

## PBGC Issues

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## PBGC Issues - Agenda

- New Rules on:
  - Standard Termination
  - Reportable Events for Small Plans
  - Premiums
  - My PAA
- Premium examples



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## Standard Terminaton Notice / Form 500

### New filing requirement

- Must submit:
  - Copy of Notice of Intent to Terminate (NOIT)
  - Sample Notice of Plan Benefits (NOPB) for all applicable categories
    - ✓ Actives
    - ✓ Retirees
    - ✓ Separated vesteds and non-vesteds



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## Standard Termination Notice / Form 500 (Cont.)

- PBGC reviews Notices within its 60-day review period
- PBGC may issue a Notice of Noncompliance or require issuance of corrected Notices
- PBGC will follow its regulations, which allow consideration of plan participants' interests as well as correction of good faith errors, to determine if nullification is appropriate



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## Post-Distribution Certification Form 501

New Filing Requirement - must submit:

- Proof of Distributions
- Copy of most recent complete plan document and any amendments (Prototype and Adoption Agreement)



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## Post-Distribution Certification Form 501

- Proof of distributions and plan documents may be sent electronically
- PBGC's secure upload link is <http://pbgc.leapfile.com>
- Will need email address of recipient at PBGC
- Email addresses at PBGC are the employees': [lastname.firstname@pbgc.gov](mailto:lastname.firstname@pbgc.gov)



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## Proof of Distributions

### Irrevocable Commitments:

- Copy of annuity contract(s), annuity certificates, written notices to participants identifying –
  - Contact information for annuity provider
  - Group contract numbers
  - List of participants



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## Proof of Distributions

### Lump Sums:

- Cancelled checks
- Bank statement with names and distribution amounts
- Can cause delay in submitting PDC
  - PDC is due within 30 days after last distribution date
  - Penalty is assessed only to the extent filing is more than 90 days after distribution deadline
  - PBGC waives penalty if delay is for reasonable cause



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## Proof of Distribution

- Rollovers/Direct Deposits
  - Provide documentation from financial institution
  - 1099-R's suggest payment, don't prove it



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# Reportable Events



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## Reportable Events: Overview

- What is a Reportable Event?
- Importance of Reportable Events
- Former Reportable Events Regulation
  - Sometimes referred to as “Current Reg” as still effective until applicability date of final rule
- Why the Reg was Changed
- Final Rule
- Benefits of Final Rule
- Forms and Instructions



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## What is a Reportable Event?

- Events may be indicative of a need to terminate the plan
- Most events reportable within 30 days after event occurs; penalties apply if filing late

### Corporate Events

1. Extraordinary Dividend or Stock Redemption
2. Change in Contributing Sponsor or Controlled Group
3. Bankruptcy
4. Liquidation
5. Loan Default

### Plan Events

1. Active Participant Reduction
2. Transfer of Benefit Liabilities
3. Distribution to a Substantial Owner
4. Failure to Make a Required Contribution
5. Application for a Funding Waiver
6. Inability to Pay Benefits When Due



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## Importance of Reportable Events

- Early intervention can prevent plan termination; PBGC works to encourage plan continuation
- If plan termination inevitable, early intervention can maximize recovery of plan assets for benefit of participants and lessen the need to use PBGC funds
- PBGC often notified plan needs to terminate after assets depleted or sponsor out of business
- All involved (actuaries, TPAs, sponsor) should notify us if continuation of plan is at risk



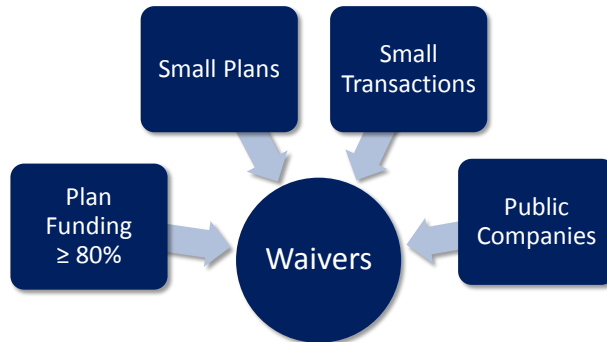
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## Former Reportable Events Regulation

- Waivers under former regulation include:



*Note: Not all waivers apply to all events*



## Former Reg Outdated and Waivers Ineffective

- PPA made changes to funding concepts that needed to be incorporated into the regulation
- The system of waivers caused undue burden and ineffective reporting:
  - PBGC did not receive reports it needed
  - PBGC received reports from plans that do not truly pose risk to the pension insurance system





