§ 4043.29 Change in contributing sponsor or controlled group.

(a) Reportable event. A reportable event occurs when a plan transfers its assets or liabilities under section 206 of ERISA or section 414(1) of the Code.

(b) Waivers. Notice may be required under § 4043.29 (for a controlled group change) or § 4043.32 (for a transfer of benefit liabilities).

§ 4043.28 Plan merger, consolidation, or transfer.

(a) Reportable event. A reportable event occurs when a plan merges, consolidates, or transfers its assets or liabilities under section 206 of ERISA or section 414(1) of the Code.

(b) Waivers. Notice is waived for this event. However, notice may be required under § 4043.29 (for a controlled group change) or § 4043.32 (for a transfer of benefit liabilities).

§ 4043.29 Change in contributing sponsor or controlled group.

(a) Reportable 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 purposes of this section, the term “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. A transaction is not reportable if it will result solely in a reorganization involving a mere change in identity, form, or place of organization, however effected.

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

(1) The name of each member of the plan’s old and new controlled groups and the member’s ownership relationship to other members of those groups;

(2) For each plan maintained by any member of the plan’s old or new controlled group, identification of the plan and its contributing sponsor(s) by name and EIN/PN or EIN, as appropriate; and

(3) A copy of the most recent audited (or if not available, unaudited) financial statements, and the most recent 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.

(c) Waivers—(1) De minimis 10-percent segment. Notice is waived if the person or persons that will cease to be members of the plan’s controlled group represent a de minimis 10-percent segment of the plan’s old controlled group for the most recent fiscal year(s) ending on or before the date the reportable event occurs.

(2) Foreign entity. Notice is waived if each person that will cease to be a member of the plan’s controlled group 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 year, the plan has less than $1 million in unfunded vested benefits; or