Section 17. The Pension Benefit Guaranty Corporation\1\

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.

\1\This section draws from: a CBO report entitled ``Federal Insurance of Private Pension Benefits,'' October 1987; the PBGC Annual Report to Congress Fiscal Year 1992; a Joint Committee on Taxation print entitled ``Current Issues Relating to PBGC Premiums and Single-Employer Defined Benefit Pension Plans,'' May 15, 1987; and a Joint Committee on Taxation print entitled ``Present Law and Issues Relating to Pension Benefit Guaranty Corporation Guarantees of Retirement Annuities Paid By Insurance Companies,'' April 4, 1990.

EXPLANATION OF THE CORPORATION AND ITS FUNCTIONS

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 as requested by the PBGC.

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, employees receive a fixed benefit at
retirement
prescribed by a formula set forth in the plan. The employer
makes annual contributions to the plan based on actuarial
calculations designed to ensure that the plan has
sufficient
funds to pay the benefit prescribed by the formula. Under a
defined contribution plan, no particular benefit is
promised.
Instead, benefits are based on the balance of an individual
account maintained for the benefit of the employee. The
benefit
received by an employee at retirement is generally
dependent on
two factors: total contributions made to the plan 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 and account for a greater volume of assets. In 1990, defined benefit pension plans accounted for 16 percent of all pension plans, but

were
the primary form of coverage for 62\2\ percent of all pension
participants and accounted for 57 percent of pension assets.

\2\ Figure of 62 percent primary coverage is for 1991.
Source: EBRI, December 1993 Issue Brief on pension coverage and
participation.

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 several hundred billion dollars. However, the PBGC faces substantial direct exposure from a relatively small number of single-employer plans, concentrated in the steel, airline, tire and automobile industries, with unfunded liabilities of $53 billion, as of December 31, 1992. Underfunding in multiemployer plans, as of January 1, 1991 (the most recent information available) totaled $10.6 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 41 million pension plan participants, including active workers and retirees. Of these, 78 percent, or about 32 million, are covered by approximately 64,000 single-employer pension plans, and 22 percent, or about 8.9 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.

a. 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 liabilities (and other termination
requirements, such as notice to employees, have not been violated), the plan distributes benefits to participants. The
plan provides for the benefit payments it owes by purchasing
annuity contracts from an insurance company, or otherwise providing for the payment of benefits, for example, by providing the benefits in lump sum distributions.

Assets in excess of the amounts necessary to cover benefit
liabilities may be recovered by the employer in an asset reversion. The asset reversion is included in the gross income
of the employer and 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.

b. 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 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), 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.

c. 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, a substantial owner has received a distribution greater than $10,000 (other than by reason of death), or the liability of the PBGC may reasonably be expected to increase 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.

d. 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 liabilities 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).

e. 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.

f. 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 is indexed according to changes in the Social Security wage base, and is $2,556.82 in 1994 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 65 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 1994, 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 $1,465.82 per month [$2,556.82 x .90 joint and survivor benefit form x .65 (participant age) x .98 (spouse 2 year 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 second such study in 1990, confirming the program's financial solvency, but also finding that inflation had devalued the existing guarantee limits.

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 $276 million at the end of the fiscal year 1993.

However, by the end of fiscal year 1993, the larger single-employer program was showing an accumulated deficit of $2.9 billion. That is, the assets in PBGC's single-employer program were $2.8 billion 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.

MAJOR CASES

Major Single-Employer Cases

The past year saw the conclusion of several of PBGC's largest cases, as The LTV Corporation, Continental Airlines, and Trans World Airlines all began to consummate their agreements with PBGC and emerged from bankruptcy reorganizations. Negotiations and litigation continued in a number of other major cases.

The LTV Corporation

LTV emerged from bankruptcy on June 28, 1993. The company's plan of reorganization included an agreement finalized earlier in the year with PBGC under which LTV immediately contributed $787 million in cash to three underfunded LTV Steel pension plans as part of a nearly $2 billion initial infusion to the plans. That payment began the process of eliminating the plans' underfunding of $3 billion based on a 28-year payment schedule.

Also as part of the agreement, the district court approved a request by PBGC, LTV, and LTV's creditors to vacate prior court decisions on the amount and priority of PBGC's bankruptcy claims.

As a result of the settlement, LTV's pension plans remain ongoing and approximately 100,000 participants, including nearly 60,000 retirees, are receiving full benefits. PBGC will monitor the plans closely as LTV goes forward and continues the necessary funding of the plans.

