

## **Application Procedures for Approval of Benefit Suspensions for Certain Multiemployer Defined Benefit Pension Plans under § 432(e)(9)**

Revenue Procedure 2016-27

This revenue procedure contains revised procedures for applications for a suspension of benefits under a multiemployer defined benefit pension plan that is in critical and declining status under § 432(e)(9). These procedures replace the procedures set forth in Rev. Proc. 2015-34, 2015-27 I.R.B. 1218. The procedures set forth in this revenue procedure must be followed for applications submitted on or after April 26, 2016.

### **SECTION 1. BACKGROUND AND PURPOSE**

Section 201 of the Multiemployer Pension Reform Act of 2014, Division O of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113-235 (128 Stat. 2130 (2014)) (MPRA), amended the Internal Revenue Code (Code) and the Employee Retirement Income Security Act of 1974, Public Law 93-406 (88 Stat. 829 (1974)), as amended (ERISA), to permit the sponsor of a multiemployer defined benefit plan in critical and declining status to suspend benefits in certain situations.

In particular, MPRA amended § 432(e)(9) of the Code and section 305(e)(9) of ERISA to permit the sponsor of a multiemployer defined benefit plan in critical and declining status to submit to the Secretary of the Treasury (Secretary) a proposal to suspend benefits in certain situations. MPRA requires the Secretary to approve a plan sponsor's proposed suspension if the plan is eligible for the proposed suspension and the proposed suspension satisfies § 432(e)(9)(C) through (F).<sup>1</sup>

On June 19, 2015, the Treasury Department and the IRS published temporary regulations (TD 9723) and proposed regulations (REG-102648-15) under § 432(e)(9) (the June 2015 regulations) in the Federal Register at 80 FR 35207 and 80 FR 35262, respectively. The IRS issued Rev. Proc. 2015-34 contemporaneously with the June 2015 regulations. Rev. Proc. 2015-34 prescribed the application process for approval of a proposed benefit suspension in accordance with § 432(e)(9)(G) and provided a model notice that a plan sponsor proposing a benefit suspension could use to satisfy the

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<sup>1</sup> Section 201 of MPRA made amendments to section 305 of ERISA that are parallel to § 432(e)(9), and the Department of the Treasury has interpretive jurisdiction over the subject matter of these provisions under ERISA as well as under the Code. See also section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713). Accordingly, the provisions of this revenue procedure pertaining to § 432(e)(9) of the Code apply also for purposes of the corresponding provisions of section 305(e)(9) of ERISA. Furthermore, the Secretary's approval of a proposed suspension would apply for purposes of section 305(e)(9) of ERISA, as well for purposes of § 432(e)(9) of the Code.

content and readability requirements of § 432(e)(9)(F)(ii) and (iii)(II).

On September 2, 2015, the Treasury Department and IRS published temporary regulations (TD 9735) and proposed regulations (REG-123640-15) on the voting provisions under § 432(e)(9)(H) in the Federal Register at 80 FR 52972 and 80 FR 53068, respectively. On February 11, 2016, the Treasury Department and the IRS published proposed regulations (REG-101701-16) on the application of § 432(e)(9)(D)(vii) in the Federal Register at 81 FR 7253.

On April 28, 2016, the Treasury Department and IRS published final regulations under § 432(e)(9) in the Federal Register. Those final regulations finalize the two proposed regulations under § 432(e)(9) that were proposed during 2015 and reserve a paragraph for the proposed regulations published in February of 2016.

This revenue procedure supersedes Rev. Proc. 2015-34 and applies to submissions made on or after April 26, 2016. Therefore, plan sponsors should follow the application process prescribed in this revenue procedure for approval of a proposed benefit suspension submitted on or after that date. The model notice in Appendix A of this revenue procedure replaces the model notice attached to Rev. Proc. 2015-34 for notices with respect to applications submitted under this revenue procedure. Applications submitted under Rev. Proc. 2015-34 were required to comply with the applicable provisions of the June 2015 regulations. As noted in Rev. Proc. 2015-34, plan sponsors that submit an application under that revenue procedure may need to revise the proposed suspension or supplement the application to take into account the final regulations and this revenue procedure.

## SECTION 2. APPLICATION PROCEDURES

This section prescribes procedures for applying for approval of a proposed suspension of benefits, including information that must be included in the application. A plan sponsor may be required to provide additional information with respect to any application after it is submitted. For example, the plan sponsor may be required to provide individual participant data that would permit the Secretary to confirm that the sample and actuarial calculations provided in the application, such as those provided for purposes of section 4 of this revenue procedure, are accurate and applied in a consistent manner.

.01 Who may submit an application. An application for approval of a proposed benefit suspension under § 432(e)(9) must be submitted by the plan sponsor as defined in § 432(j)(9) (generally, the joint board of trustees of the plan) or by an authorized representative of the plan sponsor. The application must be signed and dated by an authorized trustee who is a current member of the board of trustees or by an authorized representative of the plan sponsor who is described in section 7.01(13) of Rev.

.02 Terms of proposed benefit suspension. The application must include a description of the proposed benefit suspension. The description must include the following information:

- (1) The effective date of the proposed suspension.
- (2) If the proposed suspension will expire by its own terms, the expiration date.

(3) If the proposed suspension does not provide for different treatment of participants and beneficiaries (other than as a result of application of the individual limitations of § 432(e)(9)(D)(i), (ii) and (iii) (the “individual limitations”), a statement to that effect.

(4) If the proposed suspension provides for different treatment of participants and beneficiaries (other than as a result of application of the individual limitations), the categories or groups of individuals for which the proposed suspension provides for different treatment (other than as a result of application of the individual limitations) and how those categories or groups are defined. The description must describe the differences in treatment, including the formula used to calculate the amount of the proposed benefit suspension for individuals in each category or group. Although any benefit suspension must take into account the individual limitations on a benefit suspension, for ease of presentation and understanding the amount of the proposed benefit suspension described in this section 2.02 for an individual must be calculated as if the individual limitations did not apply to that individual. (Note that the application of those limitations must be described pursuant to section 4.01 of this revenue procedure, below.)

.03 Penalties of perjury. The following statement signed by an authorized trustee on behalf of the board of trustees that the application is submitted under penalties of perjury: “Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and, to the best of my knowledge and belief, the request contains all the relevant facts relating to the request, and such facts are true, correct, and complete.”

.04 Public disclosure. A statement signed by an authorized trustee on behalf of the board of trustees acknowledging that, pursuant to § 432(e)(9)(G)(ii), the application

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<sup>2</sup> Section 7.01(13) of Rev. Proc. 2016-1 provides that the following parties may be authorized representatives if appropriately accredited or authorized: attorney, certified public accountant, enrolled agent, enrolled actuary, and enrolled retirement plan agent.

for approval of the proposed suspension of benefits, and the application's supporting material, will be publicly disclosed through publication on the Treasury Department website.

.05 Where to submit an application. An application must be submitted to:

[www.treasury.gov/mpira](http://www.treasury.gov/mpira)

.06 Signature. Any signature required by this revenue procedure must be submitted electronically in Portable Document Format as part of the application. A stamped signature is not permitted.

