

BY THE U.S. GENERAL ACCOUNTING OFFICE

# Report To The Executive Director Pension Benefit Guaranty Corporation

## Improved Processes Needed To Insure Timely Benefit Payments To Participants Of Single Employer Pension Plans

The Pension Benefit Guaranty Corporation, created by the Employee Retirement Income Security Act of 1974, insures the benefits of participants in single employer (sponsor) private pension plans. The Corporation is responsible under the act for determining whether terminated plans have sufficient assets to pay guaranteed benefits and assuring timely and uninterrupted benefit payments. The Corporation reviews termination data, authorizes administrators of sufficient plans to arrange participants' benefit payments, and assumes responsibility for insufficient plans to pay participants' benefits directly.

Both processes take time, and participants' benefit payments are sometimes delayed. Although the Corporation is making improvements, GAO identified further opportunities for reducing delays and improving administration by establishing procedures that (1) focus management attention on restoring monthly benefit payments for participants of insufficient plans, (2) streamline processes for reviewing sufficient plans by using sufficiency determinations by actuaries in lieu of Corporation reviews, and (3) use address records of other federal agencies to locate participants not found from plan records.



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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

HUMAN RESOURCES  
DIVISION

B-197840

The Honorable Charles C. Tharp  
Executive Director  
Pension Benefit Guaranty Corporation

Dear Mr. Tharp:

We have reviewed the processes the Pension Benefit Guaranty Corporation uses to insure that participants in private pension plans receive guaranteed benefits when plans terminate. Our review was made at the request of the Chairman, Senate Committee on Labor and Human Resources, and the report contains recommendations for improving Corporation processes that affect the distribution of benefits to plan participants.

As you know, 31 U.S.C. 720 requires the head of a federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report. Under the law, the statement must also be submitted to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the chairmen of the five above-mentioned committees and other cognizant legislative committees. Copies are also being sent to the Director, Office of Management and Budget, and other interested parties.

Sincerely yours,

A handwritten signature in cursive script, reading "Richard L. Fogel".

Richard L. Fogel  
Director



D I G E S T

The Pension Benefit Guaranty Corporation (PBGC), established by the Employee Retirement Income Security Act of 1974 (ERISA), administers a self-financing insurance program to protect the benefits of about 29 million participants in 106,000 private pension plans sponsored by individual employers.

Insured plans are often terminated when sponsors change to a new plan, discontinue plan financial support, or liquidate their business. When plans terminate, PBGC determines whether plan assets are sufficient to pay benefits guaranteed under ERISA. PBGC authorizes administrators of sufficient plans to pay participants' benefits in amounts approved by PBGC and assumes administrative responsibility for insufficient plans to pay participants' benefits directly. ERISA requires PBGC to provide for the timely and uninterrupted payment of participants' benefits.

PURPOSE OF REVIEW

GAO made its review at the request of the Chairman of the Senate Labor and Human Resources Committee to assess the effectiveness of PBGC processes for ensuring that participants in private pension plans receive guaranteed benefits when plans terminate. The review included an evaluation of PBGC's processing of

--17 insufficient pension plans which were identified judgmentally from limited PBGC records to assess why eligible participants were not receiving benefit payments, and 15 which were selected randomly to assess PBGC efforts to adjust benefit payments to guaranteed levels, and

--100 sufficient pension plan terminations selected randomly to assess the effectiveness of PBGC processes for providing timely benefit distributions.

Although not used for projection, GAO has no reason to believe the sample results are not representative of operating conditions affecting the timely payment of participants' benefits. GAO also analyzed PBGC efforts to locate plan participants who were not receiving benefits because they could not be located from plan records. (See pp. 3 to 5.)

PBGC PROCESSING OF INSUFFICIENT  
PLANS CAN BE MORE TIMELY

PBGC processing of terminated plans with insufficient assets to cover guaranteed benefits could be strengthened to provide for more timely (1) restoration of monthly benefit payments to participants not being paid (ordinarily because plan resources are low) and (2) compensation for benefit payments they missed. In addition, PBGC was not always reducing payments to guaranteed levels as soon as possible, resulting in overpayments to some participants.

In 12 of the 17 insufficient pension plans GAO selected for review, participants were without monthly benefit payments on the average of over 2 years after PBGC first became aware that monthly benefit payments were not being paid. The average waiting time for participants within each of the 12 plans ranged from 1 to 4 years. GAO identified two ways the time taken to restore benefit payments can be reduced.

--PBGC's management information system should provide necessary reports to highlight insured plans with participants who are not receiving monthly benefit payments to apprise responsible management officials of the progress being made and actions being taken on these cases.

--In cases PBGC considers not likely to be legally contested, PBGC could use existing authority under ERISA to petition the courts to assume responsibility for the plan and restore participants' benefits sooner.

In cases involving substantive legal issues, lengthy deliberations occurred between PBGC and the plan sponsor before PBGC could become trustee of the terminated plans. PBGC can do little under these circumstances to make the process more timely. However, PBGC's General Counsel advised GAO that reinstatement of authority PBGC previously held (during a 270-day transition period after enactment of ERISA) to appoint, at its discretion, a receiver to take control of a plan unable to pay benefits when due would be useful to PBGC in dealing with such cases.

PBGC does not generally compensate plan participants for missed benefit payments until PBGC actuaries make final determinations of the amount of guaranteed benefits for all participants in a pension plan. This practice resulted in a waiting period that averaged from 1 to 2-1/2 years for most of the 17 pension plans GAO reviewed. PBGC officials agreed that missed payments could be made sooner on an estimated basis while awaiting final determination by the actuaries, and as of April 1984, they were finalizing procedures to do so.

Expedited processing to reduce participants' benefit payments to guaranteed amounts as soon as possible after plan termination has been required by PBGC procedures since 1976. Early reductions are important to minimize the need for participants to reimburse PBGC for overpayments (that accumulate when the adjustment is delayed) through reductions to future monthly benefit payments. Delayed adjustments of monthly overpayments for certain participants of plans GAO reviewed resulted in recovery periods that extended beyond their normal life expectancy. As of April 1984, PBGC was completing actions that should help promote early reduction of benefits to guaranteed levels following PBGC trusteeship. (See pp. 6 to 15.)

PBGC PROCESSING OF SUFFICIENT PLANS  
CAN BE STRENGTHENED AND STREAMLINED

ERISA and PBGC regulations provide for administrators of terminating plans to distribute plan assets needed to pay for participants' benefits

generally within 6 months following plan termination where PBGC can establish through verification of plan administrators' data that the plan is sufficient. Plan administrators can distribute assets by making lump-sum benefit payments to certain participants or by purchasing annuities from private insurers.

GAO's review of a random sample of 100 sufficient pension plan terminations showed that asset distributions occurred an average of 1 year after PBGC was notified that the plan administrators intended to terminate plans. Many of these distributions could have been made sooner if PBGC had (1) enforced requirements that plan administrators submit data necessary to determine plan sufficiency in a timely manner and (2) established procedures to curtail its data verification processes when enrolled actuaries (certified competent under ERISA) had calculated participant benefit payments.

New data collection requirements establishing reporting time frames for plan administrators and internal control procedures defining actions for noncompliance were completed by PBGC in October 1983. These actions can help resolve problems of timely data submission by plan administrators and result in participants receiving benefits sooner. Also, PBGC was drafting regulatory proposals in April 1984 providing for the use of actuarial certifications in lieu of PBGC reviews. PBGC will need additional guidelines to periodically test enrolled actuaries' certifications of plan sufficiency to ensure they are accurate and comply with PBGC regulatory requirements. (See pp. 16 to 19.)

Other GAO findings that PBGC is acting on are discussed on pages 19 and 20.

