in less than 120 days after filing the notice will cause harm to participants or beneficiaries of the plans involved in the transaction;

(2) The PBGC determines that the transaction complies with the requirements of section 4231 of ERISA; or

(3) The PBGC completes its review of the transaction.


§ 4231.9 Request for compliance determination.

(a) General. The plan sponsor(s) of one or more plans involved in a merger or transfer, or the duly authorized representative(s) acting on behalf of the plan sponsor(s), may file a request for a determination that the transaction complies with the requirements of section 4231 of ERISA. The request must contain the information described in paragraph (b) or (c) of this section, as applicable.

(1) The place of filing. The request must be delivered to the address set forth in §4231.8(c).

(2) Single request permitted for all de minimis transactions. Because the plan solvency test for de minimis mergers and transfers is based on the most recent valuation (without adjustment for intervening de minimis transactions), a plan sponsor may submit a single request for a determination that the transaction complies with the requirements of section 4231 of ERISA. The request must contain the information described in paragraph (b) or (c) of this section, as applicable.

(b) Contents of request—(1) General. A request for a compliance determination concerning a de minimis merger or transfer must contain one of the following statements for each plan that exists after the transaction, certified by an enrolled actuary:

(i) A statement that the plan satisfies one of the plan solvency tests set forth in §4231.6(a), indicating which test is satisfied.

(ii) A statement of the basis on which the actuary has determined that benefits under the plan are not reasonably expected to be subject to suspension under section 4245 of ERISA, including supporting data or calculations, assumptions and methods.

§ 4231.10 Actuarial calculations and assumptions.

(a) Most recent valuation. All calculations required by this part must be based on the most recent actuarial valuation as of the date of filing the notice, updated to show any material changes.

(b) Assumptions. All calculations required by this part must be based on methods and assumptions that are reasonable in the aggregate, based on generally accepted actuarial principles.

(c) Updated calculations. If the actual effective date of the merger or transfer is more than one year after the date the notice is filed with the PBGC, PBGC may require the plans involved to provide updated calculations and representations based on the actual effective date of the transaction.

PART 4245—NOTICE OF INSOLVENCY

Sec.
4245.1 Purpose and scope.
4245.2 Definitions.