

**ADVANCE NOTICE OF REPORTABLE EVENTS**

**PBGC Form 10-ADV**

**Approved OMB #1212-0013**

**Expires xx/xx/xx**

This form must be used by a contributing sponsor of a single-employer plan required to notify the Pension Benefit Guaranty Corporation in advance that a reportable event will occur.

**IDENTIFYING INFORMATION**

Plan 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

Effective date of the event or date event occurred if there is an extension:

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

- Change in contributing sponsor or controlled group (29 CFR §4043.62)
- Liquidation (29 CFR §4043.63)
- Extraordinary dividend or stock redemption (29 CFR §4043.64)
- Transfer of benefit liabilities (29 CFR §4043.65)
- Application for minimum funding waiver (29 CFR §4043.66)
- Loan default (29 CFR §4043.67)
- Insolvency or similar settlement (29 CFR §4043.68)

**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**

### **Additional Information Required for Each Event:**

#### **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
- Financial information (see page 11 of the Form 10-ADV Instructions) and interim financial statements of the plan's contributing sponsor (both old and new in the case of a change in the contributing sponsor) and any persons that will cease to be in the plan's controlled group
- Actuarial information (see page 11 of the Form 10-ADV Instructions)

*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 11 of the Form 10-ADV Instructions)
- Actuarial information (see page 11 of the Form 10-ADV 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)
  - 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
- Description of the plan's controlled group structure, including the name and address 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 11 of the Form 10-ADV Instructions)
- Actuarial information (see page 11 of the Form 10-ADV Instructions)

**Transfer of Benefit Liabilities**

- Description of the transferee'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's old and new controlled group structures, its contributing sponsor and EIN/PN of 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
- Financial statements of all members of the transferee's new controlled group (see page 11 of the Form 10-ADV Instructions)
- Actuarial information (see page 11 of the Form 10-ADV Instructions)

*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 11 of the Form 10-ADV Instructions)
- Actuarial information (see page 11 of the Form 10-ADV Instructions)

**Insolvency or Similar Settlement**

- Name, address and telephone 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 11 of the Form 10-ADV Instructions)

## **Form 10-ADV Instructions**

### **Advance 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 C, so that it can take action to protect participants and the termination insurance program under Title IV of ERISA 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-ADV, 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(b) of the Employee Retirement Income Security Act (ERISA) requires that certain contributing sponsors notify PBGC at least 30 days before the effective date of certain “reportable events.” PBGC’s regulation on Reportable Events (29 CFR Part 4043, Subparts A and C) describes in detail each reportable event and any applicable extension or waiver provisions. The reportable events for which advance reporting is required are:

- A. Change in contributing sponsor or controlled group
- B. Liquidation of contributing sponsor or controlled group member
- C. Extraordinary dividend or stock redemption
- D. Transfer of benefit liabilities
- E. Application for minimum funding waiver
- F. Loan default
- G. 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-ADV instructions and Form 10-ADV have been changed; the key changes include:

- Elimination of some filing extensions
- A revised advance reporting threshold test to conform to the PPA 2006 funding rules and PBGC’s new variable-rate premium rules
- A requirement that filers use PBGC forms to file reportable events notices and that the notice be filed electronically
- Elimination of the “partial electronic filing” provision whereby certain basic information could be submitted on time electronically and followed up within 1 business day 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
- Excluding bankruptcies under the Bankruptcy Code from reporting and reduced reporting for other insolvency events
- A requirement that filers submit financial statements for all controlled group members to the extent not publicly available for loan defaults or extraordinary distributions or stock redemptions
- A requirement that filers submit financial statements for both the transferor controlled group and transferee controlled group for the benefit-liability-transfer event
- A limitation on the scope of the benefit-liability-transfer event to exclude cashouts and annuitizations

- Making revisions to accommodate statutory changes made by the Pension Protection Act of 2006 (“PPA 2006”)

### **Post-Event Reporting Rule**

Section 4043(a) of ERISA requires that the plan administrator and each contributing sponsor notify PBGC within 30 days after the occurrence of certain reportable events. If an advance notice is filed (using Form 10-ADV), no post-event notice (using Form 10) is required.

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

### **Contributing Sponsors Subject to Advance Reporting**

Certain contributing sponsors are required to notify PBGC at least 30 days before the effective date of certain reportable events unless a waiver or extension applies (29 CFR §4043.61(a)).

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.

### **Who Must Notify PBGC**

Each contributing sponsor subject to advance reporting must notify PBGC that a reportable event will occur using the PBGC Form 10-ADV. If there is a change in contributing sponsor, the reporting obligation applies to the contributing sponsor(s) on the date the advance 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 advance reporting requirement applies to 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, the notice is waived 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 standard termination under 29 CFR Part 4041 or (2) a trustee is appointed for the plan under ERISA §4042(c).*

## **Reporting Waivers**

Advance notice is automatically waived for certain reportable events in certain circumstances (see Part III of these instructions). Advance 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 contributing sponsor must use the PBGC Form 10-ADV to file an advance reportable event notice with PBGC, and include with the Form 10-ADV 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 “Required Attachments” for each reportable event described in Part III and on the Form 10-ADV.

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 contributing sponsor submit additional relevant information within 7 days after the date of PBGC’s written request. PBGC may shorten this 7-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 plan’s controlled group. The description or chart may exclude *de minimis* 5-percent segments and foreign entities other than foreign parents.

