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Lost Pensions, Lost Pensioners: Is a National Registry of Pension Plans the Answer?

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**Lost Pensions, Lost Pensioners:
Is a National Registry of Pension Plans the Answer?***

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Abstract

In the United States and other countries, many retirees face great difficulties in tracing their former employers in order to apply for a pension to which they are entitled. At the same time, pension plans have trouble tracking down pensioners with whom they have lost contact. The problem of lost pensions and lost pensioners was also prevalent in the United Kingdom, but in 1991 the British government established a national registry of pension plans financed by a levy on all registered pension plans. The registry is cheap to run (equivalent to \$0.20 per member per annum) and has helped thousands of people receive their pension entitlements. This solution should be considered in the US and other countries with similar problems.

* The opinions expressed here are the responsibility solely of the authors and do not represent the position of AARP. We have received helpful comments from Loretta Berg of PBGC, John Hotz of the Pension Rights Center, David McCarthy and Jane Smith of the Pension and Welfare Benefits Administration of the Department of Labor and Jeanne Medeiros of the New England Pension Assistance Project in the US, and Carl Davey, Nick Edmans and David Smith of the Occupational Pensions Regulatory Authority, Shirley Dean and Dean Harrowell of the Pension Schemes Registry, Terry Dring of the Saving Pension and Share Schemes Office, and Ian Davies of Eversheds in the UK.

Introduction

Pension legislation generally aims at protecting the rights of pension participants. It attempts to reduce the risks they face concerning their pension benefits. This legislation and the policy discussion surrounding it largely take for granted that pensioners can and do claim their pensions when they are eligible. While that is generally true, many pensioners have “lost pensions”—they are unable to locate their pension plan and claim their benefits. This is a problem job changers face in saving for retirement, and thus may be a particular problem in the United States where employees change jobs more frequently than in many other countries, but it is also a problem in Australia and other countries (Rein and Turner 2001). It is also a problem for the surviving beneficiaries of these employees.

A closely related issue is “lost pensioners”—many pensions are unclaimed because workers are unaware that they are eligible to receive a pension from a former employer that cannot trace them. As a result of lost pensions and lost pensioners, large sums of money are unclaimed by pensioners. This money incorporates tax obligations to the government in the form of taxes not collected. That raises the questions of who does and who should benefit from the unclaimed pension funds. The United States and the United Kingdom have developed different policies in this area. Lessons can be learned from the experiences of both countries by analyzing and comparing those policies.

This article first discusses what employees in the United States can do to try to locate a pension sponsored by a former employer. It then compares that with the situation for a worker in the United Kingdom. The situation for workers in Australia is also briefly discussed. This is followed by a discussion of the problem of lost pensioners—people who are due a pension but who have not filed a claim for one. The article then discusses the disposition of unclaimed pension monies. There is also an appendix discussing the statutory rights of pensioners in the UK. The article concludes with a proposal to establish a national registry of pension plans in those countries that do not have one, financed by a levy on all registered pension plans.

Lost Pensions

A former employer may be difficult to locate. Workers may be unable to locate a former employer and its pension plan if the employer moved to a different town, closed down a particular plant or office, was bought by another company and given a new name, merged with another company and changed names, split into different parts with none of them retaining the former name, went bankrupt, or simply ceased operations. The more of these changes that have occurred over time, the greater the difficulty a worker will have in tracing a former employer.

Multiemployer plans that unions co-sponsor with employers may also be difficult to locate. Unions merge, terminate, and change names, and consequently it may be difficult to locate a union in which a worker formerly participated.

Lost Pensions in the United States

The problem of lost pensions in the United States is primarily a problem with defined benefit plans because these plans were the dominant plan type a decade and more ago. The problem tends to arise less with defined contribution plans because when a worker changes jobs the account balance can readily be transferred to an Individual Retirement Account (IRA) or frequently can be cashed out. Also, workers are more likely to know whether they are participating in a defined contribution plan because frequently a condition of participation is that they contribute to the plan. Nonetheless, anecdotal evidence indicates that with the growth of 401(k) plans, finding lost 401(k) benefits is increasingly a problem (Linton 2000). This is especially the case if the former employer has gone out of business. The problem of finding a lost pension tends to be more difficult for defined contribution pensions because those pension plans do not pay insurance to the Pension Benefit Guaranty Corporation, as do defined benefit plans, and thus the government is less likely to have information concerning their location.

Statistics provide some evidence of the number of workers potentially affected. For workers aged 45 to 59 in 1988, 13 percent of women and 21 percent of men indicated they had vested in a pension plan on a prior job. Not all of those workers, however, had

deferred vested benefits because 9 percent of both women and men indicated they had received a lump sum from a prior job, leaving approximately 4 percent of women workers and 12 percent of men in the situation of having to find a pension from a former employer (Korczyk 1992).

In the United States, it is up to the individual worker to find his or her former pension plan. To receive a benefit, the worker needs to contact the former employer to apply for the benefit, but this task may involve tracing back through a complicated series of corporate mergers and bankruptcies.

Employees can start by contacting the Social Security Administration to get a copy of their social security earnings record. This record will provide their former employer's federal ID number, which may help in tracking down the plan.