OPPORTUNITIES AVAILABLE TO  
LOCATE MISSING INDIVIDUALS  
ENTITLED TO BENEFITS

Inability to determine from pension plan records the whereabouts of individuals entitled to immediate or future benefits from insufficient terminating pension plans prompted PBGC, in 1981, to establish a system that uses Internal



Revenue Service (IRS) address records. While this system has functioned as a good alternative source in locating these individuals, addresses for about one out of every five names processed through the system (over 6,000 processed at the end of 1982) have not been found.

Supplementing IRS data with Social Security Administration (SSA) data could help PBGC locate at least some of the remaining individuals. We advised PBGC officials of the advantage of using SSA's data, and as of April 1984, PBGC was working on arrangements with SSA to begin using these data.

Also, PBGC has not used IRS or available SSA data for locating participants who have become eligible for benefits since 1981 in 267 terminated plans it trusteeed before its system with IRS was implemented. PBGC has been considering alternatives for screening its records to identify individuals in plans trusteeed before 1981 and intends to begin subjecting the names identified to IRS and SSA (if arrangements discussed above are completed) data searches about July 1984. (See pp. 22 to 25.)

#### RECOMMENDATIONS

To provide for more timely payment of benefits to participants of terminating insufficient pension plans, GAO recommends that the Executive Director of PBGC establish

- a tracking system that focuses management attention and actions on restoring suspended monthly benefit payments and
- procedures for reimbursing participants for missed benefit payments on an estimated basis when PBGC starts making estimated monthly benefit payments.

Because PBGC may be precluded from restoring monthly benefits to participants in plans that may be subject to lengthy court action before PBGC can become trustee, GAO recommends that the Executive Director assess experiences in dealing with these cases and, if warranted,

seek legislative authority that would permit PBGC to appoint a receiver to assume control of plans when participants' monthly benefit payments are jeopardized. (See p. 15.)

To augment new PBGC procedures for collection and review of sufficient pension plan data, GAO recommends that the Executive Director provide guidelines for its officials to periodically test enrolled actuaries' certifications of plan sufficiency to ensure they are accurate and comply with PBGC regulatory requirements. (See p. 21.)

GAO also recommends that the Executive Director analyze insurance program records to identify individuals in plans trusted by PBGC from 1974 through 1980 who have become eligible for, but are not receiving, guaranteed benefits and, as needed, use IRS and SSA data (upon completion of arrangements with SSA) to locate individuals. (See p. 25.)

#### AGENCY COMMENTS

In December 1983 and January 1984, GAO discussed the matters contained in this report with the Deputy Executive Director for PBGC operations. Speaking for PBGC, he said it agreed with GAO's proposed recommendations and it was taking or planning actions to implement them. (See pp. 15, 21, and 25.)

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ABBREVIATIONS

ERISA	Employee Retirement Income Security Act
GAO	General Accounting Office
IRS	Internal Revenue Service
PBGC	Pension Benefit Guaranty Corporation
SSA	Social Security Administration

## CHAPTER 1

### INTRODUCTION

In response to a request from the Chairman of the Senate Committee on Labor and Human Resources (see app. III) and later discussions with his office, we reviewed the processes used by the Pension Benefit Guaranty Corporation (PBGC) to ensure that participants in private pension plans receive benefits guaranteed under the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1001 et seq.) when plans terminate. As agreed with the Chairman's office, we are issuing this report to PBGC. Insured plans are often terminated when sponsors change to a new plan, discontinue plan financial support, or liquidate their business. The Committee's principal concerns involved PBGC's effectiveness in assuring that asset distributions<sup>1</sup> from these plans to participants are timely and fair and that erroneous payments are recovered. Few multiemployer plans<sup>2</sup> have terminated, so we limited our work to the payment of pension benefits under the termination insurance program for single employer plans.<sup>3</sup>

### BACKGROUND

ERISA was enacted in September 1974 to help protect the benefits of participants in private pension plans. To accomplish this objective, ERISA, among other things, created PBGC to insure certain benefits of participants in defined benefit pension plans.<sup>4</sup> PBGC administers two insurance programs--a plan termination insurance program for single employer defined benefit

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<sup>1</sup>Distribution of plan assets is made in the form of annuity payments to participants eligible for immediate annuities, promise of future payments to those eligible for deferred annuities, and lump-sum payments to those whose annuities would be small or to those not electing to receive annuities.

<sup>2</sup>Multiemployer pension plans are generally those established and maintained through collective bargaining between employee representatives and more than one employer.

<sup>3</sup>Single employer pension plans are defined under ERISA as any plans that are not multiemployer plans. Generally, they are plans established and contributed to by one employer or employer association.

<sup>4</sup>Defined benefit pension plans generally provide definitely determinable benefits to participants based on such factors as years of employment, retirement age, and compensation received.

pension plans and an insolvency insurance program for multi-employer defined benefit plans.

PBGC insures the benefits of about 29 million participants in 106,000 single employer defined benefit pension plans. During the first 8 years after the enactment of ERISA--1975 to 1982--about 38,800 pension plans were reported to PBGC as terminated. Almost 98 percent of these plans had sufficient assets to pay guaranteed benefits. In fiscal year 1982, PBGC completed processing 4,272 sufficient terminating pension plans and became trustee for 115 other plans determined to have insufficient assets to pay benefits.

Under ERISA, PBGC is required to provide for the timely and uninterrupted payment of pension benefits when single employer plans terminate. ERISA requires plan administrators to notify PBGC at least 10 days before the proposed date of plan termination and provide such information that PBGC may need to determine plan sufficiency. Under ERISA, after receiving a termination notice, PBGC has 90 days to analyze information submitted by pension plan administrators to determine if plan assets are sufficient to pay benefits guaranteed by the insurance program.

For plans determined to have adequate assets to cover all guaranteed benefits<sup>5</sup> (sufficient plans) PBGC issues a notice of plan sufficiency to the plan administrator authorizing the distribution of plan assets to eligible participants in amounts approved by PBGC under ERISA's allocation provisions. Plan administrators distribute assets by purchasing annuities from private insurers for some plan participants and making lump-sum payments from plan assets to the other participants. PBGC obtains the results of asset distributions from plan administrators to verify that distributions were made in conformance with PBGC requirements. PBGC completes its process by confirming with participants, in a sample of plans, that they are receiving approved benefit amounts. When they are not, PBGC procedures call for it to follow up with participants and those responsible for paying benefits.

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<sup>5</sup>Guaranteed benefits include those allocated to participants under categories 1 through 4 of section 4044 of ERISA. Section 4044 defines the order in which benefits of terminating single employer plans are to be allocated among plan participants.

For terminating plans found not to have adequate assets to pay guaranteed benefits (insufficient plans),<sup>6</sup> PBGC usually initiates action to become plan trustee and assumes management responsibility as trustee for plan assets and benefit payments. This may be accomplished by mutual agreement with the plan sponsor or by PBGC petitioning the court to become plan trustee. As part of the trusteeship process, PBGC performs a detailed audit of plan records to establish participants' entitlements to guaranteed benefits. Sponsoring employers are liable for unfunded guaranteed benefits at plan termination, and PBGC may collect up to 30 percent of the sponsoring employers' net worth<sup>7</sup> to recover unfunded benefits and offset costs to the insurance program.

Under ERISA, plan administrators are required to report the following events to PBGC within 30 days after the event occurs to facilitate PBGC responsibilities to protect participants' benefits.

- Inability of a plan to pay benefits when due.
- Initiation of bankruptcy, insolvency, or similar proceedings by the sponsoring employer.
- Significant reductions in active participant levels.

ERISA provides that, if PBGC determines that participants' benefits are endangered and a plan sponsor has not filed a notice of intent to terminate, PBGC may institute involuntary plan termination proceedings and request that it be made trustee by the court.

#### OBJECTIVE, SCOPE, AND METHODOLOGY

Our review was undertaken at the request of the Chairman of the Senate Committee on Labor and Human Resources to assess the processes used by PBGC to insure that participants of terminating pension plans receive the benefits to which they are entitled in

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<sup>6</sup>Under ERISA, PBGC determines whether plans are sufficient or it is unable to determine plan sufficiency. In this report, the latter are referred to as insufficient plans.

