



November 21, 2014

Submitted electronically via email to [paperwork.comments@pbgc.gov](mailto:paperwork.comments@pbgc.gov) and via the Federal eRulemaking portal @ [www.regulations.gov](http://www.regulations.gov)

Legislative and Regulatory Department  
Pension Benefit Guaranty Corporation  
1200 K Street NW.,  
Washington, DC 20005-4026

Dear Sir or Madam,

Subject: Comments on Proposed Submission of Information Collection for the Office of Management and Budget (OMB) Review on Payment of Premiums

Aon Hewitt welcomes the opportunity to submit comments on the proposed additional information intended to be collected by the Pension Benefit Guaranty Corporation (PBGC) via the annual premium filing process. The proposed information collection was published in the Federal Register on September 23, 2014.

## Who We Are

Aon plc (NYSE: AON) is the leading global provider of risk management, insurance and reinsurance brokerage, and human resource solutions and outsourcing services. We have 66,000 colleagues worldwide. Aon unites to empower results for clients in over 120 countries via innovative and effective risk and people solutions and through industry-leading global resources and technical expertise.

Aon Hewitt empowers organizations and individuals to secure a better future through innovative talent, retirement and health solutions. We advise, design and execute a wide range of solutions that enable clients to cultivate talent to drive organizational and personal performance and growth, navigate retirement risk while providing new levels of financial security, and redefine health solutions for greater choice, affordability and wellness. Aon Hewitt is the global leader in human resource solutions, with over 30,000 professionals in 90 countries serving more than 20,000 clients worldwide.

## Summary of Comments

The PBGC proposes to revise its premium filing procedures and instructions beginning with the 2015 premium payment year to require “reporting of certain undertakings to cash out or annuitize benefits for a specified group of former employees.” Aon Hewitt does not believe the PBGC should collect this information through premium filings for several reasons.

The statutory authority for the PBGC to collect information for certain events is generally provided under ERISA Section 4043. We believe the PBGC’s collection of information on events such as lump sum offers and annuity purchases should be established through the legislative and regulatory process under ERISA Section 4043 rather than requiring the information to be included in PBGC premium filings. Information on lump sum offers and annuity purchases is not necessary for the PBGC to confirm premium payments or determine the accuracy of premium calculations for the current premium payment year. In addition, collecting the information via a premium filing would mean that the information can be made public, unlike information provided under ERISA Section 4043. Finally, the collection of this information could be a burden for plan sponsors particularly for small plans or plans with small lump sum offers or annuity purchases.

## **Information Reporting Should Be Governed by ERISA Section 4043**

ERISA Section 4043 identifies certain specific events which Congress has determined should require plan sponsors to report additional information to the PBGC. ERISA Section 4043 also provides specific timing requirements for reporting these events. Neither the payment of lump sums nor the purchase of annuities is a reportable event specified in the statute. We believe the PBGC's proposed requirement for plan sponsors to report information on lump sums and annuity purchases for ongoing plans as part of a premium filing would circumvent the legislative process, and effectively enable the PBGC to create a separate set of reporting rules. In addition, the existing reportable events regulations provide specific timing extensions and exemptions from filing under certain conditions. The PBGC's proposed requirement for plan sponsors to report lump sum and annuity purchase information provides no such exemptions and would require all plans, regardless of size, funded status, and even premium amount, to report information to the PBGC. If the PBGC has determined that this information is necessary, we believe the PBGC should propose a legislative change to ERISA Section 4043. Following such a legislative change, the PBGC would be able to issue proposed regulations providing specific guidance on reporting the information and provide appropriate waivers and extensions.

## **Premium Filing Information Is Publicly Available**

While information reported in a reportable event filing under ERISA Section 4043 is exempt from public disclosure as provided under ERISA Section 4043(f), information in premium filings can be made available to the public under the Freedom of Information Act. We believe that plan sponsors should not be required to provide data on the number of participants who chose to take advantage of a particular benefit program in a manner which could be made public. While information regarding the offer of a limited-time program may be available in other filings or through the Form 5500, specific participant election rates are generally not available.

