For well over 20 years, private-sector representatives of the JCEB and PBGC staff members have met annually for informal discussions of matters of mutual concern. The meeting format provides for an informal discussion of a number of broad topics that are agreed upon in advance. JCEB representatives prepare a summary of matters discussed at the meeting, which is placed on the ABA website (www.americanbar.org/groups/committees/employee_benefits/events_cle/practitioner_q_as1/).

As was the case in all prior JCEB-PBGC meetings, statements made by PBGC staff at the 2019 meeting reflect the unofficial, individual views of the government participants as of the time of the discussion, and do not necessarily represent the official position of PBGC. This report on the discussions was prepared by designated JCEB representatives, based on the notes and recollections of the JCEB representatives at the meeting, and it was understood that this report would be made available to the public. PBGC staff neither approve nor endorse the contents of this report.

I. SINGLE EMPLOYER PROGRAM

A. Reportable Events Experience. PBGC staff said that, since the 2015 updating of PBGC’s reportable events rule, PBGC has been compiling reporting data on a calendar year basis. In 2016, the first year after the rule was amended, total filings numbered about 700, which was near a historical low. Staff said that there was not a significant change in 2018, with filings up about 5%.

PBGC staff said that there were about 170 reports regarding active participant reductions. In answer to a question regarding active participant reduction reports, PBGC staff said that the agency had not been seeing problems regarding how the reductions were calculated, but also noted that PBGC tends to take the reported numbers at face value.

Staff said that the total number of reports regarding missed minimum funding contributions was about the same as last year, but there were more filings regarding missed contributions under $1 million.

Staff noted that late filings continue to be an issue. Because small plans historically have had a higher rate of late filings, in large part due to a lack of understanding of the filing rules, PBGC posted a reference sheet on its website summarizing reportable events requirements for small plans. See www.pbgc.gov/prac/reporting-and-disclosure/small-plan-reportable-reference. Staff encouraged potential filers to consult the chart as a quick reference tool, saying they expected users to find it quite helpful.

PBGC staff said that the agency continues to receive a significant number of reports submitted by filers who may be entitled to a waiver of reporting requirements based on
the reportable events rule’s low-default-risk waiver provisions, and encouraged potential filers to review those provisions carefully.

In answer to a question regarding the low-default-risk waiver provisions, PBGC staff said that, under the current provisions, the contributing sponsor and the highest level U.S. parent each must satisfy the rule's criteria for the waiver. Responding to questions regarding the possibility of modifying the rule—whether through a Technical Update or a rule change—to provide that the test could be met on a simple consolidated 10-K basis, PBGC staff noted that this issue was considered during the process leading to the updated 2015 rule, and also said that potential filers facing this issue could always ask PBGC to review the matter in a particular case. See also the discussion regarding PBGC’s semiannual regulatory agenda in Section V below.

PBGC staff said that the agency continues its efforts to encourage filers to use PBGC’s e-filing portal, saying that the portal is user-friendly and makes the filing process easier for both filers and PBGC, and noting that fields are pre-populated and past filings can easily be seen.

In answer to a question about the number of reports regarding loan defaults, PBGC staff estimated that the number of such reports were likely in the low double digits—perhaps 20 to 30 a year.

**B. Standard Termination Experience.** PBGC staff said that PBGC had completed audits of about 400 plans that had terminated in standard terminations, and required that corrective action be taken in about 25% of those plans. Common problems requiring correction included:

- Improperly calculated lump sums—e.g., not using the proper stability or look-back period, overlooking plan assumptions where the plan document provides that the lump sum is the greater of that determined under IRC § 417(e) or the plan;
- Improper calculation of amounts sent to PBGC under the missing participants rule;
- Failure to give proper notice of the location of rolled-over distributions;
- Impermissible benefit waivers (a participant must be a 50% or more owner for a benefit waiver to be valid);
- Deducting processing fees (impermissible in defined benefit plans); and
- Failure to comply with requirement that participants who separated from service before plan termination without a 5-year break in service be fully vested upon plan termination.
In response to a question, PBGC staff said that the agency abides by a plan's deemed cash-out rule with respect to participants who were not at least partially vested at the time of their separation.

Staff also said that PBGC reviews situations in which vested participants have received distributions shortly before plan termination, noting that if such distributions are not consistent with past plan practice they are improper, and saying that generally PBGC considers those participants to be part of the standard termination.

In response to a question regarding whether participants who were cashed out in anticipation of termination are required to get notices comparable to what they would get in a standard termination, PBGC staff said that the agency often finds that appropriate notices have been provided to such participants, and that the problem more often has been that the required filings with PBGC have not been made.

