The Financial Health of Multiemployer Pension Plans, PBGC
And the Recent Government Bailout Proposal:
Create Jobs and Save Benefits Act of 2010

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STUDY FINDINGS

1. Pension Benefit Guarantee Corporation (PBGC) is experiencing a significant increase in financial liabilities for failed pension plans. PBGC's combined financial condition declined by $10.80 billion, increasing the corporation's deficit to $21.95 billion, increasing the corporation's deficit to **$21.95 billion** as of September 30, 2009, from $11.15 billion as of September 30, 2008. The single-employer program's net position declined by $10.40 billion and increased the program's deficit to **$21.08 billion**. The multiemployer program's net position declined by $396 million and increased that program's deficit to $869 million. PBGC's assumption of corporate pensions is resulting in a sharply widening deficit. The PBGC will assume responsibility of $3.2 billion in pension obligations over the next five years. The Congressional Budget Office estimates that the shortfall will widen to $86.7 billion by 2015.
2. Multiemployer pension plans also contribute to the financial overload being experienced by the PBGC. PBGC currently insures about 1,500 multiemployer (sometimes referred to as union) plans. These plans provide or promise benefits to roughly 10 million participants or their beneficiaries. As of September 30, 2007, the multiemployer insurance program reported a deficit of over $900 million. PBGC's multiemployer (union) program deficit was $955 million dollars at the end of fiscal year 2007. This was a $216 million increase in the deficit compared to the previous year, when there was a $739 million deficit.
3. One avenue for multiemployer pension plans to improve solvency is to cut benefits for future retirees. For example, on March 27, 2008 the Teamsters for a

Democratic Union announced that the third largest pension fund in the Teamsters Union is reportedly planning new benefit cuts. A second example was announced that same day. Teamsters in New Jersey Local 641 were hit with major pension and health and welfare cuts on March 10—just nine days after the Local 641 pension fund announced it was in critical status (the "Red Zone"). In November of 2008, the Boilermaker – Blacksmith National Pension Trust announced that, despite benefit reductions announced in August of 2008, the pension "is now facing serious financial challenges."

4. Another avenue for multiemployer pension plans to improve solvency is to increase employer contributions, including large "withdrawal" payments for employers who want to get out of a union pension plan. The Central States Pension Fund demanded a one-time $6 billion withdrawal payment from UPS in order to allow UPS to leave the Central States Pension Fund and start a different pension plan.

5. Multiemployer (union) pension funds are facing serious financial solvency issues. Under the federal law, funds that fall in the Yellow Zone (less than 80 percent funded) or the Red Zone (less than 65 percent funded, as well as a poor credit balance) have to develop a rehabilitation plan to get above 80 percent funding. Funds can raise their funding level by increasing employer contributions or by cutting members' benefits. In extreme cases, funds in the Red Zone can even cut benefits that members (but not retirees) have already earned—money trustees could not touch before the new law. When financial solvency is calculated relative to assets maintained in the stock market and the market’s recent performance, all five of the union pension plans examined are in the red zone.

6. The Senate has recently introduced a bill entitled: Save Jobs and Protect Benefits Act of 2010. A more accurate title for this bill is: “The Government Sponsored Bailout of Union Defined Benefit Pension Plans Which No Longer Make Economic Sense. While it is true that multiemployer pensions and the PBGC are having major financial problems with defined benefit pension plans, it is also true that the solution may not be another massive infusion of US debt and red ink. Union pension officials should consider following the examples of so many companies in the private sector. Given global business pressures, companies are being forced to offer either defined contribution or no pension plans at all.

7. Employees should consider the financial shortcomings of multiemployer (union) pension plans when employment changes are considered, and employers must consider the potential financial obligations (withdrawal payments) that can be levied by pension programs when an employer wants to leave a particular pension plan.

INTRODUCTION

News stories about companies' pension problems abound in 2010. Generally speaking there are two types of pension plans. The first is a defined contribution plan. These plans normally consist of contributions from both the employer and the employee. The amount available for retirement is simply a function of the amounts contributed and their performance in the market. The second type is a defined benefit plan. As the name suggests, defined benefit pension plans provide specified levels of benefits for retirees. Companies have the responsibility for funding these plans until they grow and provide promised benefits to retirees. A number of factors are now making defined benefit plans a risky proposition, and potentially even a thing of the past. In some cases, companies (cities) promised more generous benefits than they could realistically afford. Beyond that, the combination of a weak economy and declining stock market has also provided a one two punch that has knocked many companies defined benefit pension plans down for the count.

According to Geisel (2009), the one-time trickle of employers freezing their defined benefit pension plans turned into a flood in 2009. Nearly, one-third of Fortune 1000 companies with defined benefit plans have frozen at least one of those plans, up from 7% five years ago, according to a Watson Wyatt Worldwide analysis. Among the nation's biggest companies, defined benefit plans' decline has been even greater. Only 45% of Fortune 100 companies still offer a defined benefit plan to new, salaried employees, Watson Wyatt found. While the decline of defined benefit plans has been going on for some time, this year has been different.

