



Pension Benefit Guaranty Corporation  
1200 K Street, N.W., Washington, D.C. 20005-4026

Office of the Director

March 27, 2019

The Honorable *[Insert name]*  
*[Insert "Chair" or "Ranking Member", as applicable]*  
*[Insert Committee name]*  
United States *[Insert "Senate" or "House of Representatives", as applicable]*  
Washington, D.C. *[Insert zip]*

**Re: 2016 ERISA Section 4010 Report**

Dear *[Insert appropriate title]*:

ERISA Section 4010 requires that sponsors of certain single-employer underfunded qualified defined benefit pension plans provide specified financial and actuarial information to PBGC annually. ERISA Section 4010 was substantially amended by the Pension Protection Act of 2006 (PPA) and, among other changes, now requires PBGC to submit a summary report, in the aggregate, of the information submitted under ERISA Section 4010 to the Senate Committee on Health, Education, Labor and Pensions, the Senate Committee on Finance, the House Committee on Education and the Workforce and the House Committee on Ways and Means. On behalf of the Pension Benefit Guaranty Corporation, I am pleased to transmit the 2016 report.

The enclosed report summarizes, in the aggregate, 4010 information submitted for the nine years since the PPA rule became effective.

We welcome the opportunity to discuss with you this ERISA Section 4010 report and possible changes to improve Section 4010.

Sincerely,

W. Thomas Reeder  
Director

# 2016 PBGC

4010 REPORT

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## FREQUENTLY USED ABBREVIATIONS

ERISA	Employee Retirement Income Security Act of 1974 as amended
FTAP	Funding Target Attainment Percentage
MAP-21	The Moving Ahead for Progress in the 21st Century Act, PL. 112-141
PPA	The Pension Protection Act of 2006, PL. 109-280
PBGC	Pension Benefit Guaranty Corporation
80% FTAP gateway test	One of the tests for determining if a 4010 filing is required

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# 2016 PBGC 4010 REPORT

## OVERVIEW

Sponsors of certain single-employer qualified defined benefit pension plans with significant underfunding are required to provide specified financial and actuarial information about the plans and employers in the sponsors' controlled group to PBGC under the Employee Retirement Income Security Act (ERISA). ERISA Section 4010(e) requires PBGC to annually submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives, a summary report in the aggregate of the information submitted to PBGC under Section 4010. This report summarizes 4010 information submitted for information years ending in 2008 through 2016.<sup>1</sup> We refer to this report as the "2016 4010 report" because the most recent filings included relate to information years ending in 2016.

**Due to the limitations on who files, the plans for which this information is reported are not representative of the defined benefit plan universe, nor are they representative of PBGC's insurance exposure. Readers are cautioned against extrapolating this information to the much broader population of companies and plans in the defined benefit plan system or using this information to draw conclusions about historic trends.**

## WHO FILES 4010 REPORTS?

Reporting under ERISA Section 4010 is required if:

- Any plan sponsored by a member of the controlled group<sup>2</sup> had a funding target attainment percentage (FTAP), determined without regard to the interest rate stabilization rules,<sup>3</sup> below 80% (i.e., the "80% FTAP gateway test");
- Any controlled group member failed to make a required contribution to a plan within 10 days after its due date and such failure met the conditions for imposition of a lien under ERISA Section 303(k) or Internal Revenue Code Section 430(k);<sup>4</sup> or
- Any plan maintained by a controlled group member has been granted a minimum funding waiver totaling in excess of \$1 million, any portion of which is still outstanding.

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<sup>1</sup> The "information year" is generally the employer's fiscal year. Plan related information is measured as of the last day of the plan year ending within the information year.

<sup>2</sup> The term "controlled group" is defined in ERISA Section 4001(a)(14). In general, a controlled group is a group of two or more corporations or businesses that are under some sort of common control (e.g., parent-subsidiary).

<sup>3</sup> The "interest rate stabilization" rules, under which the discount rate used to determine certain liabilities is adjusted to the extent it falls outside a specified corridor, are provided in ERISA Section 303(h)(2)(C)(iv).

