

Pension Benefit Guaranty Corporation

76-11

January 20, 1976

REFERENCE:

[*1] 4043(b)(8) Reportable Events. Mergers, Consolidations & other Transfers of Plan Assets

OPINION:

This is in response to your inquiry as to whether the * * * may transfer a portion of the assets in a certain pension fund to the new retirement plan established by the * * *

I wish to confirm what * * * an attorney in this office, told you in a recent telephone conversation. The transfer of assets from one plan to another does not require the advance approval of the Pension Benefit Guaranty Corporation ("PBGC").

However, such a transfer is a reportable event under Section 4043(b) (8) of the Employee Retirement Income Security Act of 1974 ("ERISA") unless your plan is a "church plan", which is not covered by Title IV, see Section 4021(b) (3) of ERISA. While a literal reading of Section 4043(b) (8) would appear to apply to all plans, it is the opinion of this office that only plans covered by Section 4021 must comply with the notice requirements of Section 4043. This office is still working on the definition of a "church plan" and resolution of that problem is not required to answer your question regarding the proposed transfer.

Section 4043(b) (8) requires the plan administrator of a covered [*2] plan to notify us within 30 days after he knows or has reason to know that a transfer of assets has occurred. Therefore, although you need no advance approval of the transfer from PBGC, if your plan is a covered plan, the plan administrator should give PBGC notice of the transfer within 30 days of its occurrence.

I trust this answers your inquiry.

Henry Rose
General Counsel