

SEC. 701. BENEFIT ACCRUAL STANDARDS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) RULES RELATING TO REDUCTION IN RATE OF BENEFIT ACCRUAL.—
Section 204(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(b)) is amended by adding at the end the following new paragraph:

“(5) SPECIAL RULES RELATING TO AGE.—

“(A) COMPARISON TO SIMILARLY SITUATED YOUNGER INDIVIDUAL.—

“(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H)(i) if a participant’s accrued benefit, as determined as of any date under the terms of the plan, would be equal to or greater than that of any similarly situated, younger individual who is or could be a participant.

“(ii) SIMILARLY SITUATED.—For purposes of this subparagraph, a participant is similarly situated to any other individual if such participant is identical to such other individual in every respect (including period of service, compensation, position, date of hire, work history, and any other respect) except for age.

“(iii) DISREGARD OF SUBSIDIZED EARLY RETIREMENT BENEFITS.—In determining the accrued benefit as of any date for purposes of this clause, the subsidized portion of any early retirement benefit or retirement-type subsidy shall be disregarded.

“(iv) ACCRUED BENEFIT.—For purposes of this subparagraph, the accrued benefit may, under the terms of the plan, be expressed as an annuity payable at normal retirement age, the balance of a hypothetical account, or the current value of the accumulated percentage of the employee’s final average compensation.

“(B) APPLICABLE DEFINED BENEFIT PLANS.—

“(i) INTEREST CREDITS.—

“(I) IN GENERAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the terms of the plan provide that any interest credit (or an equivalent amount) for any plan year shall be at a rate which is not greater than a market

rate of return. A plan shall not be treated as failing to meet the requirements of this subclause merely because the plan provides for a reasonable minimum guaranteed rate of return or for a rate of return that is equal to the greater of a fixed or variable rate of return.

“(II) PRESERVATION OF CAPITAL.—An interest credit (or an equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.

“(III) MARKET RATE OF RETURN.—The Secretary of the Treasury may provide by regulation for rules governing the calculation of a market rate of return for purposes of subclause (I) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of subclause (I).

“(ii) SPECIAL RULE FOR PLAN CONVERSIONS.—If, after June 29, 2005, an applicable plan amendment is adopted, the plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the requirements of clause (iii) are met with respect to each individual who was a participant in the plan immediately before the adoption of the amendment.

“(iii) RATE OF BENEFIT ACCRUAL.— Subject to clause (iv), the requirements of this clause are met with respect to any participant if the accrued benefit of the participant under the terms of the plan as in effect after the amendment is not less than the sum of—

“(I) the participant’s accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

“(II) the participant’s accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

“(iv) SPECIAL RULES FOR EARLY RETIREMENT SUBSIDIES.—For purposes of clause (iii)(I), the plan shall credit the accumulation account or similar amount with the amount of any early retirement benefit or retirement-type subsidy for the plan

year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

“(v) APPLICABLE PLAN AMENDMENT.—For purposes of this subparagraph—

“(I) IN GENERAL.—The term ‘applicable plan amendment’ means an amendment to a defined benefit plan which has the effect of converting the plan to an applicable defined benefit plan.

“(II) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in subclause (I), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

“(III) MULTIPLE AMENDMENTS.—The Secretary of the Treasury shall issue regulations to prevent the avoidance of the purposes of this subparagraph through the use of 2 or more plan amendments rather than a single amendment.

“(IV) APPLICABLE DEFINED BENEFIT PLAN.—For purposes of this subparagraph, the term ‘applicable defined benefit plan’ has the meaning given such term by section 203(f)(3).

“(vi) TERMINATION REQUIREMENTS.—An applicable defined benefit plan shall not be treated as meeting the requirements of clause (i) unless the plan provides that, upon the termination of the plan—

“(I) if the interest credit rate (or an equivalent amount) under the plan is a variable rate, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date, and

“(II) the interest rate and mortality table used to determine the amount of any benefit under the plan payable in the form of an annuity payable at normal retirement age shall be the rate and table specified under the plan for such purpose as of the termination date, except that if such interest rate is a variable rate, the interest rate shall be determined under the rules of subclause (I).

“(C) CERTAIN OFFSETS PERMITTED.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H)(i) solely because the plan provides offsets against benefits under the plan to the extent such offsets are allowable in applying the requirements of section 401(a) of the Internal Revenue Code of 1986.

“(D) PERMITTED DISPARITIES IN PLAN CONTRIBUTIONS OR BENEFITS.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H) solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) of the Internal Revenue Code of 1986 are met.

