



Pension Benefit Guaranty Corporation
Office of Inspector General
Final Report

Review of PBGC Claims Sale

RESTRICTED DISCLOSURE

This document, containing confidential and proprietary information, was produced at the direction of the PBGC Office of Inspector General. It may not be disclosed, reproduced or disseminated without the express permission of the Inspector General.

August 31, 2006



INDEPENDENT FIDUCIARY SERVICES, INC.

Independent Fiduciary Services, Inc.

**Review of PBGC Claims Sale
for the
Office of Inspector General,
Pension Benefit Guaranty Corporation**

August 10, 2006

805 15th Street, NW • Suite 1120 • Washington, DC 20005 • phone: 202-898-2270 • fax: 202-898-1819
744 Broad Street • Suite 1120 • Newark, NJ 07102 • phone: 973-424-6400 • fax: 973-424-6419

PBGC-023597

Table of Contents

	Page
I. Summary of Findings	1
II. Board and Management Response	2
III. Background	3
IV. Findings & Recommendations	
Investment Policy	6
Governance	8
Standard Documentation	12
V. Management Comments	
Exhibits	
A. Methodology	
B. Description of Independent Fiduciary Services	
C. Project Team Biographies	
D. List of Interviewees	



Review of PBGC Claims Sale

Report of Independent Fiduciary Services, Inc. for the
Office of Inspector General, Pension Benefit Guaranty Corporation

The Office of Inspector General (OIG) of the Pension Benefit Guaranty Corporation (PBGC) retained Independent Fiduciary Services, Inc. (IFS) to review whether PBGC's actions in marketing and selling its claim to stock in the reorganized UAL prior to its emergence from bankruptcy were reasonable in light of PBGC's governance and industry standards for institutional investors.

I. Summary of Findings

A. Investment and Other Asset-Sale Related Policies

1. PBGC has had and will likely continue to have unsecured claims against bankrupt plan sponsors arising out of plan terminations, which claims will give rise to a right to receive a significant equity stake in a reorganized business. PBGC's over-arching policy and objectives should address how pre and post emergence implications (particularly saleability and governance roles) of securities negotiated for in settlement will be evaluated and how PBGC's asset sale, or other, directives will be triggered so as to clearly articulate how the policy will be implemented.
2. The policy and internal guidance should articulate and address the delicate balance among various objectives regarding such claims, such as realizing maximum value on the claims, avoiding long-term equity ownership in private businesses and participating fairly and efficiently in the capital markets. Such articulation should recognize the need for confidentiality so that PBGC is not disadvantaged once it becomes authorized to initiate claims sales procedures with third parties.

B. Governance

1. The Board of Directors, Board Representatives, and PBGC need greater clarity regarding their respective roles and responsibilities for dealing with the negotiation for and disposition of PBGC's bankruptcy claims.
2. PBGC should enhance its processes, including oversight and management criteria, for dealing with such bankruptcy claims.



3. PBGC should develop a practice of assuring that staff with relevant expertise are informed and involved in bankruptcy claim transactions, while avoiding creating cumbersome structures that will impair PBGC's ability to achieve value through nimble market participation.
4. PBGC should outline the roles and responsibilities of each department within PBGC with respect to the management and possible sale of recoveries of unsecured bankruptcy claims.

C. Documentation

1. To the extent possible, PBGC should develop standard contracts and documentation for obtaining advice concerning and effecting transactions disposing of such claims from outside advisors.
2. These form agreements should be used with outside financial advisors, investment bankers, and broker-dealers.
3. Ensure that all terms of the proposed transaction are clearly articulated in the agreements.

II. Board and Management Response

We briefed our findings and recommendations to the Board Representatives and PBGC executives and staff on May 25, 2007. They generally agreed with what we reported. We incorporated their formal response to the draft report in this final report.

III. Background

The PBGC was a significant creditor in the UAL Corporation ("United") bankruptcy proceeding as a result of the termination of United's defined benefit pension plans. United was scheduled to emerge from bankruptcy on February 2, 2006 as a public company, with its shares to be listed and traded on the New York Stock Exchange. As an unsecured creditor in United's Plan of Reorganization, PBGC was entitled to receive a distribution of common stock of the reorganized United in satisfaction of PBGC's claim for unfunded vested benefits of the terminated plans (the "Claim"). This represented approximately 20% of the reorganized company's equity.

