4022(c) Amounts

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A. Background

Section 4022(c) was added to ERISA by the Pension Protection Act of 1987 (PPA 1987). Section 4022(c) requires PBGC to share with participants a portion of its recoveries of its employer liability claim against the plan sponsor and other liable parties. This additional payment is intended to make up a portion of participants' losses from unfunded nonguaranteed benefits (UNGB). Where a plan's UNGB exceed $20 million, the total amount paid under 4022(c) depends on PBGC's actual recoveries in that case. In all other cases, the amount paid is determined by an average of PBGC's recoveries over a five-year period. This average is known as the Small Plan Average Recovery Ratio (SPARR). Under PPA 1987, the five-year period consisted of the five fiscal years before the fiscal year in which termination was initiated for the plan in which benefits are being determined.

The Pension Protection Act of 2006 (PPA 2006) changed the five-year period for the SPARR. Under PPA 2006, the five-year period consists of the five full fiscal years ending with the third fiscal year before the fiscal year in which termination was initiated for the plan in which benefits are being determined. For example, if termination of a plan was initiated in 2010, the five-year period consists of fiscal years 2003 through 2007 (that is, the five-year period starting on October 1, 2002, and ending on September 30, 2007).

In this internal guidance, we refer to plans subject to PPA 1987, but not subject to PPA 2006, as PPA 1987 Plans. Plans subject to PPA 2006 are referred to as PPA 2006 Plans. Both, together, are referred to simply as PPA Plans.

This internal guidance provides rules for calculation and payment of section 4022(c) benefits for all PPA Plans. This fifth edition of the internal guidance clarifies terminology (but does not revise substance) in section D. Determining the Plan 4022(c) Amount and section E. Determination of the SPARR. This edition also updates references to other internal guidance.

This fifth edition of the internal guidance has also been revised to increase the de minimis threshold from $5,000.00 to $7,000.00 for plan terminations on and after January 1, 2024, in line with the updated dollar limit for mandatory distributions under section 304 of the SECURE 2.0 Act of 2022, Division T of the Consolidated Appropriations Act, 2023. (For plan terminations on and before December 31, 2023, the de minimis threshold remains $5,000.00.) It has further been revised to add "fair value, where appropriate" to the internal guidance's definition of Unfunded Benefit Liabilities in section C15, to reflect changes prescribed by PBGC's final rule on Benefit Payments and Allocation of Assets, effective August 10, 2023.

B. Scope and Effective Date

This internal guidance applies to plans with termination initiation dates ("TID") after December 17, 1987. This edition of the internal guidance is effective upon issuance.

C. Definitions

1. **4022(c) benefit** means the benefit that is paid based upon applying the individual 4022(c) amount per the rules in section G.
2. **Individual 4022(c) amount** is, for a participant in a plan, the portion of the Plan 4022(c) amount allocated to that participant in accordance with *section F***.**
3. **Non-SPARR Plan** means a PPA Plan for which (a) the total amount of unfunded nonguaranteed benefits (UNGB) as of the date of plan termination (DOPT) exceeds $20 million or (b) the termination initiation date is after December 17, 1987, and before December 18, 1990, regardless of the amount of UNGB. In determining whether UNGB exceed $20 million, recovery of DUEC is determined under Internal guidance Valuation and Allocation of Recoveries.
4. **Plan 4022(c) amount** is the total amount to be allocated to participants and beneficiaries of a plan under ERISA section 4022(c).
5. **PPA plan** means a single-employer plan whose termination initiation date is after December 17, 1987.
6. **PPA 1987 plan** means a PPA Plan whose termination initiation date is after December 17, 1987 and before September 16, 2006.
7. **PPA 2006 plan** means a PPA Plan whose termination initiation date is after September 15, 2006.
8. **SPARR** means small plan average recovery ratio (see section E).
9. **SPARR Calculation Date** means the date as of which the SPARR is determined.
10. The SPARR Calculation Date has changed over time, with different rules applicable for prior fiscal years. All SPARR Calculation Dates (for all PPA plans) are provided in the OBA Operations Manual, Historical SPARR Information***.***
11. **SPARR Period** means the period used to determine the SPARR for a fiscal year. Effective for PPA 2006 plans, the SPARR Period means the 5 full fiscal year period ending with the third fiscal year preceding the fiscal year in which the TID occurs. All SPARR Periods are provided in the OBA Operations Manual, Historical SPARR Information***.***
12. **SPARR Plan** means a PPA Plan for which (a) the total amount of UNGB as of DOPT **does not** exceed $20 million; **and** (b) the termination initiation date is on or after December 18, 1990. In determining whether UNGB exceed $20 million, recovery of DUEC is determined under Internal Guidance Valuation and Allocation of Recoveries.
13. **Termination benefit** means the sum of a participant's (or beneficiary's) Title IV benefit and his or her 4022(c) benefit.
14. **Termination initiation date** ("TID") means —

