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Highlights

Highlights of GAO-12-168, a report to congressional requesters

December 2011

DELPHI PENSION PLANS

GM Agreements with Unions Give Rise to Unique Differences in Participant Benefits

Why GAO Did This Study

The Pension Benefit Guaranty Corporation (PBGC) terminated the underfunded six qualified defined benefit (DB) plans of the Delphi Corporation, a former subsidiary of General Motors (GM), in July 2009. Given questions about how PBGC came to terminate the plans, whether treatment for certain Delphi workers was preferential, and the role of the U.S. Department of the Treasury (Treasury) in these outcomes, GAO was asked to answer the following questions:

(1) What precipitated PBGC's decision to terminate Delphi's plans and what was Treasury's role, if any?

(2) What actions did PBGC take to secure Delphi domestic and foreign assets as part of its recovery process?

(3) Why will certain Delphi employees receive reduced pension benefits and others will not?

(4) What information was communicated to employees about the termination of their plans?

GAO issued a timeline of key events leading to the plans' termination in March 2011 (GAO-11-373R). To examine the issues more fully for this report, GAO analyzed additional information from PBGC, Treasury, GM, Delphi, and Delphi employee groups and unions, and interviewed representatives from those organizations. For comparison purposes, GAO also reviewed the termination and recovery processes for all ten firms with the largest termination claims from plans trusteed by PBGC.

Treasury's comments generally agreed with GAO's findings and conclusions.

View GAO-12-168. For more information, contact Barbara Bovbjerg at 202-512-7215 or bovbjergb@gao.gov.

What GAO Found

As a result of the termination of Delphi's pension plans in July 2009 and statutory benefit limits, many Delphi retirees will receive less from PBGC than their full benefit promised by Delphi. However, some of those experiencing statutory reductions will still receive their full benefits because of union agreements with GM. With respect to PBGC's role in the process, the steps taken to terminate the plans and reduce some benefits according to statutory limits are consistent with PBGC's usual actions when terminating large plans.

- PBGC's decision to terminate the plans was ultimately precipitated by the apparent lack of a viable sponsor, impending foreclosure on Delphi's assets, and the prospect of increased losses for PBGC and the plans that would occur upon liquidation. Similar factors were often at play in PBGC's decisions to terminate other large plans we reviewed.
- PBGC used its authority under the law to file liens and negotiate recoveries of corporate assets on behalf of Delphi's plans. Although PBGC ultimately recovered only about 6 percent of the total unfunded benefit liabilities in these plans, this ratio falls within the range of recovery ratios for other large terminated plans we reviewed.
- Among the Delphi plan participants PBGC had reviewed as of June 2011, just under half of both hourly and salaried plan participants received reductions in their promised benefits due to the application of statutory benefit limits. While initial estimates indicate a higher proportion of Delphi retirees have been subject to the guarantee limits compared with retirees of most other large terminated plans, PBGC expects Delphi's higher proportion to decline once all benefit calculations are finalized.
- Delphi sent required communications to employees concerning deteriorating plan funding, and PBGC sent communications concerning plan termination and its impact on participants' benefits.

However, the role that GM played in the process was more unusual. Some Delphi hourly plan participants are protected from benefit losses caused by statutory limits because GM agreed to "top up" potential benefit losses for certain Delphi union employees. These agreements were renewed and upheld at numerous points in Delphi's history, including by the "new GM" established in July 2009. Because of these agreements, about 60 percent of the participants in the hourly plan will have any statutory reductions in their benefits restored by GM. Other hourly employees, as well as all employees in Delphi's salaried plan and the other smaller plans. were never covered by comparable top-up agreements.

Although acknowledging the significant role Treasury played in GM's restructuring, GM and Treasury officials stated that Treasury's role was advisory concerning GM's decisions not to take on additional Delphi pension liabilities but to honor the top-up agreements with some unions. Similarly, PBGC officials stated that PBGC independently made the decision to terminate the plans. Still, in response to a prior GAO recommendation, Treasury revised its reporting policy to increase transparency on its activities related to the auto industry. GAO believes that the most effective means of addressing concerns about Treasury's multiple roles regarding pensions is also through such increased transparency.