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REG-159704-03

October 21, 2009

LEGAL PROCESSING DIVISION
PUBLICATION & REGULATIONS
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OCT 27 2009

Joint Board for the Enrollment of Actuaries
Internal Revenue Service
PO Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Notice of Proposed Rulemaking Published September 21, 2009

Members of the Joint Board:

I am presenting these comments as an individual, not as a representative of my employer.

I began my actuarial career in a traditional pension practice, providing consulting and actuarial services to defined benefit pension plans covered by ERISA. However, for nearly 20 years, I have worked as a contractor for the Pension Benefit Guaranty Corporation. In this capacity, I regularly certify calculations of guaranteed benefits and asset allocations for terminated pension plans trustee by PBGC. These certifications require that I be an enrolled actuary. While these comments are motivated specifically by my capacity as a PBGC contractor, there are probably other similar highly specialized practice areas where certifications by an enrolled actuary are required, and my comments apply generally to all such specialized areas of practice.

The regulations regarding the enrollment of actuaries were written with traditional pension actuarial practice in mind. As specialized areas of practice developed, enrolled actuaries transferred from traditional practices to provide the necessary services for these specialized practice areas, as I did. Today, however, many actuaries who have spent their entire careers in these specialized areas of practice have met, or will soon meet, the educational requirements for enrollment. These are the actuaries who will replace the first generation of enrolled actuaries in these practice areas. However, under the current regulations, these actuaries cannot become enrolled because they cannot meet the "responsible pension actuarial experience" requirement in the regulations; *i.e.*, they have never calculated the normal cost, accrued liability, amortization payment and actuarial gain or loss for an ongoing pension plan.

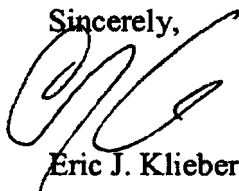
In consequence, the actuaries most qualified to serve as enrolled actuaries in these specialized areas of practice are barred from enrollment in favor of actuaries who are of necessity less qualified by experience for performing this work. Further, this situation arises from a regulation which has no support from the underlying law: ERISA Section 3042(a)(2) requires merely "an appropriate period of responsible actuarial experience." Therefore, I request that the Joint Board amend the regulations relating to initial enrollment by broadening the definition of responsible pension actuarial experience to include responsible experience in any area of practice for which enrolled actuary certification is required.

You may object that this would enable actuaries enrolled based on practice in specialized areas to serve as enrolled actuaries in traditional practices without the requisite experience. However, this is merely the converse of the current situation, where actuaries enrolled based on practice in traditional areas may, at least in theory, serve as enrolled actuaries in specialized areas of practice without experience in those areas. In fact, this latter does not occur, because actuaries must adhere also to the knowledge and experience requirements embedded in the standards of professional conduct of the various actuarial organizations; and because organizations employing, directly or indirectly, enrolled actuaries in specialized areas of practice, such as PBGC, maintain their own knowledge and experience requirements. These same mechanisms will continue to operate to prevent enrolled actuaries from providing services outside their areas of expertise.

Another aspect of the enrolled actuary regulations that does not serve well enrolled actuaries working in specialized areas of practice concerns qualifying continuing education. Because few actuaries work in these specialized fields, there is not enough demand for qualifying sponsors to provide programs which cover these fields, whether formal programs, self-study or teleconferencing. In consequence, enrolled actuaries working in specialized areas of practice cannot receive continuing education credits for subject matter related to their work as enrolled actuaries, but must meet the continuing education requirements in programs that have little, if any, application to their work as enrolled actuaries. This deficiency in the regulations can be remedied by providing greater flexibility for actuaries working in specialized areas of practice, and perhaps all enrolled actuaries, to meet the continuing education requirements through self-study without the sponsorship of a qualifying organization.

I realize that not all the parts of the regulation addressed above are among those subject to change in the proposed rules. However, it is unlikely these parts of the regulation will ever be opened to comment without some prodding by outside parties of interest. I urge the Joint Board to act on these requests on behalf of enrolled actuaries in specialized areas of practice, if not at present, then in future rulemaking.

Sincerely,



Eric J. Klieber