In prior years, some employers remained in the defined benefit plan system and simply converted traditional final pay plans to cash balance plans, which they believed were a better fit for a more mobile workforce. Other employers, concerned about the cost of and volatility of required contributions and increased life expectancies, froze their pension plans and beefed up their 401(k) or other defined contribution plans.

Increasingly this year, employers froze their defined benefit plans and did not sweeten their 401(k) plans, such as San Francisco-based banking giant Wells Fargo & Co. and Denver-based phone and Internet service provider Qwest Communications International Inc. Some companies, due to severe financial pressures, went even further and froze their defined benefit plans and suspended their 401(k) plan match, such as Sacramento, Calif.-based newspaper publisher McClatchy Co., whose advertising revenues have declined sharply.

However as many workers have become painfully aware, companies with defined benefit plans can go bankrupt. Consider such companies as Worldcom, Enron, Global Crossing, Kmart, and Delphi. The fate of employees' pension plans depends on what type of bankruptcy the firm takes: chapter 7 or chapter 11 (USA Today, 2002). The more common form is Chapter 11, where the business continues to operate and reorganizes financially. However, the employer may and often does reduce or eliminate matching contributions. Filing Chapter 7 bankruptcy is far more serious. Here, the firm shuts down and any company-sponsored retirement plans are terminated. Another possible action is for the pension plan to "freeze" the assets. The term "freeze" can mean closing the plan to new entrants or ceasing accruals for some or all plan participants.

STUDY OBJECTIVE

The first goal of this article is to review the current trends among companies' defined benefit pension plans. The number of companies going bankrupt is shooting upward and out of control. The Pension Benefit Guarantee Corporation (PBGC) is taking over the pension obligations for many of these failed companies. Evidence is presented to show the PBGC is becoming overwhelmed with failed single-employer pensions. In addition, there is a cap on the amount of benefits, which can be paid from PBGC.

The second objective of this article is to examine the financial health of multiemployer pension plans in general. Unlike single employer plans, the PBGC makes loans to these pensions when they experience funding problems. However, with the passage of the Pension Protection Act of 2006 (applicable to plan years after 2007), there is substantial pressure on multiemployer pension plans to either raise premiums or lower benefits in an effort to achieve minimum solvency ratios. In an effort to examine the solvency of a sample of multiemployer plans, a sample of trade unions is studied next. This analysis is based on data obtained from an IRS Form 5500 website called freeERISA.com. Form 5500 discloses important information about the solvency of the pension plan. The goal of this analysis is to provide a glimpse of the current financial condition of these particular pension plans. An examination of Form 5500 can provide employees information that will help them analyze the financial health of their companies' pension plan. Next, the recently proposed Save Jobs and Benefits Act of 2010 is discussed. In light of these major financial challenges, the final section presents some questions and facts about pension alternatives for employees' consideration as they evaluate new employment opportunities.

TRENDS AMONG COMPANIES' DEFINED BENEFIT PENSION PLANS

The number of private sector defined benefit plans reached a peak in the mid-1980s. At that time, about one-third of American workers were covered by defined benefit plans. From 1986 to 2004, 101,000 single-employer plans with about 7.5 million participants were terminated. In about 99,000 of these terminations, the plans had enough assets to purchase annuities in the private sector to cover all benefits earned by workers and retirees (a "standard termination"). In the remaining 2,000 cases, companies with underfunded plans shifted their pension liabilities to the PBGC. By the end of 2005, the number of plans supported by the PBGC was at about 30,000 (PGBC 2005). In recent years, many employers have chosen not to adopt defined benefit plans, and others have chosen to terminate their existing plans.

DECLINING PEFORMANCE OF DEFINED BENEFIT PLANS

A 2007 survey by the Employee Benefit Research Institute (EBRI) suggests that U.S. workers are slow to see or adapt to a changing U.S. retirement system. In addition, those who are aware of these changes may not be adapting to them in ways that are likely to secure them a comfortable retirement. The Retail Confidence Survey finds pension-plan changes by employers have left nearly half of workers less confident about the benefits they will receive from a traditional pension plan. There is reason for their lack of confidence.

PBGC PENSION OBLIGATIONS GROWING AT AN ALARMING RATE

On top of the shooting numbers of companies dumping their pension plans on the PBGC, in 2008, it experienced a loss of $4.8 billion in equity investments. With a newly adopted investment strategy that includes more equity, George Miller, a California

Democrat who heads the congressional committee that oversees the PBGC brings up the question of whether it is wise to invest our nation's pension backstop in volatile equities considering the current market turmoil. However, the PBGC downplays the risks. "It gives us a better chance—three times better—to eliminate the deficit without taxpayer bailout," PBGC Director Charles Millard said. "Retirees who depend on us should not be concerned.

PBGC's assumption of corporate pensions is resulting in a sharply widening deficit. The deficit could swell substantially if the Chapter 11 filings of Delta, Northwest and Delphi lead them to offload unfunded pension liabilities on the agency. In addition, United Airlines, which is operating in bankruptcy protection, received court permission to terminate its four employee pension plans, setting off the largest pension default in the three decades that the government has guaranteed pensions. The PBGC will assume responsibility of the $3.2 billion in pension obligations over the next five years. Analysts have predicted that if United wins its case, there could be a domino effect for other airlines to cut their pension obligations as well. If this domino effect takes place, the PBGC might find itself seeking Congresses help for a bailout since it is already facing more than a $9 billion shortfall. The Congressional Budget Office estimates that the shortfall will widen to $86.7 billion by 2015."

