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Report to the Congress

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PENSION PLANS

1980 Multiemployer Pension Amendments: Overview of Effects and Issues

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Comptroller General
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To the President of the Senate and the
Speaker of the House of Representatives

The Multiemployer Pension Plan Amendments Act of 1980 made major changes in the way the federal government insures and regulates private pension plans covering employees of more than one employer. GAO, in a series of seven reports, provided information on the initial effects of the act. To provide a framework for deliberating future proposals affecting the multiemployer pension plan system, this report consolidates the information contained in the prior reports and highlights important evolving issues that GAO believes could put the insurance program in jeopardy.

Copies of this report are being sent to the Director, Office of Management and Budget; the Secretaries of Labor and the Treasury; the Board of Directors and Executive Director of the Pension Benefit Guaranty Corporation; and other interested parties.

Charles A. Bowsher
Comptroller General
of the United States

Executive Summary

The Multiemployer Pension Plan Amendments Act of 1980 (MPPAA) made major changes in the way the federal government insures and regulates private pension plans covering employees of more than one employer. The Congress enacted the changes because of indications that, without them, the federal insurance program could incur billions of dollars in losses, and over a million plan participants could lose their benefits.

This report summarizes information from a series of previously issued GAO reports on MPPAA's initial effects and highlights important evolving issues that GAO believes could put the program in jeopardy.

Background

Before MPPAA, the pension plan insurance program established under the Employee Retirement Income Security Act of 1974 (ERISA) guaranteed within limits those participant benefits not funded by plan assets (unfunded) when a plan terminated. Employers who contributed to the plan had a limited liability for unfunded benefits. Amounts not recovered from employers were to be financed from annual premiums paid to the program by ongoing plans.

To strengthen the program, MPPAA limited the circumstances under which the program could assist plans in paying guaranteed benefits and raised the premium rate to generate revenues for providing such assistance.

To strengthen the plans' financing and protect the program, MPPAA (1) increased employer contribution requirements to help ensure that plans accumulated enough assets to pay for unfunded benefits, and (2) made employers, unless relieved by special provisions, liable for their share of unfunded plan benefits when they withdrew from the plans. The latter served to discourage withdrawals and the shifting of liabilities to the program.

GAO's assessment is primarily based on data collected directly from a random sample of 149 of the 1,276 larger plans (100 or more participants) administered in a study area of 14 states and the District of Columbia. The 3.5 million participants in the 149 plans accounted for about 56 percent of those in the 1,276 plans and 42 percent of those in larger plans nationwide. (See app. I.)

Results in Brief

Overall, between 1980 and 1984, MPPAA has had a positive impact on protecting plan participants' benefits and improving the financial condition of the government's insurance program. This was achieved without a significant cost to employers, plan participants, or the government. Accordingly, GAO sees no need, at this time, for major changes to the act's provisions. (See ch. 1.)

Although not enough time has elapsed to determine MPPAA's long-term impact, GAO sees several possible causes for concern: (1) MPPAA's requirements may not be enough to protect the program's continuing financial viability, and (2) employer reaction to the withdrawal liability provisions may have a greater unfavorable effect than initially on employees' pension coverage and benefits. In addition, a continued decline in the plans' contribution bases (working participants who generate plan revenue to pay for both their and retirees' unfunded benefits) could put the plans and program in jeopardy. However, adequate data may not be available to assist the Congress and others in deciding on the need for policy changes and what form they should take. (See ch. 2.)

Principal Findings

Initial Benefits and Costs

At MPPAA's enactment in 1980, the insurance program had an $8.5 million deficit, but 4 years later, a $17.2 million surplus. During the same period, the program's cash reserve increased from three times annual disbursements to seven times. Both improvements came about because the increase in premium rate generated more than enough revenue to pay program liabilities, while average disbursements remained relatively constant before and after the act went into effect.

MPPAA's provisions provided additional protection to the program without significant cost to most employers because:

- MPPAA's plan funding provisions required higher employer contributions than before for most plans (ultimately estimated at 5.5 percent for plans generally, if they continue to incur increases in unfunded benefits), and
- MPPAA's withdrawal liability provisions, as of mid-fiscal year 1983, resulted in about $260 million being potentially collectable from employers who withdrew from the 149 plans in GAO's sample. The act's special provisions, however, eliminated withdrawal liability for about 68 percent of the 3,853 employers withdrawing from sample plans with

unfunded benefits and reduced liability for another 12 percent. This represents a total of about $48 million in liabilities eliminated or reduced.

Employer reactions to MPPAA's withdrawal liability requirement contributed to:

- About 12 percent of 3.2 million participants receiving either no benefit increases after the act, although they had been given increases before, or smaller increases than previously given, according to officials of our sample plans, and
- Plan terminations increasing. Such terminations, however, affected less than 1 percent of total multiemployer plan participants nationwide, and most of those affected were to receive earned benefits and alternative coverage under other pension plans, officials of terminated plans told us. (See ch. 1.)

Evolving Issues

The program remains exposed to billions of dollars in potential losses from unfunded plan benefits ($3.7 billion from 14 financially distressed sample plans alone). Moreover, MPPAA's provisions may be inadequate to protect the program because collections of withdrawal liabilities from bankrupt employers may be limited. Also, distressed plan provisions may not identify all plans that are in financial distress or require those identified to improve their financing.

The act's withdrawal liability provisions, along with such other factors as changes in consumer demand, may cause new employers not to join the plans. If this happens, the plans' contribution bases (working participants) may decline, seriously weakening the plans' financial health. In addition, participants' benefits may be significantly affected by employers acting to slow or stop benefit improvements or to terminate plans to avoid withdrawal liability.

The outcome of these issues may have a significant adverse effect on the multiemployer pension system. However, it is doubtful whether data to formulate and implement policy changes will be available when needed because many of the types of data needed only can be obtained directly from individual plans. (See ch. 2.)

A Matter for Congressional Consideration

GAO asks the Congress to consider requiring the collection and analysis of data needed to assess issues that affect the multiemployer pension plan system. (See p. 26.)

Recommendations

GAO is making no new recommendations.

Agency Comments

The Pension Benefit Guaranty Corporation, which is responsible for administering the government's insurance program, provided oral comments, primarily of a technical nature, on matters discussed in the report, and GAO made changes where appropriate. (See p. 31.)

