Testimony of
Ted Goldman, MAAA, FSA, EA
Senior Pension Fellow
American Academy of Actuaries

Submitted for the Record

Joint Select Committee on Solvency of Multiemployer Pension Plans Hearing
"The History and Structure of the Multiemployer Pension System"

April 18, 2018

The American Academy of Actuaries is a 19,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

Distinguished Senators and House Members:

On behalf of the Pension Practice Council of the American Academy of Actuaries, I am Ted Goldman, senior pension fellow at the Academy. I appreciate this opportunity to provide testimony to the Joint Select Committee on Solvency of Multiemployer Pension Plans. The Academy is a strictly non-partisan, objective professional association representing U.S. actuaries before public policy makers. As a member of the Academy, I am also bound by its Qualification Standards, its Code of Conduct and the Actuarial Standards of Practice. The Academy's Pension Practice Council has diligently been working over the past few years to analyze the financial condition of troubled multiemployer plans and to provide actuarial analysis of the challenges the multiemployer plan system faces and potential ways forward to address them.

In keeping with the subject of today's hearing, I am here to provide you with information regarding the history and current status of U.S. multiemployer plans.

Introduction

Of the more than 10 million people who participate in about 1,400 multiemployer pension plans,[1] in excess of 1 million are in approximately 100 plans that will be unable to pay the full benefits they have been promised under current projections.[2] The Pension Benefit Guaranty Corporation (PBGC)—the government-sponsored program designed to backstop these troubled plans—is likewise projected to be unable to pay all of the benefits that it guarantees, which are already typically much smaller than the underlying plan benefits. If the PBGC fails, participants in these plans could see their benefits cut by 90 percent or more.

As it stands now, participants in these failing multiemployer plans will not receive the full retirement benefits they expect, nor will they even receive the level of benefits guaranteed by the PBGC. Benefit reductions could significantly affect the livelihoods of the retirees and their families who will rely on this income during their retirement years. In turn, these reductions could have broader implications for our economy and our social safety net programs.

Multiemployer Plan Basics

A defined benefit (DB) pension plan provides employees with lifetime monthly payments in retirement. A multiemployer DB pension plan is a retirement plan sponsored by at least two employers in the same industry or geographic region, established by collective bargaining agreements, and managed by a board of trustees containing an equal number of members appointed by the union and the employers. Plans can be local, covering employees working in a narrow geographical region, or they can be national and cover employees working in crafts and trades throughout the United States.

Multiemployer pension plans are found in private sector industries that are often characterized by small employers and workers who switch employers frequently. More than half of multiemployer pension plans are rooted in the construction industry where workers tend to move where the work is. Among construction industry workers, the median tenure with an employer in 2016 is four years.[3] In addition, about 82 percent of construction establishments employ fewer than 10 workers; less than one percent

[1] Pension Benefit Guaranty Corporation (PBGC), *FY 2017 Annual Report*, November 15, 2017.
[2] PBGC, *FY 2016 Projections Report*, August 3, 2017.
[3] Bureau of Labor Statistics (BLS), "Employee Tenure in 2016," September 22, 2016. 2016.

of construction establishments employ 100 workers or more.[4] In addition to construction, other industries that tend to have workers covered by multiemployer pension plans are trucking, garment manufacturing, and grocery stores.[5]

Multiemployer pension plans are distinct from single-employer pension plans that are sponsored by one employer. Multiemployer pension plans are also distinct from multiple employer plans, which involve more than one employer but are not collectively bargained and do not necessarily cover a mobile workforce.

Contributions to multiemployer pension plans are collectively bargained, and workers typically forgo some direct compensation in exchange for contributions to retirement income plans. In turn, employers are required to fund the plans in accordance with their collective bargaining agreements and subject to certain regulations. The contribution rate is usually a specific amount per hour or other unit worked by or paid to the employee. The plans must pay PBGC premiums for underlying financial support of an insured level of benefit in the event of a plan failure. Assets are maintained in a qualified trust, and trustees retain investment professionals to assist with the management of fund assets.

Multiemployer pension plans are governed by a joint board of trustees. As fiduciaries, the trustees must act for the sole and exclusive benefit of the participants and beneficiaries. In general, governance terms for multiemployer plans are defined in a trust agreement, and the benefits provided by the plan are defined in a plan document. Traditionally, the board of trustees has sole authority to determine the plan design and level of benefits that will be supported by the negotiated contributions. However, in some cases, collective bargaining agreements may describe the plan design and benefits. In these situations, the trustees are given the authority to collect sufficient contributions to fund the benefits.

