



SOCIETY OF ACTUARIES

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**Session 26 PD, Late-Breaking Developments for  
Pension Plans**

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## **Session 26: Late-Breaking Developments for Pension Plans**

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2009 SOA Annual Meeting

### **Topics for Discussion**

- Final §430/436 regulations
- Forthcoming IRS guidance
- Funding relief legislation
- Other issues

## Final §430/436 Regulations

- Final regulations were released by the IRS on October 7, 2009
- Published in the Federal Register on October 15, 2009
- Effective for plan years beginning on or after January 1, 2010
- Cover measurement of assets and liabilities, funding balances, and funding-based benefit limitations

## Final §430/436 Regulations

- Regulations do not cover issues such as calculation of MRC or quarterly contribution requirements
  - Will be the subject of forthcoming regulations
- Similar to proposed regulations in many areas, but some surprises
  - And still some ambiguity!

## Final §430 Regulations

- Key changes from proposed regulations:
  - Interest rate and asset method elections
  - Funding balance elections
  - Allocation of benefits that are not a function of accrued benefit or service
  - Reflection of §436 benefit limitations
  - Reflection of mid-year plan amendments
  - Rules for at-risk plans
  - Reflection of UCE benefits

## Interest Rate Elections

- Final regulations provide automatic approval for changes in interest rate method for:
  - First plan year beginning in 2009
  - First plan year beginning in 2010
- Good news for plan sponsors!
  - Can optimize 2009 valuation results without being locked into 2009 interest rate method for 2010+

## Interest Rate Elections

- Final regulations also provide automatic approval for certain interest rate elections in future years
- E.g., can elect segment interest rates for 2010 and make a one-time election to switch to full yield curve in a later year
  - Ability to switch in a future year may be helpful for plan sponsors who are moving toward an LDI strategy, but not there yet

## Asset Method Elections

- Final regulations provide automatic approval for changes in asset method for:
  - First plan year beginning in 2009
  - First plan year beginning in 2010
- Regulations also clarify treatment of spinoffs and asset/liability transfers in calculating value of plan assets
  - Treat as plan distribution or contribution

## Funding Balance Elections

- Plan sponsors can now add to the PB when the PV of cash contributions exceeds the MRC **after** application of funding balances
  - Under proposed regulations, used MRC **before** application of funding balances
- Additional amounts can now be added to the PB, but those amounts must be adjusted for actual asset returns

## Funding Balance Elections

- Deadline for adding to PB or applying funding balances to MRC is now last day for making cash contributions, rather than Form 5500 due date
- Regulations also clarify that elections to apply funding balances to quarterlies must be made prior to quarterly due date
  - Need to apply specific dollar amount
  - No “standing elections” allowed yet

## Funding Balance Elections

- Final regulations include “chronology rules” for determining amount of funding balances available to cover MRC as of a given date
- Elections must generally be applied in chronological order
  - But waivers of funding balances for a year are always effective before elections to apply to the MRC for that year

## Allocation of Benefits

- For benefits not a function of accrued benefit or service, allocate over service to event that causes benefit to be payable
  - Proposed regulations allocated over service to eligibility
- Example: Flat \$10,000 death benefit with eligibility at five years of service
  - Prorate PVB for future death benefits over service to date of death, rather than fully attributing benefit at five years of service

## Allocation of Benefits

- For projected disability benefits, need to compare projected benefit to benefit based on current accrued benefit
- Portion of projected benefit that is based on current accrued benefit must be fully reflected in funding target
- Excess must be allocated over service to date of disability
- Approval to change method in 2009

## Reflection of §436 Limitations

- Funding target and target normal cost must reflect the following limitations:
  - Limitations on UCE benefits occurring before valuation date
  - Limitations on plan amendments adopted prior to valuation date and effective in current plan year
  - Limitation on accelerated benefits for annuity starting dates prior to valuation date

## Reflection of §436 Limitations

- Cannot reflect any limitations expected to occur **after** valuation date
  - Even limitation on benefit accruals effective in current year
- Must include missed benefit accruals in funding target if all of following are true:
  - Plan automatically restores missed accruals
  - Period of missed accruals  $\leq$  12 months
  - AFTAP  $\geq$  60% including missed accruals

## Mid-Year Plan Amendments

- Amendments that are adopted after the valuation date must be reflected if they:
  - Are effective during the plan year;
  - Increase benefits; and
  - Would not be permitted to take effect under §436 if any increase in target normal cost were included in funding target and any other current year amendments and UCE benefits were reflected

## Mid-Year Plan Amendments

- New rule closes the “loophole” for mid-year, future service-only amendments
  - Under proposed regulations, such amendments could take effect automatically under §436 and did not need to be reflected in MRC
  - Amendments can still take effect automatically, but now may need to be funded via target normal cost

## Rules for At-Risk Plans

- Final regulations clarify certain rules for at-risk plans
- All participants are subject to special at-risk assumptions, including TVs
  - Retirement assumptions
  - Election of most valuable form of benefit
- Earliest commencement age cannot precede date at which participant is fully vested

## UCE Benefits

- Final regulations clarify that, for plans with UCE benefits, must reflect probability for payment of UCE benefits
  - I.e., must predict the unpredictable!
- If probability is de minimis, can assume to be zero
- Will likely require consultation with plan sponsor to determine likelihood of plant shutdown, etc.

## Final §436 Regulations

- Insert Tonya's slides here

## Forthcoming IRS Guidance

- IRS guidance is anticipated on a number of other issues in the coming months:
  - Final regulations on hybrid plans, with separate proposed regulations on market rate of return rules
  - Guidance on PPA §1107 amendment rules
    - What §411(d)(6) relief will be available?
  - Final regulations on determining MRC and quarterlies under PPA

## Forthcoming IRS Guidance (cont'd)

- IRS guidance is anticipated on a number of other issues in the coming months:
  - Proposed regulations on WRERA funding issues (e.g., asset smoothing and plan-related expenses)
  - Proposed regulations on mergers and spinoffs
  - Guidance on §414(x) plans

## Funding Relief Legislation

- On June 24, 2009, the House Education and Labor Committee approved the 401(k) Fair Disclosure and Pension Security Act (H.R. 2989)
- Includes certain DB funding provisions:
  - Extended amortization period for funding shortfalls arising during 2008 and 2009
  - Clarification of “plan-related expenses”
  - Change to PBGC §4010 reporting threshold

## Funding Relief Legislation

- In August 2009, Rep. Earl Pomeroy also introduced draft funding relief legislation
  - Similar to H.R. 2989 in some ways, with some additional provisions (e.g., temporary expansion of asset corridor)
- Next step is likely a markup of H.R. 2989 by House Ways and Means Committee
- But outlook for funding relief is uncertain
  - Congress is focused on health care reform

## Other Issues

- IRS guidance on 2010 retirement plan limits—no reduction from 2009!
- Academy practice notes on AFTAP certifications and mortality assumptions
- Joint Board proposed CE regulations
- SEC decisions on IFRS convergence
- IASB Exposure Draft on potential changes to IAS 19

## Questions?