

Justification for No Material or Nonsubstantive Change to Currently-Approved Collection

AGENCY: Pension Benefit Guaranty Corporation (PBGC)

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

STATUS: OMB control number 1212-0049; expires 02/28/2026

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The Pension Benefit Guaranty Corporation (PBGC) is making changes that are not material to the currently-approved instructions for plans to submit financial and actuarial information to PBGC. 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 a contributing sponsor of certain underfunded single-employer plans and members of the contributing sponsor's controlled group to report identifying, financial and actuarial information to PBGC. In general, this reporting is required if one or more plans sponsored by a member of the controlled group has a funding target attainment percentage (4010 FTAP) below 80%.

The 4010 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 ("4010 filing"). Computer-assisted analysis of this information helps PBGC to anticipate possible major demands on the 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.

The changes to the e-filing portal instructions are being made alongside a redesign of that filing portal (including modifications to the login process to meet cybersecurity requirements under Executive Order 14028), which will be available on February 1. The changes are to the format and form of three questions, which are intended to improve user experience and accuracy of data entered. The three changes are described below, and the applicable screenshots also have been uploaded with this statement.

Change #1: Section 4010.6(a)(2) provides that when a 4010 filing is required for one information year but not the next, the filer must demonstrate that a filing is not required (an abbreviated filing). The demonstration is a series of questions that appear one-at-a-time on Schedule FG (Filing Gateway). With the new e-filing portal, Schedule FG is being eliminated and the demonstration is being moved to Schedule G (General Information). In addition, the demonstration is being reformatted into three checkboxes instead of a series of questions. The current and new formats are shown below.

- **Current demonstration questions**

Section I – Gateway test

1. § 4010.4(a)(1) — 4010 Funding target attainment percentage

- a. Did any plan sponsored by a member of the controlled group have a 4010 funding target attainment percentage below 80%? Yes No
- b. Applicable waivers - If (a) is "yes":
- (i) Does the total amount of 4010 funding shortfall in plans (including exempt plans) maintained by the members of the contributing sponsor's controlled group exceed \$15 million (disregarding those plans with no 4010 funding shortfall)? Yes No
- (ii) Does the aggregate number of participants in plans maintained by the members of the contributing sponsor's controlled group (including exempt plans) equal or exceed 500? Yes No

2. § 4010.4(a)(2) — Failure to make required contributions

- a. Did any member of the controlled group:
- fail to make a required contribution to a defined benefit plan during the information year within 10 days of its due date, and
 - as a result of the missed contribution, the conditions for imposition of a lien under ERISA have been met. Yes No
- b. If (a) is "yes", did the plan administrator submit a "Form 200" reporting this failure to PBGC? Yes No

3. § 4010.4(a)(3) — Large waiver granted

- a. Have one or more minimum funding waivers been granted for a plan maintained by a member of the controlled group:
- totaling in excess of \$1 million, and
 - for which there is an outstanding balance at the end of the plan year ending within the information year (determined in accordance with § 1.4010.4(e))? Yes No
- b. If (a) is "yes", did the plan administrator notify PBGC, as required under ERISA 4043, that an application for such funding waiver(s) was submitted to IRS? Yes No

Section II – Comments

- **New demonstration check boxes**

Check the box in front of each statement if the statement is correct:

Either:

- The 4010 funding target attainment percentage (4010 FTAP) for all plans maintained by a member of the controlled group is at least 80%, or
- The 4010 filing requirement was triggered because one or more plans had 4010 FTAP below 80%, but was waived in accordance with §4010.11(a) (i.e., aggregate 4010 funding shortfall ≤ \$15 M) or §4010.11(b) (i.e., aggregate participant count < 500).

Either:

- No plan maintained by a member of the controlled group was granted one or more minimum funding waivers totaling in excess of \$1 million for which any portion is still outstanding, or
- The 4010 filing requirement was triggered because of a funding waiver, but was waived in accordance with §4010.11(c) (i.e., reporting would have been required solely under § 4010.4(a)(2) or (3), provided that the missed contributions or applications for minimum funding waivers (as applicable) were reported to PBGC under part 4043 of this chapter by the due date for the 4010 filing.).

Either:

- No member of the controlled group was more than 10 days late making a required installment or other required payment to a defined benefit plan that resulted in the conditions for imposition of a lien under ERISA section 303(k) or 306(g) and Code section 430(k) or 433(g) being met, or
- The 4010 filing requirement was triggered by a large missed contribution, but was waived in accordance with §4010.11(c) (i.e., reporting would have been required solely under § 4010.4(a)(2) or (3), provided that the missed contributions or applications for minimum funding waivers (as applicable) were reported to PBGC under part 4043 of this chapter by the due date for the 4010 filing.).

Change #2: The current e-filing portal was designed such that the user was instructed to check a box if a certain condition applied, in three different places within the system. With the new portal, those three “check box” statements are reformatted into a question that must be answered “Yes” or “No,” as shown below.

1. On Schedule G, a question about an exemption for previously submitted materials:

- Current question

Check this box if §4010.6(c) exception for previously submitted materials applies (see instructions)

- Revised question

Does §4010.6(c) exception for previously submitted materials apply?

- No
- Yes

2. On Schedule I (Identifying Information), a question about how many members (other than exempt members) are in the filer's controlled group:

- Current question

If controlled group contains more than 10 non-exempt members, check box and see instructions re: required attachment:

Otherwise, enter the relationship of this member to the rest of the controlled group

- Revised question

Does controlled group contain more than 10 non-exempt members? (If yes, see instructions re: required attachment)

- No
- Yes

If no, enter the relationship of this member to the ultimate parent company *

3. On Schedule I, a question about whether an entity identified is an exempt sponsor of an exempt plan:

- Current question

Check box if this is an exempt member of the Controlled Group that sponsors an exempt plan:

- Revised question

Is this an exempt member of the controlled group that sponsors an exempt plan? *

- No
- Yes

Change #3: In the current e-filing portal, when a filer uploads an attachment, the filer is required to enter a description of the attachment. With the new portal, the filer will also select the type of attachment from a list that appears in a drop down menu. The choices are:

- Actuarial Valuation Report
- Company Financial Statements
- Company Tax Returns
- Controlled Group Information
- Other Company-Related Documents
- Other Pension Plan-Related Documents