Multiemployer Task Force include:

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