

Pension Benefit Guaranty Corporation

75-94

December 23, 1975

REFERENCE:

[\*1] 208 Mergers, Consolidations and other Transfers of Plan Assets

OPINION:

We are currently developing regulations dealing with the application of ERISA, Sections 208, 1015 and 1021, involving multiemployer plans. It was our understanding that PBGC regulations on the subject would govern mergers of single employer plans into multiemployer plans. However, it appears that there is some doubt as to whether PBGC's regulations will govern the benefit equivalence as to employees who remain in the single employer plan after a transfer of part of the assets and some of the participants to a multiemployer plan. This doubt arises from question three of TIR 1408 (enclosed) and the last sentence of the third paragraph of PBGC news release 76-12, dated October 29, 1975 (enclosed). We are inclined to think that the PBGC rules should control in such a case, particularly because the PBGC has a financial interest in whether the plans' assets are sufficient to provide the promised benefits.

We would appreciate your views and comments.

Henry Rose  
General Counsel