CHAPTER 12 - THE PENSION BENEFIT GUARANTY CORPORATION

CONTENTS

EXPLANATION OF THE CORPORATION AND ITS FUNCTIONS

The Pension Benefit Guaranty Corporation (PBGC) is a federal corporation established under title IV of the Employee Retirement Income Security Act of 1974 (ERISA, P.L. 93-406) to insure private pension beneficiaries against the complete loss of accrued benefits if their defined benefit pension plan is terminated without adequate funding. The PBGC receives no funds from general tax revenues. Its operations are financed by insurance premiums set by Congress and paid by sponsors of defined benefit plans, investment income, assets from pension plans trusteed by the PBGC, and recoveries from the companies formerly responsible for the trusteed plans.

ADMINISTRATION

The PBGC is a government-owned corporation. A three-member board of directors, chaired by the Secretary of Labor, administers the Corporation. The Secretary of Commerce and the Secretary of the Treasury are the other directors. ERISA provides for a seven-member Advisory Committee, appointed by the President, for staggered 3-year terms. The Advisory Committee advises the PBGC on issues such as investment of funds, plan liquidations, and other matters. The Director of the PBGC is appointed by the President with the advice and consent of the Senate.

PLAN TERMINATION INSURANCE

Defined Benefit Plans and Defined Contribution Plans

There are two kinds of pension plans: "defined benefit" plans and "defined contribution" plans. Under a defined benefit plan, employees receive a fixed benefit at retirement prescribed by a formula set forth in the plan. The employer makes annual contributions to the plan based on actuarial calculations designed to ensure that the plan has sufficient funds to pay the benefit prescribed by the formula. Under a defined contribution plan, no particular benefit is promised. Instead, benefits are based on the balance of an individual account maintained for the benefit of the employee. The benefit received by an employee at retirement is generally dependent on two factors: total contributions made to the plan during his or her participation in the plan, and the investment experience of the amounts contributed on the employee's behalf. Under either type of pension plan, employees also may be permitted to make contributions.

Under a defined contribution plan, the employee bears all the risk of poor investment performance of the assets invested in a plan. Whether these investments perform well or poorly, at retirement the employee gets only what was contributed plus the amount actually earned.

Under a defined benefit plan, the employer bears the risk of investment losses. The Internal Revenue Code and ERISA contain minimum funding standards that require the employer to make contributions to a defined benefit plan to fund promised benefits. Thus, for example, if the plan experiences poor investment performance, actuarial miscalculations, or low benefit estimates, the employer will be required to make additional contributions to the plan. However, the minimum funding rules provide for funding over a period of time, and do not require the plan to have sufficient assets to pay all the benefits earned under the plan at any particular time. Thus, it is possible for a defined benefit plan to terminate without having sufficient assets to pay promised benefits. The PBGC insures defined benefit plan benefits up to certain limits to protect plan participants in the event of such a termination. However, the PBGC may not protect all benefits promised under a plan so that in the event that a defined benefit plan is terminated while it is not fully funded, the participants might receive less than they were promised under the plan. Plan participants aged 55-64 who are receiving pensions from the PBGC are eligible for the Health Coverage Tax Credit, which is a tax credit equal to 65 percent of the premiums they pay for health insurance.

The total number of private defined benefit plans is less than the number of private defined contribution plans. Beginning in the early-1990s, participants in defined contribution plans exceeded those in defined benefit plans. Similarly, in the mid-1990s, assets held in defined contribution plans surpassed those held in defined benefit plans.

The operations of the insurance program, and insurance limits, are described below. Defined contribution plans are not insured by the PBGC.

Single-Employer and Multiemployer Plans

Defined benefit plans insured by the PBGC fall into two categories: single-employer plans and multiemployer plans. Multiemployer plans are collectively bargained arrangements maintained by more than one employer. Single-employer plans, whether or not collectively bargained, are each maintained by one employer. Non-collectively-bargained plans maintained by more than one employer are classified as single-employer plans.

The risk to the PBGC posed by single-employer plans is different from that posed by multiemployer plans. Generally, single-employer plans are more vulnerable to the risk of underfunding due to financial weakness of the sponsoring employer. The PBGC is more vulnerable to the risk that a single employer will be unable to make up the difference between funded and promised benefits. Issues concerning insurance of multiemployer plans are more likely to involve the allocation of liabilities as firms enter and leave the participating group.

In 2009, the PBGC insured the benefits of 44.0 million pension plan participants, including active workers and retirees in 29,142 pension plans. Of these participants, 33.6 million, or 76.3 percent, were covered by 27,347 single-employer plans, and 10.4 million, or 23.7 percent, were covered by 1,495 multiemployer plans.

Other Requirements for PBGC Coverage

The PBGC covers only those defined benefit plans that meet the qualification requirements of section 401 of the Internal Revenue Code (IRC). These are also the requirements that plans must meet in order to receive the tax benefits available to qualified pension plans. If a plan meets the requirements of IRC section 401, the employer's contributions to the plan are treated as a tax-deductible business expense, and neither the employer's contributions to the plan nor the investment earnings of the plan are treated as taxable income to the participants. When a pension plan participant begins to receive income from the plan, it is taxed as ordinary income.

Generally, to be qualified under the Internal Revenue Code, a pension plan must be established with the intent of being a permanent and continuing arrangement; must provide definitely determinable benefits; may not discriminate in favor of highly compensated employees with respect to coverage, contributions or benefits; and must cover a minimum number or percentage of employees.

