



August 11, 2017

Submitted via email at: [comments@pbgc.gov](mailto:comments@pbgc.gov)

Pension Benefit Guaranty Corporation  
1200 K St NW  
Washington, DC 20005-4026

**RE: PBGC Strategic Plan for Fiscal Years, 2018 – 2022**

To Whom It May Concern:

On behalf of the US Chamber of Commerce, we submit this letter in response to a call for comments on the Pension Benefit Guaranty Corporation Strategic Plan for Fiscal Years, 2018 – 2022 (the “Plan”).<sup>1</sup> The U.S. Chamber of Commerce is the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region. Besides representing a cross-section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business—manufacturing, retailing, services, construction, wholesaling, and finance—is represented. Also, the Chamber has substantial membership in all 50 states. Positions on national issues are developed by a cross-section of Chamber members serving on committees, subcommittees, and task forces. More than 1,000 business people participate in this process.

Chamber members are very concerned about the state of the defined benefit plan system and feel that the ensured stability of the PBGC is vital to that system. Therefore, we appreciate the opportunity to comment on the Plan and hope that this is only the beginning of a continued dialogue that will strengthen the system that provides retirement benefits to millions of people every year.

**Recommendations for Strategic Goal 1**

The first strategic goal is to:

PRESERVE PLANS AND PROTECT THE PENSIONS OF COVERED  
WORKERS AND RETIREES.

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<sup>1</sup>Pension Benefit Guaranty Corporation Strategic Plan FY 2018-2022, OMB Submission - June 30, 2017.  
<https://www.pbgc.gov/sites/default/files/pbgc-draft-strategic-plan-june-2017.pdf>.

PBGC protects pensioners and supports the continuation and maintenance of voluntary private pension plans for the benefit of their participants by:

- Protecting workers and retirees when plans are at risk.
- Uniting more missing participants with their pensions.
- Encouraging flexibility to preserve plans through changes in legislation and regulations.
- Addressing the impending insolvency crisis in the multiemployer insurance program.<sup>2</sup>

**The PBGC Should Strengthen its Commitment to Encourage Plan Sponsors to Continue to Maintain Defined Benefit Plans.** We appreciate that the Plan focuses on protecting workers and retirees when plans are at risk; however, the Plan should also include a specific statement to encourage plan sponsors to continue to maintain defined benefit plans. ERISA states that one of the PBGC's primary goals is "to encourage the continuation and maintenance of voluntary private pension plans."<sup>3</sup> While the Plan as a whole is aimed at this directive, there is no explicit recognition of this statutory goal. Consequently, we encourage the PBGC to explicitly include this directive.

Recently, the PBGC has made significant efforts aimed at addressing employer concerns.<sup>4</sup> The Chamber supports these efforts and encourages further actions in this vein. As such, we believe that by explicitly making a commitment in the Plan of encouraging plan sponsors to continue to maintain defined benefit plans, the PBGC would deter further erosion of that commitment in future Administrations. In terms of action, there are particular steps that would be helpful. For example, the PBGC could be a conduit between employers and Congress for conveying concerns and gathering information. For example, while FASB is not under the jurisdiction of the PBGC, it is an issue with significant impact upon defined benefit plans. As such, the PBGC could be a valuable liaison between plans sponsors, Congress, and FASB.

**The PBGC Should Finalize the Missing Participants Regulation.** The Chamber is pleased to see that the Plan includes uniting missing participants with their pensions. To further this goal we encourage the PBGC to move forward with finalizing its regulation for the missing participant program. In 2016, the PBGC proposed to expand its missing participants program to include multiemployer plans covered by Title IV, most defined contribution plans, and certain plans not already covered.<sup>5</sup> In general, the Chamber supports the proposed rule and encourages the agency to move forward in the finalizing the rule.

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<sup>2</sup> Pension Benefit Guaranty Corporation Strategic Guidance Plan FY 2018-2022, 6.

<sup>3</sup> ERISA section 4002(a)(1).

