

PBGC Finalizes Reduced Late Premium Payment Penalties

As proposed in April, PBGC has cut their penalties for late payment of annual premiums in half and sliced them even further for plan sponsors who have a history of timely payment. The rule applies to both single-employer and multiemployer plans.

Background

Covered defined benefit plans are obligated to pay annual premiums to the PBGC within 9½ months after the beginning of each plan year (October 15 for calendar year plans). Currently, two penalty levels apply to late payments. For premium underpayments corrected before a PBGC notice, the penalty is 1% of the amount of the late payment per month (with a 50% cap). After PBGC provides notice of the underpayment, the penalty is 5% per month (capped at 100%). The current penalty is subject to a floor of \$25 (or the amount of premium paid late, if less).

In April, PBGC proposed to revise their regulations to cut the rates and caps in half (to ½% with a 25% cap and 2½% with a 50% cap, respectively). The floor would be eliminated. The proposed changes added a new 80% waiver of the higher penalty applicable when PBGC provides notice for plans with good compliance history. The resulting penalty would be ½% per month with a 25% cap — the same rate applied to plan sponsors who self-correct before PBGC issues a notice.



As proposed, eligibility for the 80% waiver would require satisfaction of two conditions:

- The plan must have a five-year record of premium compliance — timely payment or penalties fully waived.
- The premium shortfall would need to be corrected promptly — within 30 days of PBGC's notification.

Plans in existence for fewer than five years would be judged on all coverage years.

The proposal did not affect penalties for late payment of the termination premium payment.

Rule Finalized as Proposed

PBGC's [final regulation](#) on the penalty adjustments is essentially unchanged from the proposal.

Effective Date

Under the final change, penalties are modified for late premium payments for plan years beginning after 2015. In addition, in response to comments urging earlier relief, PBGC has concluded that — in pending requests for reconsideration for pre-2016 years — it is appropriate to use its pre-existing discretionary authority to take into account good compliance and prompt correction, among other facts and circumstances. However, PBGC will not reconsider any previously closed cases.

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