

Funding Relief For Multiemployer Defined Benefit Plans Under PRA 2010

Notice 2010-83

I. PURPOSE

This notice provides guidance in the form of questions and answers for sponsors of multiemployer defined benefit plans with respect to the special funding rules under § 431(b)(8), as added by section 211(a)(2) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PRA 2010), Pub. L. No. 111-192.

II. BACKGROUND

Section 412 contains minimum funding rules that generally apply to pension plans. Section 431 sets forth the funding rules that apply specifically to multiemployer defined benefit plans. Section 432 sets forth additional rules that apply to multiemployer plans in effect on July 16, 2006, that are in endangered or critical status.

Section 431 provides rules for determining, based on charges and credits to the plan's funding standard account, the minimum contribution that must be made to a multiemployer defined benefit plan in order to satisfy the funding requirements under § 412. Under § 431(b)(2)(B)(iii) and (b)(3)(B)(ii), net experience losses and gains are amortized by charges (in the case of losses) and credits (in the case of gains) in equal annual installments over 15 plan years.

Section 431(b)(8), added to the Code by section 211(a)(2) of PRA 2010, provides two special funding rules available to multiemployer plans, a special amortization rule in § 431(b)(8)(A) and a special asset valuation rule in § 431(b)(8)(B).

Section 431(b)(8)(A) provides a special amortization rule for certain net investment losses in the case of a multiemployer plan that meets a solvency test. The special rule applies to the portion of the plan's experience loss or gain for a plan year attributable to net investment losses (if any) incurred in either or both of the first two plan years ending after August 31, 2008 (an eligible loss year). This portion of the experience loss or gain may be treated as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over the period beginning with the plan year in which such portion is first recognized in the actuarial value of assets and ending with the last plan year in the 30-plan-year period beginning with the eligible loss year.

For this purpose, net investment losses are determined in the manner prescribed by the Secretary on the basis of the difference between actual and expected returns, including any difference attributable to any criminally fraudulent investment arrangement. The determination as to whether an arrangement is a criminally fraudulent investment arrangement is made under rules substantially similar to the rules prescribed by the Secretary for purposes of § 165.

Section 431(d) provides for the extension of certain amortization periods applicable under § 431. Under § 431(b)(8)(A)(ii)(I), the amortization period under the special amortization rule cannot be further extended under § 431(d). In addition, if an extension of an amortization period was granted under § 431(d) for any plan year before a decision to apply the special amortization rule for the plan year, that extension cannot result in the amortization period under the special amortization rule exceeding 30 years.

Under § 431(c)(2)(A), for purposes of the minimum funding rules, the value of a plan's assets must be determined on the basis of any reasonable asset valuation method that takes into account fair market value and is permitted under regulations prescribed by the Secretary. Section 1.412(c)(2)-1(b)(6) of the Income Tax Regulations establishes a corridor for the actuarial value of plan assets, under which the actuarial value generally cannot be less than 80 percent or more than 120 percent of fair market value. If the plan's asset valuation method would result in an actuarial value outside the corridor, the actuarial value must be adjusted to be within the corridor.

Section 1.412(c)(1)-2 permits a collectively bargained plan to use a shortfall funding method that adapts a plan's underlying funding method for purposes of the minimum funding rules. If a multiemployer plan uses the shortfall method, § 1.412(c)(1)-2(h) provides special rules for the amortization of any net experience gains or losses under which the amortization charges and credits with respect to the gain or loss are deferred until the earlier of (1) the fifth plan year following the plan year in which the gain or loss arose, or (2) the first plan year beginning after the latest scheduled expiration date of a contract in effect during the plan year in which the net experience gain or loss arose. In such a case, the net experience gain or loss is increased with interest until the first year of the amortization charge or credit and the amortization period is shortened so that it ends with the same year that would apply in the absence of the shortfall method.

Rev. Proc. 2000-40, 2000-2 C.B. 357, provides for certain changes that can be made in a plan's funding method (including a plan's asset valuation method) that are automatically approved by the Service. An asset valuation method that recognizes gains and losses in the value of plan assets over a period of more than five plan years is not eligible for automatic approval. Under Rev. Proc. 2000-40, any change in unfunded accrued liability resulting from a change in funding method is amortized over a period of 10 years. Rev. Proc. 2000-41, 2000-2 C.B. 371, provides procedures for obtaining Service approval of a change in funding method that is not eligible for automatic approval. Section 5 of Rev. Proc. 2000-41 provides a procedure for a funding method change "class ruling," i.e., a ruling that approves an identical change in funding

method for more than 40 plans receiving actuarial services from the same insurance company or consulting firm.

Section 431(b)(8)(B) provides a special asset valuation rule in the case of a multiemployer plan that meets a solvency test. The special rule permits a multiemployer plan to change its asset valuation method in a manner that (1) spreads the difference between expected returns and actual returns for either or both of the eligible loss years over a period of not more than 10 years, (2) provides that, for either or both of the first two plan years beginning after August 31, 2008, the value of plan assets at any time is not permitted to be less than 80 percent or greater than 130 percent of the fair market value of the assets at that time, or (3) provides for both (1) and (2). Section 431(b)(8)(B)(ii) provides that, if the special asset valuation rule applies, the Secretary will not treat the plan's asset valuation method as unreasonable solely because of the changes described above and the changes will be deemed approved by the Secretary.

If the special amortization rule and the special asset valuation rule both apply for any plan year, the plan is required to treat any reduction in the plan's unfunded accrued liability resulting from the application of the special asset valuation rule as a separate experience amortization base. This separate base is amortized in equal annual installments (until fully amortized) over a period of 30 plan years, rather than the period over which the reduction in unfunded accrued liability would otherwise be amortized.

PRA 2010 also added § 431(b)(8)(C), (D), and (E). Section 431(b)(8)(C) describes the solvency test that a multiemployer plan must meet in order for either or both of the special funding rules to apply. The solvency test is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under § 431(b)(8).

Under § 431(b)(8)(D), if either or both of the special funding rules apply for any plan year, a special restriction on benefit increases applies in addition to any other applicable restrictions on benefit increases. Under the special restriction, a plan amendment increasing benefits may not go into effect during either of the two plan years immediately following that plan year unless (1) the plan actuary certifies that the increase is paid for out of additional contributions not allocated to the plan immediately before the plan's application of the special amortization rule or the special asset valuation rule and that the plan's funded percentage and projected credit balances for those two plan years are reasonably expected to be at least as high as they would have been if the benefit increase had not been adopted, or (2) the amendment is required as a condition of qualification under the Code or to comply with other applicable law.

