



July 1, 2003

**PAGE ONE****Most Workers Are in Dark  
On Health of Their Pension****US Airways Killed a Plan That Its Pilots  
Had No Inkling Was in Financial Danger****By ELLEN E. SCHULTZ and THEO FRANCIS**  
Staff Reporters of THE WALL STREET JOURNAL

For millions of American workers, few retirement issues are more vital than the health of their pension plans. But companies have waged a successful battle to keep crucial information about their plans a secret.

The fight comes amid rising alarm about the fate of pensions. Some employers, notably steelmakers, have killed decades-old pension plans. Many other companies have reduced pension benefits by restructuring their plans. And employers are now lobbying Congress for formula changes that would let them make smaller pension contributions and smaller payouts when people retire.

Yet employees and retirees have almost no way to find out how financially sound their own pension plan currently is -- in part because companies have long resisted attempts to let them have more up-to-date information. The result is that employees are hard-pressed to find out if their pensions are in any current danger.

One source of pension information, company filings to the Securities and Exchange Commission, is of little use to employees. That's largely because most big companies have several different pension plans and lump them all together in their filings.

Without access to accurate data, employees and retirees face two risks. One is that employers can mask the deteriorating health of a pension plan, and then take steps to cut benefits or kill the plan. Paradoxically, the other risk is that employers can exaggerate the ill-health of the pension plan, to justify reductions in retirement benefits.

Consider the fate of a pension plan for pilots at US Airways Group. On March 31, the airline, operating in bankruptcy protection, extinguished a plan covering more than 7,000 active and retired pilots. It said the plan was so underfunded that keeping it going would drive the airline into liquidation.

Retired pilots suspected the airline was exaggerating the pension plan's ill health, and thus the need for future

contributions, in order to justify dumping it. The company said that wasn't true. But the pilots couldn't get their hands on the data they needed to pursue this argument, even when the plan's life or death depended on it.

### BLACK BOX

Why it is hard to get good information about the health of pension plans.

#### Source: 10K (filed with SEC)

- **What it shows:** Total liability and assets for company's pension plans and other details.
- **Drawback:** Most companies lump all their pension plans together and don't report how individual plans are performing.

#### Source: Form 5500 (filed with IRS)

- **What it shows:** An individual plan's cash, employer contributions, investment gains or losses, current liability and whether plan is over- or underfunded.
- **Drawback:** Information is out of date by the time it is available.

A bankruptcy judge rejected the pilots' protest and let the airline kill the plan -- citing, in part, the pilots' lack of current data about the plan's health. Retired pilots now contend the airline's estimate of the burden of keeping the plan alive was based on unlikely scenarios.

Termination will leave pilots to collect diminished pensions from the Pension Benefit Guaranty Corp., a quasipublic insurer that assumes some of the obligations of failed plans. The PBGC places limits on pension payouts. Pilots expect to see their pensions drop to 30% to 70% of what they had expected.

Disabled retirees will be among the hardest hit, because they've lost supplemental disability payments linked to their pensions. Hugh Greenwood, who retired in 1997, has lost a \$2,000 monthly disability check that was supplementing the pension he took as a lump sum. Mr. Greenwood's wife has returned to work, and the former pilot, 67 years old, will likely do the same. Meantime, he is painting the house in Denver in

case they have to put it up for sale. US Airways says it did its best to preserve disability payments.

The airline, struggling because of the slow economy and impact of the Sept. 11 terrorist attacks, entered Chapter 11 last August. Aware of its bind, pilots agreed to steep cuts in their pension benefits in 2002. But they had no reason to think the pension plan itself was in jeopardy.

Signs that it might be were absent. For one thing, the company hadn't notified them it was underfunded. Nor did US Airways have to make minimum contributions to the plan, as is required when plans are significantly underfunded. Serious underfunding also obliges companies to pay special premiums to the PBGC, and US Airways hadn't had to do so.

The latest filings to the SEC showed that US Airways' pensions, as a group, were almost fully funded in 2000. They were underfunded by \$2.3 billion on Sept. 30, 2001, but this was mainly because the airline had changed some assumptions, such as the size of future pay increases.

These filings give a company's shareholders a general impression of how much its pension obligations are likely to affect earnings. But employees rarely can use the filings to learn about whether the company is making regular contributions to their pension plan, or how their plan's investments are doing.

Companies may have several different pension plans -- for salaried workers, for those subject to collective bargaining, for overseas employees -- plus plans for top executives. US Airways had seven, all lumped

together in its SEC filings.