The Pension Benefit Guaranty Corporation (PBGC), which insures most private sector defined benefit plans in the United States, can assist in finding pension plans that are ongoing defined benefit plans paying pension benefit insurance premiums. It also maintains a Pension Search database that will assist workers whose lost defined benefit plans have terminated with insufficient funding and have been taken over by the PBGC. It also suggests thirteen other sources of information for tracking down a former employer and a lost pension (Pension Benefit Guaranty Corporation 1999):

1. Contact former co-workers who may have useful information.
2. If a union covered workers at the former workplace, contact the union.
3. Contact the Chamber of Commerce in the city where the company was located.
4. Try to contact the pension plan administrator based on information from the most recent documentation the worker has.
5. If the information is known, contact the plan's actuary or other service provider.
6. If one is available, go to a business library to research information about possible mergers the company was involved in.
7. Do a computerized search over the Internet.
8. Contact the office of the Secretary of State in the state where the employer was located. In most states, companies are required to file an annual report with the Secretary of State's office.

9. Contact the company's competitors to see if they can provide information about the company.
10. Contact a local historical society for information about the company.
11. Contact the office of the county or municipal recorder of deeds.
12. Contact a stockbroker if the company was publicly traded. Get an annual report of the company to find its current address.
13. If the company went bankrupt, try to find the identity of the trustee in bankruptcy.

Workers can receive assistance in their search from several sources. First, the US Department of Labor will assist workers in searches for lost pensions through the Division of Technical Assistance and Inquiries in the Pension and Welfare Benefits Administration in Washington, DC and in its 15 field offices. More than 100 people work in the national office to assist workers with their pension and health plan questions. The Department of Labor has documents that may help in locating a plan. These include the Form 5500 that plans are required to file annually. At one time, the Department collected the Summary Plan Description and Summary of Material Modifications, which summarizes significant changes in a plan, but the Department no longer collects these documents. Often, however, searchers are unable to find a lost pension through the Labor Department if the information they provide is more than a few years old.

Second, the PBGC maintains a computerized list of individuals who are entitled to benefits from plans that it has taken over due to having insufficient funds, discussed in more detail later.

Third, ten pension counseling projects may provide assistance. These projects are located around the country and are supported through grants from the U.S. Administration on Aging. The New England Pension Assistance Project at the Gerontology Institute at the University of Massachusetts Boston is one. The Older Women's League also runs a pension assistance project. These ten projects cover 15 of the 50 states, and thus do not provide complete coverage of the country. The Pension Rights Center in Washington, DC, a nonprofit organization, also assists in finding lost pensions. Fourth, some commercial companies will assist in a pension search for a fee.

A successful trace will generally result in finding the pension money in one of several sources. First, it is controlled by the plan administrator of the original or a successor plan. Second, PBGC may have assumed responsibility for paying the pension. Third, the funds may have been transferred to an insurance company. A fourth category that poses particular difficulties are “orphan” plans. These plans have been abandoned by the plan sponsor and fiduciaries, sometimes as a result of death, neglect, bankruptcy, or incarceration of the plan sponsor.

There is currently no statistical data on the likelihood of success for a worker looking for a lost pension and the PBGC (1999) cautions “None of the sources of information described in this section is likely to lead you directly, in one easy step, to the pension fund.”

Lost Pensions in the United Kingdom

The United Kingdom has established a national pension plan registry so that workers need only contact a single source to trace a lost pension. They can make a request by telephone, mail or the Internet. The Occupational Pensions Regulatory Authority (OPRA) was established under the Pensions Act 1995 to help make sure occupational pension plans were safe for workers. The Pension Schemes Registry (PSR) is now part of OPRA, although it was established in 1991 by the Social Security Act 1990¹. The PSR is designed to help workers track down their pension with former employers.

The PSR has some information on 192,611 pension plans (as of May 1998). Of these, 3,024 have no traceable address, 12,432 no longer need to register, 1,314 have merged, and 21,348 are being wound up (terminated), leaving 154,493 “live” schemes; there are a further 22,850 schemes with incomplete information. The following information in Table 1 has been collected on the remaining schemes:

| Number of members in each scheme | Number of schemes | Total number of members in schemes | Schemes as percentage of total | Members as percentage of total |
|----------------------------------|-------------------|------------------------------------|--------------------------------|--------------------------------|
| 2-11 | 104,747 | 334,492 | 79.6 | 2.0 |

¹ “Pension schemes” is the British term equivalent to “pension plans” in the United States.

| | | | | |
|---|---------|------------|-------|-------|
| 12-99 | 19,547 | 737,801 | 14.8 | 4.5 |
| 100-999 | 5,943 | 1,896,312 | 4.5 | 11.4 |
| 1,000-4,999 | 1,028 | 2,270,904 | 0.8 | 13.7 |
| 5,000-9,999 | 163 | 1,153,714 | 0.1 | 7.0 |
| 10,000+ | 206 | 10,172,598 | 0.2 | 61.4 |
| Total | 131,634 | 16,565,821 | 100.0 | 100.0 |
| <i>Source: OPRA Bulletin, November 1998</i> | | | | |

