

**POST-EVENT NOTICE OF REPORTABLE EVENTS**

**PBGC Form 10**

**Approved OMB #1212-0013**

**Expires xx/xx/xx**

This form must be used by a plan administrator or contributing sponsor of a single-employer plan to give post-event notice to the Pension Benefit Guaranty Corporation that a reportable event has occurred.

**IDENTIFYING INFORMATION**

Plan name:

Filer name:

EIN of contributing sponsor \_\_\_\_\_ PN of plan \_\_\_\_

Name of contributing sponsor / name and title of individual to contact

Street address of contact

City, State, Zip

Telephone number and email address of contact

Name of plan administrator / name and title of individual to contact

Street address of contact

City, State, Zip

Telephone number and email address of contact

Date of event:

**REPORTABLE EVENTS** - See instructions for descriptions of these events. Check all boxes that apply.

- Active participant reduction (29 CFR §4043.23)
- Failure to make required minimum funding payment (29 CFR §4043.25)
- Inability to pay benefits when due (29 CFR §4043.26)
- Distribution to a substantial owner (29 CFR §4043.27)
- Change in contributing sponsor or controlled group (29 CFR §4043.29)
- Liquidation (29 CFR §4043.30)
- Extraordinary dividend or stock redemption (29 CFR §4043.31)
- Transfer of benefit liabilities (29 CFR §4043.32)
- Application for minimum funding waiver (29 CFR §4043.33)
- Loan default (29 CFR §4043.34)
- Insolvency or similar settlement (29 CFR §4043.35)

**BRIEF DESCRIPTION** - Briefly describe the pertinent facts relating to the event.

*The following pages list additional information that must be submitted with this form, if not included above.*

## **ADDITIONAL INFORMATION REQUIRED FOR EACH EVENT**

### **Active Participant Reduction**

- Statement explaining the cause of the reduction (*i.e.*, identify whether the cause was a single-cause event, short-period event, or attrition event and describe such event)

*Note: this statement must be included with the brief statement of pertinent facts listed under Brief Description above.*

- Number of active participants at the date the event occurs, at the beginning of the current plan year, and at the beginning of the prior plan year

### **Failure to Make Required Contributions**

- Due date and amount of the missed contribution and the next payment due
- List of amount and date of all contributions not timely made and not reported on the most recently filed Schedule SB
- Description of the plan's controlled group structure, including the name of each controlled group member
- Name of each plan maintained by any member of the plan's controlled group, its contributing sponsor(s) and EIN/PN
- Financial information for all controlled group members (see page 13 of the Form 10 Instructions)
- Actuarial information (see page 13 of the Form 10 Instructions)

### **Inability to Pay Benefits When Due**

- Date of any missed benefit payment and amount of benefit due
- Next date on which the plan is expected to be unable to pay benefits, the amount of the projected shortfall, and the number of plan participants expected to be affected
- Amount of the plan's liquid assets at the end of the most recent quarter, and the amount of its disbursements for the quarter
- Name, address and telephone number of plan trustee (and of any custodian)
- Status of each controlled group member (in Chapter 7 proceedings, liquidating outside of bankruptcy, ongoing, etc.)
- Name of each plan maintained by any member of the plan's controlled group, its contributing sponsor(s) and EIN/PN
- Financial information for all controlled group members (see page 13 of the Form 10 Instructions)
- Actuarial information (see page 13 of the Form 10 Instructions)
- If the plan sponsor is expected to cease or has ceased operations also provide:
  - Date on which operations are expected to cease or have ceased
  - Most recent pension plan document(s)
  - Name and address of each controlled group member
  - The Internal Revenue Service Determination Letter indicating the plan is a covered plan

### **Distribution to a Substantial Owner**

- Name, address, telephone number, and ownership percentage of person(s) receiving the distribution(s)
- Amount, form, date, and reason of each distribution
- For a non-increasing annuity for a substantial owner: indicate the payment period, periodic amount of the payments, and duration of the annuity

### **Change in Contributing Sponsor or Controlled Group**

- Description of the plan's old and new controlled group structures, including the name of each controlled group member

- Name of each plan maintained by any member of the plan's old and new controlled groups, its contributing sponsor(s) and EIN/PN

*If a filer is unable with reasonable diligence to obtain any of the above information about a controlled group other than the filer's controlled group, the filer may instead file a statement to that effect.*

### **Liquidation**

- Description of the plan's controlled group structure before and after the liquidation, including the name of each controlled group member
- Operational status of each controlled group member (in Chapter 7 proceedings, liquidating outside of bankruptcy, on-going, etc.)
- Name of each plan maintained by any member of the plan's controlled group, its contributing sponsor(s) and EIN/PN
- Financial Information for all controlled group members (see page 13 of the Form 10 Instructions)
- Actuarial information (see page 13 of the Form 10 Instructions)
- If the plan sponsor is expected to cease or has ceased substantially all operations also provide:
  - Date on which substantially all operations are expected to cease or have ceased
  - Most recent pension plan document(s)
  - Name and address of each controlled group member
  - The Internal Revenue Service Determination Letter indicating the plan is a covered plan, if applicable

### **Extraordinary Dividend or Stock Redemption**

- Name and EIN of person making the distribution
- Date and amount of cash distribution(s) during fiscal year
- Description, fair market value, and date(s) of any non-cash distribution(s)
- Statement whether the recipient was a member of the plan's controlled group
- Financial statements for all controlled group members (see page 13 of the Form 10 Instructions)

### **Transfer of Benefit Liabilities**

- Name of each plan maintained by any member of the transferee plan's old and new controlled group, contributing sponsor(s) and EIN/PN of the transferor plan and each transferee plan
- Description of the transferee plan's old and new controlled group structures, including the name of each controlled group member
- Explanation of the actuarial assumptions used in determining the value of benefit liabilities (and, if appropriate, plan assets) transferred
- Estimate of the assets, liabilities, and number of participants whose benefits are transferred

*If a filer is unable with reasonable diligence to obtain any of the above information about a controlled group other than the filer's controlled group, the filer may instead file a statement to that effect.*

### **Application for Minimum Funding Waiver**

- Copy of waiver application, with all attachments

### **Loan Default**

- Copy of the relevant loan documents (*e.g.*, promissory note, security agreement, loan agreement amendments and waivers)
- Due date and amount of any missed payment
- Copy of any written notice of default, acceleration, forbearance, or loan agreement amendment or waiver
- Description of any cross-defaults or anticipated cross-defaults