   a. for a plan that terminates in a distress termination under ERISA section 4041(c), the last date on which any notice of intent to terminate is issued to any affected party other than PBGC; or
   b. for a plan that terminates in an involuntary termination under ERISA section 4042 (even if the plan administrator had filed a notice of intent to terminate the plan in a distress termination), the date on which PBGC issues a notice of determination that the plan will be involuntarily terminated. In the absence of such a notice, the termination initiation date is the date on which PBGC's Director, or his or her designee, authorizes the initiation of proceedings to terminate the plan under ERISA section 4042.

15. **Title IV benefit** means the guaranteed benefit plus any additional benefits to which plan assets are allocated pursuant to ERISA section 4044 and 29 CFR part 4044.
16. **Unfunded benefit liabilities ("UBL")** means the excess, as of the DoPT, of (a) the total value of a plan's benefit liabilities determined in accordance with 29 CFR part 4044, subpart B, or other applicable law, over (b) the fair market value (or fair value, as appropriate) of the plan's assets determined in accordance with ERISA section 4044(a) and 29 CFR 4044.41(b).
17. **Unfunded nonguaranteed benefits ("UNGB")** means the excess, as of the DoPT, of (a) the total value of a plan's benefit liabilities determined in accordance with 29 CFR part 4044, subpart B, or other applicable law, over (b) the total value of the plan's Title IV benefits determined in accordance with ERISA sections 4022(a) and (b) and 4044, and 29 CFR parts 4022, subparts A and B, and 4044.
18. **Valuation UNGB** means the UNGB that is determined using the Small Plan DUEC Recovery Ratio (SPDRR) determined under Internal Guidance Due and Unpaid Employer Contributions (DUEC) Recovery. Valuation UNGB is used for a Plan 4022(c) Amount for a PPA 2006 Plan that is a SPARR Plan.

D. Determining the Plan 4022(c) Amount

The Plan 4022(c) amount is determined as follows:

For PPA 2006 SPARR Plans, the amount is determined by multiplying (a) the Valuation UNGB for the plan by (b) the applicable recovery ratio.

For all other plans, the amount is determined by multiplying (a) the UNGB for the plan by (b) the applicable recovery ratio.

The applicable recovery ratio is determined as follows:

1. **Non-SPARR Plan** – The applicable recovery ratio for a non-SPARR plan is the ratio of PBGC's recoveries on its employer liability claims for UBL for that plan to the total UBL for that plan.
   a. **Numerator**

      The numerator of the recovery ratio for a non-SPARR plan will be the value, as of the plan's DoPT, of PBGC's recovery on its employer liability claims under sections 4062(b), 4063, or 4064 for the plan, as determined in accordance with Internal Guidance Valuation and Allocation of Recoveries.
   b. **Denominator**

The denominator of the recovery ratio for a non-SPARR plan will be the amount of UBL, as of the plan's DoPT, as determined in accordance with section F.2.e and section F.2.f.ii of Internal Guidance Valuation and Allocation of Recoveries.

2. **SPARR Plan** – The applicable recovery ratio is the "Small Plan Average Recovery Ratio" ("SPARR"). The SPARR is determined using the PBGC's employer liability recovery experience over the SPARR Period (see section E).
3. PBGC still completes the valuation and allocation of recoveries for every plan pursuant to Internal Guidance Valuation and Allocation of Recoveries. The DOPT values generated by this process provide the data for the determination of SPARRs that will be used by PBGC in subsequent fiscal years.

E. Determination of the SPARR

The SPARR for a particular plan is calculated using the PBGC's actual recovery experience for all plans for which (1) the TID falls during the applicable SPARR Period and (2) PBGC has determined the value of its recoveries under Internal Guidance Valuation and Allocation of Recoveries as of the SPARR Calculation Date.

