and with the effect of avoiding liability under this part. Assets “improperly transferred” include but are not limited to assets sold, leased or otherwise transferred for less than adequate consideration and assets distributed as gifts, capital distributions and stock redemptions inconsistent with past practices of the employer. The word transfer includes but is not limited to sales, assignments, pledges, leases, gifts and dividends.

§ 4062.6 Net worth record date.

(a) General. Unless the PBGC establishes an earlier net worth record date pursuant to paragraph (b) of this section, the net worth record date, for all purposes under this part, is the plan’s termination date.

(b) Establishment of an earlier net worth record date. At any time during a termination proceeding, the PBGC, in order to prevent undue loss to or abuse of the plan termination insurance system, may establish as the net worth record date an earlier date during the 120-day period ending with the termination date.

(c) Notification. Whenever the PBGC establishes an earlier net worth record date, it shall immediately give liable person(s) written notification of that fact. The written notice may also include a request for additional information, as provided in §4062.6(a)(3).

§ 4062.6 Net worth notification and information.

(a) General. (1) A contributing sponsor or member of the contributing sponsor’s controlled group that believes section 4062(b) liability exceeds 30 percent of the collective net worth of persons subject to liability in connection with a plan termination shall—

(i) So notify the PBGC by the 90th day after the notice of intent to terminate is filed with the PBGC or, if no notice of intent to terminate is filed with the PBGC and the PBGC institutes proceedings under section 4042 of ERISA, within 30 days after the establishment of the plan’s termination date in such proceedings; and

(ii) Submit to the PBGC the information specified in paragraph (b) of this section with respect to the contributing sponsor and each member of the

(b) Net worth information. The following information specifications apply, individually, with respect to each person subject to liability:

(1) An estimate, made in accordance with §4062.4, of the person’s net worth on the net worth record date and a statement, with supporting evidence, of the basis for the estimate.

(2) A copy of the person’s audited (or if not available, unaudited) financial statements for the 5 full fiscal years plus any partial fiscal year preceding the net worth record date. The statements must include balance sheets, income statements, and statements of changes in financial position and must be accompanied by the annual reports, if available.

(3) A statement of all sales and copies of all offers or agreements to buy or sell at least 25 percent of the person’s