

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Allocation of Assets in Single-Employer Plans; Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation’s regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans to prescribe certain interest assumptions under the benefit payments regulation for plans with valuation dates in October 2020 and interest assumptions under the asset allocation regulation for plans with valuation dates in the fourth quarter of 2020. These interest assumptions are used for valuing benefits and paying certain benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective October 1, 2020.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: PBGC’s regulations on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) and Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The interest assumptions in the regulations are also published on PBGC’s website (<https://www.pbgc.gov>).

Lump Sum Interest Assumption

PBGC uses the interest assumptions in appendix B to part 4022 (“Lump Sum Interest Rates for PBGC Payments”) to determine whether a benefit is payable as a lump sum and to determine the amount to pay as a lump sum. Because some private-sector pension plans use these interest rates to determine lump sum amounts payable to plan participants (if the resulting lump sum is larger than the amount required under section 417(e)(3) of the Internal Revenue Code and section 205(g)(3) of ERISA), these rates are also provided in appendix C to part 4022 (“Lump Sum Interest Rates for Private-Sector Payments”).

This final rule updates appendices B and C of the benefit payments regulation to provide the rates for October 2020 measurement dates.

The October 2020 lump sum interest assumptions will be 0.00 percent for the period during which a benefit is (or is assumed to be) in pay status and 4.00 percent during any years preceding the benefit’s placement in pay status. In comparison with the interest assumptions in effect for September 2020, these assumptions represent no change in the immediate rate and are otherwise unchanged.

Valuation/Asset Allocation Interest Assumptions

PBGC uses the interest assumptions in appendix B to part 4044 (“Interest Rates Used to Value Benefits”) to value benefits for allocation purposes under section 4044 of ERISA, and some private-sector pension plans use them to determine benefits liabilities reportable under section 4044 of ERISA and for other purposes. The fourth quarter 2020 interest assumptions will be 1.62 percent for the first 20 years following the valuation date and 1.40 percent thereafter. In comparison with the interest assumptions in effect for the third quarter of 2020, these interest assumptions represent no change in the select period (the period during which the select rate (the initial rate) applies), a decrease of 0.36 percent in the select rate, and a decrease of 0.17 percent in the ultimate rate (the final rate).

Need for Immediate Guidance

PBGC updates appendix B of the asset allocation regulation each quarter and

appendices B and C of the benefit payments regulation each month. PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to issue new interest assumptions promptly so that they are available to value benefits and, for plans that rely on our publication of them each month or each quarter, to calculate lump sum benefit amounts.

Because of the need to provide immediate guidance for the valuation and payment of benefits under plans with valuation dates during October 2020, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a “significant regulatory action” under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 324 is added at the end of the table to read as follows:

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
324	10–1–20	11–1–20	0.00	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 324 is added at the end of the table to read as follows:

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
324	10-1-20	11-1-20	0.00	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, an entry for “October–December 2020” is added at the end of the table to read as follows:

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for $t =$	i_t	for $t =$	i_t	for $t =$
October–December 2020	0.0162	1–20	0.0140	>20	N/A	N/A

Issued in Washington, DC.
Hilary Duke,
Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.
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DEPARTMENT OF THE TREASURY
Office of Investment Security
31 CFR Part 800
RIN 1505-AC68

Provisions Pertaining to Certain Investments in the United States by Foreign Persons

AGENCY: Office of Investment Security, Department of the Treasury.
ACTION: Final rule.

SUMMARY: This final rule modifies certain provisions in the regulations of the Committee on Foreign Investment in the United States that implement section 721 of the Defense Production Act of 1950, as amended by the Foreign Investment Risk Review Modernization Act of 2018. Specifically, the rule modifies the mandatory declaration provision for certain foreign investment transactions involving a U.S. business that produces, designs, tests, manufactures, fabricates, or develops one or more critical technologies. It also makes amendments to the definition of the term “substantial interest” and a

related provision, and makes one technical revision.

DATES:
Effective date: The final rule is effective on October 15, 2020.
Applicability date: See § 800.104.

FOR FURTHER INFORMATION CONTACT: For questions about this rule, contact: Meena R. Sharma, Deputy Director of Investment Security Policy and International Relations; or David Shogren, Senior Policy Advisor, at U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220; telephone: (202) 622-3425; email: CFIUS.FIRRMA@treasury.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 21, 2020, the Department of the Treasury (Treasury Department) published a notice of proposed rulemaking amending certain provisions in 31 CFR part 800 (Part 800). 85 FR 30893. (The Office of the Federal Register made the proposed rule available for public inspection on May 20, 2020.) Public comments on the proposed rule were due by June 22, 2020, and are discussed below.

The proposed rule made revisions to the requirement to submit declarations to the Committee on Foreign Investment in the United States (CFIUS or the Committee) for certain critical technology transactions. This declaration requirement in Part 800 implements section 1706 of the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), which amends

section 721 of the Defense Production Act of 1950 (DPA) to authorize CFIUS to mandate through regulations the submission of a declaration for covered transactions involving certain U.S. businesses that produce, design, test, manufacture, fabricate, or develop one or more critical technologies.

The proposed rule made modifications to the scope of the mandatory declaration provision in Part 800—primarily reorienting it from one based on a nexus to certain industries to one based on whether certain U.S. government authorizations would be required to export, reexport, transfer (in-country), or retransfer the critical technology or technologies produced, designed, tested, manufactured, fabricated, or developed by the U.S. business to certain transaction parties and foreign persons in the ownership chain. To accomplish this, the proposed rule amended § 800.104 (applicability rule) and § 800.401 (mandatory declarations); introduced two new definitions: “U.S. regulatory authorization” and “voting interest for purposes of critical technology mandatory declarations;” and removed the North American Industry Classification System (NAICS) codes at appendix B to Part 800. The proposed rule also made amendments to the definition of “substantial interest” at § 800.244 of Part 800.

Further explanation of FIRRMA and the proposed rule can be found at 85 FR 30893; changes to the proposed rule are explained in further detail below.