Eastern Air Lines/Continental Airlines

As part of Continental's bankruptcy reorganization in April 1993, the airline and PBGC finalized an agreement that settled Continental's joint-and-several liability for unpaid contributions of approximately $58 million due the terminated Eastern Air Lines pension plans and approximately $700 million in unfunded pension liabilities. The agreement also provided additional protection for Continental's ongoing pension plans.
Continental and its subsidiaries had been part of Eastern's group of commonly controlled companies. PBGC received more than $21 million in cash, an airplane trust worth $70-75 million,

and approximately 5 percent of the new Continental common stock. Continental's pensions plans also received an extra contribution of $10 million of new Continental stock to protect the pensions of Continental's employees.

Trans World Airlines (TWA)

TWA's emergence from bankruptcy in November 1993 followed the settlement reached in early January between PBGC, TWA, the airline's creditors and unions, and Carl Icahn, the former owner of TWA. That agreement, negotiated in 1992 and signed in early January 1993, resolved Mr. Icahn's and TWA's liabilities for TWA's two defined benefit pension plans, which were underfunded by about $1 billion as of December 1992.

Under the agreement, Mr. Icahn provided TWA with $200 million in financing and relinquished control of the airline to its employees and creditors. TWA's pension plans, which are ongoing but with no future benefit accruals, were assumed by Pichin Corporation, an Icahn company that will be responsible for minimum funding payments to the plans. The annual funding will be provided in part by TWA through payments on secured 15-year notes totalling $300 million. The balance of the required payments, up to a total of $200 million, will be made by another Icahn company. If the plans terminate in the future, PBGC will receive the balance of the TWA notes, as well as annual payments totalling $240 million from Mr. Icahn's group of companies. All of TWA's and Mr. Icahn's commitments under the agreement are secured.

Astrum International (formerly E-II Holdings, Inc.)

In a case demonstrating the value of PBGC's early warning program, Astrum responded to early PBGC action with measures that protect the pensions of 19,000 workers and retirees from two affiliated companies. Astrum had planned a reorganization in bankruptcy that would have relieved it of liability for the pension plans of two related companies, which were underfunded by as much as $40 million. PBGC successfully intervened to negotiate protection for the plans prior to conclusion of the bankruptcy proceeding. The resulting agreement assures continued funding of, and Astrum's continued secondary liability for, the plans which will remain in operation.

Lone Star Industries, Inc.

PBGC reached an agreement with the bankrupt Lone Star regarding the company's 10 pension plans, which are underfunded by a total of about $73 million. Under the agreement, which still needs bankruptcy court approval, Lone Star would contribute up to $13 million to the plans over and above its minimum required contribution. In addition, PBGC will receive security valued at a minimum of $30 million to protect against future termination of the plans.

Collins v. PBGC; Page v. PBGC

In these consolidated class-action suits, the

plaintiffs--
participants in plans that terminated before September 26, 1980, without having been amended to adopt ERISA's minimum vesting standards--sought a court ruling requiring PBGC to guarantee their benefits as if their plans had been amended.
PBGC had determined at the time their plans terminated that only those benefits vested under the express terms of their plans were guaranteeable. PBGC and the plaintiffs were discussing a settlement as the year ended.

CF&I Steel Corporation

PBGC has been seeking recovery on its claims for a CF&I plan that was underfunded by about $220 million when terminated in March 1992. Under CF&I's consensual plan of reorganization confirmed early in the year, PBGC will receive a share of liquidation proceeds that will include a limited partnership interest in the business that was transferred to new owners by an asset sale, and may include cash and other consideration.
PBGC's preliminary estimate of the total value of the potential recovery is about $33 million. PBGC may recover additional amounts depending on the outcome of its appeal of bankruptcy court rulings on its claims.

White Consolidated Industries, Inc.

PBGC has been seeking to establish White's liability for the estimated $120 million underfunding in several pension plans transferred in a 1985 transaction with Blaw Knox Corporation. PBGC alleged that a principal purpose of White in entering into the transaction was to evade the pension liabilities. PBGC terminated two of the plans, with total underfunding of about $97 million, when they ran out of money.

Although a district court denied White's liability for the plans, an appellate court reinstated PBGC's lawsuit against White. The U.S. Supreme Court denied White's petition for review and the case continues in district court.