During December, 2005 and January, 2006, PBGC received various unsolicited offers to purchase portions of the Claim, with Ripplewood Holdings ("Ripplewood") being a particularly persistent offeror. Under United's Plan of Reorganization, all claims sales were subject to United's approval. In mid-January PBGC determined that it could not proceed with the Ripplewood offer in view of certain conditions demanded by Ripplewood which United was not willing to meet.



With the assistance of its financial advisor, Greenhill Securities, PBGC then solicited offers for the Claim on January 18 and 19. On January 20, PBGC determined that none of the offers received in the auction were sufficiently attractive.

On January 27, PBGC entered into an agreement with Deutsche Bank authorizing Deutsche Bank to market the Claim, with the understanding that the marketing agreement did not commit either PBGC or Deutsche Bank enter into any transaction for the purchase and sale of the Claim. On February 1, 2006, Deutsche Bank informed PBGC that it had assembled a "book" of institutions prepared to purchase a total of \$2.5 billion of the Claim, representing 45% of the total Claim owned by PBGC, for \$450 million. This price reflected a recovery of 18 cents on the dollar for the portion of the Claim to be purchased. Based on advice from Greenhill and input from PBGC staff from the Department of Insurance Supervision and Compliance (DISC) and the Office of Chief Counsel (OCC), the PBGC Executive Director determined to accept Deutsche Bank's proposal and executed documents that day effecting the transaction (the "Sale").

A. Objectives and Scope

The PBGC Office of Inspector General retained Independent Fiduciary Services, Inc. in February 2006. IFS was asked to evaluate whether the process followed by the PBGC in selecting and contracting with Deutsche Bank to market the Claim, the approach used to structure the Sale, and whether the decision to execute the Sale were reasonable in light of:

1. PBGC's governance, including the roles and responsibilities of various departments, staff members, and Board members; internal controls; decision making processes; and reporting requirements.
2. Industry standards for institutional investing (specifically, for disposition of securities) in similar circumstances, with similar objectives.

The analysis of subjects (1) and (2) considered both the existing policies and procedures that the PBGC has adopted for governance and disposition concerning assets comparable to the Claims, as well as recommended enhancements to those policies and procedures.

B. Excluded Items

1. Valuation of the Claims
2. Capabilities of outside advisors
3. Definitive conclusion on whether alternative execution methods or alternative timing mechanisms for the Sale (if any) would have generated greater net proceeds to the PBGC



C. Caveats

1. Our conclusions are based on the information and analysis performed over the limited time period of our engagement.
2. We relied on the information provided to us, including, to some extent, oral and written representations.
3. These conclusions are based on a combination of our informed opinion and our knowledge of common or developing industry practices

D. Independent Fiduciary Services

Among other functions, IFS specializes in evaluating complex investment portfolios with dual expertise regarding portfolio management and fiduciary responsibility in investment decision making. A more extensive description of IFS is provided in Exhibit A, and Project Team Biographies are in Exhibit B.

IV. Findings and Recommendations

Our review resulted in findings in three areas: Investment Policy, Governance, and Standard Documentation. In each finding, our analysis consists of four elements:

- Standards—this section offers an explanation of the standard or principle involved regarding each point
- Risks—this section highlights the problem or injury that failure to adhere to a standard may generate
- Observations—this section details the circumstances or facts we observed regarding PBGC's practices regarding the point in question, relative to the stated standard and possible risk
- Recommendations—in this section, we develop our thoughts about what we suggest for the future

Investment and Other Asset-Sale Related Policies

A. Standards

1. Institutional investors develop and implement clear, written polices and objectives for particular asset classes and categories of investment transactions.



2. Policies generally encompass a wide variety of transactions and articulate procedures unique to the investor to establish a governance framework and to mitigate risks.
3. Conflicting organizational objectives often arise and should be expected.
4. Policies acknowledge conflicting imperatives by either resolving them or creating a framework for resolving them in particular cases based on the specific facts and circumstances.
5. Policy objectives are adopted by the Board, with implementation left to staff and designees, subject to reporting to and monitoring by policy-makers.

B. Risks

1. Decision-making in the absence of sound standards can result in transactions inadequately aligned with PBGC's interests.
2. Future transactions might be adversely affected if market perceives poor execution capabilities.

