January 18, 2011

Filed *via* e-ORI@dol.gov

Thomas M. Hindmarch
Stephanie L. Ward
Office of Regulations and Interpretations
Employee Benefits Security Administration
U.S. Department of Labor
Washington, D.C. 20210

Re: Annual Funding Notice for Defined Benefit Plans
RIN 1210-AB18

Dear Mr. Hindmarch and Ms. Ward:

AARP appreciates the opportunity to comment on the proposed annual funding notice for defined benefit plans. AARP and its members have a substantial interest in ensuring that participants and beneficiaries receive timely, accurate, and informative disclosures from their pension plans to help them understand how the plan operates, make informed decisions concerning their careers, and to prepare themselves for retirement.[1]

A major purpose of ERISA's enactment was to remedy "the lack of employee information and adequate safeguards concerning" the operation of employee benefit plans by requiring that "disclosure be made … with respect to the establishment, operation, and administration of such plans…." ERISA §2(a), 29 U.S.C. §1001(a). Reporting and disclosure is at the heart of the statute and is

[1] AARP is a non-partisan, non-profit organization dedicated to representing the needs and interests of people age fifty and older. Nearly half of AARP's members are employed full- or part-time, with many working for employers which provide pension and welfare plans covered by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001 *et seq*.

critical to its implementation and enforcement. The changes made by ERISA and the Pension Protection Act have resulted in better plan communication to participants.

## I. BACKGROUND

The Pension Protection Act made sweeping changes to the pension funding rules for single employer and multi-employer plans. It created new provisions for underfunded multiemployer plans and separates them into four categories: (1) plans that are less than 65 percent funded are critical "red zone" plans in need of reorganization;[2] (2).plans between 65 percent and 80 percent funded or that have an accumulated funding deficiency (the credit balance has been exhausted) or is expected to have a deficiency in any of the next six plan years (taking into consideration any amortization extensions are endangered "yellow zone" plans in immediate financial danger; (3) plans that meet both of the yellow zone criteria are seriously endangered "orange zone" plans; and (4) if the plan is funded over 80 percent it is a "green zone" plan. In contrast, single employer plans are separated into two categories – "at risk" and not "at risk." With these changes to the funding rules, Congress also enacted enhanced disclosure requirements requiring an annual notice informing participants and others of the funding status of the plan.

## II. THE MODEL NOTICES

We commend the Department for proposing model forms which plans and their sponsors may use to comply with the regulation. Although we acknowledge that the subject matter of these notices can be complicated, AARP suggests that the form itself can be revised to make it more understandable and accessible to participants. Our suggestions are consistent with the Plain Writing Act of 2010 (H.R. 946).

Through a program on Microsoft Word to test their readability, AARP subjected both notices to the Passive Sentences Readability test, the Flesch Reading Ease Test and the Flesch-Kincaid Grade Level Test. We not only tested the whole document, but tested each paragraph. We have attached to our comments the notices with the test results. See Exhibit 1.

The Passive Sentences Readability score provides the ratio of passive sentences over active sentences. The score is expressed as a percentage of passive sentences found in a text. The fewer passive sentences, the more

[2] A plan can also be considered in a "red zone" plan if it meets other criteria.

readable the document is; thus, a low passive sentence ratio makes for better readability.

The Flesch Reading Ease test is considered one of the oldest and most accurate readability formulas to assess the difficulty of a reading passage written in English. The following table is also helpful to assess the ease of readability in a document:

| **SCORE** | **RATING** |
|---|---|
| 90-100 | Very Easy |
| 80-89 | Easy |
| 70-79 | Fairly Easy |
| 60-69 | Standard |
| 50-59 | Fairly Difficult |
| 30-49 | Difficult |
| 0-29 | Very Confusing |

The higher the score, the more readable the document. For example, scores between 90.0 and 100.0 are considered easily understandable by an average 5th grader; scores between 60.0 and 70.0 are considered easily understood by 8th and 9th graders; and scores between 0.0 and 30.0 are considered easily understood by college graduates. A score between 60 and 70 is generally considered acceptable.

