July 30, 2007

Filed Via Email: reg.comments@pbgc.gov

Legislative and Regulatory Department
Pension Benefit Guaranty Corporation
1200 K Street, NW
Washington, DC 20005-4026

Re: Comment on Proposed Amendment to PBGC's regulations on Premium Rates and Payment of Premiums; Regulatory Information Number 1212-AB11.

Dear Sir or Madam:

The American Benefits Council (Council) welcomes the opportunity to respond to the Pension Benefit Guaranty Corporation's (PBGC's) proposed rule to amend its regulations on Premium Rates and Payment of Premiums. The Council is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans.

Although many of the proposed changes to the rules regarding variable rate premiums could result in an increase in premiums for some of our plan sponsor members, the Council and its members are especially concerned about administrative burdens of a couple of the proposals. The Council also strongly urges that any changes be made prospective only so that sponsors are not faced with potential penalties and interest for prior years.

Definition of "Vested" Benefits

In determining the amount of variable rate premiums that are due from a plan, the amount of unfunded vested benefits must be determined. The proposed amendment to the regulation indicates that the PBGC believes there is uncertainty among pension practitioners surrounding what benefits are vested and the PBGC proposes to explain, for premium purposes only, when certain benefits are considered vested, focusing on two circumstances.

The first circumstance that would now be included in vested benefits is a benefit not protected under Internal Revenue Code (Code) Section 411(d)(6) that can thus be eliminated or reduced by plan amendment or the occurrence of a condition or event (such as a change in marital status). The PBGC now considers such a benefit to be vested (if other entitlement conditions are met) so long as the benefit has not been eliminated or reduced.

The second circumstance relates to benefits payable upon a participant's death even though the participant is still living. The PBGC considers the following such benefits to be vested (and included in the count): (1) a qualified pre-retirement survivor annuity (QPSA), (2) a post-retirement survivor annuity such as a joint and survivor or certain and continuous option, and (3) a benefit that returns a participant's accumulated mandatory employee contributions.

The Council understands that many practitioners have not included these benefits when calculating unfunded vested benefits for purposes of the variable rate premium payment. In fact, the current Actuarial Standard of Practice Number 4 from the Actuarial Standards Board of the American Academy of Actuaries (AAA) on Measuring Pension Obligations would not include the value of pre-retirement death benefits in vested benefits (the AAA is in the process of revising this Standard of Practice but it has not yet been finalized). Although the Council would prefer that the PBGC reverse the proposed treatment, at the very least we strongly urge the PBGC to apply these new definitional requirements on a prospective basis only. Otherwise, plan sponsors could face penalties and interest for definitional standards that did not exist at the time.

<u>Change in "Snapshot" Date and Benefit Increases</u>

Under the proposed rule, the unfunded vested benefits (UVBs) must be determined as of the first day of the plan year, a change from the current snapshot date that is generally the last day of the previous plan year. The Council is concerned that this change will result in an increase in premium payments when a plan is amended to increase benefits retroactively. Many benefit increase amendments are implemented retroactively to the first of the year, which may cause a large premium increase if the first day of the plan year is used for calculations of UVBs.

The PBGC recognizes that if the UVB valuation date is after the beginning of the year, accruals after the beginning of the plan year should be ignored. Retroactive plan amendments adopted or effective after the first day of the plan year should be treated similar to accruals after the beginning of the plan year.

Again, we appreciate the opportunity to comment on the proposed amendments to the PBGC premium regulations. We believe that the American Benefits Council offers an important and unique perspective of both the employer sponsors of retirement plans and the service providers that assist them. If you need any further information, please do not hesitate to call me at 202-289-6700.

Jan M. Jacobson

Retirement Policy Legal Council
American Benefits Council