WHAT YOU SHOULD KNOW

...about your retirement plan

U.S. Department of Labor
Employee Benefits Security Administration

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INTRODUCTION

Few investments are more important than the one you have in your retirement plan. Because the average American will rely on savings for 18 years after retirement, it is essential that you understand your rights and responsibilities under your retirement plan.

Participants in retirement plans have certain rights that are governed by Federal law. They also have responsibilities. Similarly, the people who sponsor your retirement plan also have rights and responsibilities. Most are spelled out by a law called the Employee Retirement Income Security Act of 1974 (ERISA). This booklet explains some of the important features of this law.

For example, the booklet outlines the role of different Federal agencies in regulating plans. It describes the obligations of your employer (or other appropriate plan official) to provide you with information about the plan, and tells you what information must be made available automatically, at regular intervals, and, in many cases, at no cost to you. It also points out the importance of keeping informed of any changes in your plan's rules of operation.

This booklet tells you what is generally required to become eligible for your plan, including how long you may have to be an employee before becoming a participant. Important concepts such as accruing benefits and becoming vested in your benefits are explained. The booklet also answers common questions about how changes in your employee status might affect your retirement benefits, such as termination or returning to your job after an interruption of employment. And it discusses the potential impact on your plan of mergers, acquisitions and plant shut downs.

Other important features include:

- A description of your plan fiduciary's duties to invest your money prudently and the sanctions against fiduciaries who misuse or mismanage your money.
- An explanation of the rules that require your employer to adequately fund your pension plan, as well as a description of the penalties for employers who fail to comply with minimum funding requirements.
- Instructions on how to file a claim for a retirement benefit and how to appeal for a review of any denial of your claim.

The information contained in the following pages answers the most common questions about retirement plans. Keep in mind, however, that this booklet is a simplified summary of participant rights and responsibilities, not a legal interpretation of ERISA.

▶ CHAPTER 1

ERISA AND YOUR RETIREMENT PLAN

This chapter explains the purpose of the Employee Retirement Income Security Act, what it covers, and what is excluded from its coverage. It tells which plans are exempt from the law and who administers ERISA. The following questions are addressed:

- **What is the Employee Retirement Income Security Act?**
- **What retirement plans are covered by ERISA?**
- **How does the law protect a plan's assets?**
- **What are SEPs, SIMPLEs, profit-sharing plans, and stock bonus plans?**
- **What are 401(k) and ESOPs plans?**
- **What is the role of Federal agencies?**

What Is ERISA?

The Employee Retirement Income Security Act of 1974 (ERISA) is a Federal law that sets minimum standards for retirement plans in private industry. For example, if your employer maintains a plan, ERISA specifies when you must be allowed to become a participant, how long you have to work before you have a nonforfeitable interest in your benefit, how long you can be away from your job before it might affect your benefit, and whether your spouse has a right to part of your benefit in event of your death. Most of the provisions of

ERISA are effective for plan years beginning on or after January 1, 1975.

ERISA does not require any employer to establish a retirement plan. It only requires that those who establish plans must meet certain *minimum* standards. The law generally does not specify how much money a participant must be paid as a benefit.

ERISA does the following:

- Requires plans to provide participants with information about the plan, including important information about plan features and funding. The plan must furnish some information regularly and automatically. Some is available free of charge, some is not.
- Sets minimum standards for participation, vesting, benefit accrual and funding. The law defines how long a person may be required to work before becoming eligible to participate in a plan, to accumulate benefits, and to have a nonforfeitable right to those benefits. The law also establishes detailed funding rules that require plan sponsors to provide adequate funding for your plan.
- Requires accountability of plan fiduciaries. ERISA generally defines a fiduciary as anyone who exercises discretionary authority or control over a plan's management of assets, including anyone who provides investment advice to the plan. Fiduciaries who do not follow the principles of conduct may be held responsible for restoring losses to the plan.
- Gives participants the right to sue for benefits and breaches of fiduciary duty.
- Guarantees payment of certain benefits if a defined benefit plan is terminated, through a federally chartered corporation, known as the Pension Benefit Guaranty Corporation.

ERISA also creates standards for health plans and other employer-provided benefits, but those plans are not discussed in this booklet.

What are defined benefit and defined contribution plans?

Generally speaking, there are two types of retirement plans: **defined benefit plans** and **defined contribution plans**. A defined benefit plan promises you a specified monthly benefit at retirement. The plan may state this promised benefit as an exact dollar amount, such as $100 per month at retirement. Or, more commonly, it may calculate a benefit through a plan formula that considers such factors as salary and service - for example, 1 percent of your average salary for the last 5 years of employment for every year of service with your employer.

A defined contribution plan, on the other hand, does not promise you a specific amount of benefits at retirement. In these plans, you or your employer (or both) contribute to your individual account under the plan, sometimes at a set rate, such as 5 percent of your earnings annually. These contributions generally are invested on your behalf. You will ultimately receive the balance in your account, which is based on contributions plus or minus investment gains or losses. The value of your account will fluctuate due to changes in the value of your investments. Examples of defined contribution plans include **401(k) plans**, **403(b) plans**, **employee stock ownership plans** and **profit-sharing plans**. The general rules of ERISA apply to each of these types of plans, but some special rules also apply. To determine what type of plan your employer provides, check with your plan administrator or read your summary plan description (see p. 16).

A **money purchase pension plan** is a plan that requires fixed annual contributions from your employer to your individual account. Because a money purchase pension plan requires these regular contributions, the plan is subject to certain funding and other rules.

What are Simplified Employee Pension Plans (SEPs)?

Your employer may sponsor a **Simplified Employee Pension Plan**, or **SEP**. SEPs are relatively uncomplicated retirement savings vehicles. A SEP allows employers to make contributions on a tax-favored basis to traditional individual retirement accounts (IRAs) owned by the employees. SEPs are subject to minimal reporting and disclosure requirements.

Under a SEP, you, as the employee, must set up an IRA to accept your employer's contributions. As a general rule, your employer can contribute up to 25 percent of your pay, or $40,000* (whichever is smaller) into a SEP each year.

As of January 1, 1997, employers may no longer set up a type of SEP known as a Salary Reduction SEP. If an employer had a Salary Reduction SEP in effect on December 31, 1996, however, the employer may continue to allow salary reduction contributions to the plan. These amounts are subject to cost-of-living adjustments in future years.

