

LEBOEUF, LAMB, GREENE & MACRAE, L.L.P.

MEMORANDUM

SAVING UNITED AIRLINES WITHOUT DESTROYING THE RETIRED PILOTS PENSION PLAN

Frank Cummings

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If the affected parties would be willing to meet now and talk it through, there is a voluntary scenario that could save the pensions of United's thousands of retired pilots, and that could still enable United to achieve a successful bankruptcy reorganization. At a recent meeting between the representatives of all United's affected employees, PBGC's Executive Director, Bradley Belt, urged the parties to come up with voluntary solutions, and he offered to cooperate.

We need to pursue that. We need a meeting, under his auspices. The scenario is as follows.

If the United Airlines Pilots Defined Benefit Pension Plan ("Pilots Plan") is split into two plans (Actives Plan and Retirees Plan), and if the Retired Plan is "frozen," and if the Actives Plan is then terminated, the net effects will be

- (1) PBGC: The costs to PBGC will be less than the costs would be if the entire Pilots Plan were terminated.
- (2) Active Pilots: The effect upon active pilots will be the same as if the entire plan were terminated (a termination which the pilots union (ALPA) has already agreed not to oppose, and which PBGC seeks to accomplish as an "involuntary termination", and which United seeks to accomplish as a "distress termination").
- (3) Retired Pilots: This scenario would avoid imposing upon retired pilots a devastating loss of pensions (some pilots would lose 40% of their retirement income!).
- (4) United: The cost to United might well be nothing, since the Retirees' Plan, on an on-going actuarial basis, would be more than 100% funded.

While at a first glance, it sounds too good to be true, that is the way it works out - provided all affected parties agree to pursue this proposal.

The problem is that such a scenario needs a voluntary agreement among these parties:

1. A plan split needs United's agreement. The split is accomplished by the sponsoring employer pursuant to section 414(l)(2) of the Internal Revenue Code. The allocation of assets between the Actives Plan and the Retirees Plan is done pursuant to ERISA section 4044. An actuarial memo from Thomas D. Levy, Senior Vice President and Chief Actuary of The Segal Company, is enclosed and sets forth further details.¹ The projected costs, albeit either minimal or none, should be acceptable to United.

2. The scenario needs ALPA's agreement. The Pilots Plan is maintained pursuant to a collective bargaining agreement between United and ALPA.

3. The Scenario must be acceptable to PBGC: PBGC's petition to terminate the entire plan would need to be withdrawn, or to be amended, to limit its scope to the Actives Plan, after the plan split.

How to Get it Done

What is needed is a meeting of all parties (PBGC, URPBPA, ALPA, United), and a willingness to explore the possibilities. PBGC, perhaps alone among the parties, has the auspices to pull the parties together and get this proposal fairly considered. PBGC is the agency that would bear the ultimate cost if the entire plan is terminated - a cost in billions. And the assumption of the entire plan cost could, and probably would, inevitably precipitate a cascade of other airline pension plans that could drown the PBGC (and ultimately the PBGC's other premium payers, and then the taxpayers generally) in tens of billions of dollars of additional costs.² And even with PBGC's limited guarantees, the retired pilots will suffer the most, with loss of a large portion of the pensions they earned after a lifetime of flying for their employer(s). That does not need to happen, and it should not happen - particularly when, as we can show, there is a manageable way to avoid it.



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¹The underlying data has been supplied to us by United and its actuaries pursuant to a confidentiality agreement which does not permit us to disclose that data in these papers. But all necessary parties - United, ALPA, PBGC, and URPBPA (the United Pilots Retired Pilots Benefit Protection Association - have signed confidentiality agreements, so these parties get lay all their cards on the table and review the data together.)

²See article from Forbes, attached.