

Subsec. (a)(3). Pub. L. 96-364, §402(a)(1)(B), substantially revised definition of term "multiemployer plan" by, among other changes, adding subpars. (A) to (C) and cl. (i), and restating existing provisions as cl. (ii) with respect to plan years beginning before Sept. 26, 1980.

Subsec. (a)(6). Pub. L. 96-364, §402(a)(1)(C), inserted references to section 1322a of this title.

Subsec. (a)(7). Pub. L. 96-364, §402(a)(1)(D), inserted reference to section 1322a(g) of this title.

Subsec. (a)(8) to (12). Pub. L. 96-364, §402(a)(1)(E), added pars. (8) to (12).

Subsec. (b). Pub. L. 96-364, §402(a)(1)(F), which was executed by designating existing provisions as par. (1) and adding pars. (2) to (4), notwithstanding directory language that pars. (2) to (4) be added at end of subsec. (c)(1) as redesignated, was struck out by Pub. L. 99-272, §11004(b). See 1986 Amendment note above.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to plan years beginning after 2007, see section 108(e) of Pub. L. 109-280, set out as a note under section 1021 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective as if included in the Pension Protection Act, Pub. L. 100-203, §§9302-9346, see section 761(b)(2) of Pub. L. 103-465, set out as a note under section 1056 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title IX, §9312(d)(1), Dec. 22, 1987, 101 Stat. 1330-364, as amended by Pub. L. 101-239, title VII, §7881(f)(9), Dec. 19, 1989, 103 Stat. 2440, provided that: "The amendments made by this section [amending this section and sections 1305, 1322, 1341, 1342, 1349, 1362, 1364, and 1368 of this title and repealing section 1349 of this title] shall apply with respect to—

"(A) plan terminations under section 4041 of ERISA [29 U.S.C. 1341] with respect to which notices of intent to terminate are provided under section 4041(a)(2) of ERISA after December 17, 1987, and

"(B) plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of ERISA [29 U.S.C. 1342] after December 17, 1987."

Pub. L. 100-203, title IX, §9313(c), Dec. 22, 1987, 101 Stat. 1330-366, provided that: "The amendments made by this section [amending this section and sections 1341 and 1367 of this title] shall apply with respect to plan terminations under section 4041 of ERISA [29 U.S.C. 1341] with respect to which notices of intent to terminate are provided under section 4041(a)(2) of ERISA after December 17, 1987."

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 effective Jan. 1, 1986, with certain exceptions, see section 11019 of Pub. L. 99-272, set out as a note under section 1341 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-364 effective Sept. 26, 1980, except as specifically provided, see section 1461(e) of this title.

#### APPLICABILITY OF AMENDMENTS BY SUBTITLES A AND B OF TITLE I OF PUB. L. 109-280

For special rules on applicability of amendments by subtitles A (§§101-108) and B (§§111-116) of title I of Pub. L. 109-280 to certain eligible cooperative plans, PBGC settlement plans, and eligible government contractor plans, see sections 104, 105, and 106 of Pub. L. 109-280,

set out as notes under section 401 of Title 26, Internal Revenue Code.

#### COORDINATION OF INTERNAL REVENUE CODE OF 1986 WITH EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

This subchapter not applicable in interpreting Internal Revenue Code of 1986, except to the extent specifically provided in such Code, or as determined by the Secretary of the Treasury, see section 9343(a) of Pub. L. 100-203, set out as a note under section 401 of Title 26, Internal Revenue Code.

### § 1302. Pension Benefit Guaranty Corporation

#### (a) Establishment within Department of Labor

There is established within the Department of Labor a body corporate to be known as the Pension Benefit Guaranty Corporation. In carrying out its functions under this subchapter, the corporation shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall act in accordance with the policies established by the board. The purposes of this subchapter, which are to be carried out by the corporation, are—

(1) to encourage the continuation and maintenance of voluntary private pension plans for the benefit of their participants,

(2) to provide for the timely and uninterrupted payment of pension benefits to participants and beneficiaries under plans to which this subchapter applies, and

(3) to maintain premiums established by the corporation under section 1306 of this title at the lowest level consistent with carrying out its obligations under this subchapter.