The SEC filings told the pilots that as of Sept. 30, 2001, the seven plans' stock and bond investments had lost a collective \$614 million in 12 months, reducing total assets to \$3.1 billion. The filing showed that US Airways had contributed \$38 million to its pensions. But it gave no indication of whether the pilots' particular plan had investment gains or losses, nor of whether their plan had received an infusion of cash from the company.

It had not, a US Airways spokesman confirms. The spokesman says the airline hadn't made any contributions to the pilots' pension plan for three years "because none were needed or required by law."

Making SEC filings especially opaque are executive pensions. Companies include these in total pension liabilities, even though these aren't paid from the pension funds for regular employees. They're instead paid from general assets of the company, or in some cases from special trusts set up on executives' behalf. So including IOUs for executives generally makes employee pensions look less well-funded than they really are. For this reason, securities analysts' reports mentioning how much companies' pensions are "underfunded" or "overfunded" are usually misleading.

For example, **General Electric Co.**'s pension plan is more overfunded than it appears in its SEC filings. In 2002, GE had pension assets of \$37.8 billion and liabilities of \$33.3 billion, so it was overfunded by \$4.5 billion. But unlike most companies, GE discloses the amount it owes executives for their special pensions. When the \$1.5 billion executive liability is subtracted, it shows that qualified pension plans for GE workers are overfunded by \$6 billion.

At US Airways, the SEC filing for 2001 mentioned, without elaborating, a pension plan in which "the aggregate accumulated benefit obligations and plan assets were ... \$184 million and zero ...." This referred to executive pensions, a spokesman confirms. Such murky disclosures -- common to most companies -- help keep employees in the dark about the health of their pension plans.

It used to be easier for workers to keep abreast. In 1995, Congress began requiring companies to provide more details to the PBGC. But in exchange, the PBGC had to agree to keep this additional pension information confidential -- even from requests made under the federal Freedom of Information Act.

As part of the deal, companies agreed to notify participants if their pensions became underfunded by a worrisome amount. But the requirement has so many exceptions that, as the US Airways case shows, employers rarely have to issue a notification. Even a company as hard-pressed as Bethlehem Steel, whose assets have been liquidated, never had to warn employees or retirees that their plans were underfunded -- before it moved to kill the plans.

The PBGC used to publish an annual list of the 50 companies with the most-underfunded pension plans. But in 1997, under pressure from companies, the PBGC stopped publishing the lists. The lists "unnecessarily alarmed employees ... when the plan funding in fact presents no danger to workers' pensions," said a statement at the time from the president of the ERISA Industry Committee, a lobbying group for large employers.

On that last top-50 list were US Airways, Northwest Airlines and UAL Corp., companies that today have

underfunded plans. Many other companies on the last list later reduced the level of their pension benefits by freezing the plans or converting them to a hybrid known as a cash-balance plan. A few on the last list -- Anchor Glass and steelmakers LTV, Bethlehem and National Steel -- have since had their pensions taken over by the PBGC, a move that limits how much pensioners can receive.

The employer-group president who said the top-50 list was unnecessarily alarming, Mark Ugoretz, couldn't be reached for comment.

Last December, with US Airways' pilots still assuming that their pension plan was in tolerable health, the airline asked them for another round of pension cuts. They agreed.

A few weeks later, to their dismay, US Airways stated that the pilots' pension plan was seriously underfunded. On Jan. 30, the airline filed with the bankruptcy court an intention to kill the plan. US Airways estimated it would have to put \$1.7 billion into the plan over seven years, a burden it said would force the airline into liquidation.

Few challenged the estimates. Among those who took the airline's word were the creditors' committee; the Air Transportation Stabilization Board, which was poised to guarantee loans to the carrier; and the airline's main bankruptcy lender, Retirement Systems of Alabama, which stood to gain a large equity stake in US Airways if it emerged from Chapter 11.

All acknowledge they didn't examine the pension plan's financial health and didn't have up-to-date pension-liability figures, but rather accepted US Airways' analysis and backed its request to kill the plan. Such a move stood to benefit most of them. It would wipe out a liability and make the company more likely to emerge from Chapter 11 in a position to pay its debts and provide a return to new owners.

Only the retired pilots questioned the company's estimate of how much it would have to contribute if it kept the pension plan alive. But they said they had insufficient information.

The information the pilots needed is in a form that companies file to the Internal Revenue Service for each pension plan. This Form 5500 shows how much money is in the pension plan; how well the stocks or bonds it holds have performed over 12 months; and company contributions to the plan. Most important, it shows the plan's "current liability." This determines how much cash, if any, a company is required by law to contribute to the plan in the succeeding year. The problem is, this information remains inaccessible to most people until many months out of date.

The pilots had only a Form 5500 for the year 2000. It showed the plan as adequately funded. The information was more than two years old.