Pension plans specifically excluded by Congress from being insured by the PBGC include governmental plans, church plans, defined contribution plans, plans of fraternal societies financed entirely by member contributions, plans maintained by certain professionals with 25 or fewer participants, and plans established and maintained exclusively for substantial owners of businesses.

PLAN TERMINATION

Single-Employer Plans

An employer can voluntarily terminate a single-employer plan in either a standard or distress termination. The participants and the PBGC must be notified of the termination. The PBGC may involuntarily terminate an underfunded plan if the sponsor is unable to fund its pension obligations.

Standard Terminations – A standard termination is permitted only if plan assets are sufficient to cover benefit liabilities. Generally, benefit liabilities equal all benefits earned to date by plan participants, including vested and nonvested benefits (which automatically become vested at the time of termination), plus certain early retirement supplements and subsidies. Benefit liabilities also may include certain contingent benefits (for example, plant shutdown benefits). If assets are sufficient to cover benefit liabilities (and other termination requirements, such as notice to employees, have not been violated), the plan distributes benefits to participants. The plan provides for the benefit payments it owes by purchasing annuity contracts from an insurance company, or otherwise providing for the payment of benefits, for example, by providing the benefits in lump sum distributions.

Assets in excess of the amounts necessary to cover benefit liabilities may be recovered by the employer in an asset reversion. The asset reversion is included in the gross income of the employer and also is subject to a nondeductible excise tax. The excise tax is 20 percent of the amount of the reversion if the employer establishes a qualified replacement plan, or provides certain benefit increases in connection with the termination. Otherwise, the excise tax is 50 percent of the reversion amount.

Distress Terminations – If assets in the plan are not sufficient to cover benefit liabilities, the employer may not terminate the plan unless the employer meets one of four criteria necessary for a "distress" termination:

- The contributing sponsor, and every member of the controlled group (companies with the same ownership) of which the sponsor is a member, has filed or had filed against it a petition seeking liquidation in bankruptcy or any similar federal law or other similar State insolvency proceedings;
- The contributing sponsor and every member of the sponsor's controlled group has filed or had filed against it a petition to reorganize in bankruptcy or similar State proceedings. This criterion also is met if the bankruptcy court (or other appropriate court) determines that, unless the plan is terminated, the employer will be unable to continue in business outside the reorganization process and approves the plan termination;
- The PBGC determines that termination is necessary to allow the employer to pay its debts when due; or

- The PBGC determines that termination is necessary to avoid unreasonably burdensome pension costs caused solely by a decline in the employer's work force.

These requirements, added by the Single Employer Pension Plan Amendments Act of 1986 (SEPPAA, P.L. 99-272) and modified by the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) and the Retirement Protection Act of 1994 (RPA, P.L. 103-465), are designed to ensure that the liabilities of an underfunded plan remain the responsibility of the employer, rather than the PBGC, unless the employer meets strict standards of financial need indicating genuine inability to continue funding the plan.

Involuntary Terminations – The PBGC may terminate a plan involuntarily, either by agreement with the plan sponsor or pursuant to a federal court order. The PBGC may institute such proceedings only if the plan in question has not met the minimum funding standards, will be unable to pay benefits when due, has a substantial owner who has received a distribution greater than $10,000 (other than by reason of death), or the long-run loss to the PBGC with respect to the plan is expected to increase unreasonably if the plan is not terminated. The PBGC must terminate a plan if the plan is unable to pay benefits that are currently due. A federal court may order termination of the plan in order to protect the interests of participants, to avoid unreasonable deterioration of the plan's financial condition, or to avoid an unreasonable increase in the PBGC's liability under the plan.

PBGC Trusteeship – When an underfunded plan terminates in a distress or involuntary termination, the plan goes into PBGC receivership. The PBGC becomes the trustee of the plan, takes control of any plan assets, and assumes responsibility for liabilities under the plan. The PBGC makes payments for benefit liabilities promised under the plan with assets received from two sources: assets in the plan before termination, and assets recovered from employers. The balance, if any, of guaranteed benefits owed to beneficiaries is paid from the PBGC's revolving funds (see below).

Employer Liability to the PBGC – Following a distress or involuntary termination, the plan's contributing sponsor and every member of that sponsor's controlled group is liable to the PBGC for the excess of the value of the plan's liabilities as of the date of plan termination over the fair market value of the plan's assets on the date of termination. The liability is joint and several, meaning that each member of the controlled group can be held responsible for the entire liability. Generally, the obligation is payable in cash or negotiable securities to the PBGC on the date of termination. Failure to pay this amount upon demand by the PBGC may trigger a lien on the property of the contributing employer's controlled group. Obligations in excess of this amount are to be paid on commercially reasonable terms acceptable to the PBGC. Often, however, a plan undergoing a distress termination is sponsored by a company that is in bankruptcy proceedings, in which case the PBGC does not have legal authority to perfect a lien against the plan sponsor. In such instances, the PBGC has the same legal standing as other creditors of the plan sponsor and its ability to recover assets is limited.

Benefit Payments – When an underfunded plan terminates, the benefits that the PBGC will pay depend on the statutory limit on guaranteed benefits, asset allocation, and recoveries by the PBGC from the employer that sponsored the terminated plan.

