RECORD, Volume 23, No. 1*

Palm Desert Spring Meeting
May 21–23, 1997

Session 69PD
Completing the 1996 Schedule B

Track: Pension
Key words: Funding of Pension Plans

Moderator: NEIL A. PARMENTER
Panelist: MICHAEL L. PISULA
Recorder: NEIL A. PARMENTER

Summary: Although the 1996 Schedule B resembles the 1995 version, the evolution of the form continues. This session helps you prepare for the 1996 filing seasons and anticipate any additional information needs by reviewing the 1996 Schedule B. Speakers highlight changes from the previous year.

Mr. Neil A. Parmenter: I am with The Principal Financial Group® and I work with their consulting actuarial division. Michael Pisula is with DPB&Z in Pittsburgh, Pennsylvania. We're both enrolled actuaries (EAs) and act as consultants to private pension plans.

Like most, if not all, firms and EAs, we both have scrutinized the 1996 Schedule B and related instructions and compared it to the 1995 Schedule B and instructions. We've tried to identify rewording and other changes. Michael did a yeoman's effort in preparing the handout. A comparison of his work on the handout with what we did internally at The Principal among our roughly ten EAs, showed virtually a 100% correlation to what we identified to what we had changed. There certainly was some comfort in that fact. You have probably made the same analysis.

We're going to begin this session by briefly reviewing some of the 1996 changes relative to the 1995 form.

Editors' Note: The handouts referred to are not available online. Please call Linda Blatchford @ (847)706-3564 or e-mail your request to lblatchford@soa.org to obtain a copy.

Mr. Michael L. Pisula: In the handout material there's a sample Schedule B and a copy of the instructions. The actual Schedule B itself has not had all that many changes to it. There's a couple new lines on page one: line d(2)(d) and line d(3)(c). I'm going to go through the instructions.

In the general instructions they've added a sentence in the first paragraph indicating that the Schedule B does have to filed if Form 5500-EZ is not filed. But they indicated that the funding standard account must be maintained. Form 5500-EZ is for very small pension plans,[1] and it's not always filed. The IRS cleaned up some of the instructions. It made the instructions more user friendly and added more detail as it issued regulations and guidance on various items in the form. For example, in the 1996 instructions, the IRS consolidated the number of instances in which they defined "plans having 100 or fewer participants." They moved that to appear before the general instructions.

On specific instructions for Part 1, on line 1b(1) which shows the current value of assets, they added a paragraph indicating that rollover amounts or other assets held in individual accounts that are not available to provide defined benefits under the plan should not be included in line 1b(1) regardless of whether or not they are reported on the Form 5500 or in the Form 5500(C/R). They also note that the assets/liabilities need to be determined in a consistent manner; an example would be with the value of any insurance contracts have been excluded from the amount of assets on line 1b(1). The liability satisfied by such contracts should also be excluded from the liabilities in line one.

I don't know how many of you attended the EA Meeting held in March 1997, but there were two sessions held in which Marty Pippins and Paulette Tino, from the IRS, were the speakers. If you want to get additional information on how to fill out

[1] Editor's note: The instructions to the 1996 Form 5500-EZ indicate that the you may file form 5500-EZ instead of Form 5500(C/R) if you meet ALL of the following conditions: (1) The plan is a one-participant plan. This means that as of the first day of the plan year for which this form is filed, either: (a) the plan only covers you (or you and your spouse) and you (or you and your spouse) own the entire business (the business may be incorporated or unincorporated) OR (b) the plan only covers one or more partners (or partner(s) and spouse(s)) in a business partnership;

[2] The plan meets the minimum coverage requirements of Section 410(b) without being combined with any other plan you may have that covers other employees of your business; (3) The plan does not provide benefits for anyone except you, or you and your spouse, or one or more partners and their spouses; (4) The plan does not cover a business that is a member of: (a) an affiliated service group, (b) a controlled group of corporations, or (c) a group of businesses under common control; (5) The plan does not cover a business that leases employees; (6) Assets have never exceeded $100,000 or less at the end of every plan year beginning on or after January 1, 1994. OR you have two or more one-participant plans that together have total plan assets of $100,000 or less at the end of every plan year beginning on or after January 1, 1994.

the 1996 Schedule B, you may want to look at those sessions. But this is actually the third time that the 1996 Schedule B will be reviewed. It was reviewed in October, 1996 at the American Society of Pension Actuaries (ASPA) and in March 1997 at the Enrolled Actuaries meeting. This will be the third and final time it will be reviewed. One of the things that Marty Pippin commented on his session at the EA Meeting was that the asset amount shown on line 1(b)(1) is used by the IRS, while the asset amount reported on line 2a is used by the Pension Benefit Guarantee Corporation (PBGC) and the Department of Labor (DOL).

Moving down to lines 1d(2)(a) and 1d(3)(a) we have the Retirement Protection Act of 1994 (RPA 94) current liability and the Omnibus Budget Reconciliation Act of 1987 (OBRA 87) current liability. In the instructions there is a typographical error that the IRS promises to fix. The instructions note that the RPA 94 current liability *must* be computed using the mortality table for disabled lives published in Revenue Ruling 96–7. However, the revenue ruling says that the rates “may” be used to compute current liability. Once again, the IRS has acknowledged the error and states that it will be corrected when they issue the instructions for the 1997 Schedule B early in 1998.

When the 1995 Schedule B instructions were put together, the IRS had not issued Revenue Rulings 96–20 and 96–21. In the 1996 Schedule B instructions the IRS has added references to those two revenue rulings and various questions and answers within the rulings that you will be able to use to help you fill out the 1996 Schedule B. For example, on line 1d(2)(a) they've added a reference to the Revenue Ruling 96–21 for the specific circumstances under which the OBRA 87 rate may be different from the RPA 94 interest rate. If your RPA 94 current liability interest rate is at the high end of the range, you may use an OBRA 87 rate that is equal to or greater than that rate. However, if your RPA 94 rate is below the highest rate, then your OBRA 87 rate must equal the RPA 94 rate.