Under § 431(b)(8)(E), the plan sponsor of a multiemployer plan to which either or both of the special funding rules apply must give notice of application of the special rules to plan participants and beneficiaries. In addition, the plan sponsor must inform

the Pension Benefit Guaranty Corporation (PBGC) of the application of the special funding rules in such form and manner as the Director of the PBGC may prescribe.

Under section 211(b) of PRA 2010, § 431(b)(8) takes effect as of the first day of the first plan year ending after August 31, 2008. However, if the application of the special funding rules affects the plan's funding standard account for the first plan year beginning after August 31, 2008, application of the special funding rules is disregarded for purposes of applying § 432 (and § 305 of the Employee Retirement Income Security Act of 1974, as amended (ERISA)), relating to multiemployer plans in endangered or critical status. In addition, the restriction on plan amendments under § 431(b)(8)(D) is effective on June 25, 2010, the date of the enactment of PRA 2010.

Section 304(b)(8) of ERISA, added to ERISA by section 211(a)(1) of PRA 2010, is parallel to § 431(b)(8). Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of Treasury has interpretive jurisdiction over the subject matter of this notice for purposes of ERISA as well as the Code. Thus, this notice applies to the provisions of § 304(b)(8) of ERISA as well as the Code.

Notice 2010-56, 2010-33 I.R.B. 254, states that the Service expects to issue future guidance on the special funding rules under PRA 2010 for multiemployer plans. Notice 2010-56 also states that in the case of a plan year that ends before the guidance is issued, the special rules may be applied without regard to whether the Form 5500 (and Schedule MB) has been filed for that plan year. This notice constitutes the guidance anticipated in Notice 2010-56.

III. QUESTIONS AND ANSWERS

The following questions and answers address issues relating to the special amortization rule and special asset valuation rule under § 431(b)(8), using the following designations to indicate the topic addressed.

- A – Extended Amortization Period for Eligible Net Investment Losses
- V – Asset Valuation Rules
- S – Solvency Test
- R – Restrictions on Plan Amendments Increasing Benefits
- D – Decision to Apply the Special Funding Rules
- N – Notification to Participants, Beneficiaries, and the PBGC
- C – Certification of Status under § 432
- F – Form 5500 Requirements

A. Extended Amortization Period for Eligible Net Investment Losses

Q A-1. For purposes of the special amortization rule in § 431(b)(8)(A), how is the net investment loss incurred in an eligible loss year determined?

A A-1. Except as otherwise provided in this Q&A A-1, if the valuation date for a plan is either the first day of the plan year or the last day of the plan year, then the net

investment loss incurred in an eligible loss year (an eligible net investment loss) is equal to the excess of the expected market value of plan assets as of the end of the eligible loss year over the market value of the assets as of that date, including any difference attributable to a criminally fraudulent investment arrangement. For this purpose, the expected market value of plan assets as of the end of the eligible loss year is equal to (1) the market value of plan assets at the beginning of the eligible loss year, plus (2) contributions made during the eligible loss year, minus (3) disbursements made during the eligible loss year, with all such amounts adjusted to the end of the eligible loss year with interest at the plan's valuation rate for the plan year.

However, if the determination of the actuarial value of assets under the plan's asset valuation method involves a calculation of the difference between the actual return for the plan year (determined on a market value basis) and the expected return on the actuarial value of assets for the plan year, then the eligible net investment loss for the plan year is equal to that actual return minus the expected return.

If the valuation date for a plan year is neither the first day of the plan year nor the last day of the plan year, the calculation of the eligible net investment loss for the plan year is made as of the valuation date, based on the difference between the actual return (determined on a market value basis as of the valuation date) and the expected return (based on either market or actuarial value, as the case may be, as of the valuation date for the prior year).

Q A-2. For purposes of determining an eligible net investment loss, what is a criminally fraudulent investment arrangement?

A A-2. For purposes of determining an eligible net investment loss, a criminally fraudulent investment arrangement is an investment arrangement with respect to which a loss would be treated as a theft loss under § 165 if § 165 applied.

Q A-3. If a plan has a net experience loss for a recognition year (i.e., a plan year in which a portion of an eligible net investment loss is recognized in the value of plan assets), how does the special amortization rule in § 431(b)(8)(A) affect the treatment of the portion of that loss that is attributable to an eligible net investment loss?

A A-3. If a plan has a net experience loss for a recognition year and the special amortization rule under § 431(b)(8)(A) applies, the net experience loss is bifurcated into the portion attributable to the eligible net investment loss (as determined under Q&A A-5) and the portion not attributable to the eligible net investment loss (i.e., the portion attributable to other gains or losses).

A separate amortization base is established for the portion attributable to the eligible net investment loss, and that portion is amortized over the period beginning with the recognition year and ending with the last plan year in the 30-

plan-year period beginning with the eligible loss year. Thus, if a plan uses a valuation date of the first day of the plan year, so that a portion of an eligible net investment loss is first recognized in the actuarial value of assets for the plan year after the eligible loss year, the amortization period for that portion is the 29-plan-year period beginning with that recognition year.

The portion of the net experience loss that is not attributable to the eligible net investment loss is amortized over 15 plan years, as provided in § 431(b)(2)(B)(iii). Thus, if the net experience loss for a plan year exceeds the amount attributable to the eligible net investment loss, then the balance of the net experience loss (i.e., the amount by which the net experience loss exceeds the amount attributable to the eligible net investment loss) is amortized over 15 plan years.

The establishment of a special amortization period for the portion of the net experience loss attributable to the eligible net investment loss continues for each plan year that the plan applies the provisions of § 431(b)(8)(A) and without regard to whether the portion of the eligible net investment loss recognized in a plan year is a positive or negative number. For example, if, as a result of the application of the requirement that the actuarial value of assets not exceed 120 percent of market value, the portion of the eligible net investment loss that is recognized in the actuarial value of plan assets for the first recognition year exceeds the combined portions that would otherwise be recognized for the first and second recognition years, then the portion of the eligible net investment loss that is recognized in the second year's actuarial value of assets could instead be an actuarial gain. In such a case, the gain would be recognized over 28 plan years. However, in that case, the plan sponsor could decide to no longer apply the special amortization rule. See Q&A A-8 and Q&A D-3.

See Q&A A-4 for the rules that apply if the net experience loss for a plan year is less than the amount attributable to the eligible net investment loss, if the amount attributable to the eligible net investment loss that is recognized in a recognition year is an actuarial gain, or if there is an overall experience gain for the plan year.