.07 Duty to correct. If, after submission of an application for a suspension of benefits, any error in that application is discovered, the plan sponsor must provide prompt notice to the Treasury Department.

.08 Resubmission review. If the application for a suspension is submitted under the resubmission review process pursuant to § 1.432(e)(9)-1(g)(3), see section 8 for special procedures that apply.

### SECTION 3. DEMONSTRATION THAT PLAN IS ELIGIBLE FOR SUSPENSION

The application must include the following information providing support for the plan sponsor's method of satisfying the benefit suspension criteria under § 432(e)(9), including the plan's eligibility for the suspension:

.01 Plan actuary's certification of critical and declining status. The plan actuary's certification required under § 432(b)(3)(A) that the plan is in critical and declining status as defined in § 432(b)(6) for the plan year in which the application is submitted. Documentation supporting the actuarial certification of status must be included with the certification, including a plan-year-by-plan-year projection of the available resources as defined in § 418E(b)(3) and the benefits under the plan, demonstrating that the plan is projected to become insolvent during the period described in § 432(b)(6) that applies to the plan. The documentation must include a description of each of the assumptions used, including the new entrant profile, the total contribution base units, and the average contribution rates. The plan-year-by-plan-year projection must separately identify the market value of assets as of the beginning and end of each plan year in the relevant period and the following cash-flow items for each of those years:

(1) Contributions.

(2) Withdrawal liability payments.

(3) Benefit payments, separately identifying benefit payments with respect to current retirees and beneficiaries, terminated vested participants who are not currently receiving benefits, currently active participants, and future new entrants.

(4) Administrative expenses.

(5) Investment returns.

.02 Plan actuary's certification that the plan is projected to avoid insolvency. The plan actuary's certification to the plan sponsor under § 432(e)(9)(C)(i) that the plan is projected to avoid insolvency within the meaning of § 418E, taking into account the proposed benefit suspension (and, if applicable, a proposed partition of the plan under section 4233 of ERISA) and assuming that the proposed suspension continues until it expires by its own terms or, if no such expiration date is set, indefinitely. Documentation supporting the actuarial certification under § 432(e)(9)(C)(i) must be included with the certification, including a plan-year-by-plan-year projection of the available resources within the meaning of § 418E(b)(3) and the benefits under the plan demonstrating the avoidance of insolvency of the plan over the extended period described in § 1.432(e)(9)-1(d)(5)(ii)(C). The documentation must include a description of each of the assumptions used, including the new entrant profile, the total contribution base units and average contribution rates. The plan-year-by-plan-year projection must separately identify the market value of assets as of the beginning and end of the initial period and each subsequent plan year in the extended period and the following cash-flow items for the initial period and each of those plan years:

(1) Contributions.

(2) Withdrawal liability payments.

(3) Benefit payments, separately identifying benefit payments with respect to current retirees and beneficiaries, terminated vested participants who are not currently receiving benefits, currently active participants, and future new entrants.

(4) Administrative expenses.

(5) Investment returns.

For this purpose, the initial period begins on the first day of the calendar quarter in which the application is submitted and ends with the last day of the plan year that includes that first day.

.03 Plan sponsor's determination of projected insolvency. The plan sponsor's determination under § 432(e)(9)(C)(ii) that the plan would not be projected to avoid

insolvency if no suspension of benefits were applied under the plan, even though all reasonable measures to avoid insolvency have been taken. The determination must include the documentation set forth in section 5 of this revenue procedure.

#### SECTION 4. DEMONSTRATION THAT THE PROPOSED SUSPENSION SATISFIES THE STATUTORY REQUIREMENTS

The application must include the following information to demonstrate that certain statutory limitations and notice requirements are satisfied with respect to the proposed suspension of benefits:

.01 Demonstration that limitations on individual suspensions are satisfied. A demonstration of how the proposed suspension satisfies the individual limitations.<sup>3</sup> The demonstration must include:

(1) A sample calculation applying the guarantee-based limitation under § 432(e)(9)(D)(i) for an individual in each category or group identified in accordance with section 2.02(4) of this revenue procedure. Each sample calculation must identify how the monthly benefit that would be guaranteed under section 4022A of ERISA is calculated (assuming, for this purpose, that no portion of the individual's benefit under the plan is subject to permitted forfeiture under § 411(a), due, for example, to a failure to vest in accordance with the vesting schedule specified under the plan). The calculation must identify the extent, if any, to which the monthly guaranteed benefit calculated under section 4022A is reduced on account of any of the following limitations or exclusions:

(a) The section 4022A(a) exclusion of certain forfeitable benefits (for example, increased benefits that have not become part of the accrued benefit).

(b) The section 4022A(b)(1)(A) exclusion of certain benefits and benefit increases in effect for less than 60 months.

(c) The limitations contained in the section 4022A(c)(2) definition of the accrual rate used for calculating the monthly guaranteed benefit (the accrual rate must be based on a benefit that is no greater than the monthly benefit payable under the plan at normal retirement age in the form of a single life annuity (for example, if the benefit reflected an actuarial increase related to delayed retirement or is paid in the form of a social security level income option) and must be calculated without regard to any

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<sup>3</sup> The sample calculations submitted pursuant to this section 4.01 must not include personally identifiable information relating to any individual.

reduction under § 411(a)(3)(E), divided by years of credited service (credited service cannot exceed 1 year for any year of participation)).

(d) The section 4022A(d) limitation that the guaranteed benefit will not exceed the benefit calculated under the plan as reduced under § 411(a)(3)(E).

(e) The section 4022A(e) exclusion, pursuant to section 4022(b)(6), of benefits that would not be guaranteed if paid under a single-employer plan (benefits paid from a plan that does not satisfy the requirements of § 401(a) or § 404(a)(2)).

(2) If the plan provides for benefits based on disability (as defined under the plan):

(a) A description of each benefit based on disability, as defined under the plan, that is paid to an individual under the plan (including disability benefits that are not available to newly disabled participants), and

(b) A sample calculation applying the disability-based limitation under § 432(e)(9)(D)(iii) for an individual in each category or group identified in accordance with section 2.02(4) of this revenue procedure for each type of benefit based on disability that shows how the plan determines the extent to which any retirement benefit paid with respect to a participant who commenced benefits as a result of disability is, or is not, treated as a benefit based on disability. If the plan provides to a disabled individual a benefit that is not described in the plan as a disability benefit (for example, a retirement benefit paid at normal retirement age that is greater than a disability benefit paid before normal retirement age), then the calculation must show the extent to which the retirement benefit is, or is not, a benefit based on disability.

(3) A sample calculation applying the age-based limitation under § 432(e)(9)(D)(ii) for an individual in each category or group identified in accordance with section 2.02(4) of this revenue procedure. Each sample calculation must show how the proposed suspension satisfies the age-based limitations taking into account the guarantee-based limitation. If the plan provides for benefits based on disability, then each sample calculation must show how the proposed suspension satisfies the age-based limitations taking into account both the guarantee-based limitation and the disability-based limitation.