- Description of the plan's controlled group structure, including the name of each controlled group member
- Name of each plan maintained by any member of the plan's controlled group, its contributing sponsor(s) and EIN/PN
- Financial statements for all controlled group members (see page 13 of the Form 10 Instructions)
- Actuarial information (see page 13 of the Form 10 Instructions)

**Insolvency or Similar Settlement**

- Name, address and phone number of any trustee, receiver or similar person
- Docket number of court filing and location of the court where any relevant proceeding was or will be filed (if known)
- Description of the plan's controlled group structure, including the name of each controlled group member
- Name of each plan maintained by any member of the plan's controlled group, its contributing sponsor(s) and EIN/PN
- Actuarial information (see page 13 of the Form 10 Instructions)

## Form 10 Instructions

### Post-Event Notice of Reportable Events

#### PAPERWORK REDUCTION ACT NOTICE

PBGC needs this information, which is required to be filed under Employee Retirement Income Security Act (ERISA) §4043 and 29 CFR Part 4043, Subparts A and B, so that it can take action to protect participants and the termination insurance program in appropriate cases. Information provided to PBGC pursuant to ERISA §4043 is confidential to the extent provided by the Freedom of Information Act, the Privacy Act, and ERISA §4043(f). PBGC estimates that it will take an average of 5.3 hours and \$790 to comply with these requirements. If you have any comments concerning the accuracy of this estimate or suggestions for improving PBGC Form 10, please send your comments to the Pension Benefit Guaranty Corporation, Regulatory Affairs Group, Office of the General Counsel, 1200 K Street, NW, Washington, DC 20005-4026. This collection of information has been approved by the Office of Management and Budget (OMB) under control number 1212-0013. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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## **PART I – GENERAL INSTRUCTIONS**

Section 4043(a) of the Employee Retirement Income Security Act (ERISA) requires that plan administrators and contributing sponsors notify PBGC within 30 days after the occurrence of certain “reportable events.” PBGC’s regulation on Reportable Events (29 CFR Part 4043, Subparts A and B) describes in detail each reportable event and any applicable extension or waiver provisions. The reportable events are:

- A. Active participant reduction
- B. Failure to make required funding payments
- C. Inability to pay benefits when due
- D. Distribution to a substantial owner
- E. Change in contributing sponsor or controlled group
- F. Liquidation of contributing sponsor or controlled group member
- G. Extraordinary dividend or stock redemption
- H. Transfer of benefit liabilities
- I. Application for minimum funding waiver
- J. Loan default
- K. Insolvency or similar settlement

Part III of these instructions summarizes the rules for each event.

The rules in the reportable events regulation apply only to reportable events involving single-employer plans (which include multiple-employer plans) covered by title IV of ERISA. In these instructions, “plan” always means such a plan.

### **What’s New**

PBGC recently amended and updated its reportable events regulation. See \_\_ FR \_\_ (\_\_\_\_\_, 201\_). In connection with the amendments, the Form 10 instructions and Form 10 have been changed; the key changes include:

- New automatic waivers for financially sound plan sponsors and simplified funding-based waivers
- Extension of automatic small plan waiver for controlled group change, benefit liability transfer, and extraordinary dividend events
- Elimination of most filing extensions
- A requirement that filers use PBGC forms to file reportable events notices and that the notices be filed electronically
- Elimination of the “partial electronic filing” provision whereby certain basic information could be submitted on time electronically and followed up within 2 business days with the remaining required information
- A requirement for certain events that filers submit the most recent month-end statement of the market value of plan assets, the most recent actuarial valuation report that contains or is supplemented with all the items of information described in § 4010.8(a)(11) of PBGC’s regulation on Annual Financial and Actuarial Information Reporting (29 CFR part 4010), and a statement of any material changes in plan liabilities since the actuarial valuation report
- A requirement for certain events that filers submit financial statements, including for all controlled group members where specified, to the extent not publicly available
- Reduced reporting of active participant reductions
- Excluding bankruptcies under the Bankruptcy Code from reporting and reduced reporting for other insolvency events
- Making revisions to accommodate statutory changes made by the Pension Protection Act of 2006 (“PPA 2006”)

- Clarification of requirements dealing with missed contributions and inability to pay benefits when due
- A limitation on the scope of the benefit-liability-transfer event to exclude cashouts and annuitizations

### **Advance Reporting Rule for Non-Public Companies**

Section 4043(b) of ERISA requires that certain contributing sponsors notify PBGC at least 30 days before the effective date of certain reportable events. If an event is subject to both post-event and advance notice requirements, the notice filed first satisfies both filing requirements.

A contributing sponsor of a plan is subject to the advance reporting requirement for a reportable event if:

- (1) on the due date for the reportable event notice, neither the contributing sponsor nor any member of the plan's controlled group to which the event relates is a person subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 or a subsidiary (as defined for purposes of the Securities Exchange Act of 1934) of a person subject to such reporting requirements; and
- (2) the plans maintained (on the due date for the reportable event notice) by the contributing sponsor and members of the contributing sponsor's controlled group, disregarding plans with no unfunded vested benefits, have —
  - (i) aggregate unfunded vested benefits of more than \$50 million; and
  - (ii) an aggregate value of plan assets that is less than 90 percent of the aggregate premium funding target.

The unfunded vested benefits, value of plan assets, and premium funding targets are those determined for premium purposes for the plan year preceding the effective date of the event.

Form 10 and the rules described in these instructions do not apply to advance reporting. See the Form 10-Advance package and 29 CFR Part 4043, Subparts A and C, for further information about advance reporting.

### **Who Must Notify PBGC**

The plan administrator and each contributing sponsor of a plan for which a reportable event has occurred must file a post-event reportable event notice with PBGC using the PBGC Form 10. If there is a change in plan administrator or contributing sponsor, the reporting obligation applies to the plan administrator or contributing sponsor(s) on the date the post-event notice is due.

A single occurrence (such as a controlled group break-up) may be a reportable event for more than one plan in the controlled group. In that case, the reporting requirement applies to the plan administrator and each contributing sponsor of each plan. Any filing will be deemed to be a filing by all persons required to notify PBGC.