A corollary to the Flesch Reading Ease test is the Flesch-Kincaid Grade Level score. The Flesch-Kincaid test analyzes and rates text on a U.S. grade-school level based on the average number of syllables per word and words per sentence. For example, a score of 8.0 means that an eighth grader would understand the text. Given that the standard writing average is at the seventh to eighth grade level, a Flesch-Kincaid score between 7.0 and 8.0 is preferable to ensure readability by a large number of people.

The Single-Employer Plan Annual Funding notice tested as follows:

| | |
|---|---|
| Passive Sentences | 34% |
| Flesch Reading Ease | 40.4% |
| Flesch-Kincaid Grade Level | 13.3 |

The Multiemployer Plan Annual Funding notice tested as follows:

| | |
|---|---|
| Passive Sentences | 31% |
| Flesch Reading Ease | 32.1% |
| Flesch-Kincaid Grade Level | 14.6 |

Both documents are well below the suggested readability scores. Both documents scored in the difficult to read range (Flesch Reading Ease score of 40.4% & 32.1% v. 60-70 % as standard). And, the Flesch-Kincaid Grade Level score was above the senior year of high school (13.3 & 14.6 v. 7-8 grade level as standard).

One method to simplify both notices is to require a single sentence under the section "How Well Funded Is Your Plan" which states the answer to that question. For the single-employer plan funding notice, using the language of the funding rules, the sentence could state:

The XYZ Pension plan is not "at risk" or is "at risk."
(choose one)

For the multiemployer plan funding notice, using the language of the funding rules, the sentence could state:

The ABC Multiemployer Pension Plan
is a "green, yellow, orange or red" zone plan.
(choose one)

Alternatively, for either type of plan, the notice could state simply that the plan is adequately funded or is not adequately funded.

## III. COMMENTS ON SPECIFIC SECTIONS OF PROPOSED REGULATION

### A. Persons Entitled to Notice

AARP suggests that the proposed regulation specifically state that alternate payees be included in the definition of a person entitled to receive a funding notice. We have received inquiries from members who have been unable to obtain information from a plan because the plan did not consider them a participant or a beneficiary.

### B. Demographic Information

AARP believes that it will be helpful to labor organizations and contributing employers to have access to information concerning the last three years of demographic information. If the number of participants is increasing or decreasing, that will put the health of the plan into better perspective.

## CONCLUSION

AARP appreciates having the opportunity to provide its views on the annual funding notice for defined benefit plans. If you have any questions, please do not hesitate to contact Thomas Nicholls at 202/434-3760 or Mary Ellen Signorille at 202/434-2072.

Sincerely,

David Certner
Legislative Counsel and
Director of Legislative Policy
Government Relations and Advocacy

**EXHIBIT 1**

## DEFINITIONS OF KEY TERMS

The Passive Sentences Readability score provides the ratio of passive sentences over active sentences. The score is expressed as a percentage of passive sentences found in a text. A low passive sentence ratio makes for better readability.

The Flesch Reading Ease test assesses the difficulty of a reading passage written in English. The higher the score, the more readable the document. A score between 60 and 70 is generally considered acceptable.

The Flesch-Kincaid Grade Level test analyzes and rates text on a U.S. grade-school level based on the average number of syllables per word and words per sentence. For example, a score of 8.0 means that an eighth grader would understand the text. A Flesch-Kincaid score between 7.0 and 8.0 is preferable to ensure readability by a large number of people.

## Exhibit 1-A: Single-Employer Plans, Annual Funding Notice

Reading Scores of Single-Employer Plans Annual Funding Notice (whole document)

| Test | Score | Preferred Score |
|---|---|---|
| Passive Sentences | 34% | Low |
| Flesch Reading Ease | 40.4% | 60-70 |
| Flesch-Kincaid Grade Level | 13.3 | 7-8 |

APPENDIX A TO §2520.101-5-- SINGLE-EMPLOYER PLANS

ANNUAL FUNDING NOTICE

Introduction

This notice includes important information about the funding status of your pension plan ("the Plan") and general information about the benefit payments guaranteed by the Pension Benefit Guaranty Corporation ("PBGC"), a federal insurance agency. All traditional pension plans (called "defined benefit pension plans") must provide this notice every year regardless of their funding status. This notice does not mean that the Plan is terminating. It is provided for informational purposes and you are not required to respond in any way. This notice is for the plan year beginning 1/1/01 and ending 12/31/01 ("Plan Year").

