

## 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 February 28, 2022)

**CONTACT:** Stephanie Cibinic (202-229-6352)

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.

On February 4, 2020, PBGC published a final rule at 85 FR 6046 to make miscellaneous corrections, clarifications, and improvements to several PBGC regulations, including to the reportable events regulation. The final rule amends part 4043 to eliminate possible duplicative reporting of active participant reductions, clarify when a liquidation event occurs, clarify the change in controlled group event, expand the public company waiver, and provide additional examples for active participant reduction, liquidation, and change in controlled group events, among other clarifications to the reportable events regulation.

In connection with the final rule, the Form 10, Form 10-Advance and instructions are being updated to describe, as necessary or helpful, the clarifications made by the final rule. The

clarifications will replace or augment existing language but will not create additional filing burden. The additional examples provided in the final rule for active participant reduction, liquidation, and change in controlled group events are being replicated in the instructions to the Form 10. PBGC also is clarifying in the Form 10 instructions what information is sufficient to disclose an event for the public company waiver to apply. Other minor conforming and editorial changes are being made to the forms and instructions.

In addition to the above clarifications, the final rule reduces reporting of active participant reduction events by eliminating the two-year lookback requirement, which is reflected in the burden estimate in questions 12 and 13.

Lastly, PBGC is noting in the “What’s New” section of the instructions for Form 10 and Form 10-Advance that it intends to no longer accept electronic filing of the forms by email as of October 1, 2021. PBGC’s e-filing portal, available for reportable events filings since 2016, offers a secure application for submitting required information. The e-filing portal also saves filers time and ensures completeness by allowing filers to review filings prior to submission; 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 will keep filers informed under the “What’s New” section of the Form 10 and 10-Advance instructions and on PBGC’s website.

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 June 26, 2019 (84 FR 30666), PBGC published a proposed rule that would make miscellaneous corrections, clarifications, and improvements to several sections of part 4043 (as well as other PBGC regulations). Five organizations submitted comment letters on the proposed rule, four of which contained specific comments on the amendments to the 4043 regulation. In general, commenters were supportive of PBGC's regulatory review efforts and expressed that the clarifications and updates proposed would improve filer compliance and reduce reporting burden. Two commenters expressly agreed with the proposed change that

would reduce reporting of active participant reduction events by eliminating the two-year lookback requirement. PBGC adopted this amendment without change in the final rule. The final rule discusses the comments received and PBGC's responses.

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 its experience, PBGC anticipates that because of the final rule there will be approximately 522 reportable events filings from single-employer plan respondents per year (down from an estimated 590 in the current inventory under this information collection).

The final rule is projected to reduce the number of filings by reducing reporting of active participant reduction events by eliminating the two-year lookback requirement.<sup>1</sup> PBGC estimates that the approximately 180 filings it receives for active participant reduction events per

---

<sup>1</sup> Although the final rule includes a change to the way participants are counted at the end of the plan year when determining whether an attrition reportable event has occurred (by taking into account the number of active participants that had already been the subject of a single-cause event report in the same plan year), it codifies guidance that PBGC issued in 2017 (Technical Update 17-1, September 15, 2017), and which was reflected in the Form 10 instructions. Any reduction in the number of filers as a result of this change has already been accounted for in the 2018 renewal of this ICR.

year would be reduced by approximately 38 percent (about 68 fewer filings). PBGC estimates 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 under the final rule will be reduced from approximately 1,855 hours (590 respondents x 3.144 hours) to approximately 1,641 hours (522 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 \$197,984 (reduced from \$223,780).

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. As explained in paragraph 12, the final rule would reduce the estimated number of reportable event filings from 590 to 522 by reducing the filings for active participant reduction events. PBGC estimates that the total average annual cost burden will be reduced from approximately \$439,500 (590 respondents x \$745) to approximately \$388,890 (522 respondents x \$745) because of the final rule.

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 the estimated total annual burden of this collection of information (from 1,855 hours and \$439,500 in the current inventory to 1,641 hours and \$388,890) is attributable to the final rule.

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.