*Special Rule for Terminating Plans: The fact that a plan is terminating does not excuse a failure to timely file a required reportable event notice. However, no notice is required if the deadline for filing notice is on or after the date on which (1) all of the plan's assets (other than any excess assets) are distributed pursuant to a termination under 29 CFR Part 4041 or (2) a trustee is appointed for the plan under ERISA §4042(c).*

## **Reporting Waivers**

Automatic waivers are provided for certain reportable events in certain circumstances. Post-event reporting is waived for any occurrence that is reportable as more than one reportable event only if the requirements for a waiver for each reportable event are met.

## **What to File**

A plan administrator or contributing sponsor must file a post-event reportable event notice with PBGC using PBGC's Form 10, and include with the Form 10 both general information and event-specific information. General information required is listed at the start of Part III of the instructions, and specific information is listed under "Additional Required Information" for each reportable event described in Part III and on the Form 10.

If any required information has previously been submitted to PBGC, the filer may refer to the previous submission instead of resubmitting the information.

If the same occurrence is reportable as more than one reportable event, separate notices may be filed separately or together, or a single notice may be filed covering all of the events. If a single notice is filed, the notice must include all the required information for each event. (See also "When to File.")

Notices for two or more events may be submitted together.

PBGC may require that a plan administrator or contributing sponsor submit additional relevant information within 30 days after the date of PBGC's written request. PBGC may shorten this 30-day period where it determines that the interests of PBGC or participants may be prejudiced by a delay in receipt of the information.

*Note: Any non-public information submitted to PBGC as part of a reportable event notice shall not be made public, except as may be relevant to any administrative or judicial action or proceeding or for disclosure to either body of Congress.*

## **Information on Controlled Group Structure**

The requirement to submit a description of a plan's controlled group may be satisfied by submitting an organization chart or other diagram if it includes or is supplemented with names and addresses of all members of the sponsor's controlled group.

## **When To File**

A reportable event notice must be filed within 30 days after a plan administrator or contributing sponsor knows or has reason to know that a reportable event has occurred. To accommodate the needs of small plans in determining whether a financially sound plan waiver is available for events under 29 CFR part 4043 involving active participant reductions, distributions to substantial owners, changes in contributing sponsors or controlled groups, extraordinary dividends or stock redemptions, and transfers of benefit liabilities, if the plan's premium due date for the plan year preceding the event year was determined under § 4007.11(a)(1) (dealing with small plans) or § 4007.11(c) (dealing with new and newly covered plans), the notice date is extended until the premium due date.

If the same occurrence is reportable as two or more reportable events with different filing deadlines, and a separate notice is filed for each event, the notice for each event must be filed by the deadline for that event. If the notices are filed together, or if a single notice is filed for all the events, the filing must be made by the earliest filing deadline.

See 29 CFR § 4000.43 to determine how to compute any period of time.

*Note: There is no longer a special “partial electronic filing” provision whereby a filer could submit certain required information within 2 business days after the filing deadline. Now, all required information must be submitted by the filing deadline.*

## **How To File**

All required information must now be filed electronically (see 29 CFR § 4043.5) by the due date, which can be done by e-mail at [post-event.report@pbgc.gov](mailto:post-event.report@pbgc.gov). Notices must be filed using the Form 10 that is posted on PBGC’s web site. You may not submit your filing using a paper form unless you request and receive an exemption from e-filing.

If you want to e-mail materials totaling more than 10 megabytes, please use LeapFILE. Enter “pbgc.leapfile.com” in your Internet browser, click on “secure upload,” enter “post-event.report@pbgc.gov” in the “Recipient Email” field, and attach the files.

*Note: PBGC may waive electronic filing for voluminous paper documents to relieve filers of the need to scan them, or for other reasons, upon request pursuant to 29 CFR § 4043.4(d) (case-by-case waivers).*

## **Filing Date**

The date when a reportable event notice (or additional information required by PBGC) is considered to have been filed is the date the notice is transmitted to PBGC at [post-event.report@pbgc.gov](mailto:post-event.report@pbgc.gov). See 29 CFR § 4000.29.

## **Effect of Failure to File**

If a notice (or any other required information) under ERISA §4043 is not provided within the specified time limit, PBGC may assess against each plan administrator and contributing sponsor required to provide the notice a separate penalty under ERISA §4071 of up to \$1,100 a day for each day for which the notice or other information is overdue (see 29 CFR Part 4071 and PBGC's Statement of Policy on Assessment of Penalties for Failure to Provide Required Information (60 FR 36837, July 18, 1995)). PBGC may pursue any other equitable or legal remedies available to it under the law.

## **For Questions, Problems, Copies of Forms**

If you have questions or problems regarding reportable events, contact:

Pension Benefit Guaranty Corporation  
Corporate Finance and Restructuring Department  
1200 K Street, NW  
Washington, DC 20005-4026  
Telephone: 202-326-4000  
Email: [post-event.report@pbgc.gov](mailto:post-event.report@pbgc.gov)

TTY/TTD users may call the Federal Relay Service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4000.

Copies of Form 10 and instructions may be obtained from PBGC's website at <http://www.pbgc.gov/prac/forms.html>.

## **PART II - DEFINITIONS**

**Benefit Liabilities** means the benefits of participants and their beneficiaries under the plan (within the meaning of section 401(a)(2) of the Code).

**Code** means the Internal Revenue Code of 1986, as amended.

**Contributing sponsor** means a person that is a contributing sponsor as defined in ERISA §4001(a)(13).

**Controlled group** means, in connection with any person, a group consisting of that person and all other persons under common control with that person (generally 80 percent ownership; see 29 CFR §4001.3). Any reference to a plan's controlled group means all contributing sponsors of the plan and all members of each contributing sponsor's controlled group.

**De minimis 10-percent segment** means, in connection with a plan's controlled group, one or more entities that in the aggregate have for a fiscal year:

1. Revenue not exceeding 10 percent of the controlled group's revenue;
2. Annual operating income not exceeding the greater of:
  - a. 10 percent of the controlled group's annual operating income, or
  - b. \$5 million; and
3. Net tangible assets at the end of the fiscal year(s) not exceeding the greater of:
  - a. 10 percent of the controlled group's net tangible assets at the end of the fiscal year(s), or
  - b. \$5 million.