Passive Sentences = 20%
FRE = 36.7
FKGL = 13.0

How Well Funded Is Your Plan

Under federal law, the plan must report how well it is funded by using a measure called the "funding target attainment percentage." This percentage is obtained by dividing the Plan's Net Plan Assets by Plan Liabilities on the Valuation Date for the plan year. In general, the higher the percentage, the better funded the plan. Your Plan's funding target attainment percentage for the Plan Year and each of the two preceding plan years is shown in the chart below, along with a statement of the value of the Plan's assets and liabilities for the same period.

PS = 75%
FRE = 52
FKGL = 11.9

| **Funding Target Attainment Percentage** | | | |
|---|---|---|---|
| | [insert Plan Year, e.g., 2011] | [insert plan year preceding Plan Year, e.g., 2010] | [insert plan year 2 years preceding Plan year, e.g., 2009] |
| 1. Valuation Date | [insert date] | [insert date] | [insert date] |
| 2. Plan Assets | | | |
| a. Total Plan Assets | [insert amount] | [insert amount] | [insert amount] |
| b. Funding Standard Carryover Balance | [insert amount] | [insert amount] | [insert amount] |
| c. Prefunding Balance | [insert amount] | [insert amount] | [insert amount] |
| d. Net Plan Assets (a) - (b) - (c) = (d) | [insert amount] | [insert amount] | [insert amount] |
| 3. Plan Liabilities | [insert amount] | [insert amount] | [insert amount] |
| 4. At-Risk Liabilities | [insert amount] | [insert amount] | [insert amount] |
| **5. Funding Target Attainment Percentage (2d)/(3)** | **[insert percentage]** | **[insert percentage]** | **[insert percentage]** |

Plan Assets and Credit Balances

Total Plan Assets is the value of the Plan's assets on the Valuation Date (see line 2 in the chart above). Credit balances were subtracted from Total Plan Assets to determine Net Plan Assets (line 2 d) used in the calculation of the funding target attainment percentage shown in the chart above. While pension plans are permitted to maintain credit balances (also called "funding standard carryover balances" or "prefunding balances" see 2 b & c in the chart above) for funding purposes, they may not be taken into account when calculating a plan's funding target attainment percentage. A plan might have a credit balance, for example, if in a prior year an employer made contributions to the plan above the minimum level required by law. Generally, the excess contributions are counted as "credits" and may be applied in future years toward the minimum level of contributions a plan sponsor is required to make by law.

PS = 20%
FRE = 42.0
FKGL = 15.0

## Plan Liabilities

Plan Liabilities shown in line 3 of the chart above are the liabilities used to determine the Plan's Funding Target Attainment Percentage. This figure is an estimate of the amount of assets the Plan needs on the Valuation Date to pay for promised benefits under the plan.

PS = 6%
FRE = 47.9
FKGL = 12.4

## At-Risk Liabilities

If a plan's funding target attainment percentage for the prior plan year is below a specified legal threshold, the plan is considered under law to be in "at-risk" status. This means that the plan is required to use actuarial assumptions that result in a higher value of plan liabilities and, as a consequence, requires the employer to contribute more money to the plan. For example, plans in "at-risk" status are required to assume that all workers eligible to retire in the next 10 years will do so as soon as they can, and that they will take their distribution in whatever form would create the highest cost to the plan, without regard to whether those workers actually do so. The additional funding that results from "at-risk" status may then remove the plan from this status. The Plan has been determined to be in "at-risk" status in 2001. The increased liabilities to the Plan as a result of being in "at-risk" status are reflected in the At-Risk Liabilities row in the chart above.

