Allocation of Assets - Priority Category 3

Issue Date   03/27/2014

A. Introduction

This PBGC internal guidance revises PBGC Internal Guidance Allocation of Assets - Priority Category 3, 1st edition and replaces PBGC Internal Guidance Bulletin 00-8 in order to reflect changes that the Pension Protection Act of 2006 (PPA 2006) requires for allocating assets and assigning plan benefits to Priority Category 3 (PC3).

Section 4044(a) of the Employee Retirement Income Security Act (ERISA) requires that Pension Benefit Guaranty Corporation (PBGC) allocate the assets of a trusteed pension plan among six priority categories. Before allocating plan assets, PBGC first assigns plan benefits to these six priority categories. In general, PBGC assigns to PC3 those plan benefits that were in pay, or could have been in pay, three years before the date of plan termination (DOPT). The plan benefit assigned to PC3, however, is based generally on plan provisions in effect five years before DOPT.

PPA 2006 revised the PC3 rules for those plan terminations that occur during a bankruptcy case (or similar proceeding) of the contributing sponsor. The revised PC3 rules cover those plan terminations for which the bankruptcy petition date (BPD) was on or after 9/16/2006. For such plans (called "PPA 2006 bankruptcy plans"), PBGC uses BPD (instead of DOPT) to determine PC3 eligibility and to calculate the PC3 Benefit (as defined below).

To assign plan benefits to PC3, PBGC uses a 2-step process based on ERISA section 4044(a)(3) and PBGC Reg. 4044.10 and 4044.13. First, PBGC identifies individuals who were actually receiving, or who were eligible to receive, plan benefits three years before DOPT/BPD. (The combined term "DOPT/BPD" refers to DOPT if the plan is not a PPA 2006 bankruptcy plan or BPD if the plan is a PPA 2006 bankruptcy plan.) Then, for PC3-eligible individuals, PBGC calculates the PC3 Benefit, which PBGC values as of DOPT regardless of whether the plan is a PPA 2006 bankruptcy plan.

Generally, two types of plan benefits are assigned to PC3. The first type is an annuity that actually commenced three or more years before DOPT/BPD and continued through DOPT. The second type is an annuity that could have (but had not) commenced three or more years before DOPT/BPD and after the Earliest PBGC Retirement Date (EPRD). Both PC3 types also include annuities that commenced, or could have commenced, three or more years before DOPT/BPD and that converted, or could have converted, to a survivor annuity as of DOPT. Plan benefits payable only as lump sums, such as lump sum death benefits, are not assigned to PC3.

To calculate the PC3 Benefit, PBGC considers vesting and individual pension data (credited service, eligibility requirements, pension compensation, etc.) as of the day before the beginning of the 3-year period ending on DOPT/BPD (or earlier if applicable, for example, because plan benefits commenced earlier). As is explained in this internal guidance, PBGC generally limits the PC3 Benefit to the lowest benefit in pay, or that could have been in pay, under the plan provisions in effect throughout the period beginning on DOPT/BPD-5 (as defined in section C below) and ending on DOPT. The benefit payable from

PBGC (as described in section J below) depends on the extent to which plan assets are available to fund PC3 Benefit Liabilities (as described in section I below).

B. Scope and Effective Date

This PBGC internal guidance applies to the eligibility for, and PBGC's calculation and valuation of, PC3 Benefits (as defined in section C below) in PBGC-trusteed plans.

This internal guidance statement is effective upon issuance.

C. Definitions

1. **Benefit Increase (or Decrease) in Effect** means a benefit increase (or decrease) whose adoption date and effective date have both occurred. In most cases, the effective date of a benefit increase (or decrease) will be the one specified in the adopting amendment. But in certain cases, the benefit increase (or decrease) may not take effect until a later date. In such a case, the effective date is the later date. For example, in the case of a benefit increase in a plan amendment that was adopted on 1/1/15 with a stated effective date of 3/1/15, but for which no participant could receive the increase until 5/1/15, the date on which the Benefit Increase is in Effect is 5/1/15. See sections F.3 and G.2 below.

2. **DOPT/BPD** means DOPT if the plan is not a PPA 2006 bankruptcy plan and BPD if the plan is a PPA 2006 bankruptcy plan. (For a PPA 2006 bankruptcy plan, BPD will always occur on or before DOPT. For the definitions of "PPA 2006 bankruptcy plan" and "BPD", see PBGC Internal Guidance Benefits in PPA 2006 Bankruptcy Plans**.**)

3. **DOPT/BPD-3** means **the day before** the beginning of the 3-year period ending on DOPT/BPD. For example, DOPT is 1/1/17, and BPD is 12/15/15. The 3-year period ending on BPD (12/15/15) starts on 12/16/12, so DOPT/BPD-3 is 12/15/12, the day before 12/16/12.

4. **DOPT/BPD-5** means the beginning of the 5-year period ending on DOPT/BPD. For example, DOPT is 1/1/18, and BPD is 12/15/15. The 5-year period ending on BPD (12/15/15) starts on 12/16/10, so DOPT/BPD-5 is 12/16/10.

5. **PC3 Benefit** means the portion of the plan benefit that PBGC assigns to PC3 as required under ERISA section 4044(a)(3), including portions of the plan benefit also assigned to higher priority (lower numbered) categories. Net PC3 Benefit means the PC3 Benefit excluding portions of the plan benefit already assigned to higher priority (lower numbered) categories whereas Gross PC3 Benefit refers to the entire plan benefit assigned to PC3, including portions of the plan benefit already assigned to higher priority (lower numbered) categories. In this guidance, PC3 Benefit refers to the monthly amount of the Gross PC3 Benefit unless otherwise stated.