PBGC staff also said that records are not always being kept as required, and that, when a plan is in the process of being transitioned to a new actuary, the new actuary should test the integrity of the data being transferred.

In response to questions, PBGC staff said that:

- standard termination audit notice letters are generally sent out about a month after a fiscal quarter ends, with plans generally selected based on post-distribution certifications filed in that prior quarter; and
- about 25% of the approximately 1,400 plans a year terminating in standard terminations are audited, including all plans with more than 300 participants.

C. Distress Termination Pre-Filing Consultation Program. PBGC staff said that, for over a year, PBGC has provided employers considering distress terminations with an opportunity for pre-filing consultations with PBGC. There were 18 such consultations in FY 2018 and 9 in the first two quarters of FY 2019.

Staff said that PBGC has received positive feedback regarding the program, and that PBGC has found it helpful and is working to increase awareness of its availability. Instructions regarding how to seek a consultation are provided on PBGC's website. See www.pbgc.gov/prac/terminations/distress-terminations; www.pbgc.gov/prac/whatsnew.

A practitioner commented that filing for distress termination often creates a default under loan documents.

In response to a question, PBGC staff said that none of the consultations thus far had involved companies in bankruptcy.
D. Church Plans Coverage. A practitioner asked how the PBGC would address the issues raised if/when a plan that for many years believed that it was a church plan that was not covered by Title IV received a final court ruling that it is not a church plan and therefore is covered by Title IV—and presumably has been since its inception. In response, PBGC staff said that the agency is open to having the plan sponsor reach out to PBGC and its sister agencies, and that PBGC will work to try to resolve these issues if/when they arise.

PBGC staff said that the defendant in such a case would logically seek as much relief and guidance from the court as possible, including requesting that the court retain jurisdiction as a myriad of issues are addressed by the relevant agencies.

E. IRC § 4971(a) Excise Tax. Finally, before a shift in focus to the Multiemployer Program, there was also a discussion regarding the fact that the statutory 10% excise tax for failure to comply with minimum funding requirements generally cannot be waived, but that the IRS may, under some circumstances, be receptive to agreeing that excise taxes be waived at the request of PBGC in order to enable the employer to reach a settlement with PBGC (e.g., in the context of an out-of-bankruptcy distress termination under the “business continuation” test).

II. MULTIEMPLOYER PROGRAM

A. Multiemployer Funding And The Joint Select Committee. PBGC staff said that, as of the end of FY 2018, the net position (assets minus liabilities) of PBGC's multiemployer program was negative $54 billion, which represents a slight improvement from the prior FY; however, the slight improvement is not attributable to positive trends. According to PBGC's most recent analysis, the program is likely to become insolvent in 2025. See www.pbgc.gov/sites/default/files/fy-2017-projections-report.pdf. Staff said that, absent program changes, PBGC’s ability to provide financial assistance at the current guaranteed level will be severely compromised.

The Joint Select Committee on Solvency of Multiemployer Pension Plans (JSC), which was charged with making recommendations to address the severe underfunding of the many troubled multiemployer plans, no longer exists. PBGC staff said that the JSC did not issue a report or recommendations for legislation before the JSC ended and the Congress adjourned, but did highlight the issues for Congress. PBGC staff also said that some discussion ideas were publicized (though the provenance was unknown) that highlighted some of the difficult policy issues. The staff also noted that three PBGC employees were detailed to assist in the JSC's work.

One practitioner noted that, in the context of the single-employer pension insurance program, PBGC has been involved in restructuring efforts, for example in the airline industry, and asked whether PBGC might consider engaging in similar efforts in a multiemployer context. In response, PBGC staff noted that the JSC did, to some extent,
separately analyze industry segments, and that the issues and solutions regarding plans in
different segments may differ.

PBGC staff believed that there would be more hearings and more discussions this year.
Staff noted that there is a huge difference in premium and funding requirements between
the single-employer program and the multiemployer program. Staff indicated their view
that a solution that broadly reforms the multiemployer system would require compromise
and time is running out.

B. Partition Cases (Plasterers 94 and Teamsters 805). PBGC staff said that, since the
2014 passage of the Multiemployer Pension Reform Act of 2014 (MPRA), PBGC has
approved three partition applications, with the agency also having approved three such
applications before MPRA's enactment.

PBGC recently approved partition applications filed with respect to the Plasterers and
Cement Masons Local No. 94 Pension Plan and the Teamsters Local 805 Pension and
Retirement Fund.