C. Observations

1. PBGC's Investment Policy Statement does not explicitly address bankruptcy-generated equity interests in general or pre-emergence transactions in bankruptcy claims in particular. The investment policy statements and related documents we reviewed address a wide variety of situations involving publicly traded securities, capital market transactions, and special situations, but are largely silent with respect to the complex nature of bankruptcy negotiations and litigation and possible transactions with third parties involving saleable assets (securities or rights to securities) obtained from such claims.
2. If present trends continue, plan sponsors that have terminated poorly-funded pension plans will emerge from bankruptcy with "Plans of Reorganization" that grant significant equity and other rights to PBGC. We observed, and we note from various inside and outside sources, that it is likely PBGC will face an increasing number of situations wherein PBGC might consider selling such rights to private sector ("third party") purchasers.
3. During our review, interviewees often noted that there exists a tension from alternative viewpoints: avoiding government entanglement in private business, attempting to achieve a fair market price in any transaction, and striving to attain some degree of long-term value maximization when considering and executing a transaction.



4. We could not identify any articulated principles for managing that tension in specific cases.
5. The market for pre-emergence transactions in major claims is dynamic, and valuation typically turns on case-specific issues such as trading restrictions, treatment of net operating losses, market developments, litigation factors and securities law issues.
6. Successful market participants are able to make decisions quickly in a rapidly changing investment environment
7. Market perception of PBGC as a highly motivated or "distressed" seller can adversely affect ability to realize fair value.
8. The Sale was perceived in the market as successfully executed.

D. Recommendations

1. PBGC's policies and internal implementing guidance should more clearly address the disposition of bankruptcy claims and a wide spectrum of issues, such as specifying criteria for balancing competing considerations, managing equity rights that PBGC may acquire through bankruptcy litigation and/or settlements, and whether and how to engage in pre-emergence transactions in bankruptcy claims. The policies should address and provide guidance on considerations applicable to recurrent, but case-specific issues such as "lock-ups," board seats, securities law implications and other governance issues. The policy should also provide guidance regarding the frequency and level of detail of communications between PBGC and the Board/Board Representatives.
2. The policies referenced above should leave case-specific implementation to PBGC.

Governance

A. Standards

1. Sound governance incorporates a wide variety of elements, including the internal control system of an organization, qualifications and competencies, organizational structure, and assignment of authority and responsibility.
2. The scope and limits of decision maker responsibility and authority are defined in mission statements, charters, and other internal documents. Staff's responsibilities are defined through written policies and guidelines adopted by the Board.



3. Individuals charged with making decisions relative to a specific transaction, or a class of transactions, should be those that have sufficient experience, authority, and overall insight into the nature of the transaction.
4. Oversight, management, and reporting responsibilities within an organization should be clearly identified.

B. Risks

1. Decisions are made without adequate expertise, internal controls, speed or consideration of the organization's written policies.
2. Competent resources within the organization are underutilized.
3. Gaps in responsibility and accountability can occur.
4. Institutional considerations not factored in properly which could lead to a loss of credibility in the market, or the potential for reputation risk.
5. Operational inefficiencies can lead to poor resource utilization and increased costs.
6. Breakdowns in processes, systems, or procedures can lead to operational failures.

C. Observations

1. PBGC's Mission and Function Statement (MFS) gives DISC responsibility to pursue claims in bankruptcy with legal support from OCC.
2. The MFS gives the Treasury Division responsibility for "strategies for control, transfer and liquidation of large blocks of assets."
3. PBGC Directive 05-4 states that Executive Director has "re-delegated" to the Deputy Executive Director and Chief Financial Officer (CFO) authority to sell assets, including bankruptcy claims.
4. The MFS provides that one of the functions of the Office of the General Counsel includes reviewing "relevant proposed actions requiring approval of the Executive Director."
5. DISC, OCC and the Executive Director managed, in consultation with Greenhill, all aspects of litigating and settling PBGC's claims in the United bankruptcy proceeding.