An actuary hired by the retired pilots asked the airline for the data it was putting in its latest Form 5500, for 2002. The just-hired actuary, James Kinney, had only four days to get this before he was to testify. The bankruptcy court set a hearing date for less than a month after receiving the termination request.

Mr. Kinney says US Airways sent him 5500s for all of its pension plans except the one that mattered, the one for the pilots' plan.

He quickly renewed his request. This time he received a Form 5500 for the pilots' plan. This was one day before Mr. Kinney was to testify. However, he says, it was the Form 5500 for 2001. Not until after his testimony, the actuary says, did he obtain the up-to-date information that the airline and its consultant, Towers Perrin, were using to prepare US Airways' own testimony.

By the time he got it, it was too late. "Had I had the real information, I could have testified more completely and precisely that the company's estimates about its contributions requirements were too high," Mr. Kinney says.

A spokesman for US Airways initially said several times that the airline had provided all the requested information. Subsequently, the spokesman said that "the company could not confirm or deny" Mr. Kinney's version of events. He added that a "tremendous amount of information was exchanged among all parties in the course of the case."

On March 1, the day after Mr. Kinney testified, the bankruptcy judge accepted US Airways' position that the pilots' pension plan was so underfunded that making the minimum required contributions in the future would force the company to liquidate. Judge Stephen Mitchell let the company terminate the plan.

Part of his reasoning came as a bitter pill for the pilots after their futile attempt to get up-to-date information from the company. Judge Mitchell said the pilots' actuaries had "based their calculation on rules of thumb and rough estimates while [US Airways'] actuary based his on the actual computer model used for administration of the plan." The judge didn't respond to requests for comment.

US Airways is turning over its responsibility for pilot pensions to the PBGC. The insurer is obligated to pay no more than \$28,585 of the annual pensions that pilots earned, a figure held down by pilots' retirement age of 60. Some will get more, though, if the plan turns out to be well-funded enough. Capt. Jerry Vaughn, a 52-year-old pilot, estimates his retirement income will fall 50% as a result of the plan's termination.

The PBGC and US Airways are haggling over how much pension money the airline has to hand over to the insurer. US Airways has agreed to set up a 401(k) savings plan for the pilots. An airline spokesman says some active pilots could even end up with more money than under the pension, if they get really high returns in their 401(k).

Retired pilots, however, have no chance to build up any retirement savings in the new 401(k). The retired pilots appealed the termination decision to a federal district court in Alexandria, Va. They alleged that US Airways had exaggerated the future burden of contributing to the pension plan. For instance, they said US Airways had used improper mortality assumptions, had assumed a very low discount rate (which produces a greater liability), and was assuming that over seven years, interest rates will remain about the same. In short, the appeal asserted, US Airways adopted extreme assumptions to make the projected liability look as burdensome as possible.

The pilots said their inability to get up-to-date data had made it impossible to challenge the airline's claims. "US Airways' actuary, on the other hand, had full access to the plan's data and ... was able to rely on information the [pilots] had never seen and had no time to review," the suit said.

In a written statement, US Airways said, "The company did not exaggerate the funding requirements of

pension plans. US Airways used reasonable actuarial assumptions." It added that the bankruptcy judge's decision "was quite clear that we had made reasonable assumptions and the lack of credibility of the plaintiff's witnesses were obvious."

Federal Judge Leonie Brinkema dismissed the appeal on May 27. She didn't address the merits. She simply ruled that "revisiting this issue at this late date, after US Airways and its other creditors have proceeded with numerous transactions pursuant to the current reorganization plan, is wholly impractical." The retired pilots have filed a further appeal.

Owners of the airline, which emerged from bankruptcy March 31, would indeed find it unpalatable to see the pilots' pension plan restored. In its first quarter filing with the SEC, US Airways disclosed that even after taking into account claims from the PBGC, the airline gained \$387 million from killing the pilots' pension plan.

Write to Ellen E. Schultz at [ellen.schultz@wsj.com](mailto:ellen.schultz@wsj.com)<sup>1</sup> and Theo Francis at [theo.francis@wsj.com](mailto:theo.francis@wsj.com)<sup>2</sup>

**URL for this article:**

<http://online.wsj.com/article/0,,SB105701284169309300,00.html>

**Hyperlinks in this Article:**

(1) <mailto:ellen.schultz@wsj.com>

(2) <mailto:theo.francis@wsj.com>

*Updated July 1, 2003*

**Copyright 2003 Dow Jones & Company, Inc. All Rights Reserved**

**Printing, distribution, and use of this material is governed by your Subscription agreement and Copyright laws.**

**For information about subscribing go to <http://www.wsj.com>**