The amount of benefits can vary widely from plan to plan. In addition, different plans use different formulas to define the level of benefits. For example, a plan may define the benefit based on a flat dollar amount for each year a participant works. Alternatively, a plan may define the benefit as a percentage of the employer's contribution. To illustrate, in the first example, a benefit equal to $60 per year of service would result in a monthly benefit starting at retirement of $1,800 ($21,600 per year) for an employee with 30 years of service. In the second approach, a contribution-based formula could provide a benefit equal to two percent of the total employer contributions. Thus if the contribution was equal to $2 for each hour worked, an employee who works 1,500 hours in a year would earn a benefit of $60 per year (two percent times 1,500 hours times $2) and after 30 years be entitled to $1,800 per month payable at retirement.

To help put the financial security of a pension plan into context, it may be helpful to consider the following formula: Benefits + Expenses = Contribution + Investment Earnings. In other words, the benefits paid to plan participants and expenses paid to operate the plan must be covered by employer contributions, accumulated with investment earnings. If employer contributions or investment earnings fall short of expectations, available resources may not support promised benefits and required expenses. This dynamic stands true and will be useful when considering options and understanding the events that led up to the current situation.

[4] BLS, *Quarterly Census of Employment and Wages*. Accessed on April 17, 2018.
[5] BLS, "Multiemployer Pension Plans," Spring 1999.

Defined benefit plans differ from defined contribution plans, such as 401(k) plans, in that the retirement income is distributed as a lifetime income stream at retirement rather than as an individual account balance that holds the employer contributions. Defined benefit plans pool risks for investment as well as longevity whereas in defined contribution plans risks are primarily borne by each participant.

In a DB plan, all of the money in the plan is available to pay any of the benefits owed by the plan to any participant. In a multiemployer DB plan, this sharing of risks occurs not just from one employee of a company to another, but also across the employee populations of multiple companies.

Benefits to Labor and Management

Multiemployer plans incorporate risk sharing and portability to provide retirement security to career union workers.

The pooling of employers provides stability, as the plan does not depend on the financial position of a single company. If an employer goes out of business, the multiemployer plan continues functioning as a separate entity, and contributions from remaining employers continue. Participation by numerous employers leads to more covered participants and greater assets, allowing these plans to achieve economies of scale and reduce operating expenses. Without the economies of scale of a multiemployer plan, the same benefits could not be provided to participants for the same cost, as more resources would be spent on operating expenses.

Another characteristic of multiemployer plans is their portability. With a multiemployer plan, service with all contributing employers is aggregated for benefit calculation purposes, allowing employees uninterrupted pension coverage as they move among companies participating in the plan. Without the aggregation of pension service, an employee changing jobs could lose benefits by not having enough service to have vested rights to a pension. This aggregation feature is especially important in industries such as construction and entertainment, where it is common for employees to work for multiple companies as they move from project to project. Furthermore, multiemployer plans usually have reciprocity agreements with plans in other geographic areas covering employees in the same industry or trade, allowing pension portability with employers that participate in other plans.

The reasons that prompted the adoption of multiemployer plans are largely still relevant today. In particular, portability of benefits and the economies of scale are still valid. As evidence of this relevance, several recent bills introduced in Congress would expand the availability of multiple employer plans to companies with no common collective bargaining connection as a means of improving cost-effective access to retirement plans for employees.

Early History of Multiemployer Plans – Pre-ERISA

Multiemployer plans have evolved and adapted over time either to strengthen areas of weakness or to respond to changes in the business or economic environment. The following historical context provides a baseline to addressing the current challenges.