.02 Demonstration that the proposed suspension is reasonably estimated to enable the plan to avoid insolvency. A demonstration that, in accordance with § 432(e)(9)(D)(iv), the proposed benefit suspension (considered, if applicable, in combination with a proposed partition of the plan under section 4233 of ERISA) is reasonably estimated to enable the plan to avoid insolvency. The demonstration must include:

(1) An illustration, prepared on a deterministic basis, showing that:

(a) For each plan year during the extended period described in § 1.432(e)(9)-1(d)(5)(ii)(C), the plan's solvency ratio – the ratio of the plan's available resources (as defined in § 418E(b)(3)) to the scheduled benefit payments under the plan for the plan year – is projected on a deterministic basis to be at least 1.0.

(b) If the plan's projected funded percentage at the end of the extended period is less than or equal to 100 percent, then neither the plan's solvency ratio nor its available resources are projected to decrease in any of the last five plan years of the extended period.

(2) An illustration, using stochastic projections that reflect variance in investment return, that the probability the plan will avoid insolvency throughout the extended period as a result of the proposed suspension is greater than 50 percent. (The plan sponsor of a plan that is not required to appoint a retiree representative is not required to provide this illustration, unless the plan sponsor chooses to use stochastic projections to demonstrate that the plan will avoid insolvency.)

(3) A description of each of the assumptions used, including:

(a) If an actuarial assumption used for the deterministic projections under section 4.02(1) of this revenue procedure differs from that used under section 3.01 of this revenue procedure, an explanation of the information and analysis that led to the selection of that assumption.

(b) With respect to the stochastic projections described in section 4.02(2) of this revenue procedure, the assumed mix of assets (and how it compares with the current mix of assets), the distribution of returns for each asset class, and the correlation among those rates of returns and any other economic variables in the projections.

(c) If an actuarial assumption used for stochastic projections described in section 4.02(2) of this revenue procedure differs from that used for deterministic projections described in section 4.02(1) of this revenue procedure, an explanation of the information and analysis that led to the selection of that assumption.

.03 Demonstration that the proposed suspension is reasonably estimated to not materially exceed the level necessary to avoid insolvency. In the case of a plan that is not applying for a partition in combination with a suspension, a demonstration that, in accordance with § 432(e)(9)(D)(iv), the proposed benefit suspension is reasonably estimated to not materially exceed the level necessary to enable the plan to avoid insolvency. For this purpose, the assumptions used must be the same as those used

for purposes of 4.02 of this revenue procedure. The demonstration must include an illustration, prepared on a deterministic basis, of the plan's available resources and solvency ratio as described in section 4.02(1) of this revenue procedure (and, if applicable to the plan, an illustration of the probability that the plan will avoid insolvency prepared using stochastic projections, as described in section 4.02(2) of this revenue procedure) showing that the proposed suspension would not reasonably be estimated to enable the plan to avoid insolvency if the dollar amount of the proposed suspension for each participant and beneficiary were reduced (but not below zero) by the greater of—

(1) Five percent of the reduction in the periodic payment proposed for that participant or beneficiary; or

(2) Two percent of the participant's or beneficiary's periodic payment determined without regard to the reduction proposed in the application.

.04 Demonstration that the proposed benefit suspension is distributed equitably. A demonstration that, in accordance with § 432(e)(9)(D)(vi), the proposed benefit suspension is distributed in an equitable manner across the participant and beneficiary population.

(1) For the plan in the aggregate, the application must include the following:

(a) A statement of the number of participants, beneficiaries, and alternate payees; the average monthly benefit before the suspension; the average monthly benefit after the suspension (determined taking into account the individual limitations); and the aggregate present value of the reduction in benefits for all individuals.

(b) A demonstration of the distribution of the benefit suspension. This demonstration may be expressed as a count of individuals whose benefits are not reduced, and a count of individuals whose benefits are reduced by a percentage that falls within a series of ranges that do not exceed 10 percent. For example, the distribution could show a count of the individuals who have no reduction, a reduction of 10 percent or less, a reduction of 20 percent or less but more than 10 percent, etc.

(2) If, as described in section 2.02(4) of this revenue procedure, the proposed suspension provides for different treatment for different categories or groups (other than as a result of application of the individual limitations), the application must include the following:

(A) The information described in section 4.04(1)(A) and (B) of this revenue procedure for each such category or group.

(B) With respect to the demonstration that the proposed benefit suspension is distributed in an equitable manner across the participant and beneficiary population, the application must identify the factors (for example, those listed in section § 432(e)(9)(D)(vi)(I) through (XI)) that were taken into account in designing the proposed suspension.

(C) If none of the factors listed in § 432(e)(9)(D)(vi)(I) through (XI) were taken into account, then the application must explain why none of them were taken into account in designing the proposed suspension.

(D) For each factor identified under paragraph 4.04(2)(B) of this revenue procedure that is not one of the factors listed in § 432(e)(9)(D)(vi)(I) through (XI), an explanation of why the factor is relevant.

(E) An explanation of how the differences in treatment under the proposed suspension among the categories or groups identified result from a reasonable application of the relevant factors.

.05 Notice. A description of the plan sponsor's method for satisfying the notice requirements under § 432(e)(9)(F), including the following information:

(1) A copy of each type of actual notice<sup>4</sup> that has been or will be given to participants, beneficiaries, employers that have an obligation to contribute within the meaning of section 4212(a) of ERISA, and each employee organization representing participants under the plan. If there is more than one category or group of individuals described in section 2.02(4) of this revenue procedure, a copy of each type of actual notice that has been given or will be given to an individual in each category or group. (This is required even if the plan sponsor uses the model notice in Appendix A.)

(2) A description of the efforts that are being made to contact participants, beneficiaries and alternate payees.

(3) A description of the steps the plan sponsor has taken to ensure that any electronically delivered notices are reasonably accessible to the recipients.

(4) A list of:

(a) Each employer that has an obligation to contribute within the meaning of section 4212(a) of ERISA, and

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<sup>4</sup> The copy of the notice(s) attached to the application must not include personally identifiable information with respect to any individual, such as a name or social security number.

(b) Each employee organization representing participants under the plan.

## SECTION 5. PLAN SPONSOR DETERMINATION RELATING TO REASONABLE MEASURES TAKEN TO AVOID INSOLVENCY

With respect to the plan sponsor's determination required under section 3.03 of this revenue procedure that the plan is projected to become insolvent unless benefits are suspended, the application must include the following information:

.01 Measures taken to avoid insolvency. A detailed description of measures taken in order to avoid insolvency over the past 10 plan years immediately preceding the plan year in which the application is submitted.

.02 Plan factors. In accordance with § 432(e)(9)(C)(ii), the following specific information with respect to the plan:

(1) For the past 10 plan years immediately preceding the plan year in which the application is submitted:

(a) Contribution levels.

(b) Levels of benefit accruals, including any prior reductions in the rate of benefit accruals.

(c) Prior reductions, if any, of adjustable benefits under § 432(e)(8).

(d) Any prior suspension of benefits under § 432(e)(9).

