SECTION 15. THE PENSION BENEFIT GUARANTY CORPORATION

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EXPLANATION OF THE CORPORATION AND ITS FUNCTIONS

The Pension Benefit Guaranty Corporation (PBGC) was established under title IV of the Employee Retirement Income Security Act of 1974 (ERISA) (88 Stat. 829, Public Law 93–406) to insure private pension beneficiaries against the complete loss of promised benefits if their defined benefit pension plan is terminated without adequate funding. The PBGC receives no funds from general tax revenues. 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 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 the appointment of trustees in termination proceedings, investment of funds, plan liquidations, and other matters.

PLAN TERMINATION INSURANCE

Defined benefit and defined contribution plans

There are two basic kinds of pension plans: “defined benefit” and “defined contribution” plans. Under a defined benefit plan, employ-

ees 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 on the employee's behalf during the employee's participation in the plan, and the investment experience of the amounts contributed on the employee's behalf. Under either type of pension plan, employees may also 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 the funds are invested well or poorly, the employee gets at retirement only what was contributed plus the amount actually earned.

Under a defined benefit plan, the employer bears more of the risk of loss. 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 that the plan have 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 does not protect all benefits promised under a plan so that even under a defined benefit plan, the employees bear some risk of loss.

Defined benefit plans are fewer in number than defined contribution plans, but cover more participants. In 1992, defined benefit pension plans accounted for 13 percent of all pension plans, but were the primary form of coverage for 57 percent of all pension participants.

The PBGC insures benefits only under certain defined benefit plans and only up to certain monthly amounts. Private defined benefit pension plans insured by the PBGC continue to be well funded in general, with more than $1 trillion in assets, exceeding liability by more than $100 billion. However, the PBGC faces substantial direct exposure from a relatively small number of single-employer plans, concentrated in the steel, airline, navigational/aeronautical instruments, transportation equipment, and automobile industries, with unfunded liabilities of $31 billion, as of December 31, 1994. Underfunding in multiemployer plans, as of January 1, 1993 (the most recent publicly available information) totaled $20 billion. 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.

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 concern the allocation of liabilities as firms enter and leave the participating group.

The PBGC insures the benefits of 42 million pension plan participants, including active workers and retirees. Of these, 79 percent, or about 33 million, are covered by approximately 53,000 single-employer pension plans, and 21 percent, or about 8.7 million, are covered by approximately 2,000 multiemployer plans.

Other requirements for PBGC coverage

The PBGC covers only those defined benefit plans which meet the qualification requirements of section 401 of the Internal Revenue Code. These are also the requirements that plans must meet in order to receive the significant tax benefits available to pension plans.

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 of participants.

Pension plans specifically excluded from insurance by the PBGC include government and church plans, defined contribution plans, plans of fraternal societies financed entirely by member contributions, and plans maintained by certain professionals with 25 or fewer participants.

PLAN TERMINATION

Single-employer plans

An employer can voluntarily terminate a single-employer plan only in a standard or distress termination. The participants and the PBGC must be notified of the termination. The PBGC may involuntarily terminate a plan.

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), and including certain early retirement supplements and subsidies. Benefit liabilities may also include certain contingent benefits (for example, plant shutdown benefits). If assets are sufficient to cover benefit li-

abilities (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 is also 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 of which the sponsor is a member, is being liquidated 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 is being reorganized in bankruptcy or similar State proceeding;

—The PBGC determines that termination is necessary to allow the employer to pay its debts when due;

—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) and modified by the Pension Protection Act of 1987 (PPA), and the Retirement Protection Act of 1994 (RPA) 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.—In order to terminate a plan involuntarily, the PBGC must obtain a court order. The PBGC may institute court 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 may create liability for the PBGC 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 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 liability under the plan.

PBGC trusteeship.—When an underfunded plan terminates in a distress or involuntary termination, the plan effectively 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 li-

abilities promised under the plan with assets received from two sources: assets in the plan before termination, and assets recovered from the employer (see below). 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 for up to 30 percent of its net worth. Obligations in excess of this amount are to be paid on commercially reasonable terms acceptable to the PBGC.

Benefit payments.—When an underfunded plan terminates, the benefits that the PBGC will pay depend on the statutory guaranty, asset allocation, and recovery on the PBGC's employer liability claim.