“(E) INDEXING PERMITTED.—

“(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H) solely because the plan provides for indexing of accrued benefits under the plan.

“(ii) PROTECTION AGAINST LOSS.— Except in the case of any benefit provided in the form of a variable annuity, clause (i) shall not apply with respect to any indexing which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

“(iii) INDEXING.—For purposes of this subparagraph, the term ‘indexing’ means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.

“(F) EARLY RETIREMENT BENEFIT OR RETIREMENT-TYPE SUBSIDY.—For purposes of this paragraph, the terms ‘early retirement benefit’ and ‘retirement-type subsidy’ have the meaning given such terms in subsection (g)(2)(A).

“(G) BENEFIT ACCRUED TO DATE.—For purposes of this paragraph, any reference to the accrued benefit shall be a reference to such benefit accrued to date.”.

(2) DETERMINATIONS OF ACCRUED BENEFIT AS BALANCE OF BENEFIT ACCOUNT OR EQUIVALENT AMOUNTS.—Section 203 of such Act (29 U.S.C. 1053) is amended by adding at the end the following new subsection:

“(f) SPECIAL RULES FOR PLANS COMPUTING ACCRUED BENEFITS BY REFERENCE TO HYPOTHETICAL ACCOUNT BALANCE OR EQUIVALENT AMOUNTS.—

“(1) IN GENERAL.—An applicable defined benefit plan shall not be treated as failing to meet—

“(A) subject to paragraph (2), the requirements of subsection (a)(2), or

“(B) the requirements of section 204(c) or section 205(g) with respect to contributions other than employee contributions, solely because the present value of the accrued benefit (or any portion thereof) of any participant is, under the terms of the plan, equal to the amount expressed as the balance in the hypothetical account described in paragraph (3) or as an accumulated percentage of the participant’s final average compensation.

“(2) 3-YEAR VESTING.—In the case of an applicable defined benefit plan, such plan shall be treated as meeting the requirements of subsection (a)(2) only if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

“(3) APPLICABLE DEFINED BENEFIT PLAN AND RELATED RULES.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘applicable defined benefit plan’ means a defined benefit plan under which the accrued benefit (or any portion thereof) is calculated as the balance of a hypothetical account maintained for the participant or as an accumulated percentage of the participant’s final average compensation.

“(B) REGULATIONS TO INCLUDE SIMILAR PLANS.—The Secretary of the Treasury shall issue regulations which include in the definition of an applicable defined benefit plan any defined benefit plan (or any portion of such a plan) which has an effect similar to an applicable defined benefit plan.”.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) RULES RELATING TO REDUCTION IN RATE OF BENEFIT ACCRUAL.—

Subsection (b) of section 411 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(5) SPECIAL RULES RELATING TO AGE.—

“(A) COMPARISON TO SIMILARLY SITUATED YOUNGER INDIVIDUAL.—

“(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H)(i) if a participant’s accrued benefit, as determined as of any date under the terms of the plan, would be equal to or greater than that of any similarly situated, younger individual who is or could be a participant.

“(ii) SIMILARLY SITUATED.—For purposes of this subparagraph, a participant is similarly situated to any other individual if such participant is identical to such other individual in every respect (including period of service, compensation, position, date of hire, work history, and any other respect) except for age.

“(iii) DISREGARD OF SUBSIDIZED EARLY RETIREMENT BENEFITS.—In determining the accrued benefit as of any date for purposes of this clause, the subsidized portion of any early retirement benefit or retirement-type subsidy shall be disregarded.

“(iv) ACCRUED BENEFIT.—For purposes of this subparagraph, the accrued benefit may, under the terms of the plan, be expressed as an annuity payable at normal retirement age, the balance of a hypothetical account, or the current value of the accumulated percentage of the employee’s final average compensation.

“(B) APPLICABLE DEFINED BENEFIT PLANS.—

“(i) INTEREST CREDITS.—

“(I) IN GENERAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the terms of the plan provide that any interest credit (or an

equivalent amount) for any plan year shall be at a rate which is not greater than a market rate of return. A plan shall not be treated as failing to meet the requirements of this subclause merely because the plan provides for a reasonable minimum guaranteed rate of return or for a rate of return that is equal to the greater of a fixed or variable rate of return.

“(II) PRESERVATION OF CAPITAL.—An interest credit (or an equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.