#### (b) Powers of corporation

To carry out the purposes of this subchapter, the corporation has the powers conferred on a nonprofit corporation under the District of Columbia Nonprofit Corporation Act and, in addition to any specific power granted to the corporation elsewhere in this subchapter or under that Act, the corporation has the power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel, in any court, State or Federal;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal, by the board of directors, bylaws, rules, and regulations relating to the conduct of its business and the exercise of all other rights and powers granted to it by this chapter and such other bylaws, rules, and regulations as may be necessary to carry out the purposes of this subchapter;

(4) to conduct its business (including the carrying on of operations and the maintenance of offices) and to exercise all other rights and powers granted to it by this chapter in any State or other jurisdiction without regard to qualification, licensing, or other requirements imposed by law in such State or other jurisdiction;

(5) to lease, purchase, accept gifts or donations of, or otherwise to acquire, to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein wherever situated;

(6) to appoint and fix the compensation of such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, and, to the extent desired by the corporation, require bonds for them and fix the penalty thereof, and to appoint and fix the compensation of experts and consultants in accordance with the provisions of section 3109 of title 5;

(7) to utilize the personnel and facilities of any other agency or department of the United States Government, with or without reimbursement, with the consent of the head of such agency or department; and

(8) to enter into contracts, to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the corporation by this chapter.

**(c) Director**

The Director shall be accountable to the board of directors. The Director shall serve for a term of 5 years unless removed by the President or the board of directors before the expiration of such 5-year term.

**(d) Board of directors; compensation; reimbursement for expenses**

(1) The board of directors of the corporation consists of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Commerce. Members of the Board shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the board. The Secretary of Labor is the chairman of the board of directors.

(2) A majority of the members of the board of directors in office shall constitute a quorum for the transaction of business. The vote of the majority of the members present and voting at a meeting at which a quorum is present shall be the act of the board of directors.

(3) Each member of the board of directors shall designate in writing an official, not below the level of Assistant Secretary, to serve as the voting representative of such member on the board. Such designation shall be effective until revoked or until a date or event specified therein. Any such representative may refer for board action any matter under consideration by the designating board member, but such representative shall not count toward establishment of a quorum as described under paragraph (2).

(4) The Inspector General of the corporation shall report to the board of directors, and not less than twice a year, shall attend a meeting of the board of directors to provide a report on the activities and findings of the Inspector General, including with respect to monitoring and review of the operations of the corporation.

(5) The General Counsel of the corporation shall—

(A) serve as the secretary to the board of directors, and advise such board as needed; and

(B) have overall responsibility for all legal matters affecting the corporation and provide the corporation with legal advice and opinions on all matters of law affecting the corporation, except that the authority of the General

Counsel shall not extend to the Office of Inspector General and the independent legal counsel of such Office.

(6) Notwithstanding any other provision of this chapter, the Office of Inspector General and the legal counsel of such Office are independent of the management of the corporation and the General Counsel of the corporation.

(7) The board of directors may appoint and fix the compensation of employees as may be required to enable the board of directors to perform its duties. The board of directors shall determine the qualifications and duties of such employees and may appoint and fix the compensation of experts and consultants in accordance with the provisions of section 3109 of title 5.

**(e) Meetings**

(1) The board of directors shall meet at the call of its chairman, or as otherwise provided by the bylaws of the corporation, but in no case less than 4 times a year with not fewer than 2 members present. Not less than 1 meeting of the board of directors during each year shall be a joint meeting with the advisory committee under subsection (h).

(2)(A) Except as provided in subparagraph (B), the chairman of the board of directors shall make available to the public the minutes from each meeting of the board of directors.

(B) The minutes of a meeting of the board of directors, or a portion thereof, shall not be subject to disclosure under subparagraph (A) if the chairman reasonably determines that such minutes, or portion thereof, contain confidential employer information including information obtained under section 1310 of this title, information about the investment activities of the corporation, or information regarding personnel decisions of the corporation.

(C) The minutes of a meeting, or portion of<sup>1</sup> thereof, exempt from disclosure pursuant to subparagraph (B) shall be exempt from disclosure under section 552(b) of title 5. For purposes of such section 552, this subparagraph shall be considered a statute described in subsection (b)(3) of such section 552.

**(f) Adoption of bylaws; amendment, alteration; publication in the Federal Register**

As soon as practicable, but not later than 180 days after September 2, 1974, the board of directors shall adopt initial bylaws and rules relating to the conduct of the business of the corporation. Thereafter, the board of directors may alter, supplement, or repeal any existing bylaw or rule, and may adopt additional bylaws and rules from time to time as may be necessary. The chairman of the board shall cause a copy of the bylaws of the corporation to be published in the Federal Register not less often than once each year.