New Valley Corporation (Formerly Western Union Corporation)

New Valley, which sponsors one pension plan that is underfunded by about $470 million, has been in bankruptcy since November 1991. Both New Valley and its unsecured creditors have proposed separate reorganization plans. PBGC is actively negotiating to ensure that the pension plan will be adequately protected under any reorganization proposals.

Pan Am Corporation

By yearend, PBGC's bankruptcy claims against Pan Am for $914 million of unfunded benefits and $350 million in contributions owed to three terminated Pan Am pensions plans were still unresolved. Court hearings on PBGC's claims and related issues were postponed until April 1994.

Wean, Inc.

PBGC pressed bankruptcy claims totalling about $121 million against Wean that included $13 million for Wean's underfunded pension plans and $108 million for a now-terminated underfunded plan that Wean had transferred to United Engineering and Foundry, Inc. PBGC asserts that one of Wean's principal purposes of the transaction was to evade liability to PBGC for the United Engineering plan. PBGC settled its claims against United Engineering and continues to pursue an agreement with Wean.

LOSSES

Through the end of fiscal year 1993, the PGBC's single-employer program had incurred net losses of $6 billion (see table 17-1). 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.

TABLE 17-1.--LOSS EXPERIENCE FROM SINGLE-EMPLOYER PLANS\1\

[Dollars in millions]

Year of termination	Number of plans terminated	Benefit liability	Trust plan assets	Recoveries from employers	Net losses	Average net loss per plan
1975-1981..	824	$741	$295	$129	$317	$0.4
1982-1987..	689	2,694	848	184	1,661	2.4

1988-1993	335	4,579	1,871	312	2,396	7.2
Total	1,848	8,014	3,014	626	4,374	....
Probable future terminations	46	3,645	1,403	616	1,627	....
Total	1,894	$11,659	$4,417	1,242	$6,001	....

\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: PBGC Fiscal Year 1993 Annual Report.

PBGC's losses have increased considerably over time. Within that trend, there has been substantial annual variability due to the sporadic terminations of very large underfunded plans. Fewer underfunded plans terminated in 1993 than the previous year, and losses from underfunded plans declined slightly because of fewer new major terminations.

Table 17-1 demonstrates the growth in net losses over the Corporation's history. In the 6 years from 1988 to 1993, net losses, not including probable terminations, exceeded the losses of the prior 6 years by 44 percent and were more than 7 times greater than the losses from the first 7 years of PBGC's operation. PBGC also faces probable losses of $1,627 million for 46 plans that are expected to terminate after fiscal 1993 year end. Those probable terminations represent 27 percent of PBGC's total net losses since inception.

As shown by table 17-2, 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 1993, PBGC permitted completion of about 6,700 standard terminations and 88 distress or involuntary terminations of underfunded plans. While terminations of underfunded plans made up less than 2 percent of all terminations, PBGC's deficit in the single-employer program grew slightly to $2.9 billion, reflecting PBGC's vulnerability to termination of large underfunded plans.

TABLE 17-2.--TOTAL NUMBER OF TERMINATED SINGLE-EMPLOYER PLANS, NUMBER OF PLANS WITH CLAIMS AGAINST PBGC, AND ACCUMULATED DEFICIT

Accumulated
Number of Number of
deficit end
terminated claims
of year
plans against

		PBGC	(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	146	-523.3
1984	7,711	96	-462.0
1985	8,723	107	-1,325.3
1986	6,915	118	-3,826.4
1987	10,924	91	-1,548.5
1988	10,836	79	-1,543.3
1989	11,433	58	-1,123.6
1990	11,462	60	-1,912.8
1991	7,586	72	-2,510.0
1992	8,018	47	

			-2,737.1
1993	6,788	\1\65	-2,771.8
Total	141,665	1,894	-2,896.8

\1\Includes 46 plans with claims of $1 million or more that were probable terminations as of the end of fiscal year 1993.

Source: Pension Benefit Guaranty Corporation.

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 who 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 90) 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 90 did not change the ratio of revenue raised by the basic and variable rate portions of the premium. Single-employer premium income equaled $890 million in 1993.

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 was set to increase gradually to its current level, $2.60. Multiemployer premium income equaled $23 million in 1993.

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. They had a value of $5 billion as of September 30, 1993.

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 $3.3 billion as of September 30, 1993.

Chart 17-1 diagrams the relationship between the PBGC's financing and its payment of guaranteed benefits to plan participants.

