

Pension Benefit Guaranty Corporation

82-19

July 21, 1982

REFERENCE:

[*1] 4041A(a) Multiemployer Termination. Termination

OPINION:

This is in reference to your notice concerning the merger of the * * * Pension Fund, a multiemployer plan covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") into the * * * * * Annuity Fund, a multiemployer plan that is not covered under Title IV. The former plan is a defined benefit plan, which you state has sufficient assets to satisfy nonforfeitable benefits under the plan. The latter is an individual account plan. The Pension Benefit Guaranty Corporation (the "PBGC") has determined that the merger of the defined benefit plan into the individual account plan constitutes a termination of the defined benefit plan under section 4041A(a) of ERISA. Accordingly, participants' nonforfeitable benefits under the defined benefit plan must be provided in accordance with Title IV.

Under ERISA, the assets of a terminated multiemployer plan covered under Title IV may be distributed in full satisfaction of all nonforfeitable benefits under the plan as of the date of plan termination. PBGC authorization of a distribution is not required, if the rules and procedures outlined below are followed. [*2]

Each participant must receive his or her benefit in the form of an annuity unless the participant elects, in writing, another form of distribution provided by the plan. A participant may be offered additional forms of distribution (e.g., lump sum payment of the commuted value of the annuity or transfer of such value to an individual account plan) permitted by the plan document. When a participant is afforded the opportunity to elect alternative forms of distribution, he or she must be advised of the estimated amounts of the annuity and of the alternative forms of distribution, and that PBGC will not guarantee the benefit payable in an alternative form.

A participant need not be offered an annuity option if the value of his or her benefit does not exceed \$1750. Even if a participant is not required to be offered an annuity under the above rules, in a case where the plan termination is effected by the conversion of the plan into a defined contribution plan, a participant must nevertheless be given the option of receiving his or her nonforfeitable benefit in a lump sum; the participant cannot be required to have his or her benefits transferred to the individual account plan. [*3]

Finally, we request that if a distribution is made in full satisfaction of all nonforfeitable benefits under the Plan, that the PBGC be notified, within 60 days thereafter, of the date of the distribution. Please send such notification to the Division of Case Classification and Control, Office of Program Operations (542), Pension Benefits Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006. This notification will enable the PBGC to remove the Plan from the PBGC-1 and premium billing mailing list.

I hope this information is of assistance.

Henry Rose
General Counsel