The trend for escalating pension burdens for the PBGC is likely to continue. In fact, the PBGC has become an increasingly popular option for private-capital funds and other investors who are seeking to spin investments in near-bankrupt industrial companies into gold. Shifting the heavy pension liability from the balance sheet to the pension corporation does this. Thomas Conway, VP of the United Steel Workers of

America has said, “It’s become a kind of system to bail out companies.” Robert S. Miller has been known to take this approach in turning around companies such as Bethlehem Steel, Federal-Mogul and now Delphi. Many other executives at airlines and other troubled companies have also copied this approach. Although these companies are turning around, and the people relying on Miller are becoming rich, this approach may be creating a multibillion-dollar mess for taxpayers.

Many cities are heading toward bankruptcy due to ridiculous pension plan benefits. Recently, Vallejo, California became the largest city in the state’s history to declare bankruptcy. “Thanks to retroactive benefit enhancements approved by the city council in 2000, police officers and firefighters can now retire at age 50 and receive an annual pension equal to 90% of their final pay (assuming 30 years on the job), an amount that gets increased every year to help keep pace with inflation.” More cities are likely to follow due to similar overextensions of their pension plan obligations. As government pension plans are protected by constitutional and legal guarantees, the only way out is for the city to declare bankruptcy. Once again the pension plan goes off to the PBGC.

The PBGC is already facing a large long-term funding gap before all these major companies unload their defined benefit pension plans. As a result, the funding burden will shoot higher for companies with existing plans. For example, the first inflation-triggered increase of multiemployer premiums becomes effective in 2008. Accordingly, the premium rate will increase from $8 to $9 per participant as required by the Deficit Reduction Act of 2006. Furthermore on May 22, 2010 the Pension Benefit Guaranty Corp., which insures pensions for 44 million retirees, reported a $33.5 billion deficit for the first half of fiscal 2009, up from $11 billion in fiscal 2008. That shortfall, the largest in the agency's 35-year history, could increase dramatically if the agency is forced to take over pension obligations for General Motors and Chrysler.

PBGC AND MULTIEMPLOYER PENSION PLANS

PBGC currently insures about 1,500 multiemployer (sometimes referred to as union) plans. These plans provide or promise benefits to roughly 10 million participants or their beneficiaries. Activity in PBGC's multiemployer insurance program has increased substantially over the last few years. PBGC has also seen significant increases in requests for financial assistance. To put matters in perspective, consider the following evolution of requests for financial assistance.

In the first 17 years since the inception of MPPAA[2], PBGC had provided financial assistance to only 19 plans in the approximate amount of $35 million. In 1997, PBGC recorded liability for future financial assistance in the amount of $361 million to 45 troubled plans. Moreover, PBGC was paying only 14 of those plans $4 million annually in financial assistance. By the end of 2007, the multiemployer program recorded liability for 94 plans with a present value of future financial assistance of $2.1 billion. In fiscal 2007, PBGC paid nearly $71 million to 34 plans. This represented an 18-fold increase in payments to more than double the number of plans. Finally, by the end of fiscal 2008, PBGC expects to pay financial assistance to 44 plans; and by the end of 2009, 50 plans.

Moreover, PBGC's combined financial condition declined by $10.80 billion, increasing the Corporation's deficit to $21.95 billion as of September 30, 2009, from $11.15 billion as of September 30, 2008. The single-employer program's net position declined by $10.40 billion and increased the program's deficit to $21.08 billion. The

[2] Multiemployer Pension Plan Amendments Act of 1980.

multiemployer program's net position declined by $396 million, and decreased that program's deficit to $869 million. During FY 2009, 144 underfunded single-employer plans were terminated. Because of PBGC's previous efforts to evaluate its exposure to probable terminations, $3.08 billion of the net claims for these plans were already reflected in PBGC's 2008 results. The 144 plans had an average funded ratio of approximately 63%. Their terminations resulted in an aggregate net loss to PBGC of $5.83 billion.

In summary, PBGC's multiemployer program deficit was $955 million dollars at the end of fiscal year 2007. This deficit grew to over 32 billion by the end of 2009. The increased deficit is due primarily to PBGC's booking of additional liabilities arising from expected future financial assistance to troubled plans – most of these increased liabilities were attributable to plans that terminated in 2007.

SPECIFIC PROBLEMS WITH MULTIEMPLOYER PENSION PLANS

The following case illustrates what is happening to multiemployer pension plans. Consider the example of a historically strong and over funded multiemployer plan with over 1,500 participants.[3] During the late 1990's, the plan was over 100% funded. Based on its funding status, the ERISA required plan contributions were less than the plan's negotiated contributions. Trustees continued to grow the plan and often were required to increase benefits for participants to ensure that their contributions were tax deductible, resulting in increased overall liabilities of the plan.