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Abbreviations

ERISA	Employee Retirement Income Security Act
GAO	General Accounting Office
IRS	Internal Revenue Service
MPPAA	Multiemployer Pension Plan Amendments Act of 1980
PBGC	Pension Benefit Guaranty Corporation

MPPAA's Initial Benefits and Costs

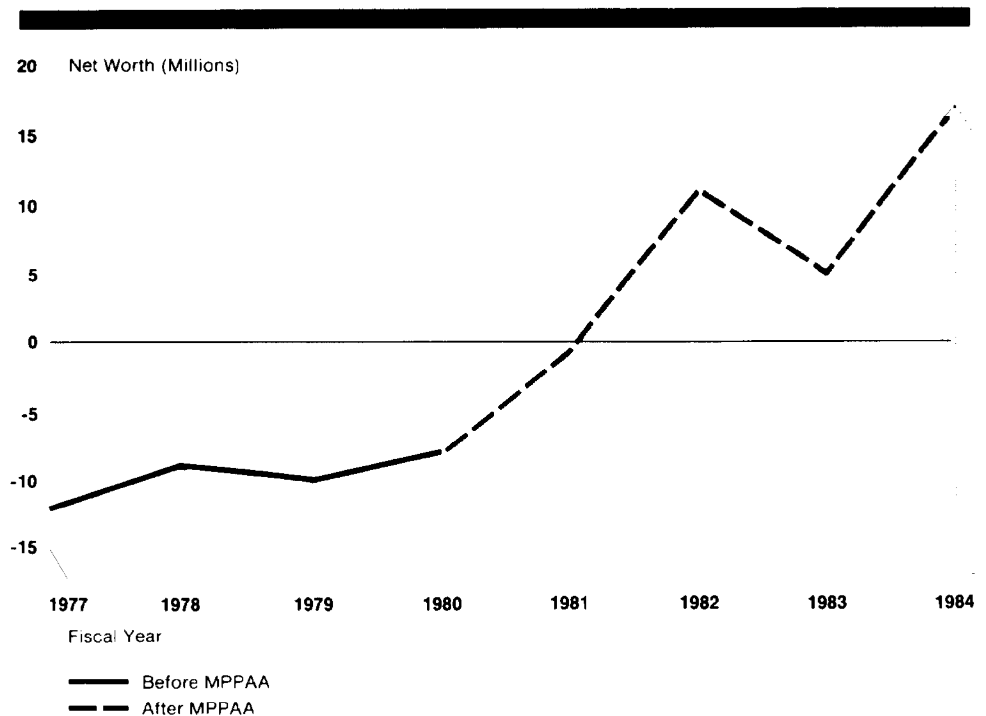
Insurance Program's Financial Condition Improved by MPPAA

A major objective of the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA) was to make financially self-sufficient the federal insurance program for multiemployer pension plans. The program is supported primarily by premiums paid by insured plans. To accomplish this objective, the act increased the insurance premium rate to generate additional revenue and limited program assistance to insolvent plans—those lacking enough assets to pay retired participants' benefits. (See app. I for a discussion of the plans, related federal legislation, and our study.)

Because the program's average annual costs (cash disbursements) and liabilities incurred before and after MPPAA were similar, the additional revenues generated by the increased premium rate resulted in a significant improvement in the program's financial condition. From a negative $8.5 million in 1980, the program's net worth rose to a positive $17.2 million 4 years later, as figure 1.1 shows.

The financial information we use in this subsection was provided by the Pension Benefit Guaranty Corporation (PBGC), the federal corporation established in 1974 to administer the program, and is unaudited (see pp. 30 and 31).

Figure 1.1: Changes in Multiemployer Insurance Program Net Worth (Assets Less Liabilities) (FY 1977 - FY 1984)



Program's Net Worth Went From a Negative $8.5 Million at MPPAA's Enactment in 1980 to a Positive $17.2 Million 4 Years Later.

Between MPPAA's enactment in September 1980 and September 30, 1984, the program's assets increased significantly from $21 million to almost $61 million. The program's cash reserve, including investments, on September 30, 1984, was 7 times the total of disbursements for participants' benefits and administrative costs made during fiscal year 1984 (compared to a cash reserve of 3 times disbursements during the fiscal year before MPPAA). This improvement resulted from program revenues increasing significantly while average disbursements remained relatively constant.

Average annual program revenues increased about 165 percent—from about $6.2 million during the 4 years before the act to about $16.3 million during the following 4 years. This was primarily caused by MPPAA's increase of 90 cents in the annual per capita premium rate (from 50 cents before MPPAA to $1.40 after) and the related investment return.

The cash disbursements to pay annual program administrative costs and guaranteed benefits averaged about $7 million for the 4 years before and after the act. Part of the disbursements after MPPAA were made as loans to insolvent plans. As of September 30, 1984, PBGC had loaned $2 million to two insolvent plans to help them pay pension benefits to their 9,104 retired participants. Because the loans saved the plans from potential termination, the 2,748 working participants in the two plans continued to have pension coverage.

The program's liabilities represent primarily the value of guaranteed benefits payable to participants of terminated or insolvent plans. As of September 30, 1984, the program had $22 million in liabilities accumulated before MPPAA and an additional $21.6 million after MPPAA. The post-MPPAA liabilities were accumulated primarily as a reserve for uncollectable future loans to five plans that are, or PBGC expects to become, insolvent by the end of fiscal year 1988. Under MPPAA, loans must be made regardless of their potential for repayment.

Withdrawal Liability: Mixed Results

MPPAA made an employer liable for its share of pension plan benefits not covered by assets when it stops participating in (withdraws from) a plan rather than when a plan terminates, unless the employer is exempt by special provisions. It was expected that this withdrawal liability would strengthen plan funding and reduce insurance costs by discouraging withdrawals from multiemployer plans and shifting potential plan liabilities from the insurance program to the withdrawing employers.

We reviewed the initial effects of these provisions on a sample of 149 multiemployer plans that were ongoing when MPPAA was enacted, and on the 66 plans that terminated during the 4 years after the act. The 149 plans represented less than 10 percent of the plans nationwide, but 42 percent of participants in such plans. We found that MPPAA objectives were accomplished at a cost to some, but not most, contributing employers and plan participants. Our assessment of the plans' financial records showed that MPPAA's provisions had, as of mid-fiscal year 1983, resulted in

- an estimated liability of $260 million being potentially collectable from employers who withdrew from the 149 sample plans,
- over 68 percent of the 3,853 employers withdrawing from the sample plans being relieved of about $48 million in withdrawal liability as intended by the act's special exemption provisions, and

- less than 1 percent of participants in multiemployer plans nationwide being affected by MPPAA-related plan terminations.

Further, plan officials told us that, in their opinion, MPPAA contributed to

- 12 percent of the 3.2 million participants in the sample plans receiving either no benefit increases after the act when they had been given increases before or receiving smaller increases than they previously had been given.