Q A-4. What is the appropriate treatment with respect to a plan year for which the special amortization rule applies, if the net experience loss for the plan year is less than the amount attributable to the eligible net investment loss, if the amount attributable to the eligible net investment loss is an actuarial gain, or if there is an overall experience gain for the plan year?

A A-4. In any of these cases, in lieu of the bifurcation described in Q&A A-3, two amortization bases are established. The initial balance of the first base (which can be a gain base or a loss base) is the amount attributable to the eligible net investment loss, and that base is amortized over the extended period described in Q&A A-3. The initial balance of the second base (which can also be a gain base or a loss base) is the amount that, when combined with the initial balance of

the first base, equals the plan's net experience gain or loss for that plan year, and that base is amortized over 15 plan years.

For instance, if the amount attributable to an eligible net investment loss is an actuarial loss that exceeds the net experience loss for the plan year, then the amount attributable to the eligible net investment loss is amortized over the extended period described in Q&A A-3 and an offsetting gain base equal to the excess is established and amortized over 15 plan years. Similarly, if there is an overall experience gain for the plan year and the amount attributable to an eligible net investment loss is an actuarial loss, then the amount attributable to the eligible net investment loss is amortized over the extended period described in Q&A A-3, and an offsetting gain base equal to the sum of that amount and the amount of the overall experience gain is established and amortized over 15 plan years.

The following examples illustrate the application of the rules in Q&A A-3 and Q&A A-4:

Example (1) Assume that the sponsor of a multiemployer plan that uses the calendar year as its plan year and a beginning of year valuation date decides to apply the special amortization rule in § 431(b)(8)(A) in order to extend the amortization period for the eligible net investment loss of \$1,000,000 incurred in the 2008 plan year. The valuation interest rate for the plan is 7 percent. The plan has a net experience loss in 2010 that is first reflected in the January 1, 2011, valuation that exceeds the portion attributable to the 2008 eligible net investment loss, as shown in the table below:

		Amounts (Dollars)
(1)	Net experience gain or (loss) in 2010 reflected in actuarial valuation as of 1/1/2011	(\$500,000)
(2)	Portion of 2008 eligible net investment loss reflected in actuarial value of plan assets as of 1/1/2011	(\$45,000)
(3)	Portion of net experience loss not attributable to 2008 eligible net investment loss	(\$455,000)

Under § 431(b)(2)(B)(iii), amortization of the experience loss of \$500,000 would be over 15 plan years at \$51,306 per year (i.e., \$500,000/9.745468). Under the special amortization rule, the net experience loss of \$500,000 is bifurcated into two pieces: (a) the portion attributable to the 2008 eligible net

investment loss, resulting in an amortization charge base of \$45,000, amortized over 27 plan years at \$3,509 per year (i.e., $\$45,000/12.825779$), plus (b) the remaining loss, resulting in an amortization charge base of \$455,000 amortized over 15 plan years at \$46,688 per year (i.e., $\$455,000/9.745468$).

The combined amortization charges are \$50,197 annually for the first 15 plan years (i.e., \$3,509 plus \$46,688), and \$3,509 annually for the succeeding 12 plan years. This results in a reduction in amortization charges of \$1,109 (i.e., $\$51,306 - \$50,197$) during those first 15 plan years and an increase in amortization charges of \$3,509 per year for each of those succeeding 12 plan years, as contrasted with the schedule of charges under § 431(b)(2)(B)(iii).

Example (2) The facts are the same as in Example (1), except that the plan has a net experience loss in 2010 of \$30,000 that is first reflected in the January 1, 2011, actuarial valuation.

Under § 431(b)(2)(B)(iii), amortization of the net experience loss of \$30,000 would be over 15 plan years at \$3,078 per year (i.e., $\$30,000/9.745468$). Under the special amortization rule, the experience loss of \$30,000 is bifurcated into two pieces: (a) the portion attributable to the 2008 eligible net investment loss, resulting in an amortization charge base of \$45,000, amortized over 27 plan years at \$3,509 per year (i.e., $\$45,000/12.825779$), plus (b) an offsetting gain base, resulting in an amortization credit base of \$15,000 amortized over 15 plan years at \$1,539 per year (i.e., $\$15,000/9.745468$).

Example (3) The facts are the same as in Example (1), except that the plan has a net experience gain in 2010 of \$100,000 that is first reflected in the January 1, 2011, actuarial valuation.

Under § 431(b)(3)(B)(ii), amortization of the net experience gain of \$100,000 would be over 15 plan years at \$10,261 per year (i.e., $\$100,000/9.745468$). Under the special amortization rule, the experience gain of \$100,000 is bifurcated into two pieces: (a) the portion attributable to the 2008 eligible net investment loss, resulting in an amortization charge base of \$45,000, amortized over 27 plan years at \$3,509 per year (i.e., $\$45,000/12.825779$), plus (b) an offsetting gain base, resulting in an amortization credit base of \$145,000 amortized over 15 plan years at \$14,879 per year (i.e., $\$145,000/9.745468$).

Q A-5. How is the portion of the net experience gain or loss for a recognition year that is attributable to an eligible net investment loss determined?

A A-5. The portion of the net experience loss or gain for a recognition year that is attributable to an eligible net investment loss is permitted to be determined under either the prospective or retrospective method described in this Q&A A-5. Whichever method is chosen becomes part of the plan's funding method and can only be changed with the consent of the Commissioner.

Under the prospective method, the portion of an eligible net investment loss that is recognized for the first recognition year and for each future plan year is fixed as of the first recognition year, based on a projection of asset values. Specifically, the amount of an eligible net investment loss that is recognized in the first recognition year is the hypothetical value of plan assets as of the valuation date for that plan year minus the actuarial value of plan assets as of that date. For this purpose, the hypothetical value of plan assets is the value that would have resulted under the plan's asset valuation method if the plan had earned the expected rate of return for the eligible loss year.

In order to determine the portion of an eligible net investment loss that is to be recognized in any future recognition year, the hypothetical value of plan assets and the actuarial value of plan assets must be projected to that future year assuming that the plan assets earn the expected rate of return for all future years and based on a reasonable projection of future contributions and distributions. Based on this projection, the accumulated portion of the eligible net investment loss recognized as of the valuation date for a future plan year (the accumulated recognized eligible loss) is determined as the projected hypothetical value of plan assets minus the projected actuarial value of plan assets as of that date. The portion of the eligible net investment loss that is recognized for that future year is (1) the accumulated recognized eligible loss for that future year, minus (2) the accumulated recognized eligible loss for the plan year immediately preceding that future year.