Between 2001 and 2004, poor financial markets resulted in a significant decrease in

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[3] See J. Sparling, "The Fallout of Reform: How Multiemployer Plans Can Better Manage Credit Balances & Funding Levels." See http://www.seic.com/institutions/documents/Fallout_Reform_ME_Plans_FINAL.pdf

the plan's assets. The decrease in assets, coupled with the higher liabilities, created a funding gap that began to raise the plan's minimum contribution. The plan's credit balance was used to offset the growing gap between the minimum contributions and negotiated contributions. However, the gap was understated due to favorable actuarial smoothing rules, which allowed the use of asset values based on averages from the bull market five years earlier. As a result of the perceived smaller funding gap, minimum contributions remained low and the credit balance was not significantly drawn down. In addition, trustees actually increased benefits in 2003 because their current model for management did not forecast the potential problems they were yet to experience.

Today, the plan is in significant trouble. As market volatility persisted, the benefits of smoothing decreased and funding levels dropped significantly and the plan's credit balance has eroded. In retrospect, the plan management model failed to alert trustees because it did not budget for market volatility. Last year, trustees were forced to cut benefits by 85% because of market volatility that caused a significant decrease in assets. This benefit reduction then caused a strain on recruiting new members. To make matters worse, the plan's actuary assumed the plan would meet the assumption rate for 2006 and instructed trustees to increase benefits to about half of what they had previously been. Although typical practice is to use this standard assumption, the investment management strategy was not changed to align with this goal. Recently, when the actuary revisited this case and realized the plan might not meet the return assumption, he recommended that the trustees retract their promise to plan participants to increase benefits.

To further illustrate what is going on in the area of multiemployer pension plans, consider the following comments from the Multiemployer Pension Fund Coalition

(MPFC) regarding their position on the PPA of 2006. The MPFC was predicting what would happen if a poor economy and stock market negatively impacted multiemployer Pension Plans. They were concerned that plans in critical status could bankrupt the plans and lead to their transfer to the PGBC. “Contributing employers to a multiemployer plan in critical status that has adopted and is complying with a rehabilitation plan must be protected from potentially devastating, extra-contractual contribution requirements and excise taxes that could trigger bankruptcies and, eventually, plan failures, the transfer of liabilities to the PBGC, and drastic reductions in participant benefits.

There are also specific examples in 2008 where multiemployer plans are admitting to the need to cut benefits. For example, on March 27, 2008 the Teamsters for a Democratic Union announced that the third largest pension fund in the Teamsters Union is reportedly planning new benefit cuts. However, as also noted, teamster members in New England have not yet been informed of these developments by the fund or its union trustees.[4] A second example was announced that same day. Teamsters in New Jersey Local 641 were hit with major pension and health and welfare cuts on March 10—just nine days after the Local 641 pension fund announced it was in critical status (the “Red Zone”).

UPS, the world's largest package-delivery service, wants Congress to allow employers to cut pension benefits already promised to some workers in plans funded by multiple companies. Atlanta-based UPS says the plans can no longer afford to pay full benefits because so many companies that used to pay into the pool have gone out of business. UPS is currently trying to withdraw from its pension obligations and set up a

[4] See http://www.tdu.org/node/1900.

new independent pension plan. The following excerpt typifies the challenge:

> “Even retirees, whose pension benefits are guaranteed, could be at risk. If the funding woes at Central States continue, the plan could, in the worst-case scenario, end up in the hands of the PBGC. But the PBGC limits benefits in multi-employer plans to about $13,000 a year per retiree, compared with roughly $52,000 for single-employer plans. That would be a big cut for Frank Bryant, a 67-year-old former UPS driver who retired in 2003 and now collects a $37,000 annual pension from Central States. "It looks like a downward spiral right now," says the Greensboro (N.C.) resident. Central States says it has no plans to alter benefits or employer contributions.”

FORM 5500 ANALYSES FOR DEFINED BENEFIT PLANS IN TRADE UNIONS

Defined benefit pension plans are featured as an important benefit for trade unions. For purposes of this study we analyzed the financial health of a number of defined pension benefit plans for a small sample of the trade unions. While the sample was not large enough to provide statistical significance, the local chapters selected appear to be a fair representation of the financial health of the defined benefit pension plans for the trade unions. The data for this analysis is available at www.freeERISA.com at no charge. This website provides free access to pension and benefit data. Specifically, pension data is available for IRS Form 5500. Schedule B of Form 5500 provides specific data that enables interested parties to analyze the financial health of their pension plans.

FUNDING STANDARDS FROM PENSION PROTECTION ACT OF 2006

Federal law has a number of special rules that apply to financially troubled multiemployer plans. Under so called “plan reorganization rules,” a plan with adverse financial experience may need to increase required contributions and my reduce benefits that are not eligible for the PBGC's guarantee (generally, benefits that have been in effect for less than 60 months). If a plan is in reorganization status, it must provide notification that the plan is in reorganization status and that, if contributions are not increased, accrued benefits under the plan may be reduced or an excise tax may be imposed (or both). The law requires the plan to furnish this notification to each contributing employer and the labor organization.