Guaranteed benefits.—Within certain limits, 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.

There is a statutory ceiling on the amount of monthly benefits payable to any individual that may be guaranteed. This ceiling, which is indexed according to changes in the Social Security wage base, is $2,642.05 in 1996 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 surviving spouse and the age difference between the participant and spouse.

For example, consider a retiree who, at plan termination in 1996, 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 $1,514.69 per month [$2,642.05 × .90 (joint and survivor benefit) × .65 (participant age) × .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, certain benefits that have been in pay status for more than 3 years have priority over guaranteed benefits not in pay status.

Section 4022(c) benefits.—The PBGC is also required to pay participants a portion of their unfunded, nonguaranteed benefits based on a ratio of recovery on the employer liability claim to the amount of that claim.

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. As a result of the Multiemployer Pension Plan Amendments Act of 1980 (Public Law 96–364, referred to as MPPAA), the limit for multiemployer plans is the sum of 100 percent of the first $5 of monthly benefits per year of credited service, and 75 percent of the next $15 of monthly benefits. (The 75 percent is reduced to 65 percent for plans that do not meet certain pre-ERISA minimum funding standards.)

MPPAA requires that PBGC conduct a study every 5 years to determine whether changes are needed in the multiemployer premium rate or guarantee. PBGC completed the third such study in 1996, confirming the program's financial solvency, but also finding that inflation had devalued the existing guarantee limits. In April 1996 the Clinton administration proposed to increase the guaran-

tee limits for the multiemployer program to account for inflation since 1980. A similar proposal was made by the Bush administration in 1991.

FINANCIAL CONDITION OF THE PBGC

Overview

According to its most recent annual report, the PBGC's multiemployer plan insurance program is in sound financial condition. Assets exceeded liabilities by $192 million at the end of the fiscal year 1995.

However, by the end of fiscal year 1995, the larger single-employer program was showing an accumulated deficit of $315 million. That is, the assets in PBGC's single-employer program were $315 million less than the value of PBGC's liability for future benefit payments. PBGC's assets are comprised of premiums collected, assets recovered from terminated plans and recoveries from employers, and accumulated investment income. PBGC's liability for future benefit payments is the (discounted) present value of the stream of future benefit payments PBGC is obligated to pay participants and beneficiaries of terminated plans and plans booked as probable terminations.

Losses

Through the end of fiscal year 1995, the PGBC's single-employer program had incurred net losses of $5.8 billion (see table 15–1). PBGC's net losses equal the portion of guaranteed benefit liabilities not covered by plan assets or recoverable employer liability. These losses will eventually have to be covered through higher premiums, earnings on PBGC assets, or other sources of revenues.

PBGC's losses have increased considerably over its 21-year history. Within that trend, there has been substantial annual variability due to the sporadic terminations of very large underfunded plans. Slightly more underfunded plans terminated in 1995 than the previous year, but losses from terminated underfunded plans declined.

Table 15–1 demonstrates the growth in net losses over the Corporation's history. In the 7 years from 1989 to 1995, net losses, not including probable terminations, exceeded the losses of the prior 7 years by 25 percent and were more than seven times greater than the losses from the first 7 years of PBGC's operation. PBGC also faces probable losses of $1.179 billion for 34 plans that are expected to terminate after fiscal year 1995. Those probable terminations represent 20 percent of PBGC's total net losses since inception.

As shown by table 15–2, the number of single-employer plan terminations that result in claims against the PBGC is a tiny fraction of all plan terminations. In fiscal year 1995, PBGC permitted completion of 1,886 standard terminations and 50 distress or involuntary terminations of underfunded plans. Over the past two decades terminations of underfunded plans made up less than 2 percent of all terminations. PBGC's deficit in the single-employer program at

the end of fiscal year 1995 fell to $315 million, its lowest level since 1981.

TABLE 15–1.—LOSS EXPERIENCE FROM SINGLE-EMPLOYER PLANS [1]

[Dollars in millions]

Year of termination	Number of plans	Benefit-liability	Trust plan assets	Recoveries from employers	Net losses	Average net loss per terminated plan
1975–81	824	$742	$295	$129	$317	$0.4
1982–88	797	3,071	936	214	1,920	2.4
1989–95	463	5,082	2,263	427	2,392	5.2
Subtotal	2,084	8,894	3,495	770	4,629	....
Probable future terminations	34	2,800	1,348	273	1,179	....
Total	2,118	$11,694	$4,843	1,043	$5,808	....

