

# 29 U.S. Code § 1002. Definitions

## [U.S. Code Notes](#)

For purposes of this subchapter:

(1)

The terms “[employee welfare benefit plan](#)” and “[welfare plan](#)” mean any [plan](#), fund, or program which was heretofore or is hereafter established or maintained by an [employer](#) or by an [employee organization](#), or by both, to the extent that such [plan](#), fund, or program was established or is maintained for the purpose of providing for its [participants](#) or their beneficiaries, through the purchase of insurance or otherwise, (A) medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or vacation benefits, apprenticeship or other training programs, or day care centers, scholarship funds, or prepaid legal services, or (B) any benefit described in [section 186\(c\) of this title](#) (other than pensions on retirement or death, and insurance to provide such pensions).

(2)

(A) Except as provided in subparagraph (B), the terms “[employee pension benefit plan](#)” and “[pension plan](#)” mean any [plan](#), fund, or program which was heretofore or is hereafter established or maintained by an [employer](#) or by an [employee organization](#), or by both, to the extent that by its express terms or as a result of surrounding circumstances such [plan](#), fund, or program—

(i)

provides retirement income to [employees](#), or

(ii)

results in a deferral of income by [employees](#) for periods extending to the termination of covered employment or beyond, regardless of the method of calculating the contributions made to the [plan](#), the method of calculating the benefits under the [plan](#) or the method of distributing benefits from the [plan](#). A distribution from a [plan](#), fund, or program shall not be treated as made in a form other than retirement income or as a distribution prior to termination of covered employment solely because such distribution is made to an [employee](#) who has attained age 62 and who is not separated from employment at the time of such distribution.

(B) The [Secretary](#) may by regulation prescribe rules consistent with the standards and purposes of this chapter providing one or more exempt categories under which—

(i)

severance pay arrangements, and

(ii)

supplemental retirement income payments, under which the pension benefits of retirees or their beneficiaries are supplemented to take into account some portion or all of the increases in the cost of living (as determined by the [Secretary](#) of Labor) since retirement,

shall, for purposes of this subchapter, be treated as [welfare plans](#) rather than [pension plans](#). In the case of any arrangement or payment a principal effect of which is the evasion of the standards or purposes of this chapter applicable to [pension plans](#), such arrangement or payment shall be treated as a [pension plan](#). An applicable voluntary early retirement incentive [plan](#) (as defined in [section 457\(e\)\(11\)\(D\)\(ii\) of title 26](#)) making payments or supplements described in [section 457\(e\)\(11\)\(D\)\(i\) of title 26](#), and an applicable employment retention [plan](#) (as defined in [section 457\(f\)\(4\)\(C\) of title 26](#)) making payments of benefits described in [section 457\(f\)\(4\)\(A\) of title 26](#), shall, for purposes of this subchapter, be treated as a [welfare plan](#) (and not a [pension plan](#)) with respect to such payments and supplements.

(3)

The term “[employee benefit plan](#)” or “[plan](#)” means an [employee welfare benefit plan](#) or an [employee pension benefit plan](#) or a [plan](#) which is both an [employee welfare benefit plan](#) and an [employee pension benefit plan](#).

(4)

The term “[employee organization](#)” means any labor union or any organization of any kind, or any agency or [employee](#) representation committee, association, group, or [plan](#), in which [employees](#) participate and which exists for the purpose, in whole or in part, of dealing with [employers](#) concerning an [employee benefit plan](#), or other matters incidental to employment relationships; or any [employees’ beneficiary](#) association organized for the purpose in whole or in part, of establishing such a [plan](#).

(5)

The term “[employer](#)” means any [person](#) acting directly as an [employer](#), or indirectly in the interest of an [employer](#), in relation to an [employee benefit plan](#); and includes a group or association of [employers](#) acting for an [employer](#) in such capacity.

(6)

The term “[employee](#)” means any individual employed by an [employer](#).

(7)

The term “[participant](#)” means any [employee](#) or former [employee](#) of an [employer](#), or any member or former member of an [employee organization](#), who is or may become eligible to receive a benefit of any type from an [employee benefit plan](#) which covers [employees](#) of such [employer](#) or members of such organization, or whose beneficiaries may be eligible to receive any such benefit.

(8)

The term “[beneficiary](#)” means a [person](#) designated by a [participant](#), or by the terms of an [employee benefit plan](#), who is or may become entitled to a benefit thereunder.