SEP participants may also be required to earn at least $450* (for 2003) to make salary reduction contributions. Employees are generally permitted to contribute the lesser of $12,000 or 25 percent of compensation (up to $200,000) in 2003. Employees 50 and older may make an additional catch-up contribution of $2,000 in 2003. That amount increases in $1,000 increments until the limit of $5,000 is reached in 2006.

Beginning in 1997, employers can set up another type of plan which allows salary reduction contributions, a SIMPLE IRA (discussed on the next page).

*This number is subject to cost-of-living increases for 2003 and later.

What Are Savings Incentive Match Plans for Employees of Small Employers (SIMPLE IRAs)?

The **SIMPLE** IRA plan - **savings incentive match plan for employees of small employers** - gives businesses with 100 or fewer employees an affordable way to offer retirement benefits through employee salary reductions and matching contributions (similar to those found in a 401(k) plan).

Any employer with 100 or fewer employees who earned $5,000 or more during the preceding calendar year is eligible to establish a SIMPLE IRA plan. However, an employer that currently sponsors another retirement plan generally cannot sponsor a SIMPLE IRA plan.

In addition, SIMPLE IRA plans can be sponsored by most types of organizations, including C-corporations, S-corporations, partnerships and sole proprietorships. Related employers (businesses under common control, for instance) are treated as a single employer.

Eligible employees can contribute up to $8,000 in 2003 (gradually increasing to $10,000 in 2005) through payroll deductions. Catch-up provisions allow employees 50 and older to make an additional $1,000 contribution in 2003, with the limit increasing $500 each year until reaching $2,500 in 2006.

When employers start these plans, they have two options for the IRAs where the contributions are deposited:

- The employer may choose the financial institution that will receive all contributions under the plan. In this case, employees will have the right to transfer contributions to a SIMPLE IRA at another financial institution without cost or penalty.
- Each employee may make the initial choice of financial institution to receive contributions. In this case, an employee does not have the right to transfer to another financial institution without cost or penalty.

What are profit-sharing plans or stock bonus plans?

A **profit-sharing** or **stock bonus plan** is a defined contribution plan under which the plan may provide, or the employer may determine, annually, how much will be contributed to the plan (out of profits or otherwise). The plan contains a formula for allocating to each participant a portion of each annual contribution. A profit-sharing plan or stock bonus plan may include a 401(k) plan.

What are 401(k) plans?

Your employer may establish a defined contribution plan that is a cash or deferred arrangement, usually called a **401(k) plan**. You can elect to defer receiving a portion of your salary which is instead contributed on your behalf, before taxes, to the 401(k) plan. Sometimes the employer may match your contributions. There are special rules governing the operation of a 401(k) plan. For example, there is a dollar limit on the amount you may elect to defer each year. The dollar limit is $12,000 in 2003 with annual increases in $1,000 increments until the limit reaches $15,000 in 2006. Other limits may apply to the amount that may be contributed on your behalf. For example, if you are highly compensated, you may be limited depending on the extent to which rank-and-file employees participate in the plan. Your employer must advise you of any limits that may apply to you.

As with other types of retirement plans, a 401(k) can permit catch-up provisions for employees age 50 and over. The catch-up amount in 2003 is $2,000 and increases in $1,000 increments until the limit reaches $5,000 in 2006.

Although a 401(k) plan is a retirement plan, you may be permitted access to funds in the plan before retirement. For example, if you are an active employee, your plan may allow you to borrow from the plan. Also, your plan may permit you to make a withdrawal on account of hardship, generally from the funds you contributed. The

sponsor may want to encourage participation in the plan, but it cannot make your elective deferrals a condition for the receipt of other benefits, except for matching contributions.

What are employee stock ownership plans (ESOPs)?

Employee stock ownership plans (**ESOPs**) are a form of defined contribution plan in which the investments are primarily in employer stock. Congress authorized the creation of ESOPs as one method of encouraging employee participation in corporate ownership.

What is the role of the Labor Department in regulating retirement plans?

The Department of Labor enforces Title I of ERISA, which, in part, establishes participants' rights and responsibilities and fiduciaries' duties. However, certain plans are not covered by the protections of Title I. They are:

- Federal, State, or local government plans, including plans of certain international organizations.
- Certain church or church association plans.
- Plans maintained solely to comply with State workers' compensation, unemployment compensation, or disability insurance laws.
- Plans maintained outside the United States primarily for nonresident aliens.
- Unfunded excess benefit plans - plans maintained solely to provide benefits or contributions in excess of those allowable for tax-qualified plans.

The Labor Department's Employee Benefits Security Administration is the agency charged with enforcing the rules governing the conduct of plan managers, investment of plan assets, reporting and disclosure of plan information, enforcement of the fiduciary provisions of the law, and workers' benefit rights and responsibilities.

What other Federal agencies regulate retirement plans?

- The Treasury Department's Internal Revenue Service is responsible for ensuring compliance with the Internal Revenue Code, which establishes the rules for operating a "tax-qualified" retirement plan, including funding and vesting requirements. A plan that is "tax-qualified" can offer special tax benefits both to the employer sponsoring the plan and to the participants who receive retirement benefits. The IRS maintains a toll-free taxpayer assistance line for employee plans at (877) 829-5500.
- The Pension Benefit Guaranty Corporation, PBGC, a nonprofit, federally created corporation, guarantees payment of certain pension benefits under defined benefit plans that are terminated with insufficient money to pay benefits. The PBGC may be contacted at 1200 K Street, N.W., Washington, D.C. 20005, telephone: (202) 326-4000.

▶ CHAPTER 2

YOUR RIGHT TO PLAN INFORMATION

This chapter outlines the disclosure requirements of retirement plans. It describes the documents that a plan administrator must make available to you, the information these documents should contain, and alternative sources for the information. The following questions are addressed:

- **What information does the plan have to provide?**
- **What is a summary plan description and how often should you get it?**
- **Where can you get annual financial reports and other plan documents?**
- **What penalties can be assessed if a plan administrator does not provide certain documents?**

What information is your plan required to disclose?

ERISA requires plan administrators — the people who run plans — to give you in writing the most important facts you need to know about your retirement plan. Some of these facts must be provided to you regularly and automatically by the plan administrator. Others are available upon request, free-

of-charge, or for copying fees. Your request should be made in writing.

