



# REQUEST FOR COVERAGE DETERMINATION INSTRUCTIONS

The Request for Coverage Determination form is used by a plan administrator or plan sponsor of a plan to request that the Pension Benefit Guaranty Corporation determine whether a plan is covered under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). For questions about this form, send an email to [Coverage@pbgc.gov](mailto:Coverage@pbgc.gov) or call 800-736-2444 or 202-326-4242.

## GENERAL INSTRUCTIONS

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**Purpose of Form.** This [form](#) is used to request that the Pension Benefit Guaranty Corporation (PBGC) determine whether a plan is covered under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). PBGC will notify a requester in writing of its coverage determination. A single-employer plan (a term which includes a multiple employer plan) or a multiemployer plan is covered under this title if it:

- Is described in section 4021(a) of ERISA, and
- (1) Does not fall within one of the exemptions from coverage listed in sections 4021(b)(1)-(13), or (2) Falls within the exemption under 4021(b)(3) but has made an election under Internal Revenue Code (Code) section 410(d) and has notified PBGC, in accordance with procedures prescribed by PBGC, that it wishes to have title IV of ERISA apply to it.

Most private-sector defined benefit pension plans that qualify for favorable tax treatment are covered by title IV.

**How and Where to File.** Send a completed form and attachments via email to [Coverage@pbgc.gov](mailto:Coverage@pbgc.gov) or U.S. mail to:

Pension Benefit Guaranty Corporation  
Standard Termination Compliance Division  
Technical Assistance Branch  
1200 K Street, NW  
Washington, DC 20005-4026

After receiving a form, PBGC may require that a filer submit additional information. Also, as each coverage determination request is unique, a filer may provide information and documentation to support the filer's position in addition to what is required.

Information or documents previously provided to PBGC may be omitted. Include a statement in Part VII indicating the date on which any omitted document was filed.

## SPECIFIC INSTRUCTIONS

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### **Part I. Identifying Information**

Provide identifying information about the plan, plan administrator, plan sponsor, and authorized contact person for the filer. PBGC will address correspondence about this form to the individual listed as the authorized contact person. This individual may be the enrolled actuary for the plan, plan attorney, or third-party administrator or otherwise represent the plan sponsor or plan administrator.

**Part II. All Plans, Required Information**

- 1 Check the box for a determination of either non-coverage or coverage under title IV of ERISA.
  
- 2 Check the box or boxes that apply to the request:
  - Check “Substantial owners plan” if the plan is relying on section 4021(b)(9) of ERISA (see Part III).
  - Check “Small professional service employer plan” if the plan is relying on section 4021(b)(13) of ERISA (see Part IV).
  - Check “Church plan” if the plan is relying on section 4021(b)(3) of ERISA, including if the plan has made an election under Code section 410(d) and seeks to notify PBGC that it wishes to have title IV of ERISA apply to it (see Part V).
  - Check “Other exemption under section 4021(b) of ERISA” if the plan is relying on a statutory exemption (other than section 4021(b)(3), (9), or (13)), applicable to a plan that:
    - is an individual account plan (section 4021(b)(1))
    - is established and maintained by a government entity (section 4021(b)(2))
    - is governed by the Railroad Retirement Act of 1935 or 1937 and financed by contributions under that Act (section 4021(b)(2))
    - is established and maintained by a Fraternal Beneficiary Society or a Voluntary Employees’ Beneficiary Association and is not funded by employer contributions (section 4021(b)(4))
    - contains an Employee Pension Trust created before June 25, 1959 (section 4021(b)(4))
    - since September 2, 1974, has not been funded with employer contributions (section 4021(b)(5))
    - is an unfunded “top hat” plan maintained primarily to defer compensation for a select group of management or highly compensated employees (section 4021(b)(6))
    - is established and maintained outside of the United States primarily for the benefit of nonresident aliens (section 4021(b)(7))
    - is maintained by an employer to provide retirement benefits in excess of the limitations of Code section 415 (section 4021(b)(8))
    - is of an international organization exempt from taxation under the International Organizations Immunities Act (section 4021(b)(10))
    - is maintained solely to comply with workers’ compensation, unemployment compensation or disability insurance law (section 4021(b)(11)), or
    - is a defined benefit plan but is described in section 3(35)(B) of ERISA, such that it is treated as an individual account plan (section 4021(b)(12)).
  - Check Puerto Rico-based if the plan’s trust is created or organized in Puerto Rico and all of the plan’s participants are residents of Puerto Rico (see Part VI).
  - Check “Other” if the plan’s situation is not described in one of the other boxes. For instance, check this box if the plan is not a Puerto Rico-based plan and is not described in section 4021(a) of ERISA.