The IRS deleted from this section of the instructions the line that “each actuarial assumption should reflect the best estimate of the plan's future experience solely with respect to that assumption applicable to the plan on an ongoing basis.” At the March 1997 EA Meeting, Mr. Pippins said the statement conflicts with the statement of the enrolled actuary on page 1 of Schedule B. Instead, they added a reference to Notice 90–11. Speaking of assumptions, you might want to start looking at *Actuarial Standard of Practice (ASOP) Number 27* issued by the Actuarial Standards Board in December 1996. *ASOP Number 27* is the guidance you will need to reference when selecting the economic assumptions for pension plans. Although *ASOP Number 27* should have been mailed to all members of the American Academy of Actuaries, some of you may not have received your copy due to problems in the mailing process. If you did not receive a copy, please contact the

Academy and they will mail you one. You will need to review *ASOP Number 27* because it takes effect for valuations beginning after July 1, 1997. Thus it will affect your 1998 valuation work. That's all the information I've put together regarding page one.

Mr. William B. Zachry, III: If you have a expense load in your current liability accrual for the year, do you include that in these numbers, and then do you include the expected expense payments in the expected release lines?

Mr. Pisula: Yes, if you've listened to some of the prior EA Meetings, I believe that was the advice they had given out at some of the sessions on the gray book.

For line 2 they added a new paragraph that attempts to describe the differences between line 2a and 1b. Basically, the information that was shown on line 1 was as of the valuation date. Line 2 items must be as of the beginning of the 1996 playing year, regardless of the valuation date. As I said earlier, the DOL will be using the information on line 2; the IRS will be using some of the information on line 1.

I'm going to step back to page one. One of the lines that is on page one is the current liability computed at the highest allowable interest rate. As a result of conversations with actuaries from the private sector, the IRS has added a note to this year’s instructions indicating that you do not have to complete line 1d(2)(c) if the funded current liability percentage is 90% or more based on the RPA 94 rate. Apparently some of you working with plan valuations felt it was wasted effort to recompute the highest rate if you already were over 90% based on your current liability rate. They did, however, note that if that line is not completed you have to maintain sufficient records should that information be required at some later date. They also added some instructions clarifying that lines 1d, 2d, and 1d(3)(c) are not completed if the plan is not subject to the additional funding charges under 412(l) for the 1996 playing year.

Mr. Parmenter: For what it's worth, our shop decided that if they're going to require the information someday, we might as well have the computer program produce the information now, even though we don't have to show it on the form.

Mr. Pisula: Let’s move down to line 3. In the instructions for the 1996 Schedule B, the IRS moved one of the examples on how your funding standard account credit or deficiency flows from one year to the next. They moved that over to line 9h. They also added some instructions on what to do with contributions that were made in the 1996 playing year for a prior year that weren't reported on a prior Schedule B. The instructions state that when this occurs, you will have to go back to that prior Schedule B and refile an amended return.

Line 4A deals with quarterly contributions and I don't know how many of you received this, but on May 8, 1997 the PBGC issued Technical Update 97–4, which deals with special filing relief for reported missed quarterly contributions for 1996. RPA 94 added the provision that if your plan had a funded current liability percentage of 100 or more, you should not have any interest on late quarterly contributions; however, you still have to make a quarterly contribution. You may not have to charge interest on them in the Schedule B.

After the March 1997 EA Meeting, the ASPA met with the PBGC and noted that many of their members perform actuarial valuations at the end of the year. Actuaries performing such valuations might be advising their clients not to make quarterly contributions just in case the plan was subject to the full funding limitations possibly causing them to be hit with the excise taxes for nondeductible contributions. The PBGC met with ASPA on May 6, 1997. Two days later, they issued this technical update on the requirement for filing the missed quarterly contributions. If you don't have a copy of the technical update, you can write to PBGC or visit their website (www.pbgc.gov). The technical update applies to plans that have a 100 or fewer participants or the other situation is if the employer had 500 or fewer participants in its defined-benefit plans that was not required to issue the participant notice under Section 4011 of Employee Retirement Income Security Act of 1974 (ERISA). That's the notice if you're paying the variable rate premium and subject to the additional funding charges. You can just file the forms noting that you missed the quarterlies when you do your final premium payment filing by September 15 for a calendar-year plan. Basically, if you look at ERISA Section 4043 you have to make the quarterly contributions on day 15 of each quarter. If you don't make them within 30 days, you have to file Form 10 with the PBGC.

Getting back to the Schedule B instructions, the IRS added language that clarified which plans are subject to the liquidity requirements. Basically, plans that are not subject to those are: multi-employer plans, plans that have a funded current liability percentages of 100% or more, and plans that have 100 or less participants on each day of the preceding plan year. In his session at the 1997 EA Meeting, Marty Pippin noted that you can apply for a waiver of any excise taxes for failure to meet the liquidity requirement.

The IRS also added a reference on line 5 to Revenue Procedure 95–51. It was missing on the 1995 Schedule B. Also added is a note that the plan sponsors agreement to a method change should be reported on the Form 5500. I prepared a sample certification by the EA for the change in funding method which is in the handouts. I also added to the bottom a separate section where the plan sponsor acknowledges the EA change in the funding methods. The reason our firm uses this separate certification is because we are not always sure that the plan sponsor is aware of the change in funding method. We may be filling out the form 5500 and checking the appropriate box, "yes," indicating there was a change, but the plan sponsor may not remember it. There may have been changes in the employment structure at the employer and we just want to make a physical acknowledgment of that change in the funding method. It's not something that I think you need to do to have him sign that extra certification.