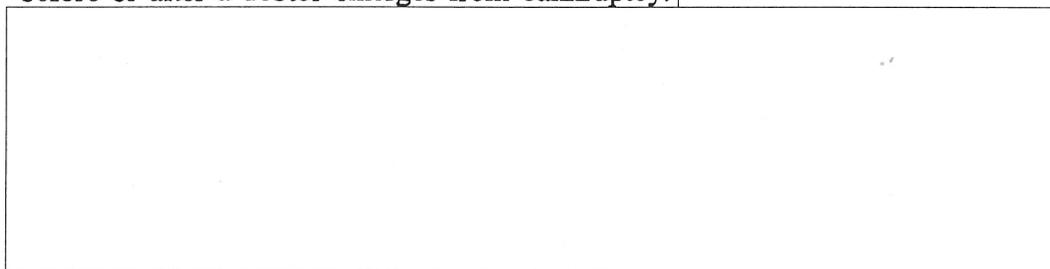


6. DISC, with legal support from OCC and consultation from Greenhill, conducted the negotiations for PBGC regarding possible sales of the Claim.
7. The Executive Director decided, in consultation with DISC, OCC and Greenhill, to reject the results of the auction of the PBGC's Claim which was conducted after the demise of the Ripplewood offer.
8. The Executive Director decided, in consultation with DISC, OCC and Greenhill, to enter into the January 27 marketing arrangement with Deutsche Bank.
9. The Executive Director decided, in consultation with DISC, OCC and Greenhill, to proceed with the Sale on the terms presented by Deutsche Bank on February 1, 2006.
10. It appeared DISC was a visible, informed and well-advised market participant in pre-emergence period.
11. DISC retained email records of offers to buy PBGC's claim but did not maintain unified log of offers and their terms.
12. Because the MFS creates a management structure consisting of several "silos," responsibility for matters related to the management of the Claims was concentrated in a handful of PBGC senior staff, which did not include the divisions within PBGC generally responsible for investment and asset management.
13. The Deputy Executive Director, CFO, Treasury Division and General Counsel were not substantively involved in deciding whether, when, on what terms, how, or why to enter into the marketing agreement with Deutsche Bank, to sell the Claim, or how much of the Claim to sell or to effect the Sale.
14. Greenhill appeared to be thorough, competent, and critical to the success of the claims sale; the PBGC contract with Greenhill, though broad enough to cover advice on pre-emergence transactions, was not explicit for this transaction.
15. Board Representatives have expressed desire for PBGC to obtain Board approval for negotiation of certain issues or claims which directly affect the claims' value and marketability.
16. Emails show the Executive Director frequently and contemporaneously updated the Board Representatives on developments regarding possible monetization of the Claim, through the demise of the Ripplewood offer.
17. There appear to be gaps in communication between the Executive Director and some of the Board Representatives regarding the outcome of the attempted



auction on 1/20, and the marketing arrangement with Deutsche Bank on 1/27, though communication did occur on 2/1/06.

18. Treasury Division was not consulted in advance regarding complex technical issues involving the UAL securities issued to PBGC on 2/2/06, resulting in hasty efforts to resolve them as securities were issued.
19. Organizational tensions between DISC and Treasury Division appeared to arise out of DISC's exclusive role in the transaction.
20. PBGC's written policies and procedures do not currently address bankruptcy claims and related rights associated with them which can be monetized either before or after a debtor emerges from bankruptcy.



21. The Insurance Program organization, is responsible for directing the negotiation settlement or litigation of PBGC's bankruptcy-claims; However, Insurance Programs does not have responsibility for subsequent transactions involving assets (including rights to securities) resulting from that process. The Executive Director currently has the authority to execute transactions, including the Sale. In Directive Number GA-05-4, the Executive Director has re-delegated to the Deputy Executive Director and the CFO, or their designees, authority over such transactions including authority to "oversee and manage PBGC cash and investments" and authority to "agree to sell, transfer ownership, and liquidate [etc.] an asset received, acquired or created in connection with a pension plan termination". A footnote in the directive appears to conflict with the CFO's liquidation authority. PBGC stated that the term "liquidation" used in the footnote is in a bankruptcy context, not in an investment context.
22. There are no policies or criteria for identifying particular transactions as to which the Executive Director should or will exercise authority, as opposed to leaving such authority with the Deputy Executive Director and the CFO.
23. Under the current structure, the Financial Operations Department, led by the CFO, manages the investment program. The Treasury Division, within FOD, has specific functions including the duty to "arrange for the liquidation and/or transfer of assets."