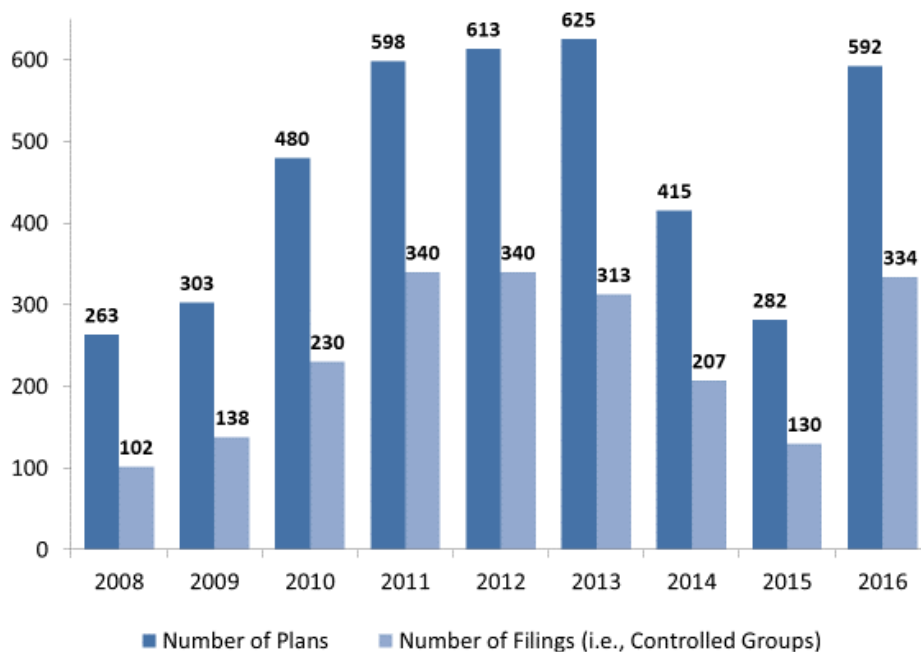
<sup>4</sup> Generally, aggregate missed contributions in excess of \$1 million trigger this lien.

The vast majority of filers are required to file because of the 80% FTAP gateway test. In general, only a handful of filers fall into the latter two categories. PBGC waives reporting if aggregate underfunding is less than \$15 million<sup>5</sup>. Starting with 2016, reporting is also waived for companies with fewer than 500 defined benefit plan participants.

## NUMBER OF FILERS

Figure 1 shows how many filings PBGC has received since 2008.<sup>6</sup> Because filing is done on a controlled group basis, it is common for one filing to contain information on more than one plan. For that reason, Figure 1 also provides information on the number of plans reported in 4010 filings<sup>7</sup>. These plans generally represent less than 3% of the plans in the PBGC-insured single-employer plan universe.

**Figure 1 – Number of 4010 Filers**



The increase in the number of filers from 2015 to 2016 is primarily because of the change noted in footnote 5 (i.e., measuring plan liabilities using non-stabilized discount rates instead of stabilized discount rates).

<sup>5</sup> From 2012, when the interest rate stabilization rules were implemented for funding purposes, through 2015, stabilized rates were used for purposes of determining whether the \$15 million waiver applied. Starting with 2016, the determination is based on non-stabilized rates (i.e., the same rates used for the 80% FTAP gateway test). As a result, several companies that previously qualified for the waiver were required to file 4010 information for 2016.

<sup>6</sup> The Pension Protection Act of 2006 (PPA) made several changes to ERISA Section 4010, including adding a requirement to report summary information to Congress. These changes were first effective for 2008 which is why the report shows data starting with 2008.

<sup>7</sup> The number of plans shown in Figure 3 excludes certain small plans sponsored by companies required to submit 4010 information classified as “exempt plans” because 4010 filers are not required to report actuarial information for these plans. See section 4010.8(c) of PBGC’s 4010 regulation.

