

AFTAP

You may or may not be aware that the Pension Protection Act (PPA) of 2006 introduced a new acronym, AFTAP (Adjusted Funding Target Attainment Percentage) and certification requirements for your Defined Benefit Pension Plan. AFTAP plan certification is the result of IRS issued proposed regulations detailing the application of the PPA benefit restrictions to underfunded plans. AFTAP certifications are required to ensure that all qualified Defined Benefit Pension Plans satisfy new funding requirements brought about by PPA.

What is your plan's AFTAP ratio and how can it influence how your Defined Benefit Plan functions?

In very simplistic terms and with some adjustments, AFTAP is the ratio of a plan's asset values as compared to the plan's benefits that have accrued up to the valuation date. Annually your plan's actuary is required under PPA to certify the plan's AFTAP meets the new funding requirements. There are consequences to plans with low AFTAP ratios, and under some circumstances the AFTAP ratio must be calculated and certified more frequently.

If the plan's AFTAP ratio is 80% or greater there are no benefit restrictions.

When a plan's AFTAP ratio is less than 80%, a plan amendment increasing benefits (taking into account the impact of the amendment) is prohibited.

If a plan has less than a 60% ratio, lump sum benefit payments are prohibited. If the AFTAP ratio is greater than 60% but less than 80% benefits are partially restricted.

If the AFTAP ratio is less than 60% all future benefit accruals must cease.

There are steps that plan sponsors can do to avoid the application of benefit restrictions, and there are things they can do to, in effect, make up for benefits lost during a restriction period.

Sponsors can avoid the application of a benefit restriction through one of four techniques. The sponsor can:

1. Reduce available credit balances and thereby increase the asset "numerator" in the AFTAP fraction.
2. Make additional contributions for a prior plan year.
3. Make a specific contribution to offset the cost of unpredictable contingent event benefits, a plan amendment or ongoing accruals.
4. Provide security as permitted under PPA.

The general rule is that when the underfunding stops the restriction stops. So, for instance, where a plan that had been subject to unpredictable contingent event benefit and ongoing accrual restrictions, once the plan's AFTAP is certified to be 60 percent or more (provided the certification is prior October 1) accruals will re-commence and unconditional contingent event benefits will again be paid, with respect to unconditional

contingent events subsequent to the certification. Similarly, once a limit on accelerated payments ceases, unrestricted accelerated payments may be made to participants with subsequent annuity starting dates.

Participant notices may be required

PPA amended ERISA to require notices of benefit restrictions in certain circumstances. The proposed regulations do not provide any rules for these notices, but they are worth considering in evaluating the effect of the benefit restriction rules on your plan. Generally, the plan administrator must provide a written notice to participants and beneficiaries within 30 days after:

The date the plan has become subject to an unpredictable contingent event or accelerated payments restriction.

In the case of a plan that is subject to the accrual restriction, the valuation date for the plan year for which the plan's AFTAP is less than 60 percent (or, if earlier, the date the AFTAP is presumed to be less than 60 percent).

At such other time as may be determined by the Secretary of the Treasury.

Effective date

The AFTAP certification processes under the proposed regulations are generally effective January 1, 2008 and may by and large be relied on until final regulations are published by the Service.