Plans' Financing Improved

The withdrawal liability provisions have provided opportunities for improving plans' financing. At the completion of our fieldwork in February 1983, 149 sample plans had calculated $260 million in liabilities for withdrawing employers. About $188 million of the amount had been assessed and initial payment was due.

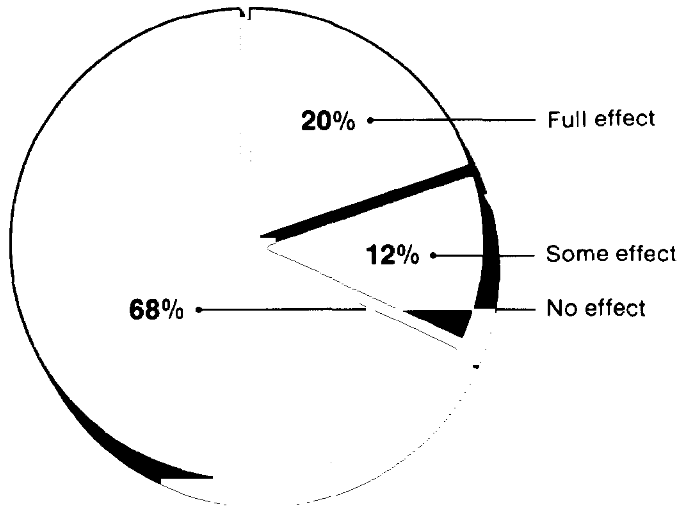
Although at that time how much of the liabilities could be collected had not been determined, sample plans were collecting over $6 million a year from 176 employers as partial payments of their liabilities. Another 35 employers had fully paid liabilities totaling $223,000. Individual liabilities for the 211 employers ranged from more than $1 million to less than $1,000. In addition to the partial payments, plans decided to accept lump sum settlements of about $3.5 million from 10 withdrawing employers for liabilities totaling about $6 million. These settlements generally involved the sale of a business or disagreements over the amount of liability assessed.

Most Withdrawing Employers Not Affected

MPPAA allows liability to be reduced or eliminated for those withdrawing employers that have provided a relatively small (de minimis) portion of a plan's total contributions. Further, special rules exempt employers contributing to construction industry plans, as well as those contributing to certain entertainment and trucking industry plans.

For most of the 3,853 employers withdrawing from the 149 plans at the time of our review, the liabilities for unfunded plan benefits were eliminated or reduced by the act's special exemption provisions, as figure 1.2 indicates. More than two-thirds of withdrawing employers were completely relieved of liability. Employers were relieved of liability for about $48 million of unfunded benefits that must be financed by other contributing employers or, if the plans become insolvent, by PBGC loans.

Figure 1.2: Effect of MPPAA's Withdrawal Liability Provisions Upon Employers (Sept. 1980 - Feb. 1983)



Special Provisions Completely Relieved More Than Two-Thirds of Withdrawing Employers From Liability.

Of the 3,853 withdrawing employers, 613 withdrew from construction plans covered by our plan sample. Of the 613, 604 (almost 99 percent) were completely relieved of liability by either the de minimis or special construction provisions. Of the 3,240 employers covered by all other sample plans, the de minimis provisions eliminated liability for 63 percent and reduced liability for another 14 percent. The remaining 23 percent of the 3,240 employers were assessed their full share of liability.

Some Participants' Benefits Unfavorably Affected

According to plan officials, employers' reaction to the withdrawal liability provisions had an unfavorable effect on some participants' benefits and caused an increase in plan terminations that affected a relatively small number of participants. Other reasons, such as business conditions, however, had a much greater effect—both favorable and unfavorable—on participants' benefits, as discussed below.

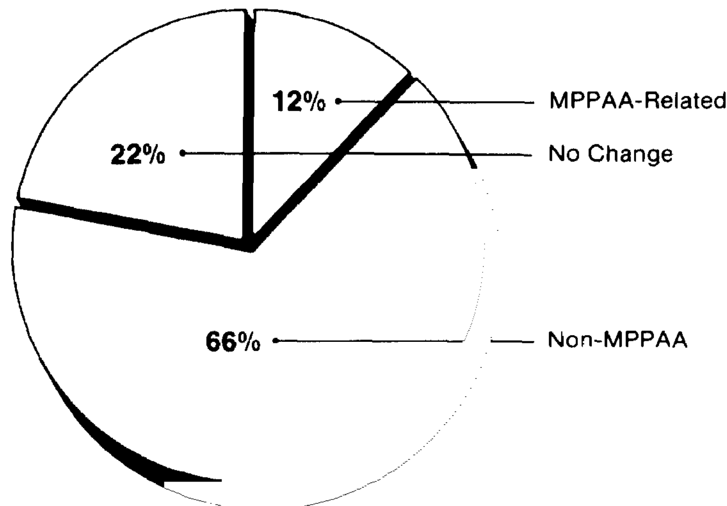
Plan Benefit Changes

We were able to assess pension benefit practices (e.g., benefit increases) for 139 of the 149 sample plans. The other 10 plans were excluded for several reasons, including plan termination. All but 24 of the 139 plans

changed practices in the 32 months after MPPAA's enactment. According to plan officials, the act's withdrawal liability provisions contributed to changes in 24 of the 115 plans that changed practices. For 91 plans, however, changes were made for economic and other reasons not related to MPPAA.

As figure 1.3 shows, of 3.2 million sample plan participants, 12 percent were affected by MPPAA-related benefit changes. These MPPAA-related changes were considered unfavorable because about 386,000 participants received no benefit increases after MPPAA, when they had received them before, or they received smaller increases than before. About 726,000 participants, however, were unfavorably affected by similar changes made for non-MPPAA-related reasons. Also, about 1.4 million participants received higher benefit increases or were to be allowed to retire earlier than before MPPAA.

Figure 1.3: Percent of 3.2 Million Sample Plan Participants Affected by MPPAA- and Non-MPPAA-Related Benefit Changes (Sept. 1980 - May 1983)



Twelve Percent of the Sample Plan Participants Were Affected by MPPAA-Related Benefit Practice Changes.