(b)(5) Gov't Pre-Decisional - Deliberative Process Privilege (8 Lines Removed)



24. DISC provides analysis and conducts negotiations to pursue recoveries to minimize PBGC losses when plans are terminated. In coordination with OCC, DISC “determines and pursues recoveries for satisfaction of employer liability and unpaid employer contributions.”
25. The pre-emergence market in bankruptcy claims does not lend itself to a neat distinction between asset management, an FOD function, and management of the overall bankruptcy process, a DISC/OCC function. The value of the asset depends on the outcome of financial and legal issues which get resolved through the bankruptcy process, and it is often the case that a pre-emergence market in claims does not develop in a particular case until late in the process since many of the uncertainties that can impair the value of a claim will not be resolved until late in the case. Thus, in the United case, the composition and the value of PBGC’s newly-allowed Claim was not resolved until mid-December, 2005, and was not finalized until January, 2006.
26. OCC does not report to the General Counsel. Neither does the General Counsel advise DISC. However, the MFS’s provision that the General Counsel “reviews relevant proposed actions requiring approval of the Executive Director” is a valuable function as a check on critical issues.
27. Although the Executive Director approved the Sale, the General Counsel was not invited to review the transaction as contemplated by the MFS, and the expected scope of that review, had it been conducted, is unclear.
28. We noticed the lack of formal documentation of key decisions, e.g., abandoning the Ripplewood initiative, conducting the January auction; rejecting the results of the January auction; and deciding to enter into the arrangement with Deutsche Bank. However, the Executive Director received a written analysis of the proposed Sale before he decided to proceed with it.
29. Other market participants believed PBGC was a very motivated seller, given the size of PBGC’s post-bankruptcy ownership stake and the perception PBGC wanted to meaningfully reduce its position in United.

D. Recommendations

1. Recognizing that the Board is ultimately responsible for developing and implementing policies applicable to the disposition of bankruptcy claims, the Board and the Board Representatives should develop and communicate to PBGC clear reporting requirements regarding bankruptcy claims and their monetization, including:



- Guidance regarding the frequency and level of detail of communications between PBGC and the Board/Board Representatives regarding strategy in major transactions.
 - Recognition that “visible cases” create new challenges, one of which is dealing with the possibility that the size of the PBGC’s claim in a case in which the company will reorganize may mean that the (i) PBGC will have rights to a significant equity stake in the reorganized company, and (ii) PBGC may be a participant in the market for pre-emergence claims trading should one develop.
 - Recognition of the dynamic nature of the claims trading market and the need for PBGC to be nimble in its negotiations with other market participants.
2. Staff and/or outside advisors should provide the Board Representatives with education and training about the bankruptcy process, including issues which affect the value of claims, information on how the trading of claims takes place, market “color,” etc.
 3. PBGC’s governance documents should assign to appropriate personnel responsibility for executing the policy and overseeing its execution, including within the MFS:
 - With respect to bankruptcy claims as a specific asset: (1) Explicitly provide for responsibility for internal management of; (2) Clearly identify the decision-maker, internal reporting, and consultation requirements for each proposed transaction; (3) Develop reporting requirements, including who needs to receive what information on what type of schedule.
 - Articulate the role of the Office of the General Counsel when the Executive Director is charged with ultimate decision making. If the transaction is “housed” in DISC, and OCC is advising DISC, this would mean that the OCC needs to keep General Counsel informed as various issues develop.
 4. Consider a multi-disciplinary approach across departments with functional areas of expertise to optimize combination of bankruptcy and investment management competence while recognizing need for PBGC to be a “nimble” market participant. For example, the combined resources of the Insurance Programs Department and FOD’s Treasury Division to deal with the issues of whether, when and on what terms to engage in a pre-emergence transaction, would enhance PBGC’s effectiveness, provided that such a combination does not cloud the issue of who has decision-making authority.
 5. The overall process which governs proposed auctions of special assets should be more structured. When conducting transactions or soliciting inquiries of interest,



the appropriate staff (or external manager) should develop and maintain a detailed log of pertinent information related to offers and proposals, as well as the PBGC responses to such inquiries and transactions.