One of the most important documents you are entitled to receive is a summary of the plan called the **summary plan description,** or **SPD**. Your plan administrator is legally obligated to provide to you, free of charge, the SPD automatically when you become a participant of an ERISA-covered retirement plan or a beneficiary receiving benefits under such a plan . The summary plan description is an important document that tells you what the plan provides and how it operates. It tells you when you begin to participate in the plan, how your service and benefits are calculated, when your benefit becomes vested, when you will receive payment and in what form, and how to file a claim for benefits. You should read your summary plan description to learn about the particular provisions that apply to you. If a plan is changed you must be informed, either through a revised summary plan description, or in a separate document, called a **summary of material modifications**, which also must be given to you free of charge.

In addition to the summary plan description, the plan administrator must automatically give you each year a copy of the plan's **summary annual report**. This is a summary of the annual financial report that most retirement plans must file with the Department of Labor. These reports are filed on government forms called Form 5500. The summary annual report is available to you at no cost. To learn more about your plan's assets, you may ask the plan administrator for a copy of the annual report in its entirety.

If you are unable to get the summary plan description, the summary annual report, or the annual report from the plan administrator, you may be able to obtain a copy by writing to

the Department of Labor, EBSA, Public Disclosure Room, Room N-1513, 200 Constitution Avenue, N.W., Washington, D.C. 20210, for a nominal copying charge. To help locate your plan documents, please provide enough information to assist EBSA in identifying the document, such as the name of the plan and city and state in which it is located, as relevant to the document.*

If you have information that plan assets are being mismanaged or misused, call EBSA's toll free number at 1-866-444-EBSA and ask to speak with a regional office representative near you, or view a list of regional offices at **www.dol.gov/ebsa**.

On the following page is a list and description of the documents that must be made available to you. If a plan administrator refuses to comply with your request for documents, and the reasons are within his or her control, a court may impose a penalty of up to $110 per day. The Department of Labor does not have the authority to impose this penalty. See Chapter 6 on your right to sue under ERISA to enforce your rights.

*The information we need to identify a plan, such as plan name and EIN, is an information collection request approved under Office of Management and Budget control number 1225-0059. You are not required to respond to an information collection request unless it displays a currently valid OMB control number. Providing this information is entirely voluntary. The time needed to provide the information is expected to average about 30 seconds.

Sources of Plan Information

Type of document	Who you can get it from	When you can get it	Your cost
Summary Plan Description (SPD): This summary of your retirement plan tells you what the plan provides and how it operates.	Plan Administrator	• Upon written request • Automatically within 90 days after you become covered under the plan • Automatically every 5 years if your plan is amended • Automatically every 10 years if your plan has not been amended	Reasonable Charge Free Free Free
	Department of Labor	• Upon request	Copying Charge
Summary of Material Modifications (SMM): This summarizes material changes to your plan.	Plan Administrator	• Automatically within 210 days after the end of the plan year for which the plan has been amended or modified (distribution of a revised SPD satisfies this requirement)	Free
	Department of Labor	• Upon request	Copying Charge
Summary Annual Report: This summarizes the annual financial reports that most retirement plans file with the Department of Labor.	Plan Administrator	• Automatically within 9 months after the end of the plan year, or 2 months after the due date for filing the annual report	Free
Annual Report (Form 5500 Series): Annual financial reports that most retirement plans file with the Department of Labor.	Plan Administrator	• Latest annual report upon written request	Reasonable Charge
	Department of Labor	• Upon request	Copying Charge
Individual Benefit Statement: A statement describing your total accrued and vested benefits is required to be provided by most retirement plans.	Plan Administrator	• Upon written request once every 12 months	Free
Documents and instructions under which the plan is established or operated: This includes, for example, the plan document, collective bargaining agreement, trust agreement, SPD, SMM, and latest annual report.	Plan Administrator	• Upon written request • Available for inspection upon request	Reasonable Charge Free
Notice to Participants in Underfunded Plans: Generally, single-employer pension plans that are less than 90% funded must give you notice reporting the funding level of the plan describing the and limits on PBGC's guarantees.	Plan Administrator	• Within 2 months after the due date for filing the annual report	Free

*Documents filed with the Labor Department can be obtained by contacting the U.S. Department of Labor, EBSA, Public Disclosure Facility, Room N-1513, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone: (202)693-8673.

What documents are available from other Federal agencies?

Documents for some plans are available for public inspection at the Internal Revenue Service. These documents include the applications filed by retirement plans to determine if they meet Federal tax-qualification requirements, applications filed by certain organizations to determine if they qualify as tax-exempt, and the Internal Revenue Service responses to these applications. Get in touch with the Internal Revenue Service Public Access Reading Room, P.O. Box 795, Ben Franklin Station, Washington, D.C. 20044, telephone: (202) 622-5164, for information on available documents.

If you terminate employment and you have a vested retirement benefit (see Chapter 3 for an explanation of vested benefits) that you are not eligible to receive until later, that information will be reported by your plan to the Internal Revenue Service, which, in turn, will inform the Social Security Administration (SSA). This information must also be provided to you by the plan. The Social Security Administration will tell you, upon request, whether you were reported as having a deferred vested benefit under any plan. For information about making these requests, call 1-800-772-1213 (toll-free). SSA will automatically give you this information when you apply for social security benefits. Nevertheless, it is in your interest to keep the plan administrator informed about any change of address or name change after you leave employment to assure that you will receive the retirement benefit due to you.

▶ CHAPTER 3
BENEFIT ACCRUAL AND VESTING

This chapter describes ERISA's rules for eligibility, benefit accrual and vesting. It addresses the following questions:

- **What age and service requirements may a plan impose on eligibility?**
- **What are accrued benefits?**
- **What is vesting?**
- **How long may it take to become vested?**
- **Will you receive any benefits from your retirement plan if you leave employment before becoming vested?**

Earning Service Credit

ERISA establishes rules for how employers must measure employees' employment service to determine how the eligibility, benefit accrual and vesting rules apply. ERISA generally defines a year of service as 1,000 hours of service during a 12-month period. Different rules apply to counting service for purposes of eligibility, benefit accrual and vesting.

A plan basically has a choice among three methods for determining whether you must be credited with a year of service for participation, vesting and, in some circumstances, benefit accrual: the general method of counting service, a simplified equivalency method,

or the elapsed time method. Refer to your summary plan description to see which method is used by your plan.

Who must be allowed to participate in your employer's retirement plan?

Generally speaking, if your employer provides a plan that covers your position, you must be permitted to become a participant if you have reached age 21 and have completed 1 year of service. Even if you work part time or seasonally, you cannot be excluded from the plan on the grounds of age or service if you meet this service standard. You must be permitted to begin to participate in the plan no later than the start of the next plan year or 6 months after meeting the requirements of membership, whichever is earlier. You should be aware, however, that your employer may provide one or more plans covering different groups of employees or may exclude certain categories of employees from coverage under any plan. For example, your employer may sponsor one plan for salaried employees and another for union employees, or you may not be within the group that the employer defines as covered by a plan.