In line 6 the IRS reshuffled the checklist of certain actuarial assumptions. In general, it's the same as what was shown on the prior year's Schedule B. One change for the 1996 Schedule B is that only one box is shown for the current liability interest rate. With the single box, the IRS makes it very clear that the same current liability rate applies to pre- and post-retirement.

In line 6b you are required to enter the weighted average retirement age. The instructions indicate that if the normal retirement age (NRA) differs for individual participants, you are to enter the age that is the weighted average normal retirement age. You are not supposed to enter "NRA." For example, if you're working on a steel-type plan, normal retirement may be after 30 years of service or at age 62 with 15 years of service. For such a plan you will have to look at your actuarial valuation output and see how the weighted average rates fall out for all participants in the valuation.

In the instructions on line 6d, where they have the mortality table described, the typographical error regarding the mortality table for disabled lives is repeated. Once again, the mortality table published in Revenue Ruling 96–7 does not have to be used for disabled lives in computing your current liability. The instructions now have a code for the Unisex Pension Table of 1994 (UPT 94) mortality table. The code for "other" was moved down to line 9. They added a note that code 9 should be used for valuations prepared using the unisex version of the 1983 group annuity mortality table that was published in Revenue Ruling 95–6. In our office, we normally refer to this table as the General Agreement on Tariffs and Trade (GATT) table."

In line 6g the IRS added code "C" where your withdrawal rates are based on a criterion other than service. I would like to note that in our office, the computer software we are using keeps flagging our entries in line 6g as errors. We are finding that in the 1995 Schedule B, where we didn't have to put an "S" or "U," the software is requiring us to go back in and physically enter "S" or "U" in that box on line 6g.

A subtle change in the instructions appears on line 6h. In the past you were requested to enter the annual level rate of salary increase from age 25 to age 65.

The instructions now request the level annual rate of increase from age 25 to the assumed retirement age. I assume that they mean the assumed retirement age that's on line 6b.

How many people haven't done a Schedule B yet for 1996? OK, they are some. We have an unofficial contest at our office to see who can get the first one out. I never win since I am not fond of being the first one in anything. I have one partner that just loves to go around saying he sent one out before the rest of us have even gotten around to reading the instructions.

Line 7 this is fairly the same as what appears in the 1995 Schedule B. On line 7, you are asked to show your new amortization bases. I would like to note that if you have a plan that has a zero unfunded liability, before and after an assumption change, no base is created. You will check that an assumption change was made; however, your Form 5500 software may generate an error message since it failed to find a base on line 7 for an assumption change. I assume the IRS computers are more sophisticated and they will pick up on the fact that there was no base required for these special situations.

In line 7 they added a note that if you combine bases, the amortization bases prior to the combining of those basis should be listed. They also added that if you're subject to the pre-OBRA 87 full-funding limitation, there's a credit on Line 9l(4) and the bases are fully amortized at the end of the 1996 playing year. But you're supposed to show the basis before the full-funding credit applies.

In line 8 they added some guidance on how to file the Schedule B when a funding waiver has been requested and approved after the final filing date. Basically, again, you're going to file it based on what you know as of the due date and once you get your approval you'll file an amended Schedule B.

Line 8c is new. This asks whether or not the plan is required to provide the participant census information. The IRS moved the information for the participant census data from the Form 5500 back to the Schedule B. I'm not sure if they found that many actuaries (including me) were filing the census data with the Schedule B rather than the Form 5500. The instructions now include a very important note stating that the schedule of compensation information is not required for plans with less than 1,000 participants. The instructions also indicate that the compensation data are limited to the amount defined in Internal Revenue (IRC) Section 401(a)17. As the instructions have noted in prior years, you do not have to report the average compensation for any data cell that has fewer than 20 participants.

At the very bottom of page 3 of Schedule B is line 11 which asks if a change has been made in the actuarial assumptions for the current plan year. Comments were made at the EA Meeting that if your only change between 1995 and 1996 was a change in the current liability rate, you are supposed to check the box on line 11 and attach a statement regarding the change was made. In the packet of handouts there is a sample certification for the change in assumptions. I have not been faithful with my 1996 Schedule B filings by always having attachment if I'm just making a change in current liability. What I have been doing is checking the box in line 11 "no" and adding a footnote on the bottom of page 3 indicating that the current liability was changed as required under IRC Section 412. The items in line 9 are the same as those that appeared in the 1995 Schedule B.

Let's move on to Part II. This is the information that's required for the additional funding charge under IRC Section 412(l). For plans that are substantially underfunded. How many of you will be filling out Part II for your plans? I don't personally have a lot of plan sponsors that have to fill out this part of the form.

In line 12 the IRS added a note that if line 1d(2)(c) is not computed using the highest allowable rate, you must compute the gateway percentage using the RPA 94 current liability. The 1996 Schedule B instructions provide you with the four condition codes that cause a plan to avoid the additional funding charge. In the 1996 Schedule B instructions the IRS added a fifth condition code which is described right below the four condition codes from the prior years. The fifth condition code, under which no additional funding charges are required by the IRC Section 412(l), develops when: the gateway percentage for 1996 is at least 80%, but less than 90%, the gateway percentage for 1995 was at least 90%, and at least one of the 4 conditions described on line 12, (page five of the instructions) is met for the plan year beginning in 1994. If the fifth condition code applies in 1996, the instructions indicate that two condition codes must be entered on line 12; one for the code applicable for the 1994 plan year and code five for the 1996 plan year.

Mr. Parmenter: Michael, do we assume that some of these conditions arise because of specific situations where a employer has made an argument that it's unfair for them to have additional funding and so they figure out some complex escape mechanism, or did somebody just dream up these rules?