**EIN/PN** means the nine-digit employer identification number assigned by the Internal Revenue Service to a person and the three-digit plan number assigned to a plan. The EIN/PN reported should be the EIN/PN most recently reported for a PBGC premium filing (if applicable). If the plan has never made a PBGC premium filing, enter the EIN assigned to the contributing sponsor by the IRS for income tax purposes and the PN assigned by the contributing sponsor.

**Event year** means the plan year in which a reportable event occurs.

**Financially sound** means

1. *Financially sound sponsor or controlled group member.* An entity that is a plan sponsor or member of a plan sponsor's controlled group is "financially sound" as of any date (the determination date) if on the determination date it has adequate capacity to meet its obligations in full and on time as evidenced by its satisfaction of all of the following criteria:
  - a. The entity is scored by a commercial credit reporting company that is commonly used in the business community and the score indicates a low likelihood that the entity will default on its obligations.
  - b. The entity has no secured debt, disregarding leases or debt incurred to acquire or improve property and secured only by that property.
  - c. For the most recent two fiscal years, the entity has positive net income under generally accepted accounting principles (GAAP) or International Financial Reporting Standards (IFRS). For purposes of this provision, net income of a tax-exempt entity is the excess of total revenue over total expenses as required to be reported on Internal Revenue Service Form 990.

- d. For the two-year period ending on the determination date, no event described in ERISA § 4043.34(a)(1) or (2) (dealing with a default on a loan with an outstanding balance of \$10 million or more) has occurred with respect to any loan to the entity, regardless of whether reporting of the event was required to be waived under ERISA § 4043.34(c).
- e. For the two-year period ending on the determination date, the entity has not failed to make when due any contribution described in ERISA § 4043.25(a)(1) or (2) (dealing with a failure to make required minimum funding payments), unless reporting is waived under ERISA § 4043.25(c) for failure to make the contribution.

*Note: An example of a score by a commercial credit reporting company that is commonly used in the business community that indicates a low likelihood that a company will default on its obligations is a Financial Stress Score of a minimum of 1477 under the Financial Stress Scoring System used by Dun & Bradstreet.*

2. **Financially sound plan.** With respect to a plan for a plan year, the plan satisfies either of the following criteria:
- a. As of the last day of the prior plan year, the plan had no unfunded benefit liabilities (within the meaning of ERISA § 4062(b)(1)(A) as determined in accordance with 29 CFR Part 4044.51 through 4044.57 (dealing with valuation of benefits and assets in trustee terminating plans) and 29 CFR Part 4010.8(d)(1)(ii).
  - b. For the prior plan year, the ratio of the value of the plan's assets as determined for premium purposes in accordance with 29 CFR Part 4006 to the amount of the plan's premium funding target as so determined was not less than 120 percent.

**Foreign entity** means a member of a controlled group that:

- 1. Is not a contributing sponsor of a plan;
- 2. Is not organized under the laws of (or, if an individual, is not a domiciliary of) any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and Wake Island; and
- 3. For the fiscal year that includes the date the reportable event occurs, meets one of the following tests:
  - a. is not required to file any United States federal income tax form;
  - b. has no income reportable on any United States federal income tax form other than passive income not exceeding \$1,000; or
  - c. does not own substantial assets in the United States (disregarding stock of a member of the plan's controlled group) and is not required to file any quarterly United States tax return for employee withholding.

**Foreign parent** means a foreign entity that is a direct or indirect parent of a person that is a contributing sponsor of a plan.

**Notice date** means the deadline (including extensions) for filing notice of the reportable event with PBGC.

**Participant** has the meaning set forth in §4006.6 of PBGC's regulation on Premium Rates (29 CFR Part 4006).

**Person** means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or employee organization.

**Single-employer plan** means any defined benefit plan (as defined in ERISA §3(35)) that is not a multiemployer plan (as defined in ERISA §4001(a)(3)) and that is covered by title IV of ERISA.

**U.S. entity** means entity subject to the personal jurisdiction of the U.S. district court.

## PART III - SPECIFIC INSTRUCTIONS

### General Information Required for All Reportable Events; see also each reportable event listed below for event-specific information required:

- The name of the plan
- The name and address of the contributing sponsor(s) and the name, title, e-mail address, and phone number of an individual whom PBGC should contact if it has questions about the filing
- The name and address of the plan administrator and the name, title, e-mail address, and phone number of an individual whom PBGC should contact if it has questions about the filing
- The EIN/PN reported should be the EIN/PN most recently reported for a PBGC premium filing (if applicable). If the plan has never made a PBGC premium filing, enter the EIN assigned to the contributing sponsor by the IRS for income tax purposes and the PN assigned by the contributing sponsor
- The date the event occurred
- The type of event that occurred (indicated by marking the appropriate box)
- A brief statement of the pertinent facts relating to the reportable event

### Specific Information for Particular Events

Where a reportable event requires reporting financial information and/or actuarial information, please include the following:

- Financial information for all controlled group members (unless publicly available):
  - Audited financial statements for the most recent fiscal year (including balance sheet, income statement, cash flow statement, and notes to the financial statements)
  - If audited financial statements are not available, unaudited financial statements for the most recent fiscal year
  - If neither audited nor unaudited financial statements are available, copies of federal tax returns for the most recent tax year

*Note: If the above required financial information is publicly available, please indicate where the financial statements can be obtained (SEC, company website, etc.).*

- Actuarial information:
  - Copy of the most recent Actuarial Valuation Report that includes or is supplemented with all of the items described in 29 CFR §4010.8(a)(11)\*
  - Statement of any material change in liabilities of the plan occurring after the date of the most recent Actuarial Valuation Report
  - Most recent month-end market value of plan assets
  - Contact name, telephone number, and employer of the plan actuary if different from that listed on the most recently filed Schedule SB to Form 5500

\* The items described in 29 CFR §4010.8(a)(11) are:

- The funding target calculated pursuant to ERISA section 303 without regard to subsection 303(i)(1), setting forth separately the value of the liabilities attributable to retirees and beneficiaries receiving payment, terminated vested participants, and active participants (showing vested and nonvested benefits separately);
- A summary of the actuarial assumptions and methods used for purposes of ERISA section 303 and any changes in those assumptions and methods since the previous valuation and justifications for any change; in the case of a plan that provides lump sums, other than *de minimis* lump sums, the summary must include the assumptions on which participants are assumed to elect a lump sum and how lump sums are valued;

