Workshop 20: DB Plan Disclosures
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Agenda
- Distributions - Relative Values
- Missed Contributions
- Summary Annual Report/Annual Funding Notice (Single ER Plans)
- Suspension of Benefits
- Section 204(h) Notice
- ERISA 101(j)
Distributions – Relative Values

• Benefits must normally be paid in the form of a QJSA.
  • Unless a plan fully subsidizes the cost of the survivor benefit and does not allow the participant to waive this form of benefit, notices regarding the QJSA are required.
  • With spousal consent, a participant can waive the QJSA form of benefit payment and elect an alternative form of payment.
  • Notice must be provided within 180 days of annuity starting date.
  • Election is not valid, however, unless the participant receives a general description of the material features, and a general explanation of the relative values of the optional forms of benefit available under the plan.

Distributions – Relative Value Disclosure

Relative Value Disclosure – (Concerns the regulations addressed)

• Insufficient information provided to make an informed decision without professional advise.
• Value of Subsidized Benefits (subsidized annuity distributions and unsubsidized lump sum payments).
• Clarified rules regarding the disclosure of the financial effect of benefit payments.

Distributions – Requirements of QJSA description

• Description of the optional form of benefit.
• Eligibility conditions for the optional form of benefit (minimum age or service requirement for a subsidized benefit).
• The financial effect of electing the optional form of benefit.
• Relative value of the optional form of the benefit compared to the value of the QJSA.
• Description of any other material features of the optional form of benefit.
Relative Values – Requirement for Numerical Comparison

- Meaningful comparison of the economic values of the benefits
- Participant must be able to make the determination without having to do calculations using interest or mortality assumptions
  - Percentage or Factor Comparison using present value
  - Annuity Comparison
  - Present Value Comparison
  (Payable at the same time and under the same conditions)

Relative Values – Marital Status

Can you use uniform examples for married and unmarried participants?
- Yes, if the benefit options are the same for both
- Example
  QJS for unmarried participants is SLA, married participants JS 50%
  If unmarried participant can elect a JS 50% (with a nonspouse beneficiary) and married participants can elect a SLA, can choose to compare Relative Values to either SLA or JS 50%

Relative Values – Actuarial Assumptions

- If an optional form is subject to section 417(e)(3) and 1.417(e)-1(d)
  - Applicable interest rate and the applicable mortality table
  - Or, at the option of the plan, another reasonable interest rate and reasonable mortality table used under the plan.
- All other optional forms of benefits must be compared using a single set of interest rates that are reasonable.
  - Applicable interest rate and applicable mortality table are considered reasonable (but not required)
Relative Values – Actuarial Assumptions (Discussion)

- Small traditional defined benefit plan with no subsidized benefits
- Actuarial Equivalence – 5% pre and post retirement interest, no pre-retirement mortality, post-retirement mortality 2018 Applicable Mortality Table
- Currently, lump sum values using 417(e) applicable interest and mortality is greater than the lump sum using plan rates

Relative Values – Actuarial Assumptions (POLL)

- LS on Plan Rates: $100,000
- LS using 417(e) rates $120,000
- How do you disclose Relative Value of the Lump Sum?
  A. > 100%
  B. 100%
Relative Values – Disclosures Regarding Assumptions

• Explain the concept of relative value
  • Intention – comparison of value of distributions paid in different forms
  • Explain how the comparison is made
  • State the conversion uses interest and life expectancy assumptions
  • Include a general statement – based on average life expectancies, ultimate value will depend on actual longevity
  • Disclose actuarial assumptions

Relative Values- Estimates

• Use data as of an earlier date than the annuity starting date
  • Reasonable assumption for the Spouse’s age
  • Statement the participant has a right to request a more precise calculation
  • More precise calculation materially changes the relative value of an optional form, must disclose the revised relative values

Relative Values – Simplified Presentations - Grouping

• Group certain optional forms if they have approximately the same value
  • Cannot vary by more than 5%, by using the Percentage Comparison using present value (range 95% - 105% of the QISA)
  • For Disclosure purposes, allowed to state one form numerically and disclose the other optional forms as approximately the same value
  • If a lump sum is included in the group, the lump sum option must be used for comparison purposes
Relative Values – Simplified Presentations - Grouping

Plan offers subsidized ERB at age 55 with 15 YOS. QJSA is the actuarial equivalent of ERB. Subsidy applies only to benefits paid as an annuity.
Plan provides for a lump sum benefit, which does not reflect the subsidy. If not eligible for ERB, no subsidized benefits, they are all actuarially equivalent to each other.

