



AMERICAN BENEFITS COUNCIL

July 8, 2008

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable John Boehner
Republican Leader
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Republican Leader Boehner:

I am writing on behalf of the members of the American Benefits Council (Council) regarding Pension Protections Act technical corrections legislation (H.R. 6382) and the provision to clarify the “asset smoothing” rules for defined benefit pension plan funding, since that proposal may be considered with the technical correction bill this week. The Council represents major employers and other organizations that collectively sponsor and administer health and retirement benefit plans covering more than 100 million Americans.

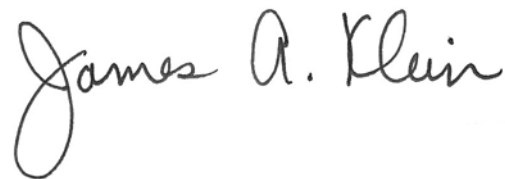
One of the key policy debates with respect to the PPA was the extent to which smoothing of interest rates and asset values would be permitted. Asset smoothing provides an employer with greater predictability with respect to the value of its pension assets and thus greater predictability with respect to its funding obligations. If an employer’s funding obligations were subject to the constant fluctuations of the market, funding obligations would be so unpredictable that business planning would be exceedingly difficult. Since unpredictability is a primary reason for pension freezes and terminations, it is essential that some asset smoothing be preserved. H.R. 6382 will make that important clarification.

The PPA preserved a degree of predictability by retaining interest rate and asset smoothing, but the Act reduced asset smoothing to a 24-month period, down from 48 months. Unfortunately, the U.S. Treasury (Treasury) and Internal Revenue Service (IRS) have interpreted the PPA differently, and essentially eliminated all asset smoothing in its proposed regulations. In addition, a subsequent Notice issued by Treasury and the IRS would make this proposed regulation immediately effective.

As we testified on May 3, 2007, before the House Education and Labor Committee's Subcommittee on Health, Employment, Labor and Pensions, Congress needs to clarify in a technical corrections bill that asset smoothing, not asset averaging, was intended. Over time, asset smoothing neither understates nor overstates asset values. On the contrary, ultimately the average of a plan's smoothed asset values will be the same as the average of the plan's fair market asset values, but smoothing will allow the plan sponsor to make its contributions ratably. Absent congressional action however, employers will be forced to make all of their 2008 quarterly pension plan contributions based on marked-to-market values rather than the more appropriate values using asset smoothing. The problem will become much more acute in 2009, especially in light of recent fluctuations in the market. Where the market is as volatile as it has been recently, the need for predictability becomes urgent. Without smoothing, it is almost certain that we will see an increase in frozen plans during 2009 due to the lack of predictability with respect to asset values.

This issue is of the utmost urgency for employer plan sponsors that have remained committed to the defined benefit pension plan system. Correcting for smoothing of plan assets has the bipartisan support of all the relevant committee leadership. We are grateful that smoothing was included in H.R. 6382. In the spirit of cooperation and bipartisanship, and for the sake of millions of pension plan participants, we urge the House to approve this clarification of asset smoothing in concert with PPA technical corrections.

Sincerely,

A handwritten signature in black ink that reads "James A. Klein". The signature is written in a cursive, flowing style with a large initial "J".

James A. Klein
President

CC: All members, U.S. House of Representatives