

to any contribution required under this section without regard to this paragraph) in an amount equal to the increase in the funding liability of the plan attributable to the plan amendment.

(3) Funding restoration plan

The sponsor of a CSEC plan shall establish a written funding restoration plan within 180 days of the receipt by the plan sponsor of a certification from the plan actuary that the plan is in funding restoration status for a plan year. Such funding restoration plan shall consist of actions that are calculated, based on reasonably anticipated experience and reasonable actuarial assumptions, to increase the plan's funded percentage to 100 percent over a period that is not longer than the greater of 7 years or the shortest amount of time practicable. Such funding restoration plan shall take into account contributions required under this section (without regard to this 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.

(E) Plan sponsor

The term “plan sponsor” means, with respect to a CSEC plan, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

(Added Pub. L. 113-97, title II, §202(a), Apr. 7, 2014, 128 Stat. 1122.)

REFERENCES IN TEXT

Section 412 (as in effect on the day before the enactment of the Pension Protection Act of 2006), referred to in subsecs. (b)(2)(E), (c)(2)(B), (5)(A), and (f)(5)(B), means section 412 of this title as in effect on the day before the enactment of Pub. L. 109-280, which was approved Aug. 17, 2006. Section 111(a) of Pub. L. 109-280 generally amended section 412.

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 this title.

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.

The Employee Retirement Income Security Act of 1974, referred to in subsecs. (c)(5)(C)(ii)(II), (d), and (g)(2), (4)(C), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, which is classified principally to chapter 18 (§1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter III (§1301 et seq.) of chapter 18 of Title 29. Sections 4001, 4006, 4021, and 4068 of the Act are classified to sections 1301, 1306, 1321, and 1368 of Title 29, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

The date of the enactment of the Retirement Protection Act of 1994, referred to in subsec. (g)(2), is the date of enactment of subtitle F of title VII of Pub. L. 103-465, which was approved Dec. 8, 1994.

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 this title.

SUBPART B—BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS

Sec.

436. Funding-based limitation on shutdown benefits and other unpredictable contingent event benefits under single-employer plans.¹

§ 436. Funding-based limits on benefits and benefit accruals under single-employer plans

(a) General rule

For purposes of section 401(a)(29), a defined benefit plan which is a single-employer plan (other than a CSEC plan) shall be treated as

¹ So in original. Does not conform to section catchline.