Mr. Pisula: My personal feeling is that someone at the IRS or Treasury had trouble falling asleep one evening and came up with this scheme for underfunded plans. It just seems like it takes a lot of extra effort to try to get a plan funded on an ongoing or plan termination bases. They should have come up with something that was a little more straightforward.

Mr. Parmenter: Do any of you with experience on Part II of the form have any idea from whence these condition codes arise? Is there any logic or justifiable basis for them? Or were they just pulled out of the air?

Mr. William A. Branch: I believe the reason they did that was it was possible you could be over 90% funded for current liability, but they could take the view that the only reason you're above that is because your choice of mortality table was not GAM 83 and this was for 1994 and before. So that's why they say the actual funded current liability percentage is irrelevant. What is relevant is how big your additional funding charge was.

Mr. Parmenter: So there's a method to the madness?

Mr. Branch: Somewhat.

Mr. Pisula: I have one plan that is about 70% funded under current liability, but the amortization basis on the old, the ERISA type basis that it's paying the unfunded over such a quicker pace that I don't have to fill out the additional funding charges. It nets out to zero. If any plan I have should have been subject to the additional funding charge it is this one; however, as noted, it fails.

On line 12g the IRS eliminated the optional rule since that choice only applied to the 1995 year. If you made that election on how you determined your old liability you're stuck with it. They added a note that the unfunded old liability for 1996 includes delayed retirement credit base if any established by a plan for the 1995 year. They also added references to question number 7 of Revenue Ruling 96–20. Again, as I said earlier, if you look back to the instructions in 1995, there were many blanks, gaps in the instructions on how to complete line 12. Quite coincidentally, the IRS issued Revenue Rulings 96–20 and 96–21 the day of the 1996 EA Meeting.

On line 12j where they have base maintenance, they've added again references to Revenue Ruling 96–20. On line 12o, guidance has been provided on how to compute the amount and this is the contributions needed to increase the current liability percentage to 100%. They added a reference to Announcement 96–18 which points you to Revenue Rulings 96–20 and 96–21. Line 12 reflects the RPA 94 changes to the OBRA 87 is additional funding charges. In our office, we have all our actuarial valuations set-up on spreadsheets. We can toggle these to see how the additional funding charge is affected by whether or not we elect the transition rule. The spreadsheets also check our work.

Paulette Tino and Marty Pippin put together a handout for the 1997 Enrolled Actuaries Meeting. These handouts provided guidance in preparing the 1997 actuarial valuations that might be subject to the additional funding charge as well as information to help determine when you should or should not compute the additional funding charge.

As I noted, in the very first part of Ms. Tino's and Mr. Pippin's handout, the IRS increased the estimated time that you are supposed to take to complete the 1996 Schedule B. They increased the amount of time it's supposed to fill out Part I. They decreased the amount of time for completing Part II. I assume they decreased the estimated time because they eliminated line 15 which was the additional unfunded old liability. Line 15 is gone; it was only applicable for the 1995 Schedule B. On the 1996 Schedule B, line 13 appears as it did on the 1995 Schedule B. The IRS however filled out some of the blank spots in the instructions for completing line 13, and they added references to Revenue Ruling 96-20 (questions 6 and 9).

Listed below are all the notices, rulings, procedures, and announcements that are referenced in the instructions for Schedule B. I went through this list and pulled off all these various IRS publications and put them together in a package which I then distributed to our staff that works on defined-benefit valuations. They now have one binder that has all the Revenue Rulings, announcements, and procedures and we'll start updating that year after year. Revenue Ruling 95–31 deals with interest on quarterly contributions and your liquidity requirements which, again, you probably will want to review if you haven't already done that.

Notices, rulings, procedures, and announcements referred to in the instructions of the 1996 Schedule B:

Revenue Rulings 81–213, 96–20, 95–6, 95–28, 81–13, 96–21, 96–7, 95–31
Notices 90–11, 89–52
Announcements 96–18, 90–87
Revenue Procedure 95–51

There are some Schedule B attachments that our office typically uses. We have a Summary of Principal Plan Provisions. We have a summary of Actuarial Assumptions and Methods. I have added a note on how I calculated the weighted average retirement age. Since you are supposed to note in your Schedule B attachments if there were any significant events that occurred during the 1996 plan year, I have added an example of that notice. We also show a Schedule of Amortization Bases. These come right out of our actuarial valuation spreadsheet or word processing document. These are also the Schedules of Active Participant Data. I assume that all of the population pension valuation software has a switch that can be turned on or off to produce this scatter diagram. We use it. I don't particularly like it, but whenever I need to do the attachment I'll just produce this right from the valuation; I cut and paste right with the word processor.

There's also an attachment where the actuary justifies his or her changes to the assumptions and some sample reasons for making the changes. There's also the certification for the change in funding method. Since Revenue Procedure 95–51 is lengthy, you may have to periodically refer back to the actual text for the precise criteria for automatic approval of funding method changes. Revenue Procedure 95-51 contains a very thorough list of automatic approvals. It's a very good revenue procedure. This way you can avoid making a decision to change a particular feature of your funding method but later find out by reviewing Revenue Procedure 95-51 that your hands are tied and you can't use that change to solve a particular funding problem.

I don't do a lot of valuations subject to the additional funding charge, and those ones that I do take a lot to pull together. I'm constantly going back and forth to the regulations and Schedule B instructions to make sure I have the percentages and formulas right.

Mr. Parmenter: Did you say that amounts guaranteed by insurance contracts are excluded from line 2?