Workers in the United Kingdom filing a tracing request form with the PSR are asked information such as the full name and last known address of the former employer. The tracing service then tries to find a current address for the pension fund. It provides this service without fee to persons requesting it. While the British government provides the PSR on the grounds that it provides an important social service, the cost of the PSR is covered by a levy collected from each of the registered pension schemes in the UK. For 2001-02, the levy was as follows (Table 2):

| Table 2. General levy on UK pension plans | | |
|--|-------------------|-------------------------------------|
| Number of members | General levy | Minimum payment per scheme per year |
| 0-1 | Nil | Nil |
| 2-11 | £12.00 per scheme | £12.00 |
| 12-99 | £1.25 per member | £15.00 |
| 100-999 | £0.90 per member | £125.00 |
| 1,000-4,999 | £0.70 per member | £900.00 |
| 5,000-9,999 | £0.53 per member | £3,500.00 |
| 10,000+ | £0.37 per member | £5,300.00 |
| <i>Source: Pension Schemes Registry</i> | | |

This levy pays for the entire system of pension scheme regulation in the UK, including OPRA, the Pensions Compensation Board, the Pensions Ombudsman, the Office of the Pensions Advisory Service (OPAS), as well as the PSR. In addition the government benefits from the higher tax revenues received by HM Treasury on the higher pension benefits that are paid out.

The success rate for people contacting the registry varies from year-to-year but has uniformly been high. Between fiscal years 1991-92 and 1997-98, the registry had a total of 74,605 requests, an annual average of almost 11,000 or nearly 900 requests a month. A survey conducted by the PSR indicated that 34 per cent of those who used its

tracing service received some financial benefit and there was an 85 per cent success rate in tracing contact details (Maunsell 1998, 1999). In the year 1999/2000, the service received 18,000 requests and had a 95 percent success rate in tracing lost pensions. The number of requests increased to 21,000 in 2000/2001 and the success rate was 92 percent.

The PSR is a government agency staffed with workers on long-term secondment from the Department of Work and Pensions (as the Department of Social Security was renamed in June 2001). Maintaining the register of pension plans involves 50 staff at the PSR, out of a total staff of 78. The total cost of the PSR in 2000-01 was £2,242,000. This amounts to just £14.50 (about \$20) per live scheme or £0.14 (\$0.20) per member per year.

At regular intervals, the Savings Pension and Share Schemes Office (SPSS) sends the PSR details about new plans that have been granted “exempt approved” status². Active plans are required to provide updated information to the registry at the same time that they pay their annual levy. The two functions are interrelated, in that at the time of collection of the levy, plans are reminded that they should provide updated information to the Registry.

Table 3 shows that a disproportionate fraction of tracing requests relate to small plans, suggesting that participants in small plans are more at risk of facing difficulties in tracing a pension from a former employer. All pension plans with two or more members are required by law to register with the PSR. Though plans with 11 or fewer members make up 2 percent of the participants, they account for 10 percent of the tracing requests. However, about half of the requests involve large plans with 5,000 or more members. The main users of the registry are older workers: 80 percent of the tracing requests came from people aged 46 or older (Maunsell 1998).

| Number of members in each scheme | Members as percentage of total | Percentage of total number of tracing requests |
|----------------------------------|--------------------------------|--|
| 2-11 | 2.0 | 10.0 |
| 12-99 | 4.5 | 12.0 |
| 100-999 | 11.4 | 18.0 |

² The role of the SPSS is to grant “exempt approved” status to pension schemes, i.e., it approves pension schemes for the purpose of enjoying tax relief on contributions into the schemes and income and capital gains tax exemption on the assets in the pension fund. The SPSS is part of the Inland Revenue, the UK’s tax authority.

| | | |
|---|-------|-------|
| 1,000-4,999 | 13.7 | 11.0 |
| 5,000-9,999 | 7.0 | 6.0 |
| 10,000+ | 61.4 | 43.0 |
| Total | 100.0 | 100.0 |
| <i>Source: OPRA Bulletin, November 1998</i> | | |

The PSR has felt that more needs to be done to make its services better known to the public. This might be accomplished by requiring that pension plans inform their members of its services. It has also felt that there needed to be better coordination of the collection of information about pensions among the various agencies in the government that share responsibility for pensions (Maunsell 1999).

Australia has also established a national registry. All pension funds in Australia must report lost members to the Australian Taxation Office each April and October. The ATO have a centralized database of lost members from which people with lost pensions can search. The Australian Tax Office has information that allows people that contact it to also contact their pension fund. The Australian Tax Office estimates that lost pensions amounted to about 4.5 billion Australian dollars in 2001 (www.ato.gov.au, 2001).

Lost Pensioners

Lost pensioners are people who have left employment entitled to a pension benefit but who fail to file for one. Some lost pensioners are people who are unsuccessful in their efforts to claim their pensions. Others, however, result from retirees who never attempt to claim a pension benefit because they do not know they are eligible to receive pension benefits, forgot that they had qualified for a pension from work with a former employer, or die before claiming a pension and their survivors fail to claim survivor benefits.

