

**FIELD ASSISTANCE BULLETIN NO. 2025-02**

DATE: April 3, 2025

MEMORANDUM FOR: COLLEEN MCKEE, DIRECTOR OF ENFORCEMENT
REGIONAL DIRECTORS

FROM: JEFFREY TURNER
DIRECTOR OF REGULATIONS AND INTERPRETATIONS

SUBJECT: ANNUAL FUNDING NOTICE REQUIREMENTS – SECURE
2.0 ACT OF 2022 MODIFICATIONS

EXECUTIVE SUMMARY

Recent changes to the law have resulted in apparent confusion, and even certain outright conflicts, between the annual funding notice requirements in section 101(f) of the Employee Retirement Income Security Act (ERISA) and Department of Labor (Department) regulations, at 29 CFR 2520.101-5, that predated these recent changes. In addition, the compliance date for many retirement plans facing this conflict is imminent. This bulletin, titled Employee Benefits Security Administration (EBSA) Field Assistance Bulletin 2025-02 (Bulletin), provides instruction to EBSA's national and regional offices of enforcement (Offices of Enforcement) on how retirement plans in this position may comply with the new law pending additional guidance or revisions to 29 CFR 2520.101-5. The appendices to this Bulletin contain models that administrators of retirement plans may use to facilitate legal compliance. When plan administrators use the models and adhere to the principles in this Bulletin, Offices of Enforcement should treat such administrators as complying with the matters addressed in this Bulletin, provided that the information inputted into the models is accurate and timely furnished.

BACKGROUND

Section 101(f) of ERISA generally requires the administrators of defined benefit plans (both single-employer and multiemployer) to furnish an annual funding notice to participants, beneficiaries, the Pension Benefit Guaranty Corporation, and certain other persons. Section 101(f) enhances retirement security and increases pension plan transparency by ensuring that workers receive timely and accurate notification annually of the funded status of their defined benefit pension plans. The Department last updated implementing regulations under section 101(f) in 2015.¹

In 2022, section 343 of the SECURE 2.0 Act of 2022 (SECURE 2.0) amended section 101(f) of

¹ 80 FR 5626 (Feb. 2, 2015).

ERISA, modifying the annual funding notice requirements effective for plan years beginning after December 31, 2023.² The major changes, discussed below in Q&A format, relate to the methodology for measuring the value of assets, value of liabilities, and funding level, and predominantly affect single-employer defined benefit pension plans.

COMPLIANCE PENDING FURTHER GUIDANCE

The Department acknowledges that this Bulletin does not address all SECURE 2.0-related issues that may arise with respect to annual funding notices. Plan administrators are required to make annual funding notice disclosures in accordance with section 101(f), as amended by SECURE 2.0. Pending further guidance, the Department will treat compliance with the guidance in this Bulletin as a reasonable, good faith interpretation of the annual funding notice disclosure requirements of section 101(f) of ERISA with respect to the issues discussed in this Bulletin.

Some plans may have already prepared their 2024 annual funding notices, and some may have already begun to furnish them to plan participants. To the extent that a plan has already prepared or begun to prepare the annual funding notice for the 2024 notice year, the Department expects the plan administrator to consider the guidance in this Bulletin in evaluating whether the disclosures were consistent with a reasonable, good faith interpretation of section 101(f), as amended, and to take appropriate corrective action to the extent the plan administrator concludes that the disclosures did not meet that standard.

QUESTIONS AND ANSWERS

Q1: When must plan administrators first comply with the annual funding notice requirements, as modified by SECURE 2.0?

The new requirements apply to plan years beginning after December 31, 2023. Plan administrators generally must furnish funding notices no later than 120 days after the close of each plan year. The expired year is the “notice year.”³ Thus, the administrator of a plan with a calendar year plan year must furnish SECURE 2.0 compliant annual funding notices no later than April 30, 2025. However, for “small plans,”⁴ SECURE 2.0 compliant notices must be provided for the 2024 notice year no later than: 1) the date the plan administrator files the annual report required by section 104(a) of ERISA for the 2024 plan year; or 2) the latest date by which the 2024 annual report must be filed under that section (with extensions), whichever is earlier.⁵

Q2: May the plan administrator of a single-employer plan continue to rely on the model

² Division T, Consolidated Appropriations Act, 2023 (December 29, 2022), Pub. L. 117-328, 136 Stat. 4459.

³ The “notice year” is the plan year to which the notice relates. 29 CFR 2520.101-5(i).