- The effective interest rate (as defined in ERISA section 303(h)(2)(A) and Code section 430(h)(2)(A));
- The target normal cost calculated pursuant to ERISA section 303 without regard to subsection 303(i)(2) (and Code section 430 without regard to subsection 430(i)(2));
- For the plan year and the four preceding plan years, a statement as to whether the plan was in at-risk status for that plan year;
- In the case of a plan that is in at-risk status, the target normal cost calculated pursuant to ERISA section 303 as if the plan has been in at-risk status for 5 consecutive years;
- The value of the plan's assets (reflecting any averaging method) as of the valuation date and the fair market value of the plan's assets as of the valuation date;
- The funding standard carryover balance and the prefunding balance (maintained pursuant to ERISA section 303(f)(1) and Code section 430(f)(1)) as of the beginning of the plan year and a summary of any changes in such balances in the past year (e.g., amounts used to offset minimum funding requirement, amounts reduced in accordance with any elections under ERISA section 303(f)(5) or Code section 430(f)(5), interest credited to such balances, and excess contributions used to increase such balances);
- A list of amortization bases (shortfall and waiver) under ERISA section 303 and Code section 430, including the year the base was established, the original amount, the installment amount, and the remaining balance at the beginning of the plan year;
- An age/service scatter for active participants including average compensation information for pay-related plans and average account balance information for hybrid plans presented in a format similar to that described in the instructions to Schedule SB of the Form 5500;
- Expected disbursements (benefit payments and expenses) during the plan year; and
- A summary of the principal eligibility and benefit provisions on which the valuation of the plan was based (and any changes to those provisions since the previous valuation), along with descriptions of any benefits not included in the valuation, any significant events that occurred during the plan year, and the plan's early retirement factors; in the case of a plan that provides lump sums, other than *de minimis* lump sums, the summary must include information on how annuity benefits are converted to lump sum amounts (for example, whether early retirement subsidies are reflected).

## A. Active Participant Reduction

(see 29 CFR §4043.23)

**Definition of Event** - A reportable event occurs:

1. *Single-cause event.* When the reductions in the number of active participants under a plan due to a single cause — such as a reorganization, the discontinuance of an operation, a natural disaster, a mass layoff, or an early retirement incentive program — are more than 20 percent of the number of active participants at the beginning of the plan year or more than 25 percent of the number of active participants at the beginning of the previous plan year.
2. *Short-period event.* When the reductions in the number of active participants under a plan over a short period (disregarding reductions reported under paragraph 1 above) are more than 20 percent of the number of active participants at the beginning of the plan year, or more than 25 percent of the number of active participants at the beginning of the previous plan year. For this purpose, a short period is a period of 30 days or less that does not include any part of a prior short period for which an active participant reduction is reported under this section.
3. *Attrition event.* On the last day of a plan year if the number of active participants under a plan is reduced by more than 20 percent of the number of active participants at the beginning of the plan year, or by more than 25 percent of the number of active participants at the beginning of the previous plan year. The reduction may be measured by using the number of active participants on either the last day of the plan year or the participant count date (as defined in 29 CFR part 4006.2) for the next plan year, but in either case is considered to occur on the last day of the plan year.

For purposes of this reportable event:

Disregard a reduction in the number of active participants to the extent that the reduction is both (1) attributable to a substantial cessation of operations under ERISA §4062(e) or to the withdrawal of a substantial employer under ERISA §4063(a), and (2) timely reported to PBGC under ERISA §4063(a).

The number of active participants at the beginning of a plan year may be determined by using the number of active participants at the end of the previous plan year.

An **active participant** is a participant who (1) is receiving compensation for work performed; (2) is on paid or unpaid leave granted for a reason other than a layoff; (3) is laid off from work for a period of time that has lasted less than 30 days; or (4) is absent from work due to a recurring reduction in employment that occurs at least annually. The employment relationship described in this paragraph is between the participant and all members of the plan's controlled group.

**Reporting Waivers** - Reporting of this event is waived if:

*Current-year small plan:* The plan had fewer than 100 participants for whom flat-rate premiums were payable for the plan year preceding the event year.

*Financial soundness:*

- (1) For each contributing sponsor of the plan, either the sponsor, or the sponsor's highest level controlled group parent that is a U.S. entity, is financially sound when the event occurs, or
- (2) The plan is financially sound for the plan year in which the event occurs.

**Extension of Reporting Deadline** - For an *attrition event* (see paragraph 3 above), the notice date is extended until 120 days after the end of the event year.

See also page 9 of these Form 10 Instructions for extensions for small plans and new or newly covered plans.

**Additional Required Information:**

- Statement explaining the cause of the reduction (e.g., for a single-cause event, a facility shutdown or sale, discontinued operations, winding down of the company, or reduction in force; for a short-period event, unrelated layoffs over 30 days; for an attrition event, factors involved in the attrition such as frozen plan, aging workforce or improved operational efficiencies that do not require replacing departing active participants)

*Note: this statement may be included with the brief statement of pertinent facts listed under General Information above.*

- Number of active participants at the date the event occurs, at the beginning of the current plan year, and at the beginning of the prior plan year

**B. Failure to Make Required Minimum Funding Payment**

(see 29 CFR §4043.25)

**Definition of Event** - A reportable event occurs when: a contribution required under ERISA §302 and §303 or Code §412 and §430 is not made by the due date for the payment or any other contribution required as a condition of a funding waiver is not made when due.

*Note: If a contributing sponsor or controlled group member files a complete Form 200 with PBGC within 10 days of the due date of the payment in accordance with 29 CFR §4043.81, the Form 200 filing satisfies the notice requirement for this event. However, Form 10 may also be filed if desired. Choosing to rely on Form 200 to satisfy the Form 10 filing requirement does not make the Form 200 a reportable event filing under ERISA §4043 and does not give the Form 200 filing the benefit of the confidentiality protection for reportable event notices under ERISA §4043(f).*

**Reporting Waivers** - Reporting of this event is waived if:

*Current-year small plan:* With respect to a failure to make a required quarterly contribution under section 303(j)(3) of ERISA or section 430(j)(3) of the Code, the plan had fewer than 100 participants for whom flat-rate premiums were payable for the plan year preceding the event year.

*Made-up contribution:* The missed contribution is made by the 30th day after its due date.

