

Pension Benefit Guaranty Corporation

§ 4043.34

transferee plan by name and EIN/PN or EIN, as appropriate;

(2) An explanation of the actuarial assumptions used in determining the value of benefit liabilities (and, if appropriate, the value of plan assets) for each transfer; and

(3) An estimate of the amounts of assets and liabilities being transferred, and the number of participants whose benefits are transferred.

(c) *Waivers*—(1) *Complete plan transfer*. Notice is waived if the transfer is a transfer of all of the transferor plan's benefit liabilities and assets to one other plan.

(2) *Transfer of less than 3 percent of assets*. Notice is waived if the value of the assets being transferred—

(i) Equals the present value of the accrued benefits (whether or not vested) being transferred, using actuarial assumptions that comply with section 414(l) of the Code; and

(ii) 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.

(3) *Section 414(l) safe harbor*. Notice is waived if the transfer complies with section 414(l) of the Code using the actuarial assumptions prescribed for valuing benefits in trustee plans under § 4044.51–57 of this chapter.

(4) *Fully funded plans*. Notice is waived if the transfer complies with section 414(l) of the Code using reasonable actuarial assumptions and, after the transfer, the transferor and transferee plans are fully funded (using the actuarial assumptions prescribed for valuing benefits in trustee plans under § 4044.51–57) of this chapter.

(d) *Who must file*. Only the plan administrator and contributing sponsor of the plan that made the transfer described in paragraph (a)(1) of this section are required to file a notice of a reportable event under this section. Notice by any other contributing sponsor or plan administrator is waived.

§ 4043.33 Application for minimum funding waiver.

(a) *Reportable event*. A reportable event for a plan occurs when an application for a minimum funding waiver for the plan is submitted under section

303 of ERISA or section 412(d) of the Code.

(b) *Initial information required*. In addition to the information in § 4043.3(b), the notice shall include a copy of the waiver application, including all attachments.

§ 4043.34 Loan default.

(a) *Reportable event*. A reportable event occurs for a plan whenever there is a default by a member of the plan's controlled group with respect to a loan with an outstanding balance of \$10 million or more, if—

(1) The default results from the debtor's failure to make a required loan payment when due (unless the payment is made within 30 days after the due date);

(2) The lender accelerates the loan; or

(3) The debtor receives a written notice of default from the lender (and does not establish the notice was issued in error) on account of:

(i) A drop in the debtor's cash reserves below an agreed-upon level;

(ii) An unusual or catastrophic event experienced by the debtor; or

(iii) A persisting failure by the debtor to attain agreed-upon financial performance levels.

(b) *Initial information required*. In addition to the information in § 4043.3(b), the notice shall include—

(1) A copy of the relevant loan documents (e.g., promissory note, security agreement);

(2) The due date and amount of any missed payment;

(3) A copy of any notice of default from the lender; and

(4) A copy of any notice of acceleration from the lender.

(c) *Waivers*—(1) *Default cured*. Notice is waived if the default is cured, or waived by the lender, within 30 days or, if later, by the end of any cure period provided by the loan agreement.

(2) *Foreign entity*. Notice is waived if the debtor is a foreign entity other than a foreign parent.

(3) *Plan funding*. Notice is waived if—

(i) *No variable rate premium*. No variable rate premium is required to be paid for the plan for the event year;

(ii) *\$1 million unfunded vested benefits*. As of the testing date for the event