Mr. Pisula: Yes, if you have a deposited administration contract where the reserves are set aside for retirees, and if the insurance company has a guarantee on the annuity purchase for that block of retirees, those individuals would not be counted and included in the valuation. So we would carve out that group of retirees, and we'd also carve out the assets that are allocated to them from the valuation. One of the comments they made at the earlier session with the PBGC was that if you have a cost-of-living adjustment on those individuals that increases your pension beyond the guarantee that the insurance company has accepted, you'll have to include that piece in your valuation, and you'll also have to bring those participants back in to the valuation as retirees. They will be included in your participant count for the PBGC premium, Form 5500, etc.

Mr. Parmenter: We have a few contracts with an insurance company guarantee under an immediate participation guarantee or deposit administration contract where the retired life liabilities aren't yet purchased. However, assets are walled off for these retired life obligations. The employer has opted not to spend his money to buy annuities for these retired lives. These retired lives may be included in the valuation and it may be assumed that assets equal liabilities. The insurance company is guaranteeing there will be sufficient assets for these benefits.

This gives rise to a problem in that line 1 is for current assets/liabilities for IRS purposes. However, line 2 is more for the PBGC and the instructions specifically say benefits for which an insurer has made an irrevocable commitment should be excluded. Accordingly, line 1 and line 2 are conceptually different.

We've presented this situation to the PBGC. We haven't heard back yet. Right now we're just adding a footnote to the Schedule B referencing the difference in the instructions for these two lines. One place in the information portion says if you include these values in the valuation, then include them on line 1 and another area says that even if you do include them, you have got to exclude them on line 2.

Over the years, we have found that if you do something reasonable in your Schedule B and fully explain in footnotes, the IRS is usually understanding, even though we might not be doing it the way the IRS wants it done. We may have to change it, but at least we've made a timely filing and we've come clean and tried to explain everything and not tried to hide anything.

Mr. Pisula: One of the things I would like to mention is that on many of the valuations I have been working on have been done in two steps. Obviously, at the end of each fiscal year you have to produce the *Financial Accounting Standard (FAS) 87* valuation. One of the things you need for determining your net periodic pension costs is your expected contributions. In my *FAS 87* reports, I put together a schedule of projected quarterly contributions for the following plan year. For example, if I am doing a fiscal year-end, December 31, 1996 report, I would give what I believe the quarterlies may be for the 1997 plan year. Usually you will be doing your *FAS 87* valuations anywhere from October 1, 1996 up through the end of March 1997. My plans are anywhere from 100 to 500 lives, so we produce the reports on a fairly timely basis.

Another thing that I have been seeing is that with two years of investment earnings that have exceeded the valuation rate, some plans are getting close to either the pre-ERISA/pre-OBRA 87 full-funding limit or the OBRA 87 full-funding limit. As a result, I have been forced to go back and revisit some of the 1996 valuations. For some of the 1997 calendar-year valuations, we are reviewing the rate we are using for current liability. In prior years, for almost 100% of my plans, we were using the high end of the (current liability interest rate) range because the post-OBRA 87 full-funding limit was not a problem. Use of the high end of the range cuts down on the number of valuation passes we run with our software. This year, because of the excessive investment returns, we are seeing more plans getting close to the full-funding limit. Because of this, we are using a current liability rate that is not at the high end of the range in order to have contributions going into the plan that are deductible.

Working closely with the clients, I also try to focus on what their unfunded liabilities are on a plan termination basis. When I am reviewing the plan valuation, I want to make sure I have an ongoing stream of contributions that are deductible. On quite a few of the 1997 valuations, we have ended up having to go back, use a lower interest rate to bump up the current liability numbers so that we have deductible contributions.

Does anybody do year-end valuations or valuation dates on the last day of the plan year? There are certain things that are pointed out in the instructions on line 2 which is done at the beginning of the year. You may have to reshuffle your participants when you're doing your valuation to account for the possible mismatch of participants from December 31 to January 1 for example.

Mr. Parmenter: I notice the instructions for lines 9(l)(1), (2) and (3) related to ERISA full funding, the 150% full-funding limit and RPA override, continue to say “this line is reserved pending published guidance.” Does that relate back to the recurring question of what’s included in current liability?

Mr. Pisula: Part of it does. I noticed at another session at this meeting, “Dialogue with the PBGC” that because the cap on the variable rate premium will be eliminated shortly, the PBGC is going to start discussions with the IRS regarding the items that will go into at least the vested portions of current liability because those premiums will become onerous, if they have not already become for certain plans that are grossly underfunded. To answer your question, yes, the PBGC and IRS have not clearly defined what benefits are to be valued in current liability. The PBGC says they're going to start discussions in order to clarify that, at least up through category five.

Mr. Steven J. Fenic: We've got some old deposit administration contracts where there's unamortized expenses and the intent was that excess earnings were going to go ahead and make up for those unamortized expenses so that our asset values do not reflect those unamortized expenses. Now a client is considering termination and, all of a sudden, was informed that the asset level as shown on the Schedule B doesn’t take those into consideration.

Mr. Pisula: So you have less assets now?

Mr. Fenic: Yes, there could be upwards of a 5% charge. For a $1 million client, you could be talking about $50,000 unamortized expenses.

Mr. Parmenter: I know that is a sticky wicket. It’s very difficult to explain. You tell the customer that contractually, if you terminate, there's going to be a 5% charge or whatever, because your past expenses haven't been recouped. The customer has been getting services at less than actual cost. The insurance company is entitled to collect. We have a lot of these same situations, and it's very expensive to do an actual experience fund analysis on each one to demonstrate the point. Some of these contracts are 20 years old, and it is costly to go back to show exact earnings and exact expenses and then compare it to exactly what has been charged over the years in the fund statements, which is invariably less than actual incurred expenses. From the contractholder’s perspective, the Schedule B showed total available assets.

Mr. Pisula: We have a couple in our office. Two of the plans are terminating. The PBGC is actually taking over those plans.