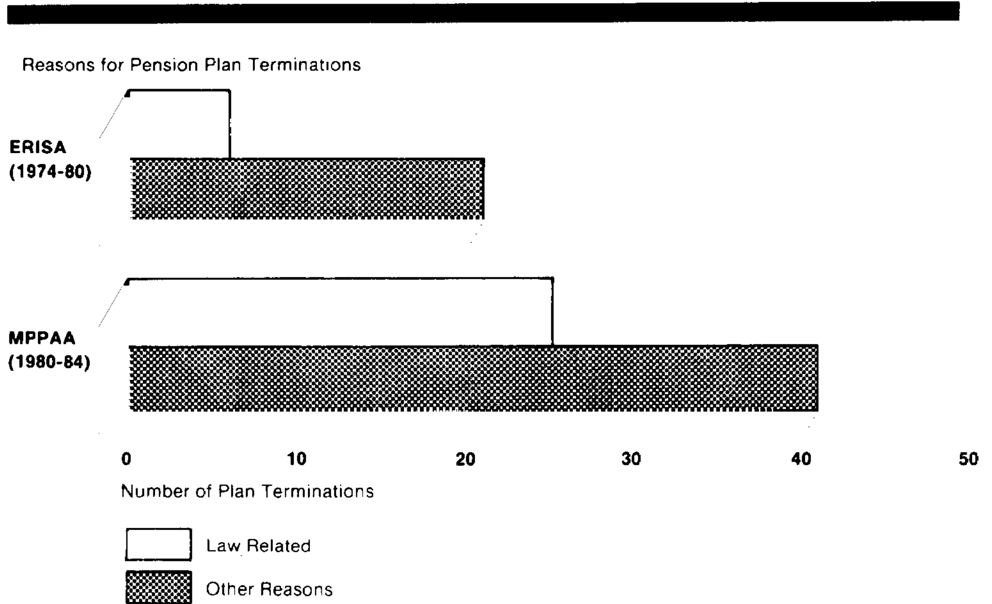
Plan Terminations Increase

Plan terminations increased from 27 in the 6 years before MPPAA's enactment to 66 during the 4 years after. Plan officials said that reaction by employers to MPPAA's withdrawal liability provisions contributed to

25 of the 66 terminations. For example, an official representing three construction industry plans said employers were considering not using union labor because they feared they could incur a liability under MPPAA's provisions if the plans' benefits or contribution rates were increased. By terminating the plans, the employers could continue to use union labor.

Plan officials did not attribute the terminations to other provisions of ERISA, as they did before MPPAA. MPPAA changes contributed to more plan terminations than did ERISA, according to plan officials, but most plans ended for reasons unrelated to the legislation.

Figure 1.4: Impact of Federal Legislation on Pension Plan Terminations (FY 1975 - FY 1984)



According to Plan Officials, MPPAA's Changes Contributed to More Plan Terminations Than did ERISA, but Most Plans Ended for Non-Legislative-Related Reasons.

The 66 terminations after MPPAA affected relatively few participants because

- affected participants represented less than 1 percent of the over 8 million participants in multiemployer plans nationwide—about 23,631 in MPPAA-related and 17,411 in non-MPPAA-related terminations,

- 76 percent of the 41,042 terminated plan participants (29,035 working and 12,007 retired or inactive participants) were to receive all benefits earned, and
- alternative pension coverage was made available through other types of plans (primarily defined contribution plans, which define contributions to be made rather than benefits to be paid) for 88 percent of the 29,035 working participants in the plans.

Funding Provisions: Little Significant Effect on Plans or Employers Seen

In answer to concerns about the adequacy of multiemployer plan funding and the sizable losses such plans could cause the insurance program, MPPAA made changes in the plan funding requirements as well as in withdrawal liability. The act changed existing minimum (regular) funding provisions by reducing the number of years over which certain new unfunded plan liabilities—pension costs allocated to prior years but not covered by existing assets—could be paid. Also, the act added special provisions to identify and improve the condition of financially distressed plans—those representing the greatest risk to the insurance program.

The initial and potential effects of these funding changes show that they will eventually improve plan financing, but not significantly, and generally have little additional financial effect on contributing employers.

Effects of Faster Funding Requirements

Plan costs are required to be paid through annual employer contributions. Contribution surpluses, which result from previous contributions being greater than annual plan costs, can be used to offset current requirements.

Unfunded liabilities that must be paid faster under MPPAA's changes, such as those resulting from plan benefit improvements that must be paid over 30 rather than 40 years, generally result in relatively small increases in annual plan costs. Also, contribution surpluses have generally been sufficient to cover initial cost increases.

For example, 22 of the 149 sample plans had recorded $863 million in new unfunded liabilities in plan year 1981 that had to be paid faster (127 plans had no new unfunded liability). Based on our calculations, however, the resulting incremental increases in annual plan costs from the faster payment requirement totaled only $5.2 million—less than 1 percent of total 1981 plan costs of about $619 million. Further, all but

1 of the 22 plans had contribution surpluses sufficient to cover the increases for 7 or more years.

Although plans could incur substantial increases in unfunded liabilities subject to MPPAA's faster payment requirements, we estimate that the required employer contributions would eventually increase by only about 5.5 percent.

Potential Effects of Financially Distressed Plan Provisions

In general, MPPAA considers a plan to be distressed when contributions required by regular funding provisions are insufficient to pay for certain unfunded plan benefits at a special funding rate. When this occurs, annual employer contributions are generally required to meet the rate. At the time of our review of the distressed plan provisions, federal regulations had not been issued on them, and not enough time had passed to permit an evaluation of their actual effects on plan funding. Therefore, we assessed the provisions' potential, rather than actual effects, based on plans' circumstances at the time of the review.

When we applied the provisions to the 149 sample plans, we identified 9 as financially distressed. The nine plans covered 614,000 participants and had over $3.5 billion in unfunded benefits. The provisions would have required higher contributions than the regular funding provisions for eight of the plans and, because of special circumstances, lower contributions for the other plan.

Of the eight plans, seven would have had contribution requirements averaging about 15 percent greater than the regular requirements. The requirement for the eighth plan, which had extraordinary circumstances, would have been higher by 275 percent. Four of the eight, however, would not have been required to increase employer contributions, because actual contributions were already higher than required by the distressed plan provisions. Contribution increases for the other four plans would have ranged from 3 to 125 percent. But only two of the four plans would have had initial increases (of about 8 percent each) because of special increase limits set by MPPAA.

Important Evolving Issues

Because the initial effects of MPPAA have improved the financial outlook of the multiemployer insurance program without a significant cost to most plan participants and contributing employers, we see no need for major changes at this time. There is no assurance, however, that MPPAA's effects will continue to be as positive for the program or as inexpensive for participants or employers as the initial effects.

There are indications that the act's provisions may be inadequate to protect the program from the billions of dollars in risk posed by plans that are financially distressed and others that could become distressed. Also, employer reaction to the act's withdrawal liability provisions may have a greater unfavorable effect on employee pension coverage and benefits than it had initially.