Under the retrospective method, the portion of an eligible net investment loss that is recognized for any recognition year (i.e., the first recognition year or any later recognition year) is determined as of the valuation date for the relevant recognition year, taking into account actual rates of return since the eligible loss year. The portion of an eligible net investment loss that is recognized in the first recognition year is the same as under the prospective method. For a recognition year after the first recognition year, a reconstructed hypothetical value of plan assets is determined for that year which is then compared with the actuarial value of plan assets for that year. For this purpose, the reconstructed hypothetical value of plan assets is the value that would have resulted under the plan's asset valuation method if the plan had earned the expected rate of return for the eligible loss year and actual rates of return for any subsequent years. Based on this determination, the accumulated recognized eligible loss (as defined in the preceding paragraph) is determined as of the valuation date for the future plan year as the reconstructed hypothetical value of plan assets minus the actuarial value of plan assets as of that date. The portion of the eligible net investment loss that is recognized for that future year is (1) the accumulated recognized eligible loss for that future year, minus (2) the accumulated recognized eligible loss for the plan year immediately preceding that future year.

In either case, if the determination of actuarial value of assets under the plan's asset valuation method requires distinguishing between realized or unrealized appreciation and other types of investment return (such as the

average value described in § 1.412(c)(2)-1(b)(8)), then the hypothetical value of plan assets, the projected hypothetical value of plan assets, the projected actuarial value of plan assets, and the reconstructed hypothetical value of plan assets are determined by assuming that the expected rate of return for the relevant plan year did not include any realized or unrealized appreciation.

The following example illustrates the application of the rules in Q&A A-5:

Example (a) A multiemployer plan with a calendar year plan year and a beginning of year valuation date determines the actuarial value of assets by spreading the difference between actual and expected investment return on a level basis over five years (as described in approval 15 of Rev. Proc. 2000-40), subject to the limitation that the actuarial value of assets be no less than 80 percent of fair market value and no greater than 120 percent of fair market value. The market value of assets as of January 1, 2008, is \$150. The valuation interest rate used for all years after 2007 is 7 percent, although the actual rate of return on a market value basis for 2008 was -25 percent. The difference between expected and actual return for past years is

	Difference between Expected and Actual Return (Dollars)
2005	20
2006	-15
2007	5

For 2008, contributions and disbursements, increased with interest at the expected rate through the end of the plan year, are \$10 and \$9, respectively. As of January 1, 2009, projected contributions and disbursements, increased with interest at the expected rate through the end of each plan year is

	Contributions (Dollars)	Disbursements (Dollars)
2009	12	10
2010	14	11
2011	16	12
2012	18	13

(b) The expected market value of assets as of the end of 2008 is \$161.50 $[(\$150 * 1.07) + \$10 - \$9]$.

(c) The net investment loss for 2008 is \$48 (determined as the expected market value as of the end of 2008 (\$161.50) minus the actual market value as of the end of 2008 (\$113.50)) and the plan sponsor has decided to apply the special amortization rule of § 431(b)(8)(A) to that eligible net investment loss.

(d) Under the asset valuation method for the plan, the actuarial value of assets on January 1, 2009, prior to applying the 80/120 percent corridor is \$150.90 $[\$113.50 - (20\% * \$20) + (40\% * \$15) - (60\% * \$5) + (80\% * \$48)]$. After applying the 80/120 percent corridor, the actuarial value of assets is \$136.20 (120% of \$113.50).

(e) The plan actuary determines the hypothetical value of assets for the 2009 plan year by determining what the actuarial value of assets would have been had the plan assets earned the expected return during 2008. In such a case, the market value of assets would have been \$161.50 and the actuarial value of assets prior to applying the 80/120 percent corridor would have been \$160.50 $[\$161.50 - (20\% * \$20) + (40\% * \$15) - (60\% * \$5) + (80\% * \$0)]$. After applying the 80/120 percent corridor the hypothetical value of assets would have been \$160.50.

(f) Accordingly, the accumulated recognized eligible loss (i.e., the portion of the eligible net investment loss that would have been recognized in the actuarial value of assets) as of January 1, 2009, is \$24.30 (the difference between the hypothetical value of assets on that date (\$160.50) and the actuarial value of assets on that date (\$136.20)).

(g) 2009 is the first recognition year (i.e., the first year for which any portion of the eligible net investment loss is recognized in the actuarial value of plan assets), and the portion of the eligible net investment loss that is recognized in the actuarial value of assets on January 1, 2009, is \$24.30 (\$24.30, the accumulated recognized eligible loss for 2009, minus zero, the accumulated recognized eligible loss for the preceding year).

(h) If the plan is using the prospective method of determining the portion of the eligible net investment loss that is recognized each plan year, then the calculations set forth in steps (d) through (f) are repeated for each future recognition year up to the plan year as of which the entire eligible net investment loss will have been recognized. This calculation is a projection of future results made as of January 1, 2009, and, for this purpose, it is assumed that the plan assets earn the assumed rate of return for each year after 2008. The portion of the eligible net investment loss recognized for a future year is the result in step (f) for that future year minus the result in step (f) for the year immediately preceding that future year. For example,

- The market value of assets as of January 1, 2010, is projected to be \$123.45 $[(\$113.50 * 1.07) + \$12 - \$10]$ and there is projected to be no difference between actual and expected returns for 2009.
- Under the asset valuation method for the plan, the actuarial value of assets at January 1, 2010, prior to applying the 80/120 percent corridor is projected to be \$153.25 $[\$123.45 + (20\% * \$15) - (40\% * \$5) + (60\% * \$48) + (80\% * \$0)]$. After applying the 80/120 percent corridor, the actuarial value of assets is projected to be \$148.14 (120% of \$123.45).
- Had the plan earned the expected rate of return during 2008, the market value of assets as of January 1, 2010, would have been projected to be \$174.81 $[(\$161.50 * 1.07) + \$12 - \$10]$.
- Under the asset valuation method for the plan, the actuarial value of assets at January 1, 2010, prior to applying the 80/120 percent corridor would have been \$175.81 $[\$174.81 + (20\% * \$15) - (40\% * \$5) + (60\% * \$0) + (80\% * \$0)]$. After applying the 80/120 percent corridor the actuarial value of assets would have been \$175.81.
- The accumulated recognized eligible loss as of the January 1, 2010, valuation date is \$27.67 (the difference between the projected hypothetical value of assets (\$175.81) and the projected actuarial value of assets (\$148.14)).
- The portion of the eligible net investment loss that is projected to be first recognized in the January 1, 2010, actuarial value of assets is \$3.37 (the accumulated recognized eligible loss as of January 1, 2010 (\$27.67) minus the accumulated recognized eligible loss as of January 1, 2009 (\$24.30)).

