4010 Summary Report

ERISA Section 4010 requires that sponsors of certain single-employer qualified defined benefit pension plans with significant underfunding provide specified financial and actuarial information about the plans and employers in the sponsors' controlled group to PBGC. 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 2012.[1]

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[2] had a funding target attainment percentage (FTAP), determined without regard to the MAP-21[3] discount rate stabilization rules, below 80%;
- 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)[4]; 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.

PBGC waives reporting if aggregate underfunding is less than $15 million, so small plans, in practice, are not required to report[5].

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.

---

[1] 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.

[2] The term "controlled group" is defined in ERISA Section 4001(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, etc.).

[3] The term "MAP-21" refers to The Moving Ahead for Progress in the 21st Century Act under which the discount rate used to determine certain liabilities is adjusted to the extent it falls outside a specified corridor. However, MAP-21 explicitly excludes this, and other 4010 calculations, from the MAP-21 "discount rate stabilization" rules.

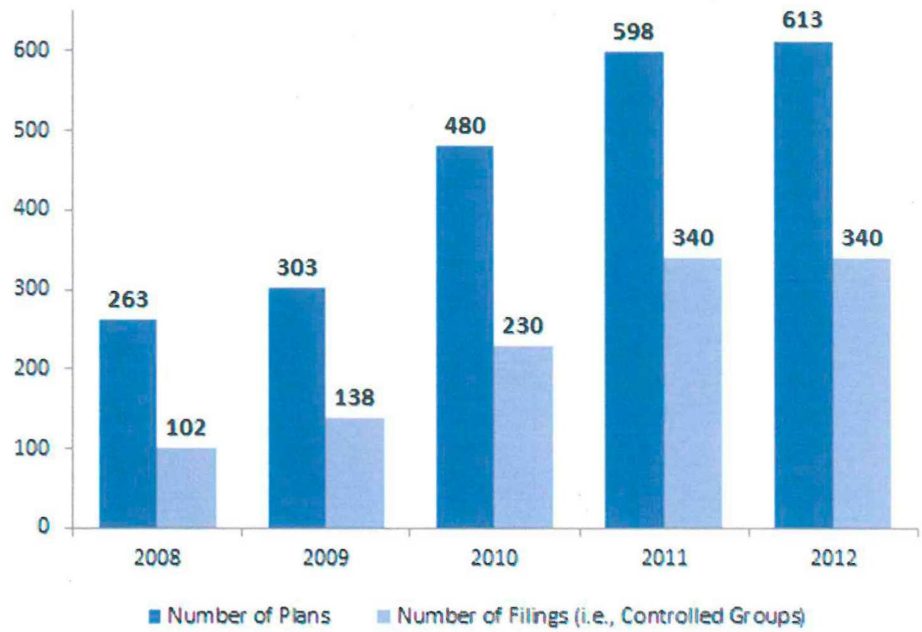
[4] Generally, aggregate missed contributions in excess of $1 million.

[5] This waiver does not apply if the reason for filing is other than the 80% FTAP test.

Number of Filers

Exhibit 1 shows how many filings PBGC has received since the implementation of the PPA changes. 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, Exhibit 1 also provides information on the number of plans reported in 4010 filings. These plans generally represent less than 3% of the plans in the PBGC-insured single-employer plan universe.

Exhibit 1
Number of 4010 Filers

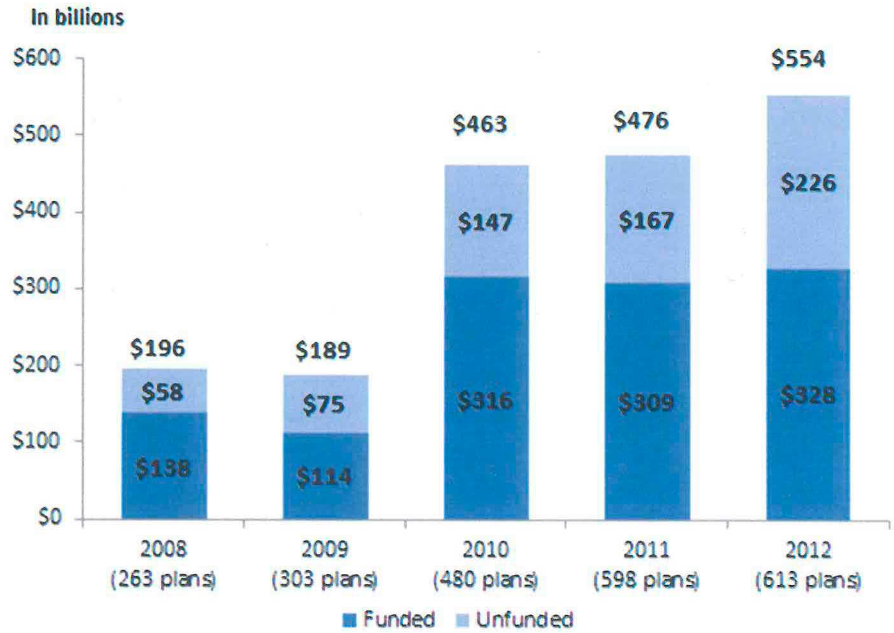


In 2008 and 2009, the median number of participants in these plans is just below 3,000. In 2010-2012, the median number of participants is about 2,000.