**(g) Exemption from taxation**

(1) The corporation, its property, its franchise, capital, reserves, surplus, and its income (including, but not limited to, any income of any fund established under section 1305 of this title),

<sup>1</sup> So in original. The word "of" probably should not appear.

shall be exempt from all taxation now or hereafter imposed by the United States (other than taxes imposed under chapter 21 of title 26, relating to Federal Insurance Contributions Act [26 U.S.C. 3101 et seq.], and chapter 23 of title 26, relating to Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.]), or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of the corporation shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed.

(2) The receipts and disbursements of the corporation in the discharge of its functions shall be included in the totals of the budget of the United States Government. The United States is not liable for any obligation or liability incurred by the corporation.

(3) Omitted.

**(h) Advisory committee to corporation**

(1) There is established an advisory committee to the corporation, for the purpose of advising the corporation as to its policies and procedures relating to (A) the appointment of trustees in termination proceedings, (B) investment of moneys, (C) whether plans being terminated should be liquidated immediately or continued in operation under a trustee, (D) such other issues as the corporation may request from time to time, and (E) other issues as determined appropriate by the advisory committee. The advisory committee may also recommend persons for appointment as trustees in termination proceedings, make recommendations with respect to the investment of moneys in the funds, and advise the corporation as to whether a plan subject to being terminated should be liquidated immediately or continued in operation under a trustee. In the event of a vacancy or impending vacancy in the office of the Participant and Plan Sponsor Advocate established under section 1304 of this title, the Advisory Committee<sup>2</sup> shall, in consultation with the Director of the corporation and participant and plan sponsor advocacy groups, nominate at least two but no more than three individuals to serve as the Participant and Plan Sponsor Advocate.

(2) The advisory committee consists of seven members appointed, from among individuals recommended by the board of directors, by the President. Of the seven members, two shall represent the interests of employee organizations, two shall represent the interests of employers who maintain pension plans, and three shall represent the interests of the general public. The President shall designate one member as chairman at the time of the appointment of that member.

(3) Members shall serve for terms of 3 years each, except that, of the members first appointed, one of the members representing the interests of employee organizations, one of the members representing the interests of employers, and one of the members representing the interests of the general public shall be appointed for terms of 2 years each, one of the members representing the interests of the general public

shall be appointed for a term of 1 year, and the other members shall be appointed to full 3-year terms. The advisory committee shall meet at least six times each year and at such other times as may be determined by the chairman or requested by any three members of the advisory committee. Not less than 1 meeting of the advisory committee during each year shall be a joint meeting with the board of directors under subsection (e).

(4) Members shall be chosen on the basis of their experience with employee organizations, with employers who maintain pension plans, with the administration of pension plans, or otherwise on account of outstanding demonstrated ability in related fields. Of the members serving on the advisory committee at any time, no more than four shall be affiliated with the same political party.

(5) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds. Any vacancy occurring in the office of a member of the advisory committee shall be filled in the manner in which that office was originally filled.

(6) The advisory committee shall appoint and fix the compensation of such employees as it determines necessary to discharge its duties, including experts and consultants in accordance with the provisions of section 3109 of title 5. The corporation shall furnish to the advisory committee such professional, secretarial, and other services as the committee may request.

(7) Members of the advisory committee shall, for each day (including traveltime) during which they are attending meetings or conferences of the committee or otherwise engaged in the business of the committee, be compensated at a rate fixed by the corporation which is not in excess of the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

(8) The Federal Advisory Committee Act does not apply to the advisory committee established by this subsection.

**(i) Special rules regarding disasters, etc.**

In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of title 26) or a terroristic or military action (as defined in section 692(c)(2) of such title), the corporation may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to 1 year which may be disregarded in determining the date by which any action is required or permitted to be completed under this chapter. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

<sup>2</sup> So in original. Probably should be "advisory committee".

**(j) Conflicts of interest****(1) In general**

The Director of the corporation and each member of the board of directors shall not participate in a decision of the corporation in which the Director or such member has a direct financial interest. The Director of the corporation shall not participate in any activities that would present a potential conflict of interest or appearance of a conflict of interest without approval of the board of directors.

**(2) Establishment of policy**

The board of directors shall establish a policy that will inform the identification of potential conflicts of interests of the members of the board of directors and mitigate perceived conflicts of interest of such members and the Director of the corporation.

**(k) Risk management officer**

The corporation shall have a risk management officer whose duties include evaluating and mitigating the risk that the corporation might experience. The individual in such position shall coordinate the risk management efforts of the corporation, explain risks and controls to senior management and the board of directors of the corporation, and make recommendations.