The main goal of the Pension Protection Act was to raise each pension's funding level. The funding level is determined by comparing the amount of money they have on hand with the amount of benefits they expect to pay out. The goal of better funding was taken advantage of and stringent new restrictions were placed on funds. In addition, it became easier to cut members' benefits.

Under the law, funds that fall in the Yellow Zone (less than 80 percent funded) or the Red Zone (less than 65 percent funded, as well as a poor credit balance) have to develop a rehabilitation plan to get above 80 percent funding. Funds can raise their funding level by increasing employer contributions or by cutting members' benefits. In extreme cases, funds in the Red Zone can even cut benefits that members (but not retirees) have already earned—money trustees could not touch before the new law. Even when funds are healthy, the new law makes it less likely that they will improve benefits. Raising benefits lowers the funding level—something fund trustees are less likely to do with the threat of slipping into the Red Zone.

LIMITATION ON PENSION BENEFITS PAID BY PBGC

The law mandates the maximum benefit guaranteed by the PBGC. Moreover, only vested benefits are guaranteed.[5] Specifically, the PBGC guarantees a monthly benefit payment equal to 100% of the first $11 of the Plan's monthly benefit accrual rate, plus 75% of the next $33 of the accrual rate, times each year of credited service. The PBGC's maximum guarantee, therefore, is $35.75 per month times a participant's years of credited service.

> **Example 1**: If a participant with 10 years of credited service has an accrued monthly benefit of $500, the accrual rate for purposes of determining the PBGC guarantee would be determined by dividing the monthly benefit by the participant's years of service ($500/10), which equals $50. The guaranteed amount for a $50 monthly accrual rate is equal to the sum of $11 plus $24.75 (.75 * $33), or $35.75. Thus, the participant's guaranteed monthly benefit is $357.50 ($35.75 * 10).
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> **Example 2**: If the participant in Example 1 has an accrued monthly benefit of $200, the accrual rate for purposes of determining the guarantee would be $20 (or $200/10). The guaranteed amount for a $20 monthly accrual rate is equal to the sum of $11 plus $6.75 (.75 x $9), or $117.75. Thus, the participant's guaranteed monthly benefit would be $177.50 ($17.75 x 10).

In calculating a person's monthly payment, the PBGC will disregard any benefit increases that were made under the Plan within 60 months before the earlier of the plan's termination or insolvency. Similarly, the PBGC does not guarantee:

- Pre-retirement death benefits to a spouse or beneficiary if the participant dies after the plan terminates,
- Benefits above the normal retirement benefit,
- Disability benefits not in pay status, or
- Non-pension benefits such as health insurance, life insurance, death benefits, vacation pay or severance pay.

Accordingly, the maximum monthly benefit is $357.50.

DATA ANALYSIS

The funding level is determined by dividing current assets by total liabilities. This

[5] See Boilermaker Blacksmith National Pension Trust Annual Report, November 2008.

ratio is used as a proxy for the financial health of the plan. The Form 5500 available at freeERISA.com provides this data. The results of analyzing these trade union pension plans are revealing. All the plans examined are in the yellow zone and two in the red zone. The trade union with the largest assets in the sample is the Carpenters Trust Fund. Current assets are almost $1.2 billion. Total liabilities however are just over $2 billion. The resulting funding percentage is 70 percent. The next largest pension plan is Construction Laborers Fund of Greater St. Louis with assets of just under $400 million. Total liabilities are $519 million. This plan, while still in the yellow zone, had the strongest funding level in the sample at 75 percent. The third sample of plans came from a number of local chapters of IBEW. The average assets in these pension plans are $158 million and liabilities are $244 million. The resulting funding level was in the red zone at just under 65 percent. A number of local chapters of Plumbers and Pipefitters Union were examined. Average current assets were $79 million and total liabilities were $118 million. The average funding level for these plans was 67 percent. Finally, the National Sheetmetal Workers pension fund revealed assets of $129 million compared with over $201 million in liabilities, a funding level of 64%.

Pension Fund	Current Assets	Total Liabilities	Percentage
Carpenters Pension Trust Fund of St. Louis	$1,435,159,165	$2,031,453,937	70.65%
Construction Laborers Fund of Greater St. Louis *	$391,340,770	$519,434,403	75.34%
International Brotherhood of Electrical Workers	$158,832,878	$244,512,913	64.96%
Plumbers and Pipefitters Misc. Local Chapters	$79,631,277	$118,332,486	67.29%
Sheet Metal Workers Local 194	$129,274,465	$201,574,482	64.13%

* Serves Laborers' International Union of North America Locals #42, #53, and #110.

The funding level analysis for these plans is based on tax return data available for fiscal years ranging from December 31, 2006 through May 31, 2007. Therefore, the pension asset values were updated to reflect the estimated change in value through December 2008. The calculation is based on the assumption that two-thirds of the assets are invested in the stock market.[6] The change in the value of the Dow Jones Index was used to restate the value of the assets in the plans. By December 2008, the Dow Jones plunged to 8,500. The liabilities were estimated to increase by 3 percent. Accordingly, a recalculation of funding ratios for the union pensions places them all in the red zone.