I just want to note that we just finished a couple short plan years for a few of our plans. We are finding that the Form 5500 software is not producing what we were expecting for the calculation of the items on line 9, which is your credit balance and you full-funding credit. So you will want to keep that in the back of your mind. If you’re signing out the Schedule B for a plan that had a short plan year, you will want to make sure that the final funding standard account reconciliation on the form that you sign is the same as what you expected when you did your actuarial report.

One other thing I want to note that there are some publications out there that have instructions on the Form 5500 package which includes all the schedules. There's one from Panel Publishers, and there's also one from Spencer's. They are fairly inexpensive, so if you need some more information on filling out the forms, other than what you get from the IRS each year, those are two publications that are just now available. We got ours a week or two ago. I believe one costs $120 and the other is approximately $75. Both are well done and informative packages. We use them in our office to answer some certain questions on how you fill certain items out.

Mr. Parmenter: How do people handle the situation where the minimum is not deposited within seven months after the end of the plan year? What do you do in those situations? Do people go out and ask the plan sponsor to get a Schedule B extension? Or do people just publish a deficient Schedule B.

From The Floor: I think most of us request an extension so the client does not have a deficient filing to correct.

Mr. Pisula: We have one or two plans that we're terminating where the majority owner has waived part of his or her benefits. That's fine and dandy for your filing for plan termination, but you cannot go back and use that waiver to justify in zero contribution in your final year actuarial valuation. Please remember that. We have one client about whom we are just scratching our heads literally trying to figure out how to get a 1995/1996 valuation done before the middle of June. The majority owner has waived benefit to get the plan fully funded. He still has some minimum funding obligations out there that should be paid. We're not sure how to handle that.

Regarding the issue of quarterly contributions: what I do with my employers might not sound fair, but I usually tell them that the calendar-year plan quarterly contributions are due April 1, July 1, and so forth. This way, if they miss the quarterlies by a couple days, they are still within the time frame of submitting them when required. As noted earlier, when I do the *FAS 87* valuation, I give the client an estimate of what those quarterlies may be and when they are going to be due. We do our *FAS 87* report at the end of the year, so the client has written documentation on how much of a contribution they need and when to start putting contributions into the plan for funding.

Mr. Branch: I believe you said item 2 would be used by the PBGC, but to the best of my knowledge, all the PBGC forms call for the actuarial value of assets. I was just wondering if you knew how they might use that.

Mr. Pisula: I have no idea. They may be using it for some test internally on their internal procedures. When you're doing the general rule and actually you've got one of the alternative methods, you're also showing some asset value on the Schedule A in the PBGC for, so they have assets from various sources. I don't know what they're using it for internally. I'm just repeating what was said at the EA Meeting.

One of the comments that I wanted to note about changing funding methods ties into your PBGC premium calculation. If you look at the instructions on the PBGC form, if you are using the general rule, you are supposed to use the assumptions and methods in effect as of last day of the plan year. For example, if you are doing your January 1, 1997 valuation, you will probably see two years in a row of excessive investment earnings and you want to change the market value of assets in order to reduce or eliminate your 1997 variable rate premium. You cannot do that in the 1997 premium calculation. In order to reflect the asset method change in the 1997 PBGC premium calculation, you will have to go back to your 1996 valuation and make the change there. They pointed that out at the EA Meeting. The speakers also stated that again at the session “Dialogue with the PBGC.” Not only does it apply for the asset valuation method, but it also applies to the assumptions. So if you're changing an assumed retirement age, withdrawal table, etc., you may have to go back and actually redo the 1996 report with the new assumptions in order to use them in the 1997 PBGC premium calculation.

From The Floor: Isn't it also very likely, depending on your funded position, of course, that you'll have to attach a schedule of amortization bases for item 12 and item 13?

Mr. Pisula: Right, which I didn't point that out on mine.

From The Floor: I see that quite often. One mistake that I see quite often is if you have no additional funding charge. It's only because you are between 80% and 90% funded and you pass the gateway test. I believe you still have to maintain those bases. Oftentimes I'll see people, if they've passed the gateway test, think they're done with item 12 and they're not necessarily. You still have to maintain basis until you are 90% funded.

Mr. Pisula: Does anybody have any funding waivers that they're amortizing?

From The Floor: A couple.

Mr. Pisula: The handouts include some information on how to move those bases forward from year to year. These were part of a presentation made at the 1994 EA Meeting. I am also involved in the actuarial exam process. I see the EA exam questions dealing with funding waivers. There are a lot of good EA-2 exam questions on how you calculate your waivers and amortization bases from year to year. You may want to get copies of this information just in case you are ever faced with that kind of problem. There are some publications that show you acceptable solutions to the exam questions. I am a person that's constantly asking myself whether it is safe or right. Therefore, I usually have a lot of information to support what I have been doing or am trying to do.

From The Floor: I'm interested in how many people know what percentage of their smaller clients make quarterly contributions. We certainly have some that don't and then when it comes time to send a reminder letter that a contribution's still due, provided the maximum's considerably higher than the minimum, I just go ahead and send the letter and assume that they're going to make the contribution at the latest possible date and advise them of what contribution they need to make. The problem I have is when the maximum equals the minimum from using an aggregate. Now all of a sudden I'm stuck, because I need to know the exact date of the contribution. How do we get around this or can we even get around this?

Mr. Pisula: I don't personally have any of these, but I believe what my colleague does is to calculate the maximum as of a certain date and tell the client what to put in and when to put it in. But I'm just speaking for him right now. I've heard him talk about it. As far as my clients, I'd say its probably not 100%, but certainly more than 95% of them make quarterly contributions unless they are at a full-funding limit and there's just nothing going in. But if I have a client that's at full-funding limitation, but has what I consider substantial unfunded liabilities on a termination bases, I will advise them to make contribution using an alternative set of assumptions and methods. I just feel uncomfortable with that type of situation (an underfunded plan that is temporarily restricted by the full-funding limitation).

