



# AMERICAN BENEFITS COUNCIL

## Benefits Briefing Webinar: 4062(e) Rules Changes & PBGC Enforcement

Wednesday, March 18, 2:00-3:00 p.m. ET

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The American Benefits Council will host a **Benefits Briefing webinar** on **Wednesday, March 18, at 2 p.m. Eastern Time**, to discuss recent changes to the 4062(e) "shutdown" rules in the late-2014 spending bill and current PBGC enforcement activity regarding such matters.

*Jan Jacobson*, senior counsel, retirement policy, will moderate the call. She will be joined by [Harold Ashner](#), Keightley & Ashner LLP, and [Kent Mason](#), Davis & Harman LLP, who will walk us through the newly enacted changes and describe possible future challenges. Ashner recently co-authored an article on the 4062(e) reforms, which is available [here](#).

We will take questions from webinar participants throughout the session and attempt to answer as many as possible. Members are encouraged to [submit questions for the webinar in advance](#).

**A recording of this session will be available by request.**

NOTE: Participation in Council webinars may be used toward continuing education/renewal requirements for many professional accreditation programs, but only by means of self-certification. Descriptions of past programs are available by [clicking here](#). Please retain your registration confirmation for your verification records.

### Background:

In December 2014, President Obama signed into law a \$1.1 trillion spending package, the [Consolidated and Further Continuing Appropriations Act \(H.R. 83\)](#), including a provision addressing Pension Benefit Guaranty Corporation (PBGC) enforcement of ERISA Section 4062(e) "shutdown" rules.

Under the version of Section 4062(e) that was in place before the recent legislation, if an employer with a pension plan shut down operations at a facility – and, as a result of that shutdown, more than 20 percent of the workers who were plan participants were separated from employment – the employer was required to provide the PBGC with short-term financial guarantees in the form of a bond or escrow amount based on the plan's unfunded termination liability. Aggressive PBGC enforcement of this provision had given rise to significant compliance challenges and large unexpected immediate or potential future liabilities for many companies that engaged in normal business transactions, despite the PBGC's [moratorium on enforcement through the end of 2014](#).

The spending bill addressed the problem by ensuring that there is no 4062(e) event unless there is a substantial shutdown of operations at a facility relative to the size of the employer's entire workforce, and ensuring (subject to certain exceptions) that there is no 4062(e) event unless there is a real loss of jobs, as opposed to employees being replaced by the employer or going to work for or being replaced by another employer that takes over the operations. The legislation also created exemptions for small plans and for well-funded plans, and significantly reduced the scope of an employer's liability if there is a 4062(e) event.

**For questions related to registration** – *If you have colleagues at your organization who would like to participate in this session, but do not regularly receive Council materials, please contact [Deanna Johnson](#), director, membership, or [Sondra Williams](#), manager, member and staff engagement, at (202) 289-6700.*



*The American Benefits Council is the national trade association for companies concerned about federal legislation and regulations affecting all aspects of the employee benefits system. The Council's members represent the entire spectrum of the private employee benefits community and either sponsor directly or administer retirement and health plans covering more than 100 million Americans.*

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