CHART 17-1. FINANCIAL STRUCTURE OF THE PENSION BENEFIT GUARANTY CORPORATION

<CHART 17-1>

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)

By September 30, 1985, the PBGC reported that the deficit in its single-employer insurance program was $1.3 billion, and growing rapidly. Congress responded by enacting SEPPAA. Major reforms under SEPPAA, which was included as title XI of the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272), included:

1. Raising the per-participant premium to $8.50, from $2.60.
2. Providing that an underfunded plan may be terminated only if the contributing employer, and every member of the employer's controlled group, meets certain criteria of ``financial distress''. As a result, employers could not place the liability for underfunded plans on the PBGC without demonstrating real financial inability to maintain and fund the plan.
3. Providing that, in addition to the liability to

the PBGC under prior law for the lesser of the unfunded guaranteed benefits or 30 percent of the collective net worth of the controlled group, employer liability also included the amount by which 75 percent of unfunded guaranteed benefits exceeded 30 percent of net worth.

4. Providing that unpaid and waived contributions were due and payable in full as of the date of termination.

5. Creating a new liability to plan participants for certain nonguaranteed benefits.

Pension Protection Act of 1987

By the beginning of 1987, it became increasingly apparent that the reforms implemented under SEPPAA were inadequate to ensure the long-term solvency of the PBGC. Accordingly, Congress enacted the Pension Protection Act of 1987 as part of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203), which included a number of significant reforms:

1. Variable rate premium.--Increasing the basic premium to $16, and instituting an additional premium that rises with the degree of underfunding in the plan and, thus, the risk posed by the plan to the PBGC.

2. Minimum funding standards.--Requiring faster funding of unfunded benefits, to reduce the PBGC's exposure in the event of plan termination.

3. Employer liability to the PBGC.--Making the controlled group liable for minimum funding contributions to ongoing plans.

4. Unpaid employer contributions.--Improving the

status of a claim for unpaid employer contributions in bankruptcy by giving such a claim the same status as a tax claim.

5. Distress criteria.--The use of Chapter 11 (bankruptcy reorganization) as a criterion for termination was tightened. The employer was now required to show that liquidation would necessarily follow if the plan were not terminated.

6. Additional payments to participants.--Section 4049 of ERISA was repealed. The full employer liability now runs solely to the PBGC. The PBGC will pay participants and beneficiaries a portion of their outstanding benefit liabilities (i.e., unfunded benefit liabilities that are not guaranteed benefits) from the PBGC's employer liability recovery.

The Act included additional significant reforms, including revised minimum funding rules, a quarterly pension funding requirement, a strengthening of the PBGC's lien authority, a reduction of the number of times an employer may ``waive,'' or decline to make, otherwise required plan contributions, and other modifications.

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, or MPPAA (P.L. 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 multiemployer plan becomes financially unable to pay benefits at the guaranteed level when due, the PBGC will provide financial assistance to the plan, in the form of a loan. Finally, MPPAA imposed withdrawal liability on employers who ceased to contribute to a multiemployer plan.

BUDGETARY TREATMENT

Since 1981, administrative expenses of the PBGC and the benefit payments to participants in plans under the PBGC's trusteeship have been counted as Federal outlays. Certain receipts of the agency--including premium payments, interest on balances in the revolving fund, and transfers to the revolving fund from the trust fund--offset PBGC expenses in the Federal budget. Liabilities for future benefit payments and other accruals are not taken into account. In 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 17-3). During this period, the PBGC reported receipts in excess of benefit payments and administrative costs by a cumulative total of more than $4.4 billion. In years before 1981, Federal accounts for the PBGC would also have shown annual inflows exceeding expenses in each year of program operation. Under the present method of cash budgeting, the annual surpluses may obscure the impact of PBGC's growing future liabilities.

TABLE 17-3.--FEDERAL BUDGETARY TREATMENT OF THE PBGC, 1975-93

[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....................	79.4	123.1	-29.0
1982....................	104.3	157.0	-66.9
1983....................	161.2	182.4	-9.5
1984....................	180.0	189.8	-9.9
1985....................	195.3	210.4	-19.1
1986....................	272.1	343.9	-105.9
1987....................	508.6	636.8	-71.9
1988....................	489.4	560.3	-277.7
1989....................	779.8	1,190.1	-149.1
1990....................	744.6	1,175.3	-679.9
1991....................	598.7	1,339.4	-787.3
1992....................	766.4	1,491.3	-654.5
1993....................	833.3	2,323.2	-1,508.2

Total.................	5,713.1	9,914.0	-4,368.9

\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.

Note: This table includes both the single-employer and multiemployer pension insurance programs. (NA=not applicable.)