For example, the SPARR used to determine the Plan 4022(c) Amount for a plan with a TID in FY 2007 is calculated using the PBGC recovery experience in fiscal years 2000 through 2004.

$$\text{The SPARR for a fiscal year} = \frac{\text{Sum of the PBGC's recoveries on its employer liability claims under sections 4062(b), 4063, or 4064 for all plans in the SPARR Period}}{\text{Sum of the UBL for all plans in the SPARR Period}}$$

The "SPARR for a fiscal year" applies to all SPARR plans with a TID in that fiscal year.

Once the SPARR for a fiscal year is calculated, it is fixed. It will not, for example, be updated to include an additional plan for which the recovery determination is completed after the SPARR calculation date. Recoveries for any such plan will be included in subsequent SPARR calculations. Additionally, the SPARR will not be adjusted to reflect a subsequent adjustment to the value of any recovery for a plan. Instead, such adjustment will be reflected in SPARR calculations made after the date of the adjustment. PBGC reserves the right to reconsider the above in the event of extenuating circumstances.

F. Determining Individual 4022(c) Amounts in PBGC-Trusteed Plans

PBGC will allocate the plan 4022(c) amount, as determined under section D above, to the plan's UNGB in accordance with ERISA section 4044(a) and 29 CFR part 4044, subpart A, beginning with the highest priority category (i.e., lowest numbered category) in which there are UNGB. The resulting individual 4022(c) amount will be paid to the participant (or his or her beneficiary or alternate payee) according to the rules in section G. If, after allocating to UNGB in the highest priority category with UNGB, any of the plan 4022(c) amount remains, that remaining amount will be allocated to the next highest priority category with UNGB, etc. If the plan 4022(c) amount to be allocated in a particular priority category is not sufficient to provide in full the UNGB in that category, that amount will be allocated within the category in accordance with 29 CFR part 4044, subpart A.

G. Paying Individual 4022(c) Amounts in PBGC-Trusteed Plans

PBGC will pay the individual 4022(c) amount in accordance with the rules in this section.

1. **Estimated benefits** In general, PBGC will not pay a participant or beneficiary an estimated 4022(c) benefit. However, if OBA determines that a participant or beneficiary is likely to receive a 4022(c) benefit, the Department Director (or designee) may authorize OBA to adjust or delay implementation of a benefit adjustment to the participant's estimated Title IV benefit if such benefit adjustment is likely to be restored by the payment of his or her 4022(c) benefit. Similarly, the Department Director (or designee) may authorize OBA to pay estimated termination benefits.
2. **Final Benefits** PBGC will, typically, pay final 4022(c) benefits at the same time as PBGC pays final Title IV benefits.

   a. **Termination Benefit Is Not de Minimis**

   If PBGC determines that the lump-sum value (as of the DoPT) of a participant's termination benefit is not *de minimis*, PBGC will pay the individual 4022(c) amount only as an annuity.[1]

> **Note 1**: If (1) the Title IV benefit is determined and a benefit determination is issued before the 4022(c) benefit determination is made; and (2) the lump-sum value of the Title IV benefit is more than $5,000 at DoPT for plans terminating on and before December 31, 2023, or more than $7,000 for plans terminating on and after January 1, 2024, the 4022(c) benefit determined at a later date will be treated as a residual benefit and paid as an increase in the Title IV benefit under this internal guidance. See section C.4 (residual benefits) in Internal guidance Lump Sum Benefit Payments.

1) Annuity Value

The annuity will be determined in accordance with the allocation rules of ERISA section 4044 and OBA actuarial procedures.

2) Annuity Form and Amount

a) Where the individual 4022(c) amount is allocated to UNGB that are *nonforfeitable* as of DoPT (e.g., temporary supplements for which the participant had satisfied the conditions for entitlement before DoPT), PBGC will pay the individual 4022(c) amount in the form of the underlying benefit in accordance with the allocation rules of ERISA section 4044 and OBA actuarial procedures.

Example 1

A participant retired at age 55, three years before DoPT. The participant's plan benefit is guaranteed except for a temporary supplement of $400 per month payable until age 62. This temporary supplement is not funded by plan assets. Assume that the participant's individual 4022(c) amount is equal to half of the value of the supplement. PBGC would pay the participant a temporary supplement of $200 per month as a 4022(c) benefit.

Example 2

A retired participant's lifetime benefit is guaranteed except for $300 per month that exceeds the maximum insurance limitation; that $300 amount is not funded by plan assets. Assume that the participant's individual 4022(c) amount is equal to 20% of the value of the $300 per month. PBGC would pay the participant an additional $60 per month for life as a 4022(c) benefit.

b) Where the individual 4022(c) amount is allocated to UNGB's that are *not nonforfeitable* as of DoPT (e.g., grow-in benefits for which the participant has not satisfied the conditions for entitlement as of DoPT or certain lump-sum death benefits), PBGC will pay the individual 4022(c) amount as an increase in the participant's Title IV benefit in accordance with the allocation rules of ERISA section 4044 and OBA actuarial procedures.

