

Pension Benefit Guaranty Corporation

75-42

July 2, 1975

REFERENCE:

[*1] 4021(b)(7) Plans Covered. Foreign Plans

OPINION:

This is in response to your letter of June 13, 1975 asking whether the Canadian participants of the * * * pension plan for officers and staff should be counted for insurance premium purposes. The Constitution of the * * * provides that the Union's headquarters city is to be Portland, Oregon. Your letter also stated that due to the character of your organization approximately half of the plan participants are Canadian.

Section 4021(b)(7) of the Employee Retirement Income Security Act of 1974 ("ERISA" or the "Act") excludes from coverage a plan "which is established and maintained outside of the United States primarily for the benefit of individuals substantially all of whom are nonresident aliens." It appears from your letter that your situation is not within the ambit of this exclusion.

ERISA makes no distinction between plan participants on the basis of citizenship in setting forth the duties and obligations of the Pension Benefit Guaranty Corporation ("PBGC" or the "Corporation") to make "basic benefit" payments to plan participants. The Canadian members of your pension plan are covered and your action in counting such participants for [*2] insurance premium purposes was proper.

I hope this information proves helpful to you.

Henry Rose
General Counsel