ERISA imposes certain other participation rules. They depend on the type of employer for whom you work, the type of plan your employer provides, and your age. For example:

- If you were an older worker when you were hired, you cannot be excluded from participating in the plan on the grounds of age just because you are close to retirement.
- If upon your entry into the plan, your benefit will be immediately fully "vested," or nonforfeitable (see p. 27), the plan can require that you complete 2 years of service before you become eligible to participate in the plan.

401(k) plans, however, cannot require you to complete more than 1 year of service before you become eligible to participate.

- If you work for a tax-exempt educational institution and your plan benefit becomes vested after you earn 1 year of service, the plan can require that you be at least age 26 (instead of age 21) before you can participate in the plan.
- If your employer maintains a SEP, you must be permitted to participate if you have performed services for the employer in 3 of the immediately preceding 5 years.

What is benefit accrual and how does it work?

When you participate in a retirement plan, you accrue (earn) benefits. Your accrued benefit is the amount of benefit that has accumulated or been allocated in your name under the plan as of a particular point in time. ERISA generally does not set benefit levels or specify precisely how benefits are to accumulate.

Plans may use any definition of service for purposes of benefit accrual as long as the definition is applied on a reasonable and consistent basis. Service for purposes of benefit accrual generally takes into account only the years of service you earn after you become a plan participant, not all service you may perform since you were hired by your employer. Employees who work less than full-time, but at least 1,000 hours per year, must be credited with a pro rata portion of the benefit that they would accrue if they were employed full time.

To illustrate: If a plan requires 2,000 hours of service for full benefit accrual, then a participant who works 1,000 hours must be credited with at least 50 percent of the full benefit accrual.

A special rule applies to SEPs: all participants who earn at least $450* (in 2003) in compensation from their employers are entitled to receive a contribution or, if the SEP is a salary reduction SEP, to elect to make a contribution.

Since ERISA generally does not regulate the amount of your benefit, you can estimate how much you are building up only by examining the summary plan description or the plan document. These documents should explain how you earn service credit for full benefit accrual each plan year.

What other rights are protected as part of your accrued benefits?

Your accrued benefit includes more than just the amount of benefit you have accumulated. Your plan provides you with various rights and options, some of which are protected rights attached to your benefit amount. As a general rule, protected rights cannot be reduced or eliminated, nor can they be granted or denied at your employer's discretion. If a plan feature you care about has been eliminated, this section is designed to help you determine if it was protected or not.

The rights that are protected include:

- **Early retirement benefit.** ERISA does not require a retirement plan to provide participants with the option to retire earlier than at the plan's normal retirement age. If such an option is offered, however, a plan generally may not be amended to eliminate the right to take such an early retirement with respect to benefits accrued before the amendment.
- **Retirement-type subsidy.** Retirement-type subsidies are also a protected part of your benefit and cannot be eliminated retroactively.

*This number is subject to cost-of-living in 2003 and in later years.

Certain important plan features are not protected, such as a social security supplement, directing investments, a particular form of investment, taking a loan from a plan, or making employee contributions at a particular rate on either a before- or after-tax basis.

Can your plan reduce future benefits?

ERISA does not prohibit your employer from amending the plan to reduce the rate at which benefits accrue in the future. For example, a plan that paid $5 in monthly benefits at age 65 for years of service up through 2002, may be amended to provide that years of service beginning in 2003 are credited at the rate of $4 per month.

If you are a participant in a defined benefit plan or a money purchase plan, you must receive written notice of a significant reduction in the rate of future benefit accruals after the plan amendment is adopted and at least 15 days before the effective date of the plan amendment. The written notice must describe the plan amendment and its effective date.

What happens to your service credit if you leave your job and later return?

A break in service can have serious consequences for your benefit if it extends for a long enough time and your benefit is not yet fully vested. However, ERISA does not permit your accrued benefit to be forfeited if you have a short break in service. ERISA establishes rules governing the circumstances under which a plan is required to continue to credit a participant with service earned before a break in service if the participant later returns to employment. These rules are very technical, but in general guarantee your service credit cannot be forfeited for absences shorter than 5 consecutive years. If

you need to take a leave of absence, you should carefully examine your plan's rules so that you do not inadvertently and unnecessarily lose retirement benefits you have accrued.

What happens to your benefit accruals (and your benefit payments) if you retire and later go back to work?

If you continue to work past normal retirement age (without retiring), you continue to accrue benefits, regardless of age. However, a plan can limit the total number of years of service that will be taken into account for benefit accrual for anyone in the plan. If you retire and later go back to work with your employer, you must be allowed to continue to accrue additional benefits, subject to any such limit on total years of service credited under the plan.

Plans that provide for the payment of early retirement benefits may suspend payment of those benefits if you are reemployed before reaching normal retirement age. However, if the plan suspends payment of benefits before normal retirement age, under circumstances that would not have permitted a suspension after normal retirement age, and the plan pays an actuarially reduced early retirement benefit, the plan must actuarially recalculate your monthly payment when you begin again to receive payments.

Under certain circumstances (described below), your benefit payments after you reach normal retirement age may be suspended if you return to work. For example, ERISA permits a multiemployer plan to suspend the payment of normal retirement benefits if you return to work in the same industry, the same trade, and the same geographical area covered by the plan as when benefits commenced.

Before suspending benefit payments, however, the plan must notify you of the suspension during the first calendar month in which the plan withholds payments. The notification must give you the information on why benefit payments are suspended, a general summary and a copy of the plan's suspension of benefit provisions, a statement regarding the Department of Labor regulations, and information on the plan's procedure under which you may request a review of the decision to suspend benefit payments. If most of this information is contained in the plan's summary plan description, the notification may simply refer to the appropriate pages of the summary plan description.

A plan that suspends benefit payments must advise you of its procedures for requesting an advance determination of whether a particular type of reemployment would result in a suspension of benefit payments. If you are a retiree and are considering taking a job, you may wish to write to the administrator of your plan to ask if your benefit payments would be suspended.

What is vesting and how does it work?

Vesting refers to the amount of time you must work before earning a nonforfeitable right to your accrued benefit. When you are fully "**vested**," your accrued benefit will be yours, even if you leave the company before reaching retirement age. Generally, if you are employed when you reach your plan's "normal" retirement age (usually 65), you will be fully vested. You also must be permitted to earn a vested right to your accrued benefit through service as described below.