The Bureau of Labor Statistics has occasionally done studies of multiemployer pension plans, generally tracking their prevalence and reporting on plan features. Only a few multiemployer pension plans existed before the Taft-Hartley Act was enacted. Plans grew in prominence during the 1950s and 1960s. Such plans covered about 1 million participants in 1950, 3.3 million in 1959, 7.5 million in

1973, and 10.4 million in 1989. Throughout the 1990s and since, the number of workers in such plans has been steady at just over 10 million.[6]

The Beginning - Simplicity

The first employer-funded multiemployer pension plan is thought to be one that was started in 1929 by Local 3 of the Brotherhood of Electrical Workers and the Electrical Contractors Association of New York City.[7] Then in the 1930s and 1940s negotiated plans appeared in industries such as the needle trades and coal mining. The employer's responsibility was typically limited to the amount specified in the collective bargaining agreement. Plans paid out benefits at a level that could be afforded based on the available resources, and if those resources proved inadequate, the employers were not liable for the shortfall. It is of interest to note that in 1935 life expectancy from birth was about 60 years and individuals who reached the age of 65 might expect to live another 12 years, on average,[8] whereas today U.S. life expectancy is over 78 years of age[9] with individuals reaching age 65 expected to live another 20 years on average.[10]

Joint Labor and Management Responsibility

In 1943 the War Labor Board ruled[11] that fringe benefits were not subject to the wage freeze resulting from the Wage and Salary Act of 1942 that attempted to contain wartime inflation. This ruling encouraged employers to offer pension, health, and welfare benefits as an alternative means to attract workers. Then in 1947, the Labor-Management Relations Act (also known as the Taft-Hartley Act) provided, among other matters, for the establishment and operation of pension plans administered jointly by an employer and a union. Multiemployer pensions grew in popularity and continued to operate and provide retirement benefits with relatively few statutory standards.

The Passage of ERISA -- Shift of Employer Responsibility from Contributions to Benefits

In 1974, the Employee Retirement Income Security Act (ERISA) was passed. ERISA brought a fundamental change to private sector pension plans, including multiemployer plans. ERISA protected benefits that plan participants had already accrued, often referred to as the "anti-cutback" rule. ERISA also shifted the responsibility of the employer from the negotiated contribution amount to an obligation to fund the promised benefit. In other words, employers contributing to multiemployer plans became responsible not only for their negotiated contributions, but also for any funding shortfalls that developed in the plans.

ERISA also introduced a number of provisions aimed at protecting participants including minimum funding standards, expanded participant disclosures, and fiduciary standards. Minimum funding requirements and maximum tax deductible limits were also established. It was important to make sure sufficient contributions were made to secure employer commitments, but at the same time, prevent

---

[6] BLS, "Multiemployer Pension Plans," Spring 1999.
[7] Employee Benefits Research Institute, "Multiemployer Plans." Accessed on April 17, 2018.
[8] William J. Wiatrowski, "Changing Retirement Age: Ups and Downs," April 2001.
[9] National Center for Health Statistics, "Life Expectancy." Accessed on April 17, 2018.
[10] Social Security Administration, "Life Expectancy." Accessed on April 17, 2018.
[11] Georgetown University Law Center, "A Timeline of the Evolution of Retirement in the United States." Accessed on April 17, 2018.

employers from using the tax deductibility advantages of trusts beyond what was needed to secure the benefits. Minimum funding requirements strengthened the financial position of multiemployer plans.

ERISA also established the PBGC to provide mandatory insurance for DB pension plans. Separate insurance programs were established for single-employer and multiemployer plans. These programs have different premium requirements and benefit guarantees. They are also structured differently. For multiemployer plans, financial assistance is provided to a plan that becomes insolvent, but plan administration remains in effect. In the single-employer program, the PBGC takes over trusteeship for a plan that terminates with insufficient assets.

Under ERISA, funding requirements for multiemployer plans are primarily based on liabilities calculated using the expected rate of return on plan assets. Under this approach, it is anticipated that there will be periods of both strong and weak investment performance, and over time these will tend to offset each other. ERISA does not contain any provisions requiring that plans maintain the surpluses created by investment gains for use as a buffer against future losses. In fact, until 2002, the maximum deductible contribution rules strongly discouraged multiemployer plans from maintaining funding surpluses, as contractually required employer contributions would not have been deductible unless the plan trustees found a way to eliminate the overfunding.[12]

During the late 1990s, very strong asset returns led many plans to improve benefit levels in order to share the gains with participants and protect the deductibility of the employer contributions. Unfortunately, these years were followed by a period of very poor asset returns that erased much of these investment gains. While the investment gains proved to be temporary, the increased benefit levels that plans adopted were not, as they are protected by ERISA's anti-cutback provisions. This combination of temporary asset gains and permanent benefit improvements is a contributing factor in the challenges facing multiemployer plans today.