Guaranteed Benefits – Within limits set by Congress, the PBGC guarantees any retirement benefit that was nonforfeitable (vested) on the date of plan termination other than benefits that vest solely on account of the termination, and any death, survivor or disability benefit that was owed or was in payment status at the date of plan termination. Generally, only that part of the retirement benefit that is payable in monthly installments (rather than, for example, lump-sum benefits payable to encourage early retirement) is guaranteed. Retirement benefits that commence before the normal age of retirement are guaranteed, provided they meet the other conditions of guarantee. Contingent benefits (for example, early retirement benefits provided only if a plant shuts down) are guaranteed only if the triggering event occurs before plan termination. Following enactment of the Pension Protection Act of 2006, the PBGC guarantee for such benefits is phased in over a five-year period commencing when the event occurs.

There is a statutory ceiling on the amount of monthly benefit payable to any individual that is guaranteed by the PBGC. This ceiling, which is indexed according to changes in the Social Security wage base, is $4,500 for plans that terminate in 2011 for a single life annuity payable at age 65. This limit is actuarially reduced for benefits payable before age 65, or payable in a different form.

The reduction in the maximum guarantee for benefits paid before age 65 is 7 percent for each of the first 5 years under age 65, 4 percent for each of the next 5 years, and 2 percent for each of the next 10 years. The reduction in the maximum guarantee for benefits paid in a form other than a single life annuity depends on the type of benefit, and if there is a survivor's benefit, the percentage of the benefit continuing to the surviving spouse and the age difference between the participant and spouse.

For example, consider a retiree who, at plan termination in 2011, is age 60 and whose spouse is 2 years younger. The participant is receiving a joint and 50 percent survivor's benefit (a benefit that continues to a surviving spouse upon the death of the participant at a reduced level of 50 percent). In this case, the maximum guarantee applicable to the participant is $2,579.80 per month [$4,500 X 0.90 (joint and survivor benefit) X 0.65 (participant age) X 0.98 (spouse 2 years younger)].

The guarantee for any new benefit, including benefits under new plans and benefits provided by amendment to already existing plans, is phased in over 5 years following creation of the benefit.

Asset Allocation – Assets of a terminated plan are allocated to pay benefits according to a priority schedule established by statute. Under this schedule, some nonguaranteed benefits are payable from plan assets before certain guaranteed benefits. For example, benefits of participants who have been receiving pension payments for more than three years have priority over guaranteed benefits of participants not yet receiving payments.

Section 4022(c) Benefits – The PBGC also is required to pay participants a portion of their unfunded, nonguaranteed benefits based on a ratio of assets recovered from the employer to the amount of the PBGC's claim on employer assets.

As a result of the asset allocation and section 4022(c) benefits, reimbursement to the PBGC for its payment of guaranteed benefits may be less than the total value of assets recovered from the terminated plan.

Multiemployer Plans

In the case of multiemployer plans, the PBGC insures plan insolvency, rather than plan termination. Accordingly, a multiemployer plan need not be terminated to qualify for PBGC financial assistance, but must be found to be insolvent. A plan is insolvent when its available resources are not sufficient to pay the plan benefits for the plan year in question, or when the sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources will not be sufficient to pay benefits that come due in the next plan year.

If it appears that available resources will not support the payment of benefits at the guaranteed level, the PBGC will provide the additional resources needed as a loan. The PBGC may provide loans to the plan year after year. If the plan recovers from insolvency, it must begin repaying loans on reasonable terms in accordance with regulations.

The PBGC guarantees benefits under a multiemployer plan of the same type as those guaranteed under a single-employer plan, but a different guarantee ceiling applies. The Multiemployer Pension Plan Amendments Act of 1980 (MPPAA, P.L. 96-364) established a benefit guarantee limit for participants in multiemployer plans equal to the participant's years of service multiplied by the sum of (1) 100 percent of the first $5 of the monthly benefit accrual rate and (2) 75 percent of the next $15 of the accrual rate. For a participant with 30 years of service under the plan, the maximum PBGC-guaranteed benefit was $5,850 per year. The Consolidated Appropriations Act of 2001 (P.L. 106-554), signed into law on December 21, 2000, increased the benefit guarantee in multiemployer plans to the product of a participant's years of service multiplied by the sum of (1) 100 percent of the first $11 of the monthly benefit accrual rate and (2) 75 percent of the next $33 of the accrual rate. For someone with 30 years of service, this raised the guaranteed limit to $12,870.

The MPPAA requires that PBGC conduct a study every 5 years to determine whether changes are needed in the multiemployer premium rate or guarantee. The next study is due in 2010.

FINANCIAL CONDITION OF THE PBGC

OVERVIEW

In 2010, the Pension Benefit Guaranty Corporation's insurance program for single-employer pensions insured the pensions of 33.8 million workers and retirees in about 27,647 plans. The program is directly responsible for the benefits of about 1.3 million workers and retirees in 3,993 pension plans. The PBGC insurance program for single-employer plans reported a deficit of $21.6 billion in fiscal year 2010, according to the 2010 Annual Management Report. The deficit for 2010 was $517 million more than the $21.1 billion deficit reported one year earlier. The PBGC reported that the increase in the deficit was due primarily to reductions in interest factors, the passage of time, losses from completed and probable plan terminations, and administrative and other expenses. Total return on invested funds was 12.1 percent.

