

Pension Benefit Guaranty Corporation

75-5

April 24, 1975

REFERENCE:

[*1] 3(34) Definitions. Individual Account Plan
4021(b)(1). Plans covered. Individual Account Plans

OPINION:

This is in response to your letter of March 20, 1975 presenting the question:

"Is * * * Pension Benefit Trust Fund one of the plans covered under Section 4021 of the Employee Retirement Income Security Act of 1974, required to pay premiums to the Pension Benefit Guaranty Corporation?"

The Employee Retirement Income Security Act of 1974 contains a broad definition of those pension plans which are covered by the Title IV provisions of the Act and which as a result of such coverage, must pay insurance premiums.

The exceptions to this broad coverage are set forth in § 4021(b) which provides that:

"This section does not apply to any plan - (1) which is an individual account plan, as defined in paragraph (34) of § 3 of this Act . . ."

Section 3(34) reads as follows:

"The term 'individual account plan' or 'defined contribution plan' means a pension plan which provides for an individual account for each participant and for benefits based solely upon the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants [*2] which may be allocated to such participants account."

The Trust Agreement does not provide in any fashion for any fixed or determinable level of benefits. An examination of the Trust Agreement reveals that "Employer Contributions shall be credited to the individual account of each eligible Participant . . ." Article VII, § 2. Further examination reveals that participants are only entitled to the amount of the contributions made to the participant's account and such adjustments as are made due to investment gains and losses and trust expenses. Article III, § 9(a) and (b) and Article IV, § L.

On the basis of the documents submitted by you to the Pension Benefit Guaranty Corporation, a copy of the Trust Agreement of August 1, 1972 with amendment No. 1 attached and a copy of Section 11.01 of the current Collective Bargaining Agreement, it appears that the * * * Pension Benefit Trust Fund constitutes an "individual account plan" and is not covered by Title IV and as such is not required to pay insurance premiums.

I hope these answers will be of assistance to you.

Steven E. Schanes
Acting Executive Director