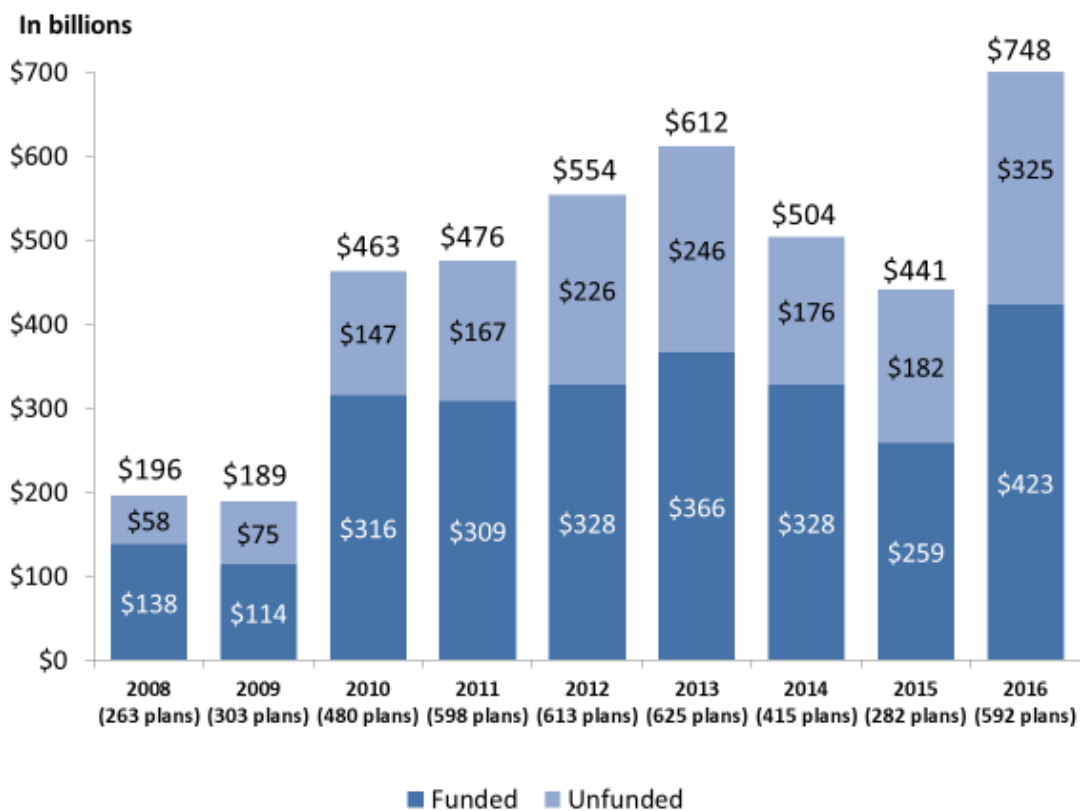
Plans that are included in reports filed under 4010 tend to be larger than average. For example, since 2008, the median number of participants in these plans was about 2,500. This contrasts with the universe of PBGC-insured single-employer plans where most plans cover far fewer participants.<sup>8</sup>

## BENEFIT LIABILITIES DETERMINED USING PBGC ASSUMPTIONS AND METHODS

ERISA Section 4010 requires that, for each plan included in a 4010 filing, “the amount of benefit liabilities ... determined using the assumptions used by the corporation in determining liabilities” is reported. For this purpose, assets are valued at fair market value and liabilities are measured on a termination basis (i.e., using assumptions provided in PBGC’s Section 4044 regulations) and therefore, this amount is commonly called “termination liability.”

Figure 2 shows the total liability and funded liability reported (all plans combined) in each of the post-PPA years.