During the year, the single-employer program took in 147 newly terminated pension plans. Overall benefit payments increased to$5.6 billion in 2010 from $4.6 billion in 2009. As of September 30, 2010, the single-employer program reported assets of $79.5 billion and liabilities of $102.5 billion. The single-employer program posted premium income of $2.3 billion in 2010, up from $1.9 billion in 2009. The premium rates that companies pay to the PBGC are set by Congress.

In 2010, five plans with underfunding of $337 million were newly classified as probable terminations in 2010. Probable terminations represent PBGC's best estimate of claims for plans that are likely to terminate in a future year. The Annual Management Report also shows that the PBGC's potential exposure to pension losses from financially weak companies was $170 billion, slightly up from $168 billion in 2009. The underfunding exposure, classified as "reasonably possible," is attributable to plan sponsors whose credit ratings are below investment grade or who meet one or more of the financial distress criteria. This exposure declined primarily due to a net reduction in the unfunded vested benefit liabilities of the plans whose sponsors remained at risk, largely as the result of improved economic conditions.

The PBGC insurance program for multiemployer pension plans insures the pensions of more than 10 million workers and retirees in 1,495 plans. It reported a deficit of $1.4 billion for 2009, up from the $869 million deficit reported a year earlier. Unlike single-employer plans, the PBGC does not take over multiemployer plans, but instead offers financial assistance to insolvent plans in the form of loans. The PBGC indicates that the loans are rarely repaid. In 2010, such assistance totaled $97 million to 50 plans. Overall, the multiemployer program has about $1.6 billion in assets to cover about $3.1 billion in liabilities.

The PBGC's assets are comprised of insurance premiums, assets recovered from terminated plans and recoveries from employers, and accumulated investment income. The PBGC's liability for future benefit payments is the (discounted) present value of the stream of future benefit payments the PBGC is obligated to pay participants and beneficiaries of terminated plans and plans booked as probable terminations. The current deficit does not create an immediate crisis for the PBGC, which will be able to continue paying benefits for a number of years.

CLAIMS FROM UNDERFUNDED PLANS

Through the end of fiscal year 2009, the PBGC's single-employer program had incurred net claims of $37.6 billion (see table 12-1). Of this amount, nine of the ten largest claims against the PBGC, totaling $26.3 billion, occurred between 2001 and 2009. The PBGC's net claims equal the portion of guaranteed benefit liabilities not covered by plan assets or recoverable employer liability. These claims will eventually have to be covered through premiums, earnings on PBGC assets, or other sources of revenue.

The claims against the PBGC have increased considerably over its history. Within that trend, there has been substantial annual variability due to the sporadic terminations of very large underfunded plans. Two major industrial sectors – steel production and airline transportation – have produced over half of all claims in the single-employer program and represent nine of the ten largest claims against the PBGC.

TABLE 12-1-- CLAIM EXPERIENCE FROM SINGLE-EMPLOYER PLANS, 1975- 2009 [1]

[Dollars in Millions]

Year of Termination	Number of Plans	Benefit Liability	Trust Plan Assets	Recoveries from Employers	Net Claims	Average Net Claim Per Terminated Plan
1975-1979	586	$397.4	$145.2	$56.4	$195.8	$0.33
1980-1984	621	$1,257.3	$513.8	$157.8	$585.7	$0.94
1985-1989	537	$2,351.4	$651.1	$159.2	$1,541.0	$2.87
1990-1994	694	$5,116.8	$2,274.8	$446.9	$2,395.1	$3.45
1995-1999	443	$2,195.6	$1,413.0	$74.2	$708.4	$1.60
2000	72	$366.2	$266.0	$15.3	$84.9	$1.18
2001	117	$3,686.3	$2,535.5	$184.9	$966.0	$8.26
2002	185	$8,303.7	$4,515.0	$282.8	$3,505.9	$18.95
2003	166	$13,301.3	$6,895.6	$179.0	$6,226.7	$37.51
2004	163	$6,004.9	$2,848.1	$513.0	$2,643.9	$16.22
2005	125	$21,634.7	$10,236.9	$1,785.8	$9,612.0	$76.90
2006	79	$4,506.4	$2,339.3	$1,264.6	$902.4	$11.42
2007	70	$981.7	$634.2	$25.5	$322.0	$4.60
2008	59	$754.5	$473.7	$17.5	$263.2	$4.46
2009	76	$17,196.6	$9,394.5	$111.1	$7,690.9	$101.20
Total	3,993	$88,054.7	$45,136.6	$5,274.1	$37,644.0	$9.43

[1]Stated amounts are subject to change until PBGC finalizes values for liabilities, assets, and recoveries of terminated plans. Amounts in this table are valued as of the date of each plan's termination and differ from amounts reported in PBGC's Financial Statements which are valued as of the end of the fiscal year.

Note: Numbers may not add up to totals due to rounding.

Source: Pension Benefit Guaranty Corporation.

Table 12-1 demonstrates the growth in net claims over the Corporation's history. The PBGC reported net claims of $21.4 billion from 2004 through 2009. This represents almost 57 percent of all net claims in the history of the single-employer insurance program

As shown by Table 12-2, the number of single-employer plan terminations that result in claims against the PBGC is a small fraction of all plan terminations. Over the PBGC's history, terminations of underfunded plans have made up only 2 percent of all terminations.