Relative Values – Simplified Presentations - Grouping

Eligible for nonsubsidized benefits - Group all of the benefits together.
Relative values of the lump sum would need to be compared to the QJSA.
Group eligible for ER subsidized benefits, relative value of lump sum would need to be compared to the QJSA (reflecting the subsidy).
Relative values of the subsidized annuities would need to be compared to the QJSA if they are not considered to have the same value.

Relative Values – Simplified Presentations - Grouping

DB Plan, normal form is a single life annuity at NRA. All optional forms are AE of the vested accrued benefit. Options include, various annuities, installments, lump sum. There are no subsidies.

Need to only compare the relative value of the lump sum to the QJSA.
Relative Values – Simplified Presentations - Ranges

• Substantially similar optional forms of benefits
  • Identical except for particular feature or features
  • Feature needs to vary linearly
• Range must be representative
  • Examples at the extremes, sufficient examples (at least one) to illustrate the pattern of variation between the extremes

Separate presentations permitted for elections that apply to parts of a benefit.

Plan provides for a Joint 50% Survivor, Joint and 100% Survivor, and any whole percentage between 50% and 100%.

If all such optional forms are considered to disclosed as approximately equal in value, could satisfy the financial effect and relative value by disclosing information on the Joint and 50% Survivor, Joint and 75% Survivor and Joint and 100% Survivor.

Must include the right to request additional information.
Relative Values – Use of Charts

• Show a series of examples for hypothetical participants
• Reflect a representative range of ages
• Show the financial effect of electing the optional form of benefit
• Comparison of relative values at those representative ages.
• Include disclosures regarding the concept of relative value and the actuarial assumptions
• Must include a general statement describing the effect of significant variations
• Actual Benefit must be disclosed (either at NRA or an immediate benefit)
• Reasonable estimates can be used

Relative Values – Discussion

• Discussion - Practical uses of the simplified methods described in the regulations.
  • In the small plan market would it be advantageous to use any of the simplified methods?

Missed Contributions

• What type of participant disclosure is required for missed quarterly or minimum funding?
Missed Contributions – ERISA 101(d)

Notice of Failure to Meet Minimum Funding Standards

In general, if an employer maintaining a plan other than a multiemployer plan fails to make a required installment or other payment required to meet the minimum funding standard under section 1082 of this title to a plan before the 60th day following the due date for such installment or other payment, the employer shall notify each participant and beneficiary (including an alternate payee as defined in section 1056(d)(3)(K) of this title) of such plan of such failure. Such notice shall be made at such time and in such manner as the Secretary may prescribe.

Secretary has not prescribed any guidance

Timing for EOY valuations regarding missed quarterlies, it is difficult to comply

Is it sufficient to add something to your Summary Annual Report or Annual Funding Notice?

Missed Contributions - POLL

Do you provide notices to Participants if quarterly contributions are missed?

A. Yes

B. No
Annual Notices

- Summary Annual Report – due 2 months after Form 5500 deadline, including extensions.
- Annual Funding Notice (PBGC covered plan)
  - If over 100 participants, due 120 days after plan year end.
  - 100 or less participants, due no later than the filing of Form 5500, including extensions.

Annual Notices – Summary Annual Report

- Basic Plan Information
- Basic Financial Statement
- Statement regarding Minimum Funding, whether met or not. If not, disclose the unpaid minimum.
- Rights to request additional information
Annual Notices – Annual Funding Notice

• 3 Year History of Funding Attainment Percentage, including how the percentage is calculated (use same assumptions for the valuation)
• Explanation of “credit balances” if applicable
• At-risk liabilities, if applicable
• Year-end assets and liabilities
  • Description of actuarial value of assets if different than market value
  • Liabilities using interest rates for the last month of the plan year

Annual Notices – Annual Funding Notice

• Funding and Investment Policy
• Asset Allocation
• Disclose new events having a material effect on plan liabilities or assets
• Right to request copy of annual report
• Summary of rules regarding termination including PBGC guarantees
• Contact information

