

Pension Benefit Guaranty Corporation

75-108

May 14, 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 April 2, 1975 posing the question:

"Whether or not a pension plan which sets forth the desired retirement benefit but which further limits the amount of the employer's contribution to the plan will be treated under the Employee Retirement Income Security Act as a defined contribution plan or as a defined benefit plan."

The Employee Retirement Income Security Act of 1974 contains a broad definition of those plans which are covered by Title IV of the Act. However, Section 4021(b)(1) excludes any plan "which is an 'individual account plan', as defined in paragraph (34) of Section 3 of this Act." Section 3(34) provides that:

"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 which may be allocated to such participant's account."

A further limitation of the definition of [*2] an "individual account plan" is found in Section 4021(c)(1) which provides:

"For the purposes of subsection (b)(1), the term 'individual account plan' does not include a plan under which a fixed benefit is promised if the employer or his representative participated in a determination of that benefit."

An examination of the plan and the collective bargaining agreement indicates that a specific benefit level has been established which is not defined on the basis of employer contributions, but is ascertainable without reference to such contributions. The clauses limiting the employer's contributions bear on the employer's responsibility to fund the plan, but do not affect the determination of an employee's benefits.

It appears that the documents you have provided describe a "defined benefit plan" for the purposes of Title IV of the Employee Retirement Income Security Act of 1974.

I hope this information will prove helpful to you.

George B. Driesen
Deputy General Counsel