## New Reportable Events Regulation

- Applies to events occurring on or after 1/1/16
- No changes to due dates
  - Generally, 30 days after event occurs
  - In some cases, 30 days after plan administrator knows (or has reason to know) that event occurred
- Mandatory e-filing
  - Emailing pdf version of Form 10 is acceptable
  - Optional new “portal” method to be discussed later



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## New Reportable Events Regulation Small Plan Waivers

- “Small” defined
  - Same as for premiums (100 or fewer participants)
  - Based on prior year’s premium filing
- Small plans waived from reporting certain events:
  - Extraordinary Dividend or Stock Redemption
  - Active Participant Reduction
  - Change in Controlled Group
  - Transfer of Benefit Liabilities
  - Missed Quarterlies



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## New Reportable Events Regulation

- Other notable changes re: waivers
  - New waivers
    - Tied to financial health of the sponsor
    - Public companies
  - Funding based waiver modified: No VRP (100% funded)
- Small plans generally won't need/use these waivers
  - With one exception, where these waivers apply, the small plan waiver also applies
  - Exception: "distribution to substantial owner" event
    - No small plan waiver
    - Financial health and "No VRP" waivers apply



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## New Reportable Events Regulation

### Distribution to substantial owner

- Event definition expanded to include:
  - Distribution to owner during 1-year is more than 1% of year-end plan assets as reported on prior two year's 5500.
  - Aggregate distributions to all owners during 1-year is more than 5% (same asset measure)
- One time reporting for substantial owners receiving benefit in an annuity form
- New reporting waivers



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## New Reportable Events Regulation Corporate Events

### Bankruptcy, liquidation or loan default

- In court bankruptcies no longer need to be reported
- Liquidations – no change
- Loan default pertains to loans greater than \$10 million; most waivers eliminated



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## New Reportable Events Regulation

### Failure to make a required contribution event

- Companies often fail to report
  - Lowest compliance rate of all reportable events
- Reporting waived if:
  - Reason contribution missed solely due to not waiving a credit balance timely,
  - Contribution made up within 30 days, or
  - For small plans only, missed contribution is a quarterly
- Missed final contribution **MUST** be reported regardless of plan size (i.e., contribution due 9/15/2016 for 2015 calendar year plan)



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## New Reportable Events Regulation

### Other events

- Inability to Pay Benefits When Due
  - Time limit of 2 months does not apply to delay in paying a missing payee
- Application for Funding Waiver
  - Submitting application to IRS is not sufficient
  - Need to report to PBGC also



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## Reportable Events Forms and Instructions (Form 10)

- Pre-2016 events
  - Current (“old”) regulation applies
  - Applicable forms and instructions revised 9/1/15 and available on PBGC’s website
  - Enhanced requirements re: actuarial information
  - Signature and certification on completeness and accuracy
- Post 2015 events
  - Forms will be further revised to reflect new rules
  - Will be posted before year-end



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# Proposed Changes to 4010 Regulation



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## 4010 reporting

- Generally just for large companies/plans
- Reporting required if any plan in controlled group has an FTAP < 80%
- FTAP determined w/o regard to stabilization rules
- Reporting waived:
  - Current rule: total underfunding, all plans combined, less than \$15 million
  - Proposed change:
    - Total underfunding, all plans combined, less than \$15 million, and
    - Total # of participants < 500
- New e-filing portal



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# PBGC Premiums



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# PBGC Premiums

- Recent changes
  - First effective for 2014 plan year
  - Biggest changes for small plans
    - Lookback rule for determining variable-rate premium
    - Accelerated due date
- Other changes
  - Accelerated due date for some terminating plans
  - New certification option
  - Change in timing re: certifications for uploaded filings
  - Optional contact information



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## PBGC Premiums - Due Dates

- Starting with 2015, same due date rules apply to plans of all sizes
  - Small calendar year plan example:
    - 2014: February 17, 2015 (weekend/holiday rule)
    - 2015: October 15, 2015
- Special rules for new and newly covered plans
- Special rules for standard terminations – to be discussed later



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## PBGC Premiums

### Variable Rate Premium Overview

- Rate - \$X per \$1,000 unfunded vested benefits
- Assumptions used to determine premium liability
  - No changes since PPA was implemented
  - Choice between:
    - Standard (spot segment rates), and
    - Alternative (whatever is used for funding, but w/o regard to stabilization rules)
  - Whichever option is used, must be used for at least 5 years



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## PBGC Premiums

### VRPs – when to measure UVBs

- “UVB valuation date” - same valuation date used for funding purposes
- Regardless of valuation date, exclude benefits accrued during plan year
- Which year’s valuation date?
  - Default: Lookback year (use 2014 valuation for 2015 VRP)
  - Plans can “opt out” of the lookback rule (subject to certain constraints)
    - Opting out generally a one-time thing
    - Opting out doesn’t work for plans with year-end valuation dates