<sup>7</sup>Net worth is generally the difference between the value of the business assets and liabilities accumulated at a point in time. For the insurance program, PBGC determines net worth on a basis that best reflects, in its judgment, the economic value of the sponsor's assets and liabilities.

a timely manner. Because the methods PBGC uses to process terminated sufficient plans differ from those used to process terminated insufficient plans, we performed separate reviews of each process. However, where functional objectives would necessitate similar processing requirements for both types of plans, we analyzed PBGC's rationale for any processing differences observed.

Our review of insufficient plans focused on whether PBGC processes assured that (1) participants not receiving benefit payments had benefits restored as soon as possible during PBGC efforts to assume management responsibilities for the plans and (2) benefit overpayments were reduced to guaranteed levels as soon as possible. We did not assess PBGC's computerized benefit payment system, which was undergoing substantial modifications at the time of our review.

Many insufficient plans, when they terminate, are paying participants monthly benefits at levels above those guaranteed by PBGC. In fiscal year 1982 PBGC completed analyzing and verifying participant benefit guarantee entitlements for 75 insufficient trustee pension plans. We randomly selected 15 of these plans and assessed the impact on participants of PBGC processes for reducing benefit payments to guaranteed levels.

No central source was available to show, over time, the existence of insufficient plans in PBGC's inventory of all trustee plans with eligible participants not receiving monthly benefits. This occurs because information indicating payments not received by these participants is ordinarily purged from PBGC's automated case processing system when benefit payments are begun. Using data in PBGC's case processing system as of January 1983 and other benefit and case administration data, we identified 17 pension plans with such participants where PBGC benefit entitlement actions were recently completed or still in process. We assessed the effectiveness of current PBGC processes for restoring monthly payments<sup>8</sup> and paying missed benefits.

To assess the effectiveness of PBGC processes for assuring that participants of sufficient terminated pension plans receive benefits in a timely manner, we analyzed PBGC's handling of 100 pension plan terminations selected randomly from 4,068 sufficient pension plan cases closed by PBGC in fiscal year 1982. For the

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<sup>8</sup>As used in this report, the term "restoring monthly benefit payments" includes PBGC efforts to begin payments to eligible plan participants whose benefits were suspended by their plan and those that became eligible for benefits during PBGC processing.



cases sampled, we reviewed the adequacy of case processing regulations and procedures, the use of actuarial information provided, the causes of delays in the process, and alternatives for reducing PBGC's administrative burden.

The three samples of sufficient and insufficient plans we reviewed are not being used for statistical projection. However, we have no reason to believe the sample results are not representative of operating conditions at PBGC affecting the timely and effective payment of benefits to participants of terminating pension plans.

We also reviewed PBGC's process for confirming receipt of correct benefit payments with participants of sufficient and insufficient plans by (1) reviewing PBGC's methodology and (2) assessing the rationale for differences in PBGC's handling of sufficient and insufficient plans. We also tested PBGC's compliance with its confirmation procedures for sufficient plans by reviewing the use of the procedures on our 100-plan sample (from fiscal year 1982) and by monitoring PBGC confirmations performed on 31 plans during 4 months in fiscal years 1983 and 1984.

We reviewed PBGC's efforts to locate participants of both sufficient and insufficient plans whose addresses could not be obtained from pension plan records. At the end of 1982 about 1,370 participants entitled to benefits, from plans processed by PBGC, had not been located. PBGC currently relies on Internal Revenue Service (IRS) address records as its only alternative source for locating participants. We assessed the feasibility of using Social Security Administration (SSA) data for locating participants. Our review was performed at PBGC's and IRS' offices in Washington, D.C., and SSA headquarters in Baltimore. We performed our review in accordance with generally accepted government auditing standards.

## CHAPTER 2

### PBGC PROCESSING OF INSUFFICIENT PLANS

#### CAN BE IMPROVED TO PROVIDE

#### FOR MORE TIMELY PAYMENT OF

#### PARTICIPANTS' MONTHLY BENEFITS

PBGC's processes could be strengthened to provide that participants of insufficient pension plans not receiving monthly benefit payments (1) have monthly payments restored in a more timely manner and (2) are compensated for missed payments sooner. Under current PBGC processes certain participants have waited months and in some cases years before having their monthly benefit payments restored. Lump-sum reimbursements for missed payments associated with the delays are often not provided to participants for many months after monthly payments are begun by PBGC.

In addition, PBGC does not always reduce benefits it is paying to estimated guaranteed levels on a timely basis. As a result, participants receive overpayments that can be difficult for PBGC to recover through reduction of participants' monthly benefit payments.

#### ACTION NEEDED TO ASSURE MONTHLY BENEFITS ARE RESTORED IN A MORE TIMELY MANNER

Insufficient pension plans that terminate often pay participants' monthly benefits with plan assets during the period required for PBGC to assume trusteeship and management responsibility for the plans. However, when plan resources are not adequate to pay benefits, ERISA requires timely action by PBGC to restore retirees' monthly payments as soon as possible. (See p. 2.) The disposition of certain cases we reviewed showed that PBGC actions could have been more timely if

- a tracking system had been maintained to focus management attention and actions on restoring suspended benefit payments and/or
- existing legislative authority (involuntary termination) had been used to obtain PBGC trusteeship.

Where prolonged disposition of trusteeship to PBGC is expected, PBGC's legal authority may need to be extended to enable it to restore benefit payments in a timely manner with PBGC resources.

The 17 pension plan terminations we reviewed included 12 with participants who had been without monthly benefit payments on the average of over 2 years after PBGC first became aware that benefits were not being paid. The average waiting time for participants within each of the 12 plans ranged from 1 to 4 years. Two of the 12 plans were ultimately trustee'd by PBGC through court action, and benefit payments were begun. The other 10 were trustee'd by PBGC without court action after agreement was reached with the terminating plan administrator. Benefit payments were restored by PBGC on the average of 1 to 11 months for participants in the remaining five plans. (See app. I.)

PBGC is responsible for paying participants guaranteed benefits from the date of plan termination. Under ERISA, the plan termination date can be established by agreement between PBGC and the plan administrator

--as a date no earlier than the 10th day after receipt of a plan administrator's notice of intent to terminate or

--on a date before the plan termination notice for any PBGC purpose, including the need to provide participants with benefits that had not been paid by a plan administrator.

If a plan administrator is unwilling to terminate or abandons a plan, PBGC can petition the court to terminate the plan, set the termination date, and establish PBGC as trustee.

Once a termination date is established or can be reasonably estimated based on a notice of intent to terminate, PBGC can determine participant benefits. When the determination is made, PBGC can assume responsibility for paying participants and effect an orderly transition of management from the plan administrator to minimize any disruption in participant benefit payments. Plan size, records reviews, and other matters may affect PBGC's ability to begin benefit payments.

In the cases we reviewed, patterns of plan sponsor and PBGC actions contributed to delays in restoring benefit payments. In certain cases in which plan termination was not likely to be contested, delays resulted when PBGC awaited a notice of intent to terminate or other sponsor action leading to PBGC trusteeship rather than use existing authority under ERISA to petition the courts for involuntary plan termination in the interest of restoring benefit payments. In other cases, court action or the possibility of court action stemming from such issues as payment of employer liability to PBGC resulted in lengthy deliberations (between PBGC and the plan sponsor) before PBGC could become trustee.

PBGC does not have a tracking system that keeps its managers apprised of the status of PBGC actions on plans with participants not receiving benefits--that is, periodic reporting of progress made, actions needed, and target dates for restoring benefit payments. Although some information on these plans is in PBGC's case processing system, there is no systematic method being used to retrieve and periodically report the information to officials in PBGC's operations and legal departments responsible for acting to assure continuity of participants' monthly benefit payments.