6. Develop a checklist of technical issues relevant to securities to be issued to PBGC as creditor.
7. Identify criteria for retaining external advisors for pre-emergence claims as a marketable asset, and identify PBGC Department(s) responsible for selecting and monitoring all outside advisors and external manager, if used.
8. In seeking an advisor in instances where it is foreseeable that the PBGC will have a substantial claim to sell, PBGC should ensure that the firm hired has the expertise and experience to advise in the claim selling process. To the extent practical, contracts with outside advisors should explicitly address support for all aspects of a potential subsequent claims trading process, including claims market valuations, market assessments, bid solicitation, trade negotiation, sale documentation and trade execution.

Standard Documentation

A. Standards

1. Institutional investors typically have standard form agreements for various types of transactions.
2. Transactions in bankruptcy claims are typically, but not always, conducted using the buyer's documents

B. Risk

1. Hurried, incomplete, technically weak legal agreements raise the risk that important responsibilities are not properly articulated.
2. Inadequate documentation could raise the probability that parties will challenge terms of the agreement, or attempt to break trades if circumstances develop that would adversely affect them.
3. Inadequate documentation could lead to other market participants perceiving that inefficient trade execution took place, and this could adversely affect the economics of future transactions.



C. Observations

1. The marketing arrangement between the PBGC and Deutsche Bank was set forth in brief email exchanges and was briefly reviewed by outside counsel.
2. Neither PBGC nor its outside advisors prepared or requested draft documentation for conveying the claim even though monetization was under consideration before January 2006.
3. The February 1 documentation of the Sale was unusually simple. Because the trade was happening close to the emergence date, much of the "standard" language that might normally be used in a claims sale was not needed. There were few representations, warranties, covenants and conditions to closing, which was advantageous to the PBGC as seller. There was little need for including the typical "what if" provisions since the emergence was imminent and there were no contingencies to address.
4. The financial advisory contract between PBGC and Greenhill was not specific with respect to claims trading.

D. Recommendations

1. Because PBGC is likely to be a regular seller of bankruptcy claims, PBGC should develop standard form agreements and documents to support future transactions like the Sale.
2. Any agreements with third-party advisors, marketers and brokers should be formalized (not by email exchange), recognizing the dynamic nature of each transaction.
3. Trade execution and trade settlement details must be explicitly detailed in these documents.



V. Management Comments



Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

August 28, 2006

Robert L. Emmons
Inspector General
Pension Benefit Guaranty Corporation
1200 K Street, NW
Washington, DC 20005

Re: Management Comments on Independent Fiduciary Services (IFS) Draft Report,
"Review of PBGC Claims Sale"

Dear Mr. Emmons:

Management appreciates the opportunity to comment on the draft report prepared by IFS at the direction of your office concerning the sale of PBGC's claim in the UAL Corporation bankruptcy. This was an unusual transaction for PBGC, particularly when the size of the claim is considered. We feel that the ultimate outcome of the sale was very positive for PBGC and the participants in the UAL plans. The observation in the IFS report that "(t)he Sale was perceived in the market as successfully executed" supports this.

Overall, we are in agreement with the findings and recommendations of the report. Improvements can and should be made in the manner in which these claims transactions are handled in the future. The report is helpful in citing a number of recommendations for improvement in the areas of PBGC's policies, governance, and documentation. We look forward to working internally and with the Board of Directors to strengthen our practices, procedures, and communications related to claims sales.

We value the timeliness of this effort, given the possibility, however infrequent, of additional claims sales in the future. Your review of this transaction has been very constructive. We value your continued support and input as we move forward in developing best practices in this complex and vital area.

Sincerely,

Vince Snowbarger
Interim Director

Exhibits

Exhibit A

Methodology

- A. IFS collected information and identified various factual matters related to the Sale, including:
1. The roles and functions of all key parties involved in the Sale or the events leading up to the Sale.
 2. The contractual arrangements defining each party's responsibilities, compensation and other terms.
 3. The nature of the Claim to be sold, including financial and regulatory aspects.
 4. The selection of Deutsche Bank to market the Claim.
 5. The analyses performed for PBGC regarding how to structure, time and effectuate the Sale.
 6. The internal decision-making, communication, and reporting processes within PBGC.
 7. Internal controls over the Sale.
 8. Communication between PBGC and the Sale.
- B. IFS collected additional pertinent information related to the Sale including:
1. PBGC's governance and other investment-related documents
 - Contracts with relevant parties, e.g., between PBGC and Deutsche Bank, PBGC and Greenhill, etc.
 - Correspondence and emails between and among relevant parties leading up to the determination of the terms of the Sale.
 - Internal memoranda between and among PBGC departments and staff members related to PBGC's decision making process with respect to disposition of the Claim.
 - Investment policy statements and related documents.