(i) If the plan is using the retrospective method of determining the portion of the eligible net investment loss that is recognized each plan year, then calculations set forth in steps (d) through (f) are repeated for each future recognition year up to the plan year as of which the entire eligible net investment loss will have been recognized. This calculation is made as of a valuation date for each future plan year and takes into account the actual earnings on plan assets for each year after 2008. The portion of the eligible net investment loss recognized for a future year is the result in step (f) for that future year minus the result in step (f) for the year immediately preceding that future year. For example, if the plan assets earned 10 percent during 2009, and assuming that the contributions and disbursements during 2009 were as projected,

- The market value of assets as of January 1, 2010, will be \$126.85 $[(\$113.50 * 1.10) + \$12 - \$10]$ and the difference between actual and expected returns for 2009 will be \$3.40.
- Under the asset valuation method for the plan, the actuarial value of assets on January 1, 2010, prior to applying the 80/120 percent corridor will be \$153.93 $[\$126.85 + (20\% * \$15) - (40\% * \$5) +$

$(60\% * \$48) - (80\% * \$3.40)$]. After applying the 80/120 percent corridor, the actuarial value of assets will be \$152.22 (120% of \$126.85).

- Had the plan earned the expected rate of return during 2008, the market value of assets as of January 1, 2010, will be \$179.65 $[(\$161.50 * 1.10) + \$12 - \$10]$ and the difference between actual and expected returns for 2009 will be \$4.84.
- Under the asset valuation method for the plan, the actuarial value of assets on January 1, 2010, prior to applying the 80/120 percent corridor will be \$176.78 $[\$179.65 + (20\% * \$15) - (40\% * \$5) + (60\% * \$0) - (80\% * \$4.84)]$. After applying the 80/120 percent corridor, the actuarial value of assets will be \$176.78. This value is the reconstructed hypothetical value of plan assets.
- The accumulated recognized eligible loss as of the January 1, 2010, valuation date is \$24.56 (the difference between the reconstructed hypothetical value of assets (\$176.78) and the actuarial value of assets (\$152.22)).
- The portion of the eligible net investment loss that will be first recognized in the January 1, 2010, actuarial value of assets is \$0.26 (the accumulated recognized eligible loss as of January 1, 2010 (\$24.56) minus the accumulated recognized eligible loss as of January 1, 2009 (\$24.30)).

Q A-6. If a plan uses the shortfall method, how does the special amortization rule apply to the amortization of experience gain or loss under § 1.412(c)(1)-2(h)?

A A-6. If a multiemployer plan uses the shortfall method, the net experience gain or loss for a plan year is bifurcated into the portion attributable to the eligible net investment loss and the portion not attributable to the eligible net investment loss in the same manner as in the case of a plan that is not using the shortfall method. The amortization of each of these portions is deferred until the earlier of (1) the fifth plan year following the plan year in which the net experience gain or loss arose, or (2) the first plan year beginning after the latest scheduled expiration date of a contract in effect during the plan year in which the net experience gain or loss arose. In such a case, the net experience gain or loss is increased with interest at the rate used for determining the plan's normal cost until the first year of the amortization charge or credit, and the amortization period is shortened so that it ends with the same year that would apply in the absence of the shortfall method.

Q A-7. Can the special amortization rule for eligible net investment losses be applied to a multiemployer plan that does not use a funding method that determines experience gains or losses?

A A-7. The special amortization rule for eligible net investment losses is not permitted to be applied to a multiemployer plan that does not use a funding method that

determines experience gains or losses. However, a multiemployer plan that does not use a funding method that determines an experience gain or loss for each plan year may change its funding method to an immediate gain method under which an experience gain or loss is determined for each plan year. Such a change in funding method is automatically approved and, pursuant to Rev. Proc. 2000-40, the amortization period applicable to any change in unfunded accrued liability attributable to the change in funding method is 10 years.

Q A-8. For what plan years does the special amortization rule in § 431(b)(8)(A) apply?

A A-8. The special amortization rule under § 431(b)(8)(A) applies beginning with the first recognition year with respect to an eligible net investment loss and ending with the earliest of:

- 1) The plan year in which the entire unrecognized balance of the eligible net investment loss as of the preceding plan year is recognized in the actuarial value of assets,
- 2) The plan year for which, if the special amortization rule were to apply to establish a new special amortization base, the amortization period applicable to that base would be 15 plan years, or
- 3) The plan year for which the plan sponsor chooses to end the application of the special amortization rule in accordance with Q&A D-3.

If the special amortization rule no longer applies, then no new amortization bases are established under Q&A A-3 (and any portion of an eligible net investment loss recognized in a subsequent year is taken into account under the regular rules of § 431(b)(2) or (b)(3)). However, the annual charges or credits to the funding standard account with respect to any amortization base previously established are unaffected.

Q A-9. How do the rules in this notice apply if the special amortization rule in § 431(b)(8)(A) applies with respect to net investment losses incurred in two eligible loss years?

A A-9. If the special amortization rule in § 431(b)(8)(A) applies with respect to net investment losses incurred in two eligible loss years, the rules in this notice apply separately to each portion of a net experience gain or loss that is attributable to an eligible net investment loss incurred in a different eligible loss year. For example, in applying the rules in Q&A A-3, the plan's net experience loss would be divided into three portions: the portion attributable to the eligible net investment loss (as determined under Q&A A-5) incurred in one eligible loss year; the portion attributable to the eligible net investment loss (as determined under Q&A A-5) incurred in the other eligible loss year; and the portion not attributable to the eligible net investment loss incurred in any eligible loss year. A separate amortization base would be established for each portion attributable to the eligible net investment loss incurred in a different eligible loss year, and each

of those portions would be amortized over an extended period described in Q&A A-3. The portion of the net experience loss that is not attributable to eligible net investment loss would be amortized over 15 plan years, as provided in § 431(b)(2)(B)(iii).

V. Asset Valuation Rules

Q V-1. What does § 431(b)(8)(B)(i)(I) permit with respect to the period over which the difference between actual and expected returns for an eligible loss year is recognized in the value of plan assets as determined under a plan's asset valuation method?