Finally, the aging of participating employees coupled with the low growth in numbers of new participants in multiemployer plans has led to an overall decrease in the ratio of working to other participants. This low growth could be caused by factors such as technological and consumer demand changes, international competition, and industry deregulation. Critics of MPPAA say that withdrawal liability could discourage new employers from entering plans and encourage those in the plans to withdraw. Because contributions are based on work performed by covered employees, a continued decrease in the plans' contribution bases—whether for MPPAA or non-MPPAA reasons—could seriously affect their ability to remain solvent and put the viability of the insurance program in jeopardy.

We believe that the following issues should be considered by the Congress and others in deliberating changes to the multiemployer pension plan system.

Financially Distressed Plans: Significant Risk to Program

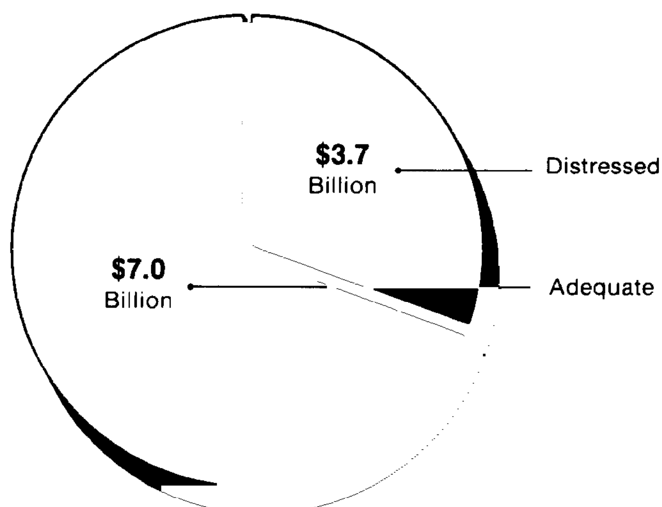
Although the insurance program's financial condition improved, its exposure to plans' unfunded benefits, especially those financially distressed, remains a major concern. On September 30, 1984, the program had assets of about $36.6 million available to cover future insurance losses ($19.4 million set aside in a reserve for expected future losses and a surplus of $17.2 million). The reserve is based on estimates of uncollectable future loans that PBGC believes are "probable and estimable" to five financially distressed plans that are expected to become insolvent through 1988. However, the potential risk to the program from other plans is in the billons of dollars and whether or not the program incurs

such losses depends upon a number of factors, which are discussed later in this chapter.

The overall financial condition of the 1,276 larger plans (100 or more participants) in the 14 states and the District of Columbia covered by our review improved from 1978 to 1980. One indication of this was that the plans' benefits were 66 percent funded in 1980 compared to 56 percent in 1978. However, the plans' unfunded benefits—$15.6 billion in 1980—continued to pose a significant contingent liability to the insurance program.

Further, as figure 2.1 illustrates, our detailed assessment of the 149 sample plans showed that 14, with $3.7 billion in unfunded benefits, were financially distressed. It should be noted that the 149 plans were less than 10 percent of the total of plans nationwide. Because the random sample of 149 plans may have been biased somewhat toward financially weak plans, no inferences can be drawn on the total number of distressed plans in the universe. However, the number of distressed plans nationally could have been much more than the 14 we found. Also, some of the other 135 plans were financially weak and could become financially distressed if their financial condition deteriorated further.

Figure 2.1: Unfunded Vested Benefits of Plans in Adequate and Distressed Financial Conditions



Financially Distressed Plans Pose Billions of Dollars in Risk to the Insurance Program.

If one or more distressed plans become insolvent, thus requiring loans to pay benefits, the results for the program could be catastrophic. For example, annual benefit payments to retired participants in the 14 sample distressed plans ranged from $271,000 to $271 million. By itself, the $271 million was nearly five times the program's total assets of $61 million on September 30, 1984.

Plans, Program Jeopardized by Eroding Contribution Base

Although the overall financial condition of the 1,276 plans in our study area was improving when MPPAA was enacted in 1980, our analysis of the plans' contribution bases raised uncertainties about whether such improvements would continue. Plans rely primarily on contributions based on active (working) participants' productivity to fund both employees' benefits and the unfunded benefits of other participants (retirees generally). For an adequate contribution base (ratio of active to other participants), plans primarily depend on new employers joining or existing employers staying in and hiring new workers.

Before MPPAA's enactment, we found, there was a general weakening of the contribution bases of multiemployer plans. The total number of participants in the 1,276 study area plans increased, we estimate, by about 2 percent between plan years 1978 and 1980. But the estimated overall ratio of active to other participants decreased during this period from 3.25 to 2.96 (about 9 percent), because of a relatively higher percentage increase in other participants (about 12 percent). For all but one of the industry groups, the ratios decreased, and many of our sample plans had much lower ratios than the overall ratio for the 1,276 plans.

Furthermore, trend data through 1984 indicate that the ratios will continue to decline. This results from several factors, some affecting all industries, others more pronounced for selected industries:

1. The population is aging. There are more people over age 65 relative to the under 25 population. Thus, while the rate of increase in the active population is declining, it is increasing for the other population (mainly retired).

2. The degree of unionization of the work force is declining. This is true in all industries, even those where union tradition is strong and collectively bargained multiemployer plans exist.

3. Employment growth has slowed for some industries.

The net effect is that the ratio of active to other plan participants is expected to continue to decline because of the decline in the rate of expansion in the number of active plan members.

The contribution base can be affected by such factors as consumer demand, technological changes, international competition, and business deregulation. Critics of MPPAA say that the withdrawal liability provisions could discourage new employers from entering plans and encourage those in the plans to withdraw.

Because of limited available data and the mixed views expressed by officials of the 149 sample plans covered by our review, however, we were unable to assess the validity of the criticism. Officials representing some plans believed that withdrawal liability would discourage the entry of new employers and create an incentive for contributing employers to leave multiemployer plans. Some officials believed that the provisions would have little effect on construction plans because of the special liability exemption for employers contributing to such plans and the fact that most of these plans were well funded. Further, officials representing plans in declining industries, which had experienced no growth before MPPAA, generally did not foresee the potential for new employers entering the plans.

A continued decline in the contribution bases—whether for MPPAA or non-MPPAA reasons—could eventually result in plans, even those not now financially distressed, being unable to generate sufficient income to pay unfunded benefits. Such an occurrence could cause the insurance program to incur substantial costs, putting it in jeopardy. Until better data are available to determine the extent of such a decline and its causes, however, the need for change to protect the multiemployer pension plan system from such declines is uncertain.

Distressed Plans May Not Be Helped

MPPAA established the distressed plan funding provisions to reduce the liability such plans could impose on the insurance program. The provisions recognize that distressed plans need to be identified and action taken (generally to increase employer contributions) to improve their financial condition.