PBGC's operations departments process claims from participants of terminated plans eligible for insurance program coverage. PBGC's legal department provides supporting advice and counsel on these matters and performs legal activities necessary for PBGC to become trustee of the terminated plan. Because actions within these departments involving plans with participants not receiving benefits were not being systematically monitored, some cases went many months without the plan administrator or PBGC officials actively working toward transfer of plan trusteeship to PBGC.

The following examples of plans in our review illustrate the circumstances under which PBGC obtained trusteeship and restored participants' benefit payments.

#### Involuntary termination considered but not used

In December 1979, PBGC received a court order naming PBGC a creditor in a bankruptcy proceeding initiated by an automotive parts company (a pension plan sponsor) attempting to reorganize its business and discharge its debts. In a call to the company's attorney, PBGC was advised that the company did not intend to terminate the pension plan at that time. However, in May 1980, PBGC contacted the bankruptcy court and the sponsor and determined that the sponsor's position was changed and it would be terminating the plan. PBGC twice furnished notice of termination material for filing to the sponsor, who did not file a notice to PBGC as promised.

In July 1980 a plan participant advised PBGC that certain participants eligible for benefits since May 1980 were not being paid. PBGC audited the plan the following week and found that funds under an insurance company group annuity were not available to pay benefits. At the time, sponsor contributions were in arrears. In August 1980 the insurance company wrote to PBGC identifying certain participants who were not being paid benefits and inquiring about a possibility that had been discussed

earlier of PBGC resources being transferred to the insurance company to start paying benefits for these participants. PBGC did not act on this alternative because the plan had not filed a termination notice.

PBGC records show that as of August 1980, 23 participants were eligible for monthly benefits and all but 1 were not being paid. In September 1980 the plan sponsor told PBGC that it would not terminate the plan, and PBGC operating officials recommended that their general counsel's office consider using involuntary termination. There was no further action on this recommendation until December 1980, when PBGC's acting General Counsel transferred the case to his litigation unit to commence involuntary plan termination proceedings in the appropriate district court.

However, PBGC did not commence involuntary plan termination proceedings, and PBGC records show no efforts by the litigation counsel toward PBGC trusteeship over the next 7 months. In July 1981, at PBGC's request, the plan sponsor applied for and was granted a court order to terminate the plan. PBGC and the plan sponsor agreed to a termination date retroactive to September 1980, when the plan sponsor had officially closed its business and was adjudicated as bankrupt. PBGC became trustee of the plan in August 1981 and in December 1981 began making monthly benefit payments ranging from \$28 to \$157 to the 22 participants who had been without benefit payments for 18 months. As of October 1983, these participants were waiting for the return of a total of over \$22,000 in missed benefit payments from PBGC.

Involuntary termination  
not considered for use

In August 1981, a bank, acting as pension plan trustee for an insolvent air-conditioning equipment manufacturer, notified PBGC that monthly benefit payments would no longer be made to six participants because the plan was out of money. The file for the plan was misplaced by PBGC until November 1981, when PBGC began efforts to locate officials of the defunct company for the purpose of obtaining a notice of intent to terminate. In May 1982, 9 months after the suspension of benefit payments, PBGC succeeded in obtaining the notice from a former official of the sponsor who was willing to respond for the company. In filing the notice the official pointed out that by 1979 the manufacturer had ceased to exist because all of its assets had been seized by lenders.

PBGC completed its audit of participant benefit entitlements in July 1982 and established July 31, 1981, as the plan termination date. The plan had 23 participants, including the 6 who were not being paid. In January 1983, PBGC consummated a

trusteeship agreement with the plan's retirement committee. In April 1983, 20 months after participants' benefit payments were stopped, PBGC restored payments in the same amounts previously paid by the plan. Had PBGC petitioned the court under involuntary termination provisions of ERISA to become trustee of this plan after learning that benefit payments were stopped in August 1981, participants' benefit payments probably could have been restored much earlier. As of October 1983 PBGC was finalizing benefit calculations and had not reimbursed the six participants for missed benefit payments totaling about \$32,000.

#### Involuntary plan termination used

In April 1975 an automotive electronic parts manufacturer notified PBGC that it had terminated its pension plan. At the time monthly benefit payments for over 50 participants were suspended, and the plan's actuaries reported to the sponsor that about \$700,000 of employer liability would be owed PBGC to cover asset insufficiencies if the plan was determined to be covered under ERISA by PBGC's insurance program. During the next 19 months, PBGC attempted unsuccessfully to reach agreement with the sponsor that the plan was covered, and in December 1976 the sponsor filed a motion in district court seeking judgment that the plan was not covered.

In June 1977 PBGC filed an opposing motion requesting that a district court involuntarily terminate the plan and appoint PBGC trustee. The district court denied PBGC's motion in February 1978 on the grounds that the plan did not provide for sponsor contributions required by ERISA. This decision was overturned, on PBGC appeal, in May 1981 on the grounds that the plan had provided for employer contributions based on employee hours worked. While the appeal was pending, the court in June 1979 approved a stipulation signed by parties to the suit providing for the use of limited plan resources to resume monthly benefit payments and pay missed benefits, but at less than half of PBGC guaranteed levels.

In April 1982, following an unsuccessful attempt begun in September 1981 by the plan sponsor to have the case heard by the U.S. Supreme Court, the district court appointed PBGC trustee for the plan. After evaluating benefit entitlements, PBGC began paying estimated guaranteed benefits to 41 eligible participants in September 1982. As of October 1983, PBGC was still attempting to finalize guaranteed payment amounts and had not determined amounts of missed benefits due the 41 participants and the beneficiaries of 13 other participants that died during the years PBGC trusteeship was being resolved.

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We discussed the cases we reviewed with PBGC's General Counsel, and in July 1983 he pointed out in a memorandum to his staff the importance PBGC places on processing terminating plans with participants not receiving benefit payments. New instructions were provided requiring that attorneys bring such cases, when initially identified, to the attention of the General Counsel or other key officials in that office. Attorneys were also instructed that PBGC would consider using expedited involuntary plan termination when the plan sponsor was unwilling to terminate a plan that was unable to pay participants' benefits when due.

During the first 270 days after enactment, ERISA provided PBGC with transition authority to appoint, at its discretion, a receiver to take control of terminated plans and certain other plans, including those unable to pay benefits when due. This authority was introduced in 1974 without explanation by the Committee of Conference and became part of the original ERISA legislation. Receivers PBGC appointed were to be approved by the court and be responsible for managing plan assets and protecting the interests of all affected parties, including plan participants, during subsequent proceedings in which PBGC assumed plan trusteeship. Under receivership PBGC would have access to plan records.

PBGC's General Counsel advised us that renewing this authority could be useful to the Corporation in dealing with plan terminations involving eligible participants not receiving monthly benefit payments and the prospect of lengthy court proceedings before PBGC trusteeship. The General Counsel and his staff also indicated that PBGC plans to use its funds in the future to pay guaranteed benefits after termination but before PBGC is appointed plan trustee. However, PBGC must have access to the plan records before it can do so. The General Counsel indicated that existing authority under ERISA to subpoena plan records has not been effective in gaining PBGC early access to plan records because of court delays.

#### EARLY REIMBURSEMENT OF MISSED BENEFIT PAYMENTS NEEDED

Under current PBGC procedures, participants are not compensated for monthly benefit payments missed while payments are in suspension until PBGC actuaries make final determination of the level of guaranteed benefits for all participants in the pension plan. Although this procedure was generally adhered to for the 17 cases in our review, PBGC deviated occasionally, permitting earlier payment on an estimated basis to individuals in the plans.

PBGC had paid 56 participants in 8 of the 17 plans we reviewed \$98,992 of missed benefits as of August 31, 1983. For five of these eight plans, PBGC followed its policy and paid 47 participants \$82,322 of missed benefits after finalizing guaranteed benefit amounts. Missed benefit payments were made to participants on the average of 14 to 30 months after PBGC finalized guaranteed amounts (with the exception of one plan with a single participant). In the other three plans, 9 of 22 participants received missed benefits totaling \$16,670 before PBGC finalized guaranteed benefits.