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. Exhibit 2 (see next page) shows the total liability and funded liability reported (all plans combined) in each of the five post-PPA years. 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."

Exhibit 2
Aggregate Benefit Liabilities (Termination Basis) reported in 4010 Filings



Additional Required Actuarial Calculations

ERISA Section 4010(d)(1)(B), added to the statute by PPA, requires that plans report the funding target of the plan determined as if the plan has been in at-risk status for funding purposes, as defined in ERISA Section 303(i), for at least 5 plan years. Assumptions underlying this calculation are the standard ERISA Section 303 assumptions adjusted to anticipated changes in retirement age and form of payment selection. The resulting liability is then increased by a statutorily prescribed "loading factor."

ERISA Section 4010(d)(1)(C), also added to the statute by PPA, requires that filers report the FTAP as defined in ERISA Section 303(d)(2). This is the ratio of actuarial (i.e., smoothed) assets to the funding target without regard to at-risk status. . A summary of both required data elements is shown in Exhibit 3.

Exhibit 3
Additional Actuarial Information Reported in 4010 Filings[6]

Year	Aggregate At-Risk Funding Target (in billions)	Average Funding Target Attainment Percentage[7]
2008	$148.0	84%[8]
2009	$151.2	80%
2010	$277.3	76%
2011	$390.1	73%
2012	$445.7	75%

Recommendations to Reduce Reporting Burdens & 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, resulting in both over- and under-inclusiveness. Companies whose financial soundness is widely recognized are forced to file 4010 reports while companies that are on the verge of bankruptcy (or even, in bankruptcy) are exempt from reporting simply because their plans were over 80% funded. **In fact, in the past few years, PBGC incurred**

[6] These amounts are determined without regard to the MAP-21 discount rate stabilization rules. They relate only to post-PPA years. PBGC's 4010 regulation waives reporting these measures with respect to pre-PPA plan years even if such plan year is included in a 4010 report for a 2008 information year (e.g., a July 1, 2007 – June 30, 2008 plan year for an employer with a calendar year fiscal year). 71 of the 263 reported plans from the 2008 information year fall into this category. The aggregate information shown in the table above for 2008 relates only to the other 192 plans. Almost all filers were required to report at-risk funding targets for the information years after 2008. A few plans were not required to report at-risk funding targets because of delayed implementation dates for PPA (e.g., plans sponsored by defense contractors).

[7] These amounts represent the average FTAP (i.e., the sum of each plan's reported FTAP divided by the total number of plans).

[8] The overall average FTAP can be above 80% for plans reporting information under 4010 because all plans sponsored by the employer must file 4010 information with PBGC if the FTAP for any plan in the controlled group is below 80%.

more than $2 billion in total claims arising from the termination of plans sponsored from companies that were not required to submit 4010 information.

It is clear that the funding percentage is a poor predictor of termination risk. PBGC has found the risk of termination of a plan depends most significantly on the plan sponsor's financial strength, not on its current funding level. By better targeting of reporting requirements, we could both take a substantial and unnecessary reporting burden off companies and help PBGC do its job better.

Therefore, PBGC recommends that section 4010 be amended to allow PBGC to revise reporting criteria in ways that minimize burden and improve the usefulness of the data. This would be done through notice and comment rulemaking, which would include Paperwork Reduction Act review for form changes.

PBGC also recommends eliminating the requirement to report the funding target of the plan determined as if the plan has been in at-risk status for at least 5 plan years (ERISA Section 4010(d)(1)(B)). PBGC does not use this information because termination liability, which is also reported (see Exhibit 2 above), is the relevant amount. It is burdensome and costly for companies to calculate the 4010(d)(1)(B) amount and, unless a plan has actually been in at-risk status for at least 5 plan years [9], that amount is not used for any purpose other than reporting under ERISA Section 4010.

---

[9] It is very unlikely that a plan would be in at-risk status for five years. For example, of the 613 plans reported in 2012 4010 filings, only three have been in at-risk status for five years.