FINANCING

The sources of financing for the PBGC are per-participant premiums collected from insured plans, assets in terminated underfunded plans for which the PBGC has become trustee, investment earnings, and amounts owed to the PBGC by employers who have terminated underfunded plans. In addition, the PBGC has the authority to borrow up to $100 million from the Treasury.

TABLE 12-2-- TOTAL NUMBER OF TERMINATED SINGLE-EMPLOYER PLANS, NUMBER OF PLANS WITH CLAIMS AGAINST PBGC, AND NET POSITION, 1975- 2009

Fiscal Year	Number of Terminated Plans	Number of Plans with Claims Against PBGC	Net Position at End of Year (in millions of dollars)
1975	2,570	100	$ -16
1976	9,103	171	-41
1977	7,332	130	-95
1978	5,261	103	-138
1979	4,892	82	-146
1980	4,037	104	-95
1981	5,086	137	-189
1982	6,134	131	-333
1983	6,880	150	-523
1984	7,720	99	-462
1985	8,751	116	-1,325
1986	6,961	132	-2,026
1987	10,972	107	-1,549
1988	10,889	99	-1,543
1989	11,483	83	-1,124
1990	11,901	101	-1,913
1991	8,775	175	-2,503
1992	6,827	157	-2,737
1993	5,444	124	-2,897
1994	4,085	135	-1,240
1995	3,991	121	-315
1996	3,905	96	869
1997	3,579	82	3,481
1998	2,540	65	5,012
1999	2,045	76	7,038
2000	1,954	72	9,704
2001	1,682	117	7,732
2002	1,399	185	-3,638
2003	1,285	166	-11,238
2004	1,352	163	-23,305
2005	1,391	125	-22,776
2006	1,327	79	-18,142
2007	1,652	70	-13,111
2008	1,649	59	-10,678
2009	1,306	76	-21,077
Total	176,160	3,988	--

Source: Pension Benefit Guaranty Corporation.

Single-Employer Premiums

An employer that maintains a covered single-employer defined benefit pension plan must pay an annual premium for each participant under the plan. The PBGC's single-employer premium income was $1.48 billion in fiscal year 2007. Initially set at $1 per participant by ERISA in 1974, Congress has raised the premium periodically since then. Congress raised the per-participant premium to $2.60 in 1979, and then raised it to $8.50 in 1986. The Omnibus Budget Reconciliation Act of 1987 raised the basic premium to $16, and imposed an additional variable rate, or risk-related, premium on underfunded plans. The variable rate premium was initially set at $6 for each $1,000 of the plan's unfunded vested benefits, up to a maximum of $34 per participant. Accordingly, the maximum premium was $50 per participant.

The Omnibus Budget Reconciliation Act of 1990 (OBRA 1990, P.L. 101-508) increased the basic premium to $19, and the variable rate premium to $9 for each $1,000 of the plan's unfunded vested benefits, up to a maximum of $53 per participant. Thus, beginning in 1991, the maximum premium was $72 per participant. The Retirement Protection Act of 1994 (RPA, P.L. 103-465) left the per capita premium at $19 per participant. However, the $53 per participant variable rate premium cap was phased out over a 3-year period beginning in 1994.

The Deficit Reduction Act of 2005 (DRA, P.L. 109-171) increased the per capita premium from $19 to $30 for 2006 and indexed the premium to the annual rate of growth in the national average wage beginning in 2007. The 2011 premium rate for single-employer plans is $35 per participant. The DRA also created a new per-participant premium of $1,250 per participant to be assessed on any underfunded single-employer plan that undergoes a distress termination or is involuntarily terminated by the PBGC, to be paid annually for each of the three years beginning the month following the date of termination and each anniversary, or if later, the employer's exit from bankruptcy. This premium is in addition to any other PBGC premiums that are due for the plan year. As enacted by the DRA, the special premium would not have applied to plans terminated after December 31, 2010.

The Pension Protection Act of 2006 (PPA, P.L. 109-280) made permanent the special premium for plans that undergo a distress termination or are involuntarily terminated by the PBGC. The PPA also made the variable rate premium of $9 per $1,000 of underfunding more widely applicable. Prior to enactment of the PPA, the variable rate premium was waived for an underfunded plan if it was not underfunded in any two consecutive years out of the previous three years. Under the PPA, the variable premium will be assessed on all underfunded plans, regardless of the plan's funding status in earlier years. For employers with 25 or fewer employees, the variable premium is capped at $5. The variable-rate premium must be computed using a three-segment yield curve of corporate bond interest rates beginning in 2008. The PPA also authorized the PBGC to pay interest on overpayment of premiums.

Multiemployer Plan Premiums

The premium for multiemployer plans was initially $0.50 per participant. The MPPAA raised the premium to $1.40 for years after 1980. This premium was set to increase gradually to $2.60. The DRA of 2005 increased the flat-rate per-participant premium for multiemployer defined benefit plans from $2.60 to $8.00. Since 2007, the premium is adjusted annually by the rate of growth in the national average wage.

The premium for 2011 is $9 per participant per year. The PBGC's multiemployer premium income equaled $93 million in fiscal year 2010.

Assets from Terminated Plans

When the PBGC becomes trustee of a terminated plan, it receives control of any assets in the plan. These assets are placed in one of two trust funds (one for multiemployer plans, one for single-employer plans).