Introduction of Withdrawal Liability

While ERISA introduced the concept of minimum required contribution levels for multiemployer plans, employers had the ability to circumvent these rules by simply withdrawing from the plans. The Multiemployer Pension Plan Amendments Act (MPPAA) of 1980 was intended to prevent employers from exiting a financially a troubled multiemployer plan without paying a proportional share of the underfunding liability. MPPAA required a withdrawal liability assessment for employers exiting a multiemployer plan that is less than fully funded. At the time, few plans faced severe funding issues, but withdrawals were recognized as a potential problem that threatened the long-term financial health of plans because as employers left, the liability for their employees (termed "orphan liabilities") became the responsibility of the employers remaining in the plan. This could result in significant financial burdens for the remaining employers for employees who never worked for them. In addition, it could deter new employers from joining a plan.

Prior to MPPAA an employer that withdrew from an underfunded multiemployer plan did not have to pay anything to the plan unless the plan was terminated within five years of the employer's withdrawal. In addition, the amount paid was limited to no more than 30% of the employer's net worth. Under MPPAA, the employer must pay a withdrawal liability equal to the employer's proportionate share of the unfunded vested liabilities at the time of departure.

---

[12] Economic Growth Tax Relief Reconciliation Act (EGTRRA) of 2001, Pub. L.107-16.

While MPPAA took steps to address the problem of employer exits, the new withdrawal liability rules did not fully stem the growth of orphan liabilities that remained in plans. Bankrupt employers often were unable to pay the full withdrawal amounts. Changes to the size of the liability due to economic or demographic factors also remained in the plan. The withdrawal payment requirements include a payment schedule with a 20-year cap that can leave behind unfunded liabilities. And finally, for some industries, such as construction and entertainment, there are no withdrawal liability assessments unless an employer continues to perform the same type of work in the same jurisdiction after withdrawing from the plan.

Contributing Factors to the Current Challenges

Following several decades during which nearly all participants received their full benefit amounts from multiemployer pension plans, weaknesses have been exposed which have demonstrated there are limits to the stability and benefit security intended in the current system. In 1985 and 1986 the first signs of distress were detected in a small number of plans which exposed some of the weaknesses of the withdrawal liability approach laid out in MPPAA. In spite of generally meeting the ERISA funding requirements, serious challenges (described below) emerged as plans matured, and these challenges were exacerbated by the recession of 2007-2009. Today the guaranteed benefits that PBGC expects to pay participants in troubled plans produce a liability of $65.1 billion on PBGC's financial statements.[13]

The primary contributors to the current challenges relate to investment performance, past benefit increases, the maturation of plans, the decline of unions and some industries, and weaknesses in the withdrawal liability requirements. Typically a combination of these factors has contributed to a projection that a plan will be unable to pay benefits.

Pension assets are invested in diversified portfolios

Plans have invested in diversified portfolios to try to achieve investment returns that can support higher benefit levels and lower contribution requirements than would be possible if the assets earned risk-free rates of return. These investment strategies, however, are not guaranteed, and plans need additional contributions or reduced benefits if the anticipated investment returns are not achieved.

In 2000 the price of technology stocks fell drastically. Like most institutional investors, multiemployer pension plans had dot com investments and the low returns reduced pension surpluses, not long after the granting of benefit increases. By the mid-2000s most plans recovered, but some plans remained financially weakened. The recession in 2007-2009 added further strain to the financial stability of most plans.

Past surpluses led to benefit increases that were not sustainable

Funding pension plans using diversified portfolios can strengthen a plan's funding status when investment returns are robust. These investment gains may be needed to offset losses when returns are weak. However, following the large asset gains in the late 1990s, many plans became significantly overfunded, and responded by increasing benefit levels or taking contribution holidays. Both dynamics of the collective bargaining process and regulatory policies were not conducive to maintaining

[13] W. Thomas Reeder, Testimony before the House Committee on Education and the Workforce Subcommittee on Health, Employment, Labor, and Pensions, November 29, 2017.

overfunded plans and contributed to this trend. These benefit increases ultimately became unaffordable for many plans when their assets declined dramatically in the subsequent decade.

Mature plans have fewer resources to recover from investment losses as the assets grow relative to the contribution base supporting the plan

In young plans, contributions are the primary source of asset growth and investment returns are comparatively small, while the opposite is true in mature plans. As the plan relies more heavily on investment returns, it becomes more difficult to make up for investment losses through additional contributions.

