

Pension Benefit Guaranty Corporation

74-16

November 14, 1974

REFERENCE:

[*1] 4021(a) Plans Covered. Requirements of Coverage
4021(b)(12) Plans Covered. Partial Individual Account Plans

OPINION:

This is in response to your request for a response to the following question raised by Mr. * * * of the * * *: Are defined benefit plans which are funded exclusively by individual insurance or annuity policies exempt from plan termination insurance coverage?

Section 4021 of the Employee Retirement Income Security Act of 1974 provides for broad coverage of retirement plans, with a number of specific exclusions. There is no stated exclusion from coverage for plans which are funded through insurance or annuity policies issued by private insurance companies. Indeed, it is our understanding that it was intended by the Congress to include such plans within the termination insurance * * * program.

The exclusion provided in Section 4021(b)(12) refers to the situation where the plan provides a benefit a portion of which is defined and a portion of which is the experience of a separate account (as defined in Section 3(17) of the Act) maintained for the participant. To the extent that the benefit is the product of the separate account, there is no guarantee and, accordingly, that [*2] portion of the benefit is excluded from coverage.

We hope this will be of assistance and apologize for the delay in our response.

Henry Rose
Acting General Counsel