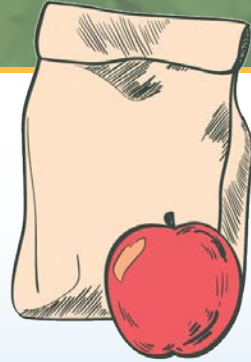


# The Academy Capitol Forum: Meet the Experts



## PBGC: Protecting Pensions & the Role of the Actuary

Moderator: Don Fuerst, MAAA, FSA, FCA, EA  
Senior Pension Fellow, American Academy of Actuaries

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# **PBGC: Protecting Pensions and the Role of the Actuary**

C. David Gustafson, MAAA, FCA, EA  
Chief Policy Actuary, Policy, Research and Analysis Department (PRAD)  
Pension Benefit Guaranty Corporation

Neela K. Ranade, MAAA, FSA, EA  
Chief Negotiating Actuary, Office of Negotiations & Restructuring  
Pension Benefit Guaranty Corporation



## Role of PBGC

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- Insures most qualified DB plans
  - Non-covered plans include:
    - Small plans for professionals (i.e., fewer than 25 employees)
    - Church plans
    - Public sector plans
- “Insures”
  - Single employer: Takes over and continues administration of benefits for covered plans that terminated without sufficient assets
  - Multiemployer: Provides financial assistance for plans to continue administration after the pension plan runs out of money
- Enforces rules with respect to plans with sufficient assets that terminate in the private sector
- Monitors existing plans for potential hazards to participants or to PBGC

