

“(c) EFFECTIVE DATE.—This section shall apply to plan years beginning after December 31, 2007.”

SPECIAL RULE FOR CERTAIN BENEFITS FUNDED UNDER AN AGREEMENT APPROVED BY THE PENSION BENEFIT GUARANTY CORPORATION

For applicability of this section to a multiemployer plan that is a party to an agreement that was approved by the Pension Benefit Guaranty Corporation prior to June 30, 2005, and that increases benefits and provides for certain withdrawal liability rules, see section 206 of Pub. L. 109-280, set out as a note under section 412 of this title.

SUBPART B—BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS

Sec.
436. Funding-based limitation on shutdown benefits and other unpredictable contingent event benefits under single-employer plans.¹

§ 436. Funding-based limits on benefits and benefit accruals under single-employer plans

(a) General rule

For purposes of section 401(a)(29), a defined benefit plan which is a single-employer plan shall be treated as meeting the requirements of this section if the plan meets the requirements of subsections (b), (c), (d), and (e).

(b) Funding-based limitation on shutdown benefits and other unpredictable contingent event benefits under single-employer plans

(1) In general

If a participant of a defined benefit plan which is a single-employer plan is entitled to an unpredictable contingent event benefit payable with respect to any event occurring during any plan year, the plan shall provide that such benefit may not be provided if the adjusted funding target attainment percentage for such plan year—

- (A) is less than 60 percent, or
- (B) would be less than 60 percent taking into account such occurrence.

(2) Exemption

Paragraph (1) shall cease to apply with respect to any plan year, effective as of the first day of the plan year, upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 430) equal to—

- (A) in the case of paragraph (1)(A), the amount of the increase in the funding target of the plan (under section 430) for the plan year attributable to the occurrence referred to in paragraph (1), and
- (B) in the case of paragraph (1)(B), the amount sufficient to result in an adjusted funding target attainment percentage of 60 percent.

(3) Unpredictable contingent event benefit

For purposes of this subsection, the term “unpredictable contingent event benefit” means any benefit payable solely by reason of—

- (A) a plant shutdown (or similar event, as determined by the Secretary), or

(B) an event other than the attainment of any age, performance of any service, receipt or derivation of any compensation, or occurrence of death or disability.

(c) Limitations on plan amendments increasing liability for benefits

(1) In general

No amendment to a defined benefit plan which is a single-employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable may take effect during any plan year if the adjusted funding target attainment percentage for such plan year is—

- (A) less than 80 percent, or
- (B) would be less than 80 percent taking into account such amendment.

(2) Exemption

Paragraph (1) shall cease to apply with respect to any plan year, effective as of the first day of the plan year (or if later, the effective date of the amendment), upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 430) equal to—

- (A) in the case of paragraph (1)(A), the amount of the increase in the funding target of the plan (under section 430) for the plan year attributable to the amendment, and
- (B) in the case of paragraph (1)(B), the amount sufficient to result in an adjusted funding target attainment percentage of 80 percent.

(3) Exception for certain benefit increases

Paragraph (1) shall not apply to any amendment which provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment.

(d) Limitations on accelerated benefit distributions

(1) Funding percentage less than 60 percent

A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted funding target attainment percentage for a plan year is less than 60 percent, the plan may not pay any prohibited payment after the valuation date for the plan year.

(2) Bankruptcy

A defined benefit plan which is a single-employer plan shall provide that, during any period in which the plan sponsor is a debtor in a case under title 11, United States Code, or similar Federal or State law, the plan may not pay any prohibited payment. The preceding sentence shall not apply on or after the date on which the enrolled actuary of the plan certifies that the adjusted funding target attainment percentage of such plan is not less than 100 percent.

¹ So in original. Does not conform to section catchline.