You are always entitled to 100 percent vesting in your own contributions and salary reduction contributions and their investment earnings. However, if your employer contributes to your accrued benefit (as most do), you may be required to complete a certain num-

ber of years of service with the employer before the employer portion of your accrued benefit becomes vested. *Thus, if you terminate employment before working for a long enough period with your employer, you may forfeit all or part of your accrued benefit provided by your employer.*

ERISA sets these standards as a minimum for counting vesting service. Plans may provide a different standard, as long it is more generous than these minimums. Check your summary plan description for a description of your employer's vesting schedule.

Prior to 2002, the vesting scheduled your employer used must have been at least as generous as one of the two following schedule.

7-YEAR "GRADED" VESTING SCHEDULE

Years of vesting service you have completed	Percentage of your accrued benefit that is vested
Less than 3	0%
At least 3 but less than 4	20%
At least 4 but less than 5	40%
At least 5 but less than 6	60%
At least 6 but less than 7	80%
At least 7	100%

5-YEAR "CLIFF" VESTING SCHEDULE

Years of vesting service you have completed	Percentage of your accrued benefit that is vested
Less than 5	0%
At least 5	100%

With some exceptions, once you begin participating in a retirement plan, all of your years of service with the employer maintaining the plan after you reached age 18 must be taken into account to determine whether and the extent to which your accrued benefits are vested, including service you earned before you began to participate in the plan and service you earned before the effective date of ERISA.

However, ERISA does allow plans to disregard certain periods for purposes of determining an employee's vesting service. If you wish further details on what periods of service may be disregarded, see your summary plan description or the plan document to find out what periods are counted in your plan.

When you receive a benefit statement, compare the amount of your accrued benefit with the amount or percentage of your vested benefit to determine its accuracy. If these items are not clear from your benefit statement, ask your plan administrator. The plan administrator may send you a benefit statement each year. If not, you may request a copy. In order to keep track of your vesting service, you may want to keep records of your hire date, the date you began participating in the plan, and the dates of any leaves of absence that could affect your total service.

If the plan's vesting schedule is changed after you have completed at least 3 years of service, you have the right to select the vesting schedule that existed prior to the change for the entire length of your service, rather than the new schedule.

In 2002, changes to the vesting rules speeded up the minimum vesting schedules for employer matching contributions. There are now two alternative minimum vesting schedules that a plan may use.

Under the first minimum vesting schedule ("cliff" vesting), the time period for acquiring a nonforfeitable right in employer matching contributions was shortened from 5 years to 3. This allows employees with 3 years of service to be 100 percent vested in the employer's matching contributions.

The second minimum vesting schedule (graded vesting) was shortened by 1 year, from 7 years of service to 6. A participant has a 20-percent nonforfeitable right in the employer matching contributions upon completion of 2 years of service. The percentage of the nonforfeitable right increases by 20 percent upon completion of each additional year of service until the participant has a nonforfeitable right in 100 percent of the employer matching contributions.

Following is the new graded minimum vesting schedule for employer matching contributions:

Years of service	The nonforfeitable percentage
2	20%
3	40%
4	60%
5	80%
6	100%

May plans use other vesting schedules?

Top-heavy plans must have a faster vesting schedule. Plans are considered "top-heavy" if they are tax-qualified and more than 60 percent of the benefits accrue to certain owners and officers, otherwise known as "key employees." This could occur, for example, in small companies that have frequent turnover of rank-and-file workers. In years in which a plan is top heavy, you have the right to both faster vesting and minimum benefits, if you are not a key employee.

All benefits under a SEP and a SIMPLE plan must be fully vested at all times.

▶ CHAPTER 4
PAYMENT OF BENEFITS

This chapter outlines your rights to payment of your benefits. The following questions are addressed:

- **When will your benefits be paid?**
- **In what form will your benefits be paid?**

As described in the previous chapter, ERISA sets rules protecting your eligibility to participate, your accrual of benefits, and your becoming vested under your retirement plan. ERISA also provides a variety of rules concerning when, as a plan participant, you may or must be permitted to receive your benefits. This chapter describes the payment of your benefits.

When can you expect payment of your benefits?

ERISA provides specific rules governing when you may, or must, begin receiving your retirement benefits. First, ERISA sets the *latest* date by which the plan must permit you to begin receiving your benefit. Under this rule, payment must begin by the 60th day after the end of the plan year in which the latest of the following events occur:

(1) you reach age 65 or, if earlier, the normal retirement age specified by your plan;

(2) the end of the 10th year after you began participation in the plan ends; or

(3) you terminate your service with the employer.

Thus, for example, your plan must provide at a minimum that you will be entitled to begin to receive your benefit 60 days after the end of the year in which you reach age 65, if you began participation in the plan at least 10 years before that year.

Your plan may allow you to receive payment of your benefit earlier than required by the above rule (and many plans do, subject to rules described below). However, as long as the present value of your vested accrued benefit is greater than $5,000, the plan cannot force you to begin receiving your benefit before you reach the age that is generally considered normal retirement age (or age 62 if later).

If the present value of your vested accrued benefit under the plan is $5,000 or less, the plan may require you to receive your benefit when it first becomes distributable, such as when you terminate employment. In determining whether your vested accrued benefit is $5,000 or less, the portion of your benefit that comes from amounts rolled over from another plan is not counted.

When may your plan permit you to take payment?

ERISA provides rules governing the times at which a retirement plan may permit you to receive benefits. As these limitations on "distribution events" for payment vary depending on the type of plan, consult your summary plan description or plan document for the specific events or times that are the conditions under which you will be entitled to receive your benefits. After the event occurs that permits payment of your benefit, your plan may require some reason-

able period of time during which to calculate your benefit and determine your payment schedule, or to value your account balance and to liquidate any investments in which your account is invested. The following are a few general rules about possible distribution events for which your plan may provide:

If your plan is a defined benefit plan or a money purchase plan, it will set a normal retirement age, which is generally the time at which you will be eligible to begin receiving your vested accrued benefit. These types of plans may permit earlier payments, however, either by providing for "early retirement" benefits, for which the plan may set additional eligibility requirements, or by permitting benefits to be paid when you terminate employment, suffer a disability, or die.

If your plan is a 401(k) plan, it may permit you to take some or all of your vested accrued benefit when you terminate employment, retire, die, become disabled, reach age 59½, or if you suffer a hardship.