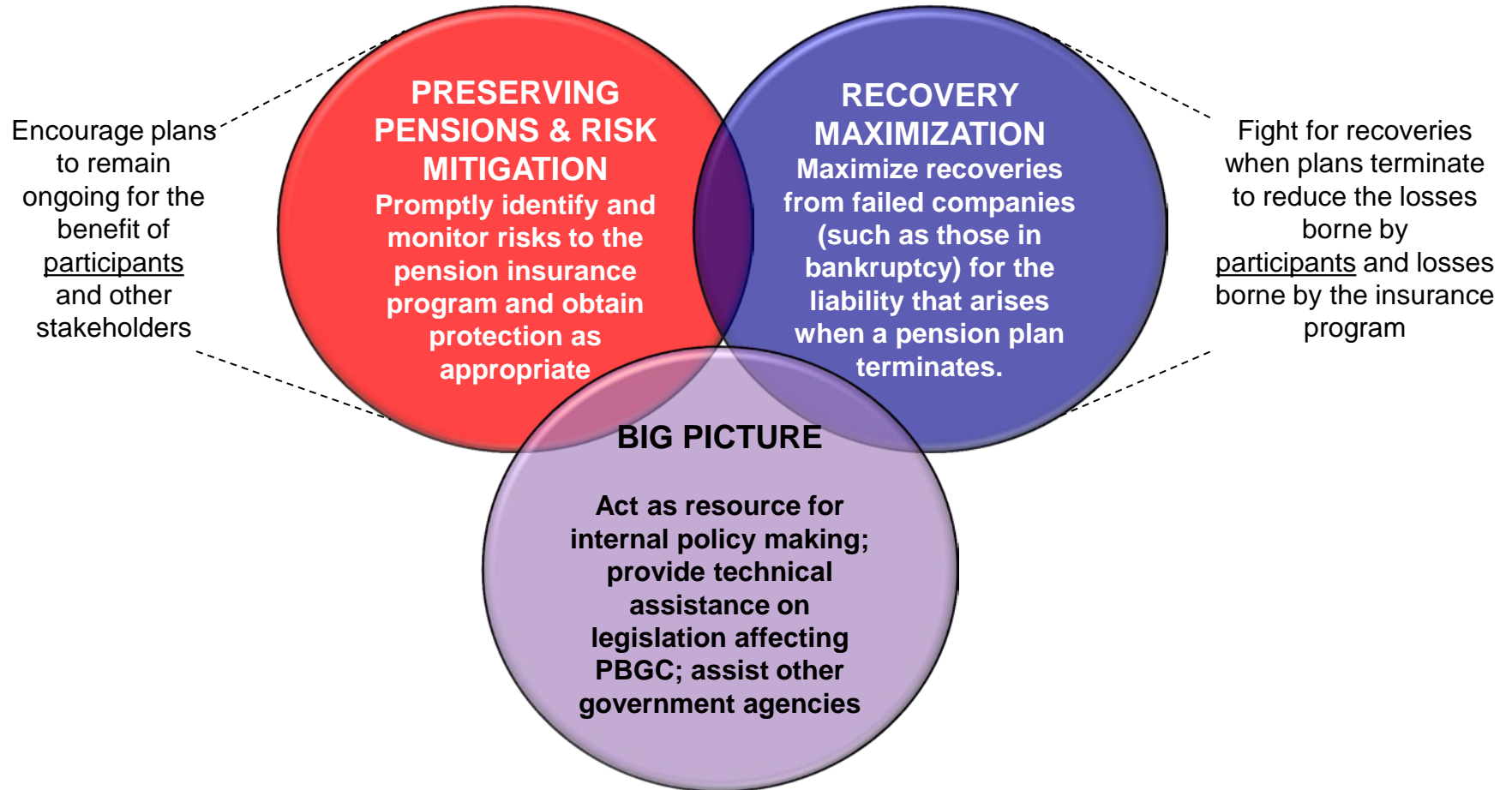
## Actuaries at PBGC

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- PBGC is a top employer of actuaries in federal government
  - Second only to Centers for Medicare and Medicaid Services
- 28 Credentialed Actuaries
  - Enrolled Actuaries
  - Fellows of the Society of Actuaries
  - Associates of the Society of Actuaries
- 10 individuals pursuing actuarial designations
- 3 Chief Actuaries
  - Neela Ranade, Chief Negotiating Actuary
  - Dave Gustafson, Chief Policy Actuary
  - Scott Young, Chief Valuation Actuary
- Mostly in three Departments
  - Office of Negotiations and Restructuring
  - Policy, Research & Analysis Department
  - Benefits Administration and Payment Department



- Mission: Enhance retirement security by preserving pensions and strengthening the pension insurance programs for the benefit of participants, sponsors and other stakeholders.



## SE Plans – Early Warning Program

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- Started in 1991 to monitor PBGC's largest exposures and identify transactions that pose an increase in risk
- Mitigates transaction-specific risk via consensual settlement or pension plan termination
- Since inception, over 100 settlements and 3 terminations
- Other tools that manage risk to ***on-going*** plans
  - 4062(e) settlements for participant reductions due to cessation of operations
  - Funding Waivers

# Risk Monitoring for Single Employer Plans

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- Companies generally not required to give PBGC advance notice of events that could increase risk of pension plan termination. PBGC proactively monitors large companies and transactions of interest
- ONR's Financial Analysts currently monitor over 1,600 corporate parents using tools such as Capital IQ (a Standard & Poor's product), Debtwire, Moody's, and Westlaw (a Reuters product that packages SEC filings)
- In order for a corporate parent to meet the monitoring criteria, it typically meets at least one of the following conditions:
  - Aggregate Unfunded Vested Benefits (UVB) > \$50 million;
  - At least 5,000 participants; or
  - Identified by PBGC as a company that should be monitored.
- ONR also identifies issues of concern through filings received for Reportable Events under ERISA Sec 4043
- ONR's Financial Analysts, Actuaries, and Attorneys work jointly to:
  - **Preserve Pensions/Mitigate Risk** – Review and analyze information obtained through monitoring or reportable event filings and negotiate protection in risk mitigation cases
  - **Maximize Recoveries** – In bankruptcy cases, strive for plan continuation; if not possible, negotiate to obtain maximum recovery for liability that arises when a plan terminates



# SE Program – Transactions PBGC Looks For

	Transaction Type	Why PBGC Cares
<b>Identify</b>	Merger and Acquisition (M&A)	<ul style="list-style-type: none"> <li>• May be expensive, requiring significant debt and weakening of the company’s financial position</li> </ul>
<b>Document</b>	Leveraged Buyout (LBO)	<ul style="list-style-type: none"> <li>• Will likely lead to credit quality deterioration and a new set of creditors ahead of pensions in the capital structure</li> </ul>
<b>Review</b>	Divestiture / CG Breakup	<ul style="list-style-type: none"> <li>• Plan participants may be moving to a weaker Controlled Group</li> <li>• Value may be leaving the Controlled Group</li> </ul>
<b>Act</b>	Share Repurchase / Extraordinary Dividend	<ul style="list-style-type: none"> <li>• Equity holders are being paid ahead of unsecured creditors, such as an underfunded pension plan</li> <li>• Troublesome if a company is weak</li> <li>• Troublesome if funded by significant borrowing</li> </ul>
	Out of Court Restructuring	<ul style="list-style-type: none"> <li>• Sign of distress, potential bankruptcy</li> <li>• Could lead to sale of assets/distribution of proceeds to equity holders/other creditors</li> </ul>
	Debt Management	<ul style="list-style-type: none"> <li>• May involve securing previously unsecured debt, putting other creditors ahead of pensions in the capital structure</li> <li>• May include loan defaults</li> </ul>
	Other / News	<ul style="list-style-type: none"> <li>• Company considering strategic alternatives such as asset sales or debt securitization</li> </ul>

