Pension De-Risking: An Exploratory Case Study to Understand the Benefits, Gaps, Governance and Controversies Surrounding Group Annuity Contracts

by

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A dissertation submitted to the faculty of

Wilmington University in partial fulfillment

of the requirements for the degree of

Doctor of Business Administration

Wilmington University

May 2018

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I certify that I have read this dissertation and that in my opinion it meets the academic and professional standards required by Wilmington University as a dissertation for the degree of Doctor of Business Administration.

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Dedication

To my wife, Judy, finally this dissertation and doctorial journey is complete. We can now celebrate and move on to the next phase of our lives together. You have sacrificed a lot and put up with me over many years as I have continued to pursue my education. Now what? While there will always be more to learn, I promise to come out of my office more frequently and not use any more excuses of due dates and deadlines. We can do that now. We can go there now. We will do something together now.

To my grand (son) John, I had to stay ahead of you in some way. You have taught me what it means to be a father by being the best son anyone could have. Let my degree serve as evidence that you can achieve all that you set out to do. You can achieve your goals with commitment, hard work and dedication. Don't quit, your team needs you.

To my parents, Gilda and Thom, I wish, more than anything, that you were here and we could talk. You gave me the tools needed to overcome obstacles and the courage needed to stand up for my beliefs. I know you are proud. Happy Birthday!

To my siblings, Lauraine, Elaine, Carla and Joe, thanks for being supportive of me and for always being there. We need to celebrate all of our accomplishments soon, while we are still young and able.

Acknowledgements

It was just the second week of the very first class when I rushed my wife, Judy, to the emergency room at our local hospital. Following surgery, and during a month-long period of hospitalization, I was ready to withdraw from the program as I didn't believe I could keep up with the class. Dr. Rescigno and I discussed the situation and he provided me with both the encouragement and additional time to get back on track and to stay in the program. Thank you Dr. Rescigno.

I would not have completed this degree without the help of my dissertation chair, Dr. Ruth Norman. Dr. Norman, I thank you for all your help along this journey. You are a sincere and genuine educator who provides encouragement and motivation, (and lots of corrections). I am still laughing from your comment about the apostrophe gestapo. I would not be finished with this dissertation without you, and I thank you for all that you have done to help me over the past three years.

Dr. James, your feedback has helped me become a better writer, and a better teacher. I know how much time it takes to provide the level of detail that you put into reviewing my work and I appreciate all your effort. Thank you.

Dr. Morlino, thank you for your continued support of my research topic and for your comments in my paper. I appreciated your comments and well wishes while you were traveling overseas.

To my friend and C.P.A. colleague, Doug Bartlett, while you probably don't agree with everything written here, I know that this is only a small fraction of your knowledge of insurance regulation. But this is the best that I can do at this time. I thank you for all the times we talked about reserves and other solvency issues. You helped steer me in the right direction with survey questions and assumption, and helped correct the wrong paths I was planning to travel down. I appreciate your knowledge and willingness to help and I hope I didn't disappoint.

Abstract

This case study examines the termination of defined benefit pension plans, provided by private industry, by transferring the plan assets and liabilities to group annuity contracts provided by life insurance companies. The study looks at the regulation and protections that are transferred with the pension obligations from federal government control to individual state control. The Employee Retirement Income Security Act (ERISA) created the Pension Benefit Guaranty Corporation (PBGC) as a backstop to bail out failed private industry pension plans. ERISA also mandates many pension plan requirements, including notifications of its plan's funding status. When pensions are transferred to insurance annuity contracts, the ERISA rules no longer apply since the insurance industry is regulated by individual state governments and not the Federal government. Individual states provide different guaranty limits and annuitants are subject to the limit amount set by their state of domicile. With a rising number of defined benefit plan transfers, tens of billions of dollars in plan assets and liabilities are absorbed by the insurance industry. This shift of obligation from private industry to the insurance industry gives rise to concerns for future risk. Retirees are living longer causing pension and annuity payments to extend beyond initial estimates. Industry experts were asked to discuss current regulatory requirements that safeguard group annuity contracts, expectations of how a continued trend would affect existing regulatory effectiveness and the extent that national standards are needed to regulate pension annuities across the country.

The study concludes with several recommendations for increasing communications and transparency, by providing additional notifications, ratings, education and standardization. This study will contribute to the understanding of the life insurance industry regulation and safeguards available to annuitants and beneficiaries. It will also provide guidance for improving future pension transfers by private corporations.

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Chapter 1

Introduction

Retirement security is a major national concern in the United States, and many Americans face substantial difficulties with securing their financial future (CIPR, 2017). At one time, defined benefit plans provided retirement benefits to over 88% of all private sector workers in the United States (National Institute on Retirement Security, 2013). In 2008, only 20% of US workers continue to receive retirement benefits under these plans, and the numbers keep falling (Butrica, Iams, Smith, & Toder, 2009). The federal government regulates defined benefit plans under the Employee Retirement Income Security Act (ERISA) and protects the pensions of many failed plans through the Pension Benefit Guaranty Corporation (PBGC). The PBGC provides funding to continue benefit payments to retirees when the employer corporation is unable to continue operating the plan. At the end of 2016, there were 840,000 retirees receiving benefits of $5.7 billion paid directly from the PBGC (PBGC Annual report , 2016)

Recent legislation has changed the reporting and funding requirements of defined benefit plans, and coverage premiums to the PBGC have increased. Defined benefit plans are becoming more burdensome for corporations to maintain, especially over the past few years as provisions of the Pension Protection Act of 2006 were phased into practice (AICPA, 2006). Partially resulting from the new minimum funding standards, interest rate rules, accelerated funding contributions, new actuary

mortality estimates, and a host of other restrictive regulations, many companies have decided to, or are contemplating, eliminating pensions from their balance sheets (Kilgour, 2014).

One popular strategy for eliminating pension problems is termed *pension de-risking*. With de-risking, pension funds that were once managed by the employer are transferred to a third party. These third parties are usually large insurance companies that provide health and life insurance policies and annuities. With the de-risking strategy, the insurance company issues a non-revocable group annuity contract pledging to continue monthly pension payments to those "in pay status" recipients, according to the original pension plan documents (NOLHGA, 2016). In essence, there is a shift of the underlying risk from the private sector to the insurance industry. This risk includes maintaining sufficient fund balances and continuing these payments into the future for as long as the recipient and beneficiary live. The unloaded pension liabilities include the transfer of the existing funds (plus a premium), payment promises, and all other risks and benefits to the life and health insurance companies.

While the employer corporation completes a pension transfer with the insurance carrier and severs its obligations to its former employees and beneficiaries, it also detaches the pension plan from Federal regulations and ERISA (Federal Insurance Office, 2015). The insurance industry is regulated by each individual state where insurance carriers conduct business and is not subject to certain Federal

government rules. Under state control, the insurance industry is regulated quite differently, from state to state, and pension protections and reporting requirements are different (NOLHGA, 2016). When the insurance companies accept the pension plan funds and all future liabilities associated with payments to retirees, they do so under regulations enacted by each individual state insurance commission. Benefits once protected by the Pension Guaranty Benefits Corporation (PBGC) with annual payment limits up to $60,136 (PBGC, 2015), are relinquished to each individual state guaranty association (GA). Each state GA offers different protection limits for group annuity contracts. Some state GAs limits are as little as $100,000 per lifetime (Stone, 2015). The lack of uniformity leaves the retiree to determine the level of pension protection provided by the state of residence and the state GA (Center, Pension Rights, 2016). Retirees may not be fully aware that moving from one state to another may subject them to changes in benefit protections.

Definition of Terms

The following terms are frequently used throughout this paper and the following definitions are provided to identify their meaning:

- *Pension* - Defined benefit plans provide a fixed, pre-established benefit for employees at retirement. Employees often value the fixed benefit provided by this type of plan (IRS, 2017).
- *The Employee Retirement Income Security Act of 1974* (ERISA) is a federal law that sets minimum standards for most voluntarily

established pension and health plans in private industry to provide protection for individuals in these plans (Health Plans & Benefits: ERISA, 2016).

- *Pension Protection Act of 2006* (PPA) strengthens plan reporting and participant disclosure rules, requires stricter funding rules for single-employer and multi-employer defined benefit pension plans, resolves legal uncertainty surrounding cash balance and other hybrid defined benefit plans, allows plan fiduciaries to give investment advice to participants, and makes permanent significant tax retirement savings incentives enacted under prior law (AICPA, 2006).
- *Pension Benefit Guaranty Corporation (PBGC)* -- Congress set up PBGC to insure the defined-benefit pensions of working Americans. Defined-benefit pension plans are traditional pensions that pay a certain amount each month after retirement. There are over 40 million private sector Americans covered by PBGC insurance protection. PBGC insures nearly twenty-four thousand pension plans (Pension Benefit Guaranty Corporation, 2016).
- *State Guaranty Associations* (GAs)- An insurance guaranty association is an organization that protects policyholders and their beneficiaries in case an insurance company goes insolvent or closes. Every state has a GA, and all insurance companies are required to be a

member of the state's GA to protect the interest of its insured and their beneficiaries (Insuranceopedia, Inc., 2016).

- *Defined Benefit Plan (DB)* - A defined benefit plan defines the amount of the pension that will be provided to the plan participant at retirement or termination (NAIC, Accounting Practices and Procedures Manual, 2005).
- *Defined Contribution (DC) Plan* provides an opportunity for employees to contribute to a savings plan (401K for example) often with contributions from the employer. The savings plan will vest over a period allowing employees to change jobs without losing their savings (Butrica, Iams, Smith, & Toder, 2009).
- *Annuity* - A periodic payment to an individual that continues for a fixed period or for the duration of a designated life or lives (Klien, 2005).
- *Longevity Risk*- Refers to the risk that actual survival rates and life expectance will exceed expectations. For individuals, longevity risk is the risk of outliving one's assets (Obersteadt, 2013).
- *National Organization of Health and Life Guaranty Associations (NOHLGA)* - Is a voluntary organization of U.S. life- and health-insurance guaranty associations. Founded in 1983, it covers

policyholders when a multi-state life- or health-insurance company fails (Investopedia, LLC, 2016).

- *Buyout* – A buyout involves the sale and transfer of all of a pension plan's assets and liabilities in return for a single premium payment. Insurers usually issue a group annuity contract as part of the buy-out. This transaction provides the insurer with control of the assets and exposure to all future risks, including investment, credit, inflation and longevity risk (Obersteadt, 2013).
- *Buy-in* – With a buy-in transaction, the pension plan manager pays a single premium in exchange for periodic payments, from an insurer, that match the pension obligations. The purchased annuity becomes part of the pension plan assets (Obersteadt, 2013).

Problem Statement

Retirees who have earned pensions are not in the best position to take on more risk with their pension plan benefits (Federal Insurance Office, 2015). However, due to corporate de-risking strategies and the transfer of federally regulated and guaranteed pension plans to state regulated insurance companies, these retirees may become exposed to greater risks (Stone, 2015). When pensions are transferred to insurance companies, the retiree loses the protections and benefits once provided by ERISA. These protections, such as the insurance provided by the PBGC, are replaced with maximum lifetime limitations placed on pension annuities by state GAs

(Sammer, 2016). However, the state GA replacement protections have limited lifetime maximum payouts if an insurance company becomes insolvent and is placed into receivership (NOLHGA, 2016). The measurement of risk is difficult to ascertain, primarily due to variations in individual state laws and the lack of available data to study (Kilgour, 2014).

Hundreds of companies have transferred their pensions involving tens of billions of dollars transferred (Cunningham, 2017). One example of this trend occurred in the last quarter of 2012, where over 41,000 former workers of a large national telecommunications company, hereinafter referred to as Verizon, had their pensions transferred to Prudential Insurance (Association of BellTel Retirees, 2016). These retirees are no longer protected by ERISA and are not covered by the PBGC (Center, Pension Rights, 2016). The insurance industry has published a report suggesting that pensions are more secure under state control, with protection by the state guaranty associations (GA), rather than with the federally controlled Pension Benefit Guaranty Corporation (PBGC) benefits (NOLHGA, 2016). However, other sources dispute this claim and some retirees have sued their former employers as a result.

Insurance regulation varies across state boundaries, and carriers that are governed by state regulators may provide insurance annuities to plan participants and beneficiaries in another state. Thankfully, there are no group annuity contract carrier failures to study, but questions remain concerning which state would provide

continuing benefits if such a failure did occur. For example, if a recipient resides in New Hampshire (with a $250,000 lifetime annuity limit) but the insurer is incorporated in New Jersey (with a $500,000 limit) which limitation would apply? What happens if the recipient moves to another state? Understanding one set of guidelines, such as those established by the federal government, is much easier than understanding fifty state's guidelines.

There is also uncertainty whether state insurance commissions and GAs have sufficient resources to handle the potential load that may evolve with continuing pension transfers. So, for a number of reasons, this study is necessary to understand the state governmental oversight that controls issuers of group annuity contracts, and to determine the extent of adequacy of such governance in light of continued, and possibly increased, pension transfer activity.

This study examines some of the state specific differences, among state jurisdictions, for purposes of understanding the inner workings of group annuity contracts and the state regulations under which they are governed. The primary objective of this research paper is to explore the levels of governmental agencies responsible for insurance carrier oversight, and to ascertain the adequacy of protection guiding group annuity contracts. Additionally, the exploration of best practices in the field of insurance regulation will hopefully lead to possible recommendations promoting full disclosure guidelines across all state boundaries with the adoption of national standards for the governance of the insurance industry.

Significance/Purpose of Study

Pension de-risking has accelerated at a rapid pace since 2007, and de-risking activity is expected to increase in the future (Cunningham, 2017). As more retirees are transferred from federally provided pension protections to state controls, fund balances continue to grow in the insurance industry (Sammer, 2016). Between 2007 and 2015, more than $67 billion worth of pension plan assets have been transferred to the insurance industry in the United States (Kessler, McCloskey, & Bensoussan, 2015). During this same time period, global transfers have exceeded $260 billion and, with the possibility of increasing interest rates, the number of pension transfers is expected to climb (Sammer, 2016). In 2012, the estimated value of all U.S. private sector pension plans was $2.6 trillion (Rassier, 2014). According to Pension & Investments (2017), there exists a potential for hundreds of billions of dollars to be transferred to insurers over the next ten to twenty years. While the exact extent of future transfers is not known, future activity is largely dependent on the regulatory environment. Other factors affecting transfers include corporate strategy, interest rates, returns on retirement plan assets, conversions to defined contribution plans, the regulatory environment, longevity and mortality related projections.

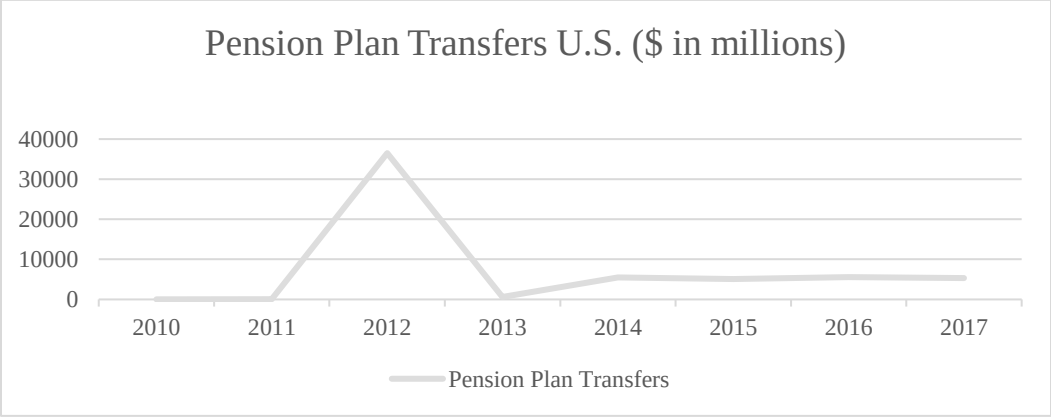
Insurance annuities help minimize longevity risk by providing an income stream over the lifetime of the recipient. Predicting accurately into the future is a challenge, a "widely debated and contentious subject" (Obersteadt, 2013, p. 18). Advances in biological research, cloning and other life extension projects can

possibly extend life beyond its current expectations. Such life extensions would have a profound effect on predicting funding levels of retirement plans. The NAIC Center for Insurance Policy and Research states that "regulators are concerned that the potential enormity of longevity exposure could be beyond the capacity of the insurance industry" (Obersteadt, 2013, p. 18).

While several large private corporate plans transferred pensions in 2012, the trend appears to have leveled off in the US recently. From the end of 2015 through August 2017, pension transfer activity slowed to just $8 billion in the United States while impacting 1.3 million plan participants (Cunningham, 2017). The chart below illustrates the large bubble of transfers realized in 2012 (Cunningham, 2017).

