



March 2015

PENSION ANALYST

Important information—Plan administration and operation



Prudential
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DOL issues HATFA guidance for annual funding notice

Who's affected

Plan administrators of single-employer defined benefit plans covered by the Pension Benefit Guaranty Corporation (PBGC) are subject to the recent guidance provided by the Department of Labor (DOL) in Field Assistance Bulletin 2015-01. Although multiemployer defined benefit plans must provide annual funding notices, the provisions of the Highway and Transportation Funding Act of 2014 (HATFA) do not affect them.

Governmental plans and church plans that do not elect to be covered by ERISA ("non-electing" church plans) do not have to provide annual funding notices.

Background and summary

For plan years beginning after December 31, 2007, the Pension Protection Act of 2006 (PPA) requires plan administrators of defined benefit plans covered by PBGC insurance to provide annual funding notices to participants, beneficiaries and other designated parties. To assist plan administrators, the DOL published a model annual funding notice in [Field Assistance Bulletin 2009-01](#).

With the enactment of the Moving Ahead for Progress in the 21st Century Act (MAP-21), plan administrators were required to disclose additional information on the annual funding notice relating to the effect of MAP-21 interest rate stabilization on plan liabilities and the plan sponsor's minimum required contribution to the plan. The DOL issued [Field Assistance Bulletin 2013-01 \(FAB 2013-01\)](#) which addressed the annual notice disclosure rules required under MAP-21. FAB 2013-01 also included a sample supplement to the DOL annual funding notice to enable plan administrators to comply with the MAP-21 requirements.

On August 8, 2014, President Obama signed into law the [Highway and Transportation Funding Act of 2014 \(HATFA\)](#). HATFA extended the funding relief provided by MAP-21. HATFA amended the annual funding notice requirements by:

- Requiring that the annual funding notice include references to HATFA interest stabilization rates, in addition to MAP-21 rates; and
- Revising the period that plan administrators must disclose this additional information on the annual funding notices beginning after December 31, 2011 and before January 1, 2020 (extended from January 1, 2015).

Recently, the DOL issued [Field Assistance Bulletin 2015-01 \(FAB 2015-01\)](#). FAB 2015-01 addresses the annual funding notice requirements mandated by HATFA and discusses topics such as:

- Timing of the notices;
- The HATFA supplement to the model notice; and
- Good faith compliance.

Action and next steps

Plan sponsors should read the guidance discussed in this *Pension Analyst* and determine the information they must obtain to comply with the revised annual funding notice requirements. Plan sponsors with questions about the annual funding notice should contact their plan's enrolled actuary.

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PPA specifies the interest rates to be used in determining the present value of a plan's normal cost and funding target by commonly using three interest rates (segment rates), each of which applies to benefit payments expected to be paid out during a certain period.

MAP-21 revised the rules for determining the segment rates by adjusting a segment rate, as necessary, to fall within a specified range of the average of the segment rates for the preceding 25-year period. HATFA revises and extends the pension funding relief provided by MAP-21.

To assist plan administrators in producing funding notices that incorporate recent legislative changes, DOL issued FAB 2015-01, which describes the changes to the annual funding notice required by HATFA.

Effective date and applicable plan year

Effective date

HATFA changes to the annual funding notice are effective for plan years beginning after December 31, 2012. However, plan sponsors may elect to defer the use of HATFA interest rates to plan years beginning on or after January 1, 2014, in which case the changes outlined in FAB 2015-01 would not apply for the 2013 plan year.

A plan administrator is not required to reissue another annual funding notice for the 2013 plan year if a prior funding notice was issued on or before the thirtieth day following the publication date of FAB 2015-01 (February 13, 2015) and that notice incorporated MAP-21 interest rates instead of HATFA rates. The DOL does not believe that the benefits of a corrected funding notice will outweigh the administrative cost of redistributing the 2013 notice. However, a plan administrator may reissue a corrected notice if it is determined that a new notice is in the best interest of participants and beneficiaries.

The annual funding notice should reflect the rates used, or reasonably expected to be used, to meet the minimum funding standards. There may be instances when an annual funding notice is distributed based on MAP-21 rates, but the plan administrator has not elected out of HATFA and reasonably believes that no such election will be made. If an election is made after the notice has been distributed, the plan administrator is not required to provide a corrected notice. However, a plan administrator may decide that it is in the best interest of participants and beneficiaries to provide a corrected notice.

Applicable plan year

MAP-21 required plan administrators to disclose additional information on the annual funding notice in an "applicable plan year." Per FAB 2013-01, an applicable plan year is any plan year beginning after December 31, 2011, and before January 1, 2015, where the plan:

- Had 50 or more participants on any day during the preceding plan year;
- Has a funding target that is less than 95% of the funding target determined using unadjusted interest rates; and
- Has a funding shortfall greater than \$500,000, determining using unadjusted interest rates.

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HATFA and FAB 2015-01 retained the above definition but changed the period of applicability to “plan years beginning after December 31, 2011, and before January 1, 2020.”

HATFA supplement to DOL model notice

FAB 2015-01 provides a supplement to the DOL annual funding notice that replaces the MAP-21 supplement contained in FAB 2013-01 for applicable plan years beginning on or after January 1, 2014. For a 2013 applicable plan year, the supplement replaces the MAP-21 supplement only if the funding notice reflects the use of the HATFA interest rates. Pending further guidance, use of an appropriately completed HATFA supplement, together with the model annual funding notice, will satisfy the annual funding notice content requirements.

HATFA makes the following changes to the annual funding notice:

- References to HATFA in addition to MAP-21 must appear within the notice;
- References to MAP-21 interest rates are replaced with the term “Adjusted Interest Rates” in the model supplement; and
- There is no longer a requirement to add language that the value of plan assets before applying the adjusted segment rates is different from the value of plan assets used for minimum funding purposes.

Good faith compliance

Until the DOL issues formal regulations concerning the annual funding notice, a plan administrator will be treated as satisfying the annual funding notice requirement if the administrator:

- Complied with the guidance contained in FAB 2013-01 and FAB 2015-01; and
- With respect to items not specifically addressed in FAB 2015-01, acted in accordance with a good faith, reasonable interpretation of the rules within ERISA that set forth notice requirements describing the effect of interest rate stabilization on plan funding.

If a plan administrator provided the annual funding notice for a plan year beginning after December 31, 2012 before the publication of FAB 2015-01, the DOL will treat the notice as satisfying the annual funding notice requirements if it reflects a good faith, reasonable interpretation of those requirements.

Next steps

Plan sponsors should carefully read the guidance discussed in this newsletter. If Prudential Retirement provides actuarial services for your plan, we will prepare a suggested notice for your 2014 plan year, including any applicable MAP-21 and HATFA disclosures, using the appropriate model notice and supplement provided by the DOL.

If Prudential Retirement does not provide actuarial services for your plan, you should contact your plan’s enrolled actuary for assistance and guidance regarding the preparation and distribution of the annual funding notice.

Pension Analyst by Prudential Retirement

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