Although there is no good data available to assess the importance of this problem, it is probably less important than the problem of lost pensions. The inability of a plan to find former participants is probably more of a problem for women than for men because of many women changing their last name when they marry. A lost pensioner in the United States would generally need to work with an employer for at least five years in order to vest. Depending on how far back are the years in which the work occurred, the

number of years of work required to vest may be considerably greater. Because of the number of years of work with the employer sponsoring a pension plan, there is the presumption that most workers would learn of their eligibility for a pension benefit.

Surveys of workers consistently show that a certain percentage do not know whether they are covered by a plan. For example, in 1979, 7 percent of men and 10 percent of women in private wage and salary employment in the U.S. labor force did not know if they were covered by a pension. This compares with 54 percent of men and 33 percent of women who responded that they were covered (Kotlikoff and Smith 1983). Some workers who respond that they do not know if they are covered are probably not covered by a pension. For those workers who were covered but did not know they were covered and subsequently changed jobs, many of whom are now nearing or have reached retirement age, they would not know that they were entitled to claim pension benefits.

Further some lost pensioners may be mentally incapacitated. Some agencies helping homeless people in the United States assist by trying to determine if they are eligible for a pension and then to trace the pension.

Lost Pensioners in the United States

Lost pensioners may be the result of workers being unaware that they had benefit rights with a former employer. Employers are required by law to provide employees certain pension information. A Summary Plan Description must be furnished to a participant and beneficiary receiving benefits within 90 days of becoming a participant or beneficiary. A Summary Annual Report must be furnished to participants and beneficiaries within 210 days after close of the fiscal year of the plan. A Summary of Material Modification must be furnished to participants within 210 days after the end of a plan year during which a modification was adopted. A single employer defined benefit plan is required to notify participants and beneficiaries of the failure to meet minimum funding standards. No information is available, however, on the extent to which plans actually provide workers with the required information. Anecdotal evidence indicates while large plans generally provide legally required disclosures, many small pension plans do not provide these required documents to workers. One small study of compliance with employee requests

for disclosure found that less than 50 percent of firms provided the required documentation within the required period of 30 days (Langbert 2001).

The employer is not obligated to notify the worker that he or she has vested under a pension unless the worker requests that information. When a vested worker terminates employment, the employer is under no statutory obligation to notify the worker that he or she is eligible to receive a pension at a later date or how to contact the employer to request a pension. Similarly, when the former employee is eligible to receive a pension, the employer is under no statutory obligation to notify that person of their eligibility, although the Department of Labor maintains that there is a fiduciary obligation to notify the employee based on the fiduciary obligation of the employer to act in the sole interest of the participants and beneficiaries. At a minimum, the Department of Labor expects plan sponsors to contact either the Social Security Administration or the Internal Revenue Service (IRS) in an effort to determine a current mailing address for the participant. The Social Security Administration offers a letter forwarding service for a fee of three dollars. There is no information on the extent that employers with ongoing pension plans attempt to find former employees that have not claimed benefits, and the presumption is that many employers make no attempt.

The rules are different for terminated plans and for underfunded plans that the Pension Benefit Guaranty Corporation takes over. When a fully funded single employer defined benefit plan terminates, the plan sponsor is required to try to find all vested participants to notify them that they are owed a pension. It must make a diligent effort to find all participants, including using a locator service. Some companies specialize in helping pension plans find lost participants. If the plan is unable to find a participant, it is required by the Pension Protection Act of 1994 to notify the Pension Benefit Guaranty Corporation. The plan sponsor may either purchase an annuity for the missing participant and notify the PBGC of the life insurance company from which it has purchased the annuity, or it may calculate the cost of the benefits owed and transfer that money to the PBGC, in both cases providing information about the missing participant and any named beneficiary. The Pension Protection Act also requires that the PBGC make its own effort to find these missing pensioners. The PBGC contacts the Social Security Administration and uses person locator services to do this.

The PBGC also searches for missing pensioners when it takes over an underfunded plan. The PBGC search program, however, does not cover most plans operating in the US. Plans for which this search program do not apply include all ongoing plans, all defined contribution plans, all multiemployer plans, all government plans and all church plans. Proposals have been made to expand the pension search program to include terminated defined contribution plans and multiemployer plans, but they have not so far reached the statute book.

Between 1996 and early 2001, the PBGC located 7,900 people who were owed \$25 million in present value of pension benefits. Among those people found, the average total benefit paid was \$4,200, with a range from \$2 to \$111,000. In 1999, the average annual benefit paid by PBGC to beneficiaries in plans which it had taken over was \$3,700, which was not much smaller than the total benefit paid to lost pensioners (PBGC 2000b). Thus, the lost pensioners tend to have considerably smaller benefits than the typical pensioner, presumably because of portability losses workers in defined benefit plans suffer when they change jobs (Turner 1993). The benefit accrual in defined benefit plans is typically backloaded, and the worker's final earnings used to calculate benefits are not indexed for inflation that occurs after the worker terminated employment.

