

Pension Benefit Guaranty Corporation

74-14

November 13, 1974

REFERENCE:

[\*1] 4021(a) Plans Covered. Requirements of Coverage

OPINION:

Your note of October 18, 1974, was referred to the Pension Benefit Guaranty Corporation by the St. Louis, Missouri, area office of the Labor-Management Services Administration.

You wished to know whether pension plans funded by retirement income life insurance policies or by flexible annuity policies are plans covered by the Employee Retirement Income Security Act of 1974, and thus required to pay premiums.

Section 4021 of the Act provides mandatory coverage of defined benefit pension plans which (1) have been tax qualified in practice for the 5 previous plan years, (2) which are presently tax qualified in practice, or (3) which have been ruled by the Internal Revenue Service to be tax qualified.

As you know, a plan funded by a retirement income life insurance policy is designed to achieve a defined benefit objective. However, a plan which is funded by a flexible annuity policy may or may not be designed to achieve a defined benefit objective. Thus, to the extent these plans meet the requirements of the Act for plans covered discussed in the previous paragraph, they are required to pay premiums.

We hope this will be of assistance [\*2] and apologize for the delay in our response.

Steven E. Schanes  
Acting Executive Director