

SUBCHAPTER C—CERTAIN REPORTING AND DISCLOSURE REQUIREMENTS

PART 4010—ANNUAL FINANCIAL AND ACTUARIAL INFORMATION REPORTING

| | |
|---------|---|
| Sec. | |
| 4010.1 | Purpose and scope. |
| 4010.2 | Definitions. |
| 4010.3 | Filing requirement. |
| 4010.4 | Filers. |
| 4010.5 | Information year. |
| 4010.6 | Information to be filed. |
| 4010.7 | Identifying information. |
| 4010.8 | Plan actuarial information. |
| 4010.9 | Financial information. |
| 4010.10 | Due date and filing with the PBGC. |
| 4010.11 | Waivers and extensions. |
| 4010.12 | Confidentiality of information submitted. |
| 4010.13 | Penalties. |
| 4010.14 | OMB control number. |

AUTHORITY: 29 U.S.C. 1302(b)(3), 1310.

SOURCE: 61 FR 34022, July 1, 1996, unless otherwise noted.

§ 4010.1 Purpose and scope.

This part prescribes the requirements for annual filings with the PBGC under section 4010 of ERISA. This part applies to filers for any information year ending on or after December 31, 1995.

§ 4010.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: benefit liabilities, Code, contributing sponsor, controlled group, ERISA, fair market value, IRS, PBGC, person, plan, and plan year.

In addition, for purposes of this part:

Exempt entity means a person who does not have to file information and about whom information does not have to be filed, as described in § 4010.4(d) of this part.

Exempt plan means a plan about which actuarial information does not have to be filed, as described in § 4010.8(c) of this part.

Fair market value of the plan's assets means the fair market value of the plan's assets at the end of the plan year ending within the filer's information year (determined without regard to any contributions receivable).

Filer means a person who is required to file reports, as described in § 4010.4 of this part.

Fiscal year means, with respect to a person, the person's annual accounting period or, if the person has not adopted a closing date, the calendar year.

Information year means the year determined under § 4010.5 of this part.

§ 4010.3 Filing requirement.

(a) *In general.* Except as provided in § 4010.8(c) (relating to exempt plans) and except where waivers have been granted under § 4010.11 of this part, each filer shall submit to the PBGC annually, on or before the due date specified in § 4010.10, all information specified in § 4010.6(a) with respect to all members of a controlled group and all plans maintained by members of a controlled group.

(b) *Single controlled group submission.* Any filer or other person may submit the information specified in § 4010.6(a) on behalf of one or more members of a filer's controlled group. If a person other than a filer submits the information, the submission must also include a written power of attorney signed by a filer authorizing the person to act on behalf of one or more filers.

§ 4010.4 Filers.

(a) *General.* A contributing sponsor of a plan and each member of the contributing sponsor's controlled group is a filer with respect to an information year (unless exempted under paragraph (d) of this section) if—

(1) The aggregate unfunded vested benefits of all plans (including any exempt plans) maintained by the members of the contributing sponsor's controlled group exceed \$50 million (disregarding those plans with no unfunded vested benefits);

(2) Any member of a controlled group fails to make a required installment or other required payment to a plan and, as a result, the conditions for imposition of a lien described in section 302(f)(1)(A) and (B) of ERISA or section 412(n)(1)(A) and (B) of the Code have