



PBGC issues final rules on electronic filing for certain multiemployer plan notices

On September 17, 2015, the Pension Benefit Guaranty Corporation (PBGC) issued final rules, which require the electronic filing of certain multiemployer plan notices pertaining to plan termination or insolvency. PBGC believes that the benefits of electronic filing will result in greater efficiencies for the government and simplify the filing process for the public.

Background

Under PBGC rules, when a multiemployer plan becomes insolvent, PBGC provides financial assistance directly to insolvent plans sufficient to pay:

- Guaranteed benefits to participants and beneficiaries; and
- Reasonable and necessary administrative expenses of the insolvent plan.

PBGC rules also provide there are two types of multiemployer plan terminations:

- Mass withdrawal termination occurs when all employers withdraw or cease to be obligated to contribute to the plan; and
- Plan amendment termination occurs when the plan adopts an amendment that provides that participants will receive no credited service with any employer after a specified date, or an amendment that makes it no longer a covered plan.

Unlike single-employer plan terminations, terminated multiemployer defined benefit plans generally continue to pay all vested benefits out of existing plan assets and withdrawal liability payments.

Multiemployer plan notices

A plan sponsor of a terminated multiemployer plan must file a notice of termination containing basic information necessary to alert PBGC to possible demands on the multiemployer insurance program.

A plan sponsor must also file the following notices:

- Notice of insolvency, which states a plan sponsor's determination that the plan is or may become insolvent; and
- Notice of insolvency benefit level, which states the level of benefits that will be paid during an insolvency year. An "insolvency year" is the plan year in which a plan is insolvent.

PBGC rules allow a single notice of insolvency to cover more than one plan year, which permits plan sponsors to file only a single notice of insolvency benefit level for any future year.

In the event of a [mass withdrawal termination](#), a plan sponsor must:

- Provide notices to PBGC and to participants and beneficiaries that a plan is or will be insolvent;
- Provide notices to PBGC and to participants and beneficiaries who are in pay status or may reasonably be expected to be in pay status during the year; and
- Submit an application to PBGC for financial assistance if a plan is, or will be, unable to pay guaranteed benefits.

PBGC final rules

The final rules require the electronic filing of the following notices with the PBGC:

- Notice of termination;
- Notice of insolvency and of insolvency benefit level in the event the plan sponsor determines the plan is or may become insolvent;
- Notice of insolvency and of insolvency benefit level in the event of a mass withdrawal termination; and
- Application for financial assistance following a mass withdrawal termination.
 - When a plan sponsor determines there are insufficient resources to pay guaranteed benefits, it must apply for financial assistance at the same time that it files a notice of insolvency benefit level.
 - When a plan sponsor determines an inability to pay guaranteed benefits for any month, it must file for financial assistance within 15 days after making that determination.

A plan sponsor must file these notices electronically in accordance with the instructions displayed on the [PBGC's website](#).

PBGC will grant case-by-case exemptions to the electronic filing requirement in appropriate circumstances for plan sponsors that demonstrate good cause for exemption.

Next steps

The final regulations are effective on October 19, 2015, and apply to filings made on or after January 1, 2016.

Plan sponsors should consult with their legal counsel or the plan's enrolled actuary if they have any questions regarding the guidance discussed in this publication.

Compliance Advisory by Prudential Retirement

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