(9)

The term “[person](#)” means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or [employee organization](#).

(10)

The term “[State](#)” includes any [State](#) of the [United States](#), the District of Columbia, Puerto [Rico](#), the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone. The term “[United States](#)” when used in the geographic sense means the [States](#) and the Outer Continental Shelf lands defined in the [Outer Continental Shelf Lands Act](#) ([43 U.S.C. 1331–1343](#)).

(11)

The term “[commerce](#)” means trade, traffic, [commerce](#), transportation, or communication between any [State](#) and any place outside thereof.

(12)

The term “[industry or activity affecting commerce](#)” means any activity, business, or industry in [commerce](#) or in which a labor dispute would hinder or obstruct [commerce](#) or the free flow of [commerce](#), and includes any activity or industry “[affecting commerce](#)” within the meaning of the Labor Management Relations Act, 1947 [[29 U.S.C. 141](#) et seq.], or the [Railway Labor Act](#) [[45 U.S.C. 151](#) et seq.].

(13)

The term “[Secretary](#)” means the [Secretary](#) of Labor.

(14) The term “[party in interest](#)” means, as to an [employee benefit plan](#)—

(A)

any fiduciary (including, but not limited to, any [administrator](#), officer, trustee, or custodian), counsel, or [employee](#) of such [employee benefit plan](#);

(B)

a [person](#) providing services to such [plan](#);

(C)

an [employer](#) any of whose [employees](#) are covered by such [plan](#);

(D)

an [employee organization](#) any of whose members are covered by such [plan](#);

(E) an owner, direct or indirect, of 50 percent or more of—

(i)

the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation.[\[1\]](#)

(ii)

the capital interest or the profits interest of a partnership, or

(iii)

the beneficial interest of a trust or unincorporated enterprise,

which is an [employer](#) or an [employee organization](#) described in subparagraph (C) or (D);

(F)

a [relative](#) (as defined in paragraph (15)) of any individual described in subparagraph (A), (B), (C), or (E);

(G) a corporation, partnership, or trust or estate of which (or in which) 50 percent or more of—

(i)

the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation,

(ii)

the capital interest or profits interest of such partnership, or

(iii)

the beneficial interest of such trust or estate,

is owned directly or indirectly, or held by [persons](#) described in subparagraph (A), (B), (C), (D), or (E);

(H)

an [employee](#), officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10 percent or more shareholder directly or indirectly, of a [person](#) described in subparagraph (B), (C), (D), (E), or (G), or of the [employee benefit plan](#); or

(I)

a 10 percent or more (directly or indirectly in capital or profits) partner or joint venturer of a [person](#) described in subparagraph (B), (C), (D), (E), or (G).

The [Secretary](#), after consultation and coordination with the [Secretary](#) of the Treasury, may by regulation prescribe a percentage lower than 50 percent for subparagraph (E) and (G) and lower than 10 percent for subparagraph (H) or (I). The [Secretary](#) may prescribe regulations for determining the ownership (direct or indirect) of profits and beneficial interests, and the manner in which indirect stockholdings are taken into account. Any [person](#) who is a [party in interest](#) with respect to a [plan](#) to which a trust described in [section 501\(c\)\(22\) of title 26](#) is permitted to make payments under [section 1403 of this title](#) shall be treated as a [party in interest](#) with respect to such trust.

(15)

The term “[relative](#)” means a spouse, ancestor, lineal descendant, or spouse of a lineal descendant.

(16)

(A) The term “[administrator](#)” means—

(i)

the [person](#) specifically so designated by the terms of the instrument under which the [plan](#) is operated;

(ii)  
if an [administrator](#) is not so designated, the [plan sponsor](#); or

(iii)  
in the case of a [plan](#) for which an [administrator](#) is not designated and a [plan sponsor](#) cannot be identified, such other [person](#) as the [Secretary](#) may by regulation prescribe.

(B)

The term “[plan sponsor](#)” means (i) the [employer](#) in the case of an [employee benefit plan](#) established or maintained by a single [employer](#), (ii) the [employee organization](#) in the case of a [plan](#) established or maintained by an [employee organization](#), or (iii) in the case of a [plan](#) established or maintained by two or more [employers](#) or jointly by one or more [employers](#) and one or more [employee organizations](#), the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the [plan](#).