PS = 33%
FRE = 46.4
FKGL = 13.9

## Year-End Assets and Liabilities

The asset values in the chart above are measured as of the first day of the Plan Year and are actuarial values. Because market values can fluctuate daily based on factors in the marketplace, such as changes in the stock market, pension law allows plans to use actuarial values that are designed to smooth out those fluctuations for funding purposes. The asset values below are market values and are measured as of the last day of the plan year. Market values tend to show a clearer picture of a plan's funded status as of a given point in time. As of 1/1/01, the fair market value of the Plan's assets was $1. On this same date, the Plan's liabilities were $1.

PS = 44%
FRE = 69.2
FKGL = 8.1

The asset values in the chart above are measured as of the first day of the Plan Year. As of 1/1/01, the fair market value of the Plan's assets was $1. On this same date, the Plan's liabilities were $1.

## Participant Information

The total number of participants in the Plan as of the Plan's valuation date was 100. Of this number, 20 were active participants, 20 were retired or separated from service and receiving benefits, and 20 were retired or separated from service and entitled to future benefits.

PS = 0%
FRE = 30.8
FKGL = 14.6

## Funding & Investment Policies

Every pension plan must have a procedure for establishing a funding policy to carry out plan objectives. A funding policy relates to the level of assets needed to pay for promised benefits. The funding policy of the Plan is the summary statement of the Plan's funding policy.

Once money is contributed to the Plan, the money is invested by plan officials, called fiduciaries, who make specific investments in accordance with the Plan's investment policy. Generally speaking, an investment policy is a written statement that provides the fiduciaries who are responsible for plan investments with guidelines or general instructions concerning investment management decisions. The investment policy of the Plan is the summary statement of the Plan's investment policy.

Under the Plan's investment policy, the Plan's assets were allocated among the following categories of investments, as of the end of the Plan Year. These allocations are percentages of total assets:

PS = 25%
FRE = 24.8
FKGL = 15.3

| **Asset Allocations** | **Percentage** |
|---|---|
| 1. Cash (interest bearing and non-interest bearing) | ______ |
| 2. U.S. Government securities | ______ |
| 3. Corporate debt instruments (other than employer securities): | |
| Preferred | ______ |
| All other | ______ |
| 4. Corporate stocks (other than employer securities): | |
| Preferred | ______ |
| Common | ______ |
| 5. Partnership/joint venture interests | ______ |
| 6. Real estate (other than employer real property) | ______ |
| 7. Loans (other than to participants) | ______ |
| 8. Participant loans | ______ |
| 9. Value of interest in common/collective trusts | ______ |
| 10. Value of interest in pooled separate accounts | ______ |
| 11. Value of interest in master trust investment accounts | ______ |
| 12. Value of interest in 103-12 investment entities | ______ |
| 13. Value of interest in registered investment companies (e.g., mutual funds) | ______ |
| 14. Value of funds held in insurance co. general account (unallocated contracts) | ______ |

| | |
|---|---|
| 15. Employer-related investments: | |
| Employer Securities | ______ |
| Employer real property | ______ |
| 16. Buildings and other property used in plan operation | ______ |
| 17. Other | ______ |

For information about the plan's investment in any of the following types of investments as described in the chart above - common/collective trusts, pooled separate accounts, master trust investment accounts, or 103-12 investment entities - contact Mary Ellen Signorille.

## Events Having a Material Effect on Assets or Liabilities

Federal law requires the plan administrator to provide in this notice a written explanation of events, taking effect in the current plan year, which are expected to have a material effect on plan liabilities or assets. Material effect events are occurrences that tend to have a significant impact on a plan's funding condition. An event is material if it, for example, is expected to increase or decrease Total Plan Assets or Plan Liabilities by five percent or more. For the plan year beginning on 1/1/01 and ending on 12/31/01, the following events are expected to have such an effect:

PS=66%
FRE=31.8
FKGL=15.2

1. Event One
2. Event Two

## Right to Request a Copy of the Annual Report

A pension plan is required to file with the US Department of Labor an annual report called the Form 5500 that contains financial and other information about the plan. Copies of the annual report are available from the US Department of Labor, Employee Benefits Security Administration's Public Disclosure Room at 200 Constitution Avenue, NW, Room N-1513, Washington, DC 20210, or by calling 202.693.8673. For 2009 and subsequent plan years, you may obtain an electronic copy of the plan's annual report by going to www.efast.dol.gov and using the Form 5500 search function. Or you may obtain a copy of the Plan's annual report by making a written request to the plan administrator. Individual information, such as the amount of your accrued benefit under the plan, is not contained in the annual report. If you are seeking information regarding your benefits under the plan, contact the plan administrator identified below under "Where To Get More Information."