[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 stated fiscal year.

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

Source: Pension Benefit Guaranty Corporation fiscal year 1995 Annual Report.

FINANCING

The sources of financing for 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, PBGC has the authority to borrow up to $100 million from the Treasury.

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. Initially set at $1 per participant, the per-participant premium was raised to $2.60 beginning in 1979, and then raised again by the Single Employer Pension Plan Amendments Act (SEPPAA) to $8.50 beginning in 1986. The Pension Protection Act of 1987, contained in 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 per 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) increased the basic premium to $19, the variable rate premium to $9 per 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 is $72 per participant. OBRA 1990 did not change the ratio of revenue raised by the basic and variable rate portions of the premium.

TABLE 15–2.—TOTAL NUMBER OF TERMINATED SINGLE-EMPLOYER PLANS, NUMBER OF PLANS WITH CLAIMS AGAINST PBGC, AND ACCUMULATED DEFICIT

	Number of terminated plans	Number of claims against PBGC	Accumulated deficit end of year (millions of dollars)
Fiscal year:			
1975	2,568	100	−15.7
1976	9,104	171	−41.0
1977	7,331	130	−95.3
1978	5,260	102	−137.8
1979	4,888	81	−146.4
1980	4,033	103	−94.6
1981	5,084	137	−188.8
1982	6,131	131	−332.8
1983	6,870	149	−523.3
1984	7,711	97	−462.0
1985	8,723	110	−1,325.3
1986	6,915	122	−3,826.4
1987	10,924	95	−1,548.5
1988	10,836	93	−1,543.3
1989	11,433	65	−1,123.6
1990	11,462	81	−1,912.8
1991	7,586	113	−2,510.0
1992	8,018	89	−2,737.1
1993	6,788	[1] 54	−2,897.0
1994	4,105	45	−1,240.0
1995	1,886	[1] 50	−315.0
Total	147,656	2,118	....

[1] Includes 34 plans with claims of $1 million or more that were probable terminations as of the end of fiscal year 1995.

Source: Pension Benefit Guaranty Corporation.

The Retirement Protection Act of 1994 (RPA) did not change the $19 basic per participant premium. However, the $53 per participant variable rate premium cap is phased out over a 3-year period beginning in 1994. By 1997, the variable rate premium will be completely uncapped. (Special rules apply for certain regulated public utility plans until 1998). RPA also changed the way underfunding is calculated. Effective for 1995 plan years, liabilities have to be calculated using a standard mortality table. Effective for plan years beginning on or after July 1, 1997, liabilities are calculated using an interest rate of 85 percent of the spot rate for 30-year Treasury securities (an increase from the current 80 percent). After the year 2000, plans will be required to use a new mortality table prescribed by the Secretary of Treasury for certain funding purposes. At that time the interest rate will rise to 100 percent of the Treasury spot

rate and a requirement to use fair market value of plan assets (rather than actuarial value) will become effective.

PBGC's single-employer premium income equaled $838 million in 1995.

Multiemployer plan premiums

The premium for multiemployer plans was initially $0.50 per participant. The Multiemployer Pension Plan Amendments Act raised the premium to $1.40 for years after 1980. This premium was set to increase gradually to its current level, $2.60. PBGC's multiemployer premium income equaled $22 million in 1995.

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 which 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 Pension Protection Act 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. The revolving funds had a value of $6.4 billion as of September 30, 1995.

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 a diversified portfolio of investments including equities, fixed income securities, and real estate. The net market value of the trust funds was $4.1 billion as of September 30, 1995.