**Additional Required Information:**

- Description of the plan's controlled group structure, including the name of each controlled group member
- Name of each plan maintained by any member of the filer's controlled group, its contributing sponsor(s) and EIN/PN
- Due date and amount of both the missed contribution and the next payment due
- List of amount and date of all contributions not timely made and not reported on the most recently filed Schedule SB
- Financial information for all controlled group members (see page 13 of these Instructions)
- Actuarial information (see page 13 of these Instructions)



### C. Inability to Pay Benefits When Due

(see 29 CFR §4043.26)

**Definition of Event** - A reportable event occurs when a plan is currently unable, or projected to be unable, to pay benefits.

A plan is currently unable to pay benefits if the plan fails to provide any participant or beneficiary the full benefits to which the person is entitled under the terms of the plan, at the time the benefit is due and in the form in which it is due.

*Note: This does not include a failure or inability to pay benefits caused solely by a limitation under Code § 436 and ERISA § 206(g) (dealing with funding-based limits on benefits and benefit accruals under single-employer plans); the need to verify a person's eligibility for benefits; the inability to locate the person; or any other administrative delay, if the delay is for less than the shorter of two months or two full benefit payment periods.*

A plan is projected to be unable to pay benefits when, as of the last day of any quarter of a plan year, the plan's liquid assets are less than two times the amount of the disbursements from the plan for such quarter. Liquid assets and disbursements from the plan are defined in ERISA §303(j)(4)(E) and Code §430(j)(4)(E).

**Reporting Waiver** – *Plan is subject to liquidity shortfall rules:* Reporting of this event is waived if the event occurs during a plan year for which the plan is subject to the liquidity shortfall rules in ERISA §303(j)(4) and Code §430(j)(4) because it is described in ERISA §303(g)(2)(B) and Code §430(g)(2)(B).

#### **Additional Required Information:**

- Date of any missed benefit payment and amount of benefit due
- Next date on which the plan is expected to be unable to pay benefits, the amount of the projected shortfall, and the number of plan participants expected to be affected
- Amount of the plan's liquid assets at the end of the most recent quarter, and the amount of its disbursements for the quarter
- Name, address and telephone number of plan trustee (and of any custodian)
- Operational status of each controlled group member (in Chapter 7 proceedings, liquidating outside of bankruptcy, ongoing, etc.)
- Name of each plan maintained by any member of the plan's controlled group, its contributing sponsor(s) and EIN/PN
- Financial information for all controlled group members (see page 13 of these Instructions)
- Actuarial information (see page 13 of these Instructions)
- If the plan sponsor is expected to cease or has ceased substantially all operations also provide:
  - Date on which substantially all operations are expected to cease or have ceased
  - Most recent pension plan document(s)
  - Name and address of each controlled group member
  - The most recent Internal Revenue Service Determination Letter indicating the plan is a covered plan, if any

### D. Distribution to a Substantial Owner

(see 29 CFR §4043.27)

A substantial owner (see ERISA §4021(d)) is an individual who owns (or owned within the preceding 60 months):

1. The entire interest in an unincorporated trade or business;

2. Directly or indirectly, more than 10 percent of the capital or profits interest in a partnership; or
3. Directly or indirectly, more than 10 percent of the voting stock or the total stock of a corporation.

**Definition of Event** - A reportable event occurs for a plan when:

1. There is a distribution to a substantial owner of a contributing sponsor;
2. The total of all distributions to the substantial owner within the one-year period ending with the date of such distribution exceeds \$10,000;
3. The distribution is for a reason other than the substantial owner's death;
4. Immediately after the distribution, the plan has unfunded nonforfeitable benefits; and
5. Either—
  - (i) The sum of the values of all distributions to any one substantial owner within the one-year period ending with the date of the distribution is more than one percent of the end-of-year total amount of the plan's assets (as required to be reported on Schedule H or I to Form 5500) for each of the two plan years immediately preceding the event year, or
  - (ii) The sum of the values of all distributions to all substantial owners within the one-year period ending with the date of the distribution is more than five percent of the end-of-year total amount of the plan's assets (as required to be reported on Schedule H or I to Form 5500) for each of the two plan years immediately preceding the event year.

Value of distribution

The value of a distribution to a substantial owner is determined as of the date of distribution and is the sum of:

1. The cash amounts actually received by the substantial owner,
2. The purchase price of any irrevocable commitment, and
3. The fair market value of any other assets distributed.

Date of distribution

The date of distribution to a substantial owner of a cash distribution is the date it is received by the substantial owner. The date of distribution to a substantial owner of an irrevocable commitment is the date on which the obligation to provide benefits passes from the plan to the insurer. The date of any other distribution to a substantial owner is the date when the plan relinquishes control over the assets transferred directly or indirectly to the substantial owner.

The determination of whether a participant is (or has been in the preceding 60 months) a substantial owner is made on the date when there has been a distribution that would be reportable under this section if made to a substantial owner.

**Reporting Waiver** - *Financial soundness*. Reporting of this event is waived if:

- (1) For each contributing sponsor of the plan, either the sponsor, or the sponsor's highest level controlled group parent that is a U.S. entity, is financially sound when the event occurs, or
- (2) The plan is financially sound for the plan year in which the event occurs.

*Note: In the case of a non-increasing annuity for a substantial owner, a filing that satisfies the additional information requirements of this section with respect to any payment under the annuity satisfies the requirements of this section with respect to all subsequent payments under the annuity.*

See also page 9 of these Instructions for extensions for small plans and new or newly covered plans.

**Additional Required Information:**

- Name, address, telephone number, and ownership percentage of person(s) receiving the distribution(s)
- Amount, form, date, and reason of each distribution
- For a non-increasing annuity for a substantial owner: indicate the payment period, periodic amount of the payments, and duration of the annuity

**E. Change in Contributing Sponsor or Controlled Group**

(see 29 CFR §4043.29)

**Definition of Event** - A reportable event occurs for a plan when there is a transaction that results, or will result, in one or more persons ceasing to be members of the plan's controlled group.

For this purpose, a *transaction* includes, but is not limited to, a legally binding agreement, whether or not written, to transfer ownership, an actual transfer of ownership, and an actual change in ownership that occurs as a matter of law or through the exercise or lapse of pre-existing rights. Whether an agreement is legally binding is to be determined without regard to any conditions in the agreement.