PS=0%
FRE=20.3
FKGL=16.7

## Summary of Rules Governing Termination of Single-Employer Plans

If a plan is terminated, there are specific termination rules that must be followed under federal law. A summary of these rules follows.

There are two ways an employer can terminate its pension plan. First, the employer can end the plan in a "standard termination" but only after showing the PBGC that the plan has enough money to pay all benefits owed to participants. Under a standard termination, the plan must either purchase an annuity from an insurance company (which will provide you with periodic retirement benefits, such as monthly, for life or

PS=30%
FRE=45.1
FKGL=12.6

for a set period of time when you retire) or, if your plan allows, issue one lump-sum payment that covers your entire benefit. Your plan administrator must give you advance notice that identifies the insurance company (or companies) that your employer may select to provide the annuity. The PBGC's guarantee ends when your employer purchases your annuity or gives you the lump-sum payment.

Second, if the plan is not fully-funded, the employer may apply for a distress termination. To do so, however, the employer must be in financial distress and prove to a bankruptcy court or to the PBGC that the employer cannot remain in business unless the plan is terminated. If the application is granted, the PBGC will take over the plan as trustee and pay plan benefits, up to the legal limits, using plan assets and PBGC guarantee funds.

Under certain circumstances, the PBGC may take action on its own to end a pension plan. Most terminations initiated by the PBGC occur when the PBGC determines that plan termination is needed to protect the interests of plan participants or of the PBGC insurance program. The PBGC can do so if, for example, a plan does not have enough money to pay benefits currently due.

<u>Benefit Payments Guaranteed by the PBGC</u>

When the PBGC takes over a plan, it pays pension benefits through its insurance program. Only benefits that you have earned a right to receive and that cannot be forfeited (called vested benefits) are guaranteed. Most participants and beneficiaries receive all of the pension benefits they would have received under their plan, but some people may lose certain benefits that are not guaranteed.

PS=57%
FRE=41.7
FKGL=12.5

The amount of benefits that PBGC guarantees is determined as of the plan termination date. However, if a plan terminates during a plan sponsor's bankruptcy and the bankruptcy proceeding began on or after September 16, 2006, then the amount guaranteed is determined as of the date the sponsor entered bankruptcy.

The PBGC maximum benefit guarantee is set by law and is updated each calendar year. For a plan with a termination date or sponsor bankruptcy date, as applicable in 1/1/01, the maximum guarantee is $1 per month, or $2 per year, for a benefit paid to a 65-year-old retiree with no survivor benefit. If a plan terminates during a plan sponsor's bankruptcy, and the bankruptcy proceeding began on or after September 16, 2006, the maximum guarantee is fixed as of the calendar year in which the sponsor entered bankruptcy. The maximum guarantee is lower for an individual who begins receiving benefits from PBGC before age 65; the maximum guarantee by age can be found on PBGC's website, www.pbgc.gov. The guaranteed amount is also reduced if a benefit will be provided to a survivor of the plan participant.

The PBGC guarantees "basic benefits" earned before a plan is terminated, which includes:

- pension benefits at normal retirement age;

- most early retirement benefits;
- annuity benefits for survivors of plan participants; and
- disability benefits for a disability that occurred before the date the plan terminated or the date the sponsor entered bankruptcy, as applicable.