## **Information Is Not Needed for Premium Purposes**

While the PBGC collects certain information as part of the premium filing, the majority of the information currently collected relates specifically to the premium amounts paid (e.g., participant counts, benefit liabilities, and the market value of plan assets). The collection of additional information regarding lump sum offers and annuity purchases is not necessary in order to validate a premium filing. Further, the PBGC does not collect other information which could impact future premium amounts. For example, the PBGC does not collect plan changes reflecting benefit increases. This information can be ascertained from the required plan provisions attachment to the Schedule SB to the Form 5500 filing. The premium filing also does not require reporting of changes in participant counts. This information is required as a reportable event under ERISA Section 4043 in certain situations. Finally, the PBGC does not collect information on the amount of lump sums or annuities purchased as part of an ongoing plan provision. If needed to estimate the potential impact on future premium amounts, we believe the PBGC can gather information relating to benefit payments and a limited-time settlement opportunity through a review of the Schedule SB filing as it currently does for other plan-related information and changes.

## **Collection May Be a Burden for Small Plans or Small Offers**

The PBGC has made a draft of the proposed new premium filing questions available for review. The proposed questions require information on the counts of participants who were offered a lump sum and who elected a lump sum. The proposed questions also request the number of participants for whom an annuity was purchased. There appear to be no exceptions for small plans or small offers. Any plan sponsor providing such benefits from a plan would be required to respond to the questions. In contrast, reportable event rules under ERISA Section 4043 provide for certain exemptions from reporting based on plan size or the size of a transaction. Aon Hewitt believes the lack of any reporting exemptions for small plans or plans with small offers may create an unnecessary burden for some plan sponsors.

Furthermore, allowing the PBGC to collect additional information as part of a premium filing will add to the administrative burden of filing premiums. Sponsors will not only need to gather the information necessary for a filing, but will need to respond to the proposed questions or potentially receive system-generated requests for more information. In addition, we would note that the proposed questions only provide information regarding numbers of participants and not the size of payments made. The PBGC would not be able to ascertain the magnitude of an offer solely based on participant counts, so it is unclear whether the proposed questions would provide the PBGC with sufficient information for its purposes. If the PBGC determines that further information is needed from the plan sponsor, and requests such information as a follow-up to the premium filing, this would further add to the plan sponsor's administrative burden.

## **Clarifications to Information Collected**

If the PBGC proceeds with the proposed information collection, we would recommend that the PBGC change or clarify its instructions regarding the information collected.

The proposed premium filing questions should be clarified so that plan sponsors are asked to provide the number of participants who are "eligible" for a lump sum offer rather than the number of participants who were "offered" a lump sum. Some participants may have benefits with a lump sum value under the de minimis cashout threshold and not be offered a choice between a lump sum and other optional forms. In addition, the instructions should request the number of participants "paid" rather than "elected." Finally, the instructions should clarify whether information should be included for both participants and beneficiaries.

The information should be requested for windows closing more than 60 days (rather than only 30 days) prior to the premium filing due date. Many windows close prior to the payment date in order to process elections prior to that date. A 30-day period may not provide enough time to finalize payments and collect paperwork in order to provide an accurate count. Also, the persons responsible for setting up payments and finalizing information relating to an offer are generally extremely busy during this time period. Thus, a 30-day period may be burdensome in situations where a window offer or annuity purchase occurs near the premium filing due date.

We would also recommend that this information not be collected in a plan termination situation where annuities are purchased and lump sums may be offered. Final distribution information is already required to be provided on the Form 501 filing, which is filed immediately following the last premium filing.



## Closing

In summary, while we understand the PBGC's desire to learn more about the changing landscape for defined benefit pension plans, we do not believe that it is appropriate for the PBGC to gather this specific information as part of a premium filing. The PBGC can ascertain changes in the size of defined benefit plans through the reported participant counts as well as through information reported on the Form 5500. To the extent that the PBGC believes additional information collection is needed, we believe it would be appropriate for the PBGC to propose legislative changes to ERISA Section 4043 for Congress to consider, and issue proposed regulations providing specific guidance on reporting the information to the extent that such legislative changes are enacted.

We appreciate the opportunity to submit these comments regarding the proposed information collection. If you have any questions regarding these comments, please contact the undersigned at the telephone number or email address provided below.

Sincerely,

Aon Hewitt

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