A V-1. Subject to the solvency test under § 431(b)(8)(C), a plan's asset valuation method may be changed so as to recognize the difference between actual and expected returns for an eligible loss year (i.e., an eligible net investment loss) in the value of plan assets on a level basis over a period of not more than 10 years. An asset valuation method is not considered unreasonable for purposes of § 431(c)(2)(A) merely because of such a change, without regard to the period over which the difference between actual and expected returns is otherwise recognized under the plan's method.

Q V-2. Is there automatic approval for the change in method described in Q&A V-1?

A V-2. If the asset valuation method for a multiemployer plan provides for a spreading of the difference between expected and actual returns on a level basis over a fixed number of years, then a change in the asset valuation method to extend the period—to not more than 10 years—over which an eligible net investment loss is recognized in the value of plan assets on a level basis is automatically approved. This applies even though the difference between expected and actual returns for other plan years is spread over a different number of years. For this purpose, a plan that uses market value of assets as the asset valuation method spreads the difference between expected and actual returns over one plan year.

If the plan uses some other asset valuation method, the plan will need to obtain approval from the Service for the change. This approval may be requested using the class-rulings procedure prescribed under section 5 of Rev. Proc. 2000-41, if it otherwise meets the requirements for using the class-rulings procedure.

Q V-3. What does § 431(b)(8)(B)(i)(II) permit with respect to the extent to which the actuarial value of plan assets can vary from the market value of plan assets?

A V-3. Subject to the solvency test under § 431(b)(8)(C), a plan's asset valuation method may be changed so that, for either or both of the first two plan years beginning after August 31, 2008, the otherwise applicable corridor limits under § 1.412(c)(2)-1(b)(6) are expanded to permit the actuarial value of plan assets to be as much as 130 percent of the fair market value of plan assets. An asset

valuation method is not considered unreasonable for purposes of § 431(c)(2)(A) merely because of such a change, and such a change is automatically approved.

Q V-4. What amortization period applies to a change in a plan's unfunded accrued liability attributable to a change in asset valuation method as described in Q&A V-1 or Q&A V-3 (or both)?

A V-4. In general, pursuant to Rev. Proc. 2000-40, the amortization period applicable to the change in unfunded accrued liability attributable to a change in asset valuation method as described in Q&A V-1 or Q&A V-3 (or both) is 10 years. However, if a plan's asset valuation method is changed under § 431(b)(8)(B) for a plan year and the special amortization rule in § 431(b)(8)(A) also applies, then the net experience gain or loss for the plan year and the portion of that experience gain or loss attributable to the eligible net investment loss are determined disregarding the change in asset valuation method. In such a case, the change in unfunded accrued liability attributable to the change in asset valuation method is then amortized over 30 plan years.

S. Solvency Test

Q S-1. What is the period that applies for purposes of a plan actuary's certification of the solvency test (solvency certification) under § 431(b)(8)(C)?

A S-1. The period that applies for purposes of a solvency certification under § 431(b)(8)(C) is the period beginning with the plan year in which the solvency certification is made. If the special amortization rule (but not the special asset valuation rule) applies with respect to a multiemployer plan, such period ends with the last plan year in the 30-plan-year period beginning with the eligible loss year. If the special asset valuation rule (but not the special amortization rule) applies, such period ends with the last plan year in the 10-year period over which the change in unfunded accrued liability attributable to the change in asset valuation method is amortized. If both the special amortization rule and the special asset valuation rule apply, such period ends with the last plan year in the 30-plan-year period over which the change in unfunded accrued liability attributable to the change in asset valuation method is amortized.

Q S-2. When must the solvency certification be made?

A S-2. The solvency certification must be made before a formal decision is made to apply either or both of the special funding rules in accordance with Q&A D-1. If the plan passes the solvency test as of the plan year in which a formal decision is made to apply either or both of the special funding rules, the plan is deemed to pass the test as of any preceding plan year.

Q S-3. What is the actuarial basis for the solvency certification under § 431(b)(8)(C)?

A S-3. In making the solvency certification under § 431(b)(8)(C), the plan actuary must use the same actuarial basis (e.g., actuarial assumptions, data, and terms of any existing funding improvement plan or rehabilitation plan) that is used for purposes of the certification of the plan's status under § 432(b)(3) for the plan year in which the solvency certification is made. The actuarial assumptions with respect to plan years that are after the plan years that are taken into account for purposes of that certification of plan status under § 432(b)(3) must be consistent with the assumptions used for purposes of that certification of plan status. In making a solvency certification, the plan actuary is not permitted to take into account any benefit reductions under § 418D or § 418E projected for future years.

R. Restrictions on Plan Amendments Increasing Benefits

Q R-1. How does the restriction on plan amendments under § 431(b)(8)(D) apply if the special amortization rule in § 431(b)(8)(A) applies?

A R-1. If the special amortization rule applies with respect to the portion of an eligible net investment loss that is recognized in a plan year (i.e., if a new amortization base with an extended amortization period under § 431(b)(8)(A) is established in the plan year for a portion of the eligible net investment loss), a plan amendment increasing benefits may not go into effect during either of the two plan years immediately following that plan year unless one of the two conditions in the following paragraph are met.

The restriction in the preceding paragraph does not apply if (1) the plan actuary certifies that (i) the increase is paid for out of additional contributions not allocated to the plan as of the end of the immediately preceding plan year, and (ii) the plan's funded percentage and projected credit balances for the two plan years are reasonably expected to be at least as high as they would have been if the benefit increase had not been adopted, or (2) the amendment is required as a condition of qualification under the Code or to comply with other applicable law.

Q R-2. How does the restriction on plan amendments under § 431(b)(8)(D) apply if the special asset valuation rule in § 431(b)(8)(B) applies?

A R-2. If the special asset valuation rule applies for a plan year (i.e., the plan's asset valuation method for that plan year is changed in accordance with § 431(b)(8)(B)), a plan amendment increasing benefits may not go into effect during either of the two plan years immediately following that plan year unless one of the two conditions in the following paragraph are met.

The restriction in the preceding paragraph does not apply if (1) the plan actuary certifies that (i) the increase is paid for out of additional contributions not allocated to the plan as of the end of the immediately preceding plan year, and (ii) the plan's funded percentage and projected credit balances for the two plan

years are reasonably expected to be at least as high as they would have been if the benefit increase had not been adopted, or (2) the amendment is required as a condition of qualification under the Code or to comply with other applicable law.