The PBGC does not guarantee certain types of benefits]:

- The PBGC does not guarantee benefits for which you do not have a vested right, usually because you have not worked enough years for the company.
- The PBGC does not guarantee benefits for which you have not met all age, service, or other requirements.
- Benefit increases and new benefits that have been in place for less than one year are not guaranteed. Those that have been in place for less than five years are only partly guaranteed.
- Early retirement payments that are greater than payments at normal retirement age may not be guaranteed. For example, a supplemental benefit that stops when you become eligible for Social Security may not be guaranteed.
- Benefits other than pension benefits, such as health insurance, life insurance, death benefits, vacation pay, or severance pay, are not guaranteed.
- The PBGC generally does not pay lump sums exceeding $5,000.

In some circumstances, participants and beneficiaries still may receive some benefits that are not guaranteed. This depends on how much money the terminated plan has and how much the PBGC recovers from employers for plan underfunding.

## Corporate and Actuarial Information on File with PBGC

A plan sponsor must provide the PBGC with financial information about itself and actuarial information about the plan under certain circumstances, such as when the funding target attainment percentage of the plan (or any other pension plan sponsored by a member of the sponsor's controlled group) falls below 80 percent (other triggers may also apply). The sponsor of the Plan and members of its controlled group, if any, were subject to this requirement to provide corporate financial information and plan actuarial information to the PBGC. The PBGC uses this information for oversight and monitoring purposes.

PS = 0%
FRE = 22.4
FKGL = 18

## Where to Get More Information

For more information about this notice, you may contact Mary Ellen Signorille at (202) 434-2072. For identification purposes, the official plan number is 001 and the plan sponsor's name and employer identification number or "EIN" is 00000000001. For more information about the PBGC, go to PBGC's website, www.pbgc.gov.

PS = 0%
FRE = 3.7
FKGL = 16.7

## Exhibit 1-B: Multi-Employer Plans, Annual Funding Notice

Reading Scores of Multi-Employer Plans Annual Funding Notice (whole document)

| Test | Score | Preferred Score |
|---|---|---|
| Passive Sentences | 31% | Low |
| Flesch Reading Ease | 32.1% | 60-70 |
| Flesch-Kincaid Grade Level | 14.6 | 7-8 |

## APPENDIX B TO §2520.101-5--MULTIEMPLOYER PLANS

ANNUAL FUNDING NOTICE

Introduction

This notice includes important information about the funding status of your pension plan ("the Plan") and general information about the benefit payments guaranteed by the Pension Benefit Guaranty Corporation ("PBGC"), a federal insurance agency. All traditional pension plans (called "defined benefit pension plans") must provide this notice every year regardless of their funding status. This notice does not mean that the Plan is terminating. It is provided for informational purposes and you are not required to respond in any way. This notice is for the plan year beginning 1/1/01 and ending 12/31/01 ("Plan Year").

PS=20%
FRE=36.7
FKGL=13.0

**How Well Funded Is Your Plan**

Under federal law, the plan must report how well it is funded by using a measure called the "funded percentage." This percentage is obtained by dividing the Plan's assets by its liabilities on the Valuation Date for the plan year. In general, the higher the percentage, the better funded the plan. Your Plan's funded percentage for the Plan Year and each of the two preceding plan years is set forth in the chart below, along with a statement of the value of the Plan's assets and liabilities for the same period.

PS=50%
FRE=52.3
FKGL=11.0

| **Funded Percentage** | | | |
|---|---|---|---|
| | [insert Plan Year, e.g., 2011] | [insert plan year preceding Plan Year, e.g., 2010] | [insert plan year 2 years preceding Plan Year, e.g., 2009] |
| Valuation Date | [insert date] | [insert date] | [insert date] |
| Funded Percentage | [insert percentage] | [insert percentage] | [insert percentage] |
| Value of Assets | [insert amount] | [insert amount] | [insert amount] |
| Value of Liabilities | [insert amount] | [insert amount] | [insert amount] |

Year-End Fair Market Value of Assets

The asset values in the chart above are measured as of the Valuation Date for the plan year and are actuarial values. Because market values can fluctuate daily based on factors in the marketplace, such as changes in the stock market, pension law allows plans to use actuarial values that are designed to smooth out those fluctuations for funding purposes. The asset values below are market values and are measured as of the last day of the plan year, rather than as of the Valuation Date. Substituting the market value of assets for the actuarial value used in the above chart would show a clearer