Fewer workers are employed in industries sponsoring multiemployer plans

Some unionized industries have seen significant transformations over time. In some industries the workforce has shifted to more non-union employees as a result of restructurings or regulatory changes, while others have seen declines in the number of employees needed due to global competition, automation, or general declines in the industry. A decline in the active workforce results in a diminished economic base for collectively bargained employer contributions. While pension assets grew to historical levels, union membership started to see a steady decline. Private-sector union membership in 1983 was 12 million. By 2015 that number had fallen to 7.6 million.[14] While pension assets were increasing due to the stock market, the contribution base was beginning to decline due to fewer workers in the plans.

Employers have exited multiemployer pension plans, either through bankruptcy or withdrawal, leaving unfunded obligations for the remaining employers in the plans

These orphan liabilities add to the maturity of a plan and subject the remaining employers to additional risks related to the funding of the orphan liabilities. Orphan participants make up a significant share (about 15 percent, or 1.6 million) of total multiemployer participants.[15]

The majority of multiemployer plans remain healthy and have endured many of the above challenges. However, these factors have created significant stress and pressure on a number of plans and participants which the Joint Select Committee is seeking to address during its work this year.

Actions Taken To-Date to Address These Recent Challenges

In recognition of the growing risks associated with multiemployer pension plans, a number of actions have taken place. The Pension Protection Act of 2006 (PPA) amended ERISA and the Internal Revenue Code to make certain changes to multiemployer funding rules. The changes were designed to give plan trustees more flexibility in dealing with funding challenges and require plans to identify and address problems in time to prevent further deterioration of the short- and long-term financial security of the plan.

[14] Megan Dunn and James Walker, "Union Membership in the United States," BLS, September 2016.
[15] Alicia H. Munnell et al., *Multiemployer Pension Plans: Current Status and Future Trends*, Center for Retirement Research at Boston College, December 2017.

PPA classifies multiemployer plans into one of three categories based on current and projected funding levels. In short, a plan that is projected to fail to meet its minimum funding requirements in the next 4 or 5 years is in critical status (the "red zone"). A plan that is not in critical status but is currently below 80 percent funded or projected to fail to meet its minimum funding requirements in the next seven years is in endangered status (the "yellow zone"). A plan that is neither in critical status nor in endangered status is considered to be in the "green zone." Plans that are in critical or endangered status are required to take corrective action to rehabilitate or improve their funding. While PPA's focus on the projected financial condition and early adoption of corrective measures has helped many plans gain a better understanding of their financial condition, these tools were insufficient to deal with the dramatic asset losses and economic contraction that immediately followed the effective date of the law. Thus, the Multiemployer Pension Reform Act of 2014 (MPRA) was enacted, which provided additional tools and strategies for severely distressed plans.

In addition to the classifications defined under PPA, MPRA added a fourth category of "critical and declining" status to further differentiate those plans projected to become insolvent within the next 20 years. One of the benefits of this categorization has been a better perspective on how many plans may be at risk and the degree of the risk. Of the nearly 1,300 plans across all industries identified in one study, 62 percent are green plans, 12 percent are endangered, 16 percent are critical, and 10 percent are critical and declining. The construction, service, and entertainment industries have the lowest percentage of critical and declining plans (4 percent, 6 percent, and 6 percent respectively). The industries with the highest percentage of declining plans are manufacturing (36 percent), transportation (20 percent), and retail/food (10 percent).[16] Keep in mind, however, that a green plan today is still subject to the same risk factors that caused other plans to enter a red or critical status.

Of particular note, MPRA broke new ground with respect to pensions by allowing plan sponsors, subject to an application process, to voluntarily reduce benefits that have already been earned, including for current retirees (with some exceptions). Only plans that face inevitable insolvency are eligible for this provision, and after the application of the reductions, all participant benefit must remain at least 10% above the level guaranteed by the PBGC. These "benefit suspensions" offered a potentially effective way for plans to avoid insolvency, acknowledging the adverse impact to participants. MPRA also increased PBGC premiums from $12 to $26 (to be indexed in the future).

Between PPA and MPRA, the tool box for identifying and addressing multiemployer plans' financial condition expanded to include:

- Assessment of the level of plan risk through the zone status classifications.
- Plans in endangered status must develop a funding improvement plan.
- Plans in critical status must develop a rehabilitation plan.
- Plans in critical and declining status may apply for a suspension of benefits (benefit reductions) if doing so would enable the plan to avoid insolvency.
- Higher maximum tax-deductible limits to allow the buildup of greater surpluses.
- Partitions that allow plans to move a portion of the liabilities to the PBGC prior to insolvency.
- Mergers facilitated by PBGC to combine troubled and healthy plans to generate economies of scale while saving PBGC resources in the long-term.