6. **PC3 Benefit Form** means the benefit form of the PC3 Benefit. See section F.4 below.

7. **PC3 Benefit Liability** means the present value as of DOPT of the Net PC3 Benefit. See section I below.

8. **PC3 Calculation Date** means the date as of which PBGC calculates the PC3 Benefit—generally the earlier of the participant's annuity starting date (ASD) and the first of the month coincident with or following DOPT/BPD-3. See section F.1 below.

D. Benefits Assigned to PC3

PBGC will assign benefits to PC3 by following a 2-step process –

Step 1 – PBGC will determine whether a participant, beneficiary, or alternate payee with a separate interest benefit under a qualified domestic relations order (QDRO) is eligible for a PC3 Benefit (see section E below).

Step 2 – PBGC will calculate the PC3 Benefit (see section F below).

PBGC will also consider other factors affecting PC3 eligibility and the PC3 Benefit (see section G below) and allocate assets to the PC3 Benefit Liabilities (see sections H and *I* below). For determining the benefit payable, see section J below.

E. Eligibility for a PC3 Benefit

To determine eligibility for a PC3 Benefit, PBGC will generally determine the EPRD from plan provisions in effect as of DOPT/BPD-3—or earlier provisions if applicable. For example, if a participant left covered service under the plan before DOPT/BPD-3 and, as a result, later plan provisions are inapplicable, PBGC will determine EPRD from plan provisions in effect when the participant left covered service under the plan. See PBGC Internal Guidance Earliest PBGC Retirement Date.

PBGC will assign plan annuity benefits to PC3 based on whether the plan benefits are payable to:

- A participant (see section E.1 below)
- The beneficiary of a deceased participant (see section E.2 below)
- An alternate payee with a separate interest benefit under a QDRO (see section E.3 below)

An individual may be eligible for PC3 Benefit even if the first possible payment date under the plan rules is after DOPT/BPD-3 so long as all substantive eligibility requirements to go into pay (that is, those conditions other than going into pay, submitting a formal benefit application, or completing a required waiting period) are met as of DOPT/BPD-3.

1. **Participant's Eligibility for PC3**

   A participant who is alive on DOPT will be eligible for a PC3 Benefit if either:
   - The participant was receiving an annuity on or before DOPT/BPD-3, or
   - The participant reached his or her EPRD on or before DOPT/BPD-3—that is, the participant was eligible to receive an annuity on or before DOPT/BPD-3.

     Example 1 – EPRD before DOPT/BPD-3.
     - DOPT = 01/10/12

- DOPT/BPD-3 = 01/10/09
- Participant's EPRD = 01/05/09
- Participant's PC3 Calculation Date = 02/01/09
- Participant was alive but not in pay on DOPT

The participant is eligible for a PC3 Benefit because the participant reached his EPRD (01/05/09) before DOPT/BPD-3 (01/10/09) even though the participant's PC3 Calculation Date (02/01/09) was after DOPT/BPD-3 (01/10/09). Note that if DOPT were 01/02/12 (instead of 01/10/12), then DOPT/BPD-3 would be 01/02/09, and the participant would be ineligible for a PC3 Benefit.

2. **Beneficiary's Eligibility for PC3**

A deceased participant's beneficiary who is alive on DOPT will be eligible for a PC3 Benefit if:

- The beneficiary was receiving the survivor annuity on or before DOPT/BPD-3.

A deceased participant's beneficiary who is alive on DOPT and eligible for a survivor annuity (but who was **not** receiving a survivor annuity on or before DOPT/BPD-3) will be eligible for a PC3 Benefit if:

- The participant's EPRD occurred on or before DOPT/BPD-3 (regardless of whether the participant died before reaching EPRD).

Example 2 – QPSA Benefits (Death after EPRD).

- DOPT = 04/17/12
- DOPT/BPD-3 = 04/17/09
- Participant's EPRD = 04/25/08
- Participant's date of death (not in pay) = 03/20/10
- Beneficiary was in pay on DOPT

The beneficiary of the participant's qualified preretirement survivor annuity (QPSA) is eligible for a PC3 Benefit because the participant, who died on 03/20/10, had reached his EPRD (04/25/08) before DOPT/BPD-3 (04/17/09).

Example 3 – QPSA Benefits (Death before EPRD).

- DOPT = 04/17/12
- DOPT/BPD-3 = 04/17/09
- Participant's date of death (not in pay) = 12/15/08
- Participant's EPRD = 04/15/09
- Earliest QPSA commencement date = 05/01/09
- Beneficiary was alive but not in pay on DOPT

The beneficiary is eligible for a PC3 Benefit for the following reasons:

- The beneficiary was alive on DOPT (04/17/12) and eligible to receive a survivor annuity.

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- The participant, had he not died, would have reached his EPRD on 04/15/09—before DOPT/BPD-3 (04/17/09).

3. **Separate Interest Alternate Payee's Eligibility for PC3**

An alternate payee with a separate interest of a participant's benefit awarded under a QDRO will be eligible for a PC3 Benefit if either:

- The alternate payee was receiving the separate interest annuity on or before DOPT/BPD-3, or
- The participant's EPRD occurred on or before DOPT/BPD-3 (regardless of whether the participant died before reaching EPRD).

The QDRO does not need to be issued on or before DOPT/BPD-3 for a separate interest alternate payee to be eligible for a PC3 Benefit.

If the QDRO also awards the alternate payee all or a portion of the participant's surviving spouse benefit, PBGC will separately determine the alternate payee's eligibility for a PC3 survivor benefit under section E.2 above.