(17)

The term “[separate account](#)” means an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

(18)

The term “[adequate consideration](#)” when used in part 4 of subtitle B means (A) in the case of a [security](#) for which there is a generally recognized market, either (i) the price of the [security](#) prevailing on a national securities exchange which is registered under [section 78f of title 15](#), or (ii) if the [security](#) is not traded on such a national securities exchange, a price not less favorable to the [plan](#) than the offering price for the [security](#) as established by the current bid and asked prices quoted by [persons](#) independent of the issuer and of any [party in interest](#); and (B) in the case of an asset other than a [security](#) for which there is a generally recognized market, the fair market value of the asset as determined in good faith by the trustee or [named fiduciary](#) pursuant to the terms of the [plan](#) and in accordance with regulations promulgated by the [Secretary](#).

(19)

The term “[nonforfeitable](#)” when used with respect to a pension benefit or right means a claim obtained by a [participant](#) or his [beneficiary](#) to that part of an immediate or deferred benefit under a [pension plan](#) which arises from the [participant](#)'s service, which is unconditional, and which is legally enforceable against the [plan](#). For purposes of this paragraph, a right to an [accrued benefit](#) derived from [employer](#) contributions shall not be treated as forfeitable merely because the [plan](#) contains a provision described in [section 1053\(a\)\(3\) of this title](#).

(20)

The term “[security](#)” has the same meaning as such term has under section 77b(1) [\[2\]](#) of title 15.

(21)

(A)

Except as otherwise provided in subparagraph (B), a [person](#) is a fiduciary with respect to a [plan](#) to the extent (i) he exercises any discretionary authority or discretionary control respecting management of such [plan](#) or exercises any authority or control respecting management or disposition of its assets, (ii) he renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such [plan](#), or has any authority or responsibility to do so, or (iii) he has any discretionary authority or discretionary responsibility in the administration of such [plan](#). Such term includes any [person](#) designated under [section 1105\(c\)\(1\)\(B\) of this title](#).

(B)

If any money or other property of an [employee benefit plan](#) is invested in securities issued by an investment company registered under the [Investment Company Act of 1940](#) [[15 U.S.C. 80a-1](#) et seq.], such investment shall not by itself cause such investment company or such investment company's investment adviser or principal underwriter to be deemed to be a fiduciary or a [party in interest](#) as those terms are defined in this subchapter, except insofar as such investment company or its investment adviser or principal underwriter acts in connection with an [employee benefit plan](#) covering [employees](#) of the investment company, the investment adviser, or its principal underwriter. Nothing contained in this subparagraph shall limit the duties imposed on such investment company, investment adviser, or principal underwriter by any other law.

(22) The term "[normal retirement benefit](#)" means the greater of the early retirement benefit under the [plan](#), or the benefit under the [plan](#) commencing at [normal retirement age](#). The [normal retirement benefit](#) shall be determined without regard to—

(A)

medical benefits, and

(B)

disability benefits not in excess of the qualified disability benefit.

For purposes of this paragraph, a qualified disability benefit is a disability benefit provided by a [plan](#) which does not exceed the benefit which would be provided for the [participant](#) if he separated from the service at [normal retirement age](#). For purposes of this paragraph, the early retirement benefit under a [plan](#) shall be determined without regard to any benefit under the [plan](#) which the [Secretary](#) of the Treasury finds to be a benefit described in [section 1054\(b\)\(1\)\(G\) of this title](#).

(23) The term "[accrued benefit](#)" means—

(A)

in the case of a [defined benefit plan](#), the individual's [accrued benefit](#) determined under the [plan](#) and, except as provided in [section 1054\(c\)\(3\) of this title](#), expressed in the form of an annual benefit commencing at [normal retirement age](#), or

(B)  
in the case of a [plan](#) which is an [individual account plan](#), the balance of the individual's account. The [accrued benefit](#) of an [employee](#) shall not be less than the amount determined under [section 1054\(c\)\(2\)\(B\) of this title](#) with respect to the [employee's](#) accumulated contribution.

(24) The term "[normal retirement age](#)" means the earlier of—

(A)  
the time a [plan participant](#) attains [normal retirement age](#) under the [plan](#), or

(B) the later of—

(i)  
the time a [plan participant](#) attains age 65, or

(ii)  
the 5th anniversary of the time a [plan participant](#) commenced participation in the [plan](#).

(25)  
The term "[vested liabilities](#)" means the [present value](#) of the immediate or deferred benefits available at [normal retirement age](#) for [participants](#) and their beneficiaries which are [nonforfeitable](#).