[16] Jason Russell, "Keeping Healthy Plans Healthy," April 12, 2018.

Effectiveness of Recent Legislation

On the positive side, the challenges facing the multiemployer plan system are now out in the open and better data is being accumulated to facilitate helpful analysis. Prompted by recent legislation, distressed multiemployer plans have taken steps to address funding problems and many have improved their financial health, but some have not. Of the first 25 applications for benefit suspensions under MPRA, only four have been approved and six are currently under review. The remaining 15 were either denied (five) or withdrawn (10). One of the largest plans, the Central States Teamsters plan, was denied. Thus, while MPRA remains a viable choice for plans, some plans may be too far down the road to take advantage of it. The U.S. Department of the Treasury and PBGC have taken steps to communicate feedback to those preparing applications to help plans make decisions as to whether or not to apply and how best to prepare applications if they choose to move forward. Treasury and PBGC both now offer pre-application conferences to plan sponsors to further facilitate the process.

Employers that have significantly increased contributions or contribute to plans that have pared back benefit accrual rates and ancillary plan features (such as early retirement or disability benefits) have expressed concerns about their ability to remain competitive. Many of them are in industries that have very thin profit margins or are in competitive global markets.

A recent study[17] indicates that aggregate contributions to multiemployer pension plans from 2009 to 2014 increased by 6.9 percent per year, significantly outpacing the average inflation rate of 2.1 percent over this period. Even though contributions are increasing, for many plans, the amount of contributions is not closing the funding gap. This can be measured on two bases - one that uses a discount rate tied to the long-term expected return of the plan (46 percent of the plans lost ground), and one based on a rate reflecting U.S. Treasury bonds (75 percent of the plans saw an increase to the shortfall). At the same time, roughly 75 percent of the plans had a minimum required contribution of zero due to accumulated contributions being greater than minimum requirements in the past years. According to the study, between 89 percent and 94 percent of plans made contributions in excess of their minimum.

The partition and plan merger options available under MPRA have been used sparingly. To date, there has been only one approved partition.

Overall Status of the Current System - Historical and Future Trends

The applications for benefit suspensions under MPRA are very thorough and detailed. As part of the application, the plan sponsor must describe the key factors that led to the request. A few excerpts from the descriptions provided by some of the plans that have filed under MPRA illustrate the seriousness and state of affairs for these programs.[18]

- Automotive Industries - Decline in automotive industry businesses in the San Francisco Bay Area as a result of both the decline over the last 10 years…and economic recessions over the last 15 years. Plan employers engaged in a fragmented, competitive industry and have higher labor costs. Only four of the 149 original employers still exist. In 2000, 16 Ford and 10 Chrysler dealerships contributed to the plans. As of 2015, only three of those 26 dealerships remain in the plan.

---

[17] Lisa A. Schilling and Patrick Wiese, *Multiemployer Pension Plan Contribution Analysis*, Society of Actuaries, March 10, 2016.

[18] Alicia H. Munnell et al., *Multiemployer Pension Plans: Current Status and Future Trends*, Center for Retirement Research at Boston College, December 2017.

- Bricklayers Local 7 - Plan provides generous benefits relative to non-union bricklayers. Experiencing increased member attrition to nearby unions, which maintain plans that are better funded. Decline in the number of union members in the area.
- Central States Teamsters - Deregulation of trucking in the 1980s and the economic and financial crisis since 2001 forced many major trucking companies out of business. Of the 50 largest contributing employers that participated in 1980, almost all are out of business and only three contribute today.
- Ironworkers Local 16 – Economic decline, loss of qualified workers due to fewer opportunities, stagnant wages. Dramatic drop in employers from 125 to 60 over the past six years. Large bankruptcy from an employer that generated between 13 and 22 percent of work hours for members of the plan.
- United Furniture Workers - The rapid increase in U.S. furniture imports since the 1970s put increasing pressure on U.S. furniture manufacturers and, thus, the pension plan. From 1981 to 2009, 35 contributing employers filed for bankruptcy. Since 2008, 29 of 53 contributing employers have withdrawn from the plan, and active participants have dropped from about 2,500 to 1,000.