## Role of ONR Actuaries

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- Thirteen credentialed actuaries
- Work closely with financial analysts, attorneys, and auditors in furthering ONR's mission
- Risk Mitigation for SE Plans
  - Measurement of PBGC exposure for Unfunded Plan Termination Liability, Due and Unpaid Plan Contributions
  - 4062(e) liability estimation
  - Funding waiver analysis for affordability of plan contributions
- Recovery Maximization for SE Plans
  - Bankruptcy claim calculations
  - Statutory Lien calculations under IRC 430(k) for Missed Contributions
  - Expert witness testimony and other Litigation Support

## Role of ONR Actuaries Contd.

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- Multi-Employer Actuarial Analysis
  - Compliance determination for Plan Mergers and Transfers
  - Alternate Withdrawal Liability requests
  - Partition approval requests
  
- Negotiations with Plan Sponsor
  
- Policy Support for SE and ME Plans
  - Industry specific risk analysis
  - Technical assistance for Legislative Proposals
  - Input for Regulation Development

## Early Warning Cases

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- DaimlerChrysler (2007)
- Roundy's (2010)
- Smart & Final (2012)
- Saint Gobain (2014)

## Bankruptcy Cases

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PBGC strives for plan continuation or if not possible, maximum recovery of PBGC's claims

- American Airlines (2011)
- Kodak (2012)
- Hawker Beechcraft (2012)
- Revstone / Metavation (2013)

- US Air Pilots Association versus PBGC (2014)

## Status of SE 4062(e) Program

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- During FY 2013, we reached settlements with companies for \$120 million to protect almost 22,000 participants
- PBGC has started a pilot program under which financially sound companies are exempted from 4062(e) compliance
- The shift in policy exempted financially sound companies such as Anheuser-Busch, Procter & Gamble, and Whirlpool from having to address pension liabilities after ending operations at their work sites
- Under the pilot program, PBGC didn't enforce pension liabilities of about \$475 million on 30 companies that were financially sound

## Tips for Plan Actuaries

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- Corporate transactions typically have tight deadlines; anticipating PBGC's data needs will facilitate quick settlement
- PBGC typically does not have detailed participant data, plan provisions, or details of actuarial assumptions and methods underlying actuary's calculations
- For SE plans, PBGC uses software to estimate from latest plan actuarial information and asset data provided by plan sponsor or actuary
  - Unfunded Plan Termination Liability
  - Due and Unpaid Required Plan Contributions
  - Projected Five Year Minimum Required Contributions
- PBGC will also review plan actuary's own calculations if available, and is willing to use these for settlement if reasonable
- Some actuarial firms produce separate reports for summary results and actuarial assumptions and methods and assumptions underlying calculations; make sure both reports are provided to PBGC
- Phone conversations between PBGC and plan actuaries for clarification can expedite settlement



## Typical Data Request for Pension Information – SE Plans

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- Will pension plan be impacted by Corporate transaction or event?
  - Plan benefits merged, increased, decreased or frozen?
- Company's pension funding policy? Are additional plan contributions being considered?
  - Extra contributions can mitigate PBGC's concern about transaction
- How many participants are expected to be separated from employment as a result of transaction or event?
  - Breakdown needed for active, terminated vested, retiree categories
- Any union agreements that are part of the deal?
  - Are pensions part of the union agreement related to deal?
- Expected use of cash proceeds from event
  - Additional plan contributions or paydown of secured debt mitigate PBGC concern
  - Payment of dividends may increase PBGC risk

- Plan information (typically readily available from actuarial reports or 5500 filings)
  - Recent plan asset value, asset proportions between equities and fixed income, proportion of assets in employer stock if any
  - Quarterly minimum funding contributions due
  - Recent Actuarial Valuation Report and AFTAP Report inclusive of assumptions, methods, and procedures
  - For cash balance plans, age/service chart with counts, average compensation, and average cash balance amount for each cell
  - Five Year Minimum funding projections if available
  
