

SUBCHAPTER C—CERTAIN REPORTING AND DISCLOSURE REQUIREMENTS

PART 4010—ANNUAL FINANCIAL AND ACTUARIAL INFORMATION REPORTING

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AUTHORITY: 29 U.S.C. 1302(b)(3), 1310.

SOURCE: 61 FR 34022, July 1, 1996, unless otherwise noted.

§ 4010.1 Purpose and scope.

This part prescribes the requirements for annual filings with PBGC under ERISA section 4010.

[61 FR 34022, July 1, 1996, as amended at 74 FR 11029, Mar. 16, 2009]

§ 4010.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: benefit liabilities, Code, contributing sponsor, controlled group, earliest retirement age at valuation date, ERISA, expected retirement age (XRA), fair market value, IRS, PBGC, person, plan, plan year, and unreduced retirement age (URA).

In addition, for purposes of this part:

At-risk status means, with respect to a plan for a plan year, at-risk status as defined in ERISA section 303(i)(4) and Code section 430(i)(4).

Exempt entity means a person that does not have to file information and about which information does not have to be filed, as described in § 4010.4(c).

Exempt plan means a plan about which actuarial information does not

have to be filed, as described in § 4010.8(c).

Fair market value of the plan's assets means the fair market value of the plan's assets at the end of the plan year ending within the filer's information year (determined without regard to any contributions receivable).

Filer means a person who is required to file reports, as described in § 4010.4.

Fiscal year means, with respect to a person, the person's annual accounting period or, if the person has not adopted a closing date, the calendar year.

Funding target means, with respect to a plan for a plan year, the funding target as provided under ERISA section 303(d)(1) and Code section 430(d)(1) determined as of the valuation date for the plan year.

Funding target attainment percentage means, with respect to a plan for a plan year, the funding target attainment percentage as determined under § 4010.4(b) for the plan year.

Information year means the information year determined under § 4010.5.

Valuation date means, with respect to a plan for a plan year, the valuation date as determined under ERISA section 303(g)(2) and Code section 430(g)(2).

[61 FR 34022, July 1, 1996, as amended at 74 FR 11029, Mar. 16, 2009]

§ 4010.3 Filing requirement.

(a) *General*. Except as provided in § 4010.8(c) (relating to exempt plans) and except where one or more waivers under § 4010.11 apply, each filer must submit to PBGC annually, on or before the due date specified in § 4010.10, all information specified in § 4010.6(a) with respect to all members of a controlled group and all plans maintained by members of the filer's controlled group. Under § 4000.3(b) of this chapter, except as otherwise provided by PBGC, the information must be submitted electronically in accordance with the instructions on PBGC's Web site, <http://www.pbgc.gov>.

(b) *Single controlled group submission*. Any filer or other person may submit the information specified in § 4010.6(a)

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on behalf of one or more members of a filer's controlled group.

[70 FR 11544, Mar. 9, 2005, as amended at 74 FR 11029, Mar. 16, 2009]

§ 4010.4 Filers.

(a) *General.* A contributing sponsor of a plan and each member of the contributing sponsor's controlled group on the last day of the information year is a filer with respect to an information year (unless exempted under paragraph (c) of this section) if—

(1) For any plan (including an exempt plan) maintained by the members of the contributing sponsor's controlled group on the last day of the information year, the funding target attainment percentage for the plan year ending within the information year is less than 80 percent;

(2) Any member of the controlled group fails to make a required installment or other required payment to a plan and, as a result, the conditions for imposition of a lien described in ERISA section 303(k) and Code section 430(k) have been met during the information year, and the required installment or other required payment is not made within ten days after its due date; or

(3) Any plan maintained by a member of the controlled group has been granted one or more minimum funding waivers under ERISA section 302(c) and Code section 412(c) totaling in excess of \$1 million, and as of the end of the plan year ending within the information year, any portion thereof is still outstanding.

(b) *Funding target attainment percentage—(1) General.* Except as provided in paragraph (b)(3) of this section, the funding target attainment percentage for a plan for a plan year equals the funding target attainment percentage as provided under ERISA section 303(d)(2) and Code section 430(d)(2) determined as of the valuation date for the plan year.

(2) *Prefunding balance and funding standard carryover balance elections.* For purposes of determining the funding target attainment percentage for a plan for the plan year, prefunding balances and funding standard carryover balances must reflect any elections (or deemed elections) under ERISA section 303(f) and Code section 430(f) that affect

the value of such balances as of the beginning of the plan year, regardless of when the elections (or deemed elections) are made.

(3) *Transition rule for plan years beginning before 2008.* For plan years beginning before 2008, the funding target attainment percentage for a plan for the plan year is determined as the fraction (expressed as a percentage), the numerator of which is the net transition plan assets determined under paragraph (b)(4) of this section, and the denominator of which is the plan's current liability determined using the highest rate of interest allowable under Code section 412(1)(7) as of the valuation date for the 2007 plan year.

(4) *Net transition plan assets—(i) In general.* Net transition plan assets for purposes of paragraph (b)(3) of this section are equal to plan assets as determined under paragraph (b)(4)(ii) of this section reduced by any credit balance in accordance with paragraph (b)(4)(iii) of this section.

(ii) *Determination of assets.* Plan assets under this paragraph (b)(4)(ii) are determined under Code Section 412(c)(2) as in effect for the plan year beginning in 2007, except that the value of plan assets before subtracting the plan's funding standard account credit balance described in paragraph (b)(4)(iii) of this section can neither be less than 90 percent of the fair market value of plan assets nor greater than 110 percent of the fair market value of plan assets on the valuation date for that plan year.

(iii) *Subtraction of credit balance.* If a plan has a funding standard account credit balance as of the valuation date for the plan year beginning in 2007, that balance is subtracted from the asset value described in paragraph (b)(4)(ii) of this section as of that valuation date.

(iv) *Effect of funding standard carryover balance reduction for 2008 plan year.* Notwithstanding paragraph (b)(4)(iii) of this section, if, for the plan year beginning in 2008, the employer has made an election to reduce some or all of the funding standard carryover balance as of the first day of that year in accordance with ERISA section 303(f) and Code section 430(f), then the present value (determined as of the valuation