Annual Notices – Annual Funding Notice

Exceptions to Filing

• Non-successor plan in a merger or consolidation of two plans is not required to furnish a funding notice for its final year
• Terminated Plans
Annual Notices – Annual Funding Notice
Terminated Plans

• Exempt from providing a funding notice for a plan year if,
  • the due date for the funding notice is on or after the date the plan administrator files a standard termination notice (PBGC Form 500),
  • the proposed termination date is on or before the due date of the funding notice
  • final distribution of assets in satisfaction of all benefit liabilities occurs

Annual Notices – Annual Funding Notice
Terminated Plans (example)

• March 1, 2019 – Notice of Intent to Terminate is filed (Large plan)
• Proposed Date of Plan Termination April 30, 2019
• April 15, 2019, PBGC Form 500, is filed with the PBGC.
• Under the exception, the funding notice for the 2017 plan year (due April 30, 2018) is the final funding notice of the Plan, since both the proposed termination date and the PBGC filing occur on or before the April 30, 2019 due date of the 2018 funding notice.

Suspension of Benefits Notice

• If a retiree in pay status becomes reemployed, a plan can provide for suspension of the employer-derived portion of benefit payments while the former retiree is employed.
• Benefits can be permanently withheld during periods of employment, without actuarial adjustment when benefit payments later begin, if the individual meets minimum service levels.
  • 40 hours per month
  • If plan does not count hours, 8 workdays or shifts per month
Suspension of Benefits Notice

- State retirement benefits are being suspended and identify the plan provisions that authorize the suspension of benefits
- If the plan provides for an offset of future benefits for benefits that are erroneously paid during periods of service, the suspension of benefits notice must explain how the offset will work
- Required to be given within first month of service of reemployment
- Failure to give notice requires an actuarial increase of benefits

ERISA Section 204(h) Notice

- Notice is required if a plan amendment has a
  - significant reduction in the rate of future benefit accruals, or
  - eliminates or significantly reduces an early retirement benefit or retirement-type subsidy
- Written in a manner calculated to be understood by the average plan participant
- Must provide sufficient information to allow applicable individuals to understand the effect of the plan amendment.

ERISA Section 204(h) Notice

- Must be provided at least 45 days (15 days for a small plan, less than 100 participants) before the effective date of any amendment.
- Generally, the notice cannot be distributed until after the adoption of the amendment but can be distributed before adoption as long as there is no material modification of the amendment before it is adopted.
ERISA Section 101(j) Notice - Benefit Restrictions

- AFTAP
  - Adjusted Funding Target Attainment Percentage

Plan assets = Credit Balances + Annuity Purchases
Funding Target + Annuity Purchases

- Annuity Purchases equals the aggregate amount of purchases of annuities for NHCEs in the last 2 years

ERISA Section 101(j) Notice - Benefit Restrictions

- If Plan’s AFTAP is below a specified %, limitations arise on
  - Benefit increases – 80%
  - Accelerated benefit forms – 80%, 60%
  - Benefit accruals -60%
  - Unpredictable Contingent Event Benefits
  - UCEBs…shutdown benefits – 60%

- If plan sponsor in bankruptcy - 100% applies for accelerated benefit forms
- Plan becomes subject to restrictions under IRC 436, notice to participants is required

ERISA Section 101(j) Notice - Example

Calendar Year Plan, 2019 AFTAP of 87% is certified on October 31, 2019.
- As of October 1st – plan is deemed to be <60%
- Notice to Participants must be given by October 31st
- As of January 1, 2020, restrictions are removed, AFTAP is 87% (notice may be required to affected parties, restrictions are lifted)
- As of April 1, 2020 the 2020 AFTAP has not been certified.
  - Presumed AFTAP is 77%, so benefit restrictions apply as of April 1, 2020 and notice must be provided by April 30, 2020.
Coordination of ERISA 101(j) Notice and 204(h) Notice

- If benefit accruals are frozen due to Section 436, and plan is subsequently amended to permanently cease benefit accruals, a Section 204(h) notice is required.
- What if the plan is written so that benefit accruals remain frozen, even if the restrictions are lifted?