

## Pension Benefit Guaranty Corporation

## § 4044.51

the aggregate benefits limitations set forth in § 4022B.1 of this chapter for individuals who are participants in more than one plan or by the phase-in limitation applicable to substantial owners set forth in § 4022.26.

### § 4044.15 Priority category 5 benefits.

The benefits assigned to priority category 5 with respect to each participant are all of the participant's nonforfeitable benefits under the plan.

### § 4044.16 Priority category 6 benefits.

The benefits assigned to priority category 6 with respect to each participant are all of the participant's benefits under the plan, whether forfeitable or nonforfeitable.

### § 4044.17 Subclasses.

(a) *General rule.* A plan may establish one or more subclasses within any priority category, other than priority categories 1 and 2, which subclasses will govern the allocation of assets within that priority category. The subclasses may be based only on a participant's longer service, older age, or disability, or any combination thereof.

(b) *Limitation.* Except as provided in paragraph (c) of this section, whenever the allocation within a priority category on the basis of the subclasses established by the plan increases or decreases the cumulative amount of assets that otherwise would be allocated to guaranteed benefits, the assets so shifted shall be reallocated to other participants' benefits within the priority category in accordance with the subclasses.

(c) *Exception for subclasses in effect on September 2, 1974.* A plan administrator may allocate assets to subclasses within any priority category, other than priority categories 1 and 2, without regard to the limitation in paragraph (b) of this section if, on September 2, 1974, the plan provided for allocation of plan assets upon termination of the plan based on a participant's longer service, older age, or disability, or any combination thereof, and—

(1) Such provisions are still in effect; or

(2) The plan, if subsequently amended to modify or remove those subclasses,

is re-amended to re-establish the same subclasses on or before July 28, 1981.

(d) *Discrimination under Code.* Notwithstanding the provisions of paragraphs (a) through (c) of this section, allocation of assets to subclasses established under this section is permitted only to the extent that the allocation does not result in discrimination prohibited under the Code and regulations thereunder.

## ALLOCATION OF RESIDUAL ASSETS

### § 4044.30 [Reserved]

## Subpart B—Valuation of Benefits and Assets

### GENERAL PROVISIONS

### § 4044.41 General valuation rules.

(a) *Valuation of benefits—(1) Trusteed plans.* The plan administrator of a plan that has been or will be placed into trusteeship by the PBGC shall value plan benefits in accordance with §§ 4044.51 through 4044.57.

(2) *Non-trusteed plans.* The plan administrator of a non-trusteed plan shall value plan benefits in accordance with §§ 4044.71 through 4044.75. If a plan with respect to which PBGC has issued a Notice of Sufficiency is unable to satisfy all benefits assigned to priority categories 1 through 4 on the distribution date, the PBGC will place it into trusteeship and the plan administrator shall re-value the benefits in accordance with §§ 4044.51 through 4044.57. (See Note at beginning of part 4044.)

(b) *Valuation of assets.* Plan assets shall be valued at their fair market value, based on the method of valuation that most accurately reflects such fair market value.

### TRUSTEED PLANS

### § 4044.51 Benefits to be valued.

(a) *Form of benefit.* The plan administrator shall determine the form of each benefit to be valued in accordance with the following rules:

(1) If a benefit is in pay status as of the valuation date, the plan administrator shall value the form of the benefit being paid.