(e) Measures undertaken by the plan sponsor to retain or attract contributing employers.

(2) The impact on plan solvency of the subsidies and ancillary benefits, if any, available to active participants.

(3) Compensation levels of active participants relative to employees in the participants' industry generally.

(4) Competitive and other economic factors facing contributing employers.

.03 How plan factors were taken into account. For each of the factors listed under section 5.02 of this revenue procedure and the factors described in § 432(e)(9)(C)(ii)(VIII) (the impact of benefit and contribution levels on retaining active

participants and bargaining groups under the plan) and § 432(e)(9)(C)(ii)(IX) (the impact of past and anticipated contribution increases under the plan on employer attrition and retention levels), the application must describe how that factor was taken into account (or why that factor was not taken into account) in the plan sponsor's determination that all reasonable measures have been taken to avoid insolvency.

.04 Other factors considered. If the plan sponsor took into account any other factors in its determination that all reasonable measures have been taken to avoid insolvency, then the application must discuss why those factors were relevant and how they were taken into account.

## SECTION 6. OTHER REQUIRED INFORMATION

The application must also include the following information:

.01 Ballot. A proposed ballot intended to satisfy the requirements of § 432(e)(9)(H)(iii). However, the proposed ballot should not include the information described in § 1.432(e)(9)-1(h)(3)(i)(E), (L) or (M) (regarding the statement in opposition to the proposed benefit suspension described, the individualized estimate that was provided as part of the notice, and the voting procedures (including the deadline for voting)).

.02 Partition. Whether the plan sponsor is requesting approval from the Pension Benefit Guaranty Corporation (PBGC) of a proposed partition under section 4233 of ERISA. If the plan sponsor is requesting approval of a proposed partition, then the application for the proposed benefit suspension must include the proposed effective date of the partition and a plan-year-by-plan-year projection of the amount of the reduction in benefit payments (that is, the guaranteed amounts covered by financial assistance under the successor plan for each year) attributable to the partition.

.03 Ten-year experience for certain critical assumptions. With respect to each of the 10 plan years immediately preceding the plan year in which the application is submitted, a disclosure that separately identifies:

- (1) Total contributions.
- (2) Total contribution base units.
- (3) Average contribution rates.
- (4) Withdrawal liability payments.
- (5) Rate of return on plan assets.

.04 Demonstration of sensitivity of projections. The application must include deterministic projections of the sensitivity of the plan's solvency ratio throughout the extended period to certain key assumptions. For this purpose, the application must include the following separate projections calculated using the same assumptions as those used under section 4.02(1) of this revenue procedure, except that:

(1) The assumed rate of return is reduced by 1 percentage point.

(2) The assumed rate of return is reduced by 2 percentage points.

(3) Future contribution base units increase or decrease at a rate equal to the average annual rate of increase or decrease that the plan experienced over the period of years described in section 6.03 of this revenue procedure.

(4) Future contribution base units increase or decrease at a rate equal to the rate described in section 6.04(3) of this revenue procedure reduced by 1 percentage point.

The projections described in (3) and (4) may be made without reflecting any adjustments to the projected benefit payments that result from the alternative assumptions regarding future contribution base units.

.05 Projection of funded percentage. The plan sponsor must include an illustration, prepared on a deterministic basis, of the projected value of plan assets, the accrued liability of the plan (calculated using the unit credit funding method) and the funded percentage for each year in the extended period.

.06 Plan sponsor certifications relating to plan amendments. The plan sponsor must certify that if it receives final authorization to implement the suspension as described in § 432(e)(9)(H)(vi) and chooses to implement the authorized suspension, then, in addition to the plan amendment implementing the suspension, the following plan amendments will be timely adopted and not modified at any time thereafter before the suspension of benefits expires:

(1) A plan amendment providing that in accordance with § 432(e)(9)(C)(ii) the benefit suspension will cease as of the first day of the first plan year following the plan year in which the plan sponsor fails to maintain a written record of its determination that both:

(a) All reasonable measures to avoid insolvency continue to be taken during the period of the benefit suspension.

(b) The plan would not be projected to avoid insolvency if no suspension of

benefits were applied under the plan.

(2) A plan amendment providing that any future benefit improvements must satisfy the requirements of § 432(e)(9)(E).

.07 Whether a plan is described in § 432(e)(9)(D)(vii). Whether the plan is a plan described in § 432(e)(9)(D)(vii) and, if so, how the provisions of § 432(e)(9)(D)(vii) are reflected in the proposed benefit suspension.

.08 Optional additional information. The plan sponsor may include other information about the plan, such as a narrative statement of the reasons the plan is in critical and declining status.

## SECTION 7. IDENTIFICATION AND BACKGROUND INFORMATION ON THE PLAN

The application must include the following identification and background information:

.01 Plan sponsor. Name, contact information (for example, address, telephone number, email address and fax number) and employer identification number (EIN) of the plan sponsor.

.02 Plan identification. Name of the plan, plan number and plan EIN (if different from the plan sponsor EIN) for which the application is submitted.

.03 Retiree representative. If applicable, name and contact information of the retiree representative for the plan described in § 432(e)(9)(B)(v).

.04 Plan's enrolled actuary. Name, enrollment number, and contact information of the plan's enrolled actuary within the meaning of § 7701(a)(35).

.05 Power of Attorney. A designation of power of attorney for each authorized representative who will represent the plan sponsor in connection with the application. See Appendix B.

.06 Plan documents. With respect to the plan document, the most recent plan document, including all amendments adopted since the last restatement<sup>5</sup> as well as the

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<sup>5</sup>Submission of the plan document and amendments to the Treasury Department as part of the application for approval of a proposed suspension under this revenue procedure will not be treated as a request to the IRS for a favorable determination on the qualified status of the plan under § 401 or the exempt status of the related trust under § 501(a). For procedures governing an application to the IRS for

following documents related to that plan document:

(1) The most recent summary plan description as defined under section 102 of ERISA and any subsequent summaries of material modification.

(2) The most recent determination letter issued to the plan.

.07 Collective bargaining and side agreements. Excerpts from collective bargaining agreements and side agreements (such as participation agreements or reciprocity agreements) pursuant to which the plan is maintained. The plan sponsor must not submit the entire collective bargaining or side agreement. The required excerpts are:

(1) Language from any portions of a collective bargaining agreement that are relevant to the plan or the proposed suspension, and

(2) Language from any portions of a side agreement that is relevant to the plan or the proposed suspension.

.08 Annual return. Excerpts from the most recently filed Form 5500, Annual Return/Report of Employee Benefit Plan. The required excerpts are:

(1) Pages 1 and 2 of the Form 5500, without attachments or schedules.

(2) The Schedule MB, including attachments, and

(3) The Schedule R, including attachments.

.09 Rehabilitation plan. The rehabilitation plan described in § 432(e)(3) as most recently updated. If the rehabilitation plan includes more than one contribution or benefit schedule, then the application must specify the extent to which each schedule applies (either pursuant to collective bargaining or, with respect to the designated default schedule, as imposed on an employer), expressed as a percentage of the total contributions for the most recent year for which the information is available.