The PBGC is currently looking for an additional 12,000 people who are owed \$34 million in present value of pension benefits (PBGC 2000a). Their names are posted on its web site www.pbgc.gov in its Pension Search Directory. These are people for whom the PBGC and possibly the company originally sponsoring the pension plan have already conducted a search.

More than twenty private sector organizations have pledged to help the PBGC find missing participants through their publications and web sites. These organizations include the AFP-CIO and the US Chamber of Commerce. However, the search process by these organizations apparently remains piecemeal and sporadic rather than systematic and continuous. The PBGC also sometimes gets help from newspaper and television journalists who will endeavor as part of a news story to locate people in their local area, especially when a major employer has gone out of business in the area.

The PBGC discovered a variety of reasons why the people it successfully located had not sought their pension on their own. Some people had forgotten that they had

earned a pension on a previous job. Some did not realize that they even had pension coverage. Some were too young to be eligible to receive a pension. Some could not be located by their former employer because they had changed their name, had moved address, or had changed jobs. Some had died, and their survivor was the beneficiary of their pension.

While the PBGC program covers some classes of terminated plans, a different program provides notification to vested terminated workers who had been covered in most private sector ongoing as well as terminated plans. All private employer pension plans (other than church plans) are required annually to file a schedule with the Department of Labor called the Schedule SSA of the Form 5500 if they have had any vested employees leave their employment with deferred benefits. On this schedule, pension plans list the vested workers who terminated employment during the preceding year as well as information on how to contact the pension plan. This schedule is sent to the Social Security Administration. When a worker files for social security benefits, the Social Security Administration notifies the worker that he or she may be eligible for pension benefits from previous employers that have filed this form, and if they have difficulty finding their former employer they can contact the Department of Labor. In fiscal year 2000, the Department of Labor received 2,332 requests for help in finding a lost pension, many of those requests being made because the individual had received notice from Social Security.¹ In principle, this system should solve the part of the problem of lost pensioners in that everyone eligible for a pension would be informed of their status. There is no information available, however, on what percentage of workers that should be notified by this system are notified. It does not solve the problem of lost pensions, however, because it is still up to the individual to trace their former employer, with all the problems that this entails. The information on the Schedule SSA is not updated if the sponsor of a pension plan undergoes any of the changes listed in the previous section on lost pensions. Frequently, other than providing notice of the possible eligibility to a pension, the contact information is no longer current and the person must begin a long process of search.

Lost Pensioners in the United Kingdom

In the United Kingdom, the legal owners of pension scheme assets are the scheme's trustees (not the employer) and under trust law the trustees must act in the best interests of the scheme's beneficiaries³.

Under the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (section 5(2)), trustees are required to inform current and deferred members within one month after the date on which benefit becomes payable, or within two months after such date in the case where that person is retiring before normal pension age. The trustees must make every effort to trace the pensioner member. If they have failed to make contact through writing to the member's last known address, they might wish to try alternative means such as placing an advert or contacting the Letter Forwarding Section of the Department of Work and Pensions which may have a current address for the member via their National Insurance Number. If large sums are owing, professional investigators must be used to try and track down the beneficiary.

Acting in the best interests of beneficiaries also means improving the reporting and sharing of information so that there are fewer lost pensioners in the future. There are a number of agencies apart from the PSR that collect pension data, e.g. OPRA, the SPSS and the Contracted-Out Employment Group⁴. These agencies currently have incompatible IT systems. There are plans to ensure a better interface between these IT systems and to rationalize their work processes and functions to avoid duplication. There are also proposals to give OPRA the power to require trustees to give details of the "statutory reporters" that they have appointed and for this to be part of the information that is necessary to register a scheme at the PSR. These are the professional advisors who help

³ Most occupational pension schemes in the UK have been set up as "pension trust funds". A trust is a legal relationship between individuals and assets, by which assets provided by one individual (the "settlor") are held by another group of individuals (trustees) for the benefit of a third group of individuals (the beneficiaries). The interests of the beneficiaries are set out in the trust deed. If the trust is a "discretionary trust", the trustees have the freedom of action to dispose the income and capital of the trust as they see fit. The trust serves three functions: it is the primary source of payment of pension entitlements; it is a security for payment; and it is a vehicle for the collective protection and enforcement of the rights of individual scheme members.

⁴ The COEG is a branch of the Inland Revenue that deals with the "contracted-out national insurance rebates" into pension plans; these are the subsidies (in effect lower social security taxes) that the government offers private pension plan sponsors and members if they contract-out of the second-pillar or supplementary state pension scheme in the UK.

trustees run their pension schemes and have a “whistle blowing” responsibility to report problems and shortcomings to OPRA (Maunsell 1999).

The Disposition of Unclaimed Funds

The end result of lost pensions and lost pensioners is unclaimed pension monies. This section addresses the question of the ultimate disposition of those funds.

Unclaimed Funds in the United States

In the United States, if a pensioner never claims his or her defined benefit pension entitlement, the ownership of the underlying assets remains with the institution holding those assets. Thus, the employer of an ongoing pension plan, the PBGC, or the insurance company ultimately claims the money. For employers, the claim takes the form of lower required contributions due to the larger assets in the pension fund. The tax expenditures incorporated in these benefits were provided for the public policy purpose of encouraging the provision of pension benefits. While there is an excise tax on plan assets that revert to the plan sponsor when a plan is terminated, there is no recovery by the government of tax on assets that “revert” to the plan sponsor because they are never claimed.

