

Technical Update 14-1: Effect of HATFA on PBGC Premiums

September 24, 2014

This Technical Update 14-1 provides Pension Benefit Guaranty Corporation (PBGC) guidance on the effect of the Highway and Transportation Funding Act of 2014 (HATFA) on PBGC premiums.

The guidance in this Technical Update 14-1 supersedes any inconsistent guidance in PBGC's 2014 premium instructions. It does not affect the guidance in PBGC [Technical Update 12-1](#) (Effect of MAP-21 on PBGC Premiums), which continues to apply for plan years to which HATFA applies.

I. Background and Guidance

A. 2014 premium underpayments that may result from decision to use 2013 HATFA rates

The Moving Ahead for Progress in the 21st Century Act (MAP-21) provided stabilization rules that limited the volatility of discount rates used for certain funding and benefit restriction purposes by constraining them within a corridor around 25-year average rates. The MAP-21 corridor was scheduled to widen over time, starting with a slightly wider corridor for plan years beginning in 2013. HATFA extends, through 2017 plan years, the period during which the narrowest corridor applies. The change is retroactive to 2013 plan years, but plan sponsors may decide whether to have the narrowest corridor (under HATFA) or the slightly wider corridor (under MAP-21) apply to 2013.

The choice of a rate corridor for the plan year beginning in 2013 affects a plan's variable-rate premium for the 2014 plan year. This is because –

- The discounted value of contributions made for the 2013 plan year after the end of that plan year is included in the value of assets for purposes of determining the 2014 variable-rate premium; and
- The discount rate used for this purpose is the effective interest rate for 2013, which is affected by the 2013 rate corridor.

The effect of using HATFA rates rather than MAP-21 rates is relatively modest. For example, if a \$1 million contribution made six months after year-end is discounted with the HATFA effective interest rate rather than the MAP-21 rate, the variable-rate premium will increase by less than \$30.

PBGC believes most plans have already determined the 2013 effective interest rate based on the wider MAP-21 rate corridor and many (but not all) plans have not determined the 2013 effective interest rate

based on the narrower HATFA corridor. Under [IRS Notice 2014-53](#), plans may decide whether to use MAP-21 or HATFA rates for 2013 funding determinations as late as December 31, 2014 (or, if later, the due date for the 2013 5500).

PBGC expects most plans with premium filings due in calendar year 2014 that haven't already filed a 2013 Schedule SB based on HATFA calculations will find it administratively less burdensome to determine their 2014 variable-rate premium based on an asset value that includes contributions receivable discounted at the MAP-21 effective interest rate, even though many of those plans will ultimately use 2013 HATFA rates. Under PBGC's regulations, a plan in this situation that ultimately uses 2013 HATFA rates should amend its premium filing and pay the additional premium and late payment charges.

The situation created by HATFA for the 2013 effective interest rate is unique. HATFA was enacted August 8, 2014, long after the end of most 2013 plan years (and close to the deadline for filing the Form 5500 annual report for calendar 2013 plan years). Yet it has retroactive application to 2013 years depending on decisions that may be made as late as December 31, 2014 (or, if later, the due date for the 2013 5500). Like the 2013 Form 5500, the 2014 PBGC premium filing for calendar-year plans is due less than ten weeks after HATFA became law. In addition, the discrepancy in the variable-rate premium resulting from HATFA rates is generally modest — in most cases likely less than the cost of making an amended premium filing.

Accordingly, in the exercise of enforcement discretion, PBGC will not require a plan that makes a 2014 premium filing using an asset value that includes 2013 contributions receivable discounted using MAP-21 effective interest rates and uses HATFA rates for 2013 funding purposes, to pay additional premium or late payment charges or amend its 2014 premium filing where all of the following conditions are met:

- The 2014 premium filing is due on or before December 31, 2014, and is timely made.
- As of the 2014 premium due date, the plan has not filed a 2013 Schedule SB based on HATFA calculations.
- The asset value reported in the 2014 premium filing included contributions made after the end of the 2013 plan year discounted using the effective interest rate that would have applied had HATFA not been enacted (*i.e.*, based on the MAP-21 corridor).
- The plan's contributions for the 2013 plan year made after the end of such plan year do not exceed \$25 million.

B. Redesignation of 2013 contributions under HATFA

Section IV.D of IRS Notice 2014-53 says:

Despite the general position of the Service that a contribution designated for a particular plan year cannot be redesignated to apply for another plan year after the Schedule SB is filed, the plan sponsor may choose to redesignate all or a portion of a contribution that was originally designated as applying to the plan year beginning in 2013 to apply to a plan year that begins in 2014. This rule applies only to contributions made after the end of the 2013 plan year and on or before September 30, 2014 and applies only if the designation is on a Schedule SB for the 2013 plan year that is filed on or before December 31, 2014.

In a 2011 [policy statement](#),¹ PBGC considered the treatment of amended premium filings, showing increased assets and decreased variable-rate premium, supported by amended Schedules SB (or B) that reflected recharacterization of contributions, and submitted with a view to obtaining premium refunds.

PBGC has reviewed its policy statement in light of IRS's explicit endorsement of one specific type of redesignation in connection with the implementation of HATFA. Under the circumstances, plans that redesignate 2013 contributions to 2014 in accordance with IRS Notice 2014- 53 should amend their 2014 premium filings to exclude the discounted value of such redesignated contributions from the value of assets used to determine the 2014 VRP. In general, such a redesignation will affect premiums for both 2014 and 2015. If the redesignation is made after the 2014 premium filing, the 2014 filing should be amended to reflect the higher premium.²

II. PBGC Contact

For questions about this Technical Update 14-1, contact Amy Viener, Senior Policy Actuary, Policy, Research and Analysis Department, at (202) 326-4080, ext. 3919, or viener.amy@pbgc.gov.

¹76 FR 79714 (Dec. 22, 2011).

²Since the redesignation means that the original filing contained a discrepancy unrelated to the use of an effective interest rate based on MAP-21 rules instead of HATFA rules, plans that make such redesignations do not qualify for the relief described in A. above.