In the remaining nine plans, 326 participants had not received estimated missed benefit payments of over \$420,000 as of August 31, 1983. On the average, participants of these plans had been awaiting payment for periods ranging from 4 months to 2 years from when PBGC either (1) began paying estimated monthly benefits or (2) learned that participants had become eligible for but had not begun receiving monthly benefits. For five of these plans, participants had not received their benefits for over 1 year after PBGC learned that participants were due monthly benefits. (See app. II and examples discussed on pp. 8 to 10.)

PBGC officials advised us that they often start monthly benefit payments based on estimates of guaranteed benefits pending finalization of participants' entitlements by PBGC actuaries. They indicated that their procedures did not provide for use of estimated payments to calculate missed benefit payments because this might result in large estimating errors.

Monthly benefit payments were finalized and missed payments were reimbursed for 5 of the 17 plans in our review. Had PBGC used estimated monthly payments as the basis to calculate and pay missed payments earlier, total errors in individual participants' missed payments would not have exceeded \$117 per participant in four of these plans. In the fifth plan, large errors may have occurred, because PBGC increased estimated monthly benefit entitlements based on a plan amendment where guaranteed coverage was uncertain at the time. By excluding the benefit amendment, PBGC could have paid estimated missed benefits for all five plans when monthly payments were begun with limited amounts required to be recovered later by adjustments to participants' monthly payments.

PBGC officials agreed that missed benefit payments should be returned sooner on an estimated basis and advised us they planned to begin using benefit estimating procedures being promulgated in draft regulations discussed in the following section of this report. PBGC officials indicated that future use of the procedures will enable them to compensate participants for



missed payments shortly after PBGC begins paying regular monthly benefits. In October 1983, PBGC's draft regulations were issued for public comment, and in April 1984, PBGC was working on procedures to implement estimating techniques in draft regulations for paying missed benefits.

#### MORE TIMELY ADJUSTMENTS OF BENEFIT OVERPAYMENTS NEEDED

Expedited processing to achieve timely reduction of monthly benefit payments to guaranteed levels after plan termination has been required by PBGC procedures since 1976. Such reductions are necessary to minimize the need to recoup overpayments through later benefit payment adjustments. Five of the 15 plans we randomly selected for review involved recoupments; in these cases, the time PBGC took to reduce payments to guaranteed levels after it became trustee ranged from 2 months to 5 years, and expedited processing was not always followed. PBGC limits recoupments to no more than 10 percent of each benefit payment. Delayed reductions of monthly overpayments to some participants of plans in our review have resulted in recovery periods that extend beyond their normal life expectancy.

For the five plans requiring recoupment, the timing of benefit reductions and the resulting recoupment period varied widely. In one case PBGC reduced overpayments 2 months after becoming trustee of the plan, resulting in a recovery requirement of less than \$300 per participant. Recoupment of these amounts from participants' monthly payments can be accomplished within 5 years. In another case PBGC did not expedite processing and reduced monthly overpayments 5 years after becoming trustee of the plan; as a result, amounts ranging from \$1,177 to \$4,977 will need to be recouped from six participants. It will take at least 22 years to recoup the overpayments of \$3,324 and \$4,977 from two participants aged 61 and 58, respectively.

In April 1984 PBGC was incorporating public comments that it had obtained into draft regulations that, when issued, will provide for administrators of insufficient plans to reduce participants' benefits to estimated guaranteed levels before plans are trustee to PBGC. PBGC has issued an interim policy encouraging plan administrators to voluntarily reduce benefits to guaranteed levels pending PBGC trusteeship. A PBGC official advised us that PBGC has reemphasized to responsible staff members the policy of ensuring early benefit reduction after PBGC trusteeship when plan administrators do not reduce benefits.

## CONCLUSIONS

PBGC could restore participants' benefits in a more timely manner if it (1) had a tracking system focusing management attention on terminating insufficient pension plans that are not paying participants' monthly benefits and (2) used existing legislative authority to terminate such plans where trusteeship to PBGC would not be contested. However, in certain cases in which prolonged court action can be expected before PBGC becomes plan trustee, PBGC may need additional legislative authority to restore participants' benefits. Also, PBGC could provide for more timely reimbursement of benefit payments individuals were entitled to but did not receive.

Actions PBGC is taking to establish regulations that would provide for administrators of insufficient plans to reduce benefits to estimated guaranteed levels before PBGC trusteeship should, in the long run, help reduce the need for PBGC to recoup benefit overpayments after pension plans are trusteeed to PBGC. Until these regulations are finalized, measures PBGC has taken to ensure early reduction of benefits to guaranteed levels after PBGC trusteeship, when plans have not done so voluntarily, should provide a good interim solution to the problem.

PBGC processes also need improvement to ensure the early restoration of suspended monthly benefit payments and the return of missed benefit payments. Reemphasis by PBGC's General Counsel of the importance PBGC places on restoring benefit payments for plans it trusteees and the General Counsel's intent to use expedited involuntary trusteeship processes when plan sponsors are unwilling to terminate such plans should help restore benefits sooner. Also, plans to use PBGC revenues to restore monthly benefit payments after plan termination, but before PBGC trusteeship, will be helpful. However, PBGC needs (1) a management system that focuses attention and actions on restoring monthly benefits and (2) procedures requiring that missed payments be reimbursed when estimated monthly benefit payments are begun. PBGC's management information system should include periodic reporting of progress made, actions needed, and target dates established for restoring participants' benefit payments.

PBGC may need additional legislative authority under ERISA to restore participants' benefits in cases in which disposition of PBGC trusteeship can be expected to involve prolonged court action. PBGC should assess its experience in dealing with these cases and, if warranted, seek legislative authority under ERISA that would permit PBGC to petition the court to appoint a receiver to assume control of plans unable to pay benefits or experiencing financial difficulties that jeopardize participants' benefits. Under such authority, PBGC would have access to plan

records to establish guaranteed benefit entitlements, and insurance program resources could be safely released to the receiver to commence benefit payments before plan trusteeship to PBGC.

RECOMMENDATIONS TO THE  
EXECUTIVE DIRECTOR OF PBGC

To provide for more timely payment of benefits to participants of terminating insufficient pension plans, we recommend that the Executive Director establish

- a tracking system that focuses management attention and actions on restoring suspended participant benefits and
- procedures for reimbursing participants for missed benefit payments on an estimated basis when PBGC starts making estimated monthly payments.

Because PBGC may be precluded from restoring benefits in plans that may be subject to lengthy court action, we also recommend that the Executive Director assess experience in dealing with these cases and, if warranted, seek legislative authority that would permit PBGC to appoint a receiver to assume control of plans where participants' benefits were jeopardized.

AGENCY COMMENTS

We discussed the matters contained in this report in December 1983 and January 1984 with the Deputy Executive Director for PBGC operations. Speaking for PBGC, he said that it agreed with our recommendations and it was taking or planning actions to implement them. These actions have been previously discussed in this chapter.

### CHAPTER 3

#### PBGC PROCESSING OF SUFFICIENT PLANS

#### CAN BE STRENGTHENED AND STREAMLINED

PBGC processes for approving the distribution of pension plan assets<sup>1</sup> by administrators of sufficient pension plans can be strengthened and streamlined by

- requiring more timely submission of pension plan data by plan administrators,
- relying on enrolled actuary<sup>2</sup> certifications for verification of plan asset sufficiency, and
- refining the process used to confirm that participants are receiving proper benefit payments.