Effective distressed plan provisions are critical to a viable insurance program. We base this conclusion on the significant amount of unfunded benefits of plans that are already financially distressed (14 plans with $3.7 billion in unfunded benefits in our sample alone) as well as any

plans that might become distressed because of such reasons as declining contribution bases.

When applied to the 14 distressed plans we identified, however, MPPAA provisions would not have identified 5 of the 14 distressed plans. Nor would the provisions have precluded nine from reducing, rather than increasing, employer contributions. The nine plans could have reduced employer contributions by 4 to 34 percent because employers were contributing more money than required by law to reduce their unfunded benefits.

Because of the adverse impact distressed plans could have on the insurance program, we previously questioned whether these plans should be allowed to further weaken their financial condition by substantially reducing contributions. We suggested a specific legislative alternative (detailed in app. III) that would result in more distressed plans being identified and required contributions being more in line with what employers actually contribute. We found, however, that increases beyond what we suggested could place a hardship on contributing employers—a situation the provisions sought to avoid. Therefore, we believe that empirical data over a longer time frame are needed before additional modifications are considered.

Withdrawal Liability: Collections Limited, Benefit Effects Unknown

Withdrawal liability is intended to protect a plan's financial condition when employers leave it. But this provision poses several issues: To what degree are these liabilities collectable from withdrawing employers, and what effects will withdrawal liability have on the benefits plan participants will receive?

Limited Collections

Based on the experience of the 149 sample plans when our fieldwork was completed, a plan's ability to collect withdrawal liability will depend to a large degree on whether or not withdrawing employers are bankrupt. Initial indications are that much of the liabilities owed by bankrupt employers may not be collectable. As a result, withdrawal liability may not provide the financing anticipated for plans.

Of $188.2 million of withdrawal liability assessed, the 149 sample plans had determined the collectability of $57.4 million. Of this amount,

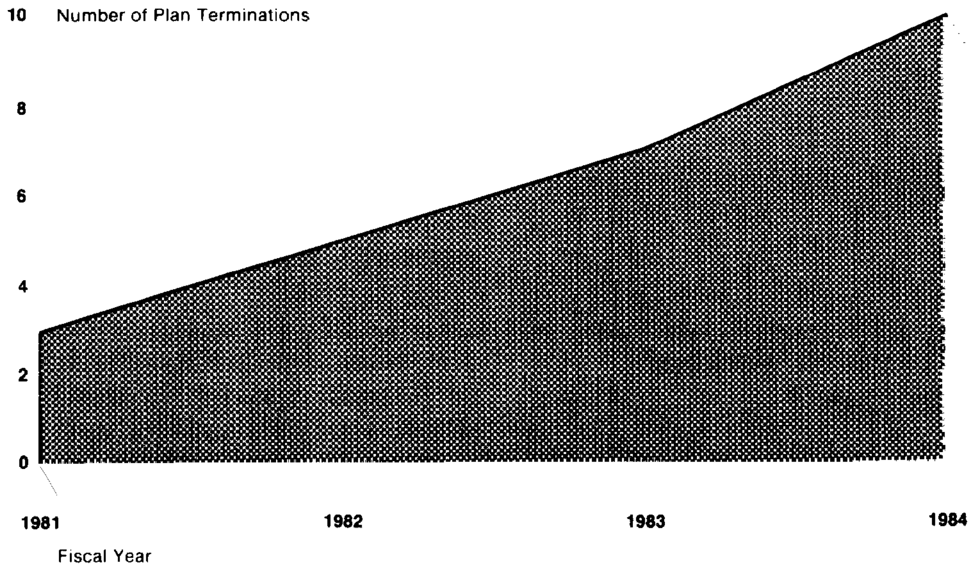
$24.5 million (43 percent) was deemed uncollectable, due primarily to bankrupt employers not paying their liability. Further, about 30 percent of the remaining $130.8 million in assessed liability is owed by bankrupt employers, raising a question about its collectability. Plans' inability to collect on this liability increases the insurance program's exposure to unfunded guaranteed benefits. If a significant amount proves uncollectable, the Congress may have to consider raising plan funding requirements or making other legislative changes to reduce the program's exposure to unfunded benefits.

Effects on Workers' Benefits

The withdrawal liability provisions contributed to some sample plan participants receiving either no benefit increases after enactment of MPPAA, when they had received benefit increases before, or smaller increases than previously received. Plan officials told us that benefit improvements were being slowed or stopped to avoid unfunded benefits and any related liability. There are indications that this situation could continue. For example, officials of some plans that did not change benefit practices because of MPPAA expressed concern that the liability provisions have unfavorably affected their plans' collective bargaining process. They said that, because higher plan costs could result in higher employer withdrawal liability, employers were generally more reluctant to negotiate benefit improvements.

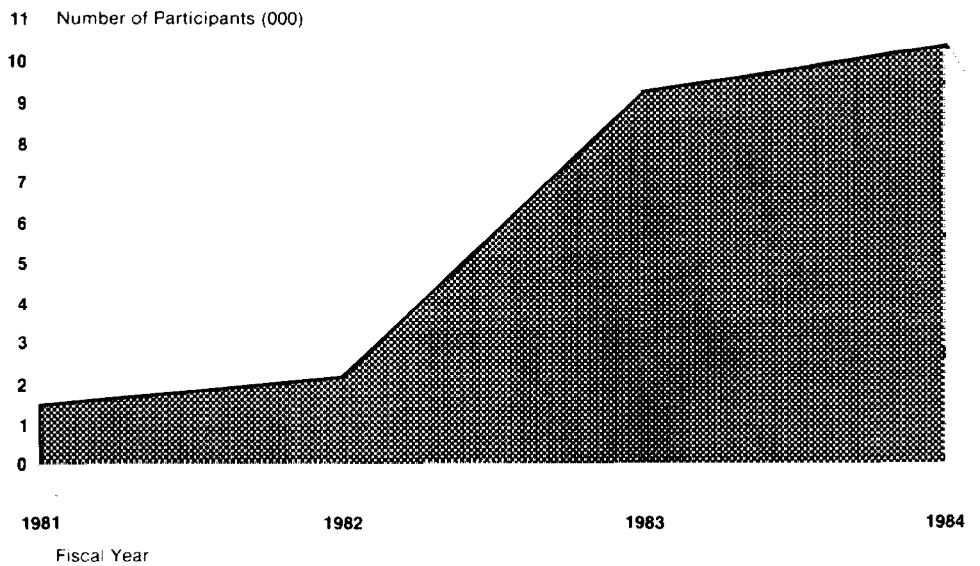
Further, employers' reaction to MPPAA's withdrawal liability provisions has contributed to a rise in plan terminations, according to plan officials. The 66 plans that terminated during the 4 years after MPPAA's enactment affected a small number of plan participants (less than 1 percent nationwide), most of whom received their earned benefits and continuing pension coverage from other plans. However, as figures 2.2 and 2.3 show, both plan terminations attributed to withdrawal liability and the number of affected participants increased annually during the 4 years after MPPAA's enactment.