Chart 1.2

Pension Transfer Dollar Values to Date



Looking at one company that recently engaged in a pension transfer, in late 2012, Verizon transferred $7.5 billion in pension funds, representing the pension obligations for 41,000 retirees, to Prudential (Association of BellTel Retirees, 2016). In 2015, the fair value of pension assets still held by Verizon was $18.5 billion (Verizon, 2015). These remaining funds, and beneficiaries, could easily be targeted for another pension transfer to a group annuity contract. In fact, a recent study by CFO Research, revealed that seventy two percent of senior executives who have already conducted pension transfers, said they are likely to transfer additional defined pension benefits to insurance group annuity contracts (Seniors Advocate, 2017)

This study examines how pension transfers from the private sector to the insurance sector are currently regulated, controlled and guaranteed. The level of pension protection provided by the PBGC through ERISA, for most pensioned retirees, seems superior to the annuity limitations imposed by the state GAs (see Appendix F for state GA limits). However, there are claims by the insurance industry that retirees are better protected with insurance products through stricter regulation and control of the industry, at the state level. Marked-to-market accounting rules provide more leniency for pension funds while insurers are subject to more restrictive solvency rules (Biffis & Blake, 2013). Additional data suggests that the PBGC is experiencing financial difficulties and may not be capable of providing adequate coverages in the future (Kilgour, 2015).

Industry sources and a series of interviews with insurance regulators aided with understanding the risk transfer process. Interviews with industry experts detail how an annuity contract is priced and how the assets and liabilities are transferred. Some contracts, if they are large enough, maintain separate funds for the retirees which provide greater protection because in addition to its own funding, the contracted annuities also have the insurer's general fund to back it up should a need arise. Also discovered through this research is how risk transferred funds are transacted, how prices are determined, how business is conducted, how risks are managed, how funds are restricted, what certain states provide for guaranty limitations, how governmental oversight works, and the current level of state readiness to adequately oversee this industry. Equally important is the examination of how the shift of risk from pensions to group annuity contracts effects state governance of the insurance industry.

Figure 1.1 Group Annuity Oversight Model

The following diagram illustrates a working model of the group annuity contract oversight and security:

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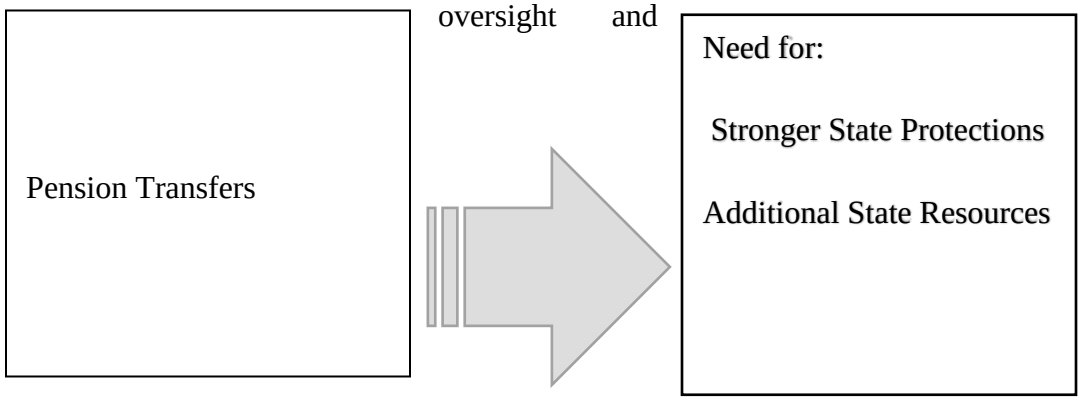


Research Questions & Hypothesis

This exploratory study captured information from the National Association of Insurance Commissioners (NAIC), the Society of Actuaries (SOA), multiple state legislatures and insurance commissioners to explore and understand how group annuity contracts are governed, how these contracts are protected, how each state's governance differs and what, if anything, can be done to strengthen protections for retirees who receive their pensions from insurance companies. The research questions are developed to help guide this study will attempt to answer the following research questions:

Q1) What reporting requirements currently exist that are used by state regulators?

Q2) How are funds invested and managed at the insurance company specific to group annuity contracts?

Q3: What specific actions do the national support organizations, actuaries and state governments undertake to protect group annuity contracts?

Q4) How are new regulations being developed to govern group annuity contracts?

Q5) What is the importance of national standards for regulating group annuity contracts?

Summary

The shift of pension funds and associated liabilities from private sector employers to the insurance industry shifts regulatory oversight from the federal government to the individual states. This study examines how the billions of dollars of increased pension transfers may challenge some states' ability to effectively oversee insurers of group annuity contracts. State guaranty associations' ability to completely protect the increase in volume of retiree pensions is also examined. Original thinking opined that as more companies transfer pension responsibilities to the insurance industry, the greater difficulty the state GAs may have coping with potential insurance failures, leading to more receiverships and liquidations. The analysis of the data discovered is analyzed in Chapter 4 and expands on several other possibilities in greater detail.

Insurance company spinoffs or divestitures of pension businesses could leave some retirees without adequate protection and insurers could abandon operations in specific states, thereby possibly avoiding assessments from the state GAs. As an example of a spinoff which might not be as financially robust as its parent, MetLife divested its life insurance and retirement annuity business unit to create a new company called Brighthouse Financial Inc. (Rogow & Scism, 2017). The spinoff was approved by the Securities and Exchange Commission and the state of Delaware. A major reason citing the purpose of the spinoff was to avoid the "too big to fail"

designation which was lingering on MetLife (O'Neil, 2016). Brighthouse Financial is now headquartered in Charlotte NC and is trading on the NASDAQ exchange. While there is a heightened regulatory awareness with such spinoffs, there is also a big uncertainty. How Brighthouse will perform in the future is a function of its ability to generate profitability. Profit comes from the sale of insurance products and a return on its investments greater than the cost of capital. Brighthouse also needs to satisfy its current and future insurance obligations, pay its employee wages, salaries and benefits and keep its shareholders satisfied with a return on their investment (Rogow & Scism, 2017). In late February 2018, MetLife discovered that it had failed to pay over thirty thousand retirees pensions. As the news was announced in the media, MetLife apologized to those it had failed and stated that it “needs to do a better job”. While the average pension was minimal (around $150 monthly), the thought of losing track of thirty thousand recipients of monthly pension seems absurd. Questions remain as to the whereabouts of these pension beneficiaries and if the loss of contact with this group has a relationship to the spinoff to BrightHouse Financial. The Securities Exchange Commission (SEC) and regulators from Massachusetts and New York have launched individual investigations into the payment failure. MetLife estimated that it needed to increase its reserve account by nearly one-half billion dollars to adjust for the error, which also will affect its 2017 earnings (Singh & Barlyn, 2018).

The GA system may need an update, as the system that was designed over 40 years ago could not have foreseen the level of pension annuity liabilities now being transferred to state control. While the states may be totally capable of protecting retirees' pensions, many people do not possess a great understanding of how these protections are provided and how they vary between individual states. This lack of understanding may be especially true for transferees who once had protections and regulations provided by the federal government.

State governance has been effective for many industries and may be the best place for retirement income security. States also govern the accounting industry and control the licensing of Certified Public Accountants (CPAs) and the licensure of many other professions, such as the medical field, real estate, construction, corporations, businesses and other professional licensing. Additionally, it is the states that control automobile registrations, drivers licensing and regulations on firearms, alcohol and tobacco and a host of other important regulations.

As more pensions are transferred out of the private sector, and from protection and regulation provided by the US government, into the state-controlled insurance industry, the PBGC, through fewer pensions under its control, will realize a diminished capability to adequately protect the remaining defined pension plan participants (Kilgour, 2015). Declining revenues resulting from more transfers and increasing premiums to cover the revenue shortfalls, will encourage additional pension transfers, accelerating the trend. With the decline of pension balances under

federal control, the shift to state oversight may create an additional burden of available resources needed to perform governmental oversight at some states. This study attempts to uncover any shortfalls realized with this shift in governance and provide insights on ways to mitigate these shortfalls.

Through the research and findings from this study, a deeper understanding of the governance of insurance annuities has been obtained. This understanding has assisted with the development of appropriate recommendations to address the gaps that exists between state regulations and protections of pensions transferred to group annuity contracts. These recommendations are presented in the conclusion of this study as shown in Chapter 5.

Some states (such as SB93 in Connecticut) have already introduced legislation aimed to resolve some of the concerns. A review of pending legislation and other relevant literature is forthcoming in Chapter 2. Chapter 2 presents relevant sources of literature that present multiple perspectives on enacted legislation, litigation, and insurance industry data. These sources are examined and presented in Chapter 2 to provide a background and foundation for understanding many of the various issues involved in the multi- billion-dollar transfers of pensions to annuities.

Chapter II

Introduction

There are several types of pension de-risking strategies which include reducing the pension plan's equity investment risk, reducing an organization's pension obligation amount through terminations and lump-sum buy-outs, converting to a hybrid plan with cost sharing options, or transferring the pension and all obligations through "third-party risk transfers" (Wadia, 2015). These third-party transfers, for the purposes of this paper, are synonymous with *pension de-risking*. This literature review provides background information about defined benefit pension transfers from private, *single-employer* pension funds to group insurance annuities. Recent congressional action involving *multi-employer* pension plans is reviewed for precedence setting and informational purposes but is outside the scope of this research.

Pension de-risking, through third party transfers, has become popular in the past five years, resulting in a growing set of literature available from reliable sources. As sponsors of large private pension plans transfer billions of dollars into the insurance industry from de-risked pensions, insurance companies are positioned to profit from the transferred assets, while corporations benefit by eliminating large liabilities once carried on their balance sheets (Scism, 2017). This literature review provides a look at pension transfers from multiple perspectives. Literature reviewed includes a look at the significant issues of pension de-risking from the federal

government, state government, corporate governance, insurance industry, and retirees' advocacy perspectives.

This literature review also examines the pension transfer of Verizon, a large telecommunications carrier, to illustrate some of the current legal and ethical issues involved with pension transfers. Available literature was discovered in court documents (following a suit by Verizon's retirees), corporate annual reports, Securities Exchange Commission (SEC) reports, Pension Benefit Guarantee Corporation (PBGC) filings, and news articles from reputable journalists. To provide context, the literature review discusses the historical events leading up to the Verizon court case, which traversed multiple levels of the judicial system, including the U.S. Supreme Court.

Available relevant literature includes governmental documentation that explains the rules, regulations and laws enacted by legislative bodies at the federal and state levels. Governmental literature provides a look at the current regulations governing private company pension plans, as well as facts and figures used to identify the size of pension plans and demographic data about the potentially affected participants. These governmental documents provide a partial basis for comparisons of the different protections available at the federal and state jurisdiction levels. Comparing the various levels of regulation adds complexity to understanding where and how enacted legislation provides protections to individuals. This review shows how defined benefit pension plans, administered by individual companies, have

oversight under federal government regulations provided by the Employee Retirement Income Security Act (ERISA). Transferring these pension plans (de-risking) to the insurance industry also transfers regulatory and oversight responsibilities to the individual state jurisdiction, as provided by the McCarran-Ferguson Act of 1945 (Kimball, 1991). Legislation at the federal level covers all jurisdictions and citizens in the United States. Under the McCarran- Ferguson Act, each state's governing body regulates insurance companies and, as the literature provides, there are currently inconsistencies in governance across state jurisdictions. When private industry pensions are transferred to an insurance company, via a group annuity contract, the plan participants are affected by the change in governance. This literature review examines these governance changes, the inconsistencies in state regulations, those most affected by these differences and alternatives that may lessen the impact created with multiple jurisdictional regulations.

The insurance industry has produced handbooks, testimony, multiple papers and articles providing support that its regulatory environment is rigorous and it provides adequate safeguards for transferred pensions. The National Association of Insurance Commissioners (NAIC) provides certification courses to state insurance regulatory employees. There is an Accounting Practices and Procedures Manual (AP&P), published by NAIC, that provides the statutory accounting guidelines used in the insurance industry. While the cost of the current AP&P is very expensive for

purposes of this research, older editions of this manual were purchased and are referenced accordingly.

The United States government, through the Department of Labor (DOL), Pension Benefits Guaranty Corporation (PBGC) and ERISA, has also produced literature showing the security levels of corporate pensions covered by the governmental agencies. These documents are reviewed and compared as foundational information for continued research in this case study.

Articles appearing in professional journals were limited, until recently, as there is an increased level of interest and much at stake with the continuation of defined benefit pension de-risking strategies. Few of these articles are available to the public, and many require subscriptions to review the contents. Due to the prohibitive cost to subscribe to these journals, subscription-based journals are only used when obtained without cost.

Included in this literature review are academic articles that provide valuable background information on pension de-risking, and recent causes for the increased de-risking activity. Industry specific news articles provide additional information on trends in the pension and insurance industries, and they also provide the latest information about de-risking activity. Advocacy associations for retirees provide information regarding ongoing activities designed to protect seniors and their pensions. Documentation specific to the Verizon pension transfer is also examined as it is the primary focus of this case study and resulting recommendations.

Inclusion Criteria

The search used to identify relevant literature for this review included two university libraries, using EBSCOhost and Thomson Reuters databases, and web-based search engines. The search specific words, terms and phrases included: pension de-risking, corporate pension de-risking, pension annuities, pension buyouts, insurance pension annuities, pension spin-offs, defined benefit plan de-risking, defined benefit plan pension spinoffs, de-risking pension plans, lump sum distributions, risk transfer, pension plan, defined benefit plans at risk 2017, defined benefit plan closures, defined benefit takeovers, defined benefit plans in trouble, pension strategy, group annuity contracts, pension transfers, pension risk transfers, longevity risk, longevity risk exposure and Case No: 3:12-cv04834.

In addition to the library databases and general World Wide Web searches, specific company, and organizations' websites were scanned for news and other relevant information regarding pension de-risking. These websites include the following: AARP, Association of Belltel Retirees, BlackRock, Bloomberg, BNY Mellon, Center for Retirement research Boston College, Charles Schwab, CNN, Fidelity, US Department of Labor, Internal Revenue Service, US Department of the Treasury, Goldman Sachs, Institutional Investor, JP Morgan, Legg Mason, MarketWatch, Mercer, MetLife Insurance Company, National Association of Insurance Commissioners, NISA Investments, NY Times, Pacific Life, PBGC, PIOnline, Pension Rights Center, Prudential Insurance Company, State Street Global

Advisors, US News, Wall Street Journal, Washington Post, and Wellington Management.

Background

Pension benefits, from defined benefit plans, are promises made to employees for continued service, which accumulate over the course of a worker's career and are payable upon retirement, or at some pre-arranged event, such as reaching a certain age or years of service. In some cases, employees may contribute to their pension fund in addition to the employer's contribution (IRS, 2017). The U.S. Congress has attempted to protect earned pension benefits through the passage of the ERISA and the Pension Protection Act of 2006 (Pension Benefit Guaranty Corporation, 2016). However, late in 2014, a changing climate in congress provided the passage of the Multiemployer Pension Fund Reform Act (MPRA) which now provides a vehicle for pension administrators to cut benefits in certain cases (US Department of the Treasury, 2017). This act applies to only multi-employer pension plans that cover union workers such as the Teamsters Union. The first to be affected by passage of this act are the Cleveland Iron Workers Local 17, where workers face a fifty percent reduction to their pension payments (Leefeldt, 2017). Additional reductions are in process for the United Furniture Workers Union, where plan participants were asked to vote on pay cuts to members (US Department of the Treasury, 2017). The MPRA requires a vote of the plan participants prior to the occurrence of a suspension or reduction to pension benefits (US Department of the Treasury, 2017). This vote is

one of the final steps included in the MPRA before a suspension, or reduction of pension payments can occur (US Department of the Treasury, 2017).

Many economists believed that the US government would bail out troubled multi-employer pension plans under the PBGC's jurisdiction, but the passage of the MPRA proved them wrong (personal communication with J. Kilgour, 2017). With this piece of legislation now in effect, there is precedent whereby congress can enact legislation to slash pension payments to some retirees while attempting to salvage the pension plan so other participants may be eligible for reduced pensions. This approach leaves some retirees with less money than promised by the company' pension plan. In some cases, these retirees were forced out of the workforce earlier than they anticipated and through no fault of their own, find themselves making sacrifices to make ends meet (Leefeldt, 2017). Meanwhile, some of the most notorious contributors to pension plan losses stem from bailed-out financial institutions prevalent during the financial crisis of 2008 (Kilgour, 2014). In addition to multi-employer plans, the PBGC also provides pension protections to single-employer plans, which are not subject to the MPRA and are considered to be in much better financial condition (US Department of the Treasury, 2017).

Defined Benefit Plan History. Defined benefit retirement plans (DB pensions) became popular in the United States during the 1940s due to changes in the tax code, an effort to control wartime inflation and strong union negotiating power

(Johnson, 2013)**.** DB pensions provided a means for employers to recruit new employees, improve employee satisfaction, lower employee turnover and increase productivity. DB pensions provide a predictable and steady income stream to employees after they reach age and service requirements. What used to be a major benefit for the majority of Americans, defined benefit plans have dwindled over the years and are now offered to very few workers (Butrica, Iams, Smith, & Toder, 2009). In 2004, there were over 34.5 million participants covered under the PBGC insured pension plans. Reversing an upward trend lasting for over 25 years, the number of plan participants has fallen by nearly 4 million participants prior to 2014 (Pension Benefit Guaranty Corporation , 2014).

