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## **PENSION BENEFIT GUARANTY CORPORATION**

### **Proposed Submission of Information Collections for OMB Review; Comment Request; Reportable Events; Notice of Failure to Make Required Contributions**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of intention to request extension of OMB approval of revised collections of information.

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**SUMMARY:** The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval (with modifications), under the Paperwork Reduction Act, of two collections of information under PBGC's regulation on Reportable Events and Certain Other Notification Requirements (OMB control numbers 1212-0013 and 1212-0041, expiring March 31, 2015). This notice informs the public of PBGC's intent and solicits public comment on the collections of information.

**DATES:** Comments must be submitted by [insert date 60 days after publication in the FEDERAL REGISTER].

**ADDRESSES:** Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the Website instructions for submitting comments.
- *E-mail:* [paperwork.comments@pbgc.gov](mailto:paperwork.comments@pbgc.gov).
- *Fax:* 202-326-4224.
- *Mail or Hand Delivery:* Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026.

Comments received, including personal information provided, will be posted to [www.pbgc.gov](http://www.pbgc.gov).

Copies of the collections of information and comments may be obtained without charge by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026; visiting the Disclosure Division; faxing a request to 202-326-4042; or calling 202-326-4040 during normal business hours. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.) The reportable events regulation, forms, and instructions are available at [www.pbgc.gov](http://www.pbgc.gov).

**FOR FURTHER INFORMATION CONTACT:** Daniel S. Liebman, Attorney ([Liebman.Daniel@PBGC.gov](mailto:Liebman.Daniel@PBGC.gov)), Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4024. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** Section 4043 of the Employee Retirement Income Security Act of 1974 (ERISA) requires plan administrators and plan sponsors to report certain plan and employer events to PBGC. The reporting requirements give PBGC notice of events that indicate plan or employer financial problems. PBGC uses the information provided in determining 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 PBGC's losses.

Section 303(k) of ERISA and section 430(k) of the Internal Revenue Code of 1986 (Code) impose a lien in favor of an underfunded single-employer plan that is covered by the termination insurance program under title IV of ERISA if (1) any person fails to make a

contribution payment when due, and (2) the unpaid balance of that payment (including interest), when added to the aggregate unpaid balance of all preceding payments for which payment was not made when due (including interest), exceeds \$1 million. (For this purpose, a plan is underfunded if its funding target attainment percentage is less than 100 percent.) The lien is upon all property and rights to property belonging to the person or persons that are liable for required contributions (*i.e.*, a contributing sponsor and each member of the controlled group of which that contributing sponsor is a member).

Only PBGC (or, at its direction, the plan's contributing sponsor or a member of the same controlled group) may perfect and enforce this lien. ERISA and the Code require persons committing payment failures to notify PBGC within 10 days of the due date whenever there is a failure to make a required payment and the total of the unpaid balances (including interest) exceeds \$1 million.

The provisions of section 4043 of ERISA and of sections 303(k) of ERISA and 430(k) of the Code have been implemented in PBGC's regulation on Reportable Events and Certain Other Notification Requirements (29 CFR part 4043). Subparts B and C of the regulation deal with reportable events, and subpart D deals with failures to make required contributions.

PBGC has issued Forms 10 and 10-Advance (10-A) and related instructions under subparts B and C (approved under OMB control number 1212-0013)<sup>1</sup> and Form 200 and related instructions under subpart D (approved under OMB control number 1212-0041). OMB approval of both of these collections of information expires March 31, 2015. PBGC intends to request that OMB extend its approval for three years, with modifications. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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<sup>1</sup> Forms 10 and 10-A are optional and may provide for reduced initial information submissions.

On April 3, 2013 (at 78 FR 20039), PBGC published a proposed rule that would revise its reportable events regulation.<sup>2</sup> The 2013 proposal substituted a new system of waivers (safe harbors) to more effectively target troubled plans and reduce burden where possible without depriving PBGC of the information it needs to protect the pension insurance system. PBGC received 13 comment letters on the 2013 proposal. PBGC also held its first-ever regulatory public hearing, at which eight of the commenters discussed their comments. PBGC is developing a final rule, taking into account the comments and discussion at the public hearing. Because OMB approval of the current information collection will expire before the final rule is published, it is necessary for PBGC to request that OMB extend its approval.

PBGC intends to revise the current forms and instructions to:

- Require that additional supporting information be provided (*e.g.*, event date, notice due date, filing date, and why a filing is late, if applicable).
- Require more description of the pertinent facts relating to an event (*e.g.*, reason for a late contribution).
- Add an information requirement included in the regulation to Forms 10 and 10-A (for change in contributing sponsor or controlled group event).
- Provide enhanced instructions on the type of actuarial information required to be submitted.
- Include a note in the Form 10-A instructions stating that PBGC typically asks for additional information (which will be specified) to be submitted within seven days (or sooner, in some cases).
- Remove information requirements that PBGC no longer needs or can gather from public sources.

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<sup>2</sup> The 2013 proposed rule was a reproposal. On November 23, 2009, PBGC published (at 74 FR 61248) a proposed rule to amend the reportable events regulation to accommodate changes to the variable-rate premium rules made pursuant to the Pension Protection Act of 2006 (PPA 2006). The rule also proposed to eliminate most automatic waivers and filing extensions, create two new reportable events based on provisions in PPA 2006, and make other changes to the reportable events regulation as well as conforming changes. PBGC reconsidered the reportable events regulation in the spirit of Executive Order 13563 on Improving Regulation and Regulatory Review and in light of the comments to the 2009 proposal.

- Require a signature and certification on Form 10 and Form 10-A as to the completeness and accuracy of the contents of the filing.

PBGC is also intending to make conforming, clarifying, formatting, and editorial changes.

PBGC estimates that it will receive 835 reportable event notices per year under subparts B and C of the reportable events regulation using Forms 10 and 10-A and that the average annual burden of this collection of information is 4,290 hours and \$672,000. PBGC estimates that it will receive 165 notices of failure to make required contributions per year under subpart D of the reportable events regulation using Form 200 and that the average annual burden of this collection of information is 990 hours and \$152,000.

PBGC is soliciting public comments to —

- evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collections of information, including the validity of the methodologies and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Issued in Washington, DC, this 21 st day of January, 2015.

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**Judith Starr,**  
General Counsel,  
Pension Benefit Guaranty Corporation.

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