## **When To File**

In general, an advance notice of a reportable event must be filed no later than 30 days before the effective date of the reportable event. PBGC has extended the deadline for some events in certain specified circumstances (see Part III of these instructions).

PBGC may, upon review of an advance notice, shorten the notice period to allow for an earlier effective 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.



In computing any period of time, the day of the event from which the period of time begins to run is not included. The last day of the period is included, unless it is a weekend or Federal holiday, in which case the period runs until the end of the next regular business day.

*Note: There is no longer a special “partial electronic filing” provision whereby a filer could submit certain required information within 1 business day 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 [advance.report@pbgc.gov](mailto:advance.report@pbgc.gov). Notices must be filed using the Form 10-ADV 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 “advancereport@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 advance notice of a reportable event (or additional information required by PBGC) is considered to have been filed is the date the notice is received by PBGC at [advance.report@pbgc.gov](mailto:advance.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 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. PBGC will generally assess the full \$1,100 a day penalty for failure to give advance notice (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: [advance.report@pbgc.gov](mailto:advance.report@pbgc.gov)

TTY/TDD 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-ADV 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 Part 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 5-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 5 percent of the controlled group's revenue;
2. Annual operating income not exceeding the greater of:
  - a. 5 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. 5 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

**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 effective date of the reportable event, 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.

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

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

**Public company** means a person subject to the reporting requirements of §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.

**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.

### **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
- Effective date of event or date event occurred if there is an extension
- 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, 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. Change in Contributing Sponsor or Controlled Group**

(see 29 CFR §4043.62)

**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:

*Small and mid-size plans:* with respect to a change of contributing sponsor, the transferred plan has fewer than 500 participants.

*De minimis 5-percent segment:* The person or persons that will cease to be members of the plan's controlled group represent a *de minimis* 5-percent segment of the plan's old controlled group for the most recent fiscal year(s) ending on or before the effective date of the reportable event.

**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
- Financial information (see page 11 of these Instructions) and interim financial statements of the plan's contributing sponsor (both old and new in the case of a change in the contributing sponsor) and any persons that will cease to be in the plan's controlled group
- Actuarial information (see page 11 of these Instructions)

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

**B. Liquidation**

(see 29 CFR §4043.63)

**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 Settlement (see Part III.G).*

**Reporting Waiver - De minimis 5-percent segment.** Reporting of this event is waived if the person that liquidates is a *de minimis* 5-percent segment of the plan's controlled group for the most recent fiscal year(s) ending on or before the effective date of the reportable event, and each plan that was maintained by the liquidating member is maintained by another member of the plan's controlled group.

**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 11 of these Instructions)
- Actuarial information (see page 11 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)
  - Address of each controlled group member
  - The Internal Revenue Service Determination Letter indicating the plan is a covered plan

### C. Extraordinary Dividend or Stock Redemption

(see 29 CFR §4043.64)

**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 Waiver; *de minimis* 5-percent segment** - Reporting is waived if the person making the distribution is a *de minimis* 5-percent segment of the plan's controlled group for the most recent fiscal year(s) ending on or before the effective date of the reportable event.

#### **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
- Description of the plan's controlled group structure, including the name and address 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 11 of these Instructions)
- Actuarial information (see page 11 of these Instructions)

### D. Transfer of Benefit Liabilities

(see 29 CFR §4043.65)

**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 shall be 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 that section 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:

*Complete plan transfer:* The transfer is a transfer of all of the transferor plan's benefit liabilities and assets to one other plan.

*Transfer of less than 3 percent of assets:* The value of the assets being transferred —

- (1) Equals the present value of the accrued benefits (whether or not vested) being transferred, using actuarial assumptions that comply with section 414(I) of the Code; and
- (2) In conjunction with other assets transferred during the same plan year, is less than 3 percent of the assets of the transferor plan as of at least one day in that year.

*Section 414(I) safe harbor:* The benefit liabilities of 500 or fewer participants are transferred and the transfer complies with section 414(I) of the Code using the actuarial assumptions prescribed for valuing benefits in trusted plans under 29 CFR §§4044.51-57.

*Fully funded plans:* The transfer complies with section 414(I) of the Code using reasonable actuarial assumptions and, after the transfer, the transferor and transferee plans are fully funded as determined in accordance with 29 CFR Parts 4044.51 through 4044.57 (dealing with valuation of benefits and assets in trusted terminating plans) and 29 CFR Part 4010.8(d)(1)(ii).

**Additional Required Information:**

- Description of the transferee'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's old and new controlled group structures, its contributing sponsor and EIN/PN of 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
- Financial statements of all members of the transferee's new controlled group (see page 11 of these Instructions)
- Actuarial information (see page 11 of these Instructions)

*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.*



## **E. Application for Minimum Funding Waiver**

(see 29 CFR §4043.66)

**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).

**Extension of Reporting Deadline** - The notice date is extended until 10 days after the reportable event occurs.

### **Additional Required Information:**

- Copy of waiver application, with all attachments

## **F. Loan Default**

(see 29 CFR §4043.67)

**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.

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

### **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 11 of these Instructions)
- Actuarial information (see page 11 of these Instructions)

## **G. Insolvency or Similar Settlement**

(see 29 CFR §4043.68)

**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.B).*

**Extension of Reporting Deadline** – For a case or proceeding under 1 or 2 described in the definition of a insolvency or similar event above, the notice date is extended until 10 days after the commencement of the case or proceeding.

### **Additional Required Information:**

- Name, address and telephone 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 11 of these Instructions)