“(III) MARKET RATE OF RETURN.—The Secretary may provide by regulation for rules governing the calculation of a market rate of return for purposes of subclause (I) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of subclause (I).

“(ii) SPECIAL RULE FOR PLAN CONVERSIONS.—If, after June 29, 2005, an applicable plan amendment is adopted, the plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the requirements of clause (iii) are met with respect to each individual who was a participant in the plan immediately before the adoption of the amendment.

“(iii) RATE OF BENEFIT ACCRUAL.— Subject to clause (iv), the requirements of this clause are met with respect to any participant if the accrued benefit of the participant under the terms of the plan as in effect after the amendment is not less than the sum of—

“(I) the participant’s accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

“(II) the participant’s accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

“(iv) SPECIAL RULES FOR EARLY RETIREMENT SUBSIDIES.—For purposes of clause (iii)(I), the plan shall credit the accumulation account or similar amount with the amount of any early retirement benefit or retirement-type subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

“(v) APPLICABLE PLAN AMENDMENT.—For purposes of this subparagraph—

“(I) IN GENERAL.—The term ‘applicable plan amendment’ means an amendment to a defined benefit plan which has the effect of converting the plan to an applicable defined benefit plan.

“(II) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in subclause (I), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

“(III) MULTIPLE AMENDMENTS.—The Secretary shall issue regulations to prevent the avoidance of the purposes of this subparagraph through the use of 2 or more plan amendments rather than a single amendment.

“(IV) APPLICABLE DEFINED BENEFIT PLAN.—For purposes of this subparagraph, the term ‘applicable defined benefit plan’ has the meaning given such term by section 411(a)(13).

“(vi) TERMINATION REQUIREMENTS.—An applicable defined benefit plan shall not be treated as meeting the requirements of clause (i) unless the plan provides that, upon the termination of the plan—

“(I) if the interest credit rate (or an equivalent amount) under the plan is a variable rate, the rate of

interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date, and

“(II) the interest rate and mortality table used to determine the amount of any benefit under the plan payable in the form of an annuity payable at normal retirement age shall be the rate and table specified under the plan for such purpose as of the termination date, except that if such interest rate is a variable rate, the interest rate shall be determined under the rules of subclause (I).

“(C) CERTAIN OFFSETS PERMITTED.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H)(i) solely because the plan provides offsets against benefits under the plan to the extent such offsets are allowable in applying the requirements of section 401(a).

“(D) PERMITTED DISPARITIES IN PLAN CONTRIBUTIONS OR BENEFITS.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H) solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) are met.

“(E) INDEXING PERMITTED.—

“(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H) solely because the plan provides for indexing of accrued benefits under the plan.

“(ii) PROTECTION AGAINST LOSS.— Except in the case of any benefit provided in the form of a variable annuity, clause (i) shall not apply with respect to any indexing which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

“(iii) INDEXING.—For purposes of this subparagraph, the term ‘indexing’ means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.

“(F) EARLY RETIREMENT BENEFIT OR RETIREMENT-TYPE SUBSIDY.—For purposes of this paragraph, the terms ‘early retirement benefit’ and ‘retirement-type subsidy’ have the meaning given such terms in subsection (d)(6)(B)(i).

“(G) BENEFIT ACCRUED TO DATE.—For purposes of this paragraph, any reference to the accrued benefit shall be a reference to such benefit accrued to date.”.

(2) DETERMINATIONS OF ACCRUED BENEFIT AS BALANCE OF BENEFIT ACCOUNT OR EQUIVALENT AMOUNTS.—Subsection (a) of section 411 of such Code is amended by adding at the end the following new paragraph:

“(13) SPECIAL RULES FOR PLANS COMPUTING ACCRUED BENEFITS BY REFERENCE TO HYPOTHETICAL ACCOUNT BALANCE OR EQUIVALENT AMOUNTS.—

“(A) IN GENERAL.—An applicable defined benefit plan shall not be treated as failing to meet—

“(i) subject to paragraph (2), the requirements of subsection (a)(2), or

“(ii) the requirements of subsection (c) or section 417(e) with respect to contributions other than employee contributions, solely because the present value of the accrued benefit (or any portion thereof) of any participant is, under the terms of the plan, equal to the amount expressed as the balance in the hypothetical account described in paragraph (3) or as an accumulated percentage of the participant’s final average compensation.