F. PC3 Benefit Amounts

After determining eligibility for a PC3 Benefit as described in section E above, PBGC will calculate the PC3 Benefit as described in this section F below and:

- Take into account other factors as described in section G below,
- Allocate assets to the PC3 Benefits as described in section H below,
- Determine the funded PC3 Benefit as described in in section I below, and
- Determine the benefit payable from PBGC as described in section J below.

For calculating the PC3 Benefit in a statutory hybrid plan, see PBGC Internal Guidance Statutory Hybrid Plans.

For each individual eligible for a PC3 Benefit, PBGC will calculate the PC3 Benefit by:

- Determining the PC3 Calculation Date (see section F.1 below)
- Using relevant data as of DOPT/BPD-3 (see section F.2 below)
- Using plan provisions producing the lowest plan benefit between DOPT/BPD-5 and DOPT (see section F.3 below)
- Determining the PC3 Benefit Form (see section F.4 below)
- Adjusting for form and age as of the PC3 Calculation Date (see section F.5 below)
- Determining the PC3 Benefit to a surviving beneficiary (see section F.6 below)
- Disregarding most Title IV legal limits (see section F.7 below)

PBGC does **not** actuarially increase the PC3 Benefit for instances in which an ASD has been delayed until after the PC3 Calculation Date. See section F.5 below.

1. **PC3 Calculation Date**

The PC3 Calculation Date is the date as of which the PC3 Benefit is calculated. Unlike DOPT/BPD-3, the PC3 Calculation Date will fall on the first day of a month and will depend on whether the benefit is in pay on DOPT/BPD-3, as described below.

a. **Benefits in Pay on DOPT/BPD-3**

If a benefit is in pay on DOPT/BPD-3, the PC3 Calculation Date will be the ASD of the annuity benefit that was in pay on DOPT/BPD-3—that is, the participant's ASD (even if a survivor benefit was in pay on DOPT/BPD-3) or the QPSA beneficiary's ASD.

If the participant or beneficiary was entitled to benefit increases after the ASD, the PC3 Calculation Date will be unaffected, but the benefit increases will be subject to the rules in sections F.3 and G.2 below.

> **Example 4 – PC3 Calculation Date: Participant Alive on DOPT and in Pay on DOPT/BPD-3.**
> - DOPT = 05/17/11
> - DOPT/BPD-3 = 05/17/08
> - Participant's ASD = 01/01/03
> - Participant was in pay on DOPT

The PC3 Calculation Date is 01/01/03 because 01/01/03 was the ASD of the benefit in pay on DOPT/BPD-3 (05/17/08).

Example 5 – PC3 Calculation Date: Participant's Death after DOPT/BPD-3.
- DOPT = 05/17/11
- DOPT/BPD-3 = 05/17/08
- Participant's ASD = 01/01/03
- Benefit form = qualified joint-and-50% survivor annuity (50% QJSA)
- Participant's date of death = 12/26/08
- Beneficiary's ASD = 01/01/09
- Beneficiary was in pay on DOPT

The PC3 Calculation Date is 1/1/03 because 01/01/03 was the ASD of the benefit that was in pay (the participant's 50% QJSA) on DOPT/BPD-3 (05/17/08)—even though the beneficiary's own ASD was 01/01/09. (The date 01/01/03 is the ASD of the benefit payable "with respect to the participant" on DOPT—that is, the benefit that was payable in a benefit form requiring payments first to the participant and, upon the participant's death, to a surviving beneficiary.)

Example 6 – PC3 Calculation Date: Participant's Death before DOPT/BPD-3.
- DOPT = 05/17/11
- DOPT/BPD-3 = 05/17/08
- Participant's ASD = 01/01/03
- Benefit form = 50% QJSA

- Participant's date of death = 12/30/06
- Beneficiary's ASD = 01/01/07
- Beneficiary was in pay on DOPT

The PC3 Calculation Date is 01/01/03 because 01/01/03 was the ASD of the benefit in pay on DOPT/BPD-3 (05/17/08)—even though the beneficiary's ASD was 01/01/07, which was before DOPT/BPD-3. (The date 01/01/03 is the ASD of the benefit payable "with respect to the participant" on DOPT—that is, the benefit that was payable in a benefit form requiring payments first to the participant and, upon the participant's death, to the surviving beneficiary.)

b. **Benefits Not in Pay on DOPT/BPD-3**

If no benefit was in pay on DOPT/BPD-3, the PC3 Calculation Date will be the first of the month coincident with or following DOPT/BPD-3.

Example 7 – PC3 Calculation Date: Participant Alive But Not in Pay on DOPT.

- DOPT = 05/17/11
- DOPT/BPD-3 = 05/17/08
- Participant's EPRD = 01/01/03
- Participant was alive but not in pay on DOPT

The PC3 Calculation Date is 06/01/08 because 06/01/08 was the first of the month coincident with or following DOPT/BPD-3 (05/17/08).

Example 8 – PC3 Calculation Date: QPSA for Death after DOPT/BPD-3.

- DOPT = 05/17/11
- DOPT/BPD-3 = 05/17/08
- Participant's EPRD = 01/01/03
- Participant's date of death (not in pay) = 12/30/08
- Beneficiary's ASD = 01/01/09
- QPSA benefit form = SLA
- Beneficiary was in pay on DOPT

The PC3 Calculation Date is 06/01/08 for the following reasons:

- No benefit was in pay on DOPT/BPD-3.
- 06/01/08 was the first of the month coincident with or following DOPT/BPD-3.

Example 9 – PC3 Calculation Date: QPSA for Death before DOPT/BPD-3.

- DOPT = 05/17/11
- DOPT/BPD-3 = 05/17/08
- Participant's EPRD = 01/01/03
- Participant's date of death (not in pay) = 12/30/04

- Beneficiary was alive but not in pay on DOPT

The PC3 Calculation Date is 06/01/08 for the following reasons:

- No benefit was in pay on DOPT/BPD-3.
- 06/01/08 was the first of the month coincident with or following DOPT/BPD-3.

