

Pension Benefit Guaranty Corporation

§ 4041.49

(4) That either the plan administrator or the contributing sponsor must preserve and maintain plan records in accordance with § 4041.5.

(d) *Alternative treatment of majority owner's benefit.* A majority owner may elect to forgo receipt of all or part of his or her plan benefits in connection with a distress termination. Any such alternative treatment—

(1) Is valid only if the conditions in § 4041.21(b)(2) (i) through (iv) are met (except that, in the case of a plan that does not distribute assets pursuant to § 4041.50, the majority owner may make the election and the spouse may consent any time on or after the date of issuance of the first notice of intent to terminate); and—

(2) Is subject to the PBGC's approval if the election—

(i) Is made after the termination date; and

(ii) Would result in the PBGC determining that the plan is sufficient for guaranteed benefits under paragraph (c).

§ 4041.48 Sufficient plans; notice requirements.

(a) *Notices of benefit distribution.* When a distribution notice is issued by the PBGC pursuant to § 4041.47, the plan administrator must issue notices of benefit distribution in accordance with the rules regarding notices of plan benefits in § 4041.24, except that—

(1) The deadline for issuing the notices of benefit distribution is the 60th day after receipt of the distribution notice; and

(2) With respect to the information described in § 4041.24 (b) through (e), the term “plan benefits” is replaced with “title IV benefits” and the term “proposed termination date” is replaced with “termination date”.

(b) *Certification to PBGC.* No later than 15 days after the date on which the plan administrator completes the issuance of the notices of benefit distribution, the plan administrator must file with the PBGC a certification that the notices were so issued in accordance with the requirements of this section.

(c) *Notice of annuity information.* (1) *In general.* Unless all title IV benefits will be distributed in the form of non-

consensual lump sums, the plan administrator must provide a notice of annuity information to each affected party other than—

(i) An affected party whose title IV benefits will be distributed in the form of a nonconsensual lump sum; and

(ii) The PBGC.

(2) *Spin-off/termination transactions.* The plan administrator must provide the information in paragraph (c)(4) of this section to a person entitled to notice under § 4041.43(c), at the same time and in the same manner as required for an affected party described in paragraph (c)(1) of this section.

(3) *Selection of different insurer.* A plan administrator that decides to select a different insurer after having previously notified the affected party of the identity of insurer(s) under this paragraph must provide another notice of annuity information.

(4) *Content of notice.* The notice must include—

(i) The identity-of-insurer information in § 4041.27(b)(1);

(ii) The information regarding change in identity of insurer(s) in § 4041.27(b)(2); and

(iii) Unless the state guaranty coverage information in § 4041.27(b)(3) was previously provided to the affected party, such information and the extinguishment-of-guaranty information in § 4041.23(b)(9) (replacing the term “plan benefits” with “title IV benefits”).

(5) *Deadline for notice.* The plan administrator must issue the notice of annuity information to each affected party by the deadline in § 4041.27(d)(1).

(d) *Request for IRS determination letter.* To qualify for the distribution deadline in § 4041.28(a)(1)(ii) (as modified and made applicable by § 4041.50(c)), the plan administrator must submit to the IRS a valid request for a determination of the plan's qualification status upon termination (“determination letter”) by the day on which the plan administrator completes the issuance of the notices of benefit distribution.

§ 4041.49 Verification of plan sufficiency prior to closeout.

(a) *General rule.* Before distributing plan assets pursuant to a closeout under § 4041.50, the plan administrator must verify whether the plan's assets