Example 3

A plan provides an early unreduced benefit after 30 years of service. At DoPT, a participant has only 28 years of service. An entitlement to a subsidized early retirement benefit is the participant's only benefit that is not guaranteed or funded by plan assets. Assume that the participant's individual 4022(c) amount allocated to this benefit is $500; this amount is converted to an increase in the participant's monthly Title IV benefit using the applicable PBGC actuarial assumptions as of DoPT. PBGC would *not* pay the benefit in the form of a subsidized early retirement benefit if the participant later attained 30 years of service. Instead, PBGC increases the participant's monthly Title IV benefit as described above.

Example 4

A plan provides for a lump sum preretirement death benefit that is assigned to Priority Category 6 because it exceeds the value of the QPSA. The entitlement to this death benefit is the participant's only benefit that is not guaranteed or funded by plan assets. Assume that the participant's individual 4022(c) amount allocated to this benefit is 10% of the value of the death benefit. This amount is converted to an increase in the participant's monthly Title IV benefit using the applicable PBGC assumptions as of DoPT. If the participant dies before benefit payments begin, PBGC would not pay the benefit in the form of a lump sum of 10% of the amount to the beneficiary. Instead, PBGC includes, in the plan's QPSA payable to the spouse, the survivor's portion of the participant's benefit increase relating to the death benefit.

b. **Termination Benefit Is de Minimis**

If PBGC determines that the lump-sum value (as of the DoPT) of a participant's termination benefit is *de minimis*, PBGC will pay the 4022(c) benefit (in most cases, along with the Title IV benefit) in a single installment unless the participant otherwise elects an annuity, as provided in Internal guidance Lump Sum Benefit Payments.[2] The amount of the single installment will be equal to the individual 4022(c) amount.

Note 2: If (1) the Title IV benefit is determined and a benefit determination is issued before 4022(c) benefit determinations are made; and (2) the lump-sum value of the Title IV benefit is $5,000 or less at DoPT for plans terminating on and before December 31, 2023, or $7,000 or less for plans terminating on and after January 1, 2024 , the 4022(c) benefit determined at a later date will be treated as a residual benefit, payable as an additional lump-sum payment under this internal guidance, unless the value of the individual 4022(c) amount is greater than $5,000 for plans terminating on and before December 31, 2023, or greater than $7,000 for plans terminating on and after January 1, 2024. See section C.4 (residual benefits) in Internal guidance Lump-Sum Benefit Payments.

c. **Overpayments/Underpayments of 4022(c) Benefits**

PBGC will treat overpayments and underpayments of 4022(c) benefits in the same manner as overpayments and underpayments of Title IV benefits.

H. Special Rule for GB-Sufficient Non-Trusteed Plans

Whenever PBGC authorizes the plan administrator (or ERISA section 4042 trustee, if applicable) of a plan that is sufficient for guaranteed benefits to close out the plan in the private sector, PBGC will provide the plan administrator or trustee with the plan 4022(c) amount at or before the time the plan administrator distributes plan assets. The plan administrator or trustee will treat the payment from PBGC of the plan 4022(c) amount as if it were a plan asset and allocate this amount to participants by priority category in accordance with ERISA section 4044(a) and section F above as of the distribution date to determine individual 4022(c) amounts. The plan administrator or trustee will pay 4022(c) benefits in accordance with case-specific guidance from PBGC. If the plan is a SPARR plan and the applicable SPARR has not been determined by the date of distribution, the plan 4022(c) amount will be calculated on the basis of the most recent SPARR that has been determined.

I. Special Rule for Subsequent Insufficiencies

In the case of a PPA plan that PBGC initially determines to be sufficient for guaranteed benefits and that later proves unable to close out in the private sector, all determinations that would be required to be made as of the DoPT under this internal guidance (e.g., UNGB, UBL, recovery value) will be made as of the date of the subsequent insufficiency. The date of the subsequent insufficiency is the date on which either (1) PBGC finds the plan to be insufficient or (2) the plan administrator notifies PBGC that the plan administrator has made such a finding, provided that PBGC then or thereafter concurs in the plan administrator's finding (see ERISA section 4041(c)(3)(C)(ii)).