

Pension Benefit Guaranty Corporation

80-3

March 19, 1980

REFERENCE:

208 Mergers, Consolidations and other Transfers of Plan Assets

414(l). (IRC) Definitions and Special Rules. Mergers, Consolidations and other Transfers of Plan Assets

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

4062 Liability of Employer in Single Employer Plans

OPINION:

This is in response to your request for an opinion with respect to the liability of Chrysler Financial Corporation ("CFC") under Title IV of the Employee Retirement Income Security Act ("ERISA") after the occurrence of the following transaction.

You have advised that CFC is a wholly-owned subsidiary of Chrysler Corporation ("Chrysler"). CFC employees presently participate in the Chrysler Corporation Salaried Employees' Retirement Plan and the Chrysler Corporation Pension Plan (hereinafter referred to as the "Plans"). The Plans are defined benefit plans subject to the termination insurance provisions of Title IV of ERISA.

As of December 31, 1979, CFC participants constituted less than five percent of the total number of participants in the Plans. (The number of CFC employees participating in each of the Plans has always [*2] been less than 20 percent of the total number of participants in each such Plan.)

The Plans are structured so that, in the event of a plan termination, all assets of the terminated plan would be available to provide benefits for all participants in that Plan, without distinction as to employer.

It is contemplated that a proportionate share of assets of each Plan applicable to CFC employees will be transferred, in conformity with Section 208 of ERISA and Section 414(1) of the Internal Revenue Code, to new plans to be established by CFC solely for its active and former employees.

Pursuant to the Chrysler Corporation Loan Guarantee Act of 1979, Chrysler is eligible for federal loan guarantees in an amount not to exceed \$1,500,000,000. As a condition of qualifying for such guarantees, Chrysler is required to raise at least \$1,430,000,000 of non-guaranteed funds, including at least \$300,000,000 from the disposition of assets. As part of its overall plan to qualify for such guarantees, Chrysler proposes to sell 51 percent of the outstanding shares of CFC to certain institutional investors and finance corporations (some of which may be creditors of Chrysler, CFC, or both, but all of [*3] which are independent of Chrysler). Chrysler represents that the shares will be sold for their fair market value and, accordingly, Chrysler will be in receipt of consideration equivalent to the value of the CFC shares which are sold.

Immediately following the sale, it is expected that CFC will be recapitalized to exchange the shares held by the new investors for new preferred voting shares of CFC, under which the new investors will retain voting control of CFC. Ultimately, it is hoped that at least two other automobile manufacturers will buy additional shares of CFC.

Based upon the foregoing representations, PBGC finds that CFC would have no liability under Title IV of ERISA to the Pension Benefit Guaranty Corporation ("PBGC") in the event of the subsequent termination of either or both of the Plans. Of course, CFC would have potential Title IV liability in connection with the new plans it may establish for its own active and former employees. PBGC's determination is based upon the representations in your letter of March 3, 1980 concerning this transaction.

Robert E. Nagle
Executive Director