.10 Valuation reports. The two most recent actuarial valuation reports for the plan.

.11 Completed checklist. A completed checklist of information required to be

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a favorable determination under §§ 401 and 501(a), see Rev. Proc. 2016-6, 2016-1 I.R.B. 200, and Rev. Proc. 2007-44, 2007-2 C.B. 54, as modified.

included in the application. See Appendix C.

## SECTION 8. RESUBMISSION REVIEW

If the application for a suspension is submitted for resubmission review procedure pursuant to § 1.432(e)(9)-1(g)(3), the application must include:

.01 All of the information required under this revenue procedure for an original application, except that, with respect to information that has not changed, the application should cross-reference that information in the prior application rather than provide the information again.

.02 A statement that the application is being submitted for resubmission review and the date on which the Treasury Department gave approval to submit an application for resubmission review.

## SECTION 9. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 2015-34 is modified and superseded.

## SECTION 10. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(c)) under control number 1545-2260.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this revenue procedure appear in Appendix B (sample Power of Attorney form) and Appendix C (checklist for completeness of the application). Burden estimates with respect to information described in sections 2, 3, 4, 5, 6 and 7 of this revenue procedure are reported in the preamble to the proposed regulations under §1.432(e)(9)-1.

We estimate the total number of respondents to be 28.

We estimate it will take 2 hours to comply. The estimated total annual and/or recordkeeping burden is 56 hours.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

## CONTACT INFORMATION

For general information regarding this revenue procedure, please contact the Treasury Department MPRA guidance information line at (202) 622-1559 (not a toll-free number). For information regarding a specific application for benefit suspension, please contact the Treasury Department at (202) 622-1534 (not a toll-free number).

## **Appendix A: MODEL NOTICE OF APPLICATION FOR APPROVAL OF A PROPOSED REDUCTION OF BENEFITS**

*[This is a model notice that can be used to satisfy the requirements of § 432(e)(9)(F) and the related regulations. The notice, including any inserts and additional material, must be written in a manner so as to be understood by the average plan participant.]*

*[If the plan sponsor applies for a partition of the Plan under section 4322 of ERISA, then this notice can be combined with the notice required under section 4322 assuming all other requirements, such as the timing of providing each notice, are satisfied.]*

### **NOTICE OF A PROPOSED REDUCTION OF YOUR PENSION BENEFITS**

On *[insert date]*, the Board of Trustees of the *[insert Plan name]* (“Plan”) *[insert submitted/will submit]* an application to the U.S. Treasury Department for approval to reduce benefits under the Plan. This type of benefit reduction is allowed by the Federal law called the Multiemployer Pension Reform Act of 2014.

You are getting this notice because you have a pension benefit under the Plan. **The end of this notice describes the proposed reduction of your monthly payments.**<sup>6</sup> This notice will also answer the following questions for you—

1. Why is the Board of Trustees proposing to reduce benefits?
2. What will happen if the Plan runs out of money?
3. How did the Board of Trustees decide whose benefits to reduce and by how much?
4. What are the proposed reductions in benefits?
5. What comes next?

#### **1. Why is the Board of Trustees proposing to reduce benefits?**

The Plan’s actuary estimated that, unless benefits are reduced, the Plan will not have enough money to pay benefits in the year *[insert year]*. This estimate is based on how much money the actuary expects the Plan to receive and to pay out each year. The Plan’s actuary estimated that, with the reduction of benefits that the Board of Trustees has proposed, the plan should not run out of money.

#### **2. What will happen if the Plan runs out of money?**

If the Plan does not have enough money to pay benefits, then only the amount guaranteed by the Pension Benefit Guaranty Corporation (“PBGC”) will be paid. You can find the amount of your benefit that is guaranteed by PBGC at the end of this notice.

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<sup>6</sup> A version of this notice that does not include the estimate of the effect on your benefit is being sent to unions that represent Plan participants and to all contributing employers.

### **3. How did the Board of Trustees decide whose benefits to reduce and by how much?**

Under Federal law, the Board of Trustees must apply the following rules to the proposed reduction—

- The total reduction in everybody's benefits must be estimated to be large enough to keep the plan from running out of money but not larger than needed to do that.
- Your monthly benefit and the benefit of your beneficiary cannot be reduced below 110% of the amount guaranteed by PBGC.
- Disability benefits (as defined under the Plan) cannot be reduced.
- The benefits of people who are at least 80 years old on [insert date that is the last day of the month during which the suspension is proposed to take effect] and their beneficiaries cannot be reduced.
- The benefits of people who are at least 75 years old on [insert date that is the last day of the month during which the suspension is proposed to take effect] and their beneficiaries are partially protected, and the closer the person is to age 80 the less the benefits can be reduced.
- The reduction of benefits must be spread fairly among the people who have a pension benefit under the plan.

In deciding whether the proposed reduction is spread fairly, the Board of Trustees took into account the following: *[List the factors the Board of Trustees took into account in designing the proposed suspension of benefits. This list may include (but is not limited to) factors found in § 432(e)(9)(D)(vi).]*

### **4. What are the proposed reductions in benefits?**

The Board of Trustees proposes the following reduction of benefits: *[Describe the proposed suspension of benefits and its effect. Describe each category or group of individuals for which the proposed suspension provides for different treatment (other than as a result of application of the individual limitations) and how those categories or groups are defined; describe the formula used to determine how the amount of the proposed suspension is determined for individuals in each category or group; specify whether the proposed suspension will remain in effect indefinitely or will expire by its own terms (and if so, when it will expire); describe any proposed phase-in of the suspension; and describe the effect of the proposed suspension on the plan's projected insolvency.]*

## 5. What comes next?

### Approval or denial of the application by the Treasury Department

The Treasury Department will review the application to see whether it meets all of the legal requirements under Federal law. If the application meets all of those requirements, the Treasury Department is required to approve the application. If the application does not meet the legal requirements, the Treasury Department will deny the application. The Treasury Department will have until *[insert date 225 days after the application is submitted]* to make a decision.

### You can get information from the Treasury Department

More information about the proposed benefit reductions and a copy of the application is available at [www.treasury.gov/mpra](http://www.treasury.gov/mpra).

The application will be available on that website within 30 days after the Treasury Department receives it. The application includes more information about the proposed reduction, including details about: 1) the Plan actuary's certification that the Plan will run out of money (that is, that the plan is in "critical and declining status"); 2) how the proposed reduction would satisfy the requirement that it be large enough so that the Plan is estimated not to run out of money, while not being larger than needed; and 3) the sensitivity of these estimates to the assumptions used.

The application describes the steps the Board of Trustees has already taken to keep the Plan from running out of money and why the Board of Trustees believes that a benefit reduction is the only remaining option to keep the plan from running out of money. In addition, the application explains why the Board of Trustees believes that the proposed reduction is spread fairly among the people who have a pension benefit under the plan.

The Treasury Department website will also provide updated information on the application, such as whether the application has been updated or withdrawn.