If your plan is profit-sharing plan or a stock bonus plan, your plan may permit you to receive your vested accrued benefit after you terminate employment, become disabled, die, reach a specific age, or after a specific number of years have elapsed.

Your plan's summary plan description should describe all of the rules applicable to any of the events that permit distributions.

When must you take payment?

ERISA also sets a date by which you must begin to receive your benefits, regardless of your wishes or the plan's rules, if your plan is tax-qualified. This mandatory beginning date is generally April 1 of the calendar year following the calendar year in which you reach age 70½ or retire*. ERISA provides rules for determining how much of your accrued benefit you must then receive each year.

*If you are a 5 percent owner of the employer, the mandatory beginning date is generally April 1 of the calendar year in which you reach age 70½.

In what form will your benefits be paid?

With some very important limits, your plan can dictate the forms in which you may receive your accrued benefit. The protections that ERISA provides about form of benefit payments vary (again) depending on whether you have a defined benefit plan, money purchase plan, or other kind of defined contribution plan. If you are covered under a defined benefit plan or a money purchase plan, your benefit must be available in the form of a life annuity, which means you will receive equal periodic payments (e.g., monthly, quarterly, etc.) for the rest of your life. If you are married, your benefit must be available in the form of a "qualified joint and survivor annuity." (That form of benefit payment is described in the next chapter, concerning spousal rights to benefit payments).

If you are covered under a defined contribution plan that is not a money purchase plan, the plan may choose to pay your benefits in a single lump sum payment, or in any other form it chooses. If it offers a life annuity option, however, and you choose that option, you and your spouse (if any) will be protected by being offered a life annuity or a joint and survivor annuity that satisfies the requirements of ERISA.

▶ CHAPTER 5

PROVIDING SURVIVOR BENEFITS TO YOUR SPOUSE

This chapter tells you what protections ERISA provides to your surviving spouse if your benefit was vested upon your death. The following questions are addressed:

- **Which retirement plans are required to offer survivor annuities?**
- **What is a qualified joint and survivor annuity?**
- **What is a qualified preretirement survivor annuity?**
- **What rights does a spouse have under your retirement plan?**
- **Does your spouse have to agree to the form of benefit payment you elect?**
- **May you leave your survivor benefit to a beneficiary other than your spouse?**

What happens to your benefits upon death?

ERISA provides some protection to surviving spouses of deceased participants who had a vested retirement benefit before death. The nature of the protection depends on the type of plan and whether the participant dies before or after payment of the benefit is scheduled to begin, otherwise known as the annuity starting date. The summary plan description, described in Chapter 2, will tell you the type of

plan involved and whether survivor annuities or other death benefits are provided under the plan.

What is a qualified joint and survivor annuity (QJSA)?

In a defined benefit plan or a money purchase plan, the form of retirement benefit payment, unless you and your spouse (if any) chose otherwise, must be a series of equal, periodic payments over your lifetime, with a payment continuing to your spouse for the rest of his or her life if he or she survives you. The periodic payment to your surviving spouse must be at least 50 percent, and not more than 100 percent, of the periodic payment received during your joint lives. This form of payment is called a "qualified joint and survivor annuity" (QJSA).

If the plan provides other forms of benefit payment, and you and your spouse want to waive your rights to receive the QJSA and select one of the other payment forms available, you can do so according to specific rules. You and your spouse must receive a timely explanation of the QJSA, your waiver must be made in writing within certain time limits, and your spouse must give consent to the waiver in writing witnessed by a notary or plan representative.

What is a qualified preretirement survivor annuity (QPSA)?

A survivor annuity must also be offered by a defined benefit or money purchase plan if a married participant with a vested benefit dies before he or she begins receiving benefits. This survivor annuity is called a "qualified preretirement survivor annuity" (QPSA). ERISA specifies how the QPSA is calculated. You and your spouse must be given a timely explanation of the QPSA. You may only waive the right to a QPSA in writing, and your spouse must consent to the waiver of the QPSA in writing, witnessed by a notary or plan representative.

What survivor benefit rules apply to most defined contribution plans (such as 401(k) plans)?

Most profit-sharing and stock bonus plans, like 401(k) plans, generally need not offer a survivor annuity. However, there are rules for such plans that protect the spouse as beneficiary.

Before you begin to receive your benefits under such a plan, your spouse is automatically presumed to be your beneficiary. Thus, if you die before you receive your benefits, all of your benefits will automatically go to your surviving spouse. If you wish to select a beneficiary other than your spouse, your spouse must consent in writing, witnessed by a notary or plan representative. This protects your spouse in the event of your death before any payout has been made. When you reach a distribution date, however, such as when you terminate employment or reach retirement, you may choose, without your spouse's consent, among any optional forms of payment offered by the plan, including a life annuity, if offered by the plan. If you choose a life annuity, however, your spouse is then protected by QJSA rules, and the benefit will be paid as a QJSA unless you and your spouse consent to a different form, as outlined above.

Where can you get more information about QJSA and QPSA rights?

ERISA and the Internal Revenue Code prescribe detailed rules regarding the QJSA and QPSA rights. You may wish to obtain from the Internal Revenue Service the following publications on survivor annuities:

- IRS Publication 1565 — *Looking Out for #2: A Married Couple's Guide to Understanding Your Benefit Choices at Retirement from a Defined Contribution Plan;*

- IRS Publication 1566 — *Looking Out for #2: A Married Couple's Guide to Understanding Your Benefit Choices at Retirement from a Defined Benefit Plan.*

These rules reflect the law in effect for participants who completed an hour of service (or paid leave) on or after August 23, 1984. ERISA's survivor annuity rules are different if you are the surviving spouse of a participant who left employment before that date.

▶ CHAPTER 6

MAKING A BENEFITS CLAIM AND FILING SUIT UNDER ERISA

This chapter outlines how and under what circumstances you can make a benefit claim. It tells you what appeal procedures to follow if your claim for benefits is denied and describes your rights to pursue a lawsuit. The following questions are addressed:

- **How do you file a claim for benefits?**
- **What do you do if your claim is denied?**
- **May you sue the plan?**
- **What are the grounds for legal action?**

How do you make a claim for benefits?

Under ERISA you have a responsibility to file a claim for benefits due under your plan. ERISA requires all plans to have a reasonable written procedure for processing your claim for benefits and for appealing if your claim is denied. The summary plan description (see Chapter 2) should contain a description of your plan's claims procedure. If you believe you are entitled to a benefit from a retirement plan, but your plan fails to set up a claims procedure, you may present the claim to the plan administrator.