Comparatively, defined contribution plans (DC), such as 401(k) plans, have grown in size and participation, and have quickly become the prominent retirement plan in private industry in the United States. DC plans now provide savings options for 44% of all private industry workers (Stoltzfus, 2016). In 2015, there was $4.7 trillion of retirement savings in 401(k) plans in the United States (Thornton, 2015) and, according to the Investment Company Institute, this value has risen to $5 trillion in March of 2017.

According to the National Institute on Retirement Security (NIRS) "state and local pension plans in the United States…hold $2.6 trillion in assets and serve 14.4 million active employees...pay out some $167.7 billion in pension benefits each year to some 7.5 million retirees" (NIRS, 2013, p. 1). Public sector pension plans are only

mentioned here for the purposes of illustrating the magnitude of funds involved and they are not a subject of this research. The public sector has seen very little of this shift from DB to DC plans, however some local and state governments have recently begun to feel the pressure of having underfunded plans, have large liabilities on their balance sheets, and have filed for bankruptcy protection partially due to DB pension obligations. US bankruptcy laws allow public sector (and private sector) organizations to reduce their payment obligations to public sector pension plans, as they can do with any other creditor (Kasler, 2015). Bankruptcy court rulings have allowed several US cities to reduce their public pension and health care benefits for city workers. Some have reduced the pension payments that retirees once received and other retirees will see smaller pension amounts due to court allowed cuts to the pension benefits (Bomey, 2015). While the public sector is not protected by, nor does it participate with, the PBGC, this sector has enormous obligations and may provide an opportunity for future research.

Governmental and Corporate Social Responsibility. The US government has enacted legislation designed to protect earned benefits. ERISA is important legislation that regulates pension plans and is designed to protect the interests of participants and their beneficiaries that are participants in these plans (United States Department of Labor, 2015). The US government also enacted the Social Security Act (SSA), which was originally signed into law in 1935, as a means to provide support to people who were over 65 and no longer working, while funding for the

program came from payroll tax revenue levied on employers and employees with "a 1% payroll tax on the first $3000 of annual earnings, starting in 1937" (Martin & Weaver, 2005, p. 3). Amendments to both ERISA and SSA have changed the original provisions of these laws to reflect changing economic and demographic conditions. For example, major changes to the SSA in 1983 "were necessitated by severe short-term financial problems" (Martin & Weaver, 2005, p. 9). Additional changes to SSA have increased the full retirement age to 67, accounting for increasing life expectancy and the added financial stress placed on the system due to retiring baby boomers (Martin & Weaver, 2005). These changes, which increased full retirement ages and eliminated certain other benefits, are primarily aimed to keep the system funded for future generations (Wittenburg, Stapleton, & Scrivner, 2000). The combination of private company pension plans and government mandated social security are theoretically designed to provide replacement income for retirees for the rest of their lives, yet more than 37% of Americans, representing 25 million people over 60 years old are not financially secure (National Council on Aging, 2017).

Workplace pensions, both DB and DC plans, are widely believed to be a vital portion of many retirees' income (Clark, 2011). Changes in the tax code enabled the transition from DB plans to DC plans after the passage of the Revenue Act of 1978. With favorable tax treatment for contributions to 401(k) plans, these plans have become "the single most important instrument for US retirement savings" and the

preferred option for companies offering supplemental employee benefits (Clark, 2011, p. 32).

Retirees of transferred pension plans now find that oversight of their pensions is now performed under state regulations, and they must absorb uncertainties with the loss of full disclosure reporting for their pension plan, and the added risk realized with losing the high level of protection once provided to them under US federal law. There are several initiatives addressing this new trend in pension de-risking. For example, Verizon retirees fought a class action suit all the way to the US Supreme Court, and now that this litigation is complete, the efforts of the retirees becomes focused on seeking legislative changes at the state and federal level (BellTel Retirees, 2017). These initiatives provide recommendations for the legislatures to consider, that may provide better protection to retirees with more reporting, oversight and uniformity.

In Connecticut, for example, a recent bill (SB 493) was introduced that mandates certain disclosures by insurers of group annuity contracts to participants. Pending final approvals, this act specifies six new required disclosures, including the following:

> "1. A description of the differences between the annuity contract's protections and those afforded by ERISA or the PBGC;
>
> 2. A list of applicable state laws governing annuity payments;

3. the amount and scope of and conditions precedent for coverage under (a) the Connecticut Life and Health Guaranty Association (CLIGA, see BACKGROUND) or any subsequent corresponding guaranty association and 9b) any supplemental coverage provided by state law due to an insolvent insurer;

4. the extent to which annuity payments are subject to the insurers' creditors' claims or trustees' bankruptcy avoidance actions;

5. detailed annuity contract information including cost and expense schedules paid in connection with the contract's issuance; and

6. a copy of the insurer's fairness opinions or solvency analysis performed in connection with selecting the annuity" (SB 493, 2017, p. 1).

For annuity contracts issued after 2018, there are five additional disclosures required "including the following:

1. The funding level of all assets relative to the expected liabilities under the assumed pension benefit schedules;
2. An investment performance summary and detail report, by asset class;
3. A list of all the annuity contract's associated expenses, including administrative expenses and beneficiaries' payments
4. Any changes in actuarial assumptions; and

5. A list of any of the annuity contract's public documents filed with the insurance department including instructions for obtaining them" (SB 493, 2017, p. 2).

This legislation is similar to the ERISA/PBGC disclosure requirements. Questions remain regarding how many other states will adopt similar, or the same, regulations. This study will look at current proposed and adopted legislation, at the federal and state level, that addresses pension transfers to third parties.

A brief history of pension de-risking. According to testimony provided to the United States District Court in Dallas Texas, Prudential of America has been providing annuity payments on one of its earliest such contracts for retirees since 1928 (Lee, et al., v. Verizon Communications Inc., 2012). Kilgour (2014) places the impetus for the recent pension transfer activity squarely on the PPA of 2006, where many of the provisions became enacted in 2012. Kilgour (2015) explains that lower interest rates, increased PBGC premiums, new accounting rules for amortization (fewer years allowed for covering underfunding) and the volatility of the financial markets all contributed to the growth of pension transfers. In 2012, the two largest pension transfers belonged to GM, with $25 billion, and Verizon with $7.5 billion of transferred liabilities to Prudential of America (Scism, 2017). While these transactions were similar to the transfer of pension obligations to the group annuity contract, one differing action was the GM plan offered its retirees a lump sum

payment option, but the Verizon plan provided no lump-sum payment opportunity (Pundt, vs., Verizon, 2016).

A *lump sum buy-out* provides a plan participant with a one-time payment in exchange of the regular monthly payments received from a pension or annuity. This one-time lump sum is basically the present value of all future payments, discounted at a rate determined at the time of the lump-sum payment. A lump-sum option provides the recipient with a one-time cash payment that they must invest on their own. While there is a risk that some recipients may not be capable of managing their own investments, other savvier recipients could produce a greater stream of income than offered with an annuity. Additionally, with a lump sum buyout, the recipient need not be concerned with the liquidity of the third-party annuity provider. The Pension Rights Center suggests that receiving monthly pension checks for life is a better option than taking a lump sum. However, there are two situations when a lump sum may be the better choice including; 1) when the recipient is in poor health and not expecting to live long and has no surviving spouse, and 2) if the recipient already has a sufficient income stream or other adequate sources of income (PBGC, 2015).

Pension transfers are not limited to the United States. Between 2007 and 2015, more than $260 billion of pension liabilities were transferred to the insurance industry from companies across the globe. From this total value, the United Kingdom led the way with $180 billion of transferred liabilities. US companies completed

transfers totaling $67 billion while Canadian companies transferred $16 billion (Kessler, McCloskey, & Bensoussan, 2015).

The Verizon Management Retirement Plan Transfer and Retirees Law Suit

The Verizon pension transfer is utilized in this study as an example of a large corporate pension transfer to a group annuity contract. In late 2012, Verizon announced the transfer of $7.5 billion of pension obligations to Prudential Insurance Company of America with the purchase of a group annuity contract covering 41,000 retired managers (Kilgour, 2014). These retired managers were selected from a larger population covered under Verizon's pension plan, where 50,000 plan participants remain (NRLN, 2017).

On November 28, 2012, Verizon retirees filed a class-action law suit, and applied for a temporary restraining order, to stop the transfer of their pension obligations to Prudential (Lee, et al., v. Verizon Communications Inc., 2012). The suit, filed in Dallas TX, initially sought an injunction to stop the transaction. Verizon and Prudential responded to the retiree complaint with court documents and testimony addressing the suit, and countering its merits with statements, from Prudential's response to the initial suit, such as "the transaction will actually provide plaintiffs a more secure guarantee for their future monthly payments" (Lee, et al., v. Verizon Communications Inc., 2012, p. 7). Specifically, the suit sought relief against the Verizon Employee Benefits Committee and/or Verizon Investment Management Corporation on the following grounds: 1) Violation of ERISA Section 102(b), Failure

to Provide Required Disclosure in Summary Plan Descriptions, 2) Violation of ERISA Section 404(a)(1), Breach of ERISA Fiduciary Duties, 3) Violation of ERISA Section 510, Interference with Protected Rights; and 4) Entitlement to Appropriate Equitable relief under ERISA Section 502(a)(2) and (a)(3). The suit claims that all affected retirees would immediately lose "all federal legal protections provided by the Employee Retirement Income Security Act of 1974" and the "federal uniform guaranty protection accorded by the Pension Benefit Guaranty Corporation" (Lee, et al., v. Verizon Communications Inc., 2012, pp. 2-3). The suit also alleges that none of the retirees were consulted and none provided consent to the planned changes that were being imposed involuntarily. The complaint continues to allege that Verizon was discriminating against the group of 41,000 former managers who were least able to defend themselves while leaving 50,000 former union represented participants in the remaining pension plan.

On December 7, 2012, District Court Chief Judge Sidney A. Fitzwater signed a ruling in the Lee vs. Verizon case stating the motion for a temporary restraining order was denied and allowed the transfer of Verizon's pension to a group annuity contract with Prudential of America. (Lee, et al., v. Verizon Communications Inc., 2012). Three days after this decision, on December 10, 2012, Verizon announced that the pension transfer to Prudential was completed.

The Verizon retirees, through their council, filed an amended complaint on January 25, 2013 and included four additional ERISA violations against Verizon and

the pension plan administrators and included another plaintiff named Edward Pundt, which led to the case name change to Pundt vs. Verizon. The retirees asked to be placed back into the Verizon Pension Plan, be granted a lump-sum payout, or be allowed to purchase an insurance annuity from the company of their choice (Lee, et al., vs. Verizon, 2013). Following multiple motions and other court filings, the retirees filed a second amended complaint on July 12, 2013, citing 2 additional claims of ERISA related violations. The case was finally scheduled for a hearing on March 7, 2014 and decided by Judge Fitzwater, in favor of Verizon. The retirees appealed the decision on May 5, 2014, sending the case to the 5th Circuit Court of Appeals where a panel of judges heard oral arguments from the retiree's attorney, Curtis Kennedy, on February 4, 2015. The 5th Circuit Court of Appeals ruled in favor of the District court on August 17, 2015, reaffirming the dismissal of the case initially ordered by Judge Fitzwater in Dallas. Following a request and subsequent denial for a re-hearing, the retirees filed an appeal with the United States Supreme Court on December 15, 2015. The US Supreme Court granted the retiree's request for a Writ of Certiorari on June 14, 2015, asking the 5th Circuit Court of Appeals for further consideration (Pundt, vs., Verizon, 2016). The 5th Circuit Court of Appeals reconsidered the case but refused to change its original ruling, sending the case back to the US Supreme Court. On March 22, 2017, the US Supreme Court denied a final appeal and ended the retiree's legal battle against Verizon (BellTel Retirees, 2017).

With litigation through the judicial system exhausted, efforts seeking pension continuity continue with proposed legislation at both the federal and state levels. Private company executives may view these recent developments as an opportunity to execute more transfers of billions of dollars of currently PBGC protected pensions to the insurance industry. In a recent study conducted by CFO research, seventy two percent of senior executives of companies that have already conducted a pension transfer said they are likely to transfer additional DB plans to group annuity contracts (Seniors Advocate, 2017). The effects of this movement of funds may have a collateral effect both on state regulators, with an increased oversight responsibility, and the PBGC, with fewer participants remaining in the revenue pool (Kilgour, 2015).

Defined Benefit Plan De-Risking Background

There are two general types of pension plans, including the defined contribution plan (DC) and the defined benefit plan (DB) (United States Department of Labor, 2015). In most cases, private sector and public-sector organizations provide these pension plans to their employees. The private sector pensions cover employees of companies such as Verizon, while the public-sector pensions cover employees of federal, state and local governments and associated organizations. DC plans, for private employers, include the 401(k) plans where employers, employees, or both, make tax-deferred payments to a fund in the name of the employee (Pension Benefit Guaranty Corporation, 2016). DC plans are not the subject of this research since they

are not subject to the de-risking strategies discussed herein. DB plans, on the other hand, are controlled by the employer and are subject to strict funding status and reporting requirements (Butrica, Iams, Smith, & Toder, 2009). Unlike DC plans, DB retirement plans provide "a fixed, pre-established benefit for employees at retirement" (IRS, 2016).

DB pension plans must conform to a multitude of federal regulations enacted by the Securities and Exchange Commission (SEC), the Department of Labor (DOL) and the Internal Revenue Service (IRS). The SEC controls the accounting standards setting through its oversight of the Financial Accounting Standards Board (FASB), where financial measurement and reporting requirements are established (Herdman, 2002). Specific requirements for defined benefit pension plan accounting are addressed in the FASB Codification Section 960 (FASB, 2017). For example, the FASB's accounting standards require a pension plan administrator to report the funding status of the plan's assets, among other requirements. However, there is no such specification under GAAP for insurance annuity funding levels, although there are restrictions imposed at the state level. The DOL administers the ERISA rules and requirements for DB plan disclosures to plan participants. The IRS establishes the tax code governing DB plans and requires annual tax form submissions, including Form 5500 -Annual Return/ Report of Employee Benefit Plan (IRS, 2016). Since group annuity contracts are insurance products, they are not subjected to the same regulations as employee pension plans. According to the American Council of Life

Insurers, after a pension plan is transferred to an insurer, ERISA is no longer relevant since the pension plan is considered to have satisfied its obligations with the annuity purchase (ACLI, 2014). After the pension transfer, an apparent accounting classification change occurs which detaches how the former pension funds are reported. What was once a pension plan with associated disclosures and notifications provided to plan participants, an insurance annuity requires no such notifications to the participants.

The scale of pension transfers stems, in part, from the Pension Protection Act of 2006 (PPA) and valuation models used to determine plan funding status (Wadia, 2015). Certain provisions of the PPA were phased in over a few years until fully enacted in 2012, around the same time de-risking became a popular strategy (Kilgour, 2014). The PPA rules effective in 2016 include variable-rate premiums of $30 per $1,000 of underfunded pension plans, representing a 25% increase from 2015 rates (Randall, 2016). Falling interest rates, increases in PBGC insurance premiums, stricter rules dealing with funding requirements, newly published mortality tables and other economic and financial factors all contribute to the attractiveness of pension de-risking (Kilgour, 2014). Prior to the financial crisis of 2008, the average pension funding level of the Standard & Poor's (S&P) 1,500 companies was 104.3% while in 2016, 59% of these companies' pensions have fallen below 80% funded (Randall, 2016).

Insurance Annuities

Many former pension plan participants now receive their pensions from state regulated insurance companies through the purchase of group insurance annuities, and they have lost their ERISA and PBGC coverages (Pension Rights Center, 2016). Losing ERISA benefits means losing pension protection once provided under federal law, including the pension insurance coverage from PBGC. Under federal law, pension plans are subject to full disclosure reporting and require annual notification of the pension plan funding status along with the balances of plan assets, liabilities and disbursements (Health Plans & Benefits: ERISA, 2016). State regulations vary from state to state, and provisions for annual plan notices or funding status are not disclosed to plan participants (Pension Rights Center, 2016). Nor is it disclosed where the funds are invested or what expenses are paid by the fund, if one exists separately. Losing PBGC coverage means pensions are no longer covered under federal government backed insurance but now fall under state guaranty association (GA) rules and limitations. State GAs are private, not-for- profit corporations enacted by state law but independent of the state government. Federal government regulations are applied ubiquitously across the country in all federal jurisdictions, while state insurance regulations and limitations vary from state to state (NOLHGA, 2016).

While the insurance industry may currently enjoy strength and liquidity, there are no guarantees that this trend will continue, and there are no restrictions on selling

pension plans or assets to third parties (Pension Rights Center, 2016). Spinoffs, mergers, selloffs and other forms of divestiture, as we have seen with MetLife's creation of Brighthouse Financial, leave open the possibility of additional exposure to risk and the potential for pensions to be transferred outside the jurisdiction of the states and federal government. In addition, pension annuities that are being absorbed by the insurance industry could be sold to less liquid parties – creating greater risk for pensioners. Also, garnishment, and other settlements or attachments of insurance annuities may be allowed under state insurance laws, unlike ERISA regulations (Pension Rights Center, 2016).