*Note: This event does not include a transaction that will result solely in a reorganization involving a mere change in identity, form, or place of organization, however effected.*

**Examples** - The following examples assume a waiver does not apply.

***Controlled Group Breakup***

**Facts:** Plan A's controlled group consists of Company A (its contributing sponsor), Company B (which maintains Plan B), and Company C. As a result of a transaction, the controlled group will break into two separate controlled groups -- one segment consisting of Company A and the other segment consisting of Companies B and C.

**Reporting:** Both Company A (Plan A's contributing sponsor) and the plan administrator of Plan A are required to report that Companies B and C will leave Plan A's controlled group. Company B (Plan B's contributing sponsor) and the plan administrator of Plan B are required to report that Company A will leave Plan B's controlled group. Company C is not required to report because it is not a contributing sponsor or a plan administrator.

***Change in Contributing Sponsor***

**Facts:** Plan Q is maintained by Company Q. Company Q enters into a binding contract to sell a portion of its assets and to transfer employees participating in Plan Q, along with Plan Q, to Company R, which is not a member of Company Q's controlled group. There will be no change in the structure of Company Q's controlled group. On the effective date of the sale, Company R will become the contributing sponsor of Plan Q.

**Reporting:** A reportable event occurs on the date of the transaction (*i.e.*, the binding contract) because, as a result of the transaction, Company Q (and any other member of its controlled group) will cease to be a member of Plan Q's controlled group. If, on the 30th day after Company Q and Company R enter into the binding contract, the change in the contributing sponsor has not yet become effective, Company Q

has the reporting obligation. If the change in the contributing sponsor has become effective by the 30th day, Company R has the reporting obligation.

**Reporting Waivers** - Reporting of this event is waived if:

*De minimis 10-percent segment:* The person or persons that will cease to be members of the plan's controlled group represent a *de minimis* 10-percent segment of the plan's old controlled group for the most recent fiscal year(s) ending on or before the date the reportable event occurs.

*Foreign entity:* Each person that will cease to be a member of the plan's controlled group is a foreign entity other than a foreign parent.

*Current-year small plan:* The plan had fewer than 100 participants for whom flat-rate premiums were payable for the plan year preceding the event year.

*Financial soundness:*

- (1) For each contributing sponsor of the plan, either the sponsor, or the sponsor's highest level controlled group parent that is a U.S. entity, is financially sound when the event occurs, or
- (2) The plan is financially sound for the plan year in which the event occurs.

See also page 9 of these Instructions for extensions for small plans and new or newly covered plans.

**Additional Required Information:**

- Description of the plan's old and new controlled group structures, including the name of each controlled group member
- Name of each plan maintained by any member of the plan's old and new controlled groups, its contributing sponsor(s) and EIN/PN

*If a filer is unable with reasonable diligence to obtain any of the above information about a controlled group other than the filer's controlled group, the filer may instead file a statement to that effect.*

**F. Liquidation**

(see 29 CFR §4043.30)

**Definition of Event** - A reportable event occurs for a plan when a member of the plan's controlled group:

1. Is involved in any transaction to implement its complete liquidation (including liquidation into another controlled group member);
2. Institutes or has instituted against it a proceeding to be dissolved or is dissolved, whichever occurs first; or
3. Liquidates in a case under the Bankruptcy Code, or under any similar law.

*Note: An event described above may also be reportable under Insolvency or Similar Settlements (see Part III.K).*

**Reporting Waivers** - Reporting of this event is waived if:

*De minimis 10-percent segment:* The person or persons that liquidate do not include any contributing sponsor of the plan and represent a *de minimis* 10-percent segment of the plan's old controlled group for the most recent fiscal year(s) ending on or before the date the reportable event occurs.

*Foreign entity:* Each person that liquidates is a foreign entity other than a foreign parent.

**Additional Required Information:**

- Description of the plan's controlled group structure before and after the liquidation, including the name of each controlled group member
- Operational status of each controlled group member (in Chapter 7 proceedings, liquidating outside of bankruptcy, on-going, etc.)
- Name of each plan maintained by any member of the plan's controlled group, its contributing sponsor(s) and EIN/PN
- Financial information for all controlled group members (see page 13 of these Instructions)
- Actuarial information (see page 13 of these Instructions)
- If the plan sponsor is expected to cease or has ceased substantially all operations also provide:
  - Date on which substantially all operations are expected to cease or have ceased
  - Most recent pension plan document(s)
  - Name and address of each controlled group member
  - The Internal Revenue Service Determination Letter indicating the plan is a covered plan

**G. Extraordinary Dividend or Stock Redemption**

(see 29 CFR §4043.31)

**ERISA Definition** - The reportable event described below replaces the corresponding event for extraordinary dividends and stock redemptions described in ERISA §4043(c)(11). Thus, reporting of any event described under ERISA §4043(c)(11) is waived, unless the event would be reportable under this or another reportable event.

**Definition of Event** - A reportable event occurs for a plan when any member of the plan's controlled group declares a dividend or redeems its own stock, and the amount or net value of the distribution, when combined with other such distributions during the same fiscal year of the person, exceeds the person's net income before after-tax gain or loss on any sale of assets, as determined in accordance with generally accepted accounting principles and practices, for the prior fiscal year. A distribution by a person to a member of its controlled group is disregarded.

**Determination Rules** - For purposes of this event, the net value of a non-cash distribution is the fair market value of assets transferred by the person making the distribution, reduced by the fair market value of any liabilities assumed or consideration given by the recipient in connection with the distribution. Net value determinations should be based on readily available fair market value(s) or independent appraisal(s) performed within one year before the distribution is made. To the extent that fair market values are not readily available and no such appraisals exist, the fair market value of an asset transferred in connection with a distribution or a liability assumed by a recipient of a distribution is deemed to be equal to 200 percent of the book value of the asset or liability on the books of the person making the distribution. Stock redeemed is deemed to have no value.

**Reporting Waivers** - Reporting of this event is waived if:

*De minimis 10-percent segment:* The person making the distribution is a *de minimis* 10-percent segment of the plan's controlled group for the most recent fiscal year(s) ending on or before the date the reportable event occurs.

*Foreign entity:* The person making the distribution is a foreign entity other than a foreign parent.

*Current-year small plan:* The plan had fewer than 100 participants for whom flat-rate premiums were payable for the plan year preceding the event year.