For further information and assistance you can also write to the Treasury Department at the following address:

Department of the Treasury  
Attn: MPRA Office, Room 1001  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

### You can comment on the application to reduce benefits

You can submit a comment on the application by going to [www.treasury.gov/mpira](http://www.treasury.gov/mpira). Comments may also be mailed to the Department of the Treasury, at the address listed above. All interested parties can make comments, and the comments will be publicly available.

### Retiree Representative

If a plan has 10,000 or more participants, the Board of Trustees must select a retiree representative to advocate for the interests of retirees, beneficiaries, and deferred vested participants as part of this process. A plan is required to pay the reasonable expenses of the retiree representative.

*[If the selection of the retiree representative was required under § 432(e)(9)(B)(v)(I), insert the following]*

On *[insert date]*, the Board of Trustees selected *[insert name]* to be the retiree representative. *[He/She]* is a retiree currently receiving benefits under the Plan and *[is also/is not]* a member of the Board of Trustees. Participants and beneficiaries may contact *[insert name of retiree representative]* at *[insert phone number, address, and e-mail address]*.

*[If the Board of Trustees has selected a retiree representative under § 432(e)(9)(B)(v)(I), even though it was not required, insert the following]*

Even though the Plan has fewer than 10,000 participants, the Board of Trustees selected *[insert name]* to be the retiree representative on *[insert date]*. *[He/She]* is a retiree currently receiving benefits under the Plan and *[is also/is not]* a member of the Board of Trustees. Participants and beneficiaries may contact *[insert name of retiree representative]* at *[insert phone number, address, and e-mail address]*.

*[If the Board of Trustees has not selected a retiree representative, insert the following]*

The Board of Trustees is not required to select a retiree representative, because the Plan has fewer than 10,000 participants. The Board of Trustees has not chosen to select a retiree representative.

### Vote on the proposed benefit reduction

If the application for the proposed reduction of benefits is approved by the Treasury Department, then you will have the opportunity to vote on the proposed reduction. Unless a majority of all participants and beneficiaries of the Plan vote to reject the reduction, the Treasury Department must allow the reduction of benefits to take effect. This means that not voting counts the same as a vote to approve the reduction.

*[If the Board of Trustees believes that PBGC will or may determine that the Plan is a systemically important plan (a plan with a present value of projected PBGC financial assistance payments that exceeds \$1 billion), insert the following]*

Even if a majority votes to reject the proposed reduction of benefits, Federal law requires the Treasury Department to allow the proposed benefit reduction (or a modified version) to take effect if the cost to PBGC to provide guaranteed benefits is particularly large. This rule applies if the value of payments from PBGC if the plan runs out of money is expected to be more than \$1 billion. Before the Treasury Department permits a reduction in this circumstance, PBGC's Participant and Plan Sponsor Advocate may recommend possible modifications to the proposed reduction.

You may contact PBGC's Participant and Plan Sponsor Advocate by mail at Pension Benefit Guaranty Corporation, Attn: Participant and Plan Sponsor Advocate, 1200 K St., NW, Washington DC 20005; by telephone at (202) 326-4448; or by e-mail at [advocate@PBGC.gov](mailto:advocate@PBGC.gov).

### Your right to see Plan documents

You may want to review Plan documents to help you understand your rights and the proposed reduction to your benefits. The Plan administrator must respond to your request for the following documents within 30 days:

- The Plan document (including any amendments adopted to reflect an authorized reduction of benefits), trust agreement, and other documents governing the Plan (such as collective bargaining agreements).
- The Plan's most recent summary plan description (SPD or plan brochure) and any summary of material modifications.
- The Plan's Form 5500 annual reports, including audited financial statements, filed with the U.S. Department of Labor during the last six years.
- The annual funding notices furnished by the Plan during the last six years.
- Actuarial reports, including reports prepared in anticipation of the benefit reduction, furnished to the Plan within the last six years.
- The Plan's current rehabilitation plan, including contribution schedules and annual plan-sponsor determinations that all reasonable measures to avoid running out of money continue to be taken and that the Plan would run out of money if there were no benefit reductions.
- Any quarterly, semi-annual or annual financial reports prepared for the Plan by an investment manager, fiduciary or other advisor and furnished to the Plan within the last six years.

The Plan administrator may charge you the cost per page to the Plan for the cheapest way of copying documents, but cannot charge more than 25 cents per page. The Plan's Form 5500 Annual Return/Report of Employee Benefit Plan is also available free of charge at [www.dol.gov/ebsa/5500main.html](http://www.dol.gov/ebsa/5500main.html). Some of the documents also may be

available for examination, without charge, at the Plan administrator's office, your worksite or union hall.

### Your right to challenge incorrect calculations

If you think the Plan miscalculated the reduction to your benefits, then you have the right to submit a claim to the Plan to have the calculation corrected. The Plan's summary plan description ("SPD") tells you how to submit a claim. The SPD also describes your right to have a court review the Plan's final decision on your claim.

If you believe the information used to calculate your estimate at the end of this notice is wrong, please contact the Plan office at *[insert phone number, address, and e-mail address]*.

*[The following may be on a separate page at the end of the notice.]*

### **HOW YOUR MONTHLY PAYMENTS WILL BE AFFECTED**

*[Distribute this estimate to the affected individual]*

This estimate of the effect of the proposed reduction of benefits has been prepared for:

*[Affected Individual's Name]*

*[Address]*

*[Town, State, Zip]*

*[Choose (a), (b), (c) or (d), as appropriate for an affected individual. Affected individuals include a participant (including a retiree), a beneficiary of a deceased participant, or an alternate payee. If (a), (b) or (c) is chosen, then insert a narrative description of the effect of the suspension if it is not possible to estimate its effect quantitatively (on an annual or monthly basis), such as in the case of a suspension that affects the payment of any future cost of living adjustment.]*

*[(a) For an affected individual who is in pay status and who has a proposed suspension]*

Your current monthly benefit is *[insert current monthly benefit]*. Under the proposed reduction your monthly benefit will be reduced to *[insert monthly benefit reflecting proposed suspension]* beginning on *[insert effective date of the proposed suspension]*.

*[(b) For an affected individual who has a proposed suspension, is not yet in pay status, and is below the participant's normal retirement age]*

If you start receiving your benefit on *[insert participant's normal retirement date]* in the form of a *[insert normal form of benefit]*, your monthly benefit without the proposed reduction would be *[insert monthly benefits earned as of proposed effective date of*

*suspension]. Under the proposed reduction your monthly benefit in the same form would be reduced to [insert monthly benefit reflecting proposed suspension].<sup>7</sup>*

*[(c) For an affected individual who has a proposed suspension, is not yet in pay status, and is above the participant's normal retirement age]*

Your benefit without the proposed reduction as of *[insert date]* in the form of a *[insert normal form of benefit]* is *[insert monthly benefit as of proposed effective date of suspension]*. Under the proposed reduction your monthly benefit in the same form will be reduced to *[insert monthly benefit reflecting proposed suspension]*.<sup>8</sup>

*[(d) For an affected individual whose benefits are not proposed to be suspended]*

Your monthly benefit would not change under the proposed reduction.

