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Information Requirements Expanded for PBGC Reportable Events and Late Contribution Reports

PBGC will now require plan sponsor controlled group, financial, and actuarial information with all reportable event and late contribution reports. Updated forms and instructions include a description of their filing portal and alert filers to the additional information that may be needed upon request when reporting liquidations or insolvency settlements.

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Background

ERISA requires that plan administrators and plan sponsors notify PBGC when certain events occur that may signal problems with a pension plan or a contributing sponsor's business. PBGC's regulations on reportable events and large funding underpayments describe the events and notice requirements in detail. Typically, reports must be provided to PBGC 30 days after the event occurs (i.e., "post-event" reporting). However, in certain cases involving non-public companies with large underfunding, 30 days advance notice is required. Furthermore, a failure to make required contributions over \$1 million must be filed within 10 days after the due date for the required contribution.

PBGC provides a list of events and links to citations [on their website](#).

In certain cases, PBGC's filing instructions included a requirement to submit financial statements for most, if not all, controlled group members, to the extent not publicly available. The information required includes:

- Audited financial statements for the most recent fiscal year (including balance sheet, income statement, cash flow statement, and notes to the financial statements), or
- If audited financial statements are not available, unaudited financial statements for the most recent fiscal year, or

- If neither audited nor unaudited financial statements are available, copies of federal tax returns for the most recent tax year

In addition, most, but not all, submissions require actuarial information (the most recent actuarial valuation report and at-risk information) and information about the plan sponsor's controlled group structure.

Financial, actuarial and controlled group information now needed for all reports

Effective immediately, newly updated approved forms require financial, actuarial and controlled group information to be submitted with all Form 10 filings. For example, all of this additional information is now required for Active Participant Reductions, Distribution to a Substantial Owner, and an Application for Minimum Funding Waiver.

In addition, the updated instructions were revised to describe PBGC's new e-filing portal (optional alternative to emailing) and the types of additional information PBGC may request of filers liquidating or in an insolvency or similar settlement. This includes estimates of liquidation or sale proceeds and allocations to creditors, expenses, and prior liquidation or sale proceeds as well as timing information.

In closing

Plan sponsors should be aware of the need for additional information when assembling reportable event submissions and allow time for gathering all required information.

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