Annuity Protection Limits. Individuals, businesses and other organizations face various risks in their different activities, and insurance helps protect them against these risks (Klien, 2005). The insurance industry provides protection to reduce an insured person's exposure to certain risks (13 Types of Insurance a Small Business Owner Should Have, 2012). With pension annuity contracts, the insurance industry provides only partial protection, in some cases, depending on the state jurisdiction and the amount of the annuity payment. Some state guaranty associations (GAs) provide a lifetime limit on annuity contract protection up to $250,000, some provide lifetime maximums to $300,000 and a few provide up to a $500,000 present value lifetime limit (Smith, 2016). The limit is just $100,000 in Puerto Rico (Pension Rights Center, 2016). Appendix G shows all the states and associated levels of guaranty association lifetime limits of protection.

The insurance guaranty association has published studies implying that retirees are no worse off with pensions transferred from federal regulation (NOLHGA, 2016). This report makes claims that appear heavily biased toward the insurance industry and assert weaknesses in the PBGC protection plan. It acknowledges that both plans provide protection, albeit via different approaches, and neither plan is authorized to levy taxes on private individuals. The National Organization of Life and Health Guaranty Associations (NOLHGA) document provides background information about how state regulations govern the insurance industry. It also provides tables and numerical representations for comparison of insurance failures to private industry pension failures. The tables illustrate different scenarios showing payments made to plan participants following a plan provider insolvency, using protection payment amounts available from both the PBGC and state GAs. A further examination of the examples and tables published in the NOLHGA document is needed to project the coverages and limitations available to Verizon retirees.

Insurance Company Sponsored Literature

The National Association of Insurance Commissioners (NAIC) publishes the "Accounting Practices and Procedures Manual" (APPM) which provides "the fundamental concepts on which statutory financial accounting and reporting standards are based" (NAIC, Accounting Practices and Procedures Manual, 2005, p. 5). Statutory accounting principles (SAPs) are adopted for use by the NAIC and are

considered more authoritative than Generally Accepted Accounting Principles (GAAP). As provided in the Preamble to the APPM "users should not use GAAP until and unless adopted by the NAIC" (NAIC, Accounting Practices and Procedures Manual, 2005, p. a). There are differences in reporting objectives between GAAP and SAPs. While GAAP is designed to meet the needs of various uses of financial statements, SAP specifically addresses the needs of regulators responsible for oversight of the insurance industry (NAIC, Accounting Practices and Procedures Manual, 2005).

The National Organization of Life and Health Guaranty Associations (NOLHGA) report illustrates how the state guaranty associations (GAs) are structured to provide a backstop in insurance coverage in the event of an insurance carrier failure. Also, contained in the report are claims that insurance companies are less likely to fail than private sector corporations, especially due to the required funding status of insurance contracts. The report isolates a time period of seven years (2008 to 2015) to make its claim that there were no unsatisfied annuity insurer obligations (NOLHGA, 2016). However, during this same time period, there were nineteen reported insolvencies of other various types of insurance companies in Florida alone (FIGA, 2017).

According to industry literature, all of the state GAs provide a minimum of $250,000 in present value of future annuity payments for covered participants, while some states (4) provide coverage to $500,000 per participant (NOLHGA, 2016). The

actual amounts are dependent on many variables, including the funding status of the failed plan, the value of recovered plan assets, the annuity value of the plan participants, the participants' age, and the determination of any survivor benefits (NOLHGA, 2016).

State Guaranty Associations. State GAs are established under state law as legal not-for-profit corporations, separate from the state government. The state GAs provide protections to retirement annuity participants, in the event of an insurance carrier failure, through an assessment of other insurers (NOLHGA, 2016). There are opportunities to learn more about the GA assessments, as primary funding methodologies raise questions regarding the GA's authority and its relationship with its state government. For example, in 2012, the Office of Insurance Regulation in the State of Florida approved the Florida Insurance Guaranty Association (FIGA) recommendation for $142 million in assessments on member insurers. The FIGA claims the assessment was necessary to cover "thirteen (13) foreign and domestic insurance company insolvencies impacting FIGA" with the cost needed to cover these failures at $300 million (Florida Office of Insurance Regulation, 2012, p. 4). The established process for assessing member insurers in Florida is different than the assessment process in New Hampshire. In Florida, the Insurance Commissioner must approve all assessments recommended by the FIGA. Some smaller state regulations do not require the Insurance Commissioner to authorize such assessments (personal communications with a knowledgeable source from a smaller state regulator).

Additional research opportunities exist, at the state insurance regulation level, to deepen the understanding of oversight and the determination of insolvency. Also needed is a broader explanation of the liquidation process, determinants of guaranty limitations, payment processing, and the potential for delayed payments during insolvency proceedings.

Prudential publishes reports and guidance with its pension de-risking solutions group attempting to increase its market share of what they estimate to be a $260 billion market (Kessler, McCloskey, & Bensoussan, 2015). Prudential also provides newsletters for companies contemplating the transfer of defined benefit plans to insurance annuities through its website dedicated to pension de-risking (Kessler et al., 2015). According to an article in the Wall Street Journal, Prudential had told its investors that it plans to earn 12% to 13% in long-term returns from the capital it raises from pension de-risking deals, while only being interested in accepting transferred pension plans that are fully funded (Scism, 2017).

After reviewing the industry sponsored literature regarding the level of oversight, lack of significant failures, and protections provided as a backstop for plan participants, it appears that the insurance industry is positioned to assume billions more from private, single-employer pension plans, that are fully funded plans (Scism, 2017). With the dismissal of Verizon's retirees legal action and refusal of the US Supreme Court to hear the case, future pension transfers are likely to accelerate. As more retiree pensions are transferred to group annuity contracts, knowing more about

insurance annuity protections and limits becomes more important. It seems logical to speculate that, with increased pension transfer activity, additional resources will become necessary to fulfill the state oversight responsibilities, and additional monetary resources may become necessary for state GAs to safeguard these increased annuity obligations.

US Government Sponsored Literature

Two Types of Plans. The PBCG describes two separate *defined benefit* pension types that are protected under its structure. These two types are identified as the single employer plans and the multi-employer plans. The multi-employer plans are "created through a collective bargaining agreement between employers and a union" (Pension Benefit Guaranty Corporation, 2016, p. 3) where the employers are generally from the same industry. These multi-employer plans cover 10 million plan participants, and it is well known that these plans have deep financial difficulties, as identified in the PBGC Annual report (Pension Benefit Guaranty Corporation, 2016). Current estimates indicate that the multi-employer plans, protected by the PBGC, are only 75% funded leaving a deficit of about $150 billion. These plans were severely impacted by the financial market crashes between 2000 and 2009 and have also seen "corporate bankruptcies, de-regulation, and over-regulation" erode plan assets while liabilities continued to increase (Blitzstein, 2017). These multi-employer plans are only briefly discussed in this paper to illustrate the severity of the problem facing some retirees, and to illuminate the potential for a farther-reaching problem. It seems

prudent to identify key issues with each plan type but to keep these multi-employer plans separate from the single employer plan, such as the Verizon plan that was transferred to Prudential. Keeping these plans separate allows for the discussion of the single-employer plans as the primary focus of this case study.

Single employer plans include the pension plans of a single employer, although the plan may have originated at another company prior to a merger or acquisition. These plans are in much better financial shape and, although they currently have a deficit, they are expected to improve over the next decade (Pension Benefit Guaranty Corporation, 2016). There are 30 million participants covered by PBGC's single-employer program, such as those participants remaining in Verizon's defined benefit plan (Pension Benefit Guaranty Corporation, 2016). The PBGC publishes an annual report providing details of its efforts to protect the participants in pension plans covered by its insurance. In its annual report, the PBGC identifies transactions with troubled pension plans and presents, with full disclosure, discussions of ongoing negotiations designed to reverse these financially troubled plans (Pension Benefit Guaranty Corporation, 2016). PBGC funding comes from the pension plans under its control and, like the state GAs, PBGC does not receive any of its income from taxes. Effective in 2017, the PBGC reported that the single employer guarantee limit, for a 65-year-old participant, is set at $64,432 per year without a survivor benefit, and $57,989 annually with a same age survivor (Pension Benefit Guaranty Corporation, 2016).

Department of Labor Data. The United States Department of Labor (DOL) publishes reports and informational data offering background information on how retirement plans operate or terminate, the different types of plans, certain essential elements of pension plans, and other informative consumer and employer guidance (United States Department of Labor, 2015). Pension plans regulated by ERISA rules must provide a summary plan description (SPD), a summary of material modifications (SMM), a summary annual report (SAR), and an individual benefit statement (IBS) (United States Department of Labor, 2015). The SPD, SMM, SAR and IBS are federal requirements that are not required under current state insurance rules.

Pending Legislation, Litigation and Proposed Reforms

In 2012, the PPA allowed a higher discount rate for lump-sum buyouts, providing General Motors (GM) and Ford to take advantage of pension terminations (NRLN, 2017). Verizon did not offer a lump sum to its pension plan participants, instead opting for a group annuity contract, as previously discussed. Also, as previously discussed in detail, Verizon retirees have filed a class-action lawsuit in US Federal Court claiming that Verizon violated ERISA rules when it involuntarily separated 41,000 former managers from its retirement plan. In addition, since Verizon's pension plan was not completely terminated, and 50,000 plan participants remain in the plan, the suit claims that Verizon used $1 billion from the remaining plan assets to pay a premium to Prudential Insurance to issue the group annuity

contract (Association of BellTel Retirees, 2016). With the law suit dismissal, retirees are looking for other options to ensure the safety of their pension rights.

The National Retiree Legislative Network (NRLN) states that requirements and protections mandated by ERISA Section 4041 are the following: "A notice of Intent to Terminate must be sent to all plan participants…A detailed notice of annuity information requires a list of disclosures…A standard termination notice…must be sent to the PBGC within 180 days for its review" (NRLN, 2017). According to the Association of Belltel Retirees, none of these requirements were performed by Verizon. The NRNL continues to claim that the issuance of an annuity contract is actually a distribution of plan benefits, as defined by ERISA. With this type of distribution, according to ERISA rules, the plan participant must consent to the form of the distribution, either as a lump sum or continued annuity payments. There are recommendations requesting the Treasury Department and the IRS to provide guidance regarding the distribution of annuity contracts and making the consent of the plan participant mandatory (NRLN, 2017).

One proposed reform is to keep the insurance annuity contracts within the pension plan assets, which would allow the continuation of ERISA rules and PBGC insurance coverage (NRLN, 2017). This would also require the plan sponsors to continue to pay PBGC premiums, which are believed to have been a trigger point for the initial de-risking (NRLN, 2017). Another proposed reform is to seek the affirmative consent of the individual retirees, or for the plan sponsors to purchase

reinsurance to cover the potential loss not covered by the state GAs (NRLN, 2017). Additionally, other proposals ask for the Department of Labor to review and approve all annuity contracts for compliance of ERISA rules and for additional notifications to be sent to all participants at least 90 days before the transaction (NRLN, 2017).

In its Annual Report issued in September 2015, the Federal Insurance Office of the U.S. Department of the Treasury (FIO) highlighted some significant issues regarding state guaranty fund laws. One of the issues specifically identifies the inconsistent nature of guaranty limits across different state boundaries and contrasts an annuity owner from Connecticut, where limits are $500,000 in guaranty protection, to an annuity owner in New Hampshire with just $100,000 of protection (Federal Insurance Office, 2015). Since the issue date of the FIO annual report, the state of New Hampshire has increased the annuity limit to $250,000; however, the main point is "the same person with the same contract from the same company" would have different protection determined by their state of residency (Federal Insurance Office, 2015, p. 2). The FIO recommended that "states should adopt and implement uniform policyholder recovery rules so that policyholders, irrespective of where they live, receive the same maximum benefits" from state guaranty funds (Federal Insurance Office, 2015, p. 2).

Lump-sum distributions have been offered to some pension plan participants as a method of terminating the company's liability. One suggestion is to modify pension plan options to provide an additional death benefit, that plan participants may

find more attractive than survivor benefits or other types of payment methods (Pension Rights Center, 2016). Providing more options for retirees "may help modernize pension plans making them more relevant to employees and less risky for sponsors" (Smith, 2016, p. 49). Another option would provide compensation to participants, equal to the gap in pension protection provided by PBGC versus the state GAs. This compensation would provide for the purchase of a third-party insurance policy needed to insulate the gap in initial coverage (NRLN, 2017).

Summary

A variety of literature confirms that there remains conflicting information about the safety of retirees' pensions when they are transferred to insurance companies. Some of the literature, while recent, needs updating as the nature of pension de-risking and the industries in which it occurs are realizing rapid changes from legislation, regulation and industry-wide best practice recommendations. Effective governance involves all stakeholders and the adequacy of state control is the primary subject of these research.

This research paper will examine state governance adequacy for providing ample oversight of the insurers providing that participate in pension transfers via group annuity contracts. Further research and analysis will deepen the understanding of insurance regulation pertaining to group annuity contracts.

The next section of this paper will describe the methods used to collect and disseminate the relevant data needed to support the findings of this research. Chapter

3 provides a detailed plan for conducting interviews with regulators, legislatures and actuaries of the insurance industry. Chapter 3 continues the exploration and discovery of how pension transfers to group annuity contracts are regulated and protected and how the governmental oversight operates. The goal of this exploration is to contrast how state control of insurance annuity contracts compares to federal control of corporate pension plans and to confirm or dispel any myths about lost ERISA and PBGC protections.

Chapter 3

METHODOLOGY

Introduction

Pension de-risking strategies involve the transfer of billions of dollars from federal control to state control. Under the regulation of the McCarran-Ferguson Act, all fifty states in the U.S. own the responsibility of regulating the insurance industry. There are controversies surrounding the differences in governance from one state to another and the assortment of limitations provided by the state GAs for group annuity contracts. In most states, reporting requirements are less rigorous for insurers of these contracts than the federal requirements for pension plans. Yet there appears to be greater control of the funding levels, investment risk and reserve requirements in addition to a larger pool of funding from which to rely with insurance issued group annuity contracts. Pension transfers to group annuity contracts is a new strategy that is not completely understood by transferred or future transferred participants. Having first seen the extent of federal regulations and required disclosures, an expectation of the same reporting has not occurred. Also, there appears to be a conception that pensions are better protected through PBCG coverage than with state GA coverage. This exploratory study reviews the major gaps in governance and protections pertaining to group annuity contracts.

Some states have introduced legislation requiring insurers that participate in pension transfers, to provide full disclosure with the group annuity funds and to

disclose many of the same data that ERISA mandates (SB 493, 2017). This study looks at the most recent state legislation and initiatives currently underway, across the country, to address the growing number of pension plans and retirees being transferred to the state-controlled insurance annuities. In addition to these activities, this study addresses the following research questions:

Q1) What reporting requirements currently exist that are used by insurance regulators?

Q2) How are funds invested, restricted and managed at the insurance company specific to group annuity contracts?

Q3) What specific actions do the NAIC, actuaries and state governments undertake to protect beneficiaries of group annuity contracts?

Q4) How are new regulations being developed to govern group annuity contracts

Q5) What is the importance of national standards for regulating group annuity contracts?

Gaining an understanding of the benefits that annuities provide, and the safety or limitations associated with them can offer guidance to current and future plan participants. This understanding also provides guidance to corporations considering group annuities as a means to terminate their defined pension plans and related obligations. Having a deep understanding of the gaps in governance and limitations to protections assists with the development of effective communications and

education to those with a need to better understand the benefits and weaknesses of state regulated insurance group annuity contracts. Understanding the variances between states and the effect realized by plan beneficiaries may strengthen the argument for, or against, ubiquitous national standards.

Research Design

To complete this study, the researcher conducted a series of interviews from a cross section of key insurance regulators and industry participants. These interviews were conducted using a naturalist research method utilizing a responsive interviewing model (Rubin & Rubin, 2012). This model deploys a continuous, flexible and adaptable design where the discovery of information drives additional exploration during the interviews allowing for accuracy, thoroughness and richness (Rubin & Rubin, 2012).

These stakeholders are identified from their affiliated groups, and interviews were scheduled with the goal of understanding each group's responsibility in governance, regulation, protection or creation of group annuity contracts and the companies that provide any of the aforementioned services. Specifically, interviews were conducted at the national level with executives of the NAIC and senior-level members of the SOA. Additional interviews were conducted with state insurance commissions, state guaranty associations and elected legislators from several disparate state jurisdictions, insurance company executives and an industry consultant. At the end of each interview, each respondent was asked for a referral to

anyone in their organization who may possess additional information about their specific area of expertise. A total of nine individuals across various disciplines that regulate, or participate in, the insurance industry contributed their expertise to this study. These respondents were all high-ranking executives, knowledgeable about group annuity contracts and the insurance industry, with proven records of accomplishments in their fields. Some are professionally certified actuaries and others are certified public accountants. Most are nationally recognized as experts in a particular discipline. Some have published papers while others have written books on a subject that touches group annuity contracts.

Upon completion of all interviews, recordings from the interviews were analyzed, summarized, and prioritized to capture the understanding of how each response applies to the research. This analysis includes qualitative validity via a triangulation methodology and collaboration with participants throughout the research process (Creswell & Miller, 2000). This triangulation method included the analysis of similar responses from different respondents, and supporting documentation discovered in the Model Law, practices, legislative procedures and other literature. Highlights are illuminated, gaps identified, similarities contrasted to differences across jurisdictions, and pending regulatory changes reviewed for progress towards adoption. An emphasis was placed on high priority issues within each respondent's area of responsibility. An attempt was made to demonstrate the merits of group annuity contacts as a positive vehicle for continued pension security.