In a defined contribution plan, the money belongs to the worker or to the worker’s estate. It does not revert to the employer. If it is unclaimed, the pension administrator can discharge his fiduciary obligation to the former worker by establishing an Individual Retirement Account (IRA) in the worker’s name at a financial institution. Some states have claimed that after a certain number of years unclaimed money in defined contribution pension accounts would escheat to the state (i.e., to one of the 50 states). The Department of Labor has held, however, that state laws are preempted by the federal ERISA pension legislation and that unclaimed defined contribution pension accounts cannot escheat to the state but must remain unclaimed, with the hope that eventually the former worker or his beneficiaries will claim the funds. The law in this area is unsettled and further clarification in the future can be expected.

In the United States, there is some evidence on the magnitude of the problem through data on federal government pensions. Between 1989 and 1997, more than \$1

billion in pension checks to retired federal government workers were not cashed (Caplin 1997).

Unclaimed Funds in the United Kingdom

In the United Kingdom, there is no statutory time limit by which a member entitled to a benefit must make a claim. However, most trust deeds stipulate a six-year time limit. Pension schemes in the UK do not have to place unclaimed benefits in an “orphan” fund, and if a pension entitlement has not been claimed after six years, the unclaimed funds can be reallocated to help pay for the scheme’s administration costs. If a member subsequently makes a claim after six years, the trustees are required to award a pension, but are likely to backdate it only six years. To protect against this possibility, trustees can also take out missing beneficiary insurance. Alternatively, they can choose to have the benefits “bought out” by an insurance company (which would then be able to pay the pensioner’s benefits should he or she make a claim for benefit at some point in the future).

While there are no accurate statistics about the amount of unclaimed assets in pension funds, anecdotal evidence suggests that in the United Kingdom it is between £10 billion and £77 billion (Maunsell 1998).

Conclusion and Policy Proposal

Although we live in the Information Age, the problems discussed in this article are largely problems of information management, albeit concerning information about pension benefits earned in past years. In the United States with decentralized records that are not designed for tracing pensions, workers and people searching on their behalf may need to contact more than a dozen sources of information and ultimately fail to find a lost pension. No data is available on the number of workers looking for lost pensions nor on their probability of success. While laws governing mandatory disclosure by pension plans to the federal government and to workers ease the problem, anecdotal evidence indicates that many small plans do not comply with these laws, indicating that imperfect

compliance by plans and imperfect enforcement by the government contribute to the problem.

In the United Kingdom, by contrast, workers need only contact a single source for finding a lost pension and they have a very high probability of succeeding in contacting their former pension plan. The cost of the British pension plan registry is financed entirely by a levy on registered pension plans.

Some workers who change jobs in the United States are unaware that they are eligible for future pension benefits. While the Social Security Administration is notified of their status, at the time of job change the employer is not required to notify the worker. Such notification by employers to terminating workers with vested deferred benefits would help assure that workers have the information they need to file for future benefits. This type of notification has precedence in the United States in the health insurance area with the COBRA (Consolidated Omnibus Budget Reconciliation Act) requirement that workers terminating employment with health insurance coverage in firms with 20 or more employees receive a notification of health insurance rights.

This notification would also be a step towards dealing with the problem that employees need to have and maintain paperwork to assist in filing a claim for a future pension benefit. It is only a step, however, because they still would have to track down a former employer if the information they were provided was no longer current. That is why a pension plan registry would also be needed, possibly at the Labor Department or the PBGC.

A pension plan registry in the United States would face at least two challenges requiring the development of two data bases. One would be to construct a history of the status changes of pension plans so as to help people locate pension benefits they had accrued benefits in the past. The second challenge would be to establish records of current pensions plans, including the ability to track plans when employers in the future were bought, merged, changed names or terminated business. It would need to require that it be notified every time a plan was terminated, bought or sold, involved in a merger, or had a name change.

Several other issues would need to be determined in developing a pension registry. In addition to maintaining these two databases, a registry would need to develop

a procedure for interacting with workers and retirees. This could be done through requests made to the registry, as in the United Kingdom, or the databases could be put on line on the Internet, so that workers and retirees could conduct the initial search themselves. An Internet-based approach has the advantages that it provides an inexpensive means of communicating information, it preserves user anonymity, it provides convenience in terms of accessibility during nonworking hours, and it is interactive.

Because lost pensions incorporate tax expenditures for the purpose of providing pension benefits, an argument can be made that the pension plan registry should be financed by a levy on private pension plans and not from the public purse. Assuming the cost of a tracing registry were the same in the United States per participant as in the United Kingdom (\$0.20 per participant per year), the cost per year in the United States, based on there being 95 million participants in 1997 (US Department of Labor 2001), would be \$19 million dollars. Workers in small firms are much more likely to file tracing requests than workers in large firms. Assuming the requests filed in the United States would have the same relationship to plan size as in the United Kingdom, based on the number of active worker participants in 1997, approximately 53,000 requests would be filed annually. In 1998, the Department of Labor, Pension and Welfare Benefits Administration received 68,590 pension inquires covering all problems concerning pensions (U.S. Department of Labor 1999). Assuming no economies of scale in the United States relative to the United Kingdom in servicing these requests, a staff of approximately 240 would be required to staff the tracing registry.

