

paragraph). If a plan remains in funding restoration status for 2 or more years, such funding restoration plan shall be updated each year after the 1st such year within 180 days of receipt by the plan sponsor of a certification from the plan actuary that the plan remains in funding restoration status for the plan year.

(4) Annual certification by plan actuary

Not later than the 90th day of each plan year of a CSEC plan, the plan actuary shall certify to the plan sponsor whether or not the plan is in funding restoration status for the plan year, based on the plan's funded percentage as of the beginning of the plan year. For this purpose, the actuary may conclusively rely on an estimate of—

(A) the plan's funding liability, based on the funding liability of the plan for the preceding plan year and on reasonable actuarial estimates, assumptions, and methods, and

(B) the amount of any contributions reasonably anticipated to be made for the preceding plan year.

Contributions described in subparagraph (B) shall be taken into account in determining the plan's funded percentage as of the beginning of the plan year.

(5) Definitions

For purposes of this subsection—

(A) Funding restoration status

A CSEC plan shall be treated as in funding restoration status for a plan year if the plan's funded percentage as of the beginning of such plan year is less than 80 percent.

(B) Funded percentage

The term “funded percentage” means the ratio (expressed as a percentage) which—

- (i) the value of plan assets (as determined under subsection (c)(2)), bears to
- (ii) the plan's funding liability.

(C) Funding liability

The term “funding liability” for a plan year means the present value of all benefits accrued or earned under the plan as of the beginning of the plan year, based on the assumptions used by the plan pursuant to this section, including the interest rate described in subsection (b)(5)(A) (without regard to subsection (b)(5)(B)).

(D) Spread gain funding method

The term “spread gain funding method” has the meaning given such term under rules and forms issued by the Secretary of the Treasury.

(Pub. L. 93-406, title I, § 306, as added Pub. L. 113-97, title I, § 102(a), Apr. 7, 2014, 128 Stat. 1102.)

REFERENCES IN TEXT

Section 104 of the Pension Protection Act of 2006, referred to in subsec. (b)(6), is section 104 of Pub. L. 109-280, which is set out as a note under section 401 of Title 26, Internal Revenue Code.

The Social Security Act, referred to in subsecs. (c)(4)(A) and (h)(3)(C)(ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Title II of the Act is classified generally to subchapter

II (§ 401 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

This chapter, referred to in subsec. (d), was in the original “this Act”, meaning Pub. L. 93-406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1085a, Pub. L. 93-406, title I, § 306, as added Pub. L. 99-272, title XI, § 11015(a)(1)(A)(ii), Apr. 7, 1986, 100 Stat. 264; amended Pub. L. 100-203, title IX, § 9306(e)(2), Dec. 22, 1987, 101 Stat. 1330-355; Pub. L. 101-239, title VII, § 7891(a)(1), Dec. 19, 1989, 103 Stat. 2445, related to security for waivers of minimum funding standard and extensions of amortization period, prior to repeal by Pub. L. 109-280, title I, § 101(a), Aug. 17, 2006, 120 Stat. 784.

EFFECTIVE DATE

Section applicable to years beginning after Dec. 31, 2013, see section 3 of Pub. L. 113-97, set out as an Effective Date of 2014 Amendment note under section 401 of Title 26, Internal Revenue Code.

§§ 1085b, 1086. Repealed. Pub. L. 109-280, title I, § 101(a), Aug. 17, 2006, 120 Stat. 784

Section 1085b, Pub. L. 93-406, title I, § 307, as added Pub. L. 100-203, title IX, § 9341(b)(2), Dec. 22, 1987, 101 Stat. 1330-370; amended Pub. L. 101-239, title VII, § 7881(i)(1)(B)-(3)(A), (4)(B), Dec. 19, 1989, 103 Stat. 2442, related to security required upon adoption of plan amendment resulting in significant underfunding.

Section 1086, Pub. L. 93-406, title I, § 308, formerly § 306, Sept. 2, 1974, 88 Stat. 874, renumbered § 307, Pub. L. 99-272, title XI, § 11015(a)(1)(A)(i), Apr. 7, 1986, 100 Stat. 264; renumbered § 308, Pub. L. 100-203, title IX, § 9341(b)(1), Dec. 22, 1987, 101 Stat. 1330-370; amended Pub. L. 101-239, title VII, § 7894(h)(3), Dec. 19, 1989, 103 Stat. 2451, related to effective dates of part.

EFFECTIVE DATE OF REPEAL

Repeal applicable to plan years beginning after 2007, see section 101(d) of Pub. L. 109-280, set out as an Effective Date note under section 1082 of this title.

APPLICABILITY OF AMENDMENTS BY SUBTITLES A AND B OF TITLE I OF PUB. L. 109-280

For special rules on applicability of amendments by subtitles A (§§ 101-108) and B (§§ 111-116) of title I of Pub. L. 109-280 to certain eligible cooperative plans, PBGC settlement plans, and eligible government contractor plans, see sections 104, 105, and 106 of Pub. L. 109-280, set out as notes under section 401 of Title 26, Internal Revenue Code.

PART 4—FIDUCIARY RESPONSIBILITY

§ 1101. Coverage

(a) Scope of coverage

This part shall apply to any employee benefit plan described in section 1003(a) of this title (and not exempted under section 1003(b) of this title), other than—

(1) a plan which is unfunded and is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees; or

(2) any agreement described in section 736 of title 26, which provides payments to a retired partner or deceased partner or a deceased partner's successor in interest.