



Pension Analyst

# Compliance Bulletin

December 2009

## PBGC issues 2010 plan year guidance on reportable events

The Pension Benefit Guaranty Corporation (PBGC) recently issued [Technical Update 09-4](#). This update provides interim guidance for plan years beginning in 2010 on compliance with the reportable events requirements. The PBGC expects to publish final regulations on reportable events after the beginning of 2010 which will supersede the guidance in this Technical Update.

### Background

ERISA requires sponsors of defined benefit pension plans to notify the PBGC upon the occurrence of certain events ("reportable events") such as funding waivers, missed contributions or extensions. In some cases, advance reporting is required when a threshold test is met. A contributing plan sponsor is subject to advance reporting if:

- Neither the contributing sponsor nor the member of the plan's controlled group to which the event relates is a public company; and
- The contributing sponsor's controlled group maintains one or more plans that, in total (disregarding plans with no unfunded vested benefits), have unfunded vested benefits exceeding \$50 million and a funded vested benefit percentage of less than 90%.

Technical Update 09-4 addresses two topics:

- Funding-related determinations for purposes of waivers, extensions and the advance reporting threshold test; and
- Missed quarterly contributions.

### Funding-related determinations

The Technical Update provides that for purposes of the reportable events requirements, a plan's unfunded vested benefits and the value of its assets and vested benefits are determined for a plan year beginning in 2010 in the same manner as the [variable rate premium](#) (VRP) for the 2009 plan year. *For example, in the case of a calendar year plan with a January 1 valuation date, the VRP values determined as of January 1, 2009, for purposes of the 2009 variable rate premium are also used for applying the \$50 million advance-reporting threshold test for reportable events becoming effective in 2010.*

### Missed quarterly contributions

#### Plans with fewer than 25 participants

If a required quarterly contribution for the 2010 plan year is not timely made to the plan and the failure to make the contribution is not the result of financial inability (e.g. due to the timing of the funding valuation schedules), the IRS will waive the reporting requirement if the plan had fewer than 25 participants for the 2009 plan year for whom flat-rate premiums were payable.

#### Plans with 25 or more participants but fewer than 100 participants

If a plan had at least 25 but fewer than 100 participants for the 2009 plan year for whom flat-rate premiums were payable, the PBGC will consider the reporting requirement for the failure to make a quarterly contribution to be satisfied if:

- Financial inability to make the contribution(s) is not the reason for the failure to make the contribution; and
- By the time the first missed-quarterly reportable event for the 2010 plan year would otherwise be due, an authorized plan representative files with the PBGC a notice stating:

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- The name of the plan, the employer identification number, and the plan number;
- The date the 2010 plan year began;
- That a quarterly contribution to the plan for the 2010 plan year has not been (or will not be) timely made;
- That financial inability to make the contribution is not the reason for not making the contribution;
- The last day for satisfying the minimum funding requirement for the 2010 plan year (the “final payment date”);
- That the filer understands that if the minimum funding requirement for the plan is not satisfied by the final payment date, a reportable event notice must be filed; and
- The name, telephone number, and e-mail address of a person (who may be the filer) whom PBGC may contact for additional information.

Reports must be made either in the manner required for reportable events or by e-mail to [post-event.report@pbgc.gov](mailto:post-event.report@pbgc.gov). [PBGC Technical Update 09-3](#) provides sample notice language.

### Next steps

The PBGC intends to issue reportable event regulations which will supersede this Technical Update. In the interim, plan sponsors should carefully read the guidance contained in this newsletter. They should contact their plan's enrolled actuary if they have any questions regarding the impact of this guidance on their plans.



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