Pension Fund	Current Assets	Total Liabilities	Percentage
Carpenters Trust Fund	$1,118,796,591	$2,092,397,555	53%
Construction Laborers	$305,074,678	$535,017,435	57%
IBEW	$121,596,183	$251,848,300	48%
Plumbers and Pipefitters	$63,001,560	$121,882,461	52%
Sheet Metal Workers	$102,131,615	$207,621,716	49%

Clearly, all the multiemployer sponsored pension plans in the sample would be in trouble if the standards and requirements of the Pension Protection Act of 2006 applied to the financial statements examined. In fact, they would all be in the red or “critical” zone with solvency ratios well below 60 percent.

BILL TO BAILOUT MULTIEMPLOYER PENSION PLANS INTRODUCED

A bill to reform nation’s multi-employer pension program was introduced in the US Senate in late March 2010. The Create Jobs and Save Benefits Act of 2010 (CJSBA)

[6] An experienced actuary supplied this data.

is designed to provide relief for unionized truckers by easing pension obligations. The bill would "ensure the solvency" of multiemployer plans for the 10 million workers and retirees covered under multi-employer plans. One of the most striking provisions in this bill enables the transfer all pension liabilities of "orphan" retirees to the Pension Benefit Guaranty Corp. (PGBC). Orphan retirees are those who have worked at now-defunct trucking firms whose pensions are being funded by the surviving truckers. If passed, this bill would be a windfall to YRC Worldwide, Inc. and the ABF Freight System, which employs about 45,000 unionized workers represented by the Teamsters.

CJSBA: MPP SOLUTION OR A VAIN ATTEMPT TO KEEP CHICKENS FROM COMING HOME TO ROOST

The heart of the solution to the multi-employer pension problem in the Casey Bill involves a massive government bailout. The first source of funds is a contribution from the multiemployer plan, which would "earmark" enough assets to pay benefits for the first 5 years. Next, once these assets run out, the PBGC would be responsible for paying full benefits under a partitioned plan. The bill essentially creates a new "PBGC Fifth Fund" that would pay the benefits. The problem is the new fund is not capitalized with any income or assets. The fifth fund would raid the funds that are currently earmarked for single-employer pension funds. If and when the PBGC single-employer premium fund runs out of money, the "full faith and credit" of the US is pledged to cover the partitioned benefits.

The Proposal also prohibits any increase in multiemployer premiums to cover PBGC's obligations to a partitioned plan. Currently the rate is $9 per participant. In addition, the proposal requires PBGC to guarantee 100% of all plan benefits in the partitioned plan, no matter how large. On top of that, the proposal almost doubles the maximum benefit from $12,870 to $20,070 for non-partitioned plan. The higher guarantee would apply retroactively to include about 40 plans that have previously terminated by mass withdrawal but not yet begun to receive financial assistance. The liability for these plans would have to be increased and reflected on PBGC financial statements. This would further balloon the current PBGC deficits.

How Many MEPPs Will Be Eligible for the Bailout?

Under the Proposal, a multiemployer plan can elect to partition if the plan: a) is in critical status; b) had a substantial reduction in contributions due to employer bankruptcies; c) is likely to become insolvent unless contributions are increased significantly; d) had at least a 2 to 1 ratio of inactive to active participants, and benefit payments to contributions; and e) partition would significantly reduce the likelihood of insolvency.

These entry criteria are quite expansive. The proposal was initially marketed as a means of helping Central States, who has a ratio of 6.2 inactive participants for every active worker. The Proposal sets a threshold ratio of 2 to 1. Most MPPs should have little trouble meeting this condition. Similarly, there were about 500 multiemployer plans in critical status in 2009 (without a WRERA election), which included some of the largest plans covering tens of thousands of participants. Every Teamster related pension plan experienced numerous employer bankruptcies after trucking deregulation occurred in 1980.

How Much Does Central States Cost?

A careful examination of 2008 Schedule MB for Central States reveals some interesting facts. For example, the RPA 94 liability section indicates that the total current liability is over $47 billion for a total of 439,955 employees. The current value of assets in this section is $28.5 billion. The resulting funding percentage is listed as 56.97 percent. This percentage is under 65 percent and therefore in the critical zone according to the PPA ’06.[7] The number of current retirees for Central States is often cited as near 209,000. However, Schedule MB shows that these retirees represent just 48 percent of the total. Another 124,196 retirees are in the terminated vested participant category. This group represents 28 percent of the total. At just over 106,000, the third and smallest group is the total active participants.