In our review of a random sample of 100 sufficient pension plans, we found that asset distributions occurred, on the average, about 1 year after PBGC received notification that the plan administrators intended to terminate plans. Much of this delay resulted from PBGC's inability to secure from employers data necessary to determine plan sufficiency in a timely manner. Also, PBGC's processes did not provide for curtailing its data verification processes where enrolled actuaries calculated benefits, which would expedite processing, or provide for confirming key elements used in determining benefit entitlements with plan participants. Actions planned or taken by PBGC can resolve certain of these problems and result in plan participants receiving plan benefits sooner, but more needs to be done.

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<sup>1</sup>Administrators of sufficient plans may distribute terminated pension plan assets by purchasing annuities from private insurers for participants entitled to receive monthly benefits and paying lump sums to other plan participants not receiving annuities.

<sup>2</sup>An enrolled actuary is one whose professional qualifications have been certified by the Joint Board for Enrollment of Actuaries established under ERISA and who is authorized to certify the accuracy of pension plan actuarial reports to the Departments of Labor and the Treasury.

BETTER ADMINISTRATION OF TERMINATION  
PROCESSES CAN RESULT IN MORE TIMELY  
DISTRIBUTION OF PLAN ASSETS

Our review of a sample of 100 sufficient plan termination cases closed by PBGC in fiscal year 1982 disclosed that, on the average, about 1 year elapsed between the time PBGC received plan termination notices and the time assets were eventually distributed. ERISA provides for PBGC to issue a notice of plan sufficiency within 90 days after receiving a termination notice when PBGC can determine sufficiency; PBGC regulations require plan administrators to distribute assets within 90 days after issuance of a notice of sufficiency.

PBGC regulations have, since 1975, provided that a plan administrator's failure to file all information necessary for PBGC to determine sufficiency of the plan was grounds for PBGC to void the plan's termination notice unless PBGC granted an extension of time. In cases we reviewed, PBGC had not used its authority to void any termination notice and had routinely deferred its asset distribution approval to await plan administrators' submissions of all information necessary to determine plan sufficiency. A voided notice can result in additional sponsor contributions to cover the continued accumulation of participants' benefits until the plan is accepted as terminated by PBGC.

In our sample of 100 cases, we found that, on the average, (1) over 7 months elapsed between the time the notice of intent to terminate was received and the notice of sufficiency was issued and (2) about 4 additional months elapsed before plan administrators distributed assets. The 7-month period is important because plan assets cannot be distributed by the plan administrator until PBGC issues a notice of sufficiency. A major reason for delays in issuing notices of sufficiency was that plan administrators were not submitting required data, such as the amount of participants' benefits and factors used to calculate benefits in a timely manner.

Annuities provided to participants in sufficient plans ordinarily are unaffected by delays in PBGC's approval process. However, substantial plan resources must often be made available for lump-sum distributions to participants who are not receiving annuities because the monthly amount of benefits is small or they have elected to receive lump sums in lieu of annuities. Out of the 100 sample cases, 39 generally required from about 7 to 24 months before a notice of sufficiency was

issued by PBGC.<sup>3</sup> Over 73 percent of the participants in the 39 plans received lump-sum distributions totaling about \$4.5 million, or over half of the plan assets distributed. These participants must begin new pension plans with the amounts received or pay federal and other taxes thereon. Many of these participants are delayed a year or more toward placing these funds in new pension plans they may desire to start with their distributions from terminated plans.

PBGC revised its regulations in February 1983 to provide that plan administrators may file with their termination notice a request for an automatic 90-day extension to complete participant distribution data. The regulation reiterates earlier provisions allowing PBGC to void the termination notice if the data are not filed or another extension request by the plan administrator is not approved by PBGC.

In March 1983, PBGC officials indicated that sufficient plan processing delays will be reduced in the future with (1) implementation of February 1983 regulations improving information requirements for the notice of intent to terminate and (2) proposals for more forceful PBGC voiding of notices after the 90-day automatic extension when required data or an acceptable reason for noncompliance has not been provided. On October 31, 1983, PBGC established written procedures under which PBGC officials will void termination notices. The prospect of voiding termination notices at PBGC's discretion should provide a strong incentive to plan administrators to expedite compilation and submission of required data. A voided notice can result in additional sponsor contributions to cover the continued accumulation of participants' benefits until the plan is accepted as terminated.

#### USING ENROLLED ACTUARY CERTIFICATIONS CAN EXPEDITE PLAN ASSET DISTRIBUTION

PBGC can expedite distribution of sufficient plan assets by relying on enrolled actuary certifications that plans are sufficient and participants' benefits are properly computed under ERISA in lieu of separate verification by PBGC. PBGC records for 76 of 100 plans in our sample showed that plan administrators used or may have used enrolled actuaries in determining the distribution of plan assets to participants.

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<sup>3</sup>We excluded one plan that required about 5 years to obtain a PBGC notice of sufficiency due to delays in securing participant benefit allocation data and an IRS determination ruling. Sixty other plans required an average of 3.8 months to receive a PBGC notice of sufficiency after terminating.

The 76 plans were subjected to PBGC verification processes used for all sufficient terminating plans, and no material adjustments were made to participants' benefits computed by actuaries.

We analyzed data from a sample of 100 sufficient plan cases closed by PBGC during fiscal year 1982 and obtained the opinions of 36 PBGC case officers concerning their experience with the quality of enrolled actuaries' work. Our case review and the opinions of PBGC case officers confirmed that actuaries' computations of participants' benefits were reliable. In March 1983 we conveyed our findings to PBGC officials, who indicated they had begun assessing the advantages of using enrolled actuaries.

In an April 1983 memorandum, PBGC officials noted that problems it was experiencing with the sufficient plan backlog and with the burden placed on plan administrators for submitting quantities of data for PBGC review have raised congressional and public concern. PBGC officials concluded that sufficient plan distributions computed and certified by enrolled actuaries could be used in lieu of detailed verification by PBGC on the condition that

--plan use of an actuary not be made mandatory and

--the plan administrator certify to the accuracy of the information furnished for use by the actuary.

As of April 1984, PBGC was drafting regulatory proposals for the use of actuarial certifications in lieu of PBGC reviews of plan sufficiency. When PBGC develops procedures to implement these regulations, we believe that they should include guidelines for periodically testing enrolled actuaries' certifications to ensure they are accurate and comply with PBGC regulatory requirements.

#### NEED FOR CONSISTENT AND EXPANDED CONFIRMATION OF PLAN ASSET DISTRIBUTIONS

PBGC policies for confirming by letter that participants of a selected sample of sufficient plans are receiving entitled benefits are not being implemented for all sampled plans. Also, key variables used in computing participants' benefits are not confirmed with participants of the plans sampled. In contrast, PBGC confirms key data with all participants of insufficient plans for which it assumes trusteeship responsibility. In effect, PBGC processes result in participants of sufficient plans receiving less assurance that their benefits have been correctly computed and paid than participants of insufficient plans.

To help assure the timely and uninterrupted payment of participants' benefits, PBGC procedures call for it to confirm that sufficient plan distributions are being received by participants in amounts it approved. PBGC does this by sampling about 8 percent of the plans that it has completed reviews of each month and sending confirmation letters to participants of these plans.

PBGC does not always confirm participant benefits from sufficient plans it samples. Eight plans in our sample of 100 plans were required to be included by PBGC procedures among plans it sampled for confirmation during fiscal year 1982. PBGC records contained no evidence that benefits were confirmed with any of the 564 participants of these plans, and a PBGC supervisor stated he believed higher priority workload had precluded completion of confirmations. We advised PBGC of our findings in March 1983 and reviewed confirmations performed during 4 of the 13 months following fiscal year 1982. We found improvement during these months, but participants in about 7 percent of the plans were still not being contacted.

PBGC does not confirm with participants of sampled plans critical elements plan administrators use to calculate benefits --such as salary rates, years of employment, or birth dates--nor does it require that plan administrators confirm such data as a requisite to PBGC's distribution approval. For insufficient plans, PBGC procedures implemented in October 1982 require confirmation of these data with all participants entitled to monthly benefit payments before it finalizes benefit payments. PBGC began sending full information letters to participants, including the key participant data described above and the method of computing monthly benefit payments, to (1) give participants a better basis to judge the accuracy of the computation of their entitlements and (2) reduce the number of appeals PBGC was receiving resulting from misconceptions of how benefits were calculated.