Selected Interviewees

For this study, staff representatives of two large national organizations dealing with the regulation of the insurance industry were selected for interviews. Earlier communication with these groups provided valuable information and referrals to more senior executives and staff. During the national level interviews, referrals were made to other participants which yielded additional interviewing and referring.

A sample of industry consultants, insurance executives, and insurance commissioner staff were also chosen as interviewees for this case study. The industry consultants were referred to the researcher from a contact made through a mutual membership in a national professional association. Insurance executives were selected from referrals made by one state insurance regulator who also has a mutual membership in a national professional organization. One state regulator was referred by a national support organization. Six invitations were sent to a variety of state insurance commissioners. Two of the six states responded and were interviewed while four did not respond. These experts were interviewed to gain an understanding of how this collection of regulators oversees annuity contracts, what specific reports and governance exist specific to group annuity contracts, along with similarities and differences with governance and oversight between different states.

The table below identifies the roles, affiliation and demographic information of the study participants. A deliberate effort is made to avoid making reference to any individual, as was promised at the onset of the interview process.

Table 3.1 Study Participants

Participant Role	Affiliation	Demographic
State Regulator (3)	State Insurance Commission	2 large and 1 small state
Senior Partner	Consultancy	Large National firm
Senior Vice President	Insurance company	Large national company
Actuary	Insurance regulation	National support organization
Actuary	Insurance company	Large international company
Researcher	Insurance regulation	National support organization
Legal council	Insurance regulation	National support organization

The interviews were semi-structured to allow for candor and relationship building. Specific questions were asked of each interviewee to confirm their area of responsibility. Additional questions were designed to capture answers to the 5 research questions. In addition, one question was asked of several respondents that attempted to establish a correlation between increased de-risking activity and state staffing levels. One assumption made early on in the study was that regulatory oversight requirements would increase as additional pension transferred were completed. This assumption is not founded by the results of this study however, as responses to the question from the state regulators contrary to the original assumption.

The researcher conducted an interview of a representative from state guaranty association to understand how the association limits apply, the GA's level of authority and other discussion items that surfaced during these semi-structured

discussions. During this discussion, an examination of recent and significant insolvencies was conducted. General details are captured about what GA actions took place, assessments made to the state insurers, interactions with the state insurance commission and the overall process for evaluating the deficits caused by the insolvencies. There was a need to deepen the exploration when issues arose that required further research. There were several discussions about specific insolvencies of interest to this study. As with exploratory qualitative studies, there is an initial degree of uncertainty and significant follow-up research may be necessary (Fink, 2013).

There were 6 phone interviews, of which 4 were digitally recorded for accuracy purposes and with the interviewee's approval. One interview was not recorded at the request of the respondent and one interview occurred spontaneously without a the availability of a recording device. Two additional respondents were not available for a phone interviews but responded in writing to a set of submitted questions. Follow-up questions were submitted to 4 interviewees, via email, and their written responses are incorporated into the analysis that follows in Chapter 4. All interviews were conducted during the first quarter of 2018.

An analysis of the interview's key points was confirmed, and a summary of this case study was offered to each interviewee following its completion. Now that all the interviews are complete, the analysis performed, and subsequent final paper

prepared, all interviewees will be provided with an executive summary of the report. Full versions of the dissertation will be available upon request.

Data Collected from Interviews

An understanding of each interviewee's area of responsibility was necessary to begin the interview process. During the interview, each respondent was asked to discuss some major functions and their primary role in their organization. The researcher found it necessary to continue a dialog during the interview that allowed the ability to listen, confirm, and understand the respondent before moving onto other questions. The researcher was able to adapt to the respondents' answers to understand how their activities associate with governance and protections.

A set of interview guides were designed to be adaptable as needed to uncover additional details applicable to each participant. A preliminary list of questions for each stakeholder group is presented in Appendices B, C, D, and E. These interview questions were used to open the dialog with each respondent and to provide a foundation from which the interviews developed. For those respondents who provided written responses, the questions were specific to their area of responsibility and were deliberately brief to improve the likelihood of receiving a reply. While it is important to allow the respondents to speak openly, the primary goal was to develop a deep understanding of current regulations governing the different state licensed insurers and current oversight requirements specific to group annuity contracts. Selecting respondents from various areas and jurisdictions provided valuable data for

comparisons with these jurisdictions while highlighting significant differences and similarities.

State insurance regulators were interviewed and provided a deeper understanding of the level of oversight and regulations currently governing insurance companies in some of the states. When these respondents reacted negatively to new proposed legislation such as SB 493 in Connecticut, the question was dropped from the study. Additionally, it was determined that the legislation failed to gather enough support within the proposed state and did not pass. Additional requests to discuss the proposed legislation, its origin and objectives were dismissed by the legislative staff.

One of the possible outcomes of the research proposal is to examine the benefit of adopting national standard practices for all states and all insurance carriers that provide pension annuities to retirees. Each interviewee was asked about their perceptions of national standards and the applicability to group annuity contracts.

Scope of Data Collection

Table 3.1 displays the groups of interviewees, items of interest for each group, the data required and in the pension de-risking arena. The focus for the collection of data narrowed the research to experts in the field of insurance regulation and includes national level insurance regulators, actuaries, insurance commissions, guaranty associations, industry consultants and insurance company representatives. Interview data was used to highlight the relationships, processes, controls, and resources that currently exist at the National and state levels. Comparisons are made to illustrate the

similarities and differences between the states and to display significant common elements that are useful for evaluating the merits of a ubiquitous platform for all states to embrace.

Table 3.1

Pension De-Risking Interviewees, Items of Interest, Data Required and Data Sources

Interviewee	Items of Interest/issues/concerns	Data required	Data Source	Data Collection Method
Insurance Commissioners	Involvement with pension de-risking and insurance annuities, possible added regulatory oversight, interface with state GAs, adoption of best practices from NAIC, legislative actions.	Existing regulatory process and oversight requirements. Assessment of increasing annuity contracts and relationship to state GAs	Commissioners from several states to discuss newness of de-risking and what potential issues may arise from continued de-risking.	Responsive interviewing methodology
Guaranty Association	Increases in potential liabilities and guarantees.	Assessment of current guaranty and what impact increased de-risking has on its ability to provide protections	Interview several state GAs where assessments have been made, where potential for insolvencies is possible, what other options exist to protect retirees	Responsive interviewing methodology
NAIC representatives	Setting guidelines for state adoption. Research conducted on behalf of individual	Understanding the relationship and level of influence that the	Executive level discussions with responsibilities	Responsive interviewing methodology

	states. History of National standards for insurance regulation. Adoption of Model Acts	NAIC possesses at the national level and its role in governance and oversight.	over group annuity contracts and insurers that issue them.	
Society of Actuaries	Reserve requirements, longevity risk, current issues under consideration, increased activity and future expectations.	Understanding the factors that comprise national level requirements or recommendations from the actuaries. Understand what they consider the largest threat to security and what are the largest risks with retirement income resting at the state level.	Conduct an academic discussion with national level actuary to understand the variables associated with regulation, standards, risk assessment and oversight issues specific to group annuity contracts.	Responsive interviewing methodology
Consultants	Advisement for de-risking strategy and brokering between corporate pension plan administrators and insurance carrier	Method of operation, degree of activity, recent trends in industry, perception of shortcomings	Partner/senior level executive	Responsive interviewing methodology
Insurance company executives	Risk management and industry practices	Risk modeling, investment strategies	Senior-level executive	Q&A via e-mail

Table 3.2 *Study Participants*

Participant Role	Affiliation	Demographic
State Regulator (3)	State Insurance Commission	2 large and 1 small state
Senior Partner	Consultancy	Large National firm

Senior Vice President	Insurance company	Large national company
Actuary	Insurance regulation	National support organization
Actuary	Insurance company	Large international company
Researcher	Insurance regulation	National support organization
Legal Council	National regulation	National support organization

A total of 9 experts provided responses to questions including 3 state insurance commission representatives, a senior partner at a national consultancy, a senior vice president with a large national insurance company, 2 actuaries deeply involved with overseeing many aspects of group annuity contracts, a researcher at a national support organization who provided details needed to understand some modifications currently being contemplated in the regulatory environment. Finally, legal counsel for a national support organization provided many details associated with regulation of insurance companies most specifically in regard to insolvency and national standards. The first interview was initiated through a request with a national actuarial association. The researcher reached out to an author of an article on longevity risk who referred me to another actuary working for an insurance carrier. The researcher completed a contact request through another national support organization and was put in touch with the resident expert working specifically with group annuity contracts. Another request at the national level directed the research to

a high-ranking state regulator, who is also an actuary. Several hours were spent in discussion with a number of topics and follow-up questions continued for several days. Reverting back to one of the national support organizations provided contact and discussion with the company's general council leading to a very candid and educational discussion about protection limits and insolvencies and how the process works. All the respondents had extensive backgrounds in either the regulatory and/or insurance industry and all had spent time in other positions with other companies. One regulator worked for a public accounting firm and one once worked for a large insurance carrier bringing perspectives from both sides to the discussion.

The data was collected and analyzed, and the results are presented in Chapter 4. The analysis provided the basis for added communications and feedback to those who participated in the case study. Additional analysis provided the basis for the recommendations resulting from this case study.

Measures of validity and reliability come from the ability to triangulate responses from the various stakeholders. Respondents with national level responsibilities were compared to responses at the state level for comparisons. Responses from actuaries and commissioners were beneficial for comparisons related to funding and reserve requirements. Qualifying information and a set of subsequent questions were sent to several respondents. Replies to these additional questions are included in the analysis following in Chapter 4.

Ethical Considerations

Interviews with industry consultants, insurers, insurance commissions and guaranty associations are confidential as true identities are not made public in this report. Voice recordings are stored on a flash drive and secured in high quality locked safe. Storage of the media will extend for three years after which the flash drive and its contents will be destroyed. Identities of those interviewed have been coded in Table 3.2 to protect each individual but provide vague descriptions of area of responsibility and unspecific geographic locations.

Researcher Bias

The researcher is a member of a de-risked group of a former employer that transferred a portion of the company defined benefit pension plan to a group annuity. This fact was revealed during introductions to each interview. This potential bias has been moderated with an extensive review process by the dissertation committee, consultations with outside parties, and a deliberate effort to remain open-minded during the interviews, data analysis, and reporting processes. It is through the rigor of this research process that prior biases are deemed overcome. Some of the recommendations of this case study are offered to assist others who may have experienced their pension transferred to an insurance annuity.

Researcher Qualifications

The researcher has held middle and upper level management positions at Fortune 500 companies including over 25 years of combined business experience. He

is a seasoned university instructor in the field of Accounting and is also a licensed Certified Public Accountant (CPA) with in-depth knowledge of generally accepted accounting principles (GAAP), including disclosure and reporting requirements of publicly held companies.

Summary

These data collection and analysis combine qualitative data from these interviews with key stakeholders and the additional review of many other reference materials, legal documents, policies and procedures and other relevant regulatory documentation. The data from the state insurance commissions, actuaries, consultants, and GAs was analyzed for similarities and differences. The focus was to determine the best practices and the potential for national standards. State GA information helps with an understanding of the various levels of protection from one state to another.

In the following Chapter 4, findings from the interviews and documentation are presented. Specific items are presented that illustrate the current regulatory environment of the insurance industry, some recent trends with pension de-risking, tools used in solvency testing, methods of risk control and specific answers to all 5 research questions. As the interview data reveals, the story is that of the interviewees and how they perceive the regulatory issues being faced by those with lifetime income now being overseen at the state level. Other regulation related documents

offer a look at specific rules governing the industry and how these rules are developed, researched, maintained and kept current.

Chapter 4

RESULTS

Introduction

Insurance regulation in the United States dates to 1871, with the establishment of the National Association of Insurance Commissioners (NAIC). Further supporting this relegation to state control, following early challenges calling for federal control, was the passage of the McLaren-Ferguson Act of 1945. While each state has statutory authority over the insurance industry, Model Law is developed at the national level by the NAIC and adopted by the states**.** There is a hierarchy of regulatory involvement which includes multiple levels of oversight of the insurance industry. At the national level, the NAIC is the primary standard-setting and regulatory support organization. The NAIC has several hundred members, many who serve on a multitude of committees, task forces, working groups and research teams dedicated to specific areas of insurance regulation. Specific to Life and Health insurance regulation, including the regulation of group annuity contracts, there are NAIC staff members, researchers, analysts and assistants dedicated to supporting the states at the national level. In addition to the NAIC staff and members, there are the American Society of Actuaries (ASA), the Society of Actuaries (SOA) and the National Council of Insurance Legislators (NCOIL) all involved with the primary goal of keeping the public safe and protected through the regulation of the insurance

industry. Each state further controls the insurance industry through its authority and regulations delegated to the state insurance commission.

The findings of this study are addressed according to the research questions. Each research question is identified and addressed, from at least two sources of information, including interviews with industry experts and authoritative documentation. From the collection of the data and resulting analysis, a determination of the adequacy to which the data answers each research question is provided.

Learning about insurance regulation has been a process which began with the literature review in Chapter 3 and extended into the data collected and analyzed from the interviews with industry experts and referred documentation. The research case study addressed the following research questions:

1. What reporting requirements currently exist that are used by state regulators?
2. How are funds invested and managed at the insurance company specific to group annuity contracts?
3. What specific actions do the national support organizations, actuaries and state governments undertake to protect group annuity contracts?
4. To what degree are new regulations governing group annuity contracts being developed?

5. What is the importance of national standards for regulating group annuity contracts?

The following sections describe the study respondents and their responses to the research questions.

Respondent Demographics

There were a total of 9 respondents in this case study. These included 1 industry consultant, 2 insurance executives, 3 state insurance regulators, 2 actuaries, a national support researcher and 1 staff member of a national support organization. Company names and state names are not provided as promised to the respondents. Each respondent has either a national, international or state jurisdictional authority and has demonstrated a deep understanding of the issues associated with insurance regulation, insurance underwriting or pension de-risking responsibilities. All respondents were senior level executives with titles of Director, Vice President, Partner, Deputy Director, Senior Vice President, Actuary and Senior Researcher.

Research Question 1

RQ1: What reporting requirements currently exist that are used by state regulators?

State regulators use sophisticated computational tools to assess the degree of solvency of each insurance carrier under its jurisdiction. These tools are modified with mortality tables, reserve requirements, and a host of other risk-related actuarial data and are updated periodically by the Society of Actuaries and the NAIC. Reserve requirements are a standard measurement assigned to each carrier as determined by

the NAIC Risk Based Capital (RBC) requirement assessment tool. Regulators use this tool to assess the reserve requirements and the analysis results in a determination of adequacy of available funding. As described by one regulator, "If reserves are under then they add to the fund to make up the difference".

Life insurance regulation is primarily made by assessing the reserve. Health insurance, on the other hand, is primarily regulated by directly regulating the rates. Health insurers must apply for rate changes and submit justification for rate changes to the state board and must provide actuary justification. Rates do not need to be approved with life insurance, since insurers must file their products. Rates are not reviewed for justification but regulators allow the marketplace to take care of the rates. Regulators are only then concerned that the company has adequate reserves to satisfy the liabilities. One tool used to assess the insurers reserve is called "Asset Adequacy Analysis" and is further described below by one state regulator:

> The company calculates its reserves using formulas. In an asset adequacy analysis, the block of business is modeled using a complex actuarial modeling system. In this model, the liability features are all the premiums and benefits that are associated with the policies; and the assets that are used to cover these liabilities are also modeled. A time horizon is chosen, say 30 years. At the end of the 30 years, if there is a positive surplus, then the assets are sufficient to cover the liabilities. If

> not, then the company must assign more assets to cover the liabilities, which is done by increasing the reserves.

What this means is that since the late 1990's, reserves are calculated by formulas provided by the NAIC. There are basically 2 assumptions; one for mortality and one for interest rates, used to discount rate the cash flows. You can calculate the reserves with a number and make an assessment as to the adequacy of the reserve funds. So this process of *asset adequate analysis* allows the insurer to run its businesses through a model to make an assessment of adequacy of reserve. Using asset adequacy analysis, as described by one regulator:

> is using a highly detailed thing…Using the model you can determine if reserves are under or over. Life insurance regulation focuses on solvency based on conservative estimates using the asset adequacy analysis to determine the level of reserves. Payout annuities want lower value of mortality means higher survival translates to higher reserve. Prescribed mortality is a huge process, NAIC contracts with SOA and AOA to provide sophisticated tables updated periodically and used within the reserve requirement analysis.

Each company is assigned an actuary that examines the insurers reports and expresses an opinion on the company's position. One regulator described the actuary's report by stating "The Actuarial Memorandum in support of the asset adequacy analysis is the most important document that the regulator must review."

Further describing the role of the actuary, this regulator stated "the appointed Actuary is a very special role. This person must have impeccable qualifications and professional judgement, and if a company changes its Appointed Actuary, it must notify the regulator".