(26)  
The term "[current value](#)" means fair market value where available and otherwise the fair value as determined in good faith by a trustee or a [named fiduciary](#) (as defined in [section 1102\(a\)\(2\) of this title](#)) pursuant to the terms of the [plan](#) and in accordance with regulations of the [Secretary](#), assuming an orderly liquidation at the time of such determination.

(27)  
The term "[present value](#)", with respect to a liability, means the value adjusted to reflect anticipated events. Such adjustments shall conform to such regulations as the [Secretary](#) of the Treasury may prescribe.

(28)  
The term "[normal service cost](#)" or "[normal cost](#)" means the annual cost of future pension benefits and administrative expenses assigned, under an [actuarial cost method](#), to years subsequent to a particular valuation date of a [pension plan](#). The [Secretary](#) of the Treasury may prescribe regulations to carry out this paragraph.

(29)  
The term "[accrued liability](#)" means the excess of the [present value](#), as of a particular valuation date of a [pension plan](#), of the projected future benefit costs and administrative expenses for all plan [participants](#) and beneficiaries over the [present value](#) of future contributions for the [normal cost](#) of all applicable plan [participants](#) and beneficiaries. The [Secretary](#) of the Treasury may prescribe regulations to carry out this paragraph.

(30)

The term “[unfunded accrued liability](#)” means the excess of the [accrued liability](#), under an [actuarial cost method](#) which so provides, over the [present value](#) of the assets of a [pension plan](#). The [Secretary](#) of the Treasury may prescribe regulations to carry out this paragraph.

(31)

The term “[advance funding actuarial cost method](#)” or “[actuarial cost method](#)” means a recognized actuarial technique utilized for establishing the amount and incidence of the annual actuarial cost of [pension plan](#) benefits and expenses. Acceptable [actuarial cost methods](#) shall include the [accrued benefit](#) cost method (unit credit method), the entry age [normal cost](#) method, the individual level premium cost method, the aggregate cost method, the attained age [normal cost](#) method, and the frozen initial liability cost method. The terminal funding cost method and the current funding (pay-as-you-go) cost method are not acceptable [actuarial cost methods](#). The [Secretary](#) of the Treasury shall issue regulations to further define acceptable [actuarial cost methods](#).

(32)

The term “[governmental plan](#)” means a [plan](#) established or maintained for its [employees](#) by the Government of the [United States](#), by the government of any [State](#) or political subdivision thereof, or by any agency or instrumentality of any of the foregoing. The term “[governmental plan](#)” also includes any [plan](#) to which the [Railroad Retirement Act of 1935](#), or 1937 [[45 U.S.C. 231](#) et seq.] applies, and which is financed by contributions required under that Act and any [plan](#) of an international organization which is exempt from taxation under the provisions of the [International Organizations Immunities Act](#) [[22 U.S.C. 288](#) et seq.]. The term “[governmental plan](#)” includes a [plan](#) which is established and maintained by an Indian tribal government (as defined in [section 7701\(a\)\(40\) of title 26](#)), a subdivision of an Indian tribal government (determined in accordance with [section 7871\(d\) of title 26](#)), or an agency or instrumentality of either, and all of the [participants](#) of which are [employees](#) of such entity substantially all of whose services as such an [employee](#) are in the performance of essential governmental functions but not in the performance of commercial activities (whether or not an essential government function) [[3](#)]

(33)

(A)

The term “[church plan](#)” means a [plan](#) established and maintained (to the extent required in clause (ii) of subparagraph (B)) for its [employees](#) (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under [section 501 of title 26](#).

(B) The term “[church plan](#)” does not include a [plan](#)—

(i)

which is established and maintained primarily for the benefit of [employees](#) (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of [section 513 of title 26](#)), or

(ii)  
if less than substantially all of the individuals included in the [plan](#) are individuals described in subparagraph (A) or in clause (ii) of subparagraph (C) (or their beneficiaries).

(C) For purposes of this paragraph—

(i)  
A [plan](#) established and maintained for its [employees](#) (or their beneficiaries) by a church or by a convention or association of churches includes a [plan](#) maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a [plan](#) or program for the provision of retirement benefits or welfare benefits, or both, for the [employees](#) of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

(ii) The term [employee](#) of a church or a convention or association of churches includes—

(I)  
a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

(II)  
an [employee](#) of an organization, whether a civil law corporation or otherwise, which is exempt from tax under [section 501 of title 26](#) and which is controlled by or associated with a church or a convention or association of churches; and

(III)  
an individual described in clause (v).