Mr. Robert Goggin: We've had a couple of situations like that. We just had to work out the exact date it was going to be paid usually letting the client tell us when they're going to pay it rather than us telling them. When we tell them, you can bet they won't pay it that day. We let them tell us, and then we figure out exactly what it needs to be. It has worked out OK. It just happens we don't see it happen often, but we've seen it a few times.

Mr. Parmenter: Anybody doing mergers and spinoffs? I've only been involved in a couple of them, and I try to get them done on a date that's convenient for filling out the Schedule B. Often, I will advise a client when to merge or spinoff in order to make the completion of the Schedule B a little bit easier.

From The Floor: In complicated merger situations, you have to make up your own form. Just do your own thing and attach an explanation.

Mr. Parmenter: Especially when you get to lines 12 and 13.

From The Floor: The stuff doesn't necessarily add up across the board and if you follow the instructions, things will not add up to your bottom line answer especially if one plan has been fully funded and one isn't. So you have to attach your own thing, almost throughout your own form.

Mr. Pisula: Yes, those are situations where it's good to have somebody to talk to to bounce it off of. Ultimately, you have to stand on your own two feet when it comes to signing Schedule B, but again, you as an enrolled actuary, have to use some common sense to try to get it moving in a direction where you think it should be.

Mr. Parmenter: Do people call the IRS?

Mr. Pisula: I've called Kathy Monticello once or twice. I think that's about the only one we've ever called. I think I called Paulette when we were doing the 1994 Schedule B for the EA Meeting a few years ago. If they are available, they usually answer your questions as well as they are allowed to.

Mr. Parmenter: When you can get hold of them and when you can get them to commit, they've been a very helpful resource.

From The Floor: I want to make sure I'm doing what's consistent in the industry here. Many of our clients are considering plan terminations and they, obviously, ask for an estimate of what their plan termination funding status is. They're typically looking to amend GATT and the like. When asked to do this, I usually go ahead and open up my *USA Today*, look at the 30-year Treasury rate for the day and I say this is the best estimate of what the rate is going to be down the road. Then I came across someone else who was saying they always took the published rate for the month or two months before the most recently published rate which I thought was a little bit outdated because the distribution date won't be for a year down the road. I'm wondering what everyone else is doing regarding that.

Mr. Pisula: I sort of do what you're doing. We get the federal reserve’s publication. The rates are released the first Tuesday of each month. We get it about a week later, and I do the same thing you do. I look at *The Wall Street Journal* and get the prior day's rate. I have a spreadsheet that has the rates in it, and I get a feel for whether trend is going up or down. As far as the change to GATT, it has worked fine for most of my cases. One where it did not is a situation where we were asked to provide PBGC lump sums for all the participants six months before the client decided to adopt the GATT lump sum assumptions. We forgot about the earlier statements with the pre-GATT lump sums. Since the GATT numbers were substantially lower for younger participants, the receipt of the new statements with the lower GATT lump sums created quite an uproar.

If you're going to switch to GATT you may want to disassociate the amendment that implements GATT from the plan termination amendment. We typically have the GATT amendment done in advance of the actual plan termination filing. If you have surplus assets that are coming back to the employer, you'll want to be very careful in how you do all that stuff.

Nearly 100% of my actuarial reports contain an estimated plan termination valuation. When the report goes out, the employer has their *FAS 35* and *36* numbers for the plan’s audited statement as well as a feel for what his or her shutdown liability will be on that plan. Now we have to caveat that if we have a plan that has a lot of special type benefits. A steelworkers plan may have a $300-$400 monthly supplement for participants eligible for “70–80" or “Rule of 65" benefits. The estimated plan termination valuation typically does not have a very thorough check on other issues such as additional participants that may become fully vested at termination, or computing the market value of an insurance contract, etc. I’ve picked up a lot of work from other firms in our area that weren’t showing the plan termination valuations and when the employer went to terminate they were short substantial amounts of money. This is something you can pick up over time.

Mr. Parmenter: We do it differently. We do use the published rates because we can point to them even if they are a little bit out of date. It's only in those situations where we feel that the current rate could change the balance between assets and liabilities. We discuss with the client the effect that a small change in rate could have. With so many of our plans either clearly overfunded or clearly inadequate, we prefer using a published rate.

From The Floor: In your valuations when you're showing the estimated termination cost for retirees, do you just use an estimate of what you think will be the best annuity purchase rates that they're going to get at that time?

Mr. Pisula: I'll usually use the PBGC rates for lump sums or the GATT rates. For the entire retiree group, the GATT and PBGC liabilities are not that much different.

From The Floor: There might be a little bit of conservative then?

Mr. Pisula: Right. We just did an annuity buyout a couple of months ago and the values were close for the retirees. The PBGC is asking the actuarial community to provide them with any information on the annuity quote versus the value of plan liabilities using their interest and mortality rates (that is the annuity assumptions and the lump-sum assumptions), so they can re-examine their methodology to see if they're right or wrong. That is what the speakers pointed out at another session. If you've done a plan termination or annuity buyout, you are being asked to contact the PBGC and provide them with some information that would help them in their interest-rate-setting process. Nevertheless, I use the PBGC rates and GATT rates side-by-side because they're not usually that much different.

From The Floor: Do you load in anything for outstanding plan termination expenses, the work that's going to be associated with that termination?

