

Pension Benefit Guaranty Corporation

74-3

November 14, 1974

REFERENCE:

[*1] 3(35) Definitions. Defined Benefit Plan
4021(b)(12) Plans Covered. Partial Individual Account Plans

OPINION:

This is in response to your recent letter in which you request clarification of the following wording in the Employee Retirement Income Security Act: "defined benefit plan to the extent that it is treated as an individual account plan under paragraph 35(B) of Section 3 of this Act".

This language is the basis of an exclusion from coverage provided in Section 4021(b)(12) of the Act. The exclusion applies in the situation where the plan provides benefits a portion of which are defined and a portion of which are the result of the investment experience of contributions to a separate account (as defined in Section 3(17) of the Act). To the extent the plan benefits are based on the separate account they are variable rather than guaranteed and, accordingly, to that extent the benefit is excluded from coverage under Section 4021(b)(12).

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Acting Executive Director