(iii)  
A church or a convention or association of churches which is exempt from tax under [section 501 of title 26](#) shall be deemed the [employer](#) of any individual included as an [employee](#) under clause (ii).

(iv)  
An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

(v) If an [employee](#) who is included in a [church plan](#) separates from the service of a church or a convention or association of churches or an organization, whether a civil law corporation or otherwise, which is exempt from tax under [section 501 of title 26](#) and which is controlled by or associated with a church or a convention or association of churches, the [church plan](#) shall not fail to meet the requirements of this paragraph merely because the [plan](#)—

(I)  
retains the [employee](#)'s [accrued benefit](#) or account for the payment of benefits to the [employee](#) or his beneficiaries pursuant to the terms of the [plan](#); or

(II)  
receives contributions on the [employee](#)'s behalf after the [employee](#)'s separation from such service, but only for a period of 5 years after such separation, unless the [employee](#) is disabled (within the meaning of the disability provisions of the [church plan](#) or, if there are

no such provisions in the [church plan](#), within the meaning of [section 72\(m\)\(7\) of title 26](#)) at the time of such separation from service.

(D)

(i)

If a [plan](#) established and maintained for its [employees](#) (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under [section 501 of title 26](#) fails to meet one or more of the requirements of this paragraph and corrects its failure to meet such requirements within the [correction period](#), the [plan](#) shall be deemed to meet the requirements of this paragraph for the year in which the correction was made and for all prior years.

(ii)

If a correction is not made within the [correction period](#), the [plan](#) shall be deemed not to meet the requirements of this paragraph beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

(iii) For purposes of this subparagraph, the term “[correction period](#)” means—

(I)

the period ending 270 days after the date of mailing by the [Secretary](#) of the Treasury of a notice of default with respect to the [plan](#)'s failure to meet one or more of the requirements of this paragraph; or

(II)

any period set by a court of competent jurisdiction after a final determination that the [plan](#) fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the [Secretary](#) of the Treasury on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

(III)

any additional period which the [Secretary](#) of the Treasury determines is reasonable or necessary for the correction of the default, whichever has the latest ending date.

(34)

The term “[individual account plan](#)” or “[defined contribution plan](#)” means a [pension plan](#) which provides for an individual account for each [participant](#) and for benefits based solely upon the amount contributed to the [participant](#)'s account, and any income, expenses, gains and losses, and any forfeitures of accounts of other [participants](#) which may be allocated to such [participant](#)'s account.

(35) The term “[defined benefit plan](#)” means a [pension plan](#) other than an [individual account plan](#); except that a [pension plan](#) which is not an [individual account plan](#) and which provides a benefit

derived from [employer](#) contributions which is based partly on the balance of the [separate account](#) of a [participant](#)—

(A) for the purposes of [section 1052 of this title](#), shall be treated as an [individual account plan](#), and

(B) for the purposes of paragraph (23) of this section and [section 1054 of this title](#), shall be treated as an [individual account plan](#) to the extent benefits are based upon the [separate account](#) of a [participant](#) and as a [defined benefit plan](#) with respect to the remaining portion of benefits under the [plan](#).

(36) The term “[excess benefit plan](#)” means a [plan](#) maintained by an [employer](#) solely for the purpose of providing benefits for certain [employees](#) in excess of the limitations on contributions and benefits imposed by [section 415 of title 26](#) on [plans](#) to which that section applies without regard to whether the [plan](#) is funded. To the extent that a separable part of a [plan](#) (as determined by the [Secretary](#) of Labor) maintained by an [employer](#) is maintained for such purpose, that part shall be treated as a separate [plan](#) which is an [excess benefit plan](#).

(37)

(A) The term “[multiemployer plan](#)” means a [plan](#)—

(i) to which more than one [employer](#) is required to contribute,

(ii) which is maintained pursuant to one or more collective bargaining agreements between one or more [employee organizations](#) and more than one [employer](#), and

(iii) which satisfies such other requirements as the [Secretary](#) may prescribe by regulation.

(B) For purposes of this paragraph, all trades or businesses (whether or not incorporated) which are under common control within the meaning of [section 1301\(b\)\(1\) of this title](#) are considered a single [employer](#).