## CONCLUSIONS

PBGC has improved procedures for collection and review of data submitted by administrators of sufficient terminating pension plans. PBGC criteria for voiding termination notices, if used effectively, should result in earlier receipt of plan termination data and payment of participants' benefits. Also a planned regulation to accept enrolled actuary certifications of the accuracy of proposed asset distributions in lieu of PBGC reviews can expedite asset distribution to participants and relieve PBGC's workload. When this regulation is implemented, PBGC should provide guidelines for case officers to ensure conformance of actuaries' work with PBGC's requirements.



PBGC processes have not always been implemented for confirming that participants in sampled sufficient pension plans receive benefit distributions as approved by PBGC. To consistently carry out its sample benefit distribution confirmation requirements for verifying that participants receive benefit payments, PBGC needs to ensure that participants of all plans sampled are contacted.

Also, PBGC procedures do not provide for confirming with participants the accuracy of key data elements, such as age, years of service, or salary, used to calculate their benefit entitlements. In contrast, for insufficient plans it trustees and manages, PBGC confirms such data with participants. We believe the confirmation procedures used by PBGC for insufficient plans should be used, at least on a sample basis, to confirm with participants the accuracy of sufficient plan data developed and maintained over many years. This would help ensure benefits are calculated using the correct information.

#### RECOMMENDATIONS TO THE EXECUTIVE DIRECTOR OF PBGC

To augment new PBGC procedures for collection and review of sufficient pension plan data, we recommend that the Executive Director provide guidelines for PBGC officials to periodically test enrolled actuary certifications to ensure they are accurate and comply with PBGC regulatory requirements. We also recommend that the Executive Director

- require consistent application of procedures for confirming that participants of sampled plans are receiving payment of benefits approved by PBGC and
- revise confirmation procedures to require that key data, such as age, years of employment, and salary, also be confirmed with participants.

#### AGENCY COMMENTS

We discussed the matters contained in this report with the Deputy Executive Director for PBGC operations in December 1983 and January 1984. Speaking for PBGC, he said that it agreed with our recommendations. He said PBGC was reevaluating its responsibilities and procedures for processing sufficient pension plans following its determination of plan sufficiency. He indicated that the procedures for confirming that participants of sufficient plans are receiving benefits could be improved and that PBGC would consider our recommendations if it decides to continue its present benefit confirmation process.

## CHAPTER 4

### OPPORTUNITIES AVAILABLE TO LOCATE

#### MISSING INDIVIDUALS ENTITLED TO BENEFITS

Inability to determine the whereabouts of participants entitled to immediate or future benefits from insufficient terminating pension plans prompted PBGC, in 1981, to establish a participant locating system using IRS address records. While this system has functioned as a good alternative source for locating participants, current addresses for about one out of every five participant names subjected to the system have not been found. Supplementing IRS data with data from SSA information systems could help locate some of the remaining individuals. PBGC has not identified all participants that have become eligible for benefits in terminated plans it trusted before the system was implemented or used IRS or available SSA data for locating these participants.

#### USE OF SOCIAL SECURITY ADMINISTRATION SYSTEMS WOULD EXTEND PBGC'S ABILITY TO LOCATE PARTICIPANTS

SSA, since the 1940's, has maintained a letter referral system that provides a means for anyone to contact individuals or their beneficiaries receiving social security benefits. Also, under an ERISA provision, SSA instituted a system in 1979 for notifying certain individuals or their beneficiaries requesting or receiving social security benefits of their entitlement to benefits from private pension plans. Using these systems would extend PBGC's ability to locate individuals beyond data obtained from IRS address records in cases in which a participant is (1) receiving only SSA benefits and is not required to file a tax return with IRS or (2) entitled to deferred benefits and must be notified in the future.

Over the first 8 years under ERISA (ended Sept. 30, 1982), PBGC became trustee for 780 plans with about 106,000 participants. PBGC obtained participant location data from records of these plans and from employers sponsoring the plans. As trustee of these plans PBGC became responsible for payment of immediate and deferred annuities and for any lump sums owed to eligible participants not receiving annuities.

In February 1981 PBGC began using current IRS tax filing address records to locate individuals eligible for guaranteed benefits in trusted plans that could not be located using pension plan data retained by PBGC. PBGC later extended the service under its arrangement with IRS to administrators of

terminating sufficient plans that were also having difficulty locating eligible participants or their beneficiaries.

During calendar years 1981 and 1982, PBGC asked IRS for addresses of 6,275 individuals eligible for benefits that could not be located for sufficient and insufficient pension plans. Although IRS provided location information on 4,905 (78 percent) of the individuals, the other 1,370 were not located by IRS, and PBGC did not use any other method to try to locate them. When individuals are not located, they may never receive the benefits to which they are entitled.

When PBGC began using IRS address records in 1981 to locate participants, 267 plans trusteed from 1974 through 1980, for which participant benefit calculations were approved by PBGC actuaries, were not fully subjected to the process. PBGC used the IRS system to locate participants in these plans that were eligible for benefits at that time, but has not used the system to locate participants that have since become eligible for annuities. A PBGC official advised us that PBGC (1) does not know how many participants of these plans may have become eligible for insurance program benefits without being paid, (2) has been considering alternatives for screening its records to identify these individuals, and (3) was targeting to begin use of IRS and SSA systems to locate participants of those plans not in pay status by July 1984.

In January 1983 we contacted SSA officials to discuss potential use of its systems to locate individuals entitled to benefits from terminating plans being processed by PBGC. SSA maintains two systems that should be of use to PBGC: (1) a letter-forwarding system to anyone currently receiving SSA benefits or to employers for anyone for whom they have filed payroll tax withholding statements and (2) a participant notification system to notify those applying for SSA benefits that they may be entitled to benefits from private pension plans.

Under the letter-forwarding system, PBGC could write letters, through SSA, to individuals PBGC could not locate that SSA was paying benefits to, advising them to contact PBGC or the appropriate plan administrators to obtain their benefits. Individuals who are retired and receiving only social security benefits would not be required to file a tax return with IRS but would be listed in SSA files. Also letters could be forwarded to employers for any employees for whom they submitted payroll withholding statements. As of February 1984 this included statements filed through 1982. Hence, through use of the SSA letter-forwarding system, PBGC could identify individuals eligible for guaranteed benefits but not found in IRS searches.

When PBGC trustees a plan, individuals are often entitled to deferred annuities at a future date, which may be many years away. PBGC retains addresses of these individuals from plan records but has no means of keeping these addresses current. When an individual entitled to a deferred annuity cannot be located, PBGC must seek assistance under its arrangement with IRS to locate that individual.

SSA's participant notification system was established in response to section 1032 of ERISA, which amended the Social Security Act to require the Secretary of Health and Human Services to notify new social security recipients of deferred vested benefits in private pension plans. Under ERISA, employers report annually to IRS the names of private pension plan participants with vested deferred benefits who were separated from service with the plans' sponsoring employers during the plan year. IRS forwards this information to SSA for storage in SSA's computer files. When individuals become eligible and apply for social security benefits, they are notified they may also be eligible for private pension benefits based on previous employment records. Adding participants eligible for PBGC guaranteed benefits to SSA participant notification files would help ensure that participants are notified in the future of their deferred benefits.

In March 1983, we advised PBGC officials of the advantage of using SSA's letter-forwarding and participant notification systems. In April 1983, SSA and PBGC officials met and laid the groundwork for use of the systems. In April 1984, PBGC was continuing to work on arrangements with SSA to begin using SSA systems.