(Pub. L. 93-406, title IV, §4002, Sept. 2, 1974, 88 Stat. 1004; Pub. L. 94-455, title XV, §1510(a), Oct. 4, 1976, 90 Stat. 1741; Pub. L. 96-364, title IV, §§403(l), 406(a), Sept. 26, 1980, 94 Stat. 1302, 1303; Pub. L. 101-239, title VII, §7891(a)(1), Dec. 19, 1989, 103 Stat. 2445; Pub. L. 107-134, title I, §112(c)(2), Jan. 23, 2002, 115 Stat. 2434; Pub. L. 109-280, title IV, §411(a)(1), Aug. 17, 2006, 120 Stat. 935; Pub. L. 112-141, div. D, title II, §§40231(a)-(d), 40232(b), July 6, 2012, 126 Stat. 853-855, 857.)

## REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (b), is Pub. L. 87-569, Aug. 6, 1962, 76 Stat. 265, as amended, which is not classified to the Code.

This chapter, referred to in subsecs. (b)(3), (4), (8), (d)(6), and (i), was in original “this Act”, meaning Pub. L. 93-406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Federal Insurance Contributions Act, referred to in subsec. (g)(1), is act Aug. 16, 1954, ch. 736, §§3101, 3102, 3111, 3112, 3121 to 3128, 68A Stat. 415, as amended, which is classified generally to chapter 21 (§3101 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3128 of Title 26 and Tables.

The Federal Unemployment Tax Act, referred to in subsec. (g)(1), is act Aug. 16, 1954, ch. 736, §§3301 to 3311, 68A Stat. 454, as amended, which is classified generally to chapter 23 (§3301 et seq.) of Title 26. For complete classification of this Act to the Code, see section 3311 of Title 26 and Tables.

The Federal Advisory Committee Act, referred to in subsec. (h)(8), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

## CODIFICATION

A prior subsec. (c), as originally enacted by section 4002 of Pub. L. 93-406, amended section 5108 of Title 5, Government Organization and Employees. Subsec.

(g)(3) amended section 846 of former Title 31, Money and Finance.

## AMENDMENTS

2012—Subsec. (c). Pub. L. 112-141, §40231(d), amended subsec. (c) generally. See Codification note above.

Subsec. (d). Pub. L. 112-141, §40231(a)(1), designated existing provisions as par. (1) and added pars. (2) to (7).

Subsec. (e). Pub. L. 112-141, §40231(a)(2), designated existing provisions as par. (1), substituted “the corporation, but in no case less than 4 times a year with not fewer than 2 members present. Not less than 1 meeting of the board of directors during each year shall be a joint meeting with the advisory committee under subsection (h).” for “the corporation.” in par. (1), and added par. (2).

Subsec. (h)(1). Pub. L. 112-141, §40232(b), inserted at end “In the event of a vacancy or impending vacancy in the office of the Participant and Plan Sponsor Advocate established under section 1304 of this title, the Advisory Committee shall, in consultation with the Director of the corporation and participant and plan sponsor advocacy groups, nominate at least two but no more than three individuals to serve as the Participant and Plan Sponsor Advocate.”

Pub. L. 112-141, §40231(a)(3)(A), substituted “, (D)” for “, and (D)” and “time to time, and (E) other issues as determined appropriate by the advisory committee.” for “time to time.”

Subsec. (h)(3). Pub. L. 112-141, §40231(a)(3)(B), inserted at end “Not less than 1 meeting of the advisory committee during each year shall be a joint meeting with the board of directors under subsection (e).”

Subsec. (j). Pub. L. 112-141, §40231(b), added subsec. (j).

Subsec. (k). Pub. L. 112-141, §40231(c), added subsec. (k).

2006—Subsec. (a). Pub. L. 109-280 in introductory provisions substituted “In carrying out its functions under this subchapter, the corporation shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall act in accordance with the policies established by the board” for “In carrying out its functions under this subchapter, the corporation shall be administered by the chairman of the board of directors in accordance with policies established by the board”.

2002—Subsec. (i). Pub. L. 107-134 added subsec. (i).

1989—Subsec. (g)(1). Pub. L. 101-239 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1980—Subsec. (b)(3). Pub. L. 96-364, §403(l), inserted provisions respecting bylaws, etc., to carry out this subchapter.

Subsec. (g)(2). Pub. L. 96-364, §406(a), substituted provisions relating to inclusion of receipts and disbursements in United States budget totals and nonliability of United States for obligation or liability of corporation, for provisions relating to noninclusion of receipts and disbursements in United States budget totals, exemption from limitations with respect to budget outlays, and restrictions on liability for obligation or liability incurred by the corporation.