⁴ A single-employer plan is a small plan if it is described in section 303(g)(2)(B) of ERISA (generally, if it had 100 or fewer participants on each day during the plan year preceding the notice year). For this purpose, all single-employer defined benefit plans maintained by the same employer (or any other member of the employer’s controlled group) are treated as one plan, but only participants with respect to the employer or controlled group member are taken into account. A multiemployer plan is a small plan if it had 100 or fewer participants on each day during the plan year preceding the notice year. See 29 CFR 2520.101-5(d)(2).

⁵ See section 101(f)(3)(B) of ERISA and 29 CFR 2520.101-5(d)(2).

notice found in Appendix A of 29 CFR 2520.101-5 for notice years beginning after December 31, 2023?

No. The model notice in Appendix A of 29 CFR 2520.101-5 no longer complies with section 101(f) of ERISA, as amended. However, a plan administrator of a single-employer plan (other than a CSEC plan)⁶ may use the model notice in Appendix 1 of this Bulletin.

Q3: May the plan administrator of a multiemployer plan continue to rely on the model notice found in Appendix B of 29 CFR 2520.101-5 for notice years beginning after December 31, 2023?

No. The model notice in Appendix B of 29 CFR 2520.101-5 no longer complies with section 101(f) of ERISA, as amended. However, a plan administrator of a multiemployer plan may use the model notice in Appendix 2 of this Bulletin. See Q&A 4 if the plan received or is eligible for special financial assistance under section 4262 of ERISA. Note: Only certain changes to section 101(f) of ERISA made by section 343 of SECURE 2.0 apply to multiemployer plans. See Q&As 1, 8, and 9 which apply to both single-employer and multiemployer pension plans. Q&A 4 only applies to multiemployer plans.

Q4: Prior to the effective date of section 343 of SECURE 2.0, FAB 2023-01 provided guidance (including model language) regarding compliance with the annual funding notice requirements of section 101(f) of ERISA for multiemployer pension plans that received (or are eligible to apply for) special financial assistance under section 4262 of ERISA. Is that guidance still applicable?

Yes. Pending further guidance, the Department will treat compliance with FAB 2023-01 as constituting a reasonable, good faith interpretation of the annual funding notice requirements of section 101(f) of ERISA and 29 CFR 2520.101-5 with respect to the issues discussed in that bulletin.

Q5: Prior to enactment of SECURE 2.0, the annual funding notice of a single-employer defined benefit plan disclosed the funding target attainment percentage (FTAP), actuarial value of total plan assets on the valuation date adjusted by any credit balances, and actuarial value of plan liabilities on the valuation date for the notice year and the 2 preceding plan years, to meet the requirements of ERISA section 101(f)(2)(B)(i)(I) and (ii)(I)(aa). How did the changes made by SECURE 2.0 affect this disclosure?

Starting with the 2024 notice year, the annual funding notice of a single-employer plan will no longer describe the plan's funding level in terms of the FTAP and actuarial value of plan assets and liabilities on the valuation date (generally the 1st day of the plan year) used to determine minimum funding. Instead, the annual funding notice must reflect the "percentage of plan liabilities funded" which is the ratio between the fair market value of the assets on the last day of the plan year and the value of the liabilities determined as of the last day of the plan year using a market-related interest assumption.⁷ For this purpose, year-end plan liabilities are determined using the standard in 29

⁶ A CSEC (Cooperative and Small Employer Charity) plan, as defined in section 210(f)(1) of ERISA, has special funding rules and is subject to the rules of section 101(f)(2)(E) of ERISA.

⁷ See paragraphs (f)(2)(B)(i)(I) and (f)(2)(B)(ii)(I)(bb) of section 101(f) of ERISA, as amended by section 343(a)(1)

CFR 2520.101-5(b)(3)(i)(B).⁸ Plan administrators may use reasonable estimates, based on standard actuarial techniques, to determine year-end plan liabilities for the notice year, but not the 2 preceding years. The fair market value of plan assets on the last day of the 2 preceding plan years should be as reported on the Form 5500 Annual Report/Return of Employee Benefit Plan for the relevant year, unless the plan administrator knows or has reason to know that the value of assets reported is not correct. See the single-employer plan model notice in Appendix 1. For readability, the remainder of this Bulletin and the single-employer plan model notice will refer to the “percentage of plan liabilities funded” as the “funded percentage.”

Q6: Section 101(f)(2)(B)(ix) of ERISA, as added by SECURE 2.0, requires disclosure of information identical to the information required by section 101(f)(2)(B)(i)(I) and (ii) as described in Q&A 5. Must a single-employer plan (non-CSEC) disclose the same information twice?