Our policy proposal is therefore that every country without one should establish a national registry of pension plans, financed by a levy on all registered pension plans in that country.

Appendix: Statutory Measures to Protect and Enhance the Rights of Pension Scheme Members in the UK⁵

The Pension Schemes Registry is one of a number of statutory measures that have been taken in the UK in recent years, mainly since the 1970s, to protect and enhance the rights of pension scheme members. This appendix discusses the most important of these.

The first set of measures dealt with the rights of “early leavers”, those individuals who left their pension scheme before normal retirement age. These were first established in the National Insurance Act 1959 and subsequently reinforced in the Social Security Acts of 1973, 1985, 1986, and 1990, and the Health and Social Security Act of 1984.

The 1973 Social Security Act, for example, required that pension schemes provide “deferred pensions” to those early leavers who were at least 26 years of age and who had accumulated at least five years’ service; those with less than five years’ scheme membership could have a refund of contributions. However, the deferred pension was not indexed for inflation between the date of leaving and the date of retirement. The huge inflation of the 1970s showed the inadequacy of the 1973 act. The position was improved first by the 1985 act and subsequently by the 1986 and 1990 acts. These acts required the deferred pensions of early leavers with at least two years’ scheme membership to be uprated each year by the annual rate of inflation up to a maximum of 5 per cent per annum from April 1978 for those leaving occupational schemes after January 1991. As an alternative to a deferred pension, the 1985 act allowed early leavers to take their pension entitlement with them. This is achieved through a “transfer value” calculated as the “cash equivalent” of the accrued rights under the scheme. The transfer value is paid to another scheme (either occupational, personal or stakeholder) or into an insurance policy (effectively a deferred annuity) known as a “section 32 buy-out policy” after section 32 of the 1981 Finance Act which first permitted buy-outs.

In recent years the inequitable treatment of early leavers has been widely recognized, and the government’s aim has been to correct this inequity as well as to promote and encourage job mobility, especially through the development of personal and stakeholder pensions. But this is very much a new view. A much earlier view of pensions

⁵ This appendix draws on material from Blake (1995).

(and one that was prevalent as late as the 1950s) saw pension schemes as inducements to remain loyal to the same employer; there was even talk of the economic benefits of reducing labor turnover. This, in turn, required early leavers to be severely penalized in terms of their future pensions from their former employers.

The second set of measures dealt with the “disclosure of information”. The government was also concerned that there was widespread ignorance amongst members about their pension schemes. The government therefore decided that members had to be provided with much more information about their schemes. This was achieved in the 1978 Employment Protection (Consolidation) Act, the 1985 and 1990 Social Security Acts, the 1986 Occupational Pension Schemes (Disclosure of Information) Regulations, the 1992 Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations, the 1995 Pensions Act and the 2000 Child Protection, Pensions and Social Security Act. These acts and regulations require that new entrants to a scheme be provided with basic information about their scheme (for example, concerning benefits while they are members and benefits if they subsequently leave) within thirteen weeks of joining. Existing members are entitled to this information on request. An annual trustees’ report which includes details of the audited accounts must also be prepared. This must also be made available to scheme members on request.

The 2000 Child Protection, Pensions and Social Security Act contains measures to improve overall pension information for individuals so that they have a clear indication of what sort of retirement income to expect and can therefore make better-informed decisions on what savings they need to make. The act:

- permits state pension information to be passed to employers and pension providers so that they can issue pension statements giving details of both state and private pension rights unless individuals have indicated that they do not want the information. Because employers and pension providers will not need to gain the express consent of individuals the measure will improve the take-up of combined pension statements by employees and reduce administrative burdens
- provides that state pension details can be passed to other third parties such as organizations which provide financial information services so that individuals who give consent can access their state pension details through these services.

The third set of measures dealt with the “investor protection”. Trustees had a fiduciary duty under the 1925 Trustee Act to preserve the trust capital and to apply the capital and its income according to the trust deed. Without specific provision in the trust deeds, the 1925 act limited the “authorized investments” of the pension fund to British government or government-guaranteed securities and to the stocks of local authorities (municipalities) and certain railways and utilities. The 1925 act was replaced by the 1961 Trustee Investments Act, which considerably widened the scope of authorized investments to include company securities and unit trusts. Trustees are required to “invest” in assets for the long-term benefits of their pensioners, and not to “trade” in assets for short-term speculative gains. However, the 1990 Finance Act exempts from tax pension funds’ trading income from futures and options contracts. This allows pension funds to use futures and options contracts for risk-management purposes without fear of a tax charge. The investment powers of trustees was widened even further by the 1995 Pensions Act, while the 2000 Trustee Act imposed a specific “duty of care” on trustees for the first time.