- Organizational documents for the PBGC, including position descriptions for relevant PBGC staff.
- Analytical reports in connection with deciding whether, how and when to complete the Sale.
- Internal PBGC governing documents which detail process and procedures to be followed when PBGC receives ownership of publicly traded securities.
- Memoranda from or reports of recollections of members of PBGC staff, Board Representatives and staff, and outside advisors.
- United's Plan of Reorganization and other documents related to the nature of or PBGC's holdings or disposition of the Claims.

2. Interviews—key individuals from:

- PBGC, including senior management and staff of the Department of Insurance Supervision and Compliance (DISC), Office of Chief Counsel (OCC), Office of General Counsel (OGC), the Chief Financial Officer (CFO), Financial Operations Department (FOD), and Treasury Division (TD).
- Board Representatives, and their staff, from the U. S. Department of Commerce, U. S. Department of Labor, and U. S. Department of Treasury.
- Kelley Drye & Warren LLP, outside counsel.
- Kramer Capital Partners, financial advisor to PBGC.
- Greenhill & Co. Inc, financial advisor to PBGC.
- A complete list of interviewees is included as Exhibit C.

C. Analysis and Research

1. Determination of the facts

- Governance issues regarding the Sale, including roles and responsibilities, internal controls, and reporting requirements.
- Actions and outcomes derived from decision makers with respect to the Sale.
- The terms of the marketing agreement with Deutsche Bank.



- The terms of the Sale.
- Processes and procedures employed by other organizations with similar investment objectives.

2. Research

- Empirical research by IFS, related to costs and standards for similar transactions, claims trading, distressed securities, bankruptcy procedures, investment banking procedures, and various aspects of securities law and capital markets.

D. Preparation of Report

- We developed a series of findings based on our document review and interviews, including conclusions about current governance and the reasonableness of the Sale process.
- Our report includes recommendations which could be incorporated by the PBGC in future comparable situations.
- Prior to our initial presentation of our findings, we reviewed our approach with the OIG.
- We prepared an overview of our conclusions and recommendations and presented those to a meeting of senior management, key staff, and Board Representatives in late May, and considered comments expressed at that meeting and thereafter by the attendees.
- We prepared a draft report in early July and will incorporate formal Board and management comments in our final report.



Exhibit B

IFS Profile

Independent Fiduciary Services (“IFS” or “Independent Fiduciary Services”) offers extensive, combined expertise and experience regarding:

- Structuring, monitoring and analyzing pension and welfare fund investment programs
- Asset allocation
- Investment policies and procedures
- Controlling investment risk and expense
- Selecting investment managers
- Measuring and evaluating investment returns
- Fiduciary responsibility in investment decision-making.

From its formation in January 1987 until October 1, 1996, Independent Fiduciary Services was a wholly-owned subsidiary of The Bear Stearns Companies Inc. – the New York Stock Exchange listed holding company – and an affiliate of Bear, Stearns & Co. Inc., the broker-dealer and investment bank. On that date ownership transferred to officers of the firm and the name changed to Independent Fiduciary Services, Inc., although all employees (without exception) then continued with the re-named firm. ***Thus, our firm is not owned, controlled or affiliated with any securities brokerage firm or investment manager; we truly are independent.***

What distinguishes IFS from other firms is that we specialize in evaluating complex investment programs with dual expertise in portfolio management and fiduciary responsibility. With offices in Washington, DC and Newark, NJ, our firm includes investment professionals experienced in structuring and overseeing investment portfolios as well as ERISA experts sensitive to the standards of prudence and loyalty that apply to pension investment decision-making. IFS is an SEC-registered investment advisor. Our client base is a diverse group of fiduciaries responsible for overseeing billions of dollars in pension, health and welfare, and other employee benefit funds.