Figure 2.2: Plan Terminations Related to MPPAA's Withdrawal Liability Provisions (FY 1981 - FY 1984)



Plan Terminations Increased Yearly Because of Employers' Reaction to MPPAA's Withdrawal Liability Provisions.

Figure 2.3: Number of Participants Affected by Withdrawal Liability-Related Plan Terminations
(FY 1981 - FY 1984)



The Number of Participants Affected by Withdrawal Liability-Related Plan Terminations Increased Each Year.

Availability of Data to Assess Policy Changes Doubtful

The outcome of the previously discussed issues related to MPPAA and other factors may have a significant adverse effect on multiemployer plans, workers' pension benefits, and the insurance program. Not enough time has elapsed, however, to determine whether these issues will become major problems. Without additional information on them, effective policy changes will be difficult to formulate and implement.

It is doubtful, however, whether the data will be available when needed. In performing our study, we had to obtain, through a costly and time-consuming effort, many types of data we needed directly from individual plans because they were not readily available from other sources. This condition continues. Such data include the reasons for plan terminations, plan benefit practice changes and the reasons for the changes, employer withdrawals from the plans, and the amount and collectability of withdrawal liability.

Matter for Consideration by the Congress

The Congress should consider requiring the collection and analysis of data needed to assess issues affecting the multiemployer pension plan system. The Congress could use such data in formulating and implementing policy changes.

Background on Multiemployer Pension Plans, Related Federal Legislation, and Our Study

Multiemployer Defined Benefit Pension Plans

A multiemployer defined benefit pension plan (hereafter referred to as a multiemployer plan) is established and maintained through collective bargaining agreements between one or more employee organizations and more than one employer who finance the plan. The plans have contributed substantially to the increase in private pension coverage. In 1950, multiemployer plans covered about 1 million employees; by 1984, about 2,500 multiemployer plans reported covering almost 9 million participants.

The plans range in size from fewer than 100 to more than 500,000 participants and may cover employees nationwide or in a smaller geographical area. Employees covered are usually those working for employers in an industry or craft. The numbers of plans nationwide having 100 or more participants are compared in table I.1 by type of industry and numbers of participants when our study was begun.

Table I.1: Comparison of Multiemployer Pension Plans With 100 or More Participants: By Type of Industry and Numbers of Participants[a]

(Participants in thousands)

Type of industry	No. of plans	No. of participants
Construction	1,001	2,556
Manufacturing	267	1,674
Transportation, communication, and utilities	132	1,643
Wholesale and retail trades	270	1,309
Services	166	667
Other[b]	88	488
Total	**1,924**	**8,337**

[a]Based on July 1981 PBGC data.

[b]Includes plans that could not be classified specifically and plans in the agriculture, fishing, and forestry; finance and insurance; and mining industries.

ERISA's Provisions and MPPAA's Changes

Before 1974, working participants and their beneficiaries were adversely affected if their plan terminated without enough assets to pay earned benefits. In September 1974, ERISA established (1) minimum funding standards to help insure that plan assets were sufficient to pay participants' benefits when due and (2) an insurance program to guarantee, within certain limits, benefits not funded by employers. The federal Pension Benefit Guaranty Corporation was established to administer the insurance program.

ERISA's funding standards generally required that annual employer contributions be sufficient to pay the plan's current year cost and to systematically pay off, over specific periods, unfunded costs (liabilities) attributable to prior years. Under ERISA, the insurance program assumed responsibility, as trustee, for paying guaranteed benefits that were unfunded at plan termination. Employers contributing to the plan at the time it terminated had a limited liability for unfunded guaranteed benefits, as did employers who contributed during the 5 preceding plan years. The limitation was 30 percent of the employer's net worth—generally the difference between assets and liabilities. Any costs not recovered from the employers were to be financed from annual insurance premiums paid by ongoing plans.

In a July 1978 report to the Congress, PBGC estimated that multiemployer plans covering 1.3 million participants could terminate over the next 10 years and result in total insurance losses of about $4.8 billion. To fund such losses, PBGC reported that all multiemployer plans would have to pay an annual PBGC premium of about $80 per participant rather than the then authorized 50 cents. PBGC believed that such enormous costs would threaten the financial soundness of the insurance program by placing an undue burden on continuing plans.

In September 1980, the Congress enacted MPPAA. The act increased funding requirements for plans generally and added a special funding requirement for financially distressed plans. Also, MPPAA generally increased employers' liability for unfunded benefits. In this regard, the act made employers withdrawing from a plan, unless exempt by special provisions, liable for their share of unfunded benefits when they withdrew, rather than at termination. In addition, MPPAA required employers contributing to plans at termination to continue to fund benefits. Further, the act changed the circumstances under which benefits were guaranteed from plans' termination to insolvency and required that the insurance program provide financial assistance (repayable loans) to plans that did not have enough money to pay guaranteed benefits due. The act also increased the program's premium rate and required us to report on the act's effects.

Objective, Scope, and Methodology

The objective of this report is to present information that we believe will be helpful to the Congress and others in assessing the initial and potential effects of MPPAA, and considering changes to federal policies related to multiemployer plans. The report discusses (1) changes in the insurance program's financial condition after MPPAA's enactment; (2) the act's

initial effects on the program, plan participants, and contributing employers; and (3) our observations on possible effects of the act over the long term. Except for information on the changes to the program's financial condition, the information presented was developed through a series of seven individual reports (listed in app. II).

Each report contains an individual scope and methodology section covering the work performed. Some of the reports contain suggestions for improving MPPAA provisions and their administration. Those that have not been acted on are summarized in appendix III.

Our ability to assess the act's effects depended on having direct access to plans' records. This was because many of the types of data needed to assess the act's effects were not required to be reported to the government and, at the time of MPPAA's enactment, the data reported were not complete. Recognizing this, the Congress provided us with temporary access (that expired in June 1985) to any information in the possession or control of the plan administrator or sponsor that we believed pertinent to our study. Using this access authority, we collected and analyzed substantial amounts of data obtained directly from our review of the records of a randomly selected, stratified sample of 149 plans in our study area, consisting of 14 states and the District of Columbia.