Q R-3. How does the effective date provision of section 211(b)(2) of PRA 2010 affect the application of the restriction on plan amendments increasing benefits?

A R-3. Under section 211(b)(2) of PRA 2010, the restriction on plan amendments increasing benefits is effective on June 25, 2010, the date of the enactment of PRA 2010. Thus, benefit increases that went into effect before June 25, 2010, are not subject to the restriction under § 431(b)(8)(D). Benefit increases that are effective on or after June 25, 2010, are subject to the restriction, even if adopted before that date.

D. Decision to Apply the Special Funding Rules

Q D-1. How must a decision to apply either or both of the special funding rules under § 431(b)(8) be made?

A D-1. A decision to apply either or both of the special funding rules under § 431(b)(8) with respect to a multiemployer plan must be made as a formal decision by the plan sponsor using its normal procedures for making such decisions.

Q D-2. What is the deadline for a formal decision to apply either or both of the special funding rules?

A D-2. The deadline for a formal decision to apply either or both of the special funding rules with respect to a multiemployer plan is the earliest of:

- 1) The deadline for certification of the plan's status under § 432(b)(3) for the first plan year beginning on or after January 1, 2011,
- 2) The date of certification of the plan's status under § 432(b)(3) for the first plan year beginning on or after January 1, 2011, or
- 3) June 30, 2011.

However, if, as of the otherwise applicable deadline, a plan sponsor has been unable to reach agreement as to whether to apply either or both of the special funding rules, and, before the otherwise applicable deadline, formally decides to resolve the issue through arbitration, then the deadline is extended until 30 days after the resolution of the arbitration.

Q D-3. May a plan sponsor decide to stop applying the special amortization rule as of a future plan year?

A D-3. A plan sponsor may decide to stop applying the special amortization rule as of a plan year, provided that a formal decision is made by the plan sponsor. If the

special amortization rule no longer applies, then no new amortization bases are established under Q&A A-3 (and any portion of an eligible net investment loss recognized in a subsequent year is taken into account under the regular rules of § 431(b)(2) or (b)(3)). However, the annual charges or credits to the funding standard account with respect to any amortization base previously established are unaffected.

N - Notification to Participants, Beneficiaries, and the PBGC

Q N-1. When must notice of the application of the special funding rules be provided to participants and beneficiaries?

A N-1. If the special amortization rule or special asset valuation rule, or both, apply with respect to a multiemployer plan, the plan sponsor must give notice to participants and beneficiaries that the special rule (or rules) applies, within 30 days after the deadline for the plan sponsor's formal decision to apply the special rule or rules. Notice need be provided only once, even if the special funding rules under § 431(b)(8) apply for more than one plan year.

Q N-2. Which participants and beneficiaries must receive the notice?

A N-2. Except as otherwise provided in the following sentence, notice is required to be provided to all plan participants and beneficiaries. However, the notice does not have to be provided to any person who either became a plan participant or beneficiary after the last day of the last plan year ending before the notice is due or ceased to be a participant or beneficiary prior to the date on which the notice is provided.

Q N-3. What information must the notice to participants and beneficiaries contain?

A N-3. The notice must provide (1) the name of the plan, along with the taxpayer identification number and plan number for the plan, (2) an explanation of which of the special funding rules apply and the plan year or years for which they apply, (3) the effect of the application of the special funding rules (i.e., the amortization of losses beyond the otherwise applicable 15-plan-year period and/or the recognition of losses in the value of plan assets over a period as long as 10 years), (4) a general description of the effect of applying the special funding rules, including the fact that applying the special rules will decrease the amount of required minimum contributions that are taken into account in determining the appropriate contribution rates under collective bargaining agreements and may also affect the plan's status under § 432(b) for the current and future plan years, (5) a statement that the plan is not permitted to increase benefits during the two plan years immediately following any plan year in which either or both of the special funding rules apply, unless certain conditions are met, and (6) the name, address, and telephone number of the plan administrator or other contact person from whom more information may be obtained.

The notice must be written in a manner calculated to be understood by the average plan participant or beneficiary. In addition, the notice must be written in such a manner that the average participant or beneficiary will understand the significance of the required information in the notice. While the notice may include any additional information that is necessary or helpful for recipients to understand the required information in the notice, the notice should not have the effect of misleading or misinforming recipients or of distracting recipients from the required information in the notice. The notice must be a separate notice and cannot be combined with other information. However, the notice can be provided at the same time as another notice is provided; for example, the notice does not fail to meet the requirements of this Q&A N-3 merely because it is provided at the same time as a notice under section 101(f) of ERISA.

Q N-4. What are the acceptable methods of providing the required notice? In particular, can the notice be provided electronically?

A N-4. The notice must be in writing and may be furnished in any paper or electronic form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided. Permissible electronic methods include those permitted under regulations of the Department of Labor at 29 C.F.R. § 2520.104b-1(c) and those described at § 54.4980F-1, Q&A-13(c).

Q N-5. How does a plan sponsor making a formal decision to apply either or both of the special funding rules comply with the requirement to inform PBGC of such application?

A N-5. The PBGC has informed the Treasury Department and the Service that the plan sponsor must provide the PBGC with a copy of the notice provided to participants and beneficiaries under Q&A N-3, by the deadline described in Q&A N-6. The notice must be provided by mail or e-mail. Hard copies of the notice must be mailed to the Pension Benefit Guaranty Corporation, ATTN: Multiemployer Data Coordinator, 1200 K Street, NW, Suite 930, Washington, DC 20005-4026. Electronic copies of the notice must be e-mailed to the PBGC at Multiemployerprogram@pbgc.gov. The subject line of the e-mail, or the notice sent by mail, must contain the plan's taxpayer identification number, plan number, and the name of the plan.

Q N-6. What is the deadline for notifying the PBGC?

A N-6. The plan sponsor must give notice of the application of the special funding rules by the later of: (i) 30 days after the date the plan sponsor makes a formal decision to apply either or both of the special funding rules, or (ii) January 18, 2011. If the plan sponsor makes separate decisions on different dates regarding which of the special funding rules will apply, or the plan years for which they apply, the plan sponsor must send separate notices with respect to each

application of the special funding rules. The deadline in this Q&A N-6 also applies to any formal decision to apply the special funding rules made prior to the issuance of this notice.

C - Certification of Status under § 432

Q C-1. To what extent must the application of the special funding rules under § 431(b)(8) be taken into account for purposes of § 432?