Despite their wide investment powers, trustees do face a number of restrictions on their investments. For example, the 1990 Social Security Act placed limits on the amount of self-investment by pension funds in parent companies to 5 per cent of fund assets. The 5 per-cent ceiling covers shares, loans, property, and also money owed by the company to the scheme. The ceiling is designed to protect pension schemes from the failure of the parent company and also from hostile take-overs.

When personal pension schemes first started in 1988, the categories of eligible securities that could be invested in were quite restrictive, mainly quoted UK shares and investment trusts. This was changed by the 1989 Finance Act. It became possible to invest in overseas shares, unquoted UK shares, unit trusts, gilts, and commercial property.

A new regulatory framework (involving the setting-up of the Securities and Investments Board along similar lines to the Securities and Exchange Commission in the US) was established by the 1986 Financial Services Act, as part of the wider changes in the City of London known as the “Big Bang”. The act requires the authorization of

everyone carrying on investment business or giving investment advice. The way in which the act affects pension schemes was contained in a guidance note entitled “Pensions Advice and Management Authorisation under the Financial Services Act”, issued by the Securities and Investments Board (SIB) in February 1987. The SIB was replaced by the Financial Services Authority (FSA) in 2000, following the passage of the Financial Services and Markets Act 2000.

Pension-scheme trustees and employers can advise employees on the merits of joining a scheme without being authorized. They can also compare the advantages and disadvantages of scheme membership versus other forms of pension provision, such as personal or stakeholder pensions, also without being authorized. This is because discussing a class of investment (and personal pensions are regarded as a class of investment) is not regarded under the act as giving investment advice. However, trustees and employers could not advise on or recommend specific pension schemes without being authorized, as this does constitute investment advice under the act. So far as managing the investments of the fund is concerned, trustees will not have to be authorized if all the day-to-day investment-management decisions are taken on behalf of the trustees by an authorized person. If this is not the case, then the trustees themselves will have to be authorized.

The protection of pension fund assets was greatly improved by the 1995 Pensions Act following the 1991 Maxwell scandal in which Robert Maxwell stole the assets in his companies’ pension funds in an unsuccessful attempt to save his companies from insolvency. The scandal led to the government setting up the Pension Law Review Committee under Professor Roy Goode in 1992. The committee identified a number of key shortcomings in the existing legal framework. First, employers and trustees had such wide discretion that the interests of scheme members were not adequately protected. Second, there was no regulatory body for the industry with powers to enforce proper standards in the administration of pension schemes. Third, there was no compensation in the event of fraud and malpractice. Many of the Goode Committee’s recommendations were subsequently contained in the 1995 act.

The act introduced a new regulatory structure in the form of the Occupational Pensions Regulatory Authority (OPRA). Trustees are regulated by OPRA and the act

allows “member-nominated trustees” (MNTs) to be appointed. The responsibilities of trustees are codified for the first time. For example, they are required to issue annual reports and accounts, appoint professional advisers and make a “Statement of Investment Principles” (SIP) in respect of the fund’s assets. The interests of scheme members are protected through the establishment both of a “Minimum Funding Requirement” (MFR) for occupational pension schemes and a “Pensions Compensation Board” to compensate pension scheme members in the event of fraud. The MFR came into effect in April 1997 and had to be fully implemented by April 2002. The MFR was intended to ensure that “the value of the assets of the scheme are not less than the amount of the liabilities of the scheme”. If this condition was not satisfied then the trustees were required to establish and maintain a “schedule of contributions” that would ensure that the MFR was satisfied within a specified period. If the scheme’s solvency level was below 90 per cent, a state described in the act as one of “serious underprovision”, it must be restored to the 90 per cent level within one year. If the solvency level was between 90 per cent and 100 per cent, it must be restored to the 100 per cent level (and hence satisfy the MFR) within five years. OPRA has powers to wind up schemes that fail to meet these conditions. Personal and stakeholder pension schemes are regulated principally by OPRA, with the Pensions Ombudsman (established by the 1990 Social Security Act) for redress and the selling of schemes and supervision of their investment managers by the FSA.

The MFR soon came in for substantial criticism, principally because it failed to give adequate protection to active members in schemes whose sponsors became insolvent. The government announced in March 2001, that it intended to scrap the MFR and replace it with a regime of transparency and disclosure of pension schemes’ investment plans with extended compensation for fraud and mandatory independent custody of pension fund assets, following the recommendations of the Myners’ report “Institutional Investment in the United Kingdom: A Review”, published in March 2001. There are specific proposals covering:

- a scheme-specific funding standard (to replace the MFR), with a recovery plan for schemes that are not adequately funded;
- stricter rules about voluntary wind-up;
- a statutory duty of care on the actuary directly to scheme members;

- all aspects of schemes' funding strategy are exposed to scrutiny, in the way that an MFR valuation did not;
- trustees' fiduciary responsibility is placed centre-stage, instead of trustees relying on a mechanical standard;
- some extra protection from fraud.

For more details of UK pension schemes and pension funds, see Blake (1995).

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ⁱ This figure is an unpublished figure obtained from the Department of Labor.