*[If the proposed suspension is permanent, insert the following for all affected individuals who have a benefit suspension]*

The proposed reduction is permanent.

*[If the proposed suspension is temporary, insert the following for all affected individuals who have a benefit suspension]*

The proposed reduction in your payments will last until *[insert date]*. Under the proposed reduction, after that date your monthly benefit will increase to the unreduced amount.

*[The following text is for all individuals.]*

This is an estimate of the effect of the proposed reduction on your benefit under the Plan. It is not a final benefit calculation. This was done assuming that the proposed benefit reduction starts on *[insert proposed effective date]*. If the benefit reduction starts later, the effect of the proposed reduction on your benefit might be different.

This estimate is based on the following information from Plan records:

- You have *[insert total years and months of credited service or total years and months of credited service as of the service calculation date, as applicable]* of credited service under the Plan.

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<sup>7</sup> These numbers are just estimates. The actual amount you receive will depend on things like how long you work and when you begin receiving payments. For more information, see *[insert cross-reference]*.

<sup>8</sup> These amounts will be different if you take your benefit in a different form. For example, if you elect *[insert other form of benefit available under the plan]*, your reduced monthly benefit will be *[insert monthly benefit reflecting proposed suspension]*.

- You will be *[insert age in years and months]* as of *[insert last day of the month of that includes the effective date of proposed suspension]*.
- The portion of your benefit that is based on disability is *[insert amount]*.

*[Add additional bullets for other data that is used to estimate the effect of proposed suspension on the individual's benefit.]*

### **PBGC Guaranteed Benefits**

If the Plan does not have enough money to pay benefits, your monthly benefit would be no larger than the amount guaranteed by PBGC. The amount of your monthly benefit guaranteed by PBGC is estimated to be *[insert \$xxxx.xx]*.

## Appendix B

### POWER OF ATTORNEY AND DECLARATION OF REPRESENTATIVE BEFORE THE DEPARTMENT OF THE TREASURY

**Applicant information [include name of plan, address, plan number, employer identification number, name of contact, title of contact, telephone number, email address, and fax number]:**

Applicant hereby appoints the following representative(s) as attorney(s)-in-fact to represent the taxpayer before the Department of the Treasury and perform acts related to the attached application dated \_\_\_\_\_ for suspension of benefits under § 432(e)(9) of the Internal Revenue Code of 1986, as amended.

**Representative information: [include name, address, employer identification number, telephone number, email address, and fax number]:**

Send copies of notices and communications to representative [answer yes or no]

With the exception of the acts described below, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts that I can perform with respect to the attached application dated \_\_\_\_\_ for suspension of benefits under § 432(e)(9). For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents.

Specific acts not authorized: [If the representative is not authorized to perform any act described above, describe the act that the representative is not authorized to perform.]

#### **Signature of Applicant and Date**

This power of attorney must be signed and dated by an authorized trustee who is a current member of the board of trustees.

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#### **Declaration of Representative**

Under penalties of perjury, by my signature below I declare that:

- I am not currently suspended or disbarred from practice before the Internal Revenue Service;

- I am authorized to represent the Applicant for the matter(s) specified in this Power of Attorney and Declaration of Representative; and

- I am one of the following:

- a** Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.

- b** Certified Public Accountant—duly qualified to practice as a certified public accountant in the jurisdiction shown below.

- c** Enrolled Agent

- d** Officer—a bona fide officer of the Applicant.

- e** Full-Time Employee—a full-time employee of the Applicant.

- f** Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Internal Revenue Service is limited by section 10.3(d) of Circular 230).

- g** Enrolled Retirement Plan Agent

Required information for Representative [include the appropriate designation of a through g above. In addition, an officer or full-time employee of the Applicant must include the title or position with the Applicant, and other Representatives must include the licensing jurisdiction if applicable, and the bar, license, certification, registration, or enrollment number as applicable.]:

**Signature of Representative and date:**

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## APPENDIX C

### CHECKLIST - IS THE SUBMISSION COMPLETE?

**Instructions.** The application must include a completed checklist placed on top of the application. This will help ensure that the application is complete. Answer each question in the checklist by circling Y for yes, N for no or N/A for not applicable, as appropriate, in the blank next to the item. Also insert in the appropriate blank next to each item the page number or numbers where the item appears in the application.

### **APPLICATION FOR APPROVAL OF BENEFIT SUSPENSION FOR [INSERT NAME OF PLAN]**

Response	Item number	Description of item	Page number in application
Yes No N/A	1.	Does the application include an original signature of the plan sponsor or an authorized representative of the plan sponsor? See section 2.01.	
Yes No N/A	2.	Does the application include a description of the proposed benefit suspension - calculated as if no other limitations apply - that includes: <ul style="list-style-type: none"> <li>• the suspension's effective date (and its expiration date, if applicable),</li> <li>• whether the suspension provides for different treatment of participants and beneficiaries,</li> <li>• a description of the different categories or groups of individuals affected, and</li> <li>• how the suspension affects these individuals differently?</li> </ul> See section 2.02.	
Yes No N/A	3.	Does the application include a penalties-of-perjury statement signed by an authorized trustee on behalf of the board of trustees? See Section 2.03.	
Yes No N/A	4.	Does the application include a statement, signed by an authorized trustee on behalf of the board of trustees, acknowledging that the application and the application's supporting material will be publicly disclosed on the Treasury Department's website? See section 2.04.	
Yes No N/A	5.	Does the application include the plan actuary's certification of critical and declining status and the supporting illustrations, including: <ul style="list-style-type: none"> <li>• the plan-year-by-plan-year projections demonstrating projected insolvency during the relevant period, and</li> <li>• separately identifying the available resources (and the market value of assets and changes in cash flow) during each of those years?</li> </ul> See section 3.01.	
Yes No N/A	6.	Does the application describe the assumptions used, including the new entrant profile, the total contribution base units, and the average contribution rates? See section 3.01.	