A C-1. Once a formal decision to apply either or both of the special funding rules under § 431(b)(8) has been made, the application of the special rules must be taken into account in any contemporaneous or subsequent certification of status required under § 432(b)(3) and in any contemporaneous or subsequent required adoption or update of a funding improvement plan or rehabilitation plan.

Q C-2. Is a plan sponsor permitted to modify a funding improvement plan or rehabilitation plan that was previously adopted to take into account the application of the special funding rules under § 431(b)(8)?

A C-2. A plan sponsor is permitted to update a previously adopted funding improvement plan or rehabilitation plan to take into account the application of the special funding rules under § 431(b)(8), even if an update is not otherwise required under § 432.

Q C-3. If a multiemployer plan's status under § 432 for a plan year was already certified before a plan sponsor's formal decision to apply either or both of the special funding rules under § 431(b)(8), can the plan's status for the plan year be recertified to take into account the application of the special funding rules?

A C-3. Normally, a formal decision to apply the special funding rules under § 431(b)(8) will be reflected in any certifications of a plan's status under § 432(b)(3) made after the formal decision. Thus, if a formal decision to apply the special funding rules under § 431(b)(8) is made after the certification of a plan's status under § 432(b)(3) for a plan year, the application of the special funding rules will not be reflected in the certification of the plan's status until the following plan year. However, the plan sponsor is permitted to request that the plan actuary redetermine the plan's status under § 432(b)(3) for a plan year, taking into account the application of the special funding rules. The redetermined status will be treated as the certified status for the entire plan year (including for purposes of the requirement to adopt or update a funding improvement or rehabilitation plan in that plan year), provided that (1) a revised certification of the plan's status for the plan year is made and sent to the plan sponsor and the Service before the end of the plan year, (2) the revised certification otherwise satisfies the requirements of § 432(b)(3), (3) notice of the revised certification is provided to participants and beneficiaries, the bargaining parties, the PBGC, and the Secretary of Labor within 30 days after the revised certification is made, (4) any

measures previously taken that would not be permitted pursuant to the plan's status under the revised certification (such as restrictions on distributions as described in § 432(f)(2), reductions as described in § 432(e)(8) in benefits that are protected under the anti-cutback rules of § 411(d)(6), and the imposition of employer surcharges under § 432(e)(7)) are reversed, and (5) the plan actuary certifies that reversing the measures described in clause (4) would not cause the plan to fail to meet the solvency test under § 431(b)(8)(C).

Q C-4. How does the effective date provision of section 211(b)(1) of PRA 2010 affect the application of the special funding rules for purposes of § 432 for the first plan year beginning after August 31, 2008?

A C-4. Under section 211(b)(1) of PRA 2010, the application of the special funding rules is disregarded for purposes of applying § 432 for the first plan year beginning after August 31, 2008. Thus, application of the special funding rules is not taken into account in any certification of plan status under § 432(b)(3) for that plan year or the adoption or update of a funding improvement plan or rehabilitation plan for that plan year.

F – Form 5500 Requirements

Q F-1. How should the effect of the application of the special funding rules under § 431(b)(8) for a plan year be reported if the plan sponsor decides to apply either or both of the special funding rules for that plan year and a Form 5500 and Schedule MB were filed for the plan year that did not reflect application of the special funding rules, as permitted under Notice 2010-56?

A F-1. If a plan sponsor decides to apply either or both of the special funding rules under § 431(b)(8) for a plan year after the filing of a Form 5500 and Schedule MB for that plan year that did not reflect application of the special funding rules, as permitted under Notice 2010-56, an amended Form 5500 and Schedule MB for that plan year are not required to be filed for that plan year. Instead, the Schedule MB filed for a subsequent plan year that is no later than the plan year beginning in 2010 must include an attachment showing how the information on a Schedule MB filed for any previous plan year would have differed if it had reflected application of the special funding rules (to the extent applicable) for any such previous plan year. The attachment already described in the instructions for Line 9f of the Schedule MB is an appropriate means for providing an explanation of this difference.

Q F-2. How should the effect of the application of the special funding rules under § 431(b)(8) for a plan year be reported if the plan sponsor decided to apply either or both of the special funding rules for that plan year and a Form 5500 and Schedule MB were filed for that plan year that reflected application of the special funding rules, but the calculations were different from the calculations required by this notice?

A F-2. If a plan sponsor decided to apply either or both of the special funding rules under § 431(b)(8) for a plan year and a Form 5500 and Schedule MB were filed for that plan year that reflected application of the special funding rules, but the calculations were different from the calculations required by this notice, an amended Form 5500 and Schedule MB are not required to be filed for that plan year. Instead, the Schedule MB filed for a subsequent plan year that is no later than the plan year beginning in 2010 must include an attachment showing how the information on a Schedule MB filed for any previous plan year would have differed if it had reflected application of the special funding rules (to the extent applicable) in accordance with this notice for any such previous plan year. The attachment already described in the instructions for Line 9f of the Schedule MB is an appropriate means for providing an explanation of this difference.

Q F-3. As an alternative to Q&A F-1 or Q&A F-2, if the special funding rules under § 431(b)(8) apply to a plan for which a Form 5500 and Schedule MB have already been filed as described in Q&A F-1 or Q&A F-2, may an amended Form 5500 with a revised Schedule MB be filed?

A F-3. As an alternative to Q&A F-1 or Q&A F-2, if the special funding rules under § 431(b)(8) apply to a plan for which a Form 5500 and Schedule MB have already been filed as described in Q&A F-1 or Q&A F-2, an amended Form 5500 with a revised Schedule MB showing corrected information for a previous plan year may be filed.

IV. PAPERWORK REDUCTION ACT

The collections of information contained in this notice have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. § 3507) under control number 1545-2196.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in section III. The information is required in order to determine the application of the special funding rules under § 431(b)(8) and to provide the required notice of the decision to apply the special funding rules. The collections of information are mandatory for those plan sponsors who decide to use the special funding rules. The likely respondents are sponsors of multiemployer defined benefit plans. The estimated total number of respondents for 2010 and 2011 is 1,500.

The estimated annual burden per respondent varies from 45 minutes to 65 minutes, depending on individual circumstances, with an estimated average of 55 minutes.

The estimated total annual reporting and/or recordkeeping burden is 1,375 hours.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by § 6103.

V. DRAFTING INFORMATION

The principal authors of this notice are Adrien LaBombarde and Yaguo Zhang of the Employee Plans, Tax Exempt and Government Entities Division. Questions regarding this notice may be sent via e-mail to RetirementPlanQuestions@irs.gov.