

Pension Benefit Guaranty Corporation

76-114

October 1, 1976

REFERENCE:

[\*1] 4043(b)(2) Reportable Events. Amendment Decreasing Benefits

OPINION:

This is in response to your letter dated \* \* \* concerning the applicability of Section 4043(b)(2) of the Employee Retirement Income Security Act of 1974 (the "Act") to the adoption of an amendment to a covered plan under which the life insurance benefit under the plan is eliminated.

As I understand the facts, the employer maintains a covered plan which currently is funded by a group whole life insurance policy and an unallocated group pension contract. The employer intends to amend the plan so as to eliminate the death benefits provided under the life insurance policy. Life insurance would continue to be provided to plan participants under a separate group life insurance policy.

In your opinion, the term "benefit payable" in Section 4043(b)(2) should be construed to mean retirement and disability benefits but not life insurance benefits. We disagree. In our opinion, the elimination of the death benefit under the plan as a result of a plan amendment is a reportable event under Section 4043(b)(2) of the Act.

Section 4043(b)(2) provides:

For purposes of this section a reportable event occurs . . . when an amendment [\*2] of the plan is adopted if under the amendment, the benefit payable with respect to any participant may be decreased. (Emphasis added.)

There is no reason to believe that Congress intended the term "benefit payable" in Section 4043(b)(2) not to include life insurance benefits. In view of the fact that Title IV is replete with distinctions among classes of benefits, (e.g., basic and non-basic benefits, accrued and vested benefits, disability and retirement benefits) we believe that had Congress intended to exempt life insurance benefits from Section 4043(b)(2) it would have specifically done so.

Additionally, we believe that our interpretation of Section 4043(b)(2) is consistent with the purpose of the reporting requirements of Section 4043 -- to require plan administrators to notify the Pension Benefit Guaranty Corporation (the "PBGC") of the occurrence of certain events which indicate a "possible danger of plan termination" and which might necessitate close supervision of or termination of a covered plan in order to protect plan participants and the PBGC. See H. Conf. Rep. N. 93-1280, 93d Cong. 2d Sess. 373 (1974). The elimination of a pension plan's life insurance [\*3] benefit, in some circumstances, may be as indicative of the "possible danger of plan termination" as the elimination of a retirement or disability benefit. However, in view of the fact that some benefit reductions may be more indicative of a need to terminate a pension plan than others, we anticipate providing in whatever "reportable events regulation" we ultimately adopt for a waiver of some reporting obligations.

Henry Rose  
General Counsel