2. **PC3 Benefit Amount Calculation Data**

   a. **Pension Data**

   For benefits not in pay at DOPT/BPD-3, PBGC will generally use pension data (vesting and credited service, salary, etc.) as of DOPT/BPD-3 to calculate the PC3 Benefit but ages as of the PC3 Calculation Date to determine early/late retirement factors (ERF/LRF) and benefit form conversion factors (BFCF). (For example, if DOPT/BPD-3 is March 5 and the PC3 Calculation Date is the following April 1, then the participant's age as of April 1 will be used for the ERF/LRF and BFCF whereas credited service will be calculated as of March 5.) For benefits in pay at DOPT/BPD-3, pension data as of the separation date and ages as of the participant's ASD will generally be used.

   b. **Population Data**

   PBGC will use participant and beneficiary population data as of DOPT (marital status, disability status, death status, etc.) for purposes of valuing the plan's total PC3 Benefit Liability. See section H below.

3. **Plan Provisions**

   To calculate the PC3 Benefit, PBGC will generally use the applicable plan provisions in effect during the period beginning on DOPT/BPD-5 and ending on DOPT that produce the lowest benefit payable (or in effect earlier than DOPT/BPD-5 as described below). See also sections G.1, G.2, and G.5 below.

   For an individual who entered pay before DOPT/BPD-5 or separated from covered service before DOPT/BPD-5, PBGC will generally use the applicable plan provisions in effect when the individual entered pay or separated from covered service. PBGC generally will not assign larger benefits than those payable (or accrued) as of the retirement date or separation from service date.

   However, for individuals whose benefits were subject to post-retirement increases, PBGC will use later plan provisions, when applicable, to those increases, but limited to provisions in effect on or before DOPT/BPD-5 (or earlier if applicable). If an applicable plan provision includes automatic increases to the benefit formula, PBGC will include those increases scheduled to be in effect during the fourth and fifth years before DOPT/BPD in the PC3 Benefit. See section G.2 below.

   To determine an individual's eligibility for a PC3 Benefit, PBGC will generally use applicable plan provisions in effect as of DOPT/BPD-3 (or earlier applicable provisions for a participant who separated from covered service before DOPT/BPD-3). See section E above.

4. **PC3 Benefit Form**

   The PC3 Benefit Form will depend on whether benefits were in pay on DOPT.

a. **Benefits in Pay on DOPT**

If the benefit was in pay on DOPT, the PC3 Benefit Form will be the benefit form of the annuity in pay on DOPT—even if the benefit was not in pay as of DOPT/BPD-3. (In the case of a benefit paid under a level-income option form, request guidance by emailing PSDGuidance@pbgc.gov. For adjusting the PC3 Benefit for form, see section F.5 below.

Example 10 – PC3 Benefit Form: QJSA Beneficiary in Pay on DOPT.

- DOPT = 04/17/09
- DOPT/BPD-3 = 04/17/06
- Participant's ASD = 10/01/02
- Benefit form = 50% QJSA
- Participant's date of death = 05/10/08
- Beneficiary's ASD = 06/01/08
- QJSA benefit form = SLA
- Beneficiary was in pay on DOPT

The PC3 Benefit Form is an SLA because on 04/17/09 (DOPT), the benefit form in pay was an SLA, which was the benefit form of the survivor annuity that the beneficiary was receiving on DOPT—even though the beneficiary started receiving the survivor annuity after DOPT/BPD-3.

Example 11 – PC3 Benefit Form: Participant with Plan Optional Benefit Form in Pay on DOPT.

- DOPT = 04/17/09
- DOPT/BPD-3 = 04/17/06
- Participant's EPRD = 04/17/06
- Participant's ASD = 03/01/09
- Benefit form (plan optional form) = 10-year certain-and-continuous annuity (10C&C)
- Participant was in pay on DOPT

The PC3 Benefit Form is a 10C&C because as of 04/17/09 (DOPT), the participant was receiving a 10C&C—even though the benefit was a plan optional form and the participant started receiving the benefit after DOPT/BPD-3. To calculate the monthly amount of the participant's PC3 Benefit, see Example 14 below.

b. **Benefits Not in Pay on DOPT**

If no benefit was in pay on DOPT, the PC3 Benefit Form will be the automatic benefit form under the plan provisions in effect on DOPT or, if the participant separated from covered service before DOPT, under the most recent plan provisions applicable to the participant's benefit.

Example 12 – PC3 Benefit Form: Deferred Participant Not in Pay at DOPT.

- DOPT = 04/17/09

- DOPT/BPD-3 = 04/17/06

- Relevant plan provisions

    - Effective 05/01/08, the plan changed the automatic unmarried benefit form for some employees but not others

    - For participants actively employed on 05/01/08, the automatic unmarried benefit form changed from an SLA to a 5-year certain-and-continuous annuity (5C&C) with no actuarial adjustment for the additional 5-year certain component

- Participant's date of termination of employment (DOTE) = 04/01/05

- Participant's EPRD = 04/17/06

- Participant was alive but not in pay on DOPT

The participant's PC3 Benefit Form is an SLA because the participant's DOTE was 04/01/05—before 05/01/08, when the 5C&C automatic unmarried benefit form for participants actively employed became effective.

Example 13 – PC3 Benefit Form: Active Participant Not in Pay at DOPT.