- Seriatim census data is sometimes requested
  
- PBGC may contact plan actuary for additional clarification

## Typical Data Request for Pension Information – ME Plans

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- PBGC performs actuarial review when we receive request for approval for
  - Compliance determination for Plan Mergers and Transfers
  - Alternate Withdrawal Liability method
  - Partition
- Plan actuary typically provides pension cash flow projections with and without the method change/partition being sought
- PBGC may ask for cash flow projections under alternate assumptions
- PBGC may ask for seriatim census data to perform its own projections, especially in reviewing partition applications
- Alternately PBGC may review for reasonableness plan actuary's calculations

## Multiemployer Plans Have Become a Major Challenge

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- Industry Restructuring and Nonunion Competition
- Lower than Expected Investment Returns
- Benefit Costs for Orphan Participants
- Demographics (active-to-retiree ratio)
- Few New Participating Employers
- Health Care and Other Benefit Costs
- Fewer Hours Due To Recession

- Staff of 65 : 7 Credentialed Actuaries, and 10 individuals pursuing actuarial designations
- Benefit entitlement determinations; calculating and valuing Termination Benefits under Title IV of ERISA
- Provide actuarial support for plan administration for plans that have been trusted by PBGC
- Provide subject matter expertise for training on PBGC actuarial policy, practices and principles and in the development and or revision of procedures and policies
- Determine Present Value of Future Benefits (single-employer program) and Present Value of Nonrecoverable Future Financial Assistance (multiemployer program) for PBGC's Annual Report. Prepares annual Actuarial Report published on [www.pbgc.gov](http://www.pbgc.gov)
- Develop, implement, and monitor actuarial policies and procedures regarding the actuarial valuation for PBGC's Annual Report ; provide input on other regulation and policy development
- Conduct experience studies for selected assumptions used in the financial statements



# Policy, Research and Analysis Department Overview

## Functions / Focus

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- Three main areas of focus, much overlap
  - Forecasting
    - PIMS
    - Budget Model
    - Cost analytics – legislative & regulatory support
  - Pension Data Center
    - Link administrative data to research and modeling
    - Pension Databooks
  - Regulatory and policy analysis
    - Technical assistance
    - Research
    - Policy analysis and development
    - Regulatory interface
    - Policy and analysis coordination

- Director
  - Professional affiliation varies over time (actuary, statistician, attorney, economist)
- Five economists
- Eight actuaries