*Financial soundness:*

- (1) For each contributing sponsor of the plan, either the sponsor, or the sponsor's highest level controlled group parent that is a U.S. entity, is financially sound when the event occurs, or
- (2) The plan is financially sound for the plan year in which the event occurs.

See also page 9 of these Instructions for extensions for small plans and new or newly covered plans.

**Additional Required Information:**

- Name and EIN of person making the distribution
- Date and amount of cash distribution(s) during fiscal year
- Description, fair market value, and date(s) of any non-cash distribution(s)
- Statement whether the recipient was a member of the plan's controlled group
- Financial statements for all controlled group members (see page 13 of these Instructions)

**H. Transfer of Benefit Liabilities**

(see 29 CFR §4043.32)

**Definition of Event** - A reportable event occurs for a plan when:

1. The plan makes a transfer of benefit liabilities to a person, or to a plan or plans maintained by a person or persons, that are not members of the transferor plan's controlled group; and
2. The amount of benefit liabilities transferred, in conjunction with other benefit liabilities transferred during the 12-month period ending on the date of the transfer, is 3 percent or more of the plan's total benefit liabilities. For this purpose, value both the benefit liabilities transferred and the plan's total benefit liabilities as of any one date in the plan year in which the transfer occurs, using actuarial assumptions that comply with Code §414(I).

The **date of a transfer** of benefit liabilities is determined on the basis of the facts and circumstances of the particular situation. For transfers subject to Code §414(I), the date determined in accordance with Code §414(I) and 26 CFR §1.414(I)-1(b)(11) will be considered the date of transfer.

*Note: For purposes of this reportable event, the payment of a lump sum, or purchase of an irrevocable commitment to provide an annuity, in satisfaction of benefit liabilities is not considered a transfer of benefit liabilities.*

**Reporting Waivers** - Reporting of this event is waived if:

*Current-year small plan:* The plan had fewer than 100 participants for whom flat-rate premiums were payable for the plan year preceding the event year.

*Financial soundness:* For both the transferor plan (if it survives the transfer) and the transferee plan:

- (1) For each contributing sponsor of the plan, either the sponsor, or the sponsor's highest level controlled group parent that is a U.S. entity, is financially sound when the event occurs, or
- (2) The plan is financially sound for the plan year in which the transfer occurs.

See also page 9 of these Instructions for extensions for small plan and new or newly covered plans.

**Additional Required Information:**

- Description of the transferee plan's old and new controlled group structures, including the name of each controlled group member
- Name of each plan maintained by any member of the transferee plan's old and new controlled group, contributing sponsor(s) and EIN/PN of the transferor plan and each transferee plan
- Explanation of the actuarial assumptions used in determining the value of benefit liabilities (and, if appropriate, plan assets) transferred
- Estimate of the assets, liabilities, and number of participants whose benefits are transferred

*If a filer is unable with reasonable diligence to obtain any of the above information about a controlled group other than the filer's controlled group, the filer may instead file a statement to that effect.*

**I. Application for Minimum Funding Waiver**

(see 29 CFR §4043.33)

**Definition of Event** - A reportable event occurs when an application for a minimum funding waiver is submitted for a plan under ERISA §302(c) or Code §412(c).

**Required Additional Information:**

- Copy of waiver application, with all attachments

**J. Loan Default**

(see 29 CFR §4043.34)

**Definition of Event** - A reportable event occurs for a plan when, with respect to a loan with an outstanding balance of \$10 million or more to a member of the plan's controlled group:

1. There is an acceleration of payment or a default under the loan agreement; or
2. The lender waives or agrees to an amendment of any covenant in the loan agreement for the purpose of avoiding a default.

**Special Notice Date Rule** - For this event, the notice date is 30 days after the person required to report knows or has reason to know of an acceleration or default under the loan agreement, without regard to the time of any other conditions required for the acceleration or default to be reportable.

*Note – A default on a loan within a controlled group is not for that reason excluded from the reporting requirement.*

**Reporting Waivers** - Reporting of this event is waived if:

*De minimis 10-percent segment:* The debtor is not a contributing sponsor of the plan and represents a *de minimis* 10-percent segment of the plan's controlled group for the most recent fiscal year(s) ending on or before the date the reportable event occurs.

*Foreign entity:* The debtor is a foreign entity other than a foreign parent.

**Additional Required Information:**

- Copy of the relevant loan documents (*e.g.*, promissory note, security agreement, loan agreement amendments and waivers)

- Due date and amount of any missed payment
- Copy of any written notice of default, acceleration, forbearance, or loan agreement amendment or waiver
- Description of any cross-defaults or anticipated cross-defaults
- Description of the plan's controlled group structure, including the name of each controlled group member
- Name of each plan maintained by any member of the plan's controlled group, its contributing sponsor(s) and EIN/PN
- Financial statements for all controlled group members (see page 13 of these Instructions)
- Actuarial information (see page 13 of these Instructions)

## **K. Insolvency or Similar Settlement**

(see 29 CFR §4043.35)

**Definition of Event** - A reportable event occurs with respect to a plan when any member of the plan's controlled group:

1. Commences, or has commenced against it, any insolvency proceeding (including, but not limited to, the appointment of a receiver) , other than a bankruptcy case under the Bankruptcy Code;
2. Commences, or has commenced against it, a proceeding to effect a composition, extension, or settlement with creditors;
3. Executes a general assignment for the benefit of creditors; or
4. Undertakes to effect any other nonjudicial composition, extension, or settlement with substantially all its creditors.

*Note: An event described above may also be reportable under Liquidation (see Part III.F).*

**Reporting Waivers** - Reporting of this event is waived if:

*De minimis 10-percent segment:* The controlled group member described above is not a contributing sponsor of the plan and represents a *de minimis* 10-percent segment of the plan's controlled group for the most recent fiscal year(s) ending on or before the date the reportable event occurs.

*Foreign entity:* The controlled group member described above is a foreign entity other than a foreign parent.

### **Additional Required Information:**

- Name, address and phone number of any trustee, receiver or similar person
- Docket number of court filing and location of the court where any relevant proceeding was or will be filed (if known)
- Description of the plan's controlled group structure, including the name of each controlled group member
- Name of each plan maintained by any member of the plan's controlled group, its contributing sponsor(s) and EIN/PN
- Actuarial information (see page 13 of the Form 10 Instructions)