The insurers need to prepare the analysis for submission to the regulators, and this process was described by one insurance executive by stating "Our chief actuary provides a regular report to our regulator that demonstrates, through a process called asset adequacy testing, the adequacy of our reserves."

The Capital Adequacy Task Force, of the NAIC, is a committee of regulators that make recommendations for refinements to the Risk Based Capital (RBC) model as appropriate for the different type of insurers. For "life" type insurers, which includes group annuity contracts, the Life Based Capital Working Group has responsibility for maintaining the RBC model factors (Barlow, 2018).

Assessing capital requirements for insurers is a lengthy process encompassing many active committee members from insurance commissions, SOA, NAIC and the American Council of Life Insurers (ACLI). After gathering information from a host of regulators, it is obvious that a significant effort is expended in determining necessary reserve levels of insurers of group annuity contracts.

State regulators review insurers over a period of time dependent on several factors. Each insurer must submit a set of financial statements to the state regulator along with a report from the actuary assigned to the company. An actuary report is

similar to that of an auditor but digs deeper into the solvency side of the equation. Actuaries review the company's level of risk, its outstanding liabilities and assesses its capital reserve. The assumptions and computations used in the analysis are detailed in the actuary memorandum, which is signed by the designated actuary.

One additional area is the analysis of any separate accounts established for specific group annuity contracts. Contrasting the available reports from ERISA based pension plans, to the extent that separate accounts exist for specific group annuity contracts, performing a NAIC RBC assessment of these accounts would possibly provide a mechanism to assess the adequacy of safety pertaining to each specific former pension plan. ERISA requires pension funding status to be communicated to each plan participant. Providing the same, or equivalent, report for group annuity contract participant may alleviate some animosity towards the insurer from the annuity contract recipient. The answers provided to this research question provide adequate evidence of the existing reporting requirements.

Research Question 2

RQ2) How are funds invested and managed at the insurance company specific to group annuity contracts?

A discussion with an insurance company executive, responsible for group annuity contracts, centered around the conservative nature of the industry and its performance with managing risk. As was stated in the response "A combination of

regulation, rating agency, shareholder and capital efficiency considerations drive a much more conservative approach." State adopted national regulations set reserve requirements. The RBC model uses variables identifying the investment type as shown below in Table 4-1.

Table 4-1 *RBC Component descriptions*

Component	Description
C0	Insurance affiliate investment and (non-derivative) off-balance sheet risk
C1cs	Invested common stock asset risk
C1o	Invested asset risk, plus reinsurance credit risk except for assets in
C2	Insurance risk
C3a	Interest rate risk
C3b	Health provider credit risk
C4a	Business risk - guaranty fund assessment and separate account risks
C4b	Business risk - health administrative expense risk

The RBC formula for life insurers is shown below in Figure 4.1, displaying the Risk Based Capital requirement and associated components of risk based capital are identified and placed into the formula. One example of the RBC formula is displayed below in Figure 4.1..

Figure 4.1. Risk Based Capital Formula

Company action level RBC = C0 + [(C1o + C3a)2 + (C1cs) 2 + (C2)2 + (C3b)2 + (C4b)2]1/2 + C4a

Specific guidance, issued by the NAIC through its committees and working groups, provides ranges and limits for input variables contained in the formula.

During one interview, the respondent directed the researcher to Model Law 280, Investment of Insurers Model Act. This regulation is very specific with regard to investment considerations available to insurance carriers. The Statement of Principles contained in the Model Law states:

> The development of regulation of the investments of insurers requires an analysis of the complexities, uncertainties, competitive forces and frequent changes in the investment markets and in the insurance business, the diversity among insurers, and the need for a balance among risk, reward and liquidity of an insurer's investments. It also requires an analysis of how to safeguard the financial condition of domestic insurers and at the same time permit domestic insurers to be competitive with insurer's domiciled in other states and with other financial industries that operate under different regulatory regimes.
>
> Each state is urged to determine through independent study which methods are best suited to its needs and whether its existing regulatory structure may be improved by using provisions of model laws recommended by the National Association of Insurance Commissioners (NAIC) or existing regulatory structures in other states or industries.

This Model Law (280) contains over sixty pages of documentation setting minimum standards for investments that insurers may make and the valuation methodologies from which to use for reporting purposes.

Learning of these laws and their applicability diminishes the need to further the investigation of how insurance funds are invested given that very specific guidance is provided in the documentation regulating the industry. Each state has adopted a version of this Model Law and the regulations contained within are well known by the insurers.

Sections and titles of the Model Law 280 regulating investments are listed below demonstrating the depth of regulation aimed to "protect the interests of insured by promoting solvency and financial strength" (NAIC, Investments of Insurers Model Act, 2017):

- Section 1. Purpose and Scope
- Section 2. Definitions
- Section 3. General Investment Qualifications
- Section 4. Authorization of Investments by the Board of Directors
- Section 5. Prohibited Investments
- Section 6. Loans to Officers and Directors
- Section 7. Valuation of Investments
- Section 8. Regulations
- Section 9. Applicability

- Section 10. General Three Percent Diversifications, Medium, and Lower Grade Investments and Canadian Investments
- Section 11. Related Credit Instruments
- Section 12. Insurer Investment Pools
- Section 13. Equity Interests
- Section 14. Tangible Personal Property Under Lease
- Section 15. Mortgage Loans and Real Estate
- Section 16. Securities Lending, Repurchase, Reverse repurchase and Dollar Roll Transactions
- Section 17. Foreign Investments and Foreign Currency Exposure
- Section 18. Derivative Transactions
- Section 19. Policy Loans
- Section 20. Additional Investment Authority

Other sections of this Model Law deal specifically to other insurance products such as property and casualty types of insurers. As seen from the section titles and details of the Model Law, there are significant regulations with regard to the investment options for insurance carriers. After the discovery of this, and other Model Laws, it seems the question about how funds are invested is fully answered with this authoritative documentation. These regulations are deemed sufficient to answer this research question.

Research Question 3

RQ3) What specific actions do the national support organizations, actuaries and state governments undertake to protect group annuity contracts?

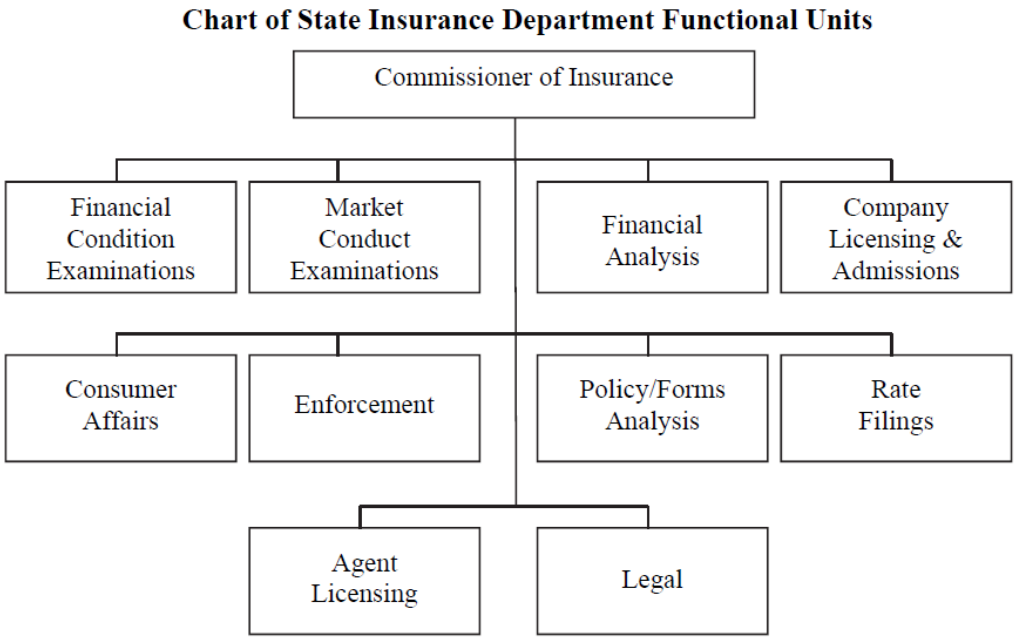
Insurance company regulation is an ongoing process and continuous process. Regulators are constantly reviewing insurer financials, new products, rate requests, reserves, and a host of other metrics. As one regulator said, "this is what we do" when taking about specific actions undertaken to provide protections. The legal team at a national support organization takes specific actions through receiverships and liquidations of insurers. In some cases, there are assessments of the remaining solvent insurers to make up any deficits associated with the defunct company and its remaining policies. When an insurer becomes insolvent, this organization engages in practices to secure the assets of the insolvency and other actions to limit further damage to funding levels. While the receivership process is in place, GAs actually fund any required payouts, in advance of funds that are recovered during the liquidation process. The receivership, liquidation and assessment of available assets becomes a computational issue when considering the overlap of insurance policies across state boundaries. The state Guaranty Associations become involved when the needed assets fall short of the payment obligations. In these situations, all remaining solvent insurance carriers are subject to assessments, based on premiums, to make up the shortfall. The national support organization assists with the development of

spreading these assessments across the assessment base and coordinates with the states to protect the policy holders.

At the national and state level, there is a continuous analysis of insurer's solvency through complex multiple computations using the NAICs financial analysis solvency tools (FAST). The FAST program focus on solvency and the constant monitoring of funds flow provides early warning signals to regulators that actions may be required. There must be adequate reserves maintained and each company is rated by nationally recognized firms such as A.M Best, Standard & Poor and Moody's.

State regulators use the FAST program, as detailed in the NAIC Financial Analysis Handbook (Handbook), as a standard risk-based analysis approach for insurance departments so they have an accurate measure of each company and identify any insurer that may be experiencing financial difficulty. The Handbook provides guidance for using the tools and assistance with understanding "insurer's risks better in order to develop appropriate corrective action plans sooner" (NAIC, 2015). The Handbook also provides a sample state regulatory organization chart that illustrates a typical state insurance commission and it's functional areas.

Chart 4.1 *Sample Chart of State Insurance Department Functional Units*



Regulators typically review new group annuity contracts before the insurer and pension administrator can execute the transfer to the extent that the contracts may contain extraordinary provisions. Regulators may examine the details of the contract to ensure it conforms to the original ERISA based contract as all original provisions must be contained in all subsequent agreements according to a large state regulator.

Additionally, specialty consulting firms, with deep knowledge of fiduciary requirements and the client company's objectives, are often utilized for advice and consultation to draft group annuity contracts that best meet the goals of all concerned. According to one national level consultant, these consulting firms help protect the client's fiduciary duties by "finding the best insurer's annuity", coaching the client

company and providing assistance with brokering the contract deal with the various parties.

Group annuity contracts are also subjected to legal review and conformance. Attorneys knowledgeable of ERISA and insurance regulations become a pivotal point in developing contract language and legal conformance ensuring that all prior commitments are contained in the new contract. Attorneys for both the pension plan sponsors and the targeted insurance company work to craft the contract to satisfy the needs of both parties. According to a nationally recognized researcher, there are no two contracts that are the same and no two plan sponsors have the same goals or outcomes. Therefore, not two agreements are the same, requiring significant effort and resources to create the final agreements.

Some group annuity contracts may contain contractual language that provides for the establishment of a separate fund specific to the group covered by the annuity contract. According to court documents and testimony provided during the class action suit, the Verizon group annuity contract with Prudential, for example, specifies a separate fund for its group of retirees. A separate fund is an added level of protection, according to an industry expert, and is used to fund the pension payments to the plan participants. In the unlikely event that the fund becomes inadequate, payments would then be made to the participants from the insurers' general fund. The general fund is where the insurance company keeps its reserves for all other insurance claims, according to one insurance company executive.

One industry expert offered an analogy to help explain why increasing activity of pension plans transfers to group annuity contracts would not have a direct impact on the current level of staff needed for effective oversight. In drawing this analogy, he discussed the difference between health and life insurance. On one hand, health insurance is unpredictable in the short term due to claims that are paid in the current period. Life insurance, and to some extent annuities, are more long-term arrangements where the contracts extend out over a much longer period of time. Although annuities are paid in the current period too, the payment amounts are fixed and well-funded. As annuitants die and their payments cease, the liability is closed and any left-over funds provide earned revenue for the insurance company. Unlike life insurance, where early death translates to an early payment and resulting potential loss from that individual policy.

When discussing group annuity contract protections with an insurance executive the following response was recorded:

> We have mortality risk and balancing mortality and longevity risks is a very sound approach to risk management. In addition, we have a tremendous amount of data and actively use big data techniques to constantly measure our liabilities and determine the sufficiency of our reserves. We employ big data techniques in underwriting as well to make sure we charge an appropriate premium for the pension risk when we first write the business.

The information provided sufficiently answers this research question.

Research Question 4

RQ4) How are new regulations being developed to govern group annuity contracts?

Currently, there is a task force studying the latest trends relating to longevity risks and how certain rates and factors in the RBC model are affected by changes in expected life spans. The Longevity Risk Task Force (LRTF) is chaired by a member of the Society of Actuaries and is currently looking to conduct a field study on individual and group annuities that will review existing insurance company data related to group annuity contract beneficiaries. This longevity study specifically asks for data from group annuity contract participants hoping to create data for a model under development to assess future needs and funding levels. The goal of the LRTF is to determine the extent of possible adjustments to the RBC model as it related to group annuity contracts, and the extent of the reserve requirement adjustments necessitated by the possibility of updating sensitivities to longevity risk. Other national task forces look at best practices to inclusion into Model law as this is an evolutionary process with changes being made frequently.

Basically, when a new Model law is developed, it is recommended for adoption by the states. Each state will then make a determination to adopt and a timeline for implementing the new law. The model law then publishes the process of each state and if it does not adopt the law, it specifies how it currently deals with the

specific issued addressed by the model law. As one regulator expressed, “once the NAIC makes the recommendation, we have 5 years to adopt the law”. When dealing with life insurance, the time horizon is long term. Dealing with group annuity contracts is also long term although there is a current window of payment streams but regulations can be introduced gradually without disruption to the current operations.

When discussing recent regulation and its effect on the industry, one respondent offered the following:

> In theory, the Pension Protection Act of 2006 was intended to do this with stricter funding requirements for pension plans and prescribed ways of measuring the liability that needs to be funded. Unfortunately, most of the teeth were taken out of the PPA after the financial crisis when plan sponsors and employee benefit consulting firms clamored for smoothing and other things that diminished the effectiveness of the regulation. The PPA focused on requiring funding rather than specific investment approaches knowing that companies would de-risk their investments if losses were followed quickly by the cash impact of having to fund the plan. There are other ways to achieve this without prescribing investment strategies for companies and that is having a risk-based approach to PBGC premiums.

Unfortunately, regulatory involvement, with the introduction of new rules and laws, generally follows a disaster as it seems there needs to be a failure before new rules are established. This country has seen the Sarbanes-Oxley Act enacted as a result of poor accounting and internal control standards, following the collapse of Enron and WorldCom. Again, in 2010 and following the financial crisis, the passage of the Dodd-Frank Act sought to strengthen regulations for banks and investment firms. While there is no guaranty that the current regulation is the most effective, there is no indication that new regulations are needed at this time since there have been no dramatic insurance failures dealing with pension and annuity contracts. However, changes to existing regulations can be uncertain when the U.S. presidency and congress is dominated by a single political party.

Some insurers have received the distinction of being systemically important financial institutions (SIFIs), as identified by the Dodd-Frank Act. According to Kristie Rearick (2017),

> Separately, the Dodd-Frank Wall Street Reform and Consumer Protection Act empowered the Federal Reserve Board of Governors to regulate risk-based capital standards for two types of insurance businesses—those groups determined by the federal government to be crucial to the economy (so called systemically important financial institutions, or SIFIs) and certain insurance companies that own federally insured depositary financial institutions. According to the

> Fed, these two categories of insurance businesses in the aggregate account for $2 trillion in assets and comprise one-third of the assets of the nation's insurance industry.

Shortly after the passage of Dodd-Frank, three insurers were included on the SIFI list. Specifically, AIG, Prudential and MetLife were designated as SIFI companies and subject to more stringent regulatory requirements, including those of the Federal Reserve Board (Rearick, 2017). More recently, however, MetLife and AIG have had their SIFI designations rescinded while Prudential continues to operate under the SIFI guidelines.

Research Question 5

RQ5) What is the importance of national standards for regulating group annuity contracts?

Each interviewee provided similar responses to questions regarding their opinions towards the adoption of national standards. All respondents indicated that there are already significant levels of regulation holding the insurance industry to strict compliance of adopted regulations. These regulations originate at the NAIC where members from state insurance commissions work to keep insurance regulation current to meet the needs of society. All respondents indicated that the system in place for regulating the insurance industry works well and these respondents expressed strong opposition to disrupting a well working system. National standards are basically in place with the adoption of Model Law. Each state insurance

commission elects to adopt the Model Law according to the recommendations of the NAIC. Through is extensive research and due process, the NAIC makes a recommendation for states to adopt a particular Model Law thus technically enacting national standards.

According to a leading actuary and state insurance regulator, the need for national standards is partly addressed by the issuance and adoption of Model Law by the state jurisdictions. While each state is left to make the final decision of adopting the recommended Model Law, it appears that very few states, if any, do not conform to the recommendations of the NAIC. One leading consultant offered "the system works so why upset a system that works well."