**Note:** A filer that checks “Other exemption under section 4021(b) of ERISA” or “Other” must provide, in addition to the information required for all plans, documentation and information to support the filer’s position on the plan’s coverage status. The filer must specify in Part VIII the exemption on which the plan is relying or other legal basis to support coverage or non-coverage under title IV of ERISA. The form and instructions do not list specific items for a filer to provide in these situations.

- 3 Check the box to indicate whether the plan has received a prior determination from PBGC of its coverage status and is requesting a new one. After receiving a determination, a plan need not request a

new one, except to demonstrate a change in the plan's organization or operations since the earlier coverage determination request.

4 Check the box to indicate whether the plan is already established at the time of this form's submission. To be eligible to receive a coverage determination, a plan must already be established. However, under a pilot program, a plan that is proposed but not yet established may request an opinion from PBGC as to whether the sponsoring employer is a professional service employer under section 4021(b)(13) of ERISA or whether all participants are substantial owners under section 4021(b)(9). These opinions relating to title IV coverage will not be initial determinations with rights to reconsideration or appeal under 29 CFR 4003.1 – 4003.61. By these opinions, PBGC provides only non-binding guidance on the interpretation of section 4021(b)(9) or 4021(b)(13) as applied to the statements and representations of each case.

A filer for a prospective plan must provide the required information for small professional service employer plans or substantial owner plans, whichever is applicable, that is listed on this form, including the plan document (if available). The filer must explain the absence of any required information by stating that the plan does not yet have such a document.

The pilot program for prospective plans may end before the expiration of this form. PBGC will post on its [website](#) the last date by which the form must be sent to PBGC to request an opinion on a prospective plan. If unsure if the pilot program is still in effect, contact PBGC.

### **Part III. Substantial Owners Plans, Required Information**

Complete this section only if the substantial owners plan exemption is applicable to this coverage determination request.

Under section 4021(b)(9) of ERISA, a plan that is established and maintained exclusively for a business organization's substantial owners is exempt from title IV coverage.

***Note:** If the answer to question 1 in Part III, "Does the plan cover an individual who is not a substantial owner?" is "Yes," then the plan is likely not eligible for the substantial owners exemption.*

A substantial owner is an individual who at some point during the past 60 months was: (1) the owner of the entire interest in an unincorporated trade or business, (2) a partner who owns more than 10 percent of profit or capital interest if the business is a partnership, or (3) an owner of more than 10 percent of the voting stock or of all the stock if the business is a corporation. For corporations only, the constructive ownership rules, including spousal attribution rules, Code sections 414(c) and 1563(e) apply.

In addition to the information listed on the form, PBGC may request the following items.

- The plan's last three Form 5500s (if not available through EFAST2)
- The plan's most recent Actuarial Valuation Report
- The plan sponsor's federal tax returns for the last five years

### **Part IV. Small Professional Service Employer Plans, Required Information**

Complete this section only if the small professional service employer plan exemption is applicable to this coverage determination request.

Under section 4021(b)(13) of ERISA, a plan is exempt from title IV coverage if it: (1) is established and maintained by a professional service employer and (2) has not since September 2, 1974, had more than 25 active participants.

***Note:** If the answer to question 1 in Part IV, "Has the plan at any time since September 2, 1974, had more than 25 active participants?" is "Yes," then the plan does not fall within the small professional employer exemption.*

Under section 4021(c)(2), a professional service employer is a business organization that delivers the services of professional individuals, which includes physicians, dentists, chiropractors, osteopaths, optometrists, other licensed practitioners of the healing arts, attorneys at law, public accountants, public engineers, architects, draftsmen, actuaries, psychologists, social or physical scientists, and performing artists. Further, the business organization must be owned by or controlled by professional individuals or by the executors or administrators of professional individuals.

With respect to professions that aren't explicitly listed above (e.g., financial advisors), PBGC will determine whether the individual in question is a "professional individual" based on an analysis of the services performed and the expertise required to perform them. PBGC determines this question on a case-by-case basis, taking into account the individual's educational degrees, certifications, and accreditations.

In addition to the information listed on the form, PBGC may request the following items.

- The plan's last three Form 5500s (if not available through EFAST2)
- The plan's most recent Actuarial Valuation Report
- The plan sponsor's most recent federal tax return including all schedules, exhibits, attachments, and amendments
- Licenses, degrees, or certifications of all individuals who control, manage, or direct the plan sponsor and whose professions are not listed in section 4021(c)(2)
- Documents showing percentages and periods of ownership for all current owners of the plan sponsor
- Documents supporting the positions of all individuals who control, manage, or direct the plan sponsor
- If the plan sponsor provides multiple services, documents supporting the percentage breakdown of the services performed

#### **Part V. Church Plans, Required Information**

Complete this section only if the church plan exemption is applicable to this coverage determination request.