Exhibit C

IFS Biographies

Barnard A. Buscemi, CFA, Executive Vice President and Chief Operating Officer

Mr. Buscemi joined IFS in its Washington, DC office in 2003 and is responsible for the day-to-day management of the firm's operations. He brings a broad investment background to IFS and is involved with all major aspects of the firm's work, including retainer consulting, Operational Reviews, fiduciary decision maker transactions, and internal operations.

Mr. Buscemi has extensive experience with asset management, investment policy, asset allocation, risk management, capital markets, operations, staffing, and compliance. Before joining IFS, he was Managing Director and Chief Investment Officer at ASB Capital Management, one of the largest money managers in the Washington, DC area, serving Taft-Hartley, public and corporate funds. Prior to joining ASB, Mr. Buscemi served in senior management capacities at Freddie Mac, in the mortgage finance and capital market areas. Earlier in his career, he worked at Wilshire Associates as a consultant to pension and endowment funds, and served as assistant director for investments at the UMWA Health and Retirement Funds, one of the largest Taft-Hartley plans in the country.

Mr. Buscemi, who holds the professional designation of Chartered Financial Analyst (CFA), earned a Master of Business Administration in Finance from Virginia Tech, and a Bachelor of Arts in Economics and Psychology from the University of Virginia. He is a member, past director and president of the CFA Society of Washington, DC, and a member of the CFA Institute.

Andrew Irving, Managing Director, Senior Vice President and General Counsel

Andrew Irving joined IFS in 2003 after more than 25 years of private law practice representing public, Taft-Hartley and corporate pension and welfare plans, labor unions, corporate plan sponsors and financial institutions serving the benefit plan community.

Mr. Irving leads IFS' fiduciary decision-making practice, which focuses on providing independent, conflict-free discretionary decisions regarding particular transactions on plan assets. Mr. Irving also works on governance and legal aspects of Operational Review projects and, as our General Counsel, oversees IFS' internal legal affairs. He brings to this work his extensive experience counseling and litigating on behalf of benefit plans and their fiduciaries on a broad range of issues including fiduciary responsibility, plan design and varied aspects of compliance with ERISA and Internal Revenue Code requirements. He has also worked with plan fiduciaries and the investment community designing sophisticated investment products and



strategies to comply with statutory requirements, such as synthetic guaranteed investment contracts, direct real estate investments and hedge “fund of fund” vehicles. Having worked with leading investment and actuarial firms, Mr. Irving has in-depth knowledge of the interrelated roles various service providers play in assisting trustees with their duties.

In 2005, Mayor Michael R. Bloomberg appointed Mr. Irving to the New York City Conflicts of Interest Board, which administers the New York City Charter’s Code of Ethics for the City’s elected officials and public employees.

Mr. Irving is a *cum laude* graduate of Yale University and received his law degree from Columbia Law School, where he was a member of the Law Review. Mr. Irving served as law clerk to United States District Judge Eugene H. Nickerson. He works from IFS’ Newark, New Jersey office.

Edward D. Patchett, Jr., CFA, Managing Director and Senior Vice President

Edward D. Patchett, CFA, Managing Director and Senior Vice President joined IFS’ in its Washington D.C. office in 1997. Mr. Patchett brings a broad analytical background to IFS, including investment consulting, investment banking and securities industry regulation. He is responsible for providing on-going investment advice to the firm’s consulting clients and for managing the firm’s entire retainer investment consulting practice. Mr. Patchett routinely speaks at industry conferences, including the International Foundation for Employee Benefit Plans (IFEBC) Annual Employee Benefits Conference and various IFEBC Investment Institutes.

Previously with Wilshire Associates, Mr. Patchett was primarily responsible for conducting manager searches, analyzing equity and fixed-income investment strategies and performing investment manager due diligence for the firm’s clients. Prior to joining Wilshire, Mr. Patchett was an Investment Banking Associate with a regional investment banking firm where he analyzed IPOs, mergers and acquisitions and fairness opinions for the firm’s banking and thrift industry clients. He also has several years of experience as a securities industry regulator with the National Association of Securities Dealers.

Mr. Patchett graduated from Ferris State University with a Bachelor of Science degree in Business and earned his Master of Science degree in Business-Finance from The Johns Hopkins University. He has been awarded the Chartered Financial Analyst designation by the CFA Institute and is a member of the CFA Society of Washington, D.C.



(b)(6) Personal Privacy (14 Names Removed)

Exhibit D

List of Interviewees



V. Management Comments