When asked specifically what, if anything, would you change about the regulation of group annuity contracts, or life and health insurance, one regulator thought about the question for a moment, and then responded that there were no observable defects that needed fixing at the current time. In addition, this regulator asked that the researcher wait another year and ask the same question again. This question appears to be answered satisfactorily in view of the standards already set at the national level. The question about standard guaranty association limits, although not specifically identified as a research question, is determined to be a single adopted standard of $250,000 however, one recommendation of this case study justifies an increase to $500,000 for all states. This question appears to be answered satisfactorily.

Summary

The research questions presented in this case study have been supported by the findings from the qualitative interviews with 9 industry experts and volumes of regulatory documentation. These findings provide an adequate basis to resolve all research questions with factual information that satisfies the nature of each question. Table 4.2 below provides a general summary of the research questions and a basis theme that answers each question.

Table 4.2 *Summary of Findings*

Questions	Answers
How does entity protect group annuity contracts	Asset adequacy analysis
What reports are used in regulation	Rates, contracts, reserve funds
How are funds invested	Model law dictates investment options
New regulation and trends	Longevity risk factors, mortality risk assessments
Need for national standards	More similarities than differences, Model Law is national standard

Chapter 5

CONCLUSION

Introduction

Defined benefit plans in the United States are fading away for a variety of reasons. One method for terminating these pensions is through the purchase of a group annuity contract. Federal regulations apply to private pension plans but not to insurance company group annuities. When pensions are transferred, those affected are concerned about their financial future. This case study attempts to provide additional evidence that the perceived financial risks and future safety of retiree incomes are mitigated through strong and deliberate regulation coupled with very strong and effective industry practices. The next section in this chapter provides a summary and discussion of findings for this research case study.

Summary and Discussion of Findings

The original motivation for this case study was to explore one specific group annuity contract that originated with the transfer of Verizon's Management Pension Plan to Prudential Insurance in late 2012. As a member of the transferred group, the researcher was distraught by the loss of ERISA regulation and knew basically nothing about state insurance regulation. With the cooperation of the Association of BellTel Retirees, a survey was conducted of the opinions of the transferred Verizon retirees to discover that the vast majority of these retirees knew little about how the insurance industry was regulated either. This research has followed the Verizon pension

transfer, the resulting law suit, appeals to the US Supreme Court and eventual dismissal. This conclusion is an attempt to illuminate the degree of safety that exists within the regulation of the insurance industry, so that former ERISA regulated retirees, and beneficiaries, have an understanding of how the states regulate the insurance industry and their current group annuity contracts.

When this topic was first adopted for research, there was a lot of uncertainty about the insurance industry's ability to effectively regulate large inflows of pension transfers. Questions about staffing levels and the adequacy of existing regulation prompted the research questions. Upon the analysis of the data collected from the interviews of leading experts in the field of insurance regulation, insurance consultancy, industry executives and independent sources from renowned journalists and other researchers, it is apparent that the initial concern of inadequacy is not founded. The following sections are discussions of the five research questions in this study.

Research Question One

Research question one sought to determine the reporting requirements currently used by state regulators. While reports from the insurance industry address specific financial and product information, the Model Law, FAST ratios, and Asset Adequacy Analysis determine the financial strength of the insurance carrier. Each insurer has an assigned actuary who reviews and approves the insurance carrier's reports. The actuary must be a qualified and a member of the American Academy of

Actuaries and, like an auditor, writes and opinion based on the Model Law # 822, or the Actuarial Opinion and Memorandum Regulation.

Unlike private sector corporations who must satisfy federal regulators, the reporting requirements of the insurance industry need to satisfy multiple levels of regulation. In addition to satisfying the requirements of the SEC, IRS, DOL and with conformance to Generally Accepted Accounting Principles (GAAP), insurance companies must also meet additional requirements set forth by Statutory Accounting Principles as specified by each state government. In addition to the scrutiny of a public accounting firm's auditors, each insurer is subject to an added report of actuaries. Also, some large insurers may be subjected to regulation emanating from the Dodd-Frank Act which may identify the insurer as a *Designated Financial Company* and subject to supervision and examination by the Federal Reserve Bank with stricter regulatory standards.

Research Question Two

Research question two sought to determine how funds are invested and managed at the insurance company specific to group annuity contracts. While there are restrictions on investments, there is a conservative investment principle that applies to the industry. While there may be a concern that aggressive investing increases risk, risk assessments are built into the RBC model and reviewed frequently for necessary adjustments. With the focus on group annuity contracts, there is a reality that these contracts have both near-term and long-term requirements. Reserves

are established to satisfy current liabilities, however annuity payments are spread over a longer horizon. With current reserve levels sufficient to cover short-term needs, longer-term liabilities can be offset by larger returns from more aggressive investment choices but designed to manage the assessments of risk, including longevity risk.

Additionally, some group annuity contracts have negotiated for the creation of a separate fund for the transferred retirement plan. This separate fund acts as the first line of defense while maintaining the ability to pay the plan participants. Should the fund become stressed at some future point, the general fund of the insurance carrier is available to make payments to the recipients. In the event of an insurance carrier failure, the state would step in to provide assistance to help the carrier recover from its financial difficulties. If attempts fail at recovery of the carrier, the state would take control of the insurer, through a receivership process, and use available funds to satisfy payments to the annuitants. As a final backstop, should funding become unavailable after liquidating all assets, the state guaranty association would provide financial benefits to the annuitants based on the state limit in effect at the time of failure. At the present time, there has been just one instance in the insurance industry of a failure involving group annuity contracts that have tapped into state GA funding. This failure dates back to the 1990's and, since the time of its failure and subsequent liquidation, all annuitants have been paid. However, there was a very small number of annuitants who's benefits exceeded the GA limit and they suffered a reduction to

their annuity payments. This notation is the basis for one of this case study's recommendations.

Research Question Three

Research question three looks at specific actions taken by national support organizations, Society of Actuaries and state governments to protect group annuity contracts. From discussions with leading experts in the group annuity business and regulation, there is a tremendous degree of involvement in the regulation of the insurance industry. Specific to individual insurance carrier and corporate pension transfers, industry consultants provide advice to match corporate pension plan objectives with fiduciary responsibilities to find the best insurance product meeting all parameters of the existing pension plan. Pension plans developed under ERISA laws must still conform to all the provisions set out in the plan descriptions. Subsequent to the transfer, these same provisions must be made available to the plan beneficiaries. There is a host of legal issues and contract language that must provide the details before a contract is signed and transferred. As one interviewee stated, "there are lots of smart people in the room who know what they are doing" and there are multiple layers of reviewers who sign off on the contracts before they can be transferred. Each insurer offering group annuity contracts must be registered with its state of domicile and conform to the regulations set forth by that state commission and the applicable state law or adopted Model Law.

One concern from advocacy group members was the possibility of spinning off of group annuity contracts to unregulated businesses. As we have seen with MetLife's spinoff of Brighthouse Life Insurance Company, the state regulators in Delaware, where Brighthouse is domiciled, and the SEC needed to approve the spinoff plan. Also of note is the registration and licensing requirements for insurers from state regulators in addition to having sufficient capital to operate in the state jurisdiction. For Brighthouse, that meant a capitalization of $219 billion to cover 2.7 million policies and annuities (Roberts, 2017).

Research Question Four

Research question four sought to examine new regulations being introduced. At the time of the initial topic adoption, the state of Connecticut had introduced a new bill (SB 493) to provide additional regulation specific to group annuity contracts. It was envisioned that this bill would gather support and become law that could be copied across the country. Unfortunately, this bill was largely defeated and was unable to capture the support necessary for passage. Resultingly, this question has lost the momentum once generated by the prospect of specific regulation for group annuity contracts. Many interviewees saw this bill having little benefit and not providing much in the way of notification of how a company may be performing. The bill sought to initiate ERISA type of notices and funding status of a pension plan distributed to plan beneficiaries.

While there may still be an opportunity to review insurers specific funding levels, requiring them to provide an annual notice to all plan beneficiaries may not be an easy task, nor would it tell the complete story of the insurer. There may be another option that beneficiaries may pursue, should they be so inclined, and that is to review the rating service performed on each carrier. Each company is rated by nationally recognized firms such as A.M Best, Standard & Poor and Moody's. These rating agencies make there rating available to anyone with internet access. Also, a plan beneficiary could contact their state insurance commissioner for a report on their insurer via a FAST ratio, for example. Additionally, as described in the recommendation section, a quick report on insurer solvency should be made readily available to the general public.

Research Question Five

Research question five looks to determine the need for national standards for regulating group annuity contracts. From the data gathered and analyzed for this case study, it is fairly safe to conclude that while there are slight differences in state regulations, there are more similarities and adopted national standards. The NAIC was established in 1871 and has provided a vehicle for the individual states to utilize the benefits of the NAICs centralized functions for better resource utilization. This organization has provided a multitude of regulatory guidance and continues to provide state of the art support for all its member states across the country. With the NAIC, national standards for insurance regulation exists.

At the state level, there are still opportunities to increase the limitations with state guaranty associations. The NAIC's current recommendation for GA limits is $250,000 and all states have adopted this limit. Yet there still exists the potential for some high-earners to face annuity reductions due to the present value of the annuity being in excess of the state GA limitation. While some states have adopted higher limits, there is an opportunity for the remaining states to follow, thus reducing the risk now placed on the annuitant.

Benefits of De-risking

Benefits for a private company looking to de-risk its defined benefit pension plan are numerous and include the elimination of balance sheet liabilities. But not all pension liabilities are included on the balance sheet to begin with so the difference here reflects only a deficit in funding levels. With GAAP accounting rules, only the pension deficit needs to be reported on the company balance sheet as a pension liability while a funding surplus is recorded as a pension asset (if one existed). The average for the best companies is just 87% funded, according to Milliman Pension Funding Index. As a result of being underfunded, these companies would record a liability on the balance sheet reflecting the underfunded dollar amount as an additional pension related obligation. In addition, company contributions to the pension plan are recorded as pension expenses and directly reduce earnings. With the eliminated pension and liability comes a better debt ratio which can improve a company's ability to borrow money at preferable rates. Divesting the pension plan

can also help reduce the risks associated with maintaining adequate pension funds and further removes uncertainty of future risks due to market fluctuations, interest rate changes, longevity of plan participants and other related investment risks. As the ERISA rules instituted plan administrator fiduciary duties to plan participants, eliminating the plan also eliminates these duties as well as insurance costs (that have risen with PPA 2006) to the PBGC. Also avoided are all future funding requirements to keep the plans funded with additional cash contributions to the defined benefit pension plan. And finally, eliminating the plan provides plan beneficiaries with the same payout arrangements after the transfer without all the above-mentioned costs and risks.

Gaps

There should be no payment changes to plan beneficiaries after a pension transfer. However, some of the shortcomings with pension de-risking, includes the lack of reporting of funding status to the recipients, as they were accustomed to with ERISA backed pensions.

In a previous survey of de-risked pensioners, when asked about guaranty association protection, only 28% reported that they had an understanding of how the protections worked while 72% stated they did not understand. There are many misunderstandings with retiree perceptions of how the new annuity is protected and how the states provide regulatory oversight. There have been miscommunications between company plan administrators and plan participants, at least enough to raise

the question about what happens with insolvencies and the degree that state regulators are involved with pension governance. There are different dollar values of protection coverage that vary from state to state adding more confusion to the puzzle, although there is a standard threshold. When retirees are spun off from the company's pension plans there is a feeling of separation, which can alienate some while others may rally together and bring a class action suit, as we have seen with the Verizon retirees. There is a lack of experience with pension de-risking but there is a track record being developed and a body of knowledge being created from which we can tap into for future discovery and learning. Finally, the loss of governmental regulation specific to the ERISA rules leaves many with uncertainty about their financial futures.

The insurance industry encompasses a vast field of products and services. This case study has attempted to shed some additional light on the regulation of pensions transferred to insurance group annuity contracts. This case study also shows the magnitude of regulation guiding this industry and there were many helpful regulators, consultants and insurance company professionals who added their expertise and value to the study. As helpful as these experts were to the completions of this research, there were many attempts to reach out to other individuals, groups and associations that were not responsive to invitations to participate in this research and were unresponsive to specific questions related to particular areas of authority or responsibility.

While it is conceivable that no significant additional information would be forthcoming with the inclusion of additional participants, and from other state jurisdictions, consulting firms and insurance companies, having input from a larger sample would increase the validity of this study.

Further research opportunities exist to expand the knowledge and education of non-insurance industry professionals seeking a basic understanding of insurance regulation and the safety provided through this regulation for a multitude of insurance products.

Recommendations

This case study offers several recommendations. First, there seems to be a great need to better understand insurance regulation. The general public should know the degree of safety that insurance regulation provides, but they shouldn't have to review a library of documentation or create a dissertation to find this out. Simple educational programs can be created to improve the general knowledge about insurance and how it is regulated.

Second, ratings for insurance companies in the group annuity business should be provided to the plan beneficiaries annually. This rating does not require many details but could simply include a basic summary or financial position statement that says Good, Fair or Poor. This could provide just enough comfort to those who may wonder where they stand and if they need to be worried.

Third, there are national standards for guaranty limits. These limits are $250,000 per annuitant per lifetime, and each state has at least this limit. Puerto Rico is just $100,000 however. Some states have adopted higher guaranty limits due to costs of living or other reasons. Pensions are earned benefits from one's working career, and what was earned over these careers should not be limited or restricted because of where a retiree chooses to live. The insurance industry has produced extensive literature highlighting longevity as a major future risk and one that needs to be considered when assessing liabilities. Therefore, with expanding life durations, it is advocated that guaranty limits should be increased to $500,000 for all annuitants regardless of where they choose to live. These additional limits will ensure that retirees do not outlive their income, and that there is a sufficient guaranty backing their earned income benefits.

During one interview, information was provided about an insurance carrier failure that was in receivership with some payments coming from the guaranty associations. A question was raised about the adequacy of the guaranty limits being sufficient to cover all group annuitants. It was revealed that, with this particular insolvency, twelve annuitants' pay checks were reduced because they exceeded the guaranty limit. The number of reduced pay checks may seem insignificant when compared to the larger number of those receiving full benefits, however, it is the researcher's opinion that no one who fulfilled their commitment to their employer, through their lifetime of continued employment, should be deprived of their full

benefit. An analogy was provided that compares guaranty limits to FDIC insurance at banks. The analogy concluded that if you had a million dollars in the bank, and it failed, the only guaranty is $250,000. However, a customer of a bank could decide to spread the deposits around different banks or diversify the holdings across multiple investment options. The problem with group annuities is the beneficiary has no control as to where the fund assets are placed, nor how they are guaranteed. Additionally, apparently the annuitant's guaranty limit is determined to be the state of domicile at the time of insolvency. Moving to another state with a higher guaranty limit would not afford the annuitant a higher payout, according to the guaranty spokesperson. However, it is the researcher's opinion that the state of domicile is irrelevant as to a how much an annuity is due to the recipient. Therefore, increasing the limit to $500,000 for all states provides little chance that any retirees will see a pension reduction due to an insurer's insolvency. In fact, having a higher limit may provide additional metrics to ensure that the carrier continues as a going concern since the remaining solvent carriers would need to cover the deficit left behind from insurance carrier failures. While increasing this limit may seem excessive and unnecessary, there remains the remoteness of ever reaching the present value limit of $500,000 making the increased limit somewhat artificial. The vast majority of annuities would never cause a single assessment but the increased limit would provide a comfort level that would alleviate any annuitant discomfort without any company actually paying any additional amounts.

Fourth, in an effort to improve how pensions are transferred, this case study recommends an improved interaction with some of the prominent advocacy groups. Here is an opportunity for an even deeper interaction to influence cooperation with the industry and advocacy groups. This presents an opportunity to come together to solve problems that are either real or perceived. Each side has its story but there is also a lot of common ground, in my opinion, that can possibly lead to better transparency and a more harmonious relationship.

Fifth, increase reporting requirements to include separate fund status, to the extent that a group pension transfer created a separate fund. This report would simply indicate a status to beneficiaries that their fund is healthy, or not. This is the first fund for payments. It is in additional to the insurer's general fund, which is available should the separate fund fail. Then there is the guaranty fund so beneficiaries need to understand that this separate fund provides another cushion of safety and now they will know it is (or is not) sufficient. This funding status report can provide a comfort level for plan participants by eliminating the uncertainty.

Sixth, create a team approach for future transfers including all stakeholders. This would include representatives from the private corporation, the consultants, the advocacy group (if any), the plan participants and the insurer. This team would strive to meet the concerns of all parties with an open dialog designed to build trust and confidence in this extremely important transaction.

Finally, there can be an improved communication to beneficiaries of transferred pensions, with a detailed question and answer package that could be provided as a video or pamphlet, providing information about future safeguards and why these plan participants need not worry. Improving communications can also show a genuine interest in participant well-being, thus providing additional comfort and perceived safety.