- DOPT = 04/17/09

- DOPT/BPD-3 = 04/17/06

- Relevant plan provisions

    - Effective 05/01/08, the plan changed the automatic unmarried benefit form for some employees but not others

    - For participants actively employed on 05/01/08, the automatic unmarried benefit form changed from an SLA to a 5C&C with no actuarial adjustment for the additional 5-year certain component

- Participant's EPRD = 04/17/06

- Participant was an active participant but not in pay on DOPT

The participant's PC3 Benefit Form is a 5C&C because as of 05/01/08 (when the automatic unmarried benefit form changed for participants actively employed), the participant was an active employee. To calculate the monthly amount of the participant's PC3 Benefit, see Example 15 below.

If a participant, beneficiary, or separate interest alternate payee elects a PBGC-optional form after PBGC trustees the plan, PBGC will adjust the termination benefit (including the PC3 Benefit) for form in accordance with section F.5 below.

5. **Adjusting the PC3 Benefit for Form and Age**

To adjust the PC3 Benefit for form and age, PBGC will use the appropriate plan provisions as described in section F.3 above to calculate BFCFs and ERFs/LRFs as of the PC3 Calculation Date—regardless of whether the ASD is later than the PC3 Calculation Date, DOPT/BPD-3, or DOPT.

As described under ERISA section 4044(a)(3)(B), the PC3 Benefit is a fixed amount. PBGC will **not** actuarially increase the PC3 Benefit **solely** because the ASD is after the PC3 Calculation Date.

> **Example 14 – Continuation of Example 11 above.**
>
> To calculate the PC3 Benefit in Example 11 above, PBGC:
>
> - Uses the plan's BFCF under the plan provisions described in section F.3 above and as of the PC3 Calculation Date (05/01/06).
>
> - Converts the participant's SLA amount (the automatic form in effect on DOPT/BPD-3) to a 10C&C amount payable to the participant starting on the PC3 Calculation Date (05/01/06) with a 10-year certain period ending on 04/01/16.
>
> When the participant went into pay, the 10-year certain period started on the participant's ASD (03/01/09) and ends ten years from the participant's ASD (02/01/19). Starting 03/01/19, benefits will continue to be paid if and for as long as the participant is still alive.

> **Example 15 – Continuation of Example 13 above.**
>
> To calculate the PC3 Benefit in Example 13 above, PBGC:
>
> Uses the plan's BFCF under the plan provisions described in section F.3 above and as of the PC3 Calculation Date (05/01/06).
>
> Converts the participant's SLA amount (the automatic form in effect on DOPT/BPD-3) to a 5C&C amount payable to the participant starting on the PC3 Calculation Date (05/01/06) with a 5-year certain period ending on 04/01/11.
>
> When the participant actually goes into pay, the 5-year certain period will start on the participant's ASD (in this example, assumed to be after DOPT) and ends five years later. After the 5-year certain period ends, benefits will continue to be paid if and for as long as the participant is still alive.

6. **PC3 Benefit to a Surviving Beneficiary**

If a survivor annuity is in pay on DOPT, the PC3 Benefit to the surviving beneficiary will be the survivor annuity that the surviving beneficiary would have been eligible to receive on the PC3 Calculation Date—regardless of whether the participant was alive on the PC3 Calculation Date.

> **Example 16 – PC3 Benefit to a Surviving Beneficiary.**
>
> - DOPT = 05/02/11
> - BPD = 12/28/10
> - DOPT/BPD-3 = 12/28/07
> - Participant's EPRD = 01/01/05
> - Participant's ASD = 06/01/08

- Benefit form = 50% QJSA

- Participant's date of death = 02/15/11

- Relevant amounts

  - 50% QJSA benefit was $1000.00 per month as of 06/01/08 (ASD)

  - 50% QJSA benefit was $900.00 per month as of 01/01/08 based on service and salary earned as of 12/28/07 (DOPT/BPD-3)

- Beneficiary's ASD = 03/01/11

- Beneficiary was in pay at DOPT

The PC3 Benefit to the surviving beneficiary is $450.00 (50% of $900.00) per month because, if the QPSA benefit had been payable on 01/01/08 (PC3 Calculation Date) instead of on 03/01/11, the surviving beneficiary would have been eligible for a QPSA benefit equal to 50% of the participant's benefit of $900.00 per month.

7. **Title IV Limitations**

    PBGC will disregard the following legal limits under Title IV of ERISA when determining which plan benefits to assign to PC3:

    - The accrued-at-normal limit (AAN)

    - The maximum guaranteeable benefit limit (MGB)

    - The phase-in limit, including the special limit applicable to unpredictable contingent event benefits (UCEB)

    - The majority owner and substantial owner limits

    - The aggregate limit on benefits payable from PBGC funds

G. Other Factors Affecting PC3

As part of the 2-step process described in section D above, after determining eligibility for a PC3 Benefit as described in section E above, PBGC will consider other factors when calculating the PC3 Benefit under section F above including:

- Plan decreases in effect on or before DOPT (see section G.1 below)

- Plan increases in effect on or after DOPT/BPD-5 (see section G.2 below)

- Pre-DOPT lump sums and purchased annuities (see section G.3 below)

- Entitlement to plan's disability benefit (see section G.4 below)

- Plan not in effect at DOPT/BPD-5 (see section G.5 below)

- Plan deemed a successor plan (see section G.6 below)

For allocating assets to the PC3 Benefits, see section H below. For determining the funded PC3 Benefit, see section I below. For determining the benefit payable from PBGC, see section J below.

1. **Benefit Decreases**

For PC3 purposes, PBGC will recognize plan benefit decreases in effect on or before DOPT unless those decreases are prohibited under Code section 411(d)(6) or other applicable law. This means that PBGC will generally follow plan provisions when preserving Code section 411(d)(6)-protected benefits.

