

Pension Benefit Guaranty Corporation

77-146

May 24, 1977

REFERENCE:

[\*1] 4021. Plans Covered

OPINION:

This is in response to \* \* \* letter to you regarding the Pension Benefit Guaranty Corporation's ("PBGC") position that Taft-Hartley pension plans are covered by Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA" or "Act").

PBGC has not taken the position that all Taft-Hartley plans are defined benefit plans subject to Title IV of the Act. PBGC has taken the position that a plan is not excluded from Title IV, or from being a defined benefit plan, merely because employer contributions are limited to a fixed cents per hour contribution by a collective bargaining agreement between an employer and a union.

ERISA provides that a defined benefit plan is a pension plan other than an individual account plan. Act, § 3(35). An individual account plan is defined as any plan which maintains individual accounts for each participant and provides for benefits based solely on the amounts in a participant's account. Act, § 3(34). Unless it is excluded from coverage for some other reason, any plan that does not meet the definition of an individual account plan is a defined benefit plan, subject to Title IV of the Act.

The provisions of ERISA evolved [\*2] slowly over several years of Congressional study and research. Examinations of the structure of pension plans in the United States indicated that many plans are funded by fixed employer contributions, even though the plans provide for a defined benefit. Congressional studies and hearings also showed that thousands of plan participants lost their pension benefits because employers limited their liability for the payment of benefits solely to the making of contributions to the pension plan. If, upon plan termination, an employer's fixed contribution rate proved inadequate to fund promised plan benefits, plan participants lost their benefits. Because plans established in this fashion can terminate with insufficient assets to pay promised plan benefits, Congress determined that benefits provided by this type of plan should be covered by the Title IV insurance program.

Congress was obviously aware that many Taft-Hartley plans are also established to provide defined benefits funded by a fixed rate of employer contributions. However, in enacting Title IV, Congress made no distinction between Taft-Hartley plans and other defined benefit plans where the employer is obligated to contribute [\*3] at a fixed rate. Rather, Congress clearly sought to protect participants in all defined benefit plans (other than those specifically excluded from coverage) from losing their benefits.

Thus, under ERISA, if a fixed contribution rate proves to have been inadequate to fund promised plan benefits, upon plan termination plan participants no longer lose their pensions. Instead, PBGC ascertains the amount of a plan's insufficiency and pays the benefits guaranteed by Title IV.

I hope the information set forth above gives you a better understanding of PBGC's position on plans subject to Title IV coverage, including Taft-Hartley plans.

Henry Rose  
General Counsel