PBGC
Protecting America's Pensions
Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

APR 2 1 2009

EXECUTIVE SUMMARY

TO: Vincent Snowbarger, Acting Director

THROUGH: Andrea Schneider, Chairperson, Trusteeship Working Group aES

FROM: Israel Goldowitz, Chief Counsel Kim for IG
Karen L. Morris, Deputy Chief Counsel Kim
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C. Wayne Owen, Jr., Attorney CWO

SUBJECT: Notice of Determination for the Delphi Retirement Program for Salaried Employees ("SRP") and the Delphi Hourly-Rate Plan ("HRP") (collectively, "Plans")

<u>ACTION</u>: Signature

Plan Information:

<u>SRP</u>	
Participants :	20,203
Plan Assets:	$2,326,300,000
Benefit Liabilities	$5,042,500,000
Guaranteed Benefit Liabilities	$4,504,300,000
Unfunded Benefit Liabilities	$2,716,200,000
Unfunded Guaranteed Benefit Liabilities	$2,178,000,000

<u>HRP</u>	
Participants :	44,597
Plan Assets:	$3,682,600,000
Benefit Liabilities	$7,694,100,000
Guaranteed Benefit Liabilities	$7,473,000,000
Unfunded Benefit Liabilities	$4,011,500,000
Unfunded Guaranteed Benefit Liabilities	$3,790,400,000

Attached for your signature are the Trusteeship Decision Record and Notice of Determination ("NOD") for the Plans. The NOD states that PBGC has determined that the SRP meets the

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criteria for termination under 29 U.S.C. § 1342(a)(1), (a)(2), and(a)(4); that the HRP meets the criteria for termination under 29 U.S.C. § 1342(a)(2) and (a)(4); that the Plans should be terminated under 29 U.S.C. § 1342(c) to avoid unreasonable increase in the liability of the PBGC's insurance fund; and that PBGC intends that the established date of plan termination ("DOPT") be as soon as possible consistent with the foreclosure date in the DIP Agreement as it may be amended, pursuant to 29 U.S.C. § 1348. The Trusteeship Working Group ("TWG") recommends termination and trusteeship of the Plans.

Background

Delphi, the Plans' sponsor, is one of the largest automotive parts suppliers in the world. Delphi has been operating in Chapter 11 since October 8, 2005. On April 2, 2009, Delphi announced that an agreement had been reached among itself, its debtor-in-possession ("DIP") lenders, General Motors Corporation ("GM") and the U.S. Department of Treasury ("Treasury") to allow a period of time for the relevant parties to negotiate a global solution to the Delphi situation, including GM's role in it. According to Delphi's 8-K filed with the SEC on April 2, 2009, Delphi has until April 17, 2009, to deliver to the DIP lenders a detailed term sheet (the "Term Sheet") that has been agreed to by both GM and Treasury. The Term Sheet is to set forth the terms of a global resolution of matters relating to GM's contribution to the resolution of Delphi's Chapter 11 cases.

Failure to deliver a term sheet triggers a $117 million repayment obligation to the DIP lenders on April 20, 2009. Failure to deliver a term sheet and failure to repay the $117 million repayment obligation are each events of default under the DIP credit agreements and subsequent amended accommodation agreements. These agreements provide a five-business-day grace period, meaning that the accommodation period under which Delphi is continuing to use its DIP borrowings may terminate on April 24, 2009.

Termination of the accommodation period enables the DIP lenders to exercise all their remedies in the DIP credit agreements, including foreclosure on their collateral. Those agreements expressly provide that those remedies can be exercised without further notice to or order from the Bankruptcy Court. Among the collateral pledged to the DIP lenders is 100% of the stock in Delphi's foreign subsidiaries – stock currently owned by Delphi Automotive Systems Holding, Inc. ("DASHI"), a debtor entity. The foreign subsidiaries remain outside of bankruptcy and constitute substantially all of the value of the Delphi controlled group. PBGC must initiate a termination and set a date of plan termination ("DOPT") as soon as possible consistent with the foreclosure date in the DIP Agreement as it may be amended, or risk a controlled group break-up, whereby substantially all value available for PBGC recoveries leaves the controlled group.

Delphi's current position is that it cannot keep the Plans. The company's most recent bankruptcy emergence assumptions show Delphi transferring the Plans to GM upon emergence. Delphi has further stated that the Plans must either be transferred to GM (with support from Treasury) or be terminated and trusteed by the PBGC.

Recommendation

The TWG concluded that PBGC's risk of loss could reasonably be expected to increase unreasonably if the DIP lenders were to foreclose and cause a break-up of the Delphi controlled group. The TWG recommended PBGC-initiated termination of the Plans in accordance with ERISA § 4042(a)(4). The TWG also concluded that the Plans will be unable to pay benefits when due, given Delphi's statements that it cannot now maintain the Plans, combined with the Plans' substantial underfunding. Therefore, the TWG recommended PBGC-initiated termination of the Plans in accordance with ERISA § 4042(a)(2). The TWG also recommended termination in accordance with ERISA § 4042(c) in order to avoid unreasonable increase in the liability of the PBGC's insurance fund.

In addition, the SRP has not met the minimum funding standard required under § 412 of the IRS Code. Therefore, DISC recommended PBGC-initiated termination of the SRP in accordance with ERISA § 4042(a)(1).

The TWG recommended that the DOPT of the Plans be established as soon as possible consistent with the foreclosure date in the DIP Agreement as it may be amended because terminating the Plans prior to the foreclosure date would allow PBGC to maximize its recoveries in the case.

Issue Notice of Determination:

APPROVE

Vincent Snowbarger

Vincent Snowbarger,
Acting Director

DISAPPROVE

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Vincent Snowbarger,
Acting Director