**Figure 2 – Aggregate Benefit Liabilities (Termination Basis) Reported in 4010 Filings**

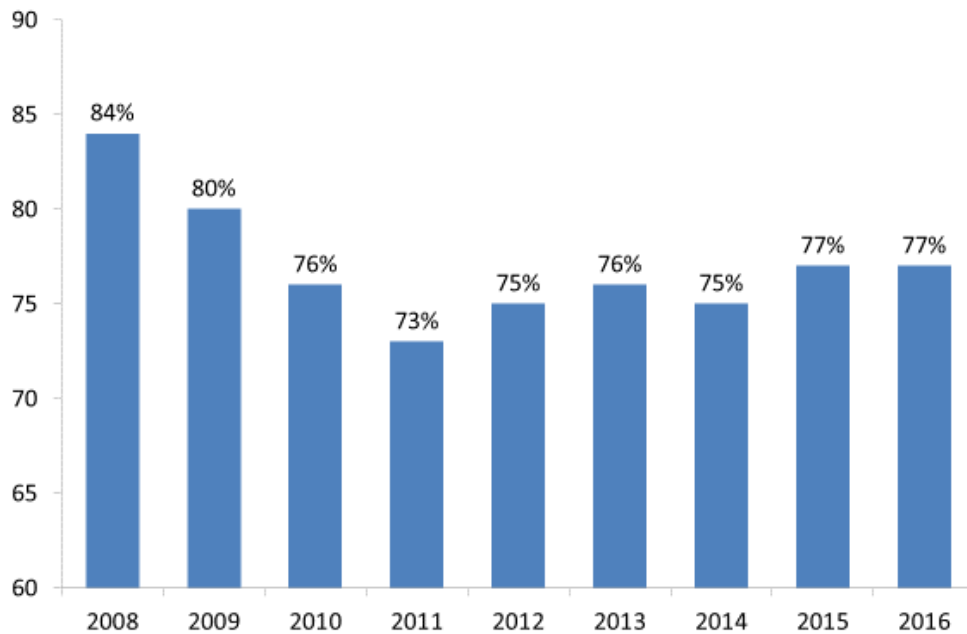


<sup>8</sup> In 2016, over 65% of plans had less than 100 participants (Table S-31 of [PBGC's data tables](#)). Note that, while most plans are small, the majority of all single-employer system participants are in plans that cover more than 10,000 participants, as shown in Table S-30 of [PBGC's data tables](#).

## ADDITIONAL ACTUARIAL CALCULATIONS

ERISA Section 4010(d)(1)(C) requires that filers report the funding target attainment percentage (4010 FTAP), determined without regard to the interest rate stabilization rules (see footnote 3). Figure 3 shows the average 4010 FTAP for plans required to submit 4010 information in each of the post-PPA years.

**Figure 3 – Average 4010 Funding Target Attainment Percentage Reported in 4010 Filings**



ERISA Section 4010(d)(1)(B) requires that plans report the funding target of the plan recalculated as if the plan has been in at-risk status for at least 5 plan years as defined in ERISA Section 303(i). PBGC does not typically need or use this information. Because it is burdensome and costly for companies to calculate this amount, PBGC amended its 4010 regulation to provide that, starting with 2016, this amount need not be reported as part of a 4010 submission. Rather, if a situation arises where PBGC determines it needs that information from a particular plan (that is subject to 4010 reporting), PBGC may request the plan submit that data item at a later date.

In prior reports, Figure 3 included information about ERISA Section 4010(d)(1)(B) calculations. However, because of the regulatory change, Figure 3 has been revised accordingly.

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## RECOMMENDATION TO MAKE 4010 MORE EFFECTIVE

4010 filings provide PBGC more current and more useful underfunding information than any other source. They are also the only way that sponsors report plan underfunding on a termination basis, as no other reporting requirement uses this measure, and they are one of the few sources of financial information for all members of a controlled group, not just the plan sponsor. In theory, the 4010 data greatly enhance PBGC's ability to identify and monitor potential risks to the pension insurance system, to focus PBGC resources on situations that pose the greatest risks to the system, to assert appropriate claims in bankruptcy against members of a controlled group of the plan sponsor of a terminated plan, and to prepare PBGC's financial statements.

However, in practice, the 4010 reporting criteria fail to properly target plans as companies that are on the verge of bankruptcy (or even, in bankruptcy) are exempt from reporting simply because their plans were over 80% funded.<sup>9</sup> **In fact, since the PPA changes took effect, PBGC has incurred more than \$4 billion in total claims arising from the termination of single-employer plans sponsored by companies that were not required to submit 4010 information.** Better targeting of reporting requirements could take a substantial and unnecessary reporting burden off some companies and help PBGC do its job better. Therefore, PBGC recommends that Section 4010 be amended to revise reporting criteria in ways that minimize burden and improve the usefulness of the data.

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<sup>9</sup> Prior to PPA, reporting was required if aggregate underfunding exceeded \$50 million.