Under section 4021(b)(3) of ERISA, a church plan as described in Code section 414(e) is exempt from title IV coverage unless it has made an election under Code section 410(d) to be covered and has notified PBGC that it wishes to have title IV apply to it. Submission of this form is the procedure, as prescribed by PBGC under section 4021(b)(3), for a church plan to provide this notification.

#### **Part VI. Puerto Rico-Based Plans, Required Information**

Complete this section only if the plan is a Puerto Rico-based plan.

A Puerto Rico-based pension plan within the meaning of section 1022(i)(1) of ERISA (“Puerto Rico Plan”) has two elements. First, the plan’s trust is created or organized in Puerto Rico. Second, all plan participants are residents of Puerto Rico. For purposes of this element, “a resident of Puerto Rico is either a bona fide resident of Puerto Rico or a person who performs labor or services primarily within Puerto Rico regardless of residence for other purposes,” and “a participant is a current employee who is not excluded under the eligibility provisions of the plan.” Rev. Rul. 2008-40, 2008-30 I.R.B. 166. See also 26 CFR 1.501(a)-1(e).

A Puerto Rico Plan is generally not covered under title IV of ERISA, but it can become covered by making an irrevocable election under section 1022(i)(2) of ERISA to be treated as created or organized in the United States for purposes of Code section 401(a). See 26 CFR 1.401(a)-50 for further information. A Puerto Rico Plan that makes this election, and otherwise satisfies the qualification requirements of Code section 401(a), is covered under title IV.

**Part VII. Missing Information**

A filer that is not providing an item as requested on the form must explain its absence.

**Part VIII. Narrative Information**

A filer may provide a written narrative to support the filer’s request for a determination of non-coverage or coverage and describe any additional items provided.

**Part IX. Certification**

The filer, meaning the individual who is on behalf of the plan administrator or contributing sponsor completing this form, must assert under penalty of perjury that the responses, information, and documents provided are truthful and accurate to the best of his or her knowledge and belief. If a filer fails to provide complete and accurate information, then PBGC’s determination cannot be relied upon.

**PAPERWORK REDUCTION ACT NOTICE**

PBGC needs this information so that it can determine whether a plan is covered under title IV of ERISA. Information provided to PBGC is confidential to the extent provided by the Freedom of Information Act and the Privacy Act. PBGC estimates that preparation and submission of a form will take an average of 10 hours and \$3,500. If you have any comments concerning the accuracy of this estimate or suggestions for improving this form, please send your comments to the Pension Benefit Guaranty Corporation, Regulatory Affairs Division, Office of the General Counsel, 1200 K Street, NW, Washington, DC 20005-4026. This collection of information has been approved by the Office of Management and Budget (OMB) under control number 1212-0072 and expires on June 30, 2022. 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.

**PRIVACY ACT NOTICE**

The Privacy Act of 1974, as amended, 5 U.S.C. 552a (2012 & Supp. II 2014), as amended, requires the Pension Benefit Guaranty Corporation (PBGC) to give you this notice when collecting information from you. PBGC will use the information we collect to determine whether a plan is covered under title IV of ERISA. The information collected here, including names, dates of birth, and/or other necessary personally identifiable information (PII), is used by PBGC to make this determination. Submission of this information is voluntary. However, failure to provide this information to PBGC may delay or prevent PBGC from issuing the requested coverage determination.

PBGC may release information to other individuals and entities when necessary and appropriate under 5 U.S.C. 552a(b) of the Privacy Act, including: to comply with Federal laws requiring disclosure of the information contained in our records; to facilitate statistical research, audit or investigative matters; and to appropriate agencies for the collection of debt.

PBGC may also release information to appropriate federal, state, local or tribal law enforcement agencies when PBGC becomes aware of a possible violation of civil or criminal law or regulation. If PBGC, an employee of PBGC, the United States, or another agency of the United States, is involved in litigation, PBGC may provide relevant information to a court or other adjudicative body or to the Department of Justice when it represents PBGC. PBGC may also provide information to the Office of Management and Budget in connection with review of private relief legislation or to a Congressional office in response to an inquiry that office makes. This information may also be disclosed for any of the PBGC general routine uses as published in the Federal Register.

PBGC publishes notices in the Federal Register that describe in more detail when information about you may be made available to others. A copy of the most recent Federal Register notice may be obtained online at [PBGC.gov/privacy](http://PBGC.gov/privacy). PBGC's authority to collect information, including Social Security Numbers, is derived from 29 U.S.C. 1055, 1056(d)(3), 1302, 1321, 1322, 1322a, 1341, 1341a, and 1350 (2012 & Supp. II 2014).