<sup>4</sup>In 2016, the PBGC issued a rule (81 FR 65542, September 23, 2016) lowering the penalty on late payment of premiums. The rule considerably reduces burdens for defined benefit plan sponsors by revising penalties that are based on the significantly increased single-employer premiums. In 2015, the PBGC issued a final rule on reportable events under section 4043 of ERISA. (80 FR 54980, September 11, 2015) The final rule is substantially revised from the original proposal and removed many of the burdens that we had identified as unduly burdensome on plan sponsors without providing a corresponding benefit to the PBGC. In 2013, the PBGC issued a rule that simplified premium payments by requiring a single filing deadline for all plans. (78 FR 44056, July 23, 2013)

<sup>5</sup>81 FR 64700, September 20, 2016. In 2013, the Chamber responded to a Request for Information on Missing Participants in Individual Account Plans issued by the PBGC. In that comment letter, the Chamber encouraged the PBGC to move forward with allowing for option participation for individual account plans in the Missing Participants program and recommended that the PBGC create a program whereby fiduciaries of terminating plans

Specifically, the Chamber appreciates that the PBGC intends to streamline the process where applicable and minimize burdens on plan sponsors, particularly small plan sponsors. Understanding that the statute addresses only terminated plans, the Chamber nevertheless encourages the PBGC to coordinate with other efforts to track and locate participant accounts in active plans. For example, a bill has been introduced in Congress that would create a pension registry that would serve as a central location of retirement plan information and would connect individuals with their retirement benefits.<sup>6</sup> While the Chamber has not specifically endorsed this bill, it is important that all efforts in this area be coordinated to ensure that various programs do not become complicated or duplicative for plan sponsors and participants.

**Encourage Congress to Maintain Reasonable Premium Payments.** Another way to preserve and protect pensions is to ensure that PBGC premiums should be affordable, administrable, fair, consistent, and predictable. Premiums should not be increased except as part a long-term plan to address the future of private sector defined benefit plans and the PBGC. As you are aware, there have been significant increases in the single-employer program which have created significant burdens on plan sponsors.<sup>7</sup> Such premium increases restrict the employers' ability to fund and maintain their defined benefit plans, creating a disincentive to maintain these plans.

The PBGC has been helpful by stating that single-employer increases are no longer necessary.<sup>8</sup> However, plans would benefit from the PBGC having a more active role in Congress to educate members about PBGC premiums and how increasing them further could have a detrimental impact on the single-employer system. As such, the Chamber believes that this should be part of the Plan.

**The Chamber Supports Addressing the Needs of Multiemployer Defined Benefit Pension System.** As you are aware the Chamber has also expressed consistent concern about the state of the multiemployer system and is encouraged that this is goal expressly listed in the Plan. The Multiemployer Pension Reform Act (MPRA) was passed at the end of 2014 and it is a significant first step in comprehensive reform.<sup>9</sup> The enactment of MPRA was welcomed by the Chamber

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that transfer the accounts for missing participants to the PBGC can be confident that: (1) they no longer have fiduciary liability for such amounts; (2) the funds will be handled appropriately; (3) the account will be charged no more than reasonable fees; and (4) the participant (once found) will be able to obtain an accounting of the manner in which their funds have been handled by the PBGC. 78 FR 37598, June 21, 2013. The Chamber filed comments jointly with the ERISA Industry Committee and the Plan Sponsor Council of America. <https://www.uschamber.com/sites/default/files/documents/files/PBGC%2520Missing%2520Participants%2520RFI%2520-%2520ERIC%2520C%2520PSCA%2520and%2520Chamber.pdf>.

<sup>6</sup> The Retirement Savings Lost and Found Act of 2016 (S. 3078). <https://www.congress.gov/bill/114th-congress/senate-bill/3078>.

<sup>7</sup> Bipartisan Budget Act of 2015, P.L. 114-74; Bipartisan Budget Act of 2013, Pub.L. 113-67; Moving Ahead for Progress in the 21st Century Act, P.L. 112-141.

<sup>8</sup> President's Budget FY2017, Analytical Perspectives, p. 325 stating, "[t]he Administration believes additional increases in single employer premiums are unwise at this time and would unnecessarily create further disincentives to maintaining defined benefit pension plans." President's-Budget-Proposal-FY2017-Analytical-Perspectives.pdf.

<sup>9</sup> P.L. 113-235. MPRA makes permanent the multiemployer provisions under the Pension Protection Act; gives the PBGC authority to promote and facilitate plan mergers, allows plan sponsors to apply to the PBGC to partition a plan, increases the PBGC premium for multiemployer plans to \$26/person and bases future increases on the wage index, and allows for benefit suspensions in certain plans in critical status.

and its employer members that contribute to multiemployer plans. The precarious state of underfunding by many multiemployer plans threatens insolvency for such plans and for the PBGC and it is a serious threat to participating employers. Nonetheless, while MPRA is a strong first step in multiemployer pension reform, the Chamber believes that further attention to the problem is necessary. Specifically, Congress needs to address the withdrawal liability issue and consider new plan options for multiemployer pension plans.

