

Supporting Statement for Paperwork Reduction Act Submission

AGENCY: Pension Benefit Guaranty Corporation

TITLE: Reportable Events (29 CFR part 4043); Forms 10 and 10-Advance

STATUS: Request for modification of currently-approved collection of information (OMB control number 1212-0013; expires March 31, 2023)

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1. Need for collection. Section 4043 of the Employee Retirement Income Security Act of 1974 (ERISA) and PBGC's reportable events regulation (29 CFR part 4043) require plan administrators and plan sponsors to report certain plan and corporate events to PBGC. Filing is done on Form 10 (for post-event reporting) and Form 10-Advance (for advance reporting). These reporting requirements give PBGC notice of events that may indicate plan or employer financial problems. The information helps PBGC determine a sponsor's ability to continue to maintain a pension plan. For example, PBGC might need to institute proceedings to terminate a plan (placing it in trusteeship) under section 4042 of ERISA to ensure the continued payment of benefits to plan participants and their beneficiaries or to prevent unreasonable increases in PBGC's losses.

PBGC is modifying the Form 10 for the "Failure to make required contributions" reportable event to provide that if payment was made to satisfy a missed contribution, the filer must submit documentation of that payment, e.g., a copy of the cancelled check or wire transfer, etc. Documentation is needed to give evidence that the missed contribution was made up and no risk to the plan remains before PBGC closes the event.

PBGC's reportable events regulation provides that notices required under this part must

be filed electronically in accordance with the instructions posted on PBGC's website. Those instructions currently provide two options for electronic filing:

- Using the 4043 module of PBGC's e-filing portal, or
- Emailing a completed form and any required attachments to post-event.report@pbgc.gov.

PBGC's e-filing portal, which has been available since 2016, offers a secure application for submitting Form 10 and 10-Advance information. The e-filing portal allows filers to review filings and generate a list of omissions and inconsistencies prior to submission to ensure completeness; save a partially completed filing; modify information any time prior to submission; pre-populate a filing with data from a previously submitted filing; route the filing as needed to facilitate e-certifications; and review prior filings submitted via the e-filing portal.

PBGC is eliminating the email option for filings due after September 30, 2021. In other words, starting in October 2021, these filings would be submitted via PBGC's e-filing portal.

PBGC also is making other editorial changes to the forms and instructions in this collection.

2. Use of information. PBGC uses the information provided on Form 10 and Form 10-Advance to determine what, if any, action it needs to take. For example, PBGC might need to institute proceedings to terminate a plan (placing it in trusteeship) under section 4042 of ERISA to ensure the continued payment of benefits to plan participants and their beneficiaries or to prevent unreasonable increases in its losses.

3. Information technology. The Form 10 and Form 10-Advance are required to be filed electronically by email or through PBGC's secure e-filing portal. As stated above, PBGC intends to no longer accept electronic filing by email beginning October 1, 2021. There are

many benefits to filers and PBGC of using the e-filing portal, such as ease of filing and improved accuracy.

4. Duplicate or similar information. Some of the required information may already be in the possession of other Federal agencies. However, there is no timely and reliable way to locate the required documents, particularly since the person reporting may have submitted to Federal agencies some, but fewer than all, of the documents required under this regulation. In most cases, it would take a respondent more time to assist PBGC in tracking down and verifying documents in other agencies' files than simply to submit the information to PBGC.

To the extent that PBGC has information through another filing, respondents may identify that other filing rather than refile the information. Furthermore, one party may file on behalf of all those who are required to file.

The requirement for a reportable event notice of a failure to make required minimum funding payments is satisfied if a timely and complete Form 200 (for failure to make required contributions over \$1 million) is submitted with respect to the same failure.

PBGC believes that there is no information similar to that required under the regulation that could be used instead of the required information for the purposes of the regulation.

5. Reducing the burden on small entities. Not applicable. This information collection does not have a significant economic impact on a substantial number of small entities.

6. Consequences of reduced collection. The statutory requirement to notify PBGC is triggered by the occurrence of infrequent and typically nonrecurring events. No reporting, or less frequent or timely reporting, could impair PBGC's ability to fulfill its statutory responsibilities.

7. Special circumstances. Reporting is required whenever a reportable event occurs. In unusual cases, a respondent could incur more than one reportable event within a quarter, thereby requiring reporting more frequently than quarterly.

In some cases, PBGC may require the submission of additional information. In general, the submission of additional information is required within 30 days after PBGC makes a written request. However, for advance reporting, the additional information is required within 7 days of the written request. This is necessary to ensure that PBGC has sufficient time to evaluate the event and determine if action is required before the event becomes effective (i.e., 30 days after the initial report). In addition, PBGC may shorten either the 30-day or 7-day time period for additional information, but only where it determines that the interests of PBGC or participants may be prejudiced by a delay in the receipt of the information.

In other respects, this collection of information is not conducted in a manner described in 5 CFR 1320.5(d)(2).

8. Outside input. On November 5, 2019, PBGC published in the Federal Register (at 84 FR 59660) a notice informing the public of its intent to request approval of modifications to this information collection. No comments were received.

9. Payments to respondents. PBGC provides no payments or gifts to respondents in connection with this collection of information.

10. Confidentiality. In accordance with section 4043(f) of ERISA and 29 CFR 4901.21(a)(3), any information or documentary material that is not publicly available and is submitted to PBGC pursuant to section 4043 will not be made public, except as may be relevant to an administrative or judicial action or proceeding. (Section 4043(f) of ERISA, like section

552(d) of FOIA, does not prevent disclosure to Congress, or to an authorized congressional committee or subcommittee.)

11. Personal questions. This collection of information does not call for submission of information of a sensitive nature.

12. Hour burden on the public. Based on a review of filings, PBGC anticipates that there will be approximately 573 filings from single-employer plan respondents per year. PBGC estimated based on filer experience that the average response time for filing will be 3.14 hours for Form 10 and Form 10-Advance filers. Therefore, PBGC estimates that the total average annual hour burden would be approximately 1,800 hours (573 respondents x 3.144 hours). PBGC estimates that the dollar equivalent of the hour burden will be a weighted average annual cost of approximately \$379 per respondent and a total annual cost of approximately \$217,167.

13. Cost burden on the public. PBGC estimates based on filer experience that filers will incur an average annual cost of \$745 for actuarial and/or third-party administrator costs. PBGC estimates that the total average annual cost burden would be approximately \$426,885.

14. Costs to the Federal government. Because work on processing this information will be performed by existing staff as part of their regular duties, there is no cost to the federal government.

15. Change in burden. The change in hour burden and cost burden on the public are a result of estimated changes in the average number of respondents. The changes to the information collection described in section 1 do not have a measurable effect on the total burden calculation.

16. Publication plans. PBGC does not plan to publish the results of this collection of

information.

17. Display of expiration date. Not applicable. PBGC is not seeking OMB approval to omit displaying the expiration date.

18. Exceptions to certification statement. There are no exceptions to the certification statement for this submission.