(C) Notwithstanding subparagraph (A), a [plan](#) is a [multiemployer plan](#) on and after its termination date if the [plan](#) was a [multiemployer plan](#) under this paragraph for the [plan](#) year preceding its termination date.

(D)

For purposes of this subchapter, notwithstanding the preceding provisions of this paragraph, for any [plan](#) year which began before September 26, 1980, the term “[multiemployer plan](#)” means a [plan](#) described in this paragraph (37) as in effect immediately before such date.

(E) Within one year after September 26, 1980, a [multiemployer plan](#) may irrevocably elect, pursuant to procedures established by the corporation and subject to the provisions of sections 1453(b) and (c) of this title, that the [plan](#) shall not be treated as a [multiemployer plan](#) for all purposes under this chapter or the [Internal Revenue Code of 1954](#) if for each of the last 3 [plan](#) years ending prior to the effective date of the [Multiemployer Pension Plan Amendments Act of 1980](#)—

(i)

the [plan](#) was not a [multiemployer plan](#) because the [plan](#) was not a [plan](#) described in subparagraph (A)(iii) of this paragraph and [section 414\(f\)\(1\)\(C\) of title 26](#) (as such provisions were in effect on the day before September 26, 1980); and

(ii)

the [plan](#) had been identified as a [plan](#) that was not a [multiemployer plan](#) in substantially all its filings with the corporation, the [Secretary](#) of Labor and the [Secretary](#) of the Treasury.

(F)

(i) For purposes of this subchapter a [qualified football coaches plan](#)—

(I)

shall be treated as a [multiemployer plan](#) to the extent not inconsistent with the purposes of this subparagraph; and

(II)

notwithstanding [section 401\(k\)\(4\)\(B\) of title 26](#), may include a qualified cash and deferred arrangement.

(ii) For purposes of this subparagraph, the term “[qualified football coaches plan](#)” means any [defined contribution plan](#) which is established and maintained by an organization—

(I)

which is described in [section 501\(c\) of title 26](#);

(II)

the membership of which consists entirely of individuals who primarily coach football as full-time [employees](#) of 4-year colleges or universities described in [section 170\(b\)\(1\)\(A\)\(ii\) of title 26](#); and

(III)

which was in existence on September 18, 1986.

(G)

(i) Within 1 year after August 17, 2006—

(I)

an election under subparagraph (E) may be revoked, pursuant to procedures prescribed by the Pension Benefit Guaranty Corporation, if, for each of the 3 [plan](#) years prior to August 17, 2006, the [plan](#) would have been a [multiemployer plan](#) but for the election under subparagraph (E), and

(II) a [plan](#) that meets the criteria in clauses (i) and (ii) of subparagraph (A) of this paragraph or that is described in clause (vi) may, pursuant to procedures prescribed by the Pension Benefit Guaranty Corporation, elect to be a [multiemployer plan](#), if—

(aa)

for each of the 3 [plan](#) years immediately preceding the first [plan](#) year for which the election under this paragraph is effective with respect to the [plan](#), the [plan](#) has met those criteria or is so described,

(bb)

substantially all of the [plan](#)'s [employer](#) contributions for each of those [plan](#) years were made or required to be made by organizations that were exempt from tax under [section 501 of title 26](#), and

(cc)

the [plan](#) was established prior to September 2, 1974.

(ii)

An election under this subparagraph shall be effective for all purposes under this chapter and under title 26, starting with any [plan](#) year beginning on or after January 1, 1999, and ending before January 1, 2008, as designated by the [plan](#) in the election made under clause (i)(II).

(iii)

Once made, an election under this subparagraph shall be irrevocable, except that a [plan](#) described in clause (i)(II) shall cease to be a [multiemployer plan](#) as of the [plan](#) year beginning immediately after the first [plan](#) year for which the majority of its [employer](#) contributions were made or required to be made by organizations that were not exempt from tax under [section 501 of title 26](#).

(iv)

The fact that a [plan](#) makes an election under clause (i)(II) does not imply that the [plan](#) was not a [multiemployer plan](#) prior to the date of the election or would not be a [multiemployer plan](#) without regard to the election.

(v)

(I)

No later than 30 days before an election is made under this subparagraph, the [plan administrator](#) shall provide notice of the pending election to each [plan participant](#) and [beneficiary](#), each labor organization representing such [participants](#) or beneficiaries, and each [employer](#) that has an obligation to contribute to the [plan](#), describing the principal differences between the guarantee programs under subchapter III and the benefit restrictions under this subchapter for single [employer](#) and [multiemployer plans](#), along with such other information as the [plan administrator](#) chooses to include.