If your claim for benefits is denied, the plan must notify you in writing - generally within 90 days after receipt of the claim - of the reasons for the denial and the specific plan provisions on which the denial is based. If the plan denies your claim because the administra-

tor needs more information to make a decision, the administrator must tell you what information is needed. Any notice of denial must also tell you how to file an appeal. If special circumstances require your plan to take more time to examine your request, it must tell you within 90 days that additional time is needed, why it is needed, and the date by which the plan expects to make a final decision. If you receive no answer at all in 90 days, this is treated the same as a denial, and you can proceed to appeal.

You must be allowed at least 60 days to appeal any denial. After receiving your appeal, the plan generally must issue a ruling within 60 days, unless the plan provides for a special hearing. If the plan notifies you that it must hold a hearing, or that it has other special circumstances, it may have an additional 60 days.

The plan must furnish you with the final decision on your appeal and the reasons for the decision with references to the relevant plan documents. If you disagree with the final decision, you may then file a lawsuit seeking your benefit under ERISA, as explained below. But courts generally require that you complete all the steps available to you under your plan's claims procedure in a timely manner before you seek relief through a lawsuit. This is called "exhausting your administrative remedies."

May you sue under ERISA?

As a plan participant or beneficiary, you may bring a civil action in court to:

- Recover benefits due you and enforce your rights under the plan.
- Get access to plan documents you requested in writing. If your plan administrator does not supply the plan documents within 30 days of your written request, a court could

find the plan administrator personally liable for up to $110 per day (unless the failure results from circumstances reasonably beyond his or her control).

- Clarify your right to future benefits.
- Get appropriate relief from a breach of fiduciary duty.
- Enjoin any act or practice that violates the terms of the plan or any provision of Title I of ERISA, such as the reporting and disclosure, participation, vesting, funding, and fiduciary provisions, or to obtain other equitable relief.
- Enforce the right to receive a statement of vested benefits upon termination of employment.
- Obtain review of a final action of the Secretary of Labor, to restrain the Secretary from taking action contrary to ERISA, or to compel the Secretary to take action.
- Obtain review of any action of the PBGC or its agents that adversely affects you.

You may file your lawsuit under ERISA in a Federal district court. If you seek benefits or clarification of your right to future benefits, you may file an alternative suit in a State court. The court in its discretion may order either party in the suit (you or the plan/plan fiduciaries/plan sponsor) to pay reasonable attorney fees and costs, when a participant or beneficiary sues under ERISA.

What is the role of the Department of Labor if you sue under ERISA?

The Secretary of Labor may directly bring a civil action under ERISA to enforce the fiduciary provisions of ERISA. The Secretary also has limited authority to bring a civil action to enforce ERISA's participation, vesting, and funding standards with respect to a tax-qualified plan. In addition, the Secretary of Labor has discretion to intervene in lawsuits filed in Federal court to enforce rights under ERISA. A participant or beneficiary who brings an action in Federal court claiming a breach of fiduciary duty must provide a copy of the complaint to the Secretary of Labor and the Secretary of the Treasury by certified mail. It is not necessary to provide such notice to any government agency if you bring a lawsuit solely to recover benefits under the plan.

May your employer fire you for asserting your rights under ERISA?

ERISA prohibits employers from promising retirement benefits and then firing or disciplining workers to avoid paying a benefit. To that end, ERISA says it is unlawful for an employer to discharge, fine, suspend, expel, discipline, or discriminate against you or any beneficiary for the purpose of interfering with the attainment of any right to which you may become entitled under the plan or the law.

Also, employers cannot take any of these steps against you for exercising any of your rights or prospective rights under a plan or ERISA, or for giving information or testimony in any inquiry or proceeding relating to ERISA. Moreover, the use of force or violence to restrain, coerce, or intimidate you for the purpose of interfering with your rights or prospective rights is punishable by a fine of up to $10,000 and/or up to one year in prison.

▶ CHAPTER 7

DIVIDING YOUR RETIREMENT BENEFIT FOR FAMILY SUPPORT

This chapter describes the rights and responsibilities of the parties and the plan if a spouse, former spouse, child or other dependent seeks a portion or all of your retirement benefits. It addresses the following:

- **What is a Qualified Domestic Relations Order?**
- **What is an alternate payee?**
- **When can an alternate payee receive payment under QDRO?**

Can your retirement benefit be attached for family support?

In general, your retirement benefits cannot be taken away from you by people to whom you owe money. The law makes a limited exception, however, when family support is at stake. Thus, a State authority with jurisdiction over such matters can award part or all of your benefit to your spouse, former spouse, child, or other dependent by issuing a qualified domestic relations order, which must be honored by the plan. The person named in such an order is called an **alternate payee**. The award can be made in a variety of forms.

What requirements must be met for a domestic relations order to be qualified?

When a plan receives a domestic relations order purporting to divide retirement benefits, it must first determine whether the order is a **qualified domestic relations order (QDRO)**. The order must relate to child support, alimony, or marital property rights and be made under State domestic relations law. To be "qualified" the order should clearly specify your name and last known mailing address and the name and last known address of each alternate payee. It also must state the name of your plan; the amount or percentage — or the method of determining the amount or percentage — of the benefit to be paid to the alternate payee; and the number of payments or time period to which the order applies. The order cannot provide a type or form of benefit not otherwise provided under the plan and cannot require the plan to provide an actuarially increased benefit. And if an earlier QDRO applies to your benefit, the earlier QDRO takes precedence over a later one.

In certain situations, a QDRO may provide that payment is to be made to an alternate payee before you are entitled to receive your benefit. For example, if you are still employed, a QDRO could require payment to an alternate payee on or after your "earliest retirement age," whether or not the plan would allow you to receive benefits at that time. If you are in the process of a divorce, and a QDRO is being prepared for your family, you may wish to be sure that the QDRO addresses whether a benefit is payable to an alternate payee upon your death and the consequences of the death of the alternate payee.

▶ CHAPTER 8

PROTECTING YOUR PLAN'S ASSETS FROM MISMANAGEMENT AND MISUSE

This chapter is about the responsibilities of fiduciaries. Fiduciaries must act in accordance with ERISA guidelines and the rules of your plan. The following questions are addressed:

- **How are the assets of your plan protected?**
- **What rules are the people managing plan assets required to follow?**
- **What are the responsibilities of fiduciaries and participants in plans where participants direct investment of their own accounts?**

What protections do the fiduciary requirements of ERISA provide?