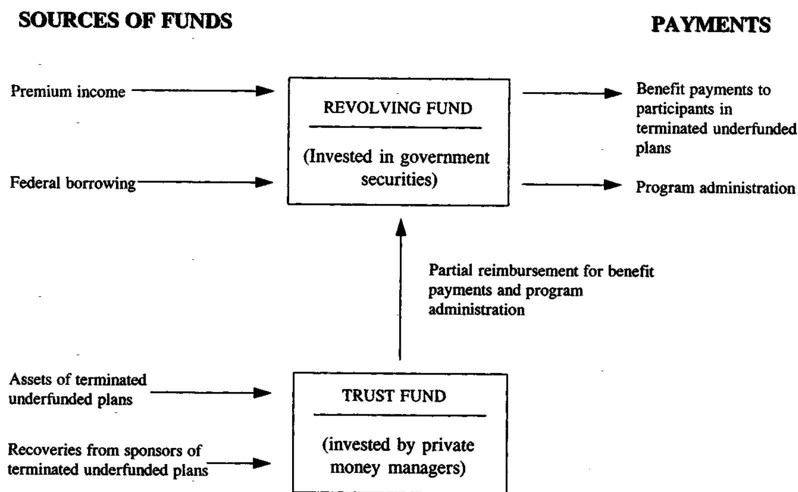
Chart 15–1 diagrams the relationship between the PBGC's financing and its payment of guaranteed benefits to plan participants.

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 ac-

count. In each year 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 15–3). During this period, the PBGC reported receipts in excess of benefit payments and administrative costs by a cumulative total of about $5.2 billion. In years before 1981, Federal accounts for the PBGC would also have shown annual inflows exceeding expenses in each year of program operation.

CHART 15–1. FINANCIAL STRUCTURE OF THE PENSION BENEFIT GUARANTY CORPORATION



Source: Congressional Budget Office.

FUTURE FINANCIAL STATUS OF THE PBGC

In its fiscal year 1995 annual report, PBGC estimated $31 billion of unfunded liabilities in single-employer defined benefit pension plans as of December 31, 1994, a decrease from the $71 billion reported as of December 31, 1993. Multiemployer plans represent $20 billion in underfunding as of January 1, 1993.

The reasons for the drop in single-employer underfunding, the first since 1983, include higher interest rates and additional pension contributions.

Not all pension underfunding represents likely claims upon PBGC's insurance. PBGC's most recent analyses disclose reasonably possible losses of about $15 to $21 billion, compared to last year's projection of $18 billion. PBGC's exposure is spread more evenly across all industrial sectors than in previous years, with the largest amounts in the steel, navigational/aeronautical instru-

ments, transportation equipment, airline and automobile industries.

TABLE 15–3.—FEDERAL BUDGETARY TREATMENT OF THE PBGC, 1975–95

[In millions of dollars]

	Expenses [1]	Offsetting collections [2]	Outlays appearing in the Federal budget [3]
Not included in the Federal budget [4]			
Fiscal year:			
1975	3.2	35.5	NA
1976	12.8	28.5	NA
1977	21.0	41.0	NA
1978	47.6	61.9	NA
1979	52.3	91.5	NA
1980	59.1	90.1	NA
Total	196.0	348.5	NA
Included in the Federal budget [4]			
Fiscal year:			
1981	79	123	−29
1982	104	157	−67
1983	161	182	−10
1984	180	190	−10
1985	195	210	−19
1986	272	344	−106
1987	509	637	−72
1988	489	560	−278
1989	780	1,190	−149
1990	745	1,175	−680
1991	599	1,339	−787
1992	766	1,491	−655
1993	833	2,323	−1,508
1994	1,017	1,446	−385
1995	872	1,716	−430
Total	7,602	13,076	−5,184

[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] Outlays do not equal the difference between expenses and offsetting collections because of changes in obligated program balances between the beginning and the end of the fiscal year.

[4] The PBGC was first included in the Federal budget in 1981, in accordance with Public Law 96–364.

NA—Not applicable.

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

Source: Congressional Budget Office using data from the appendix to the Federal budget, various years.

PBGC annually publishes a list of 50 companies with the largest amount of pension plan underfunding. PBGC's most recent listing showed unfunded vested benefits among the 50 companies as of December 31, 1992 of $38.0 billion, an increase of 30 percent from the prior year. The data was verified with the companies named on the list and is based on publicly available information. Experience has indicated, however, that PBGC's losses after a plan terminates often exceed estimated amounts because of lower contributions prior to plan termination and more early retirements than anticipated.