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

FUTURE FINANCIAL STATUS OF THE PBGC

In its fiscal year 1993 annual report, PBGC estimated $53 billion of unfunded liabilities in single-employer defined benefit pension plans as of December 31, 1992, an increase from the $38 billion reported in 1992. Multiemployer plans represent $10.6 billion in underfunding as of January 1, 1991. The reasons for this growth include benefit increases in certain plans and falling interest rates.

Not all pension underfunding represents likely claims

upon
PBGC's insurance. PBGC's most recent analyses disclose reasonable possible losses of about $13 billion, compared to
last year's $12 billion. This exposure is concentrated in a relatively small number of companies, primarily in the automobile, steel, tire, and airline industries.

PBGC annually publishes a list of 50 companies with the largest pension 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.

Historically, most of the claims made against PBGC have come from flat-benefit plans that cover hourly workers in unionized companies. Because benefits are often increased at
regular intervals as part of contract negotiations, new liabilities are added before old ones are funded, leaving the
plans chronically underfunded. The current-law funding rules,
which require funding based on current legal obligations, do
not allow flat-benefit plans to anticipate yet-to-be bargained
future benefit increases.

In contrast, final-pay or final-salary plans are almost always overfunded relative to insured termination liabilities
because their funding schedules anticipate ever-increasing

salaries, and therefore, future benefit levels. Consequently, typical final-pay plans have funding ratios of 120 percent, while flat-benefit plans typically are 77 percent funded. Therefore, the average final-pay plan can absorb considerable changes in interest rates, actuarial assumptions, and investment performance without posing exposure to PBGC. Flat-benefit plans cannot.

The future financial condition of the pension insurance program is highly uncertain because it will depend 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 1993 annual report presented three different forecasts of future claims and resulting deficits and surpluses to indicate the potential variability of its financial condition.

Forecast A is based on the average annual net claim over the entire PBGC history ($505 million per year) and projects a deficit of $1.9 billion by the end of fiscal year 2003. Forecast B is based on the average annual net claim for the most recent 12 fiscal years ($695 million per year). Under Forecast B, PBGC's projected deficit would grow to $5 billion by the end of fiscal year 2003. Forecast C assumes $1.2 billion of net claims each year and assumes that termination of the plans with approximately $13 billion of underfunding that represent reasonably possible losses will occur over the next 10 years. Under Forecast C, PBGC's deficit is projected to reach $13.8 billion by the end of fiscal year 2003.

TABLE 17-4.--YEAR-BY-YEAR PROJECTIONS OF PBGC DEFICITS UNDER VARIOUS FORECASTS, SINGLE-EMPLOYER PROGRAM\1\

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

	Forecast A	Forecast B	Forecast C
1993............................	2.9	2.9	2.9
1994............................	2.7	2.9	3.5
1995............................	2.5	2.9	4.1
1996............................	2.3	3.0	4.9

1997............................	2.2	3.1	5.8
1998............................	2.0	3.3	6.8
1999............................	1.9	3.5	7.9
2000............................	1.8	3.8	9.1
2001............................	1.8	4.1	10.5
2002............................	1.8	4.5	12.1
2003............................	1.9	5.0	13.8

\1\PBGC's fiscal year-end deficit equals the amount by which PBGC's liabilities exceed PBGC's assets. 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: PBGC.

PBGC's current method of forecasting future claims is based on PBGC's experience over the last decade. This method fails to take into account the uncertainty facing PBGC regarding future economic conditions. Because of the limitations of the current method, PBGC is building a simulation model to improve understanding of the uncertainty of its future claims forecasts. The model is being designed to simulate bankruptcy rates and pension funding over a 30-year period and will forecast PBGC's financial conditions over a broad set of possible economic scenarios. PBGC anticipates its model will measure the uncertainty surrounding forecasts of future claims, and also will have the capacity to measure the impact of various proposals to change PBGC's program.

RECENT CONGRESSIONAL AGENCY OVERSIGHT REPORTS

In response to growing concerns about the financial stability of the PBGC, the agency has been the subject of oversight investigation by the Congressional Budget Office (CBO), the General Accounting Office (GAO), and by the Congressional Research Service (CRS).