ERISA protects your plan from mismanagement and misuse of assets through its fiduciary provisions. ERISA defines a fiduciary as anyone who exercises discretionary control or authority over plan management or plan assets, anyone with discretionary authority or responsibility for the administration of a plan, or anyone who provides investment advice to a plan for compensation or has any authority or responsibility to do so. Plan fiduciaries include, for example, plan trustees, plan administrators, and members of a plan's investment committee.

The primary responsibility of fiduciaries is to run the plan solely in the interest of participants and beneficiaries and for the exclusive purpose of providing benefits and paying plan expenses. Fiduciaries must act prudently and must diversify the plan's investments in order to minimize the risk of large losses. In addition, they must follow the terms of plan documents to the extent that the plan terms are consistent with ERISA. They also must avoid conflicts of interest. In other words, they may not engage in transactions on behalf of the plan that benefit parties related to the plan, such as other fiduciaries, service providers or the plan sponsor.

Fiduciaries who do not follow these principles of conduct may be personally liable to restore any losses to the plan or to restore any profits made through improper use of plan assets. Courts may take whatever action is appropriate against fiduciaries who breach their duties under ERISA including their removal.

When can you choose your own investments?

In some defined contribution plans, a group or an individual makes all the investment decisions for the plan's assets. In certain defined contribution plans, however, plan officials may decide to provide a number of investment options, and they may ask you to decide how to invest your account balance by choosing among those investment options.

The Department of Labor has established rules about plans that permit participants to direct their own investments. Under these rules, if, and only if, you truly exercise independent control in making your investment choices, plan officials will be excused from the fiduciary responsibility for the consequences of your investment decisions. A plan under which you in fact exercise

independent control over the investment of your individual account is called a 404(c) plan (after section 404(c) of ERISA). If you are a participant in a 404(c) plan, you are responsible for the consequences of your investment decisions, and you cannot sue the plan officials for investment losses that result from your decision.

You are entitled to receive a broad range of information about the investment choices available under a 404(c) plan. Thus, a plan that intends to relieve plan officials of fiduciary duties over investments must inform you of that fact. Also, a 404(c) plan must give you sufficient information about investment options under the plan for you to be able to make informed decisions. The information you are entitled to receive without asking includes the following:

- A description of each investment option, including the investment goals, risk and return characteristics.
- Information about designated investment managers.
- An explanation of when and how to make investment instructions and any restrictions on when you can change investments.
- A statement of the fees that may be charged to your account when you change investment options or buy and sell investments.
- Information about your shareholder voting rights and the manner in which confidentiality will be provided on how you vote your shares of stock.
- The name, address, and phone number of the plan fiduciary or other person designated to provide certain additional information on request.

▶ CHAPTER 9

ERISA'S PROTECTIONS AGAINST INADEQUATE PLAN FUNDING

This chapter is about the rules that require employers to adequately fund their retirement plans. The following questions are answered:

- **What rules govern how employers fund plans?**
- **Are there penalties for underfunding a plan?**
- **Are employers subject to sanctions if they accidentally underfund a plan?**

What are the funding standards for plans?

ERISA sets minimum funding rules to provide that sufficient money is available to pay promised benefits to you when you retire. Funding rules establish the minimum amounts that employers must contribute to plans in an effort to ensure that plans have enough money to pay benefits when due. The rules are applicable primarily to defined benefit plans and also to money purchase plans.

Defined benefit plans generally fund future benefits over time. The plans consider probable investment gains and losses and make assumptions about factors such as future interest rates and potential workforce changes. ERISA provides detailed funding rules to protect the plan from financing methods that could prove inadequate to pay the promised benefits when they are due.

ERISA provides severe sanctions against an employer who fails to meet the funding obligations. Any employer who fails to comply with the minimum funding requirements is charged an excise tax on the amount of the accumulated funding deficiency, unless the employer receives a waiver of the minimum funding requirements. This tax is imposed whether the underfunding was accidental or intentional. Certain actions can also be taken by the Department of Labor and the Pension Benefit Guaranty Corporation to enforce the minimum funding standards.

In the case of defined benefit plans that are less than 90 percent funded, you must be notified each year about the plan's funding status and PBGC's guarantees.

▶ CHAPTER 10

PROTECTING YOUR BENEFITS IN THE EVENT OF PLAN TERMINATIONS AND MERGERS

This chapter describes what might happen to your benefits if your employer decides to terminate or merge your retirement plan with another plan. It covers the following questions:

- **What happens if your plan terminates without enough money to pay the benefits?**
- **If your plan terminates before you are vested, will you lose your benefits?**
- **Under what circumstances is your benefit guaranteed by the government?**
- **Can your benefits be reduced as the result of a merger?**

Can a plan be terminated?

Although retirement plans must be established with the intention of being continued indefinitely, employers may terminate plans. If your plan terminates or becomes insolvent, ERISA provides some protection. In a tax-qualified plan, your accrued benefit must become 100 percent vested immediately upon plan termination, to the extent then funded. If a partial termination occurs in such a plan, for example, if your employer closes a par-

ticular plant or division that results in the termination of a substantial portion of plan participants, immediate 100 percent vesting, to the extent funded, also is required for affected employees.

What happens if your plan terminates without enough money to pay the benefits? Which benefits are guaranteed?

If your terminated plan is a defined benefit plan insured by the Pension Benefit Guaranty Corporation, the PBGC will guarantee the payment of your vested pension benefits up to the limits set by law. Benefits that are guaranteed or that exceed PBGC's limits may be paid depending on the plan's funding and on whether PBGC is able to recover additional amounts from the employer. For further information on plan termination guarantees, write to the Pension Benefit Guaranty Corporation, Administrative Review and Technical Assistance Department, 1200 K Street, N.W., Washington, D.C. 20005, telephone (202) 326-4000.

If a plan terminates and the plan purchases annuity contracts from an insurance company to pay benefits in the future, plan fiduciaries must take certain steps to select the safest available annuity. Thus, in accordance with Department of Labor guidance, the plan must conduct a thorough search with respect to the financial soundness of insurance companies that provide annuities, to better assure the future payment of benefits to participants and beneficiaries.

Is your accrued benefit protected if your plan merges with another plan?

Your employer may choose to merge your plan with another plan. If your plan is terminated as a result of the merger, the benefit you would be entitled to receive after the merger must be at least equal to the benefit you were entitled to receive before the merger. Special rules apply to mergers of multiemployer plans, which are generally under the jurisdiction of the PBGC.