§ 4231.7  De minimis mergers and transfers.

(a) Special plan solvency rule. The determination of whether a de minimis merger or transfer satisfies the plan solvency requirement in § 4231.6(a) may be made without regard to any other de minimis mergers or transfers that have occurred since the last actuarial valuation.

(b) De minimis merger defined. A merger is de minimis if the present value of accrued benefits (whether or not vested) of one plan is less than 3 percent of the fair market value of the other plan’s assets.

(c) De minimis transfer defined. A transfer of assets or liabilities is de minimis if—

(1) The fair market value of the assets transferred, if any, is less than 3 percent of the fair market value of all the assets of the transferor plan;

(2) The present value of the accrued benefits transferred (whether or not vested) is less than 3 percent of the fair market value of all the assets of the transferee plan; and

(3) The transferee plan is not a plan that has terminated under section 4041A(a)(2) of ERISA.

(d) Value of assets and benefits. For purposes of paragraphs (b) and (c) of this section, the value of plan assets and accrued benefits may be determined as of any date prior to the proposed effective date of the transaction, but not earlier than the date of the most recent actuarial valuation.

(e) Aggregation required. In determining whether a merger or transfer is de minimis, the assets and accrued benefits transferred in previous de minimis mergers and transfers within the same plan year must be aggregated as described in paragraphs (e)(1) and (e)(2) of this section. For the purposes of those paragraphs, the value of plan assets may be determined as of the date during the plan year on which the total value of the plan’s assets is the highest.

(1) A merger is not de minimis if the total present value of accrued benefits merged into a plan, when aggregated with all prior de minimis mergers of and transfers to that plan effective within the same plan year, equals or exceeds 3 percent of the value of the plan’s assets.

(2) A transfer is not de minimis if, when aggregated with all previous de minimis mergers and transfers effective within the same plan year—

(i) The value of all assets transferred from a plan equals or exceeds 3 percent of the value of the plan’s assets; or

(ii) The present value of all accrued benefits transferred to a plan equals or exceeds 3 percent of the plan’s assets.

§ 4231.8  Notice of merger or transfer.

(a) Filing of request—(1) When to file. Except as provided in paragraph (f) of this section, a notice of a proposed merger or transfer must be filed not less than 120 days before the effective date of the transaction. For purposes of this part, the effective date of a merger or transfer is the earlier of—

(i) The date on which one plan assumes liability for benefits accrued under another plan involved in the transaction; or

(ii) The date on which one plan transfers assets to another plan involved in the transaction.