PBGC may approve partition only if:

- The plan is in critical and declining status;
- In consultation with the Participant and Plan Sponsor Advocate, PBGC
determines that the plan sponsor has taken (or is taking) all reasonable measures
to avoid insolvency (including implementing maximum benefit suspensions, if
applicable);
- PBGC determines that a partition of the plan will reduce PBGC’s expected long-
term loss with respect to the plan and is necessary for the ongoing plan to remain
solvent;
- PBGC certifies to Congress that the agency's ability to meet existing obligations
to other plans will not be impaired (including plans projected to be insolvent
within 10 years); and
- The financial assistance provided to the successor plan created by the partition is
paid exclusively from PBGC’s multiemployer fund.

See [www.pbgc.gov/prac/pg/mpra/multiemployer-plans-and-partition](http://www.pbgc.gov/prac/pg/mpra/multiemployer-plans-and-partition);

PBGC staff noted that MPRA requires PBGC to consult with the PBGC Participant and
Plan Sponsor Advocate regarding partitions. See ERISA Section 4233(b)(2), 29 U.S.C.
§ 1413(b)(2).
**Plasterers and Cement Masons Local No. 94 Pension Plan.** PBGC approved the partition of the Plasterers and Cement Masons Local No. 94 Plan effective May 1, 2019. PBGC staff said that the plan, based in Harrisburg, PA, was 45% funded and projected to become insolvent in 2027. About 40 of the approximately 70 plan participants will experience benefit reductions averaging 38%. The benefits of about 30 participants will not be reduced because of statutory protections for older and disabled participants and for benefits that are equal to or less than 110% of the PBGC guarantee amount. See [www.pbgc.gov/sites/default/files/cm94-partition-order-122018.pdf](http://www.pbgc.gov/sites/default/files/cm94-partition-order-122018.pdf); [www.pbgc.gov/news/other/plasterers-and-cement-masons-local-number-94-FAQs](http://www.pbgc.gov/news/other/plasterers-and-cement-masons-local-number-94-FAQs); [www.pbgc.gov/sites/default/files/local-94-conditional-approval-letter.pdf](http://www.pbgc.gov/sites/default/files/local-94-conditional-approval-letter.pdf).

**Teamsters Local 805 Pension and Retirement Fund.** PBGC approved the partition of the Teamsters Local 805 Pension and Retirement Plan effective January 1, 2019. PBGC staff said that the New York City-based plan was 25% funded and projected to become insolvent in 2022. Staff also said the partition would affect about 2,000 participants, with the benefits of about 500 participants remaining unreduced because of the statutory protections referenced above. Participants whose benefits are affected by the partition will experience benefit reductions averaging 41%. See [www.pbgc.gov/sites/default/files/partition-order.pdf](http://www.pbgc.gov/sites/default/files/partition-order.pdf); [www.pbgc.gov/about/faq/local-805-participants-faq](http://www.pbgc.gov/about/faq/local-805-participants-faq).

PBGC staff said that no partition petitions are currently pending with PBGC.

**C. Informal Consultation Program.** PBGC staff said that the agency encourages multiemployer plans to informally consult with PBGC regarding MPRA issues. Staff noted that one of the statutory requirements that is applicable both to requests for partitions and to requests for financially facilitated mergers is that PBGC must determine that the agency's ability to meet existing obligations to other multiemployer plans will not be impaired if the request is approved. PBGC staff said that once PBGC has the needed information, they would expect the agency to take about two months to consider the matter, and that only PBGC can do the impairment analysis. Once the informal analysis is completed, staff said, PBGC will provide guidance as to whether a plan could satisfy the non-impairment requirement. Staff said that PBGC has done about a dozen of these informal consultations, and expects that one of those will result in an application for a financially facilitated merger.

**III. OTHER PROGRAM UPDATES**

**A. Missing Participants Program.** PBGC staff said that, since the PBGC's new Missing Participants program, which applies to plans that terminate on or after January 1, 2018, the program has taken in benefits for participants in all three types of terminated plans that are covered by the program—defined benefit plans, defined contribution plans, and multiemployer plans. See [www.pbgc.gov/sites/default/files/2017-27515.pdf](http://www.pbgc.gov/sites/default/files/2017-27515.pdf).
Staff said that the agency's program office has been getting a significant number of questions from service providers, and that PBGC encourages stakeholders to contact the agency whenever they have questions.