PS=75%
FRE=50.5
FKGL=13.4

picture of a plan's funded status as of the Valuation Date. The fair market value of the Plan's assets as of the last day of the Plan Year and each of the two preceding plan years is shown in the following table:

| | [insert last day of Plan Year, e.g., 2011] | [insert last day of plan year preceding Plan Year, e.g., 2010] | [insert last day of plan year 2 years preceding Plan Year, e.g., 2009] |
|---|---|---|---|
| Fair Market Value of Assets | [insert amount] | [insert amount] | [insert amount] |

## Critical or Endangered Status

Under federal pension law a plan generally will be considered to be in "endangered" status if, at the beginning of the plan year, the funded percentage of the plan is less than 80 percent or in "critical" status if the percentage is less than 65 percent (other factors may also apply). If a pension plan enters endangered status, the trustees of the plan are required to adopt a funding improvement plan. Similarly, if a pension plan enters critical status, the trustees of the plan are required to adopt a rehabilitation plan. Rehabilitation and funding improvement plans establish steps and benchmarks for pension plans to improve their funding status over a specified period of time.

PS=22%
FRE=36.9
FKGL=14.2

The Plan was not in endangered or critical status in the Plan Year.

The Plan was in "endangered" status in the Plan Year ending 12/31/01 because of statutory factors. In an effort to improve the Plan's funding situation, the trustees adopted an *improvement plan*. You may obtain a copy of the Plan's funding improvement or rehabilitation plan and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement by contacting the plan administrator.
If the Plan is in endangered or critical status for the plan year ending 12/31/01, separate notification of that status has or will be provided.

## Participant Information

The total number of participants in the Plan as of the Plan's valuation date was 100. Of this number, 20 were active participants, 20 were retired or separated from service and receiving benefits, and 20 were retired or separated from service and entitled to future benefits.

PS=0%
FRE=36.8
FKGL=14.6

## Funding & Investment Policies

Every pension plan must have a procedure for establishing a funding policy to carry out plan objectives. A funding policy relates to the level of assets needed to pay for benefits promised under the plan currently and over the years. The funding policy of the Plan is the Plan's funding policy.

PS=28%
FRE=32.1
FKGL=13.7

Once money is contributed to the Plan, the money is invested by plan officials called fiduciaries, who make specific investments in accordance with the Plan's investment policy. Generally speaking, an investment policy is a written statement that provides the fiduciaries who are responsible for plan investments with guidelines or general instructions concerning investment management decisions. The investment policy of the Plan is the Plan's investment policy.

Under the Plan's investment policy, the Plan's assets were allocated among the following categories of investments, as of the end of the Plan Year. These allocations are percentages of total assets:

| Asset Allocations | Percentage |
|---|---|
| 1. Cash (Interest bearing and non-interest bearing) | |
| 2. U.S. Government securities | |
| 3. Corporate debt instruments (other than employer securities): | |
| Preferred | |
| All other | |
| 4. Corporate stocks (other than employer securities): | |
| Preferred | |
| Common | |
| 5. Partnership/joint venture interests | |
| 6. Real estate (other than employer real property) | |
| 7. Loans (other than to participants) | |
| 8. Participant loans | |
| 9. Value of interest in common/collective trusts | |
| 10. Value of interest in pooled separate accounts | |
| 11. Value of interest in master trust investment accounts | |
| 12. Value of interest in 103-12 investment entities | |
| 13. Value of interest in registered investment companies (e.g., mutual funds) | |
| 14. Value of funds held in insurance co. general account (unallocated contracts) | |
| 15. Employer-related investments: | |
| Employer Securities | |
| Employer real property | |
| 16. Buildings and other property used in plan operation | |
| 17. Other | |

For information about the plan's investment in any of the following types of investments as described in the chart above - common/collective trusts, pooled separate accounts, master trust investment accounts, or 103-12 investment entities - contact Mary Ellen Signorille

