

## § 4011.5

under section 302(d)(7)(C) of ERISA, the current liability may be reduced by one percent for each tenth of a percentage point by which the highest rate exceeds the rate so used.

### § 4011.5 Exemption for new and newly-covered plans.

A plan (other than a plan resulting from a consolidation or spinoff) is exempt from the Participant Notice requirement for the first plan year for which the plan must pay premiums under parts 4006 and 4007 of this chapter.

### § 4011.6 Mergers, consolidations, and spinoffs.

In the case of a plan involved in a merger, consolidation, or spinoff transaction that becomes effective during a plan year, the plan administrator shall apply the requirements of section 4011 of ERISA and of this part for that plan year in a reasonable manner to ensure that the Participant Notice serves its statutory purpose.

### § 4011.7 Persons entitled to receive notice.

The plan administrator must provide the Participant Notice to each person who is a participant, a beneficiary of a deceased participant, an alternate payee under an applicable qualified domestic relations order (as defined in section 206(d)(3) of ERISA), or an employee organization that represents any group of participants for purposes of collective bargaining. To determine who is a person that must receive the Participant Notice for a plan year, the plan administrator may select any date during the period beginning with the last day of the previous plan year and ending with the day on which the Participant Notice for the plan year is due, provided that a change in the date from one plan year to the next does not exclude a substantial number of participants and beneficiaries.

### § 4011.8 Time of notice.

The plan administrator must issue the Participant Notice for a plan year no later than two months after the deadline (including extensions) for filing the annual report for the previous plan year (see § 2520.104a-5(a)(2) of this

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title). The plan administrator may change the date of issuance from one plan year to the next, provided that the effect of any change is not to avoid disclosing a minimum funding waiver under § 4011.10(b)(5) or a missed contribution under § 4011.10(b)(6). When the President of the United States declares that, under the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121, 5122(2), 5141(b)), a major disaster exists, the PBGC may extend the due date for providing the Participant Notice by up to 180 days.

### § 4011.9 Method and date of issuance of notice; computation of time.

(a) *Method of issuance.* The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance of the Participant Notice. The Participant Notice may be issued together with another document, such as the summary annual report required under section 104(b)(3) of ERISA for the prior plan year, but must be in a separate document.

(b) *Issuance date.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date the Participant Notice was issued.

(c) *Computation of time.* The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period for issuances under this part.

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### § 4011.10 Form of notice.

(a) *General.* The Participant Notice (and any additional information under paragraph (d) of this section) shall be readable and written in a manner calculated to be understood by the average plan participant and not to mislead recipients. The Model Participant Notice in appendix A to this part (when properly completed) is an example of a Participant Notice meeting the requirements of this section.

(b) *Content.* The Participant Notice for a plan year shall include—

(1) Identifying information (the name of the plan and the contributing sponsor, the employer identification number of the contributing sponsor, the plan number, the date (at least the month and year) on which the Participant Notice is issued, and the name,