The Chamber has submitted several sets of comments on this issue to the PBGC and looks forward to continuing to work with the agency and the Congress in resolving this very important issue.

### **Recommendations for Strategic Goal 3**

The third strategic goal is to:

#### **MAINTAIN HIGH STANDARDS OF STEWARDSHIP AND ACCOUNTABILITY**

PBGC is responsible for insuring the pensions of tens of millions of people, whose benefits are valued at hundreds of billions of dollars, while collecting over \$6 billion in premiums per year. The Corporation exercises care in the management of over \$100 billion in assets. The Corporation has attained 24 consecutive unmodified audit opinions on its financial statements. PBGC will continue to work in ways that maintain the trust of its customers and the public. PBGC remains committed by holding itself to the highest standards of service, professionalism, accountability, and ethics. This will be accomplished by:

- Providing exceptional customer service.
- Seeking opportunities to improve PBGC's finances.
- Maintaining a high performance workforce.
- Maintaining effective Information Technology (IT) and Security Programs.<sup>10</sup>

**Enhance PBGC Governance Procedures.** Changes in PBGC governance are needed to ensure its ongoing viability.<sup>11</sup> The PBGC's Board of Directors does not currently have any formal, written governance procedures. Until recently, the Board was not required to meet any certain number of times annually, and it met infrequently over the past three decades. During the period

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<sup>10</sup> Pension Benefit Guaranty Corporation Strategic Guidance Plan FY 2018-2022, 9.

<sup>11</sup> The PBGC's corporate governance structure has come under scrutiny by the Inspector General for the PBGC and the GAO, citing several perceived flaws in its system of governance. Office of Inspector General (OIG), *Semiannual Report for the Pension Benefit Guaranty Corporation (PBGC), April 1, 2011 through September 30, 2011, and October 1, 2011 through March 31, 2012*, (SARC-45), available at <http://oig.pbgc.gov/pdfs/SARC45.pdf>. Government Accountability Office, *Pension Benefit Guaranty Corporation: Governance Structure Needs Improvements to Ensure Policy Direction and Oversight*, 3, GAO-07-808, (2007), available at <http://www.gao.gov/assets/270/263367.pdf>.

between 1980 and 2010, the Board met only 23 times—less than annually.<sup>12</sup> In 2003, the Board agreed to meet twice a year, although a review of meeting minutes indicates that the meetings usually last only about an hour, with no significant time being spent on operational and strategic issues.<sup>13</sup>

In 2012, Congress passed several PBGC reforms in the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21); however, one substantive proposal that was not passed into law was the increase in the number of PBGC Board members.<sup>14</sup> The Chamber encourages the PBGC to increase the number of Board of Directors and to include representatives for small and large businesses and sponsors of multiemployer plans. Furthermore, the terms of the Board members should overlap to encourage smooth transition periods.

### Conclusion

The defined benefit system covers millions of employees and pays out billions of dollars in benefits. Therefore, despite the general perception that defined benefit plans are no longer relevant, they are still a significant benefit for many workers and retirees. Consequently, it is critical that all interested parties work together to maintain this system. The dialogue you have started by publishing your Plan and asking for comment is a huge step toward this goal. Thank you again for the opportunity to comment and we look forward to further conversations with you.

Sincerely,



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<sup>12</sup> Government Accountability Office, *Pension Benefit Guaranty Corporation: Improvement Needed to Strengthen Governance Structure and Strategic Management*, 9, GAO-11-182T, (2010), available at <http://gao.gov/assets/130/125403.pdf>.

<sup>13</sup> *Id.*

<sup>14</sup> Generally, the provisions in MAP-21 address board meetings, voting requirements, PBGC general counsel responsibilities, Board employee compensation, and director and Board member conflicts of interest. In addition, the law establishes the position of Participant and Plan Sponsor Advocate, whose duties include acting as a liaison between the PBGC, plan sponsors, and participants; advocating for the rights of participants in PBGC-trusteed plans; and helping plan sponsors and participants resolve disputes with the PBGC. The law also requires the PBGC to contract with an agency or organization to conduct an annual peer review of agency pension insurance modeling systems; develop review policies and procedures for all modeling and actuarial work performed by the PBGC's Policy, Research, and Analysis Department; and submit to Congress a timetable for addressing recommendations by the Office of the Inspector General.