PBGC staff said that most defined contribution plans that have used the Missing Participants program have been small, although one defined contribution plan transferred $8 million in benefits to the program. About 40 defined contribution plans have used the program to date, and another 15 have requested case numbers and indicated that they intend to use the program, staff said.

PBGC staff also said that the agency anticipates developing metrics to enable it to evaluate the success of the program.

Staff said that, with the assistance of PBGC's Participant and Plan Sponsor Advocate, PBGC teamed with the Employee Benefits Security Administration's Chicago regional office in a pilot program to locate missing participants. Staff said that the pilot program was very successful, having found 1,500 participants with benefits totaling $90 million. The program has now been expanded to 11 EBSA regional offices, staff said.

PBGC staff said that many defined contribution plans are using the automatic rollover option rather than PBGC's Missing Participants program. Staff said that PBGC is encouraging DC plans to use the agency's Missing Participants program because PBGC believes that its program will result in a greater likelihood of participants ultimately receiving their benefits. Staff said that PBGC is very interested in receiving suggestions regarding whether there is anything more the agency can do to encourage contributing sponsors to use the program.

One practitioner said that a significant number of "missing" participants are not actually missing; for example, some may have very small benefits and simply don't bother to cash their checks, and others may be entitled to de minimis trailing dividends (sometimes less than $1) after having been cashed out.

A practitioner said that PBGC regulatory guidance is helpful and noted that, by contrast, the only available guidance from DOL and IRS is sub-regulatory.

Another practitioner said that addressing situations where benefits have been "conditionally" forfeited and subject to later restoration may present special difficulties in the case of terminated plans because the plans may not have sufficient information regarding participants whose benefits were forfeited years ago.

B. Mediation Program. PBGC staff said that this year PBGC made its pilot mediation program permanent and expanded the program to fiduciary breach matters. See [www.pbgc.gov/prac/other-guidance/pbgc-mediation-program](http://www.pbgc.gov/prac/other-guidance/pbgc-mediation-program). The pilot program had covered only early warning and termination liability cases.
PBGC staff said that in fiduciary breach cases, PBGC typically seeks a settlement with the breaching fiduciary, and if settlement is not possible, the agency files an action in federal district court. Now there is a third option: use of the agency's mediation program.

PBGC staff said that the Federal Mediation and Conciliation Service (FMCS) supplies the mediators under the program, and that each side shares the costs of the mediation. Staff said that the FMCS has a presence nationwide, which will result in a more convenient and less expensive process. For example, if a case is in California, the mediation would likely be in California and the mediator would likely be local.

PBGC staff said that the agency is excited about the expansion of the mediation program to fiduciary breach cases, noting that there is a pending fiduciary matter that may be mediated. Staff said that a mediator, as an independent third party, may be particularly helpful in fiduciary cases in which the breaching fiduciary apparently does not understand the applicable law.

PBGC staff said that a mediation of a termination liability case concluded successfully, and also noted that that the agency had offered mediation in several cases involving various disputes that were ultimately settled, and that PBGC viewed the settlements as a positive outcome.

PBGC staff said that there are a number of fiduciary breach cases currently pending at PBGC. Staff said that the district court's January 2019 decision in *PBGC v. Mizrachi* was a very strong decision for PBGC regarding the statute of limitations applicable to fiduciary breach actions brought by PBGC in its capacity as trustee of a terminated plan, and noted that both defendants in that case quickly settled with PBGC after the court's decision. See *PBGC v. Mizrachi*, 363 F.Supp. 3d 342 (E.D.N.Y. 2019), 2019 WL 1123785.

Staff also said that earlier this year, PBGC, as statutory trustee of the terminated Retirement Plan of Freedom Communications, Inc., filed a fiduciary breach case seeking to recover millions of dollars in losses caused by various fiduciary breaches. The case is pending. *PBGC v. Spitz, Kushner, et al.*, Case 8:19-cv-00299 (C.D. Cal. 2019).

C. 4010 Informal Consultation Practice. PBGC staff said that PBGC now offers a pre-filing consultation for ERISA 4010 filers, especially first-time filers, looking for guidance on filing requirements. See www.pbgc.gov/prac/reporting-and-disclosure/4010-reporting. PBGC staff said that, because the agency's informal consultation programs regarding distress terminations and MPRA penalties have both had good results, PBGC decided to provide a similar service with respect to 4010 filings.

Anticipating the April 15, 2019, deadline for 4010 reports, PBGC announced the consultation service on March 29, 2109, both on its website and via a mass mailing to potential filers. See www.pbgc.gov/prac/whatsnew.