No. It is the Department’s view that the statement required by section 101(f)(2)(B)(ix) is duplicative of the information required by section 101(f)(2)(B)(i)(I), (f)(2)(B)(ii)(I)(bb) and (f)(2)(B)(ii)(I)(aa). Plans are not required to disclose the same exact information twice to meet the two different subparagraphs in section 101(f) of ERISA. Accurately disclosing the information once satisfies both subparagraphs. Indeed, disclosing the information only once may improve the comprehensibility of the annual funding notice for its readers.

Q7: If the plan is “at-risk” within the meaning of section 303(i) of ERISA, must the plan administrator separately disclose at-risk liabilities or otherwise take into account the special rules of section 303(i) of ERISA in determining the plan’s year-end liabilities under new section 101(f)(2)(B)(ii)(I)(aa)?

No. Section 343(a)(2) of SECURE 2.0 eliminated the special at-risk disclosure requirements from section 101(f) of ERISA. Accordingly, starting with the 2024 notice year, administrators of single-employer plans do not disclose “at-risk” liabilities or otherwise take the “at-risk” rule of section 303(i) into account in determining the plan’s year-end liabilities and the percentage of liabilities funded.

Q8: Section 343(a)(4) of SECURE 2.0 amended section 101(f)(2)(B)(iii) of ERISA to require disclosure of specified demographic information for the notice year “as of the last day of such plan year and the preceding 2 plan years, in tabular format.”⁹ Does the statute permit the use of estimated participant and beneficiary counts in any instances?

and (2) of SECURE 2.0, requiring disclosure of the percentage of plan liabilities funded for the notice year and the 2 preceding plan years. See also section 101(f)(2)(B)(ii)(I)(aa), as redesignated by section 343(a)(2) of SECURE 2.0, which requires the annual funding notice to include a year-end statement of the value of the plan’s assets and liabilities for the notice year and the 2 preceding plan years.

⁸ Applying the regulation, plan liabilities are determined in the same manner as liabilities under section 303 of ERISA (including actuarial assumptions and methods), but using the interest rate under section 4006(a)(3)(E)(iv) of ERISA (i.e., the spot segment rates) in effect for the last month of the notice year.

⁹ The three categories of demographic information in section 101(f)(2)(B)(iii) of ERISA are participants who are: (1) retired or separated from service and are receiving benefits, (2) retired or separated participants entitled to future benefits, and (3) active participants under the plan.

Generally, no. However, stakeholders raised concerns that it may be difficult for large plans to verify the accuracy of certain demographic information by the date which the annual funding notice must be furnished. In recognition of that concern, the Department is of the view, pending additional guidance, that a plan administrator of a large plan will not be considered in violation of section 101(f)(2)(B)(iii) of ERISA if it uses a reasonable, good faith estimate of the number of participants and beneficiaries for the counts for the notice year. With respect to the 2 preceding plan years, however, the plan administrator of a plan of any size must enter the actual number of participants and beneficiaries as of the last day of those plan years in the table.

Plan administrators of small plans relying on 29 CFR 2520.101-5(d)(2) have up to 9 ½ months following the last day of the notice year to furnish the annual funding notice. Because they have extra time to finalize their year-end data, they may not use estimates.

Plan administrators may report the required demographic information using the model language incorporated in the single-employer plan and multiemployer model notices in Appendixes 1 and 2 of this Bulletin, respectively. A large plan using a reasonable, good faith estimate of participant and beneficiary counts for the notice year must disclose that those counts reflect such an estimate.

Q9: Section 343(a)(5) of SECURE 2.0 amended section 101(f)(2)(B)(iv) of ERISA to require disclosure of the “average return on assets” for the notice year in the annual funding notices of both single-employer and multiemployer defined benefit plans. How is the “average return on assets” determined?

The statute does not define “average return on assets.” Pending further guidance, plan administrators of both single-employer and multiemployer defined benefit plan may use either Method 1 or 2, described below, to determine the “average return on assets.” Other methods besides these two may also fulfill the requirements of section 101(f)(2)(B)(iv).

Method 1: The plan administrator may use the “actual rate of return” for the notice year determined by the plan’s actuary based on the methodology of 26 CFR 1.430(f)-1(b)(3)(i), except that the determination must be for the notice year and not the preceding plan year. This is the same methodology used to determine the “actual rate of return” on Line 10 of Schedule SB of Form 5500 Annual Return/Report of Employee Benefit Plan (Form 5500), but, applied to the notice year rather than the preceding plan year. For example, the average rate of return reported in the annual funding notice of single-employer defined benefit plan X for the 2024 notice year should be essentially equal to the “actual rate of return” that will be reported on Line 10 of Schedule SB of plan X’s 2025 Form 5500. If using Method 1, round the rate to the nearest 0.01%. If the rate of return is a negative number, include a minus sign (“-”) to the left of the number.

