AMERICAN BENEFITS COUNCIL

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THE INTERACTION BETWEEN FUNDING RULES AND PBGC'S FINANCIAL CONDITION

There has been a concern expressed that recent decreases in funding obligations could have adversely affected PBGC's financial condition. The facts, however, do not support this concern.

Has MAP-21 — which only applied to single employer plans — caused any adverse consequences? We are aware of no such adverse effects. In fact, key attributes of plan and PBGC health have improved materially. For example:

- A major consulting firm publishes studies on the funded ratio of the 100 largest single employer defined benefit plans. From December 31, 2012 to December 31 2013, that ratio increased from 77.2% to 95.2%.

- PBGC's deficit attributable to its single employer program decreased by $1.7 billion from September 30, 2012 to September 30, 2013. *(PBGC 2013 Annual Report at Page 26.)*

PBGC explicitly recognizes that decreases in funding can actually help PBGC. In explaining why PBGC was in 2006 projecting a smaller future deficit (compared to the 2005 projection), PBGC itself stated that:

> A primary factor is the reduction in the PBGC's deficit from 2005 to 2006, which was largely attributable to the airline relief provisions in the Pension Protection Act of 2006 (PPA). Those provisions led the PBGC to sharply reduce the amount of "probable" liabilities reflected on the PBGC's balance sheet. *(PBGC's 2006 Annual Report at Page 7.)*

CBO finds no evidence that decreases in funding adversely affects the PBGC: CBO has commented directly on the effects of funding relief. In that regard, CBO stated clearly in 2009 that there is no evidence that funding relief (as contained in H.R. 2989) would have a net adverse effect on PBGC:

> The provisions of H.R. 2989 could have other effects on PBGC's costs, but the direction and magnitude of those effects is uncertain. On the one hand, the bill would reduce sponsors' contributions, improve their financial position, and make it less likely that they would become bankrupt in the near term. Thus, the bill might reduce the number of plans that the PBGC takes over, which would decrease future costs. On the other hand, the lower contributions could mean that the underfunding for plans that do become the responsibility of PBGC would be greater, thus adding to agency costs. *(CBO Cost Estimate of H.R. 2989 (July 31, 2009) at Page 4.)*

If PBGC states now that decreases in funding obligations cause harm to the PBGC, why wouldn't that resolve the issue, since PBGC is best situated to determine what is in its best interest? There has been a trend over the years for PBGC to take positions based on short-term perspectives or based on historical agency positions. These are not consistently in the PBGC's best interest. For example:

- Despite the fact that that PBGC recognized that the airline relief would reduce its deficit, the Administration and the PBGC vigorously opposed the airline relief in PPA. See, e.g., S.A.P. (November 16, 2005) ("the bill's targeted funding relief for airlines…should be eliminated").

- In light of the financial pressures attributable to the funding and accounting rules, and the high level of PBGC premiums, many companies are naturally and appropriately exploring ways to shrink their plans through various de-risking strategies or to terminate their plans altogether. It is widely acknowledged that proposed and actual increases in PBGC premiums have played, and will continue to play, a major role in this trend, which can dramatically reduce PBGC's premium base, thus threatening its existence. Nevertheless, not only does PBGC continue to propose higher premiums, it publicly admits that it has not examined the effect of higher premiums on its premium base. See PBGC's 2012 Annual Exposure Report at Page 4 ("The use of annuity buyouts and lump sums by companies seeking to "de-risk" significant portions of liabilities has recently become quite visible. … We have not yet investigated the potential that this would decrease PBGC premium income … [The] PIMS … model … does not account for the possibility that a plan sponsor will offer a significant portion of its participants (retired or otherwise) a transfer of assets either through annuity purchases or payments of lump sums.")