The proposal states that Central States would transfer $5.2 billion to the partitioned plan to pay benefits for the first 5 years and PBGC would pay benefits equal to $5.5 billion over the succeeding 5 years. First, it is not clear that the $5 billion estimate for benefit payments over a 5-year period is realistic. In 2008, Central States paid out $2.7 billion in benefits. Adding this up over 5 years far exceeds $5 billion. Second, the effect of the stock market for 2008 is illustrated by the fact that the fund lost over $9 billion on the income statement and in net assets. In other words, net assets declined by over 35% from $26.8 to $17.3 billion in one year. Moreover, employer contributions were only $849 million. That means even without the effect of investment losses, Central States is collecting less than one-third of the cost of current benefit payments to retirees. Third, the length of the stream of payments for current retirees is uncertain. Many retirees

[7] While it is true that pension actuaries perform the official calculations under PPA ’06 to determine funding status. The simple ratio of current assets to future liabilities provides a good indicator of fund solvency status. Schedule MB also shows the interest rate used for RPA 94 calculations as 5.06 percent. It should also be noted that page 1 of Schedule MB provides another measure of liabilities using the larger discount rate of 7.5 percent and the unit credit cost method. Using this rate reduces the value of liabilities to $35.6 billion. The effect of the discount rate is huge. The present value of liabilities is reduced by over $12 billion with the higher discount rate. Using this method yields the funding ratio of 73.2 percent and would place Central States in the Yellow Zone category under PPA ’06. However, Exhibit IV of Section 4 entitled Certificate of Actuarial Valuation for the Central States, Southeast and Southwest Areas Pension Plans uses the $47 billion value for liabilities and resulting funding ratio of 56.97 percent.

will be receiving benefits well after the initial 10-year period of the partitioned plan. Fourth, current figures do not include the additional retirees in the deferred or terminated vested category. Since the proposal caps employer contributions at current limits and greatly enhances the number of retirees who will be eligible for support from PBGC, the likely outflow of red ink from this government agency, along with the other record national debt, makes the current oil spill in the Gulf of Mexico look like a small trickle. It should be noted this scenario also does not include the myriad of other multiemployer plans that will be included in the fifth fund described in the proposal.

Where Does the Money Come From?

The proposal does not identify a funding source for the fifth fund nor is there any provision for this fund in federal appropriations. It is not clear where PBGC would get funds to make payments. As of September 30, 2009, PBGC had a net deficit of 869 million. In 2010, PBGC will pay over $100 million to participants in 50 insolvent multiemployer plans. The number of insolvent multiemployer plans would grow significantly under the conditions enumerated in the proposal. After a number of years the good faith and credit of the US would back the PBGC. However, at some point the US cannot keep adding unlimited amounts of debt.

Is There a Tipping Point for Too Much US Debt?

According to a recent report by the IMF, the United States National debt will soon reach 100 percent of GDP. The sharp rise in national debt started in 2006 and by 2015 the IMF suggests it could exceed GDP. At the end of the first quarter of 2010, national debt was already 87.3 percent of GDP. Concerning the effect of soaring debt as a percentage of GDP, a recent paper by Carmen Reinhart and Ken Rogoff, the authors of This Time Its

Different found that when government debt-to-GDP rise above 90%, it lowers the future potential GDP of that country by more than 1%. It also locks in a slow-growth, high-unemployment economy. The authors point to history that shows that public debt tends to soar after a financial crisis, rising by an average of 86% in real terms. Defaults by sovereign entities often follow.

The current problems of Greece and Europe offer a current example of the problems a country faces when their debt gets out of control. When Greece joined the union, it misled the other members about its finances. After joining, the government continued to spend beyond its means. The current Greek debt is now €254 billion and their GDP is €250.9 billion. The Greek debt to GDP ratio is 101.2%, greater than Reinhart and Rogoff's threshold. According to various reports, Greece needs to finance another €64 billion this year, €30 billion of it in the next few months. The potential that Greece could fail is looming, as they are unlikely to be able to borrow all of this money.

Respected economists such as Paul Samuelson are also beginning to question whether the US will ultimately collapse from the weight of ever expanding levels of debt. In a recent article, he suggested that the unthinkable had become thinkable: some advanced society—say, the United States, Spain, Italy, Japan, or Great Britain—might someday default on its government debt. It wouldn't pay its creditors all they were owed or wouldn't pay them on time. Just a few days later, and completely coincidentally, the International Monetary Fund (IMF) issued a report that, without saying so, added credence to this unsettling hypothesis. The report, done by IMF staff economists, comes with the forbidding title "The State of Public Finances Cross-Country Fiscal Monitor: November 2009." And it isn't much fun to read, because it's full of tables, charts, and various ratios. But the central conclusions, buttressed strongly by all the statistics, are simple enough: the economic and financial crisis has dramatically increased the deficits and debt of most countries, and many wealthy countries are in worse shape than major developing nations.

Fairness and a Government Issued Blank Check to MPPs

By bailing out the plans, Congress would be compromising the remedial provisions of the Pension Protection Act of 2006. The Act requires underfunded pension plans to put their houses in order by raising retirement ages; increasing contributions by employers, workers, or both; and lowering benefits. A bailout would remove any incentive for multiemployer pension plans to reorganize their plans responsibly. A very important point in this debate is the fairness of one politically favored constituency, union workers and their pension plans, getting a tax payer funded windfall while the rest of workers in the US economy have to make do with either defined contribution, 401(k) plans or no pension at all.

