

Technical Update 14-2: Effect of HATFA on 4010 Reporting

October 17, 2014

This Technical Update 14-2 provides PBGC guidance on the effect of the Highway and Transportation Funding Act of 2014 (HATFA) on annual financial and actuarial information reporting under section 4010 of ERISA and part 4010 of PBGC's regulations.¹ This Technical Update supersedes any inconsistent guidance in PBGC's 4010 filing instructions.

The Moving Ahead for Progress in the 21st Century Act (MAP-21) provides stabilization rules that limit the volatility of discount rates, used for certain funding and benefit restriction purposes, by constraining them within a range around the 25-year average segment rates. Under MAP-21, the range, or "corridor," was scheduled to widen over time starting with plan years beginning in 2013 (2013 plan years). HATFA extends the period during which the narrowest range applies. HATFA applies retroactively to the 2013 plan year. Under HATFA, the narrowest range applies through the 2017 plan year.

Plan sponsors may elect to wait until the 2014 plan year to use HATFA rates for funding purposes, in which case the MAP-21 rates will apply for the 2013 plan year. Under [IRS Notice 2014-53](#), plans may decide whether to use MAP-21 or HATFA rates for 2013 funding determinations as late as December 31, 2014 (or, if later, the due date for the 2013 Form 5500 Annual Return/Report).

MAP-21 guidance for 4010 filings

[PBGC Technical Update 12-2](#) provides guidance on how the MAP-21 stabilization rules affect 4010 reporting. It specifies the calculations where the stabilization rules are to be disregarded (e.g., 80% gateway test) and the calculations where the stabilization rules are to be used (e.g., \$15 million funding shortfall waiver, actuarial valuation report data). Technical Update 12-2 also provides a reporting waiver if the value of plan assets used for minimum funding purposes were substituted for the value described in Q&A NA-3 of [IRS Notice 2012-61](#) when determining the funding target attainment percentage (FTAP).

The rules and concepts set forth in [PBGC Technical Update 12-2](#) continue to apply.

Plan actuarial information for 2013 plan years reported in 4010 filings

Background

4010 filers are required to provide, among other things, the following actuarial information for plans other than exempt plans:²

- The FTAP, AFTAP, and funding target determined as if the plan has been in at-risk status for funding purposes for five (5) years, which are reported directly on Schedule P, and
- The actuarial valuation report submitted as an attachment to the 4010 filing.

4010 filings are due 105 days after the end of the "information year" (e.g., April 15th after year end if the information year is the calendar year).³ The required actuarial information relates to the plan year ending within the information year.

Potential timing issue

HATFA's retroactive application for 2013 may cause a timing issue for some 4010 filers. For example, consider two employers that each sponsor a calendar year plan but that have different 4010 filing information years.

	Employer A	Employer B
Information year containing 12/31/2013	1/1/2013 - 12/31/2013	9/1/2013 - 8/31/2014
Due date for 4010 filing that includes information about 2013 plan year	4/15/2014	12/14/2014

As a result of HATFA, both employers have potential timing issues with respect to their 4010 filings. Employer A submitted its 4010 filing before HATFA was enacted, so the actuarial information for the 2013 plan year was necessarily based on MAP-21 rates. Employer B's 4010 filing is due before the employer needs to decide whether to have HATFA rates apply for 2013. Therefore, whatever actuarial information is reported on the 4010 filing is subject to change.

No need to amend to certain 4010 filings

If a 4010 filing contains actuarial information for 2013 based on segment rates that differ from those the plan ultimately uses, ordinarily the filing would need to be amended. PBGC appreciates that it would be unduly burdensome to require such amendments. Therefore, 4010 filings need not be amended solely to revise actuarial information that changed because of a decision to use HATFA rates for the 2013 plan year of a plan reported in the filing. This relief applies regardless of when the 4010 filing is submitted (i.e., before or after HATFA was enacted).

4010 filings submitted before actuarial valuation report is available

Under PBGC's regulations, if the actuarial valuation report is not available when the 4010 filing is due, the filer may submit the filing without the report and then submit the report by an alternative (later) due date (15 days after the plan's Form 5500 is due).⁴

4010 filing already submitted. If a filer in that situation has already submitted a 4010 filing containing actuarial information (on Schedule P) for 2013 based on MAP-21 rates, the filer may submit an actuarial valuation report by the alternative due date based on either MAP-21 rates or HATFA rates (whichever is available).⁵

4010 filing not already submitted. Similarly, if a filer in that situation submits a 4010 filing in the future containing actuarial information (on Schedule P) for 2013 based on MAP-21 rates, the filer may submit an actuarial valuation report by the alternative due date based on either HATFA or MAP-21 rates.

Reservation of right to request revised actuarial information

PBGC reserves the right to request that a filer submit revised actuarial information for 2013 reflecting the rates the plan ultimately uses for 2013, in the event PBGC decides it needs the information for its monitoring and enforcement activities. If PBGC requests such information, it will provide sufficient time to comply with the request.

4010 filings submitted but no longer required

Because of the retroactive application of HATFA, it is possible that a 4010 filing that has already been submitted is no longer required because of HATFA.⁶ If a filer in that situation stated in the filing that an actuarial valuation report would be submitted by the alternative due date, the filer need not submit the report. And if a 4010 filing is also not required for the next information year, the filer need not report to PBGC the reason why that filing is not required, as would ordinarily be required for previous filers.⁷ PBGC may, in the course of normal operations, contact the filer asking why such report or filing was not submitted. Filers wishing to avoid such correspondence may send a brief email to ERISA.4010@pbgc.gov explaining the situation.

PBGC contact

For questions about this Technical Update 14-2, please contact Amy Viener at 202-326-4000, ext. 3919, or viener.amy@pbgc.gov or Ellen Itkin at 202-326-4000, ext. 3075, or itkin.ellen@pbgc.gov.

¹ See [4010 Reporting](#) on PBGC's website.

² See 29 CFR § 4010.8(c).

³ The filer's information year is generally the employer's fiscal year. See 29 CFR § 4010.5.

⁴ See 29 CFR § 4010.8(a)(12)(b).

⁵ PBGC is aware that in some cases, the assumptions underlying the data in the actuarial valuation report may differ from the data reported earlier on Schedule P.

⁶ This could happen if the filer did not qualify for the automatic 4010 filing waiver at the time the filing was submitted because the company's aggregate 4010 funding shortfall determined using MAP-21 rates exceeds \$15 million, but based on HATFA rates does not. See 29 CFR § 4010.11(c).

⁷ See 29 CFR § 4010.6(a)(2)