#### CONCLUSIONS

PBGC efforts begun in 1981 using IRS address records have been effective in locating many individuals eligible for benefits. PBGC's planned use of SSA's letter referral and participant notification systems can provide additional aid to PBGC in locating participants who cannot be found using IRS records. However, PBGC has not identified from its own records or sought to locate all participants who have become eligible since 1981 for benefits from plans it trusted from 1974 through 1980 by comparison with IRS address records. When the system it is developing with SSA is completed, PBGC will need to use this source also to locate these individuals.

RECOMMENDATIONS TO THE  
EXECUTIVE DIRECTOR OF PBGC

We recommend that the Executive Director (1) analyze insurance program records to identify individuals in plans trusteeed by PBGC from 1974 through 1980 who have become eligible for but are not receiving guaranteed benefits, (2) submit the names of individuals who cannot be located from PBGC records for current address searches to IRS and to SSA upon completion of arrangements to use SSA data, and (3) provide benefits to individuals located through this process.

AGENCY COMMENTS

We discussed the matters contained in this report in December 1983 and January 1984 with the Deputy Executive Director for PBGC operations. Speaking for PBGC, he said it agreed with our recommendations and it was taking or planning actions to implement them. These actions have been previously discussed in this chapter.

STATUS OF PBGC ACTIONS AS OF AUGUST 31, 1983,  
TO RESTORE MONTHLY BENEFIT PAYMENTS  
FOR 17 PENSION PLANS GAO REVIEWED

	Participants not receiving monthly benefit payments <sup>a</sup>	Months PBGC required to restore benefit payments <sup>b</sup>	
		<u>Average</u>	<u>Largest</u>
<u>One year or more to restore monthly benefit payments</u>			
Plans terminated by the court:			
Automotive electronic parts manufacturer	54	48	48
Auto and truck part manufacturer <sup>c</sup>	16	31	68
Plans terminated voluntarily:			
Offset printer	1	34	34
Air-conditioning equipment manufacturer <sup>c</sup>	10	20	25
Machinery parts manufacturer	1	24	24
Automotive parts company	31	13	27
Nonprofit secondhand retailer	1	26	26
Offset printer	1	30	30
Men's apparel manufacturer	8	15	15
Jukebox and vending machine manufacturer <sup>c</sup>	23	14	42
Leather tannery <sup>c</sup>	20	14	39
Auto parts supplier <sup>c</sup>	5	12	15
<u>Under one year to restore monthly benefit payments</u>			
Plans terminated voluntarily:			
Gypsum mining company	6	7	7
Paper manufacturer	19	5	5
Furniture manufacturer <sup>c</sup>	196	3	13
Coal and clay mining company	8	11	23
Truck dealer	1	1	1

<sup>a</sup>Number of participants not receiving monthly benefit payments when due after date of plan termination.

<sup>b</sup>Represents time from when PBGC first became aware that participants were not receiving benefit payments until (1) monthly benefit payments began or (2) August 31, 1983, for cases when monthly benefit payments had not been started as of that date.

<sup>c</sup>Plans with some participants due but not receiving benefits.

STATUS OF PRRG ACTIONS AS OF AUGUST 31, 1983 TO PAY MISSED  
BENEFITS FOR 17 PENSION PLANS GAO REVIEWED

	Missed benefits paid by PRRG				Estimated missed benefits owed by PRRG			
	Partici- pants	Months outstanding Average	Largest	Total amount	Partici- pants	Months due Average (a)	Largest	Amount due
All missed benefits paid after monthly benefits finalized								
Nonprofit secondhand retailer	1	0	0	\$ 2,893				None
Offset printer	1	30	30	1,498				None
Men's apparel manufacturer	2	12	26	9,752				None
jukebox and vending machine manufacturer	19	14	19	8,940	5	38	42	\$ 12,504
Leather tanner	19	17	23	59,249	1	16	16	1,726
Subtotal	<u>4</u>			\$82,322	<u>6</u>			\$ 14,230
Part of missed benefits paid before monthly benefits finalized								
Auto and truck part manufacturer (a)	4	0	0	\$ 1,579	12	17	17	\$ 12,886
Truck dealer	1	1	1	119				None
Auto parts supplier	4	11	11	14,972	1	15	15	2,486
Subtotal	<u>9</u>			\$16,670	<u>13</u>			\$15,372
All missed benefits owed								
Automotive electronic parts manufacturer (a)(b)					54	11	11	\$250,241
Offset printer					1	4	4	4,167
Air conditioning equipment manufacturer					10	7	25	48,530
Gypsum mining company					6	6	6	8,280
Paper manufacturer					19	5	5	1,140
Machinery parts manufacturer (c)					1	24	24	5,592
Furniture manufacturer					196	9	13	64,864
Automotive parts company					31	17	20	30,412
Coal and clay mining company					8	16	16	6,859
Subtotal					<u>326</u>			\$420,085
Total	<u>56</u>			\$ 98,992	<u>345</u>			\$449,687

(a) Plan terminated by courts.

(b) Amount shown as missed benefits due from PRRG is for 41 participants; missed benefits for 13 other participants could not be reasonably estimated.

(c) Overpayment would reduce amount of missed benefits paid.

(d) Represents time from when (1) PRRG began paying estimated monthly benefits or (2) benefit payments initially due from PRRG but not begun.

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## United States Senate

COMMITTEE ON LABOR AND  
 HUMAN RESOURCES  
 WASHINGTON, D.C. 20510

February 3, 1982

Mr. Charles A. Bowsher  
 General Accounting Office  
 441 G Street, N.W.  
 Washington, D.C. 20548

Dear Mr. Bowsher:

As chairman of the Senate Labor and Human Resources Committee, I have become aware that serious problems exist in the area of pension plans and how such plans are terminated and their benefits and assets are distributed. Oversight inquiries by the Committee undertaken at my direction indicate that substantial abuses are taking place in these areas of concern to the Congress. Information obtained at the Labor Department indicates there has been a substantial backlog of cases in that Department's Solicitor's Office. Each of those cases involving termination or substantial change in such a plan is of concern to me and should be examined as part of your review.

I am also concerned over how effectively the Federal government monitors the manner in which premiums are paid by various pension plans. Both these areas of responsibility fall within the purview of the Pension Benefits Guarantee Corporation, and I seek a comprehensive review of both areas of concern. Specifically, I seek answers to the following questions:

- 1- How effectively and specifically does PBGC monitor payment of premiums by various pension plans?
- 2- Ongoing plans must pay premiums. Has PBGC obtained lists of qualified plans from IRS to ascertain the legitimacy and qualifications of those plans claiming to be making payments?
- 3- Have situations arisen where PBGC procedures have been unable to adequately verify whether or not payments are being in fact made?
- 3a- How has PBGC reacted to such findings?
- 4- Is the potential there for such abuse?
- 5- If such situations have arisen, has the PBGC been able to make changes in its procedures?
- 5a- What has been done?

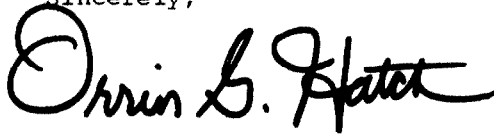


Mr. Charles A. Bowsher  
February 3, 1982  
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- 6- How effective is PBGC in terms of accurately policing distribution of assets from terminated pension plans?
- 7- Is there any certainty on that agency's part that the assets have been or are being fairly distributed to those who paid in to those pension plans being terminated?
- 8- Have such payments and distribution of assets from terminated pension plans been made to those ineligible for such benefits and payments?
- 9- What, if anything, has the agency done to recover such erroneous payments?
- 10- What specific recommendations do you have to offer?

My Committee staff possesses certain data that I wish incorporated into those cases and situations GAO will include in their review. The report is to be addressed to me in my capacity as requesting chairman of the Committee with full and appropriate jurisdiction. Contact on the Committee staff will be Franklin Silbey at 224-5437. Please acknowledge receipt of this request and assignment of the work. Thank you.

Sincerely,



Orrin G. Hatch  
Chairman

OGH: fsm

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