Method 2: The plan administrator may use the rate of return for the notice year determined by the plan’s actuary using the following formula:

$$2I \div (A + B - I), \text{ where:}$$

“I” is the dollar amount of the investment return determined in the same manner as Line 6h of Schedule MB to Form 5500;

“A” is the fair market value of plan assets on the last day of the plan year preceding the notice year; and

“B” is the fair market value of plan assets on the last day of the notice year

The above formula is similar to the formula used to calculate the Estimated Investment Return – Current (Market) Value on Line 6h of Schedule MB to Form 5500, except that the calculation used under this method is based on the one-year period ending on the last day of the notice year rather than the one-year period ending on the valuation date. Under Method 2 round the rate to the nearest 0.1 percent. If the rate of return is a negative number, include a minus sign (“–”) to the left of the number.

Under either **Method 1** of **Method 2**, plans may use the following model language (which is incorporated in the single-employer and multiemployer plan model notices in Appendix 1 and 2 of this Bulletin): “The average return on assets for the Plan Year was [*insert percentage*].”

Q10: Must the annual funding notice of a CSEC plan include the new demographic and average return on assets disclosures required by ERISA sections 101(f)(2)(B)(iii) and (iv)?

Yes. Because these disclosures apply to both single-employer and multiemployer defined benefit plans, the Department is of the view that CSEC plans are also subject to the new rules.

Q11: In the case of a single-employer plan, how did SECURE 2.0’s changes impact the material effect disclosure provision in section 101(f) of ERISA? That provision generally requires plan administrators to look forward and explain known events, such as plan amendments, scheduled benefit increases, etcetera, that will take effect at some point in the current year and that are expected to have a material effect on plan funding, and to project the effect of the event on plan liabilities to the end of the current plan year.

The standard for determining if this disclosure provision has been triggered has not changed. Plan administrators still measure the effect on assets and liabilities as of the valuation date (not the last day) of the notice year based on the assets and liabilities used to determine the FTAP. See 29 CFR 2520.101-5(b)(7) and (g)(3). If triggered, the plan administrator must explain the event as required prior to SECURE 2.0. However, the projection of plan liabilities described in § 2520.101(b)(7) is not required if the effect of the event already is reflected in the plan’s year-end liabilities (for the notice year) determined using market-related interest rates. A projection in such circumstances, at a minimum, would appear to be unnecessary because the event’s effect is already shown in the plan’s actual numbers as of the last day of the notice year. But if the event is not yet reflected in the year-end numbers (of the notice year), the projection requirement remains and plan administrators may project the effect of the event on the plan’s liabilities to the end of the current plan year using the assumptions used to determine the value of plan liabilities under section 101(f)(2)(B)(ii)(aa) of ERISA, as amended, instead of 29 CFR 2520.101-5(g)(3).

Q12: Section 101(f)(2)(B)(x), as amended, requires an explanation that PBGC may pay vested benefits greater than the guaranteed level of benefits if the terminating single-employer plan has sufficient assets determined using special PBGC assumptions. What model language can plan administrators use to meet this new requirement?

The following language may be used to augment the portion of the notice describing benefits eligible to be guaranteed by PBGC upon plan termination:

Participants and beneficiaries may receive benefits greater than the PBGC guaranteed amount but only if PBGC determines the Plan's assets are sufficient to do so. Because PBGC makes this determination using different assumptions than the Plan, the additional benefits received may not correspond exactly to the Plan's funded percentage. For example, just because a plan is 80 percent funded based on the plan's assumptions, does not mean participants in that plan will receive 80 percent of their vested benefits.

PAPERWORK REDUCTION ACT (PRA)

This Bulletin relies on the collection of information approved under OMB Control Number [1210-0126], which is scheduled to expire on September 30, 2026. The Department notes that a federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA and displays a currently valid OMB control number. The public is not required to respond to a collection of information unless it displays a currently valid OMB control number.¹⁰ Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.¹¹

FOR FURTHER INFORMATION

Questions concerning this Bulletin may be directed to Thomas Hindmarch, Office of Regulations and Interpretations at (202) 693-8500.

¹⁰ See 44 U.S.C. 3507.

¹¹ See 44 U.S.C. 3512.