AMERICAN BENEFITS COUNCIL

CIEBA
Committee on Investment of Employee Benefit Assets Inc.

August 31, 2018

The Honorable Orrin Hatch
The Honorable Sherrod Brown
Co-Chairmen
Joint Select Committee on Solvency of Multiemployer Pension Plans
United States Congress

Dear Chairman Hatch and Chairman Brown:

We commend Congress for forming the Joint Select Committee "to improve the solvency of multiemployer pension plans and the Pension Benefit Guaranty Corporation." We strongly support efforts to improve the solvency of multiemployer pension plans to ensure that promised benefits can be paid to millions of retirees. A strong PBGC is also an essential backstop for all pension plans.

The Council is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans.

CIEBA members are the chief investment officers of more than 100 of the Fortune 500 companies who individually manage and administer Employee Retirement Income Security Act (ERISA)-governed corporate retirement plan assets. CIEBA members voluntarily sponsor plans and manage as fiduciaries almost $2 trillion of retirement assets on behalf of 15 million participants, representing a very significant portion of the largest private defined benefit and defined contribution pension plans in the US.

We have confidence in the Select Committee to reach its goals and look forward to its report, recommendations, and proposed legislative language. In the spirit of constructive dialogue, we would like to offer the following for the Select Committee's consideration.

As explained in more detail below, it is critical that the solution to the solvency issue for multiemployer plans and the PBGC not be based in any way on increased burdens on single-employer defined benefit pension plans or on the PBGC's single-employer defined benefit pension plan program. Further, it is also critical that the solution to the solvency issue for multiemployer plans not inadvertently have a significant adverse financial consequence for those employers that are contributing to multiemployer plans.

Despite no member of the Select Committee suggesting using the single-employer system to pay benefits for multiemployer plans, we express our concerns here because of the extremely high stakes involved. A solution that in any way increases the burdens on single-employer pension plans or on the PBGC's single-employer program would be unfair and would certainly send a chilling message to all sponsors of retirement plans, much to the detriment of the voluntary private retirement system.

Multiemployer and Single-Employer Systems: Historically distinct profiles, benefit levels and premiums

The multiemployer and single-employer programs were created by Congress as distinct and separate programs, and they have appropriately been maintained as entirely separate programs throughout their history. This important point was explained in testimony given May 17, 2018, by PBGC Director W. Thomas Reeder before the Select Committee: *"While each program is designed to protect participants' pension benefits when plans fail, they differ significantly in the level of benefits guaranteed, how the guarantee is provided, the event that triggers payment of the guarantee, and premiums paid by insured plans. By law, the two programs are financially separate. Assets of one program may not be used to pay obligations of the other."*

Thus, any consideration of a solution for the multiemployer system that imposes new or modified burdens on the single-employer system would be an inappropriate reversal of years of actions taken based on the congressional intent that the two systems run separately. Such a result would be inappropriate given the separate historical experiences of the two programs.

A solution adversely impacting the single-employer system would be unfair and would have a chilling effect on future plan sponsorship.

The unfairness of such a solution is clear on its face. Single-employer and multiemployer plans are managed independently of one another, with little or no overlap in participation by a given company's employees. The plan sponsors of single-employer plans generally have little or no influence on the decisions made by the boards of trustees that manage multiemployer plans, even when a single-employer plan sponsor is also a participating employer in a multiemployer plan. Further, the PBGC's single-employer and multiemployer plan programs are governed by wholly separate rules. The participants in single-employer plans should be able to count on that system not being tapped for others' benefits with which they are in no way connected.

While we have no reason to believe that such a measure is being explored, the consequences of any proposal put forward to force single-employer plan sponsors to pay any material amount for benefits completely unrelated to their business (e.g., if the company is not a participating employer), their single-employer plan, or the PBGC's single-employer program would cause a massive, very rapid withdrawal from the single-employer defined benefit plan system. There are many millions of employees still earning new benefits under single-employer plans. This number would be reduced dramatically within a year or two and a huge number of plans would be terminated.

This is not just speculation or an unfounded concern. U.S. Department of Labor data indicates that the number of active participants with a benefit under a single-employer plan fell from 15,724,000 in 2005 to 10,295,000 in 2015, a decrease of over 35%. Moreover, this 35% figure dramatically understates the real decrease, since it does not reflect the likely far bigger decrease in the number of participants actually earning new benefits. Moreover, this exodus from the defined benefit system was not unexpected. It was highlighted as a likely result of legislation to increase premiums and to increase funding volatility.

There is a clear precedent for a dramatic exodus from the single-employer plan system following adverse changes to the system. Any announcement that the single-employer system will be subject to a tax to pay for unrelated benefits would certainly trigger an even greater exodus, causing millions of participants to lose benefits. And it would seriously erode the premium base of the PBGC's single-employer system, leaving that system with primarily economically challenged companies that are unable to exit the system because they do not have the resources to do so.

We support a solution to the significant challenges being faced by the multiemployer plan system that is fair and promotes retirement security. Asking single-employer plans to pay for unrelated benefits would be unfair and would have devastating effects on retirement security.

We thank you for your leadership on retirement issues and look forward to your report. Also, we would be happy to meet prior to the issuance of the report to discuss this issue further if we can be of additional assistance.

Sincerely,

Lynn D. Dudley

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cc: All Members of the Joint Select Committee on Solvency of Multiemployer Plans