



441 G St. N.W.
Washington, DC 20548

B-325461

January 23, 2014

The Honorable Tom Harkin
Chairman
The Honorable Lamar Alexander
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable John Kline
Chairman
The Honorable George Miller
Ranking Member
Committee on Education and the Workforce
House of Representatives

Subject: *Pension Benefit Guaranty Corporation: Payment of Premiums; Large-Plan Flat-Rate Premium*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Pension Benefit Guaranty Corporation (PBGC) entitled “Payment of Premiums; Large-Plan Flat-Rate Premium” (RIN: 1212-AB26). We received the rule on January 8, 2014. It was published in the *Federal Register* as a final rule on January 3, 2014. 79 Fed. Reg. 347.

This final rule moves the flat-rate premium due date for large pension plans to later in the premium payment year—to the same date as the variable-rate premium due date for such plans—starting with the 2014 plan year. Thus, the large calendar-year plans’ 2014 flat-rate premiums will be due October 15, 2014. This rule is part of a PBGC project to make its premium rules more effective and less burdensome by simplifying due dates, coordinating the due date for terminating plans with the termination process, and making conforming and clarifying changes to the variable-rate premium rules, among other changes.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. 801(a)(3)(A). The final rule has an announced effective date of January 3, 2014, and is applicable to plan years beginning on or after January 1, 2014. The rule was published in the *Federal Register* on January 3, 2014, and we received the rule on January 8, 2014. Therefore, the final rule does not have the required 60-day delay in effective date. The 60-day delay in effective date can be waived, however, if the agency finds for good cause that notice and public procedures thereon are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. § 808(2). PBGC found good cause that notice and public procedures

were unnecessary and contrary to the public interest in the case of this final rule and therefore the 60-day delay is not required.

Enclosed is our assessment of PBGC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Other than the Unfunded Mandates Act as discussed in the enclosure, our review of the procedural steps taken indicates that PBGC complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Philip Hertz
Deputy General Counsel
Pension Benefit Guaranty Corporation

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
PENSION BENEFIT GUARANTY CORPORATION
ENTITLED
"PAYMENT OF PREMIUMS; LARGE-PLAN FLAT-RATE PREMIUM"
(RIN: 1212-AB26)

(i) Cost-benefit analysis

The Pension Benefit Guaranty Corporation (PBGC) analyzed the costs and benefits of this final rule. As PBGC premium payments are included as receipts in the federal budget, the large-plan flat-rate premium deferral will cause a one-time shift of about \$1.5 billion (attributable primarily to calendar year plans) from one fiscal year to the next. Although no premium revenue will be lost, there will be the appearance of a one-time loss for the year when the due dates change. The due date change will shift, from PBGC to plans, the earnings on premium payments by large plans for the 7 months between the old and new due dates. PBGC estimates that the average gain per large plan will be about \$11,300 per year. Because earning rates differ between PBGC and plans, PBGC's loss will be about one-third as much as plans' gain. In addition, PBGC estimates that the reduction in large plans' administrative burden attributable to the change in their flat-rate premium due date will translate into average annual savings of 3 hours or \$1,050 per plan. In sum, PBGC foresees an average net benefit (in dollar terms) from adoption of the new uniform due date of about \$12,350 for each large plan (about \$11,300 in saved interest plus about \$1,050 in saved administrative expenses).

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

PBGC determined that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

PBGC did not address the Act in the final rule. In its submission to us, PBGC indicated that the requirement to prepare a written statement under section 202 of the Act was not applicable.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On July 23, 2013, PBGC published a proposed rule. 78 Fed. Reg. 44,056. PBGC received comments from six commenters—two employer associations, two associations of pension practitioners, an actuarial firm, and an individual actuary—all of which approved of the proposal. Pursuant to section 553(d)(3) of the Act, PBGC found good cause that notice and public procedures for this final rule are unnecessary and contrary to the public interest and therefore made this final rule effective immediately upon publication.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

PBGC determined that the only changes this rule makes in its premium information collection are that the estimated flat-rate filings are discontinued for plan years starting in 2014. PBGC receives premium filings from about 25,700 respondents each year and estimates that the total annual burden of the collection of information will be about 8,900 hours and \$59,250,000. This burden estimate reflects both a decrease in burden attributable to the change in the large-plan flat-rate premium due date under this final rule and an increase in burden attributable to a re-estimate of the existing premium filing burden. The increase in burden due to re-estimation is about 31,300 hours, and the decrease due to the due date change is about 17,000 hours, a net increase of about 14,300 hours from the currently approved burden (about 163,600). PBGC assumed that about 95 percent of the work is contracted out at \$350 per hour, so the 17,000-hour decrease attributable to the final rule is equivalent to about 850 hours of in-house labor and about \$5,650,000 of contractor costs.

Statutory authorization for the rule

PBGC promulgated this final rule under the authority of sections 1302(b)(3), 1303(A), 1306, and 1307 of title 29, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

PBGC determined that this final rule is economically significant under the Order.