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## PBGC Premiums

### Opting out of lookback rule

- Automatic approval to opt out for 2014 VRP
  - No official election required
  - Tied to whatever’s reported as the UVB valuation date
- PBGC consent generally required to opt back in (or out) for a future year.
- Permission to opt-out after 2014 isn’t required:
  - The first time UVBs are reported
    - Newer plans
    - Plans paying small-employer cap and not reporting UVBs
  - The first year a large plan becomes small



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## PBGC Premiums Requesting Permission

- Send an email to [premiums@pbgc.gov](mailto:premiums@pbgc.gov) at least 60 days before due date
- Subject line: “Request re: lookback rule”
- In body of email
  - Identify plan
  - Explain the reason the plan wants to make the change



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## PBGC Premiums

### UVB valuation date vs. participant count date

- Participant count date
  - Date for counting participants for flat-rate premium
  - Tied to plan year, not valuation date
  - Generally last day of prior plan year.
- UVB valuation date
  - Date for measuring UVBs for VRP purposes
  - Always tied to funding valuation date
  - Could be prior or current year’s valuations date (depending on whether lookback rule is used)
- The two are usually different
- The two are the same if a small plan with a year-end valuation date uses the lookback rule for determining UVBs



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## PBGC Premiums

### Which participants count

- Anyone for whom the plan has Benefit Liabilities as of the Participant Count Date (whether active, inactive, retired, or deceased).
- PBGC Participant count may not match the 5500 Participant count for the same Plan Year



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## VRP Exemptions for On-going Plans

- New or newly covered plans
- Plans with no vested benefits (as of UVB valuation date)
- Interplay of these two exemptions may lead to two year exemption for some plans
  - Consider a new plan with no vested benefits as of the UVB valuation date for the first year.
    - First year: Plan qualifies for “New Plan” exemption
    - Second year, if lookback rule is used, plan qualifies for “No Vested Benefits” exemptions



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## Standard Termination VRP exemptions

- Final distribution during the plan year exemption
  - Exemption can be claimed even if not fully closed out at time of filing
    - Leave “date of final distribution” item blank (item 13 of illustrative form)
    - No need to amend later when date is known
    - PBGC system will update that information when Form 501 has been processed
  - If the distribution doesn’t end up happening by year end, filing must be amended
    - Any VRP owed will be considered late
    - Late fees will likely be assessed



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## Standard Termination VRP exemptions

- Final distribution during the plan year exemption (CONT)
  - If you’re not certain the plan will be closed out by year end, might be safer to skip the exemption and have the PA pay the calculated VRP.
  - If distribution does happen before year end, you can request a refund.
  - PBGC will know about distribution from Form 501, so no need to amend filing necessary.
- To request a refund in this situation for the VRP and any proration (if applicable), email [premiums@pbgc.gov](mailto:premiums@pbgc.gov)



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## Premium Rates

Year	Single-employer Plans			Multis
	Flat	Variable		Flat
		Rate per \$1,000 of UVBs	Cap per participant	
2015	\$57	\$24	\$418	\$26
2016	\$64	\$29*	\$500	\$26*

\* Subject to indexing and therefore, might be higher than what's shown above. After 2016, all rates will be subject to indexing.

- Small-employer cap still applies to VRP
  - \$5 \* # of participants<sup>2</sup>



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## PBGC's MyPAA

- All PBGC Comprehensive Premium Filings must be submitted online through the PBGC's My Plan Administration Account (MyPAA)
- **Manually** fill in the data within the MyPAA screens. Must have an account for each Plan.
- **Import** operates exactly the same as above except the data entries are imported via xml file.
- **Upload** the data from an xml file. Filing cannot be reviewed or edited. Only the person doing the upload needs a single MyPAA account.



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## PBGC's MyPAA

- **Import** method
  - Assume the 'user' of the system is the Filing Coordinator, and is either the TPA or actuary
  - Certification is required by Plan Administrator (PA) and actuary.
  - Both PA and actuary can certify electronically.
  - The alternative is for the user to electronically certify on behalf of PA (or actuary).
  - Must first secure hard signature certifications.



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## PBGC's MyPAA

- If user is certifying on behalf of PA, permissions should be set as follows:

Serve as Filing Coordinator.  
 Sign and submit filings as a plan administrator.  
 or  
 Submit filings as a plan administrator's representative.

