

Pension Benefit Guaranty Corporation

82-20

July 27, 1982

REFERENCE:

[*1] 4203(d) Complete Withdrawal. Trucking Industry Exemption

OPINION:

This responds to your request for PBGC's opinion as to whether a letter of credit may satisfy the bond or escrow requirement of Section 4203(d)(3)(B)(ii) of ERISA. That section establishes special withdrawal rules for qualifying trucking industry multiemployer pension plans. We conclude that a letter of credit in the required amount can satisfy the requirement.

Section 4203(d) provides that trucking industry employers, which cease to perform work in the jurisdiction of trucking industry pension plans to which they are obligated to contribute are not considered to have withdrawn from the plan within the meaning of Section 4203(a) if certain conditions are met: (1) the employer furnishes for 60 months a bond or an amount in escrow for 50% of what would have been its withdrawal liability; and (2) during the 60 months PBGC does not determine that the plan has suffered substantial damage to its contribution base as a result of the cessation of contributions.

In our view a letter of credit, held for the requisite period of time and the terms of which are satisfactory to a plan, satisfies the security requirements of Section 4203(d)(3)(B)(ii). [*2] We note, however, that it is the responsibility of the plan sponsor to determine the acceptability of the specifics of any letter of credit arrangement.

Henry Rose
General Counsel