Maintaining the financial health of multiemployer plans is an important factor in stabilizing the multiemployer system. Three of the most important indicators of vulnerable plans are:

- Maturity levels - the ratio of inactive (retirees and vested terminations) to active participants;
- Funded status - commonly expressed as the assets divided by the liabilities; and
- Cash flow situation - a comparison of benefits paid out versus contributions and investment earnings coming into the plan.

Data is available from the required Form 5500[19] government filings that offer information as to the health status of all plans. Plans that have three or more inactive participants per active participant have significantly more critical and declining plans than those with less than a 3:1 ratio. Plans with funded ratios below 70 percent also tend to be in the critical and declining category. Critical and declining plans have, on average, a negative annual cash flow of 11 percent. By comparison, the average cash flow percentages for yellow and green plans are a negative 1.2 percent and negative 1.6 percent respectively. Plans with two or more of these three characteristics are especially vulnerable.

Pension plans also go through an aging process. In the early years, assets are low and most of the growth in assets comes from the employer contributions. There are very few retirees relative to active employees and as a result contributions, which are generated based on the active workforce significantly exceed benefit payments. As the plan matures, more assets accumulate, and asset returns from investments become a larger and larger source of the plan's income. At the same time, the retiree population grows and in some industries there is a shrinking contribution base. As this situation progresses, investment performance becomes more and more important. Thus when actual investment returns are lower than expected there is a resulting loss to the plan. There are mechanisms to smooth out the impact of this volatility, but for mature plans, these methods can create significant stress. This situation is exacerbated if on top of the normal aging process, there are significant industry downturns and loss of participating employers.

[19] Employee Benefits Security Administration, "Form 5500 Series." Accessed on April 17, 2018.

Plan sponsors need to find ways to improve the financial position of the plan, but to do this without placing burdens on participating employers to keep them in the plan as well as make the plan attractive to new employers. One approach that is emerging is to adopt variable benefits for future service to the extent permissible under current law. In plans that utilize this method, benefits move up or down with investment performance and thereby minimize future withdrawal liability. Strategies that can maintain benefit security, but eliminate or significantly reduce the threat of withdrawal liabilities will help avoid adding further burdens to the system. These strategies, however, do not address underfunding for legacy liabilities and create a challenge for allocating new contributions between paying off current unfunded legacy benefits and funding the new benefit accruals.

Conclusion

Multiemployer pension plans were created as a way to deliver lifetime income retirement benefits to workers in blue collar industries. Employers tended to be small and it was common for workers to stay in an industry, but work for many employers over the course of their career. The multiemployer approach captures economies of scale and pools risks - an intended “win-win” for the employer and employee.

For decades these plans worked much as expected, with little threat of insolvency (the PBGC multiemployer plan program has provided periodic financial assistance to only 70 multiemployer plans through 2015). However, a combination of economic, demographic, and regulatory changes have placed a small but material segment of these plans at risk. Employees who negotiated for these benefits as part of wage and benefit packages were expecting to benefit from these arrangements at retirement. Now those expectations may not be met.

I hope my testimony provided the Joint Select Committee context and history leading up to the development of the current financial challenges facing the multiemployer pension plan system. Identifying solutions is not part of the scope of today’s hearing, but from a conceptual standpoint the options are straight-forward. One of three actions must be taken: Either benefits are reduced (this is the current course if there are no interventions), or contributions to the plans have to increase, or as a third option, more risk can be taken by plans to achieve prospective investment gains. Each option presents pros and cons with very different outcomes to different stakeholders.

Thank you for asking me to speak today. The Pension Practice Council of the American Academy of Actuaries stands ready to help you at each step of the way with objective and non-partisan input.

Appendix

American Academy of Actuaries background information regarding multiemployer pension plans:

Issue Brief: Overview of Multiemployer Pension System Issues
http://www.actuary.org/files/publications/IB-Multiemployer.06.27.2017.pdf

Capitol Hill Briefing: Multiemployer Pension Plans/Potential Paths Forward
http://www.actuary.org/files/publications/HillBriefing-Multiemployer_June_27_2017.pdf

Issue Brief: Honoring the PBGC Guarantee for Multiemployer Plans Requires Difficult Choices
http://www.actuary.org/files/publications/PBGCissuebrief10.20.16.pdf