Employer Liability

An employer that terminates an underfunded defined benefit plan is liable to the PBGC for certain amounts. Before the changes made by SEPPAA, an employer's liability was generally capped at 30 percent of the employer's net worth. SEPPAA removed this limit, leaving employers whose liability would have been capped liable for an additional share of unfunded benefit commitments above 30 percent of net worth. The OBRA of 1987 further increased employer liability, leaving employers liable for all amounts up to 100 percent of unfunded benefit liabilities.

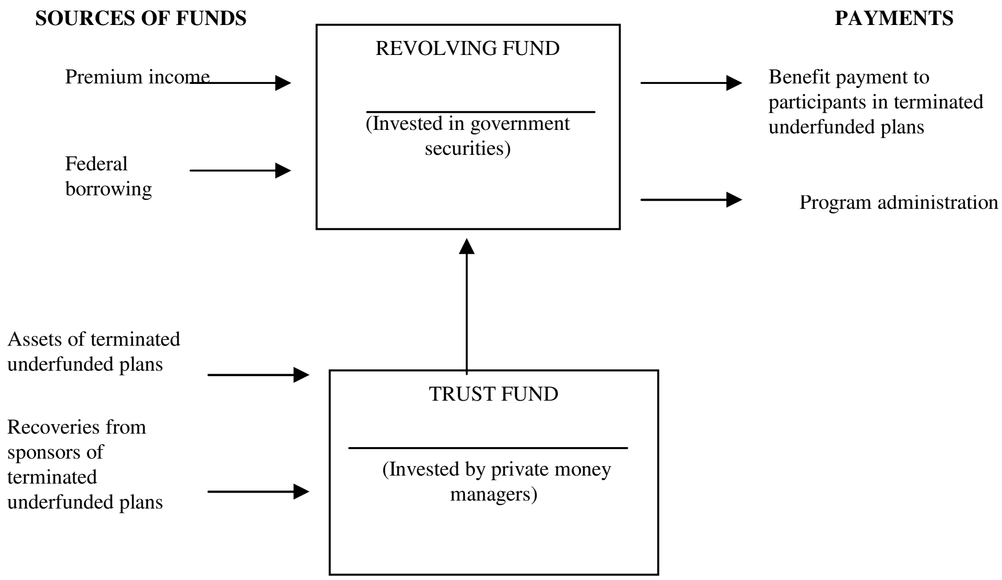
Investment Income

The PBGC maintains two separate financial programs, each consisting of a revolving fund and a trust fund, to sustain its single-employer and multiemployer plan insurance programs. Its revolving funds consist of collected premiums and income resulting from investment of the premiums and is constrained to investments in U.S. Treasury securities. The revolving funds had a value of $17.6 billion as of September 20, 2010.

The trust funds consist of assets received from all terminated plans of which the PBGC is or will be a trustee, and employer liability payments. These assets are invested in cash, fixed income securities, equities, private markets, and real estate. The net market value of the trust funds was $53.6 billion as of September 30, 2010.

Chart 12-1 diagrams the relationship between the PBGC's financing and its payment of guaranteed benefits to plan participants.

CHART 12-1-- FINANCIAL STRUCTURE OF THE PENSION BENEFIT GUARANTY CORPORATION



Source: Congressional Budget Office.

BUDGETARY TREATMENT

Since 1981, administrative expenses of the PBGC and the benefit payments to participants in plans under the PBGC's trusteeship have been counted as federal outlays. Certain receipts of the agency – including premium payments, interest on balances in the revolving fund, and transfers to the revolving fund from the trust fund – offset PBGC expenses in the federal budget. Liabilities for future benefit payments and other accruals are not taken into account. In fiscal year 2006, the PBGC generated net revenue of $2.6 billion. In most years since 1981 (when the program was first included in the federal budget) the effect of the PBGC has been to reduce overall federal outlays (see table 12-3). Net outlays in which gross outlays exceeded receipts have occurred in only five years: 2003, 2005, 2007, 2008, and 2009. However, the 2012 federal budget projects receipts to exceed gross outlays in years 2010 through 2016.

The PBGC does not spend any Federally appropriated funds, however its cash flows do affect the Federal budget. The PBGC has an on-budget revolving fund and a non-budget trust fund. Receipts to the PBGC are considered off-setting collections in the Federal budget and include revenue from premiums, interest earned on funds

U.S. government securities held by the PBGC's on-budget revolving trust fund, and transfers from the PBGC's non-budgetary trust fund. The PBGC transfers funds from the trust fund to the revolving fund using "proportional funding" which is net trust fund assets divided by the present value of future benefits excluding probable terminations. The non-budgetary trust fund consists of assets of pensions plans trusteed by the PBGC from plans that PBGC has taken over. The revolving fund is invested entirely in U.S. government securities. The assets of the trust fund are invested according an investment policy approved by the PBGC's Board of Directors. The current asset allocation is approximately 30 percent in equity investments and 70 percent in fixed-income securities. The United States is not liable for any obligation or liability incurred by the corporation.