1976—Subsec. (g)(1). Pub. L. 94-455 exempted corporation from all taxation now or hereafter imposed by United States (other than taxes imposed under chapter 21 of title 26, relating to Federal Insurance Contributions Act, and chapter 23 of title 26, relating to Federal Unemployment Tax Act).

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-134 applicable to disasters and terroristic or military actions occurring on or after Sept. 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after Jan. 23, 2002, see section 112(f) of Pub. L. 107-134,

set out as a note under section 6081 of Title 26, Internal Revenue Code.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-364 effective Sept. 26, 1980, except as specifically provided, see section 1461(e) of this title.

Pub. L. 96-364, title IV, § 406(b), Sept. 26, 1980, 94 Stat. 1303, provided that: "The amendment made by subsection (a) [amending this section] shall apply to fiscal years beginning after September 30, 1980."

#### EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XV, § 1510(b), Oct. 4, 1976, 90 Stat. 1741, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on September 2, 1974."

#### SENSES OF CONGRESS

Pub. L. 112-141, div. D, title II, § 40231(e), July 6, 2012, 126 Stat. 855, provided that:

"(1) **FORMATION OF COMMITTEES.**—It is the sense of Congress that the board of directors of the Pension Benefit Guaranty Corporation established under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302), as amended by this section, should form committees, including an audit committee and an investment committee composed of not less than 2 members, to enhance the overall effectiveness of the board of directors.

"(2) **ADVISORY COMMITTEE.**—It is the sense of Congress that the advisory committee to the Pension Benefit Guaranty Corporation established under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302), as amended by this section, should provide to the board of directors of such corporation policy recommendations regarding changes to the law that would be beneficial to the corporation or the voluntary private pension system."

#### QUALITY CONTROL PROCEDURES FOR THE PENSION BENEFIT GUARANTY CORPORATION

Pub. L. 112-141, div. D, title II, § 40233(a), July 6, 2012, 126 Stat. 857, provided that:

"(a) **ANNUAL PEER REVIEW OF INSURANCE MODELING SYSTEMS.**—The Pension Benefit Guaranty Corporation shall contract with a capable agency or organization that is independent from the Corporation, such as the Social Security Administration, to conduct an annual peer review of the Corporation's Single-Employer Pension Insurance Modeling System and the Corporation's Multiemployer Pension Insurance Modeling System. The board of directors of the Corporation shall designate the agency or organization with which any such contract is entered into. The first of such annual peer reviews shall be initiated no later than 3 months after the date of enactment of this Act [July 6, 2012]."

#### POLICIES AND PROCEDURES RELATING TO THE POLICY, RESEARCH, AND ANALYSIS DEPARTMENT

Pub. L. 112-141, div. D, title II, § 40233(b), July 6, 2012, 126 Stat. 858, provided that: "The Pension Benefit Guaranty Corporation shall—

"(1) develop written quality review policies and procedures for all modeling and actuarial work performed by the Corporation's Policy, Research, and Analysis Department; and

"(2) conduct a record management review of such Department to determine what records must be retained as Federal records."

#### TRANSITION

Pub. L. 109-280, title IV, § 411(d), Aug. 17, 2006, 120 Stat. 936, provided that: "The term of the individual

serving as Executive Director of the Pension Benefit Guaranty Corporation on the date of enactment of this Act [Aug. 17, 2006] shall expire on such date of enactment. Such individual, or any other individual, may serve as interim Director of such Corporation until an individual is appointed as Director of such Corporation under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) (as amended by this Act)."

#### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

### § 1303. Operation of corporation

#### (a) Investigatory authority; audit of statistically significant number of terminating plans

The corporation may make such investigations as it deems necessary to enforce any provision of this subchapter or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the corporation shall determine, as to all the facts and circumstances concerning the matter to be investigated. The corporation shall annually audit a statistically significant number of plans terminating under section 1341(b) of this title to determine whether participants and beneficiaries have received their benefit commitments and whether section 1350(a) of this title has been satisfied. Each audit shall include a statistically significant number of participants and beneficiaries.

#### (b) Discovery powers vested in board members or officers designated by the chairman

For the purpose of any such investigation, or any other proceeding under this subchapter, the Director, any member of the board of directors of the corporation, or any officer designated by the Director or chairman, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records which the corporation deems relevant or material to the inquiry.

#### (c) Contempt

In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the corporation may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. The court may issue an order requiring such person to appear before the corporation, or member or officer designated by the corporation, and to produce records or to give testimony related to the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district in which such person is an inhabitant or may be found.