Example 17 – Plan Preservation of 411(d)(6)-Protected Benefit Decreases.

- DOPT = 05/12/13
- DOPT/BPD-3 = 05/12/10
- Relevant plan provisions
    - Accrued monthly benefit = years of service (YOS) x benefit rate
    - Plan ERF = 5% per year
    - Early retirement was allowed under the plan after 10 YOS
- Relevant changes to the plan benefit rate
    - Effective 01/01/10, plan decreased its benefit rate for all service from $50.00 per month (the old benefit rate) to $25.00 per month (the new benefit rate)
    - The plan protected accrued benefits under Code section 411(d)(6) for all service with wear away
- Participant's EPRD = 04/01/06
- Participant's PC3 Calculation Date = 06/01/10
- Participant's normal retirement date (NRD) = 04/01/16
- Relevant calculations of the participant's YOS
    - 15.0000 as of 05/12/13 (DOPT/BPD)
    - 12.0000 as of 05/12/10 (DOPT/BPD-3)
    - 11.6667 as of 12/31/09 (last day of old rate)
- Participant was active but not in pay at DOPT

The accrued monthly plan benefit = $583.34 per month, the greater of:

- The plan benefit accrued as of 05/12/13 (DOPT/BPD) under the new benefit rate = $375.00 per month:

$25.00	(new benefit rate)
x 15.0000	(total YOS)
$375.00	(total accrued benefit under new benefit rate)

- The protected benefit accrued as of 12/31/09 (last day of old rate) under the old benefit rate = $583.34 per month:

$50.00	(old benefit rate)

<div align="center">

x 11.6667   (YOS as of 12/31/09 = last day of old rate)

_____

$583.34   (benefit accrued as of 12/31/09 under old benefit rate)

</div>

The PC3 Benefit = $413.18 per month, the greater of:

- The plan benefit accrued as of 05/12/10 (DOPT/BPD-3) under the new rate = $212.49 per month:

        $25.00   (new benefit rate)

        x 12.0000   (YOS as of 05/12/10 = DOPT/BPD-3)

        x 0.7083   (ERF as of 06/01/10 = PC3 Calculation Date, 70 months early

  _____

        $212.49   (benefit accrued as of 05/12/10 under new benefit rate)

- The protected benefit accrued as of 12/31/09 (last day of old rate) under old rate = $413.18 per month:

        $50.00   (old benefit rate)

        x 11.6667   (YOS as of 12/31/09 = last day of old rate)

        x 0.7083   (ERF as of 06/01/10 = PC3 Calculation Date, 70 months early)

  _____

        $413.18   (benefit accrued as of 12/31/09 under old benefit rate)

2. **Benefit Increases**

PBGC will generally include in the PC3 Benefit only those Benefit Increases in Effect on or before DOPT/BPD-5. See section F.3 above.

If the benefit formula under plan provisions in effect on or before DOPT/BPD-5 includes automatic increases either for retirees in pay or for both active plan participants and retirees in pay, PBGC will include in the PC3 Benefit those automatic increases scheduled to take effect in the fourth and fifth years before DOPT/BPD. Such automatic increases include annual cost-of-living adjustments (COLAs) and benefit multiplier increases.

For active participants, PBGC will not include in the PC3 Benefit any portion of automatic increases in the benefit formula that exceeds the automatic increases in the benefit formula for retirees in pay.

Example 18 – PC3 Automatic Benefit Increases before DOPT/BPD-3.

- DOPT = 12/01/09
- DOPT/BPD-3 = 12/01/06
- Relevant plan provisions
  - For active participants and retirees in pay, the plan automatically increased the benefit rate by $2.00 per YOS
  - The automatic increase was effective on January 1 of each calendar year
  - During the 2004 calendar year, the benefit rate was $17.00 per YOS

<div align="center">14</div>

- Participant's EPRD = 10/15/06
- Participant was active but not in pay on DOPT

The benefit rate for the participant's PC3 Benefit is $21.00 per YOS because in this example the PC3 Benefit includes the automatic increases that took place on 01/01/05 and 01/01/06.

For a one-time benefit increase occurring between DOPT/BPD-5 and DOPT/BPD-3 that results from a change in law (for example, an increase triggered by a change to the base amount of the Code section 415(b)), request guidance by emailing PSDGuidance@pbgc.gov re: whether the one-time benefit increase qualifies for treatment as an automatic increase for PC3 purposes.

3. **Pre-DOPT Partial Plan Benefit Distribution**

In cases where a participant was **not** in pay with an annuity as of DOPT/BPD-3 (but was eligible to be in pay as of DOPT/BPD-3) and where the participant had received a pre-DOPT distribution from plan assets representing a portion of his or her plan benefit (for example, a distribution made through a purchased annuity or one-time partial lump sum payment), the PC3 Benefit will be the difference of the following two annuity amounts (but not less than $0):

- The pre-distribution PC3 Benefit —that is, the PC3 Benefit calculated as though no pre-DOPT distribution had occurred, and
- The pre-DOPT distribution amount converted to an annuity commencing on the earlier of (a) the ASD of the residual annuity and (b) the first of the month coincident with or following DOPT.
  - For a purchased annuity, the pre-DOPT distribution amount is the annuity amount payable under the insurance contract to the participant, beneficiary, or separate interest alternate payee.
  - For a partial lump sum payment, the pre-DOPT distribution amount is the annuity equivalent of the pre-DOPT distribution.

To annuitize the pre-DOPT partial lump sum distribution, PBGC will follow the plan's conversion rules for converting a lump sum to an annuity (such as the Applicable Interest Rate and Applicable Mortality Table under Code section 417(e)(3), which many pension plans require for converting lump sum distributions to a monthly annuity).