“(B) 3-YEAR VESTING.—In the case of an applicable defined benefit plan, such plan shall be treated as meeting the requirements of subsection (a)(2) only if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

“(C) APPLICABLE DEFINED BENEFIT PLAN AND RELATED RULES.—For purposes of this subsection—

“(i) IN GENERAL.—The term ‘applicable defined benefit plan’ means a defined benefit plan under which the accrued benefit (or any portion thereof) is calculated as the balance of a hypothetical account maintained for the participant or

as an accumulated percentage of the participant's final average compensation.

“(ii) REGULATIONS TO INCLUDE SIMILAR PLANS.—The Secretary shall issue regulations which include in the definition of an applicable defined benefit plan any defined benefit plan (or any portion of such a plan) which has an effect similar to an applicable defined benefit plan.”.

(c) AMENDMENTS TO AGE DISCRIMINATION IN EMPLOYMENT ACT.—Section 4(i) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(i)) is amended by adding at the end the following new paragraph:

“(10) SPECIAL RULES RELATING TO AGE.—

“(A) COMPARISON TO SIMILARLY SITUATED YOUNGER INDIVIDUAL.—

“(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1) if a participant's accrued benefit, as determined as of any date under the terms of the plan, would be equal to or greater than that of any similarly situated, younger individual who is or could be a participant.

“(ii) SIMILARLY SITUATED.—For purposes of this subparagraph, a participant is similarly situated to any other individual if such participant is identical to such other individual in every respect (including period of service, compensation, position, date of hire, work history, and any other respect) except for age.

“(iii) DISREGARD OF SUBSIDIZED EARLY RETIREMENT BENEFITS.—In determining the accrued benefit as of any date for purposes of this clause, the subsidized portion of any early retirement benefit or retirement-type subsidy shall be disregarded.

“(iv) ACCRUED BENEFIT.—For purposes of this subparagraph, the accrued benefit may, under the terms of the plan, be expressed as an annuity payable at normal retirement age, the balance of a hypothetical account, or the current value of the accumulated percentage of the employee's final average compensation.

“(B) APPLICABLE DEFINED BENEFIT PLANS.—

“(i) INTEREST CREDITS.—

“(I) IN GENERAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1) unless the terms of the plan provide that any interest credit (or an equivalent amount) for any plan year shall be at a rate which is not greater than a market rate of return. A plan shall not be treated as failing to meet the requirements of this subclause merely because the plan provides for a reasonable minimum guaranteed rate of return or for a rate of return that is equal to the greater of a fixed or variable rate of return.

“(II) PRESERVATION OF CAPITAL.—An interest credit (or an equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.

“(III) MARKET RATE OF RETURN.—The Secretary of the Treasury may provide by regulation for rules governing the calculation of a market rate of return for purposes of subclause (I) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of subclause (I).

“(ii) SPECIAL RULE FOR PLAN CONVERSIONS.—If, after June 29, 2005, an applicable plan amendment is adopted, the plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the requirements of clause (iii) are met with respect to each individual who was a participant in the plan immediately before the adoption of the amendment.

“(iii) RATE OF BENEFIT ACCRUAL.— Subject to clause (iv), the requirements of this clause are met with respect to any participant if the accrued benefit of the participant under the terms of the plan as in effect after the amendment is not less than the sum of—

“(I) the participant’s accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

“(II) the participant’s accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

“(iv) SPECIAL RULES FOR EARLY RETIREMENT SUBSIDIES.—For purposes of clause (iii)(I), the plan shall credit the accumulation account or similar amount with the amount of any early retirement benefit or retirement-type subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

“(v) APPLICABLE PLAN AMENDMENT.—For purposes of this subparagraph—

“(I) IN GENERAL.—The term ‘applicable plan amendment’ means an amendment to a defined benefit plan which has the effect of converting the plan to an applicable defined benefit plan.

“(II) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in subclause (I), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

“(III) MULTIPLE AMENDMENTS.—The Secretary of the Treasury shall issue regulations to prevent the avoidance of the purposes of this subparagraph through the use of 2 or more plan amendments rather than a single amendment.

“(IV) APPLICABLE DEFINED BENEFIT PLAN.—For purposes of this subparagraph, the

term ‘applicable defined benefit plan’ has the meaning given such term by section 203(f)(3) of the Employee Retirement Income Security Act of 1974.

