

Supporting Statement for Paperwork Reduction Act Submission

AGENCY: Pension Benefit Guaranty Corporation

TITLE: Annual Financial and Actuarial Information Reporting
(29 CFR Part 4010)

STATUS: Request for an extension without modifications of a currently approved collection of information (OMB control number 1212-0049)

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1. Need for collection. Section 4010 of the Employee Retirement Income Security Act of 1974 (ERISA) and PBGC's regulation on Annual Financial and Actuarial Information Reporting (29 CFR Part 4010) require each member of a controlled group¹ to submit financial and actuarial information to PBGC under certain circumstances, generally tied to the funding percentage.² Section 4010 specifies that each member of the controlled group (or a filer on the member's behalf) must provide PBGC with certain financial information, including audited (if available) or (if not) unaudited financial statements. Section 4010 also specifies that the controlled group must provide PBGC with certain actuarial information about PBGC-covered plans sponsored by controlled group members.

The regulation specifies the items of identifying, financial, and actuarial information that filers must submit under section 4010 of ERISA, through PBGC's e-filing portal. Computer-assisted analysis of this information helps PBGC to anticipate possible major demands on the

¹ The submission requirement applies individually to each member of a controlled group. However, another filer may submit the information on behalf of other members, thereby fulfilling the other members' requirement.

² Generally, reporting is required if a plan sponsored by a member of the controlled group had a funding target attainment percentage below 80%; a controlled group member failed to make a required contribution to a plan within 10 days after its due date and this failure met the conditions for imposing a lien; or a plan maintained by a controlled group member has been granted a minimum funding waiver totaling in excess of \$1 million, any portion of which is still outstanding.

pension insurance system and to focus PBGC resources on situations that may pose increased risks to that system. Because other sources of information are usually not as current as the section 4010 information and do not reflect a plan's termination liability, the section 4010 filing plays a major role in PBGC's ability to protect participant and premium-payer interests.

Corporate events such as spin-offs and sales of business segments increase the risk of pension plan underfunding and can result in losses to plan participants and PBGC. The information submitted under the section 4010 regulation allows PBGC: (1) to detect and monitor financial problems with the contributing sponsors that maintain severely underfunded pension plans and their controlled group members, and (2) to respond quickly when it learns that a controlled group with severely underfunded pension plans intends to engage in a transaction that may significantly reduce the assets available to pay plan liabilities or significantly increase the controlled group's risk profile. With this information, PBGC is able to act quickly to negotiate agreements for contributing sponsors and their controlled group members to provide additional plan funding or take other action, including the termination of underfunded plans, to protect PBGC's claims against the controlled group's assets.

2. Use of information. PBGC uses the information submitted to identify controlled groups with severely underfunded pension plans, to determine the financial status of contributing sponsors and other controlled group members, to evaluate the potential risk of future losses resulting from corporate transactions and the need to take legal action, and to negotiate agreements under which contributing sponsors and their controlled group members would provide additional plan funding. In addition, as required by section 4010(e) of ERISA, PBGC

submits an annual report to Congress summarizing the information it received from filers under part 4010.

3. Information technology. PBGC requires electronic filing in a standardized format using its secure e-filing portal, available here: <https://efilingportal.pbgc.gov/site/>. Electronic filing enables PBGC to simplify the reporting process and to improve the accuracy, completeness, and timeliness of the information it receives. PBGC is able to access the information quickly and in a complete manner from its data base, while imposing very little additional burden on filers. All filers of 4010 filings are businesses, and not individuals.

4. Duplicate or similar information. To avoid duplication, the regulation provides that companies do not have to submit information previously submitted to PBGC or publicly available and provides that a single filing may be made for all members of a controlled group. Although the Annual Return/Report of Employee Benefit Plan (Form 5500 series) and the PBGC Comprehensive Premium Filing provide certain plan information, those filings do not include controlled group financial information nor is the plan information sufficiently current or detailed to allow PBGC to analyze controlled group transactions and evaluate the risk of loss to the group's pension plans and to PBGC.