Example 19 – PC3 Pre-DOPT Plan Distribution from Plan Assets.

- DOPT = 10/01/11
- DOPT/BPD-3 = 10/01/08
- Relevant plan provisions
  - The plan's rules for converting a lump sum to an annuity are based on 417(e)(3) rates
  - The applicable 417(e)(3) rates are the 11/2009 three segment rates for the 2010 plan year, using the 2010 Applicable Mortality Table
- Participant's EPRD = 05/01/07

- Participant's ASD = 05/01/10
- Pre-distribution PC3 Benefit = $3000.00 per month
- Partial lump-sum annuity equivalent payable on 05/01/10 = $1045.30 per month (based on a partial lump-sum distribution of $175,000 that was paid before DOPT)
- Participant was in pay on DOPT

The PC3 Benefit is $1954.70 per month:

$3000.00	(pre-distribution PC3 Benefit Amount)
- $1045.30	(partial lump-sum annuity equivalent payable on 05/01/10)
$1954.70	(PC3 Benefit Amount)

4. **Disability Benefits**

For disability benefits assigned to PC3, see section F of PBGC Internal Guidance Disability Benefits*.*

5. **Plans Not in Effect at DOPT/BPD-5**

For a plan in effect for fewer than five years before DOPT/BPD, PBGC will assign no plan benefits to PC3 because the lowest benefit payable as of DOPT/BPD-5 is $0.00. For plans considered successor plans, see section G.6 below.

6. **Successor and Predecessor Plans**

If a trusteed plan is considered a successor plan as defined under ERISA section 4021(a)(2), PBGC will treat, for PC3 purposes, the date that the predecessor plan was in effect as the date that the successor plan was in effect. This means that if the predecessor plan was in effect at DOPT/BPD-5, PBGC may assign successor plan benefits to PC3 even though the successor plan may be fewer than five years old as of DOPT/BPD.

H. Allocating Assets to PC3 Benefits

After assigning plan benefits to PC3 under the 2-step process described in section D above (by determining eligibility for a PC3 Benefit under section E above, calculating the PC3 Benefit under section F above, and considering other factors under section G above), PBGC will allocate assets to the PC3 Benefit Liabilities by:

- Using a benefit valuation date of DOPT (see section H.1 below)
- Allocating plan assets first to an individual's basic-type PC3 Benefit Liabilities and any remaining assets to the individual's nonbasic-type PC3 Benefit Liabilities (see sections H.2 and I below)

For annuity-certain benefits, PBGC will value the PC3 Benefit (see Examples 14 and 15 above) based on the certain period remaining as of DOPT.

For determining the funded portion of an individual's Net PC3 Benefit, see section I below. For determining the benefit payable from PBGC, see section J below.

1. **Benefit Valuation Date**

    Using age assumptions applicable to the other priority categories, PBGC will value the PC3 Benefit at DOPT for all plans (even for PPA 2006 bankruptcy plans).

    For example, PBGC will use the participant's expected retirement age (XRA) as of DOPT. To calculate the PC3 Benefit of a participant in pay at DOPT, PBGC will use an immediate XRA.

2. **Basic-Type and Nonbasic-Type Benefits**

    Using a single AAN limitation—the dollar amount payable as a straight life annuity beginning at normal retirement age under the latest applicable plan provisions as of DOPT (not BPD)—PBGC will separate PC3 Benefits into basic-type and nonbasic-type benefits. See also section E.3 of PBGC Internal Guidance Benefits in PPA 2006 Bankruptcy Plans.

I. Funded PC3 Benefits

PBGC will determine the funded portion of the Net PC3 Benefit generally as follows. First, PBGC will determine the plan-wide PC3 funded percentage as of DOPT by dividing available plan assets (that is, assets remaining after funding higher priority (lower numbered) categories) by the plan's PC3 Benefit Liabilities.

PBGC will consider each individual's Net PC3 Benefit to be funded at the plan-wide percentage. This means that if the individual's benefit is level and entirely basic-type, PBGC may determine the funded Net PC3 Benefit simply by multiplying the individual's Net PC3 Benefit by the plan-wide PC3 funded percentage.

Example 20 – Funded Net PC3 Benefit (Entirely Basic-Type).

- Plan-wide PC3 funded percentage = 95%
- Net PC3 Benefit = $2000.00 per month
- The PC3 Benefit is entirely basic-type

The participant's funded Net PC3 Benefit equals $1900.00 per month:

$2000.00	(the participant's Net PC3 Benefit)
x 95%	(the plan-wide PC3 funded percentage)
$1900.00	(the participant's funded Net PC3 Benefit)

In more complicated cases (for example, where an individual's benefit is nonlevel or is both basic-type and nonbasic-type), additional steps are necessary to determine the funded Net PC3 Benefit. An important difference is that PBGC first converts the individual's Net PC3 Benefit to a present value, which is the individual's PC3 Benefit Liability. PBGC will then multiply the individual's total PC3 Benefit Liability by the plan-wide funded percentage to determine the plan assets available for the individual's PC3 Benefit Liability. PBGC will allocate those assets to the basic-type portion of the individual's PC3 Benefit

Liability. If assets remain, PBGC will then allocate the remaining available assets to the nonbasic-type portion of the individual's PC3 Benefit Liability.

PBGC will then calculate the individual's funded percentages for basic-type and nonbasic-type portions of the PC3 Benefit. PBGC will multiply the basic-type funded percentage by the individual's basic-type PC3 Benefit to determine the individual's funded basic-type Net PC3 Benefit. Similarly, PBGC will multiply the nonbasic-type funded percentage by the individual's nonbasic-type PC3 Benefit to determine the individual's funded nonbasic-type Net PC3 Benefit. The sum of the funded basic-type and funded nonbasic-type Net PC3 Benefits is the individual's total funded Net PC3 Benefit.