Mr. Pisula: We tell them that there's an issue as to whether or not expenses can be paid 100% from the excess. Certain settlor functions that are associated with the plan termination should not be taken out of the excess assets. Your regular annual valuation fee can be paid from plan assets but where do you draw the line? In other words, it is difficult to keep track of what five minutes I'm doing plan termination work; sometimes the line between the two is very fine. I usually leave the question of payment of final expenses up to the client and his or her attorney. I have had one insurance company who is the custodian of plan assets as well as the plan trustee. We do not pay expenses that they have deemed to be settlor functions out of the plan assets. The plan administrator sent them the invoice to pay for certain actuarial services or legal expenses and the insurance company/trustee said, "No, we can't pay for them, these are settlor expenses that must be paid directly by the employer."

Mr. Goggin: We had a somewhat interesting issue come up during the past year regarding merging a plan that is not typically fully funded with a larger plan that is fully funded. We were first told about the plan that's not fully funded that presumably the merger occurred during its plan year at some point. For whatever part of a plan year had occurred, the funding standards applied and contributions would have to be made even though within a matter of month you had a one surviving plan that was clearly fully funded. We wound up doing that with two different clients of our own. In both cases, the IRS said that if you have one fully funded plan by the end of the plan year of the surviving large plan, you don't need to worry about those contributions for the partial plan year of the other plan. I'd be curious to know if anybody found out anything different. The story we heard was that the IRS would expect you to make contributions to a plan even as it was being merged with a bigger, overfunded plan.

Mr. Pisula: Did you contact them during the valuation process or soon after the end of the plan year?

Mr. Goggin: In which case?

Mr. Pisula: You're filing Schedule B for a year. You had to get in cahoots with the IRS to figure out how they felt it should be filled out.

Mr. Goggin: We went ahead and took the position that no contribution was required. We then requested a change of funding method which is virtually a requirement. We got full approval. In one case, we spoke to the IRS actuary about it. I didn't have that actual discussion, but a partner of mine actually did. We submitted them both the same way. We definitely got feedback from the IRS. Now you never know who will review the particular situation that you send in, but I'd be curious to know if anybody knows that it is really enforced or if anyone had to make contributions.

From The Floor: I've dealt with that, too. My understanding is that that question has been asked for two years in a row at the EA meeting and it received separate answers, but I believe the latest thinking is it depends on which plan is the surviving plan. If the plan that was overfunded is the surviving plan, there is no partial year contribution. If the plan that was originally underfunded is the surviving plan, there is a partial year contribution. The only odd point there is which plan is the surviving plan. It's just semantics because it's just one plan going forward. So how you want to state it? My understanding is you do get different answers.

Mr. Parmenter: Right. When we heard about the situation where presumably the IRS would insist on enforcing the funding standards, one solution that was made was to make sure that the plan that survives has the name that you want it to have. They consider that a legitimate answer.

From the Floor: Right, as long as it has that name it should be OK.

Mr. Pisula: Has anybody filed changes in funding methods when their valuation system changes? There was a comment made at the 1996 EA meeting: if you change your valuation program, you have to file for a change in funding method.

Mr. Parmenter: Yes.

Mr. Pisula: I've actually seen one attachment.

Mr. Parmenter: Yes, we always do file for a change. We apply for a class ruling because we have enough plans, say 10 or 20 of them. Do others apply for a class ruling?

Mr. Pisula: I would say larger firms are probably doing it. Smaller ones are probably are not.

Mr. Parmenter: What about the situation where you can't get census data anymore from a client? You may suspect the company or the plan sponsor is bankrupt. It may even be difficult to reach anyone connected with the plan. It's like they left the country.

I'd be interested in people's experiences. Do they try to estimate the census? Do they perform one more valuation using an estimated census while trying to contact the client once more to find a lawyer or make a bankruptcy filing. At what point do you declare it an abandoned? Who do you tell? Are you obligated to tell?

Mr. Pisula: We've had a couple of those. What usually happens is that PBGC will come in and do a distress termination and just take the plan over. We've had at least two where they just disappeared. There was no company left, the employer was shut down or taken over. Everything was shut down. We almost had to go to some plan out somewhere in New England to dig out pension records where they had just a skeleton of the factory. Fortunately, the PBGC took it over. They just went in and apparently took all the filing cabinets out.

Mr. Parmenter: So what census does the PBGC use?

Mr. Pisula: They start building data records. We had another situation where they shut everything down and all the files were in the bankruptcy attorney's office. He had been advised year after year to keep those records. Eventually they sent a PBGC case officer to physically take them back to wherever they took them. It was sort of like Indiana Jones. You have a big warehouse with records stretching out to infinity.

From the Floor: Do you also have an IRS issue with presumably a valuation or two and no deposits?

Mr. Pisula: I would assume so. However, we just can't do the final valuation. No employer exists. Legally there probably was an employer, but now no physical employer remains. They had fired everybody or laid everybody off. We've had plan terminations where they happened where people call the last Enrolled Actuary saying, “Where is my benefit.” Fortunately, the insurance company has, in such cases, provided extra money in their annuity quote to provide the extra benefit(s). I have one associate that I used to work with who is probably still getting phone calls from a termination we did back in 1982 where a plant was shut down.

From the Floor: What about when you have a client that's still there and viable, but is just absolutely so harried and can’t seem to get you any information? You wind up coming up on deadlines. You get the census data transcribed to you over the phone. Is it sufficient to go ahead and send in a confirmation, This is the information you provided. Is that how you would handle it?

Mr. Pisula: Yes.

Mr. Parmenter: Yes.

Mr. Pisula: One thing you'll probably also want to do is get letters of engagement for your fees and work on those types of individuals. Get an official engagement letter describing what you're going to do and how much you're going to get paid. This may avoid a problem later in case there is a disagreement on who was responsible for what. There has been a lot of advice at the ASPA Meetings on getting formal engagement letters for any type of work.