Please enter plan administrator's details:

* First Name:	Plan
* Last Name:	Administrator
* Phone:	202-377-8700
* E-mail:	planadministrator@company.com
* Confirm E-mail:	planadministrator@company.com



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## PBGC's MyPAA

- In practice, task list might look like this while waiting for the PA signature:

**Filing Task List** [» Instructions](#)

<b>View/Edit Filing</b>	✓ This filing contains all the required information; however, a complete filing does not necessarily indicate that there are no errors. To review warning messages related to common mistakes, click the View button.	<b>Delete Filing</b>
<b>Sign</b>	Sign as Plan Administrator or PA Representative	
	✓ Enrolled Actuary e-signature completed 3:30 AM, 9/20/2015 Eastern Time	
<b>Edit E-Payment</b>	✓ Authorization for payment alternative completed Payment alternative selected: Paper Check 3:31 AM, 9/20/2015 Eastern Time	



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## PBGC's MyPAA

- Upload Method – change in manual certification procedures
  - In the past, actuary could submit filing before the PA had signed a hard copy.
  - That option is no longer available.
  - Now: PA's hard copy certification must be received before filing can be uploaded
    - With new certification, uploader is certifying that he/she has seen the PA's manual certification.
  - Revised process fairly consistent with 5500 e-filing manual certification rules
    - One difference – for 5500, scanned version of hard copy with manual signature gets attached to e-filing. No such requirement for premium filing



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## Examples

### Example 1 – Flat Rate Premium - 2015

- New plan established 1/1/15 covers 2 employees
- No past Service Benefits.
- 2/20 vesting excluding service prior to effective date.
- 2015 PBGC Participant Count Date = 1/1/15



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## Examples

### Example 1 – continued

- Participant Count = 0
- Flat Rate Premium = -0
- Premium filing still required



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## Examples

### Example 2 – Flat Rate Premium – 2016

- 2016 Participant Count Date = 12/31/15
- Participant count = 2 (even though benefits are not yet vested)
- Flat Rate Premium =  $\$64 \times 2 = \$128$



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## Examples

### Example 3 – UVB for 2015 BOY Val

- 2015 UVB Valuation Date for Calendar Plan is 1/1/15.
- Benefits earned on 1/1/15, valued on 1/1/15
- Assets on 1/1/15 including 2014 contributions made after val date (but before filing date)
- 2015 UVB includes 2014 benefits and contributions (if deposited by filing date).



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## Examples

### Example 4 – UVB for 2015 EOY Val

- Benefits earned on 1/1/15, valued on 12/31/15
- Assets on 12/31/15 excluding any 2015 Plan Year contributions deposited before year end.



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## PBGC Premiums – VRP

### Example 5A – VRP BOY Val – No Lookback

- Plan Effective Date: 1/1/13
- 3 year cliff vesting excluding YOS prior to eff date.
- Participants hired by 1/1/13 are 0% vested until mid year 2015
- 25 Participants in plan on 1/1/13
- 26 Participants on 7/1/15



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## PBGC Premiums – VRP

### Example 5A – VRP BOY Val - No Lookback Cont'd

- 2015 PBGC filing
- Participant Count Date = 12/31/14
- Participant Count = 25
- Flat Rate Premium =  $25 * \$57 = \$1,425$
- UVB Valuation Date = 1/1/15
  - UVB = -0-
  - VRP = -0-
- Total Premium = \$1,425



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## PBGC Premiums – VRP

### Example 5A – VRP BOY Val - No Lookback Cont'd

- 2016 PBGC filing
- Participant Count Date = 12/31/15
- Participant Count = 26
- Flat Rate Premium =  $26 * \$64 = \mathbf{\$1,664}$
- UVB Valuation Date = 1/1/16 (participants are vested)
- 1/1/16 Premium Funding Target = 874,000
- 1/1/16 FMV Assets = 800,000



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## PBGC Premiums – VRP

### Example 5A – VRP BOY Val - No Lookback Cont'd

- $UVB = 874,000 - 800,000 = 74,000 = \$75,000$
- $Uncapped\ Premium = \$75,000 \times .029^* = \$2,175$
- $Total\ Premium = \$1,664 + \$2,175 = \$3,839$



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## PBGC Premiums – VRP

### Example 5B – VRP BOY Val – with Lookback

- 2016 PBGC filing (same plan) with Lookback  
Participant Count Date = 12/31/15
- Participant Count = 26
- Same Flat Rate Premium =  $26 * \$64 = \$1,664$
- UVB Valuation Date = 1/1/15 (no vested Part.)
- UVB = \$-0-
- VRP = \$-0-
- Total Premium = \$1,664 (vs \$3,839)



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