PBGC staff said that the consultation service is directed primarily to filing coordinators, who tend to be administrative staff tasked with coordinating various offices that may
have information needed for the filing. In the pre-filing consultation, PBGC staff will provide an overview of the process, share helpful tips on how to use the e-filing software, and provide insights on how to avoid common filing errors.

PBGC staff noted that plans generally are familiar with PBGC's premium filing system, but many are unfamiliar with the e-filing portal system, which is used for both reportable event and 4010 filings.

Staff said that PBGC believes that the service will give users a better understanding of the coordination necessary and the need to plan in order to meet the filing deadline.

IV. REGULATION UPDATE

A. Coverage Forms And Pilot Program. PBGC staff said that it published today a notice that it is seeking OMB approval, under the Paperwork Reduction Act, of a new form and instructions packet to be used by a plan administrator or plan sponsor to request a PBGC coverage determination. Comments were due to OMB by June 7, 2019. See 84 Fed. Reg. 20168 (May 8, 2019); www.pbgc.gov/prac/whatsnew; www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201905-1212-004.

The proposed form would highlight the four plan types for which coverage determinations are most frequently requested:

- church plans as listed in ERISA section 4021(b)(3) of ERISA;

- plans that are established and maintained exclusively for the benefit of plan sponsors’ substantial owners as listed in ERISA 4021(b)(9) of ERISA;

- plans covering, since September 2, 1974, no more than 25 active participants that are established and maintained by professional services employers as listed in ERISA section 4021(b)(13) of ERISA; and

- Puerto Rico-based plans within the meaning of ERISA section 1022(i)(1).

PBGC had previously published a notice informing the public of its intent to request approval of this collection of information, and had received comments from three commenters. See 83 Fed. Reg. 20169 (December 4, 2018); www.pbgc.gov/prac/pg/other/guidance/paperwork-notices.

PBGC staff said that the form is a tool that practitioners efficiently can use to request any type of PBGC coverage determination. Staff noted that one commenter requested that practitioners be able to use the forms to request coverage determinations for plans that have yet to be established. Staff said that, although PBGC doesn't believe it is appropriate to make a coverage determination regarding a plan that does not yet exist, the agency has proposed a pilot program under which
PBGC would issue opinion letters regarding coverage of proposed substantial owner plans and professional service plans that have not yet been adopted.

The proposed form and instructions are pending with OMB.

**SUBSEQUENT EVENT:** PBGC’s new form and instructions for requesting a determination about whether a plan is covered under title IV of ERISA was approved by OMB and is now available for use. The instructions explain that in limited circumstances, under a one-year pilot program, employers may also use the form to request an Opinion Letter about whether a plan in the process of being created is likely to be covered by PBGC.

**B. 4062(e) Forms.** PBGC staff said that the agency is developing forms that would collect the information necessary to fulfill reporting obligations following a cessation of operations described under ERISA Section 4062(e). Staff said that PBGC believes that the forms will be useful and looks forward to receiving comments once notice of the proposed forms is published.

**SUBSEQUENT EVENT:** On May 15, 2019, PBGC issued a Notice that it intends to request OMB approval of the 4062(e) forms. 84 Fed. Reg. 21840. Comments were due July 15, 2019 to be assured of consideration.

**C. Proposed Rule On Calculating Withdrawal Liability.** PBGC staff indicated that PBGC is currently considering comments on its proposed rule on simplified methods for computing withdrawal liability. See 84 Fed. Reg. 2075 (February 6, 2019); www.pbgc.gov/prac/pg/other/guidance/pending-proposed-rules.

The proposed rule would implement statutory changes as required under the Pension Protection Act of 2006 and MPRA affecting the determination of an employer’s withdrawal liability and annual payment amount when an employer withdraws from a multiemployer plan. The regulation addressed this technical rule and provided two different simplified approaches, as well as sample calculations.

Among other things, MPRA requires that contribution increases required to be made to enable a plan to meet the funding requirements of a funding improvement plan (FIP) or rehabilitation plan (RP) are to be excluded in the calculation of an employer’s allocable share of unfunded vested benefits (UVB) and annual payment amount. Certain contribution increases, however, are required to be included. The proposed regulation requires that actuarially-determined contribution increases (applicable to plan years after December 31, 2014) recognized for benefit accrual purposes must be included in such calculations, even when those increases are required under a FIP or RP. PBGC received 7 comments on the proposed regulation and all seven comments addressed this provision in different ways.