Yes No N/A	7.	Does the application include the plan actuary's certification that the plan is projected to avoid insolvency if the suspension takes effect and the supporting illustrations, including: <ul style="list-style-type: none"> <li>the plan-year-by-plan-year projections demonstrating projected solvency during the relevant period,</li> <li>a description of the assumptions used, including the new entrant profile, the total contribution base units, and the average contribution rates, and</li> <li>separately identifying the available resources (and the market value of assets and changes in cash flow) during each of those years?</li> </ul> See section 3.02.	
Yes No N/A	8.	Does the application include the plan sponsor's determination of projected insolvency that includes the documentation set forth in section 5 of the revenue procedure? See section 3.03.	
Yes No N/A	9.	Does the application include a demonstration that the limitations on individual suspensions are satisfied, including calculations regarding: <ul style="list-style-type: none"> <li>the guarantee-based limitation,</li> <li>the disability-based limitation, and</li> <li>the age-based limitation?</li> </ul> See section 4.01.	
Yes No N/A	10.	Does the application include a demonstration that the proposed suspension is reasonably estimated to achieve the level necessary to avoid insolvency for the extended period, including illustrations regarding the plan's solvency ratio and available resources? See section 4.02(1).	
Yes No N/A	11.	Does the application include the required illustration utilizing stochastic projections? (This illustration is not required if the plan is not required to appoint a retiree representative under § 432(e)(9)(B)(v)(I) and stochastic projections were not used in making the required determination.) See section 4.02(2).	
Yes No N/A	12.	Does the application include a demonstration that the proposed suspension is not projected to materially exceed the level necessary to avoid insolvency, including illustrations regarding the plan's solvency ratio and available resources? See section 4.03.	
Yes No N/A	13.	Does the application include a demonstration that the proposed suspension is equitably distributed, including: <ul style="list-style-type: none"> <li>information on the effect of the suspension on the plan in the aggregate,</li> <li>information on the effect of the suspension for different categories or groups,</li> <li>a list of the factors taken into account,</li> <li>an explanation of why none of the factors listed in § 432(e)(9)(D)(vi) were taken into account (if applicable),</li> <li>for each factor taken into account that is not one of the factors listed in § 432(e)(9)(D)(vi), an explanation why the factor is relevant, and</li> <li>how any difference in treatment among categories or groups of individuals results from a reasonable application of the relevant factors?</li> </ul> See section 4.04.	

Yes No N/A	14.	Does the application include a copy of the notices (excluding personally identifiable information) that meet the requirements under § 432(e)(9)(F)? See section 4.05(1).	
Yes No N/A	15.	Does the application include a description of the efforts that are being taken to contact participants, beneficiaries in pay status, and alternate payees? See section 4.05(2).	
Yes No N/A	16.	Does the application describe the steps the plan sponsor has taken to ensure that notices delivered electronically are reasonably accessible to the recipients? See section 4.05(3)	
Yes No N/A	17.	Does the application include a list of each employer who has an obligation to contribute under the Plan and each employee organization representing participants under the Plan? See section 4.05(4).	
Yes No N/A	18.	Does the application include information on past and current measures taken to avoid insolvency? See section 5.01.	
Yes No N/A	19.	Does the application include the plan information required by section 5.02?	
Yes No N/A	20.	Does the application describe how the plan sponsor took into account – or did not take into account – the factors listed in section 5.02 in the determination that all reasonable measures were taken to avoid insolvency? See section 5.03.	
Yes No N/A	21.	Does the application describe how the plan sponsor took into account - or did not take into account - in the determination that all reasonable measures have been taken to avoid insolvency the impact of: <ul style="list-style-type: none"> <li>• benefit and contribution levels on retaining active participants and bargaining groups under the plan, and</li> <li>• past and anticipated contribution increases under the plan on employer attrition and retention levels?</li> </ul> See section 5.03.	
Yes No N/A	22.	Does the application include a discussion of any other factors the plan sponsor took into account including how and why those factors were taken into account? See section 5.04.	
Yes No N/A	23.	Does the application include a copy of the proposed ballot, excluding the information regarding the statement in opposition, the individualized estimate, and the voting procedures? See section 6.01.	
Yes No N/A	24.	Does the application indicate whether the plan sponsor is requesting approval from PBGC of a proposed partition under section 4233 of ERISA? See section 6.02.	
Yes No N/A	25.	If the answer to item 24 is yes, does the application specify the effective date of the proposed partition and include a plan-year-by-plan-year projection of the amount of the reduction in benefit payments attributable to the partition? See section 6.02.	

Yes No N/A	26.	Does the application describe the plan's experience with certain critical assumptions, including a disclosure for each of the 10 plan years immediately preceding the application that separately identifies: <ul style="list-style-type: none"> <li>• total contributions,</li> <li>• total contribution base units,</li> <li>• average contribution rates,</li> <li>• withdrawal liability payments, and</li> <li>• the rate of return on plan assets?</li> </ul> See section 6.03.	
Yes No N/A	27.	Does the application include deterministic projections of the sensitivity of the plan's solvency ratio throughout the extended period by taking into account the more conservative assumptions of investment experience and future contribution base units than assumed elsewhere in the application? See section 6.04.	
Yes No N/A	28.	Does the plan include deterministic projections for each year in the extended period of: <ul style="list-style-type: none"> <li>• the value of plan assets,</li> <li>• the plan's accrued liability, and</li> <li>• the plan's funded percentage?</li> </ul> See section 6.05.	
Yes No N/A	29.	Does the application include the plan sponsor's representation that, if it receives the Treasury Department's final authorization to suspend and then chooses to implement the suspension, it will also amend the plan: <ul style="list-style-type: none"> <li>• to indicate that the suspension will cease upon the plan sponsor's failure to determine that both all reasonable measures continue to be taken to avoid insolvency and that the plan would not be projected to avoid insolvency without a suspension,</li> <li>• to require that any future benefit improvements must satisfy § 432(e)(9)(E), and</li> <li>• to specify that the plan sponsor will not modify these amendments, notwithstanding any other provision of the plan document?</li> </ul> See section 6.06.	
Yes No N/A	30.	Does the application indicate whether the plan is a plan described in § 432(e)(9)(D)(vii) and, if so, how is that fact reflected in the proposed benefit suspension? See section 6.07.	
Yes No N/A	31.	Does the application include the required plan sponsor information, including <ul style="list-style-type: none"> <li>• name</li> <li>• address</li> <li>• telephone number</li> <li>• email address</li> <li>• fax number</li> <li>• employer identification number (EIN) and</li> <li>• 3-digit plan number (PN)?</li> </ul> See section 7.01.	
Yes No N/A	32.	Does the application include the required plan identification information? See section 7.02.	

Yes No N/A	33.	Does the application include the required retiree representative information (if applicable)? See section 7.03.	
Yes No N/A	34.	Does the application include the required enrolled actuary information? See section 7.04.	
Yes No N/A	35.	Does the application include a designation of power of attorney for each authorized representative who will represent the plan sponsor in connection with the application? See section 7.05 and Appendix B.	
Yes No N/A	36.	Does the application include: <ul style="list-style-type: none"> <li>• the required plan documents,</li> <li>• any recent amendments,</li> <li>• the summary plan description (SPD),</li> <li>• the summary of material modifications, and</li> <li>• the most recent determination letter?</li> </ul> See section 7.06.	
Yes No N/A	37.	Does the application include the required excerpts from the relevant collective bargaining agreements and side agreements? See section 7.07.	
Yes No N/A	38.	Does the application include the required excerpts from the most recently filed Form 5500? See section 7.08.	
Yes No N/A	39.	Does the application include the most recently updated rehabilitation plan? See section 7.09.	
Yes No N/A	40.	Does the application include this checklist, completed and placed on top of the application? See section 7.10.	
Yes No N/A	41.	If the application is being submitted for resubmission review, does the application include: <ul style="list-style-type: none"> <li>• a statement that the application is being submitted for resubmission review, and</li> <li>• the date on which the Treasury Department gave approval to submit an application for resubmission review?</li> </ul> See section 8.	

**Signature**

**Date**

**Title or Authority**

**Typed or printed name of person signing checklist**