FUTURE FINANCIAL STATUS OF THE PBGC

In fiscal year 2010, the net position for the single-employer program declined by $517 million, while the multiemployer program's net position declined by $567million. The combined net loss for 2010 was $1.08 billion. The primary factors in the single-employer program's net loss included a charge of $6.40 billion due to a reduction in interest factors, $4.22 billion in charges due to passage of time, $0.51 billion in losses from completed and probable terminations, and $0.44 billion of administrative, investment, and other expenses. These factors were offset by $7.59 billion in investment income, $2.23 billion in net premium income, and a credit of $1.19 billion from actuarial adjustments. The primary reasons for the increase in the multiemployer program's deficit of $567 million included $831 million in losses from financial assistance, partially offset by $183 million in investment income, and $93 million in net premium income. The losses from financial assistance were due to the unfavorable decrease in interest factors and the addition of 25 new plans to the multiemployer probables inventory, which was mitigated by the deletion of eight plans.

During 2010, the PBGC terminated 147 plans in the single-employer program. The PBGC had already reflected $600 million of the net claims for these plans in its 2009 results. These plans had an average funded ratio of approximately 54 percent, resulting in an aggregate net loss to the PBGC of $1.44 billion. In total, these plans had 1.69 billion in assets, including estimated recoveries, and $3.13 billion of future benefit liabilities as of the date of plan termination. Five new probables were added with underfunding of $337 million. Probable terminations represent the PBGC's best estimate of claims for plans that are likely to terminate within twelve months.

In its 2010 management report, the PBGC estimated its future exposure at approximately $170 billion, up slightly from $168 billion in 2009. Not all pension underfunding represents likely claims upon PBGC insurance. PBGC's estimate of multiemployer reasonably possible exposure increased significantly from $326 million in 2009 to $20 billion in 2010, due primarily to the addition of two large plans.

The future financial condition of the pension insurance program is highly uncertain because it depends largely on how many private pension plans terminate and on the amount of underfunding in those plans. Both factors are hard to forecast accurately. Over its history, a relatively few pension plans with extremely large unfunded liabilities have dominated the PBGC's claims, and its future may likewise depend significantly on the fate of a few large plans, making liabilities even more difficult to predict. Future terminations will be influenced by overall economic conditions, the prosperity of particular industries, competition from abroad, and a variety of factors that are specific to particular firms – such as their competitive position in the industry, their agreements with labor groups, and the assessments of their financial prospects that are necessary to obtain credit. In addition, the PBGC's losses with respect to future terminations will depend on how well companies fund their plans, and on the PBGC's position in bankruptcy proceedings.

TALE 12-3--FEDERAL BUDGETARY TREATMENT OF THE PENSION BENEFIT GUARANTY CORPORATION, 1975-2009

[In millions of dollars]

Fiscal Year	**Expenses**[1]	**Offsetting Collections**[2]	**Net Outlays**
Not Included in the Federal Budget[3]			
1975	$3	$36	NA
1976	13	29	NA
1977	21	41	NA
1978	48	62	NA
1979	52	92	NA
1980	59	90	NA
Total	$196	$349	NA
Included in the Federal Budget[3]			
1981	94	123	-$29
1982	90	157	-67
1983	172	182	-10
1984	180	190	-10
1985	191	210	-19
1986	238	344	-106
1987	565	637	-72
1988	282	560	-278
1989	1041	1,190	-149
1990	495	1,175	-680
1991	552	1,339	-787
1992	836	1,491	-655
1993	815	2,323	-1,508
1994	1061	1,446	-385
1995	1286	1,716	-430
1996	961	1,812	-851
1997	950	2,147	-1,197
1998	1,035	2,252	-1,217
1999	1,201	1,866	-665
2000	1,365	2,510	-1,145
2001	1,333	2,398	-1,065
2002	2,093	3,058	-965
2003	2,529	2,300	229
2004	3,161	3,408	-247
2005	3,571	3,477	94
2006	4,444	7,062	-2,618
2007	4,576	4,119	457
2008	*	*	1,377
2009	*	*	194
2010	*	*	-1,333
2011[4]	*	*	-619
2012[4]	*	*	-782
2013[4]	*	*	-229
2014[4]	*	*	-835
2015[4]	*	*	-7,725
2016[4]	*	*	-1,073

[1]Includes primarily administrative costs and benefit payments.

[2]Includes primarily premium income, interest income, and transfers from the pension insurance trust fund to the revolving fund.

[3]The Pension Benefit Guaranty Corporation was first included in the federal budget in 1981, in accordance with Public Law 96-364.

[4]Estimated.

NA - Not applicable.

* - Information is unavailable.

Note: This table includes both the single-employer and multiemployer pension insurance programs.

Source: Budget of the United States, various years.

LEGISLATIVE HISTORY

SINGLE-EMPLOYER INSURANCE PLAN

The PBGC was established under the Employee Retirement Income Security Act of 1974 (ERISA, P.L. 93-406) for the purpose of insuring benefits under defined benefit pension plans. As originally structured, in the case of a single-employer plan, termination of a plan triggered the PBGC insurance mechanism. The contributing employer was liable to the PBGC for unfunded insured benefits up to 30 percent of the net worth of the employer. If unfunded insured liability exceeded this amount, the PBGC had to absorb the excess and spread the loss over insured plans. Employers generally faced no restrictions on their ability to terminate an underfunded plan.

The Single Employer Pension Plan Amendments Act of 1986 (SEPPAA)

Congress passed SEPPAA (title XI of P.L. 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1985) in response to rapidly growing PBGC deficits. SEPPAA raised the per-participant premium from $2.60 to $8.50, established certain financial distress criteria that a sponsoring employer and every member of the employer's controlled group must meet in order to terminate an underfunded plan, expanded PBGC's employer liability claim, and created a new liability to plan participants for certain nonguaranteed benefits.