(II)

Within 180 days after August 17, 2006, the [Secretary](#) shall prescribe a model notice under this clause.

(III)

A [plan administrator](#)'s failure to provide the notice required under this subparagraph shall be treated for purposes of [section 1132\(c\)\(2\) of this title](#) as a failure or refusal by the [plan administrator](#) to file the annual report required to be filed with the [Secretary](#) under [section 1021\(b\)\(1\) of this title](#).

(vi)

A [plan](#) is described in this clause if it is a [plan](#) sponsored by an organization which is described in [section 501\(c\)\(5\) of title 26](#) and exempt from tax under section 501(a) of such title and which was established in Chicago, Illinois, on August 12, 1881.

(vii)

For purposes of this chapter and title 26, a [plan](#) making an election under this subparagraph shall be treated as maintained pursuant to a collective bargaining agreement if a collective bargaining agreement, expressly or otherwise, provides for or permits [employer](#) contributions to the [plan](#) by one or more [employers](#) that are signatory to such agreement, or participation in the [plan](#) by one or more [employees](#) of an [employer](#) that is signatory to such agreement, regardless of whether the [plan](#) was created, established, or maintained for such [employees](#) by virtue of another document that is not a collective bargaining agreement.

(38) The term “[investment manager](#)” means any fiduciary (other than a trustee or [named fiduciary](#), as defined in [section 1102\(a\)\(2\) of this title](#))—

(A)

who has the power to manage, acquire, or dispose of any asset of a [plan](#);

(B)

who (i) is registered as an investment adviser under the [Investment Advisers Act of 1940](#) [[15 U.S.C. 80b-1](#) et seq.]; (ii) is not registered as an investment adviser under such Act by reason of paragraph (1) of section 203A(a) of such Act [[15 U.S.C. 80b-3a\(a\)](#)], is registered as an

investment adviser under the laws of the [State](#) (referred to in such paragraph (1)) in which it maintains its principal office and place of business, and, at the time the fiduciary last filed the registration form most recently filed by the fiduciary with such [State](#) in order to maintain the fiduciary's registration under the laws of such [State](#), also filed a copy of such form with the [Secretary](#); (iii) is a bank, as defined in that Act; or (iv) is an insurance company qualified to perform services described in subparagraph (A) under the laws of more than one [State](#); and

(C)

has acknowledged in writing that he is a fiduciary with respect to the [plan](#).

(39)

The terms "[plan](#) year" and "fiscal year of the [plan](#)" mean, with respect to a [plan](#), the calendar, policy, or fiscal year on which the records of the [plan](#) are kept.

(40)

(A) The term "[multiple employer welfare arrangement](#)" means an [employee welfare benefit plan](#), or any other arrangement (other than an [employee welfare benefit plan](#)), which is established or maintained for the purpose of offering or providing any benefit described in paragraph (1) to the [employees](#) of two or more [employers](#) (including one or more self-employed individuals), or to their beneficiaries, except that such term does not include any such [plan](#) or other arrangement which is established or maintained—

(i)

under or pursuant to one or more agreements which the [Secretary](#) finds to be collective bargaining agreements,

(ii)

by a [rural electric cooperative](#), or

(iii)

by a [rural telephone cooperative association](#).

(B) For purposes of this paragraph—

(i)

two or more trades or businesses, whether or not incorporated, shall be deemed a single [employer](#) if such trades or businesses are within the same [control group](#),

(ii)

the term "[control group](#)" means a group of trades or businesses under common control,

(iii)

the determination of whether a trade or business is under "common control" with another trade or business shall be determined under regulations of the [Secretary](#) applying principles similar to the principles applied in determining whether [employees](#) of two or

more trades or businesses are treated as employed by a single [employer](#) under [section 1301\(b\) of this title](#), except that, for purposes of this paragraph, common control shall not be based on an interest of less than 25 percent,

(iv) the term “[rural electric cooperative](#)” means—

(I)

any organization which is exempt from tax under [section 501\(a\) of title 26](#) and which is engaged primarily in providing electric service on a mutual or cooperative basis, and

(II)

any organization described in paragraph (4) or (6) of [section 501\(c\) of title 26](#) which is exempt from tax under [section 501\(a\) of title 26](#) and at least 80 percent of the members of which are organizations described in subclause (I), and

(v)

the term “[rural telephone cooperative association](#)” means an organization described in paragraph (4) or (6) of [section 501\(c\) of title 26](#) which is exempt from tax under [section 501\(a\) of title 26](#) and at least 80 percent of the members of which are organizations engaged primarily in providing telephone service to rural areas of the [United States](#) on a mutual, cooperative, or other basis.