QUESTIONS AND FACTS FOR EMPLOYEES CONSIDERATION

In view of the shaky financial conditions of many companies' defined benefit plans, employees should be asking specific questions about their companies' plan:

1. What type of pension plan is there? Is it a traditional defined benefit pension, a cash balance plan, a defined contribution plan, or a retirement savings plan?
2. Is the pension in question underfunded? By how much is it underfunded? What does it mean to me if my pension is underfunded?
3. How are plan benefits calculated?
4. When and in what form are benefits paid. What types of options are available?

5. What are the financial consequences of retiring early? When can you start participating in the plan?
6. When do pension benefits become vested?[8]
7. What is the vesting period? Usually it is a certain number of years you must work before you are eligible to receive benefits (usually 1- 5 years).
8. How do you file for pension benefits?

The answers to these questions should be carefully considered before workers accept new employment opportunities.

SUMMARY

News stories about companies' pension problems abound in 2010. The combination of a weak economy and declining stock market has had a profoundly negative effect on companies' defined benefit pension plans. The Pension Protection Act of 2006 was passed to ensure minimum funding levels in pension plans. If funding levels fall below minimum levels, the plan must either increase funding or reduce benefits. Many companies have passed their failed or failing pension plan benefit liabilities to the Pension Benefit Guarantee Corporation. The unprecedented and ever increasing size of these failed pension obligations is raising serious concerns that benefits will have to be reduced further to avoid a collapse of this government sponsored program.

[8] According to one Union Pension Booklet, vesting required 5 credits. A credit was earned by working 1,000 hours in a year. Workers who worked less than 1,000 hours in a year would not receive a credit (even though sizeable pension payments may have been made). This may be particularly significant in the construction trades where seasonal restraints may combine with gaps between construction projects to reduce total hours worked to less than 1,000. It may take many more than 5 years to become vested. Moreover, if a worker started mid-year he or she might not receive a credit for that year. A second surprise from this booklet was the stipulation that a union member might forfeit his benefits if he (she) ever worked for a non-union company in that trade at any time in the future. This would include working for himself or herself in a non-union capacity. This could be severely limiting if the number of union companies in that trade in that geographical area was small, or if the worker happened to move to a community where there were few or no union companies in that trade.

A form 5500 database sponsored by freeERISA.com was examined to determine the financial health of a number of trade union defined benefit pension plans. Evidence was provided that virtually all of these plans (as adjusted for current market conditions) are in the red or critical zone, which may lead to significant cuts in benefits for retirees. As further evidence of the dire nature of companies' defined benefit pension plans, a large number of companies recently made an impassioned plea to Congress for financial assistance for their pension plans.[9]

Certain Policymakers in Washington have recently proposed the Protect Jobs and Save Pension Act of 2010. The stated objective of the bill is to rescue multiemployer pensions. Under this proposal, assets would be set aside by multiemployer plans to finance pension benefits for 5 years. For the following 5 years, the PBGC would fund these pensions placed in their custody. After that, the full faith and credit of the US would back the pensions. Besides the fact that the US is approaching post world war 2 high levels of debt to GDP, it does not make sense to rescue the defined benefit pension plans promised by union employers. Businesses are dropping defined benefit pension plans fast.

The number of companies offering traditional defined benefit pension plans was shrinking even before the recession, but the downturn has accelerated the decline. Since the beginning of the year, at least 20 companies have frozen their defined pension plans, exceeding the number of plan freezes for all of 2008. A recent survey by Watson Wyatt

[9] The AICPA and more than 300 other businesses and non-profit organizations sent letters to four House and Senate committees warning that the "drop in the value of pension plan assets coupled with the current credit crunch has placed defined benefit plan sponsors in an untenable position." The identical letters to the House Ways and Means Committee, Senate Finance Committee, House Education and Labor Committee and Senate Health, Education, Labor, and Pensions Committee urged lawmakers to modify pension plan funding rules to avoid increased unemployment and a slower economic recovery.

found that, for the first time, the majority of Fortune 100 companies are offering new salaried employees only one type of retirement plan: a 401(k) or similar "defined contribution" plan. Many other companies are no longer offering any pension benefits to their employees given competitive pressure. A very important point in this debate is the fairness of one politically favored constituency, union workers and their pension plans, getting a tax payer funded windfall while the rest of workers in the US economy have to make do with either defined contribution, 401(k) plans or no pension at all. Unions should consider following the example of most every business competing in the modern global economy. Defined benefit pension plans should be phased out in place of defined contribution plans. It seems clear that the economics of defined benefit plans are no longer sustainable. Therefore, for the US government to step and use taxpayer funds to keep them going cannot be supported on any grounds of fairness or appropriate government policy.

When workers consider new employment opportunities they should ask a number of important questions about their pension plans. What type of pension plan is there? Is it a traditional defined benefit pension, a retirement savings plan, or a defined contribution plan? When are pension benefits vested?

Due to the increasing troubles for defined benefit plans, there is a move toward defined contribution plans in the U.S. (DeGennaro and Murphy, 2004). Defined contribution plans frequently provide greater control and more flexibility for participants. For example, funds may be transferred from equities to bonds or even money markets when market conditions decline.

In today’s volatile stock market, having the ability to transfer investments between different types of funds can provide an enormous amount of protection for workers. Furthermore, there is no chance that benefits will be cut due to weak funding levels in the plan.

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