



PENSION ANALYST COMPLIANCE BULLETIN



PBGC provides premium penalty relief for certain delinquent plans

Recently, the Pension Benefit Guaranty Corporation (PBGC) issued a [policy statement](#) announcing a limited window for plans that have never paid required premiums to pay past due premiums without penalty.

Background

Sponsors of most qualified defined benefit plans must file and pay annual premiums to the PBGC. These premiums are used to provide ERISA-guaranteed benefits to participants and beneficiaries of terminated defined benefit plans.

There are some exceptions to the PBGC premium requirement. Governmental and church plans that elect not to be covered by ERISA (“nonelecting church plans”) are not required to pay PBGC premiums. The following plans are also exempted from PBGC premium payments:

- Plans maintained by a professional service employer which have no more than 25 active participants at any time;
- Plans covering only substantial owners. A “substantial owner” is an individual who owns the entire interest in an unincorporated business, or a partner or shareholder who owns directly, or indirectly, more than 10 percent of the partnership or corporation; and
- Indian tribal government plans, if all of the participants perform noncommercial, essential government functions.

Periodically, the PBGC becomes aware of a covered plan that has not filed PBGC premiums. In some cases the plan administrator is unaware that the plan was covered under the ERISA Title IV insurance program. In other cases, the plan may have initially been exempt from PBGC premium payments but later became covered under the insurance program. Under PBGC rules, late premium payments are also subject to interest and penalties. PBGC believes that one reason some plan administrators have not voluntarily contacted PBGC when they have discovered that they should have been paying premiums is that the late payment penalties can be substantial.

Penalty relief

The PBGC is now providing a voluntary compliance program to encourage compliance with the premium payment requirements by covered plans that have never paid required premiums. PBGC will waive premium penalties, including information penalties, for any plan if the plan administrator:

- Contacts the PBGC;
- Pays past due premiums; and
- Files required information.

However, the relief does not apply to late payment interest charges.

To qualify for the relief, the plan administrator must:

- Contact by **July 31, 2012**, Robert Callahan (callahan.robert@pbgc.gov) or Bill O’Neill (oneill.bill@pbgc.gov) of PBGC’s Financial Operations Department (202-346-4067) to discuss how to comply with premium filing requirements to obtain this relief; and
- Pay past due premiums and file required premium information by **August 31, 2012**.

The PBGC intends to increase their efforts (e.g., using the [PBGC website](#) and providing presentations at professional conferences) to educate plan administrators about these requirements.

Compliance Bulletin by Prudential Retirement

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