## Events Having a Material Effect on Assets or Liabilities

Federal law requires the plan administrator to provide in this notice a written explanation of events, taking effect in the current plan year, which are expected to have a material effect on plan liabilities or assets. Material effect events are occurrences that tend to have a significant impact on a plan's funding condition. An event is material if it, for example, is expected to increase or decrease Total Plan Assets or Plan Liabilities by

PS=66%
FRE=31.8
FKGL=15.2

five percent or more. For the plan year beginning on 1/1/01and ending on 12/31/01, the following events are expected to have such an effect:

1. Effect One
2. Effect Two

Right to Request a Copy of the Annual Report

A pension plan is required to file with the US Department of Labor an annual report called the Form 5500 that contains financial and other information about the plan. Copies of the annual report are available from the US Department of Labor, Employee Benefits Security Administration's Public Disclosure Room at 200 Constitution Avenue, NW, Room N-1513, Washington, DC 20210, or by calling 202.693.8673. For 2009 and subsequent plan years, you may obtain an electronic copy of the plan's annual report by going to www.efast.dol.gov and using the Form 5500 search function. Or you may obtain a copy of the Plan's annual report by making a written request to the plan administrator. Individual information, such as the amount of your accrued benefit under the plan, is not contained in the annual report. If you are seeking information regarding your benefits under the plan, contact the plan administrator identified below under "Where To Get More Information."

PS = 0%
FRE = 20.3
FKGL = 16.7

Summary of Rules Governing Plans in Reorganization and Insolvent Plans

Federal law has a number of special rules that apply to financially troubled multiemployer plans. The plan administrator is required by law to include a summary of these rules in the annual funding notice. Under so-called "plan reorganization rules," a plan with adverse financial experience may need to increase required contributions and may, under certain circumstances, 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 plan is required to furnish this notification to each contributing employer and the labor organization.

Despite these special plan reorganization rules, a plan in reorganization could become insolvent. A plan is insolvent for a plan year if its available financial resources are not sufficient to pay benefits when due for that plan year. An insolvent plan must reduce benefit payments to the highest level that can be paid from the plan's available resources. If such resources are not enough to pay benefits at the level specified by law (see Benefit Payments Guaranteed by the PBGC, below), the plan must apply to the PBGC for financial assistance. The PBGC will loan the plan the amount necessary to pay benefits at the guaranteed level. Reduced benefits may be restored if the plan's financial condition improves.

PS = 42%
FRE = 34.9
FKGL = 14.0

A plan that becomes insolvent must provide prompt notice of its status to participants and beneficiaries, contributing employers, labor unions representing participants, and

PBGC. In addition, participants and beneficiaries also must receive information regarding whether, and how, their benefits will be reduced or affected, including loss of a lump sum option. This information will be provided for each year the plan is insolvent.

## Benefit Payments Guaranteed by the PBGC

The maximum benefit that the PBGC guarantees is set by law. Only benefits that you have earned a right to receive and that can not be forfeited (called vested benefits) are guaranteed. Specifically, the PBGC guarantees a monthly benefit payment equal to 100 percent of the first $11 of the Plan's monthly benefit accrual rate, plus 75 percent 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.

PS=38%
FRE=20.5
FKGL=17.1

*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 x $33), or $35.75. Thus, the participant's guaranteed monthly benefit is $357.50 ($35.75 x 10).

*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 $17.75. Thus, the participant's guaranteed monthly benefit would be $177.50 ($17.75 x 10).

The PBGC guarantees pension benefits payable at normal retirement age and some early retirement benefits. 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 (or benefits that were in effect for less than 60 months at the time of termination or insolvency). Similarly, the PBGC does not guarantee pre-retirement death benefits to a spouse or beneficiary (e.g., a qualified pre-retirement survivor annuity) 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.

## Where to Get More Information

For more information about this notice, you may contact Mary Ellen Signorille at (202) 434-2072. For identification purposes, the official plan number is 00001 and the plan sponsor's name and employer identification number or "EIN" is 000000001. For more information about the PBGC, go to PBGC's website, www.pbgc.gov.

PS=0%
FRE=3.7
FKGL=16.7