On February 4, 1993, CBO released its report, ``Controlling Losses of the Pension Benefit Guaranty Corporation.'' The report examines the causes of PBGC's losses and offers options for reforming the program. The report concludes that the PBGC currently has $2.5 billion more in liabilities than it has in assets, and that, without reform, this deficit can be expected to increase by tens of billions of dollars. CBO notes that there is no serious possibility that the Federal Government will allow the PBGC to default on its obligations to plan participants, but that the prospect of a taxpayer-financed bailout is increasingly likely.

CBO offers three major reasons for the persistent and increasing PBGC losses. First, the PBGC premiums are too low to cover the administrative costs and underfunding associated with terminated, insured plans. Second, the Employee Retirement Income Security Act of 1974 (ERISA) permits companies to underfund their defined benefit pension plans. Third, neither the PBGC nor the Congress have established a system to

properly
assess and manage the losses that inevitably result from permitting companies to underfund their plans.

Finally, CBO offers several suggestions to help ensure fiscal balance in the PBGC insurance system. CBO notes that over the short-term Congress must make adjustments to ensure
that PBGC has sufficient assets with which to meet its pension
liabilities. Over the long-term Congress must improve the structural capacity of the Federal Government to operate the
pension insurance program by gathering better information about
risks, giving immediate budget recognition to these liabilities
as they accrue, allowing PBGC to adjust premiums more quickly
to reflect changes in risks of loss in the system, and by requiring that private capital be at least partially at risk to
increase the incentive of companies to monitor and control losses under the pension insurance program.

On December 30, 1992, GAO released its report, ``Hidden Liabilities Increase Claims Against Government Insurance Program'' (GAO/HRD 93-7). The report reviews the factors that
cause hidden liabilities, assesses the impact of these factors
on recent claims against the pension insurance program, and analyzes PBGC's ability to control these factors.

The report concludes that the Federal Government's exposure
to unfunded liabilities in private pension plans is much larger
than plans have indicated on their annual reports to the Internal Revenue Service (IRS). In a survey of 44 terminated
pension plans trusteed by the PBGC, underfunding was $1 billion
(58 percent) higher at the time of termination than most

recently reported to the IRS. Therefore, when a pension plan terminates with insufficient assets, PBGC is likely to absorb unfunded liabilities considerably greater than the plan previously reported.

GAO found that 80 percent of this discrepancy was due to differences in actuarial assumptions used to value plan liabilities, the payment of special shutdown and early retirement benefits, and earlier-than-anticipated retirements of plan participants. The remaining 20 percent of the hidden liabilities were due to PBGC's receipt of fewer assets than reported by the plan primarily as the result of benefit payments from the plan and missed contributions to the plan.

GAO found that PBGC has little ability to control its exposure from these hidden liabilities. Further, GAO found that financially troubled plan sponsors sometimes take actions that increase the burden on PBGC, such as raising benefits in lieu of increasing wages or failing to make contributions to their plans. In subsequent congressional testimony, GAO reported that in a separate review of the underfunded pension plans sponsored by eight companies with significantly underfunded pension plans during the 1990-91 time period, it found that aggregate underfunding increased by over $5 billion, of which nearly $2.2 billion was attributable to benefit increases in these plans.

On February 1, 1993, CRS released its report ``Are Pension Guarantees Another Savings and Loan Collapse in the

Making?''
(93-121 EPW). In this report, CRS examines the similarities and
differences between PBGC today and the Federal Savings and Loan
Insurance Corporation (FSLIC) in the years before the S&L
collapse. The report concludes that while not strictly
analogous, there are similarities. CRS notes that just as
deposit insurance weakened the incentive of depositors to
remove funds from risky thrifts, pension insurance creates a
similar ``moral hazard'' incentive for pension plan sponsors
and participants to allow plans to become underfunded. In
addition, just as FSLIC was reluctant to act promptly to shut
down insolvent thrifts, the PBGC is reluctant to cut its losses
by terminating pension plans. Finally, the primary financial
information presented to Congress in the Federal budget for the
ill-fated FSLIC was, and for PBGC is, short-term cash flows
that do not reflect the long-term liabilities that are accruing
and can fail to give an indication of a deteriorating long-term
situation.

The CRS report concludes by noting that the PBGC has only
limited power to act on information about its own financial
health since Congress has set in statute PBGC premiums and
rules governing pension insurance and plan funding standards.
The PBGC has limited control over its financial condition, and
ultimately the solvency of the PBGC depends on how Congress
responds to information about the financial status of the
pension program. Unless significant changes are made in the way
pension insurance is priced and benefits funded, it may be

necessary to curtail the pension promises that the Government guarantees. Otherwise, taxpayer revenue ultimately may be needed.