

Signed at Washington, DC, this 9th day of January, 2020.

**Eugene Scalia,**

Secretary, U.S. Department of Labor.

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**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Part 4022**

**Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Pension Benefit Guaranty Corporation’s regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe certain interest assumptions under the regulation for plans with valuation dates in February 2020. These interest assumptions are used for paying certain benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

**DATES:** Effective February 1, 2020.

**FOR FURTHER INFORMATION CONTACT:**

Gregory Katz (*katz.gregory@pbgc.gov*), Attorney, Regulatory Affairs Division, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202-326-4400 ext. 3829. (TTY users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4400, ext. 3829.)

**SUPPLEMENTARY INFORMATION:** PBGC’s regulation on Benefits Payable in

Terminated Single-Employer Plans (29 CFR part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits under terminated single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The interest assumptions in the regulation are also published on PBGC’s website (*https://www.pbgc.gov*).

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. 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 February 2020 measurement dates.

The February 2020 lump sum interest assumptions will be 0.25 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 January 2020, these assumptions represent no change in the immediate rate and are otherwise unchanged.

PBGC updates appendices B and C 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 for plans that rely on our publication of them each month to calculate lump sum benefit amounts.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during February 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 in 29 CFR Part 4022**

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

In consideration of the foregoing, 29 CFR part 4022 is 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 316 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>i</i> <sub>1</sub>	<i>i</i> <sub>2</sub>	<i>i</i> <sub>3</sub>	<i>n</i> <sub>1</sub>	<i>n</i> <sub>2</sub>
316	2-1-20	3-1-20	0.25	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, rate set 316 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		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
*	*		*	*	*	*	*	*
316	2-1-20	3-1-20	0.25	4.00	4.00	4.00	7	8

Issued in Washington, DC.

**Stephanie Cibinic**,  
Deputy Assistant General Counsel for  
Regulatory Affairs, Pension Benefit Guaranty  
Corporation.

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**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Parts 4071 and 4302**

**RIN 1212-AB45**

**Adjustment of Civil Penalties for Inflation**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation is required to amend its regulations annually to adjust for inflation the maximum civil penalty for failure to provide certain notices or other material information and for failure to provide certain multiemployer plan notices.

**DATES:**

*Effective date:* This rule is effective on January 15, 2020.

*Applicability date:* The increases in the civil monetary penalties under sections 4071 and 4302 of the Employee Retirement Income Security Act provided for in this rule apply to such penalties assessed after January 15, 2020.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Cibinic, Deputy Assistant General Counsel for Regulatory Affairs (*cibinic.stephanie@pbgc.gov*), Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026; 202-229-6352. (TTY users may call the Federal relay service toll-free at 800-877-8339 and ask to be connected to 202-229-6352.)

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

*Purpose of the Regulatory Action*

This rule is needed to carry out the requirements of the Federal Civil Penalties Inflation Adjustment Act

Improvements Act of 2015 and Office of Management and Budget guidance M-20-05. The rule adjusts, as required for 2020, the maximum civil penalties under 29 CFR part 4071 and 29 CFR part 4302 that the Pension Benefit Guaranty Corporation (PBGC) may assess for failure to provide certain notices or other material information and certain multiemployer plan notices.

PBGC's legal authority for this action comes from the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and from sections 4002(b)(3), 4071, and 4302 of the Employee Retirement Income Security Act of 1974 (ERISA).

*Major Provisions of the Regulatory Action*

This rule adjusts as required by law the maximum civil penalties that PBGC may assess under sections 4071 and 4302 of ERISA. The new maximum amounts are \$2,233 for section 4071 penalties and \$297 for section 4302 penalties.

**Background**

PBGC administers title IV of ERISA. Title IV has two provisions that authorize PBGC to assess civil monetary penalties.<sup>1</sup> Section 4302, added to ERISA by the Multiemployer Pension Plan Amendments Act of 1980, authorizes PBGC to assess a civil penalty of up to \$100 a day for failure to provide a notice under subtitle E of title IV of ERISA (dealing with multiemployer plans). Section 4071, added to ERISA by the Omnibus Budget Reconciliation Act of 1987, authorizes PBGC to assess a civil penalty of up to \$1,000 a day for failure to provide a notice or other material information under subtitles A, B, and C of title IV and sections 303(k)(4) and 306(g)(4) of title I of ERISA.

<sup>1</sup> Under the Federal Civil Penalties Inflation Adjustment Act of 1990, a penalty is a civil monetary penalty if (among other things) it is for a specific monetary amount or has a maximum amount specified by Federal law. Title IV also provides (in section 4007) for penalties for late payment of premiums, but those penalties are neither in a specified amount nor subject to a specified maximum amount.

**Adjustment of Civil Penalties**

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,<sup>2</sup> which requires agencies to adjust civil monetary penalties for inflation and to publish the adjustments in the **Federal Register**. An initial adjustment was required to be made by interim final rule published by July 1, 2016, and effective by August 1, 2016. Subsequent adjustments must be published by January 15 each year after 2016.

On December 16, 2019, the Office of Management and Budget issued memorandum M-20-05 on implementation of the 2020 annual inflation adjustment pursuant to the 2015 act.<sup>3</sup> The memorandum provides agencies with the cost-of-living adjustment multiplier for 2020, which is based on the Consumer Price Index (CPI-U) for the month of October 2019, not seasonally adjusted. The multiplier for 2020 is 1.01764. The adjusted maximum amounts are \$2,233 for section 4071 penalties and \$297 for section 4302 penalties.

**Compliance With Regulatory Requirements**

The Office of Management and Budget has determined that this rule is not a "significant regulatory action" under Executive Order 12866 and therefore not subject to its review. As this is not a significant regulatory action under E.O. 12866, it is not considered an E.O. 13771 regulatory action.

The Office of Management and Budget also has determined that notice and public comment on this final rule are unnecessary because the adjustment of civil penalties implemented in the rule is required by law. See 5 U.S.C. 553(b).

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

<sup>2</sup> Sec. 701, Public Law 114-74, 129 Stat. 599-601 (Bipartisan Budget Act of 2015).

<sup>3</sup> See M-20-05, Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, <https://www.whitehouse.gov/omb/information-for-agencies/memoranda/>.