Limitations of the study

Obviously, not all possibilities were explored and there are limitations of this case study. This case study, and its findings, is partially based on information collected from only a few respondents from certain functionalities within the insurance industry. Not all of state regulators were included in the study and, as such, a different conclusion could be reached with a different sample. Not all companies were asked for their input to the research questions and likewise, using a different company base could produce different results. While a deliberate attempt was made to collect information from knowledgeable respondents, it was the respondent who determined their own level of expertise. However, the researcher performed basic background research to be satisfied with the respondent's affiliation and likely area of knowledge. An additional limitation is found with the lack of anonymity of the respondents. If the study were conducted with a survey or other anonymous response instrument, the results could be somewhat different.

Opportunities for future research

Several opportunities exist for additional research with the study of pension de-risking. One possibility could include expanding the case study to include a larger sample size and to explore regulations in more states. This expansion would provide a good comparison and an increased possibility to generalize the findings over the remaining unexplored states. Another opportunity could utilize a detailed survey to allow for anonymous responses. An opportunity exists to look at and examine a planned specific company group transfer to document and review all the details showing the process over time. There is also a possibility to follow a prior group transfer to review how the transfer is performing and look at specific members of the transfer to capture their input about their experience.

Closing remarks/disclaimer

The findings of this research should not be interpreted as an endorsement of insurance industry practices or the ability of any insurer to remain solvent into the future. The results are based on information collected from the respondents, existing regulation and available documentation. It is not an all-inclusive study of the industry, as mentioned herein, and is only presented for purposes of addressing the research questions.

It is the opinion of the researcher that the multi-disciplined, multi-state regulation of the insurance industry, to some extent, may be useful with the ability to avoid regulatory influence from a single political party. When a political party takes control of Presidency, the House of Representatives and United States Senate, having

a NAIC comprised of members representing multiple states, with multiple political affiliations, should provide a non-partisan regulatory environment free from the political impulses of a single majority elected political party.

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Appendix A: Dissertation Milestones

WILMINGTON UNIVERSITY

Wilmington University

Appendix D: Dissertation Milestones

This is a suggested schedule. Please fill in your actual target dates. Keep in mind that that writing a dissertation is an iterative process. You will need to periodically revise previously written material in light of changes and new insights. C = class in the course. W = week after DBA 8000 completion.

Milestones	*Approximate Timeframe to Complete	Course Assignment	Target Completion Date
Determine interests & select tentative topic	2-6 mos	RES 7107	Complete
Receive dissertation chair assignment from DBA Chair	1 week	During RES7111	Complete
Complete the Dissertation Milestones Table	1 week	During RES7111	Complete
Discuss research concept with dissertation chair. Decide on dissertation type and research methods.	1 week	During RES7111	Complete
Confer with dissertation chair to develop appropriate committee members (1-2 additional members are permitted).	1 week	During RES7111	Complete
Submit initialed Committee Petition Form and Outside Member Credentials/Payment Form to DBA Chair	1 week	During RES7111	Compelte
Articulate tentative research question(s) & hypotheses with chair and committee members	1-2 weeks	During RES7111	Complete
Complete Chapter 1 or comparable CERP deliverable.	7 weeks (during RES7111)	Required for successful completion of RES7111	Complete
Prepare literature review or CERP outline	1-2 weeks	DBA7111	Complete
Confer with researcher	1-4 weeks	During DBA7200	Complete
Draft Research Proposal approval by committee.	1-4 months	Required for successful completion of DBA8000	8/5/2017
Draft Submit Human Subjects Review form to chair	Exempt and Expedited – 2 weeks Full Committee – 2 months	Required for successful completion of DBA8000	8/10/2017
Final Research Proposal approved by Chair and Committee. Graded rubric submitted to DBA chair	1 month	Required for successful completion of DBA9000	8/15/2017
Final HSRC approval. Signed documentation submitted to DBA Chair and Administrative Assistant	2 weeks – 2 months	Required for successful	8/15/2017

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		completion of DBA9000	
You must have a signed research proposal rubric and a signed human subject form before you start collecting data!			
Address validity & reliability; pilot testing, exploratory interviews, etc. (optional); fine-tune instrument & procedures	1-2 months	During DBA9001	9//1/2017
Start data collection	1-2 months	During DBA9001	9/5/2017
Develop expertise in relevant analysis procedures	1-2 months	During DBA9001	9/15/2017
Complete data collection	1-2 months	During DBA9001	10/15/2017
Exploratory data analysis	1-2 months	During DBA9001	10/30/2017
Analyze data	1-2 months	During DBA9001	11/15/2017
Discuss rough results with committee members; agree on how to handle unexpected results or problem areas	1 month	During DBA9001	11/30/2017
Draft Chapter 4 or Chapter 3 for CERP submitted to Committee Chair	1-4 months	Required for successful completion of DBA9001	12/15/2017
Write & submit Chapter 5 or final CERP section & exec. summary	1-2 months	Required for successful completion of DBA9002	12/31/2017
Submit petition for graduation	1 week	During DBA9002	1/15/2018
Work with chair to set up tentative defense date and ensure that chair contacts DBA administrative assistant for room arrangement & publicity		During DBA9002	1/15/2018
Fine tune entire document; ensure consistency throughout	1 week	During DBA9002	1/25/2018
Submit final document to committee members	1 week	During DBA9002	2/10/2018
Prepare PowerPoint presentation (45 minutes maximum); submit to committee and/or conduct practice defense	1 week	During DBA9002	2/20/2018
Make revisions to slides or document if recommended by committee	1-2 days	During DBA9002	3/1/2018
Bring blank signature page to the defense and give to chair	1 day	During DBA9002	3/1/2018
Conduct dissertation defense; answer questions	1 day	During DBA9002	3/4/2018
Revise document if necessary	1 week	During DBA9002 or 9004 if necessary	3/15/2018
Make arrangements for document to be assessed by an APA reader	1 week	During DBA9002 or 9004 if necessary	3/15/2018
Make APA revisions; submit revised document to chair for final approval	1-2 weeks	During DBA9002 or 9004 if necessary	4/1/2018

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Ensure that chair submits signature page and dissertation rubric to DBA administrative assistant	1 week	During DBA9002 or 9004 if necessary	4/10/2018
After receiving permission from DBA administrative assistant, electronically submit PDF to ProQuest	1-2 weeks	During DBA9002 or 9004 if necessary	4/15/2018
Work with DBA administrative assistant to complete Graduation Petition, tam sizing and other graduation requirements	1 week	During DBA9002 or 9004 if necessary	5/1/2018
Submit DBA Student Survey	1 day	During DBA9002 or 9004 if necessary	5/2/2018
Graduate & celebrate! (Get a life!)			

* Approximate timelines based on an 18 month Dissertation completion timeline.

Appendix B: Interview Questions for NAIC Executives & Society of Actuaries (draft)

1) The insurance industry provides a vast assortment of insurance products that are regulated by members of the NAIC. I'd like to focus on just the Life and Health insurance products and specifically address some issues regarding Group Annuity Contracts. Group Annuity Contracts are a means for corporations to dissolve their pension plans and transfer the risk to an insurance company. Can you please describe NAIC's involvement regarding regulation and oversight of group annuity contracts?
2) While no company intentionally becomes insolvent, what safeguards does the NAIC undertake to ensure an insurance carrier remains a going concern?
3) Group annuity contracts were once sponsored by private industry pension plans governed by ERISA regulations. How do regulations change when these pensions are transferred to insurance companies? What are comparable regulations to ERISA governed by the states?
4) The state government in Connecticut proposed new legislation in SB 493, with new and additional requirements for insurance companies who have recently received pension transfers via group annuity contracts. Are you familiar with SB 493? If yes, what impact might this legislation have on insurers that provide group annuity contracts? If no, explain what the law proposes and then ask this question.

5) What specific reports are currently required from insurance companies that provide group annuity contracts or are involved with pension transfers?
6) What do you see as the greatest challenge with providing continuing payments for the group annuity contracts?
7) If we assume that transferred pension plans are fully funded at the time of transfer, what oversight does the NAIC provide to ensure that these funds remain available for the recipients?
8) What restrictions exist regarding uses of the transferred funds? Are these funds required to be kept separate for reporting purposes? Are there restrictions on spinning off the group annuity business into a stand-alone entity? Would you favor such a spinoff?
9) Each state is responsible for the regulation of insurance industry. What states, in your opinion provide the most rigorous regulations? Which states, in your opinion, would benefit from additional regulations?
10) Do you have any comments about group annuity contracts or state regulations that you would like to share?

Appendix C: Interview Questions for State Insurance Commissioners

1) The insurance industry provides a vast assortment of insurance products that are governed by the insurance commission. I'd like to focus on just the Life and Health insurance products and specifically address some issues regarding Group Annuity Contracts. Group Annuity Contracts are a means for corporations to dissolve their pension plans and transfer the risk to an insurance company. Can you please describe your commission's involvement regarding regulation and oversight of group annuity contracts?
2) While no company intentionally becomes insolvent, what safeguards does your commission provide to ensure an insurance carrier remains a going concern?
3) Group annuity contracts were once sponsored by private industry pension plans governed by ERISA regulations. How do regulations change (or remain the same) when these pensions are transferred to insurance companies? What are comparable regulations to ERISA governed by this commission?
4) The state government in Connecticut proposed new legislation in SB 493, with new and additional requirements for insurance companies who have recently received pension transfers via group annuity contracts. Are you familiar with SB 493? If yes, what impact does this legislation have on your commission? If no, explain what the law proposes and then ask this question.

5) What specific reports are currently required from insurance companies that provide group annuity contracts or are involved with pension transfers? How often are reports reviewed? What type of analysis is performed and how is it the analysis used in regulation?
6) What do you see as the greatest challenge with providing continuing payments for the group annuity contracts?
7) If we assume that transferred pension plans are fully funded at the time of transfer, what oversight does your commission provide to ensure that these funds remain available for the recipients?
8) What restrictions exist regarding uses of the transferred funds? Are these funds required to be kept separate for reporting purposes? Are there restrictions on spinning off the group annuity business into a stand-alone entity? Would you favor such a spinoff?
9) Each state is responsible for the regulation of insurance industry. Which states, in your opinion, provide the most rigorous regulations? Which states, in your opinion, would benefit from additional regulation?
10) Do you have any comments about group annuity contracts or state regulations that you would like to share?

Appendix D: Interview Questions Insurance Companies and Consultancies

1) The insurance industry provides a vast assortment of insurance products that are governed the insurance commission. I'd like to focus on just the Life and Health insurance products and specifically address some issues regarding Group Annuity Contracts. Group Annuity Contracts are a means for corporations to dissolve their pension plans and transfer the risk to an insurance company. Can you please describe your committee's involvement regarding regulation and oversight of group annuity contracts?
2) While no company intentionally becomes insolvent, what safeguards does your company provide to ensure it remains a going concern? (client remains)
3) Group annuity contracts were once sponsored by private industry pension plans governed by ERISA regulations. How do regulations change (or remain) when these pensions are transferred to insurance companies? What are comparable regulations to ERISA do you need to consider when writing (or consulting) for a new pension transfer?
4) What specific reports are currently required from insurance companies that provide group annuity contracts or are involved with pension transfers? (may not apply)
5) What do you see as the greatest challenge with providing continuing payments for the group annuity contracts?

6) If we assume that transferred pension plans are fully funded at the time of transfer, what oversight does your committee provide to ensure that these funds remain available for the recipients?
7) What restrictions exist regarding uses of the transferred funds? Are these funds required to be kept separate for reporting purposes? Are there restrictions on spinning off the group annuity business into a stand-alone entity? Would you favor such a spinoff?
8) Each state is responsible for the regulation of insurance industry. Which states, in your opinion, provide the most rigorous regulations? Which states, in your opinion would benefit from additional regulation?
9) Do you have any comments about group annuity contracts or state regulations that you would like to share?

Appendix E: Interview Questions for Guaranty Associations (Draft)

1) Group Annuity Contracts are a means for corporations to dissolve their pension plans and transfer the risk to an insurance company. Can you describe how your agency is involved with these transactions and how the transfer process works?
2) While no company intentionally becomes insolvent, what safeguards does your agency make to ensure it remains a going concern?
3) Group annuity contracts were once company sponsored pension plans governed by ERISA regulations. How does the state Guaranty Association oversee insurers providing the group annuity contracts?
4) What specific reports are currently required from insurance companies that provide group annuity contracts or are involved with pension transfers?
5) What do you see as the greatest challenge with providing protection coverage for companies providing group annuity contracts?
6) If we assume that transferred pension plans are fully funded at the time of transfer, what measures does your agency take to ensure that these funds provide the benefits due to plan participants and beneficiaries?
7) How does your work change with increased levels of pension transfers into state controlled governance?

8) What restrictions exist regarding uses of the transferred funds? Are these funds required to be kept separate for reporting purposes? Are there restrictions on spinning off the group annuity business into a stand-alone entity? Would you favor such a spinoff?

9) What involvement does the guaranty association have with establishing lifetime maximum protection for group annuity contracts via the state guaranty association?

10) Does the state of XXX and the guaranty association have resources dedicated to group annuity contracts oversight?

11) If yes to 6, describe how these resources provide oversight? If no to 6, explain the oversight process that the state uses to regulate insurance companies.

12) What specific reports are required from insurance companies that provide group annuity contracts or are involved with pension de-risking?

13) Do you believe there is adequate oversight of insurers providing group annuity contracts in this state? and would you feel comfortable if your pension was transferred to one of the insurers in this state?

14) What can the guaranty association do to protect pensions that were transferred to annuities in the state of XXXX?

15) Do you have any comments about group annuity contracts that you would like to share?

Appendix F: Table of each state maximum lifetime annuity guaranty limit

Alabama - $250,000

Alaska - $250,000

Arkansas - $300,000 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values

California - 80% of the cash value up to $250,000

Colorado - $250,000

Connecticut - $500,000 per contract owner

Delaware - $250,000

DC - $300,000 in the present value of annuity benefits, including net cash values

Florida -$250,000 of the cash value, $300,000 for annuity in benefit.

Georgia -$250,000 of the cash value, $300,000 for annuity in benefit.

Idaho - $250,000

Illinois - $250,000

Iowa - $250,000 (maximum $300,000 on one individual)

Kansas - $250,000

Kentucky - $250,000

Louisiana - $250,000

Maine - $250,000 (on one individual)

Maryland - $250,000 (on one individual)

Michigan - $250,000

Minnesota - $250,000

Mississippi - $250,000

Missouri - $250,000

Montana - $250,000

Nebraska - $250,000

New Jersey - $100,000 Cash Value; $500,000 in the present value of annuity benefits.

New Mexico - $250,000

New York - Aggregate liability shall not exceed $500,000 for all benefits, including cash values, with respect to any one life

North Carolina - With respect to any one individual: $300,000 for all benefits, including cash values

North Dakota - $250,000

Ohio - $250,000

Oklahoma - $300,000 in the present value of annuity benefits

Oregon - $250,000

Pennsylvania - $100,000 ($300,000 in the present value of annuity benefits)

Rhode Island - $250,000

South Carolina - No liability with respect to any portion of a covered policy to the extent that the benefits to any one person exceed an aggregate of $300,000

Tennessee - $250,000

Texas - $250,000

Utah - $250,000 in present value of annuity benefits, including net cash surrender

Vermont - $250,000

Virginia - $250,000

Washington - Life/disability and annuity claims are paid subject to the policy limit or the guaranty association limit of $500,000 – whichever is less

West Virginia - $250,000

Wisconsin - Aggregate obligation of the fund on a single risk, loss, or life may not exceed $300,000

Wyoming - $250,000

Appendix G: State Guaranty Limits (Sorted by Limit Lowest to Highest)

State	GA Limit
Alabama	$250,000
California	$250,000
Colorado	$250,000
Delaware	$250,000
Florida	$250,000
Georgia	$250,000
Idaho	$250,000
Illinois	$250,000
Iowa	$250,000
Kansas	$250,000
Kentucky	$250,000
Louisiana	$250,000
Maine	$250,000
Maryland	$250,000
Michigan	$250,000
Minnesota	$250,000
Mississippi	$250,000
Missouri	$250,000
Montana	$250,000
Nebraska	$250,000
New Mexico	$250,000
North Dakota	$250,000
Ohio	$250,000
Oregon	$250,000
Rhode Island	$250,000
Tennessee	$250,000
Texas	$250,000
Utah	$250,000
Vermont	$250,000
Virginia	$250,000
West Virginia	$250,000
Wyoming	$250,000
Alaska	$300,000
Arkansas	$300,000

DC	$300,000
North Carolina	$300,000
Oklahoma	$300,000
Pennsylvania	$300,000
South Carolina	$300,000
Wisconsin	$300,000
Connecticut	$500,000
New Jersey	$500,000
New York	$500,000
Washington	$500,000

Appendix H: Invitation Letter

Dear Sir or Madam,

I invite you to participate in an interview about pension transfers to group annuity contracts. I am seeking to understand the evolving roles of governmental agencies and insurance carriers with respect to pension transfers as part of my doctoral dissertation research at Wilmington University. It is expected that the interview will last no longer than one hour and can be conducted over a telephone at your convenience.

Summaries of these interviews will be made available to all who participate, or those who request a copy. These interviews may provide valuable insights into the perceptions of others who share similar responsibilities. Please note that your identity will remain confidential and will not be shared.

Please let me know that you are willing to participate in this study so that we can schedule this interview. I look forward to hearing and speaking with you soon.

Sincerely,

Thomas F. Guarino