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

6. Consequence of reduced collection. Failure to receive the required information would impair significantly PBGC's ability to assess exposure for participants and the termination insurance program and to identify particular situations that present risks to the pension insurance system. It would also diminish PBGC's ability to negotiate agreements with sponsor groups to

reduce those risks and to decide on necessary legal action, including plan termination. As recognized by the statute, PBGC needs current, detailed financial and actuarial information to carry out its responsibilities. The financial health of companies and plans can change quickly. Increasing the statutory one-year reporting interval would force PBGC to rely on less current and thus less meaningful information.

7. Consistency with guidelines. The collection of information is to be conducted in a manner consistent with the guidelines in 5 CFR 1320.6, with one exception (relating to the 30-day guideline in § 1320.6(b)). Under § 4010.6(b), PBGC may require respondents to furnish additional information (within the scope of the statutory reporting requirement) within ten days or such other time as PBGC may specify. PBGC has a substantial need for the shorter time limit because of the limited time that PBGC may have to analyze an impending controlled group transaction.

8. Outside input. On November 7, 2022, PBGC published in the Federal Register a notice at 87 FR 67078 informing the public of its intent to request an extension of this collection of information and solicited public comment. No comments were received.

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

10. Confidentiality. In accordance with section 4010(c) of ERISA, § 4010.13, and 29 CFR 4901.21(a), any information or documentary material submitted to PBGC pursuant to section 4010 is exempt from disclosure under the Freedom of Information Act (5 U.S.C. § 552) (FOIA), and may not be made public, except as may be relevant to an administrative or judicial

action or proceeding. (Section 4010(c) of ERISA, like section 552(d) of FOIA, does not prevent disclosure to Congress or to any duly authorized congressional committee or subcommittee.)

11. Personal questions. This collection of information does not include any questions of a personal or sensitive nature.

12. Hour burden on the public. Based on a review of filings, PBGC estimates that approximately 400 controlled groups will be subject to the requirements of the regulation annually. The collection of information requires responses of three types: (1) identifying information, (2) financial information, and (3) actuarial information. PBGC expects that about half of filers will prepare identifying and financial information in-house. (PBGC estimates that about half of filers will have this information prepared by outside consultants and that all filers will have actuarial information prepared by outside consultants. See item 13 for these costs.)

PBGC estimates the time needed to identify controlled group members and pension plans sponsored by the controlled group will be about 1 hour per filing and a total of about 400 hours annually.

PBGC estimates that the time needed to prepare the submission of financial information will be about 1 hour per filing and a total of about 400 hours annually.

PBGC estimates the total annual hour burden on the public to be 800 hours (400 for identifying information + 400 for financial information).

13. Cost burden on the public. PBGC expects that about half of filers will have outside consultants prepare identifying and financial information, and that all filers will have actuarial information prepared by outside actuarial consultants. PBGC estimates that the cost to prepare

identifying and financial information would be \$ 1,200 and \$1,000 respectively for a total estimated annual cost burden for this preparation of \$ 880,000 (\$2,200 x 400 filers).

PBGC estimates that the cost to prepare actuarial information required under the regulation will be approximately \$ 25,500 for a filing with a projected total annual cost of \$10,200,000 (\$25,500 x 400 filers).

Therefore, the total estimated annual cost burden on the public would be approximately \$11,080,000 (\$880,000 + \$10,200,000).

14. Costs to the Federal government. PBGC estimates that the total annual cost associated with work performed by outside contractors will be \$22,000 per year. This work includes organizing and analyzing data as well as identifying missing or incorrect information. This cost burden excludes costs for work performed by existing PBGC staff as part of their regular duties.

15. Explanation of burden changes. Based on its past experience with the information collection, PBGC lowered its estimate for the number of expected annual filings. PBGC raised the estimate for the amount of time needed to complete an individual filing (in particular the time needed to prepare the submission of financial information), which raises the overall hourly burden. Finally, PBGC raised the cost needed to complete an individual filing to keep pace with updated contractor charges. However, since the number of estimated filings is lower, the total estimated cost burden is reduced.

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

17. Display of expiration date. PBGC will display the expiration date.

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