Example 21 – Funded Net PC3 Benefit (Basic-Type and Nonbasic-Type).

- Participant's Net PC3 Benefit = $2650.00 per month
    - $2300.00 per month is basic-type
    - $350.00 per month is nonbasic-type
- Participant's PC3 Benefit Liability = $200,000
    - $180,000 is basic-type
    - $20,000 is nonbasic-type
- Plan-wide PC3 funded percentage = 95%

Plan assets available for the participant's PC3 Benefit Liability are $190,000:

$200,000	(participant's PC3 Benefit Liability)
x 95%	(plan-wide PC3 funded percentage as of DOPT)
$190,000	(plan assets available for the participant's PC3 Benefit Liability)

The participant's funded percentage of the basic-type Net PC3 Benefit is 100%:

$190,000	(plan assets available for the participant's Net PC3 Benefit Liability)
÷ $180,000	(participant's basic-type PC3 Benefit Liability)
x 100	(conversion to percentage)
100%	(participant's funded percentage of the basic-type Net PC3 Benefit, but not greater than 100%)

All of the participant's basic-type PC3 Benefit Liability is funded. Plan assets remaining for the participant's nonbasic-type PC3 Benefit Liability are $10,000:

$190,000	(plan assets available for the participant's PC3 Benefit Liability)
- $180,000	(plan assets allocated to the participant's basic-type PC3 Benefit Liability)
$10,000	(plan assets remaining for the participant's nonbasic-type PC3 Benefit Liability)

The participant's funded percentage of the nonbasic-type Net PC3 Benefit is 50%:

$10,000	(plan assets remaining for the participant's nonbasic-type PC3 Benefit Liability)
÷ $20,000	(participant's nonbasic-type PC3 Benefit Liability)
x 100	(conversion to percentage)
50%	(participant's funded percentage of the nonbasic-type Net PC3 Benefit)

The participant's funded percentage of the basic-type Net PC3 Benefit ($2300.00 per month) is 100%; of the nonbasic-type Net PC3 Benefit ($350.00 per month), 50%. Therefore, the participant's funded Net PC3 Benefit is $2475.00 per month:

$2300.00	(funded basic-type Net PC3 Benefit: 100% x $2300.00 per month)
+ $175.00	(funded nonbasic-type Net PC3 Benefit: 50% x $350.00 per month)
$2475.00	(funded Net PC3 Benefit)

J. Benefits Payable from PBGC

This section J describes, in general terms, the relationship only among funded Net PC3 Benefits, PBGC guaranteed benefits, and 4022(c) benefits (see PBGC Internal Guidance 4022(c) Amounts*)*.

This section J does not address funding in other priority categories.

1. **Entirely Basic-Type PC3 Benefits**

   To determine the benefit amount payable to an individual eligible for an entirely basic-type PC3 Benefit, PBGC will compare (on a present-value basis, if necessary) the guaranteed benefit and the funded Net PC3 Benefit and pay the greater of the two. PBGC will also pay 4022(c) benefits.

   Example 22 – Continuation of Example 20 above.

   In addition to the facts in Example 20 above, assume:

   - Participant's guaranteed benefit = $2200.00 per month
   - Participant's 4022(c) benefit = $50.00 per month

   To calculate the termination benefit (the total monthly PBGC benefit), PBGC compares the guaranteed benefit ($2200.00 per month) to the funded Net PC3 Benefit ($1900.00 per month) and pays the greater of the two, which equals the Title IV benefit ($2200 per month).

   In addition, PBGC pays the 4022(c) benefit of $50.00 per month. Therefore, the termination benefit equals $2250.00 per month:

$2200.00	(greater of the guaranteed benefit ($2200.00 per month) and funded Net PC3 Benefit ($1900.00 per month))
+ $50.00	(4022(c) benefit)

$2250.00   (termination benefit)

2. **Basic-Type and Nonbasic-Type PC3 Benefits**

To determine the benefit payable to an individual eligible for a PC3 Benefit that is both basic-type and nonbasic-type, PBGC will:

- Compare (on a present-value basis, if necessary) the guaranteed benefit to the funded basic-type Net PC3 Benefit (see section I above) and pay the greater of the two;

- Pay any additional funded nonbasic-type Net PC3 Benefit —regardless of whether the guaranteed benefit is greater than the funded basic-type Net PC3 Benefit; and,

- Pay 4022(c) benefits (see PBGC Internal Guidance 4022(c) Amounts*).*

Example 23 – Continuation of Example 21 above.

In addition to the facts in Example 21 above, assume:

- Participant's guaranteed benefit = $2500.00 per month

- Participant's 4022(c) benefit = $50.00 per month

To calculate the termination benefit, PBGC compares the guaranteed benefit ($2500.00 per month) to the funded basic-type Net PC3 Benefit ($2300.00 per month) and pays the greater of the two ($2500.00 per month). PBGC also pays the participant's funded nonbasic-type Net PC3 Benefit ($175.00 per month). The sum of these amounts ($2500.00 per month and $175.00 per month) equals the Title IV benefit ($2675.00 per month):

$2500.00   (greater of the guaranteed benefit ($2500.00 per month) and funded basic-type Net PC3 Benefit ($2300.00 per month))

+ $175.00   (funded nonbasic-type Net PC3 Benefit)

$2675.00   (Title IV benefit)

In addition, PBGC pays the 4022(c) benefit of $50.00 per month. Therefore, the termination benefit equals $2725.00 per month:

$2675.00   (Title IV benefit)

+ $50.00   (section 4022(c) benefit)

$2725.00   (termination benefit)