November 11, 2010

Mr. Joshua Gotbaum
Pension Benefit Guaranty Corporation
Director
1200 K Street, NW
12th Floor
Washington, DC 20005-4026

Re: RIN 1212-AB20

Dear Director Gotbaum:

The undersigned organizations are writing to express deep concerns regarding the proposed regulations under ERISA section 4062(e).

We believe that the proposed regulations are not consistent with the statute. Under the statute, liability is triggered if "an employer ceases operations at a facility in any location". The proposed regulations do not follow the statute, which was clearly intended to be limited to situations where operations at a facility are shut down. Instead, under the proposed regulations, liability can be triggered where no operations are shut down, but rather operations are, for example, (1) transferred to another employer, (2) moved to another location, or (3) temporarily suspended for a few weeks to repair or improve a facility. The proposed regulations need to be revised to conform to the statute.

Moreover, the liability created by the proposed regulations can be vastly out of proportion with the transactions that give rise to the liability. For example, where a plan has been frozen for many years, a de minimis business transaction affecting far less than 1% of an employer's employees can trigger hundreds of millions or billions of dollars of liability. This needs to be addressed.

In addition, the proposed regulations would impose enormous liabilities on plan sponsors even in situations where a plan poses no real risk to the PBGC. There should be exemptions for small plans and for well-funded plans. The exemption for well-funded plans should be based on a plan's funded status for funding purposes. If a company has, for example, little or no funding obligation with respect to a plan under the funding rules, it is inappropriate to impose large obligations on such company based on a theory that the obligations are needed to protect the PBGC.

All of the undersigned organizations believe in the defined benefit plan system. These proposed regulations would clearly hasten the demise of that system. By placing an enormous toll charge on plan sponsors that engage in normal business transactions, these proposed regulations would send a powerful negative message to those left in the defined benefit plan system.

We urge you to modify these proposed regulations in accordance with this letter.

American Benefits Council
ASPPA College of Pension Actuaries
Committee on Investment of Employee Benefit Assets ("CIEBA")
The ERISA Industry Committee
Financial Services Roundtable
National Association of Manufacturers
U.S. Chamber of Commerce