

## PBGC Announces One-Time 4010 Filing Waiver

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**PRACTICES** Employee Benefits and Executive Compensation

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Under Section 4010 of ERISA, sponsors of underfunded, single-employer plans and members of the sponsor's controlled group must report identifying, financial, and actuarial information to the PBGC, if one or more plans sponsored by a member of the controlled group has a funding target attainment percentage for ERISA Section 4010 purposes ("**4010 FTAP**") below 80%. The way the atypical market conditions of late 2022 and early 2023 impacted plan assets and liabilities resulted in the 4010 FTAP for many plans falling well below the 80% threshold during the period from October 1, 2022 to March 1, 2023. In response, the PBGC issued Technical Update 23-1 granting a one-time waiver of the ERISA Section 4010 filing requirement to sponsors of underfunded plans that meet certain criteria.

To be eligible for the waiver, a plan sponsor must satisfy the following three criteria: (i) the ERISA Section 4010 filing requirement must not have applied for the five consecutive information years immediately preceding the applicable information year; (ii) either (a) none of the plans in the sponsor's controlled group had a market-based 4010 FTAP below 85% for the plan year ending within the applicable information year, or (b) the market-based aggregate ERISA 4010 funding shortfall did not exceed \$15 million; and (iii) every plan in the sponsor's controlled group with a 4010 FTAP below 80% for the plan year ending within the applicable information year must have had a valuation date on or after October 1, 2022 and on or before March 1, 2023.

To take advantage of this waiver, a plan sponsor must notify the PBGC no later than 15 days prior to the original ERISA Section 4010 filing due date by sending an email to [\[email protected\]](#) with the subject line "Technical Update 23-1 Waiver" that includes (i) the name of the parent at the highest level in the chain of organizations constituting a parent-subsidary controlled group, and (ii) the end date of the applicable information year.

Technical Update 23-1 is available [here](#).