

Defined Benefit Plan Issues:

The Council's Six-Point Plan

November 29, 2012

Kent A. Mason



DAVIS &
HARMAN_{LLP}

Pressures on Pension Plan Sponsors

- Funding volatility
- Accounting volatility
- PBGC premiums
- PBGC obstacles to business transactions
- Testing pressures to freeze plans
- Hybrid plan uncertainties



Fiscal Cliff Opportunities and Threats

- Need for revenue
 - **Funding stabilization**
 - **PBGC premiums**
- De-risking issues



Funding Stabilization

- **Business essentials:** Businesses need predictability and stability. If costs can unexpectedly fluctuate by hundreds of millions of dollars per year, that can cripple a business' ability to make plans.
- **Solution:** The funding stabilization rules in effect in 2012 need to be made permanent. This alone would raise tens of billions of dollars and create tremendous job growth.



Accounting Stabilization

- **Business essentials:** Businesses need predictability and stability with respect to accounting standards.
- **Solution:** The interest rates used to measure pension obligations need to be reformed to avoid artificial distortions caused by short-term non-market forces, such as the Federal Reserve Board's actions to reduce interest rates. This can be achieved by stabilizing accounting interest rates in a manner similar to the stabilization of interest rates applicable for funding purposes.



PBGC Premiums

- **Business essentials:** In these challenging economic times, companies have to scrutinize every significant cost. Under the new PBGC premium structure, large companies can incur annual premium costs of tens of millions of dollars.
- **Solution:** The PBGC premium structure needs to be stabilized. The need for premium adjustments cannot be based on short-term artificial fluctuations in interest rates. PBGC's liabilities need to be measured based on stable interest rates that are representative of the extremely long period over which benefits are paid by the PBGC.



Helpful Business Transactions Should Not Be Prevented

- **Business essentials:** Companies are constantly entering into transactions to expand or contract components of their businesses in order to achieve greater efficiencies and prospects for growth.
- **Solution:** PBGC's power to impose costs on business transactions needs to be conformed to Congress' original intent. Congress authorized PBGC to require security from pension plan sponsors that shut down a major facility and trigger a very large layoff. However, PBGC has used this authority to impose significant costs on sales of business units and other transactions where no one loses his or her job.



Testing Rules Should Not Force Complete Plan Freezes

- **Business essentials:** When businesses must reluctantly close pension plans, they need flexibility to preserve the pension plan for existing employees, who may have been counting on continued pension benefits. In many cases, IRS testing rules have the effect of forcing companies to close down the pension plan completely.
- **Solution:** The testing rules need to be modified so as not to force complete freezes.



Hybrid Plans

- **Business essentials:** Hybrid pension plans, such as cash balance plans and pension equity plans, have been the sole source of significant growth during the long decline of the defined benefit plan system. This is obviously a good development for workers as well.
- **Solution:** We need clear, workable final regulations that provide effective means of transition to compliance.