“(vi) TERMINATION REQUIREMENTS.—An applicable defined benefit plan shall not be treated as meeting the requirements of clause (i) unless the plan provides that, upon the termination of the plan—

“(I) if the interest credit rate (or an equivalent amount) under the plan is a variable rate, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date, and

“(II) the interest rate and mortality table used to determine the amount of any benefit under the plan payable in the form of an annuity payable at normal retirement age shall be the rate and table specified under the plan for such purpose as of the termination date, except that if such interest rate is a variable rate, the interest rate shall be determined under the rules of subclause (I).

“(C) CERTAIN OFFSETS PERMITTED.—A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the plan provides offsets against benefits under the plan to the extent such offsets are allowable in applying the requirements of section 401(a) of the Internal Revenue Code of 1986.

“(D) PERMITTED DISPARITIES IN PLAN CONTRIBUTIONS OR BENEFITS.—A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) of the Internal Revenue Code of 1986 are met.

“(E) INDEXING PERMITTED.—

“(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the plan provides for indexing of accrued benefits under the plan.

“(ii) PROTECTION AGAINST LOSS.— Except in the case of any benefit provided in the form of a variable annuity, clause (i) shall not apply with respect to any indexing which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

“(iii) INDEXING.—For purposes of this subparagraph, the term ‘indexing’ means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.

“(F) EARLY RETIREMENT BENEFIT OR RETIREMENT-TYPE SUBSIDY.—For purposes of this paragraph, the terms ‘early retirement benefit’ and ‘retirement-type subsidy’ have the meaning given such terms in section 203(g)(2)(A) of the Employee Retirement Income Security Act of 1974.

“(G) BENEFIT ACCRUED TO DATE.—For purposes of this paragraph, any reference to the accrued benefit shall be a reference to such benefit accrued to date.”.

(d) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create an inference with respect to—

(1) the treatment of applicable defined benefit plans or conversions to applicable defined benefit plans under sections 204(b)(1)(H) of the Employee Retirement Income Security Act of 1974, 4(i)(1) of the Age Discrimination in Employment Act of 1967, and 411(b)(1)(H) of the Internal Revenue Code of 1986, as in effect before such amendments, or

(2) the determination of whether an applicable defined benefit plan fails to meet the requirements of sections 203(a)(2), 204(c), or 204(g) of the Employee Retirement Income Security Act of 1974 or sections 411(a)(2), 411(c), or 417(e) of such Code, as in effect before such amendments, solely because the present value of the accrued benefit (or any portion thereof) of any participant is, under the terms of the plan, equal to the amount expressed as the balance in a hypothetical account or as an accumulated percentage of the participant’s final average compensation. For purposes of this subsection, the term “applicable defined benefit plan” has the meaning given such term by section 203(f)(3) of the Employee Retirement Income Security Act of 1974 and section 411(a)(13)(C) of such Code, as in effect after such amendments.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to periods beginning on or after June 29, 2005.

(2) **PRESENT VALUE OF ACCRUED BENEFIT.**— The amendments made by subsections (a)(2) and (b)(2) shall apply to distributions made after the date of the enactment of this Act.

(3) **VESTING AND INTEREST CREDIT REQUIREMENTS.**—In the case of a plan in existence on June 29, 2005, the requirements of clause (i) of section 411(b)(5)(B) of the Internal Revenue Code of 1986, clause (i) of section 204(b)(5)(B) of the Employee Retirement Income Security Act of 1974, and clause (i) of section 4(i)(10)(B) of the Age Discrimination in Employment Act of 1967 (as added by this Act) and the requirements of 203(f)(2) of the Employee Retirement Income Security Act of 1974 and section 411(a)(13)(B) of the Internal Revenue Code of 1986 (as so added) shall, for purposes of applying the amendments made by subsections (a) and (b), apply to years beginning after December 31, 2007, unless the plan sponsor elects the application of such requirements for any period after June 29, 2005, and before the first year beginning after December 31, 2007.

(4) **SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.**—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, the requirements described in paragraph (3) shall, for purposes of applying the amendments made by subsections (a) and (b), not apply to plan years beginning before—

(A) the earlier of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

(ii) January 1, 2008, or

(B) January 1, 2010.

(5) **CONVERSIONS.**—The requirements of clause (ii) of section 411(b)(5)(B) of the Internal Revenue Code of 1986, clause (ii) of section 204(b)(5)(B) of the Employee Retirement Income Security Act of 1974, and clause (ii) of section 4(i)(10)(B) of the Age Discrimination in Employment Act of 1967 (as added by this Act), shall apply to plan amendments adopted after, and taking effect after, June 29, 2005, except that the plan sponsor may elect to have such amendments apply to plan amendments adopted before, and taking effect after, such date.