(41) [4] Single-employer plan.—

The term “[single-employer plan](#)” means an [employee benefit plan](#) other than a [multiemployer plan](#).

(41)

<sup>4</sup> The term “[single-employer plan](#)” means a [plan](#) which is not a [multiemployer plan](#).

(42)

the [5] term “[plan assets](#)” means [plan assets](#) as defined by such regulations as the [Secretary](#) may prescribe, except that under such regulations the assets of any entity shall not be treated as [plan assets](#) if, immediately after the most recent acquisition of any equity interest in the entity, less than 25 percent of the total value of each class of equity interest in the entity is held by [benefit plan investors](#). For purposes of determinations pursuant to this paragraph, the value of any equity interest held by a [person](#) (other than such a [benefit plan investor](#)) who has discretionary authority or control with respect to the assets of the entity or any [person](#) who provides investment advice for a fee (direct or indirect) with respect to such assets, or any affiliate of such a [person](#), shall be disregarded for purposes of calculating the 25 percent threshold. An entity shall be considered to hold [plan assets](#) only to the extent of the percentage of the equity interest held by [benefit plan investors](#). For purposes of this paragraph, the term “[benefit plan investor](#)” means an [employee benefit plan](#) subject to part 4,[6] any [plan](#) to which [section 4975 of title 26](#) applies, and any entity whose underlying assets include [plan assets](#) by reason of a [plan](#)'s investment in such entity. ([Pub. L. 93–406, title I, § 3](#), Sept. 2, 1974, [88 Stat. 833](#); [Pub. L. 96–364, title III](#), §§ 302, 305, title IV, §§ 407(a), 409, Sept. 26, 1980, [94 Stat. 1291](#), 1294, 1303, 1307; [Pub. L. 97–473, title III, § 302\(a\)](#), Jan. 14, 1983, [96 Stat. 2612](#); [Pub. L. 99–272, title XI, § 11016\(c\)\(1\)](#), Apr. 7, 1986,

[100 Stat. 273](#); [Pub. L. 99–509, title IX, § 9203\(b\)\(1\)](#), Oct. 21, 1986, [100 Stat. 1979](#); [Pub. L. 99–514, title XVIII, § 1879\(u\)\(3\)](#), Oct. 22, 1986, [100 Stat. 2913](#); [Pub. L. 100–202, § 136\(a\)](#), Dec. 22, 1987, [101 Stat. 1329–441](#); [Pub. L. 101–239, title VII, §§ 7871\(b\)\(2\), 7881\(m\)\(2\)\(D\), 7891\(a\)\(1\), 7893\(a\), 7894\(a\)\(1\)\(A\), \(2\)\(A\), \(3\), \(4\)](#), Dec. 19, 1989, [103 Stat. 2435](#), 2444, 2445, 2447, 2448; [Pub. L. 101–508, title XII, § 12002\(b\)\(2\)\(C\)](#), Nov. 5, 1990, [104 Stat. 1388–566](#); [Pub. L. 102–89, § 2](#), Aug. 14, 1991, [105 Stat. 446](#); [Pub. L. 104–290, title III, § 308\(b\)\(1\)](#), Oct. 11, 1996, [110 Stat. 3440](#); [Pub. L. 105–72, § 1\(a\)](#), Nov. 10, 1997, [111 Stat. 1457](#); [Pub. L. 109–280, title VI, § 611\(f\), title IX, §§ 905\(a\), 906\(a\)\(2\)\(A\), title XI, §§ 1104\(c\), 1106\(a\)](#), Aug. 17, 2006, [120 Stat. 972](#), 1050, 1051, 1060; [Pub. L. 110–28, title VI, § 6611\(a\)\(1\), \(b\)\(1\)](#), May 25, 2007, [121 Stat. 179](#), 180; [Pub. L. 110–458, title I, § 111\(c\)](#), Dec. 23, 2008, [122 Stat. 5113](#); [Pub. L. 116–94, div. O, title I, § 101\(b\), \(c\)\(1\), \(3\)](#), Dec. 20, 2019, [133 Stat. 3141](#), 3144.)