Omnibus Budget Reconciliation Act of 1987 (OBRA 1987)

The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) contained additional measures to strengthen the PBGC's long-term solvency. The act increased the PBGC's basic per-participant premium for single-employer plans to $16 and added a variable rate premium for these plans tied to the degree of plan underfunding (capped at $53 per participant). The act also expanded the PBGC's employer liability claim to include all plan benefit liabilities, provided that the PBGC share a portion of its recoveries from employers with plan participants, and required faster funding of plan benefits to reduce the PBGC's exposure in the event of plan termination. The act also contained other provisions relating to the plan termination distress criteria, the bankruptcy treatment of unpaid employer contributions, PBGC's lien authority, and various pension funding requirements.

Retirement Protection Act of 1994 (RPA)

In response to the persistent growth in pension underfunding, Congress passed significant reforms in the Retirement Protection Act (RPA, enacted December 8, 1994) as part of the GATT legislation (the Uruguay Round Agreements (P.L. 103-465)). The RPA strengthened the pension funding rules for underfunded plans by accelerating funding, eliminating double counting of certain funding credits, and constraining the assumptions that may be used to calculate pension contributions. RPA also required severely underfunded plans to maintain minimum levels of liquid assets. The RPA phased out the $53 per-participant cap on the variable rate premium over a 3-year period as an incentive to improve funding in underfunded plans and made certain changes to the interest rate and mortality assumptions used to calculate plan underfunding. The RPA established a program under which the PBGC serves as a clearinghouse for benefits of missing participants in plans terminating in a standard (fully funded) termination.

The Trade Act of 2002

The Trade Act of 2002 (P.L. 107-210) provided individuals aged 55 to 64 who are receiving pensions from either program of the PBGC with a tax credit equal to 65 percent of the cost of their health insurance premiums.

The Deficit Reduction Act of 2005

The Deficit Reduction Act of 2005 (P.L. 109-171) increased the per capita premium for single-employer plans from $19 to $30 for 2006 and indexed the premium to the annual rate of growth in the national average wage, beginning in 2007. The DRA also created a new per-participant premium of $1,250 per participant to be assessed on any underfunded single-employer plan that undergoes a distress termination or is involuntarily terminated by the PBGC, to be paid annually for each of the three years beginning the month following the date of termination and each anniversary, or if later, the employer's exit from bankruptcy. This premium is in addition to any other PBGC premiums that are due for the plan year. As enacted by the DRA, the special premium would not have applied to plans terminated after December 31, 2010.

The Pension Protection Act of 2006 (PPA)

Under prior law, a plan was exempted from the variable-rate premium of $9 per $1,000 of underfunding if it was not underfunded in any two consecutive years out of the previous three years. The Pension Protection Act of 2006 (P.L. 109-280) requires the variable premium to be assessed on all underfunded plans, regardless of the plan's funding status in earlier years.

The PPA prohibits shut-down benefits and other "contingent event benefits" from being paid by pension plans that are funded at less than 60% of full funding unless the employer makes a prescribed additional contribution. The PBGC guarantee for such benefits will be phased in over a five-year period commencing when the event occurs. This provision is not applicable for the first five years of a plan's existence.

The PPA made permanent the surcharge premium of $1,250 per participant for certain distress terminations, which was added by the Deficit Reduction Act of 2005 and was to expire in 2010. The PPA also authorizes the PBGC to pay interest on overpayment of premiums. The PPA requires the director of the Pension Benefit Guaranty Corporation to be appointed by the President, subject to confirmation by the Senate Committee on Finance and Senate Committee on Health, Education, Labor and Pensions.

MULTIEMPLOYER PLAN INSURANCE PROGRAM

Multiemployer Pension Plan Amendments Act of 1980

Coverage for multiemployer plans under ERISA was structured similarly to that of single-employer plans. However, the PBGC was not required to insure benefits of multiemployer plans that terminated before July 1, 1978. Congress extended the deadline for mandatory pension coverage several times, until enactment of the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA, P.L. 96-364). The MPPAA required more complete funding for multiemployer plans, especially those in financial distress. It also improved the ability of plans to collect contributions from employers. The MPPAA changed the insurable event that triggers PBGC protection to plan insolvency, rather than plan termination. Thus, if a multiemployer plan becomes financially unable to pay benefits at the guaranteed level when due, the PBGC will provide financial assistance to the plan, in the form of a loan. Finally, MPPAA imposed withdrawal liability on employers who ceased to contribute to a multiemployer plan.

Consolidated Appropriations Act of 2001

The Consolidated Appropriations Act of 2001 (P.L. 106-554) increased the benefit guarantee in multiemployer plans to the product of a participant's years of service multiplied by the sum of (1) 100 percent of the first $11 of the monthly benefit accrual rate and (2) 75 percent of the next $33 of the accrual rate.

Trade Act of 2002

The Trade Act of 2002 (P.L. 107-210) provided a tax credit equal to 65 percent of the premiums they pay for health insurance as an additional benefit available to plan participants aged 55 to 64 who are receiving pensions from either program of the PBGC.

Deficit Reduction Act of 2005

The Deficit Reduction Act of 2005 increased the flat-rate per participant premium for multiemployer defined benefit plans from $2.60 to $8.00. For the 2007 plan year and later plan years, the premium is indexed to the rate of growth of the national average wage.