The sample plans' 3.5 million participants accounted for about 56 percent of the 6.2 million participants in the study area and 42 percent of participants nationwide. We chose the study area because it included multiemployer plans covering over 70 percent of the participants in all multiemployer plans and had diversity by industry, geography, and size—from large nationwide plans to small localized plans.

To assess MPPAA's effects on the insurance program's financial condition, we reviewed PBGC information on how the program's financial condition changed after MPPAA and whether such changes were related to MPPAA. In addition, we collected and reviewed PBGC information on actual and expected program losses. Our work, conducted from April through June 1985, included (1) interviewing insurance program and plan officials, (2) reviewing the program's financial statements and supporting documentation, and (3) reviewing plan documents. We cannot attest to the reliability of the financial data provided by PBGC. Our two prior audits[1] of PBGC's financial statements identified accounting and internal control weaknesses that prevented us from expressing an opinion on PBGC's

[1]GAO/AFMD-84-2, Nov. 22, 1983, and GAO/AFMD-82-42, June 23, 1982.

financial statements. Our follow-up review in 1985 showed that PBGC is making progress, but the improvements are not far enough along for us to audit the financial statements.

Officials of PBGC provided oral comments, primarily of a technical nature, on the facts presented in the report, and we made changes where appropriate. Our work was performed in accordance with generally accepted government auditing standards.

GAO's Series of Reports on the Effects of the Multiemployer Pension Plan Amendments Act of 1980

1. Multiemployer Pension Plan Data Are Inaccurate and Incomplete (GAO/HRD-83-7, Oct. 25, 1982)

2. Assessment of Special Rules Exempting Employers Withdrawing From Multiemployer Pension Plans From Withdrawal Liability (GAO/HRD-84-1, May 14, 1984)

3. Incomplete Participant Data Affect Reliability of Values Placed by Actuaries on Multiemployer Pension Plans (GAO/HRD-84-38, Sept. 6, 1984)

4. The 1980 Multiemployer Pension Plan Amendments Act: An Assessment of Funding Requirement Changes (GAO/HRD-85-1, Feb. 27, 1985)

5. Effects of Liabilities Assessed Employers Withdrawing From Multiemployer Pension Plans (GAO/HRD-85-16, Mar. 14, 1985)

6. Effects of the 1980 Multiemployer Pension Plan Amendments Act on Plan Participants' Benefits (GAO/HRD-85-58, June 14, 1985)

7. Financial Conditions of Multiemployer Pension Plans Generally Improved From 1978 to 1980 (GAO/HRD-85-72, July 29, 1985)

Open Suggestions Presented in GAO's Series of Reports on the Effects of the Multiemployer Pension Plan Amendments Act of 1980

Of the seven GAO reports on the effects of MPPAA, several contained suggestions for improving MPPAA's provisions and administration. Those suggestions not yet acted upon are summarized below.

1. Incomplete Participant Data Affect Reliability of Values Placed by Actuaries on Multiemployer Pension Plans (GAO/HRD-84-38, Sept. 6, 1984)

Application of the major financial provisions of MPPAA depends on valuations developed by actuaries (experts in the design, financing, and operation of insurance, pension, and other employee benefit plans) and used by pension plan trustees to manage their plans. Among other things, the valuations help determine the financial condition of the plan, required annual payments by employers to the plan, and affordability of potential benefit increases.

Pension plan participant data (age, years of service, and gender) are crucial in determining the actuarial value of pension plans. We found, however, that many multiemployer pension plans lack complete participant data, causing liabilities and costs of some plans to be under- or overstated by millions of dollars. To help pension plans obtain and maintain complete data on all participants, we recommend that the Secretary of Labor

- issue regulations under ERISA authority to provide guidance for maintaining participant data and
- direct the Department's enforcement group, when reviewing multiemployer plans, to expand the scope of its audits to review actuarial valuation reports to ascertain whether participant data are sufficiently complete to enable the actuaries to make reliable valuations.

2. The 1980 Multiemployer Pension Plan Amendments Act: An Assessment of Funding Requirement Changes (GAO/HRD-85-1, Feb. 27, 1985)

Of all multiemployer plans, financially distressed plans have the greatest potential for being unable to pay guaranteed benefits when due and therefore the greatest risk to the federal insurance program, which guarantees a certain level of benefits to the participants.

MPPAA established plan reorganization provisions to identify financially distressed plans and help them improve their financial condition. Generally, a plan is to be considered in financial distress if its annual contribution is not sufficient to pay for the unfunded vested benefits for retirees

over 10 years and other participants (generally working) over 25 years. We found that this provision may not be adequate to identify all financially distressed plans. Also, of the 14 financially distressed plans in our study, 9 may be allowed to reduce rather than increase their financial contributions because actual employer contributions exceeded requirements. Because of the potential risk that distressed plans pose to the insurance program, we believe that distressed plans should be required at least to maintain contributions more in line with what employers already contribute.

To accomplish this, we asked the Congress to consider changing the reorganization provisions to require 15 rather than 25 years to pay for working participants' benefits.

3. Effects of Liabilities Assessed Employers Withdrawing from Multiemployer Pension Plans (GAO/HRD-85-16, Mar. 14, 1985)

MPPAA requires that employers withdrawing from multiemployer plans pay their fair share of unfunded benefits. An employer may withdraw completely or partially from a plan. A partial withdrawal may occur when there is a 70-percent decline in an employer's contribution to a plan over a 3-year period, except in the retail food industry where plans may adopt a 35-percent decline rule. For partial withdrawals, an employer's liability is a prorated amount of the liability for a complete withdrawal. In some circumstances, declines of less than 70 percent by one or more major employers could significantly affect a plan's overall contributions. The law needs to better protect plans financially against declines in contributions by major employers. To do so, we asked the Congress to consider amending MPPAA to revise the partial withdrawal liability rules, allowing all plans to adopt an option similar to the 35-percent rule now available to retail food industry plans.

Plan officials have adopted allocation methods authorized by MPPAA or have requested PBGC approval of alternative methods they believe are best suited for their plans' needs based on equity and cost considerations. In each of the allocation methods, employers assume a share of the unfunded benefits attributable to employers that withdrew before MPPAA became effective. Three of the four withdrawal liability allocation methods authorized by MPPAA can result in liability to employers withdrawing from fully funded plans. Although many employers have not been affected, the assessment of such a liability does not seem to have been contemplated in the establishment of withdrawal liability under MPPAA.

Therefore, we asked the Congress to consider amending MPPAA to exempt employers in fully funded plans from withdrawal liability. Such an exemption, which would be consistent with withdrawal liability being based on a share of the plan's unfunded benefits, should have little effect on the plan or its contributing employers.

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