TABLE 15–4.—YEAR-BY-YEAR PROJECTIONS OF PBGC's NET POSITION UNDER VARIOUS FORECASTS, SINGLE-EMPLOYER PROGRAM [1]

[Amounts as of September 30; in billions of dollars]

	Forecast A	Forecast B	Forecast C
1995	−0.3	−0.3	−0.3
1996	0.0	−0.2	−1.0
1997	0.4	0.1	−1.5
1998	0.8	0.3	−2.3
1999	1.2	0.5	−3.2
2000	1.4	0.5	−4.3
2001	1.6	0.5	−5.6
2002	1.8	0.5	−6.9
2003	2.0	0.4	−8.4
2004	2.2	0.3	−10.0
2005	2.4	0.2	−11.8

[1] PBGC's fiscal year-end net position equals PBGC's assets less liabilities. The largest component of PBGC's total liabilities is the present value of future benefit payments, including amounts owed to participants in terminated plans and plans with a high probability of termination.

Source: Pension Benefit Guaranty Corporation.

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. Moreover, as was discussed above, a few pension plans with extremely large unfunded liabilities have dominated PBGC's past 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 probably be influenced by overall economic conditions, by the prosperity of particular industries, by competition from abroad, and by 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, 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. Finally, pending litigation could have a material impact on the financial condition of the PBGC.

The PBGC in its fiscal year 1995 annual report presented three different forecasts of future claims and resulting deficits and surpluses to indicate the potential variability of its financial condition

(see table 15–4). Forecast A is based on the average annual net claim over the entire PBGC history ($463 million per year) and projects a surplus of $2.4 billion by the end of fiscal year 2005. Forecast B is based on the average annual net claim for the most recent 14 fiscal years ($608 million per year). Under forecast B, PBGC projects a surplus of $200 million by the end of fiscal year 2005. Forecast C assumes $1.39 billion of net claims each year and assumes the termination of all plans that represent reasonably possible losses over the next 10 years. Under forecast C, PBGC's deficit is projected to reach $11.8 billion by the end of fiscal year 2005.

LEGISLATIVE HISTORY

SINGLE-EMPLOYER PLANS

The PBGC was established under the Employee Retirement Income Security Act of 1974 (ERISA) 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 (enacted as title XI of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272)) 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.

Pension Protection Act of 1987 (PPA)

In 1987 Congress passed PPA (as part of Public Law 100–203) which contained additional measures to strengthen PBGC's long-term solvency. The act increased PBGC's basic per participant premium to $16 and established the variable rate premium tied to the degree of plan underfunding. The act also expanded PBGC's employer liability claim to include all plan benefit liabilities, provided that PBGC share a portion of its recoveries from employers with plan participants, and required faster funding of plan benefits to reduce 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 RPA (enacted December 8, 1994 as part of the GATT legislation (The Uruguay Round Agreements (Public Law 103–465)). RPA provisions include:

1. *Minimum filing standards.*—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. RPA contained certain transition rules limiting annual increases in pension contributions. In addition, RPA repealed the quarterly funding requirement for fully funded plans and granted excise tax relief for employers with both defined benefit and defined contribution plans.
2. *Variable rate premium.*—RPA phased in a $53 per participant 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.
3. *Reporting to PBGC.*—RPA requires sponsors with over $50 million in underfunding to provide PBGC detailed actuarial information on underfunded plans and detailed company financial information. It also requires privately-held companies with over $50 million in underfunding and an aggregate funding ratio of less than 90 percent to provide advance notice to PBGC of certain corporate transactions.
4. *Disclosure to participants in underfunded plans.*—RPA requires most employers whose plans are less than 90 percent funded to provide a notice to participants regarding the funding status of the plan and the limitations of PBGC's guarantee of participants' benefit.
5. *Missing participants program.*—RPA established a program under which PBGC serves as a clearinghouse for benefits of missing participants in plans terminating in a standard (fully funded) termination.

RPA contained other provisions relating to enforcement of minimum funding requirements, PBGC liens for missed pension contributions, PBGC membership on creditors' committees in bankruptcy, and limitation of benefit increases while a company is in bankruptcy.

Multiemployer Plan Insurance Program

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; Public Law 96–364). 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.

MPPAA changed the insurable event that triggers PBGC protection to plan insolvency, rather than plan termination. Thus, if a multi-employer 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.