**D. Final Rule On Terminated And Insolvent Plans.** PBGC issued a final rule on Terminated and Insolvent Multiemployer Plans and Duties of Plan Sponsors. 84 Fed.

PBGC staff said that the rule, which will affect about 140 multiemployer plans, generally is intended to simplify reporting and disclosure requirements for certain terminated or insolvent plans. The new rule:

- eliminates the requirement to provide most annual updates to notices of insolvency benefit level and requires such notices to be provided only to participants who are newly in pay status;

- allows the plan sponsor of a plan terminated by mass withdrawal to perform an actuarial valuation only every 5 years if the present value of the plan's nonforfeitable benefits is $50 million or less (under current regulations, an actuarial valuation is required every 3 years if the present value of the plan's nonforfeitable benefits is $25 million or less);

- adds two new reporting requirements:
  - insolvent plans receiving financial assistance, plans terminated by mass withdrawal (whether insolvent or not) as well as plans terminated by amendment that are expected to be insolvent, must file actuarial valuations through PBGC’s e-filing portal; and
  - those same plans are required to file, through PBGC's e-filing portal, information regarding withdrawal liability. The required information will be specified on PBGC’s website and in the PBGC filing forms and instructions.

PBGC staff explained that the agency is seeking only current information regarding withdrawal payments that have been assessed or an explanation as to why they have not been assessed. Thus, in response to comments filed on the proposed regulation, PBGC explained in the preamble to the final regulation that historical information on withdrawal liability need not be provided. See 84 Fed. Reg. 18715, 18718 (discussion in preamble to final rule of information required and clarifying that withdrawal liability information for plan years ending before the final rule's effective date will not be required to be filed).

PBGC staff also said that PBGC is in the process of coordinating with an outside contractor to update the PBGC e-filing portal system prior to the rule's July 1, 2019 effective date.

V. OTHER TOPICS

PBGC staff said that the agency posted a report today that looks at PBGC’s single-employer plan program and analyzes outcomes resulting from the guarantee rules

Staff said that the report shows that 84% of participants in terminated PBGC-trusted plans receive no cutback in the amount of their benefit. For the 16% of participants whose benefits were cut back, the report shows which of the three most-commonly-applicable guarantee limit rules resulted in the cutbacks.


In response, PBGC staff said that it is clear that an agency cannot regulate by sub-regulatory guidance—i.e., an agency cannot issue binding guidance except by following the procedures set forth in the Administrative Procedure Act. Staff said that PBGC is in compliance with that standard, and has consistently been careful in making clear that informal agency guidance or statements are not binding.

PBGC staff also said that the General Counsel of PBGC, as a Liaison Representative, is a member of the Administrative Conference of the United States, and that the agency has been very careful in seeking to follow best practices that ACUS delineated. See www.acus.gov.

Questions were raised about PBGC's position regarding the circumstances under which the exemption from the variable rate premium based on completion of a standard termination distribution during the premium payment year would be denied by PBGC based on the distribution not covering all of the plan’s participants as of the valuation date—for example, if the benefits of one or two participants are transferred out of the plan shortly after the valuation date. One practitioner said that it would be desirable for the PBGC rules to have flexibility so that a plan sponsor is not faced with a bill for a very large variable rate premium in such a situation.

In response, PBGC staff noted that the agency's semiannual regulatory agency is expected to be published soon, and said that the agenda will include a Miscellaneous item which will be a grab-bag that includes changes to the rules regarding premiums and reportable events, the focus of which will be on making the rules easier for stakeholders. Staff encouraged practitioners to raise these issues during the regulatory process, and noted that there will be lots of opportunities for stakeholders to engage with PBGC on these and other issues of concern.

**SUBSEQUENT EVENTS:** On May 22, 2019, PBGC published its semiannual regulatory agenda, which included a "Miscellaneous Corrections, Clarifications, and Improvements" proposed rule. See www.pbgc.gov/prac/pg/other/guidance/regulatory-agendasplans (Regulatory Preamble and Regulatory Agenda Proposed and Final Rules).
On June 27, 2019, PBGC published a proposed rule (84 Fed. Reg. 30666, available at www.pbgc.gov/sites/default/files/miscellaneous-corrections-rule-published.pdf) that would make miscellaneous technical corrections, clarifications, and improvements to PBGC's regulations, including the rules on reportable events, 4010, and premium rates. Among the amendments to the premium rates regulation is a provision stating that that a plan does not qualify for the variable rate premium exemption for the year in which it completes a standard termination if it engages in a non-de minimis spinoff in the same year.