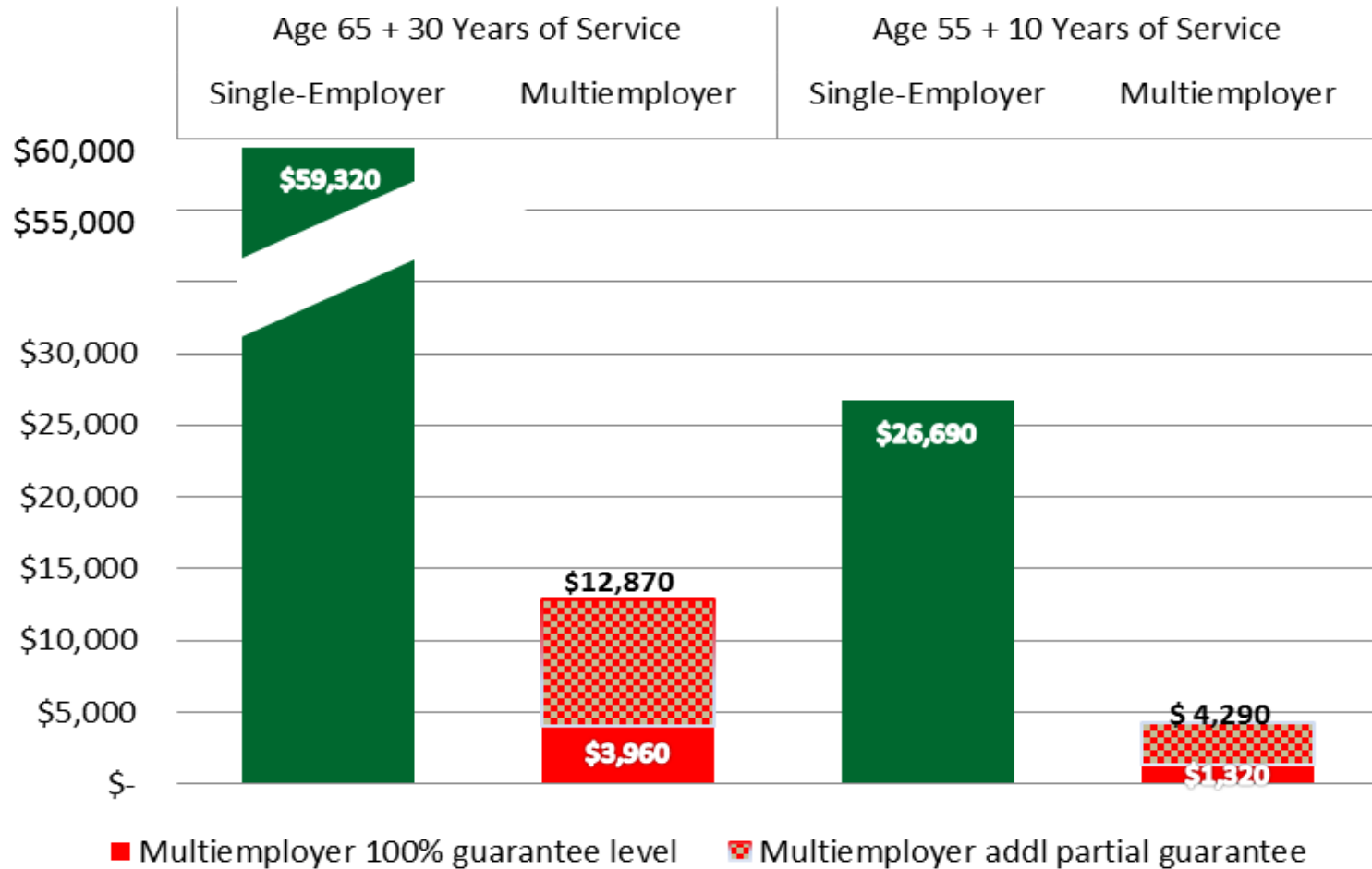
- Review alternatives to structure and form of PBGC interest rate factors
  - Continue to align with annuity purchase rates
  - Review alternative formulations, robust and more transparent to third party users
  - Potential mortality update
- Actuarial and economic content policy review
  - All policies and regulations
  - Currency of actuarial and economic content
  - Establish regular cycle
- PIMS
  - Projections Report
  - Web page
  - PIMS peer reviews
- Multiemployer and single-employer specific policy projects

## Multiemployer Policy Projects

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- Review of actions taken under rehabilitation plans
  - Looks at which options under PPA were and were not taken
  - Informs new PIMS model
- Information Collection
  - Request for information from certain red zone plans recently mailed
  - Voluntary
  - Designed to help PBGC evaluate policy options
- Proposed Study of Guarantee program in practice
  - Review sample of participants in plans receiving financial assistance and terminated plans
  - Look at percentage of benefit covered by guarantee
  - Data gathering and analysis in process
  - Release planned late summer

# PBGC's Maximum Benefit Guarantees are Much Lower for Multiemployer Plans



## Multiemployer Policy Projects

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- Proposed Study of Withdrawal Liability and Mass Withdrawal in practice
  - Review historical termination data
  - Data gathering phase
  - Proposed fall release planned late summer
- Potential Study of Plan Terms
  - Accrual rates
  - Supplemental benefits
  - Retirement provisions
  - Percent of Contribution plans
  - Proposal feasibility stage
- Ongoing technical assistance on legislative proposals
  - Suspension, partition, premiums, guarantees, ...

## Projected Insolvency Date - ME Program

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- Based on data underlying PBGC's 2012 Exposure Report, CBO projected exhaustion of ME fund in 2021
- By law, upon exhaustion, ME financial assistance payments will drop to level supported by ME premiums
  - Cut of about 90% - 95% in financial assistance

- Risk Transfer
  - Director Gotbaum testified at August hearings of the ERISA Advisory Council on de-risking.
  - Concern - Participants do not have the necessary information to make good decisions.
    - Differential level of knowledge on mortality basis?
  - PBGC will continue to work with pensioner advocacy groups to increase understanding of the risks of lump sums.
  - Reviewing data sources
- Proposed Bankruptcy Study
  - Primarily focused on updating parameters for PIMS use
- Review of alternative premium structures
- Ongoing technical assistance on legislative proposals
  - Funding Relief, Premiums,...

Questions?