



**TESTIMONY OF**

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**BEFORE THE**

**U.S. HOUSE OF REPRESENTATIVES**

**COMMITTEE ON WAYS AND MEANS**

**AT A HEARING ON**

**DEFINED BENEFIT PENSION PLAN FUNDING LEVELS AND INVESTMENT  
ADVICE RULES**

**THURSDAY, OCTOBER 01, 2009**

**(Statement submitted for the record on October 15, 2009)**

Thank you Chairman Rangel, Ranking Member Camp and Members of the Committee for this opportunity to appear before you today. I have prepared remarks and would respectfully request that the full text of my testimony be entered into the public record.

My name is Marie N. Hollein and I am the President and CEO of Financial Executives International. I am here this afternoon representing the views of Financial Executives International's ("FEI's") Committee on Benefits Finance ("CBF"). FEI is a leading international organization of 15,000 members, including Chief Financial Officers, Controllers, Treasurers, Tax Executives and other senior financial executives. CBF is the technical committee of FEI responsible for developing recommendations on existing and proposed legislation and regulations affecting pension and profit-sharing plans, health and disability insurance, unemployment compensation and regulation, and other benefit-related areas for FEI in line with the views of the membership.

My comments today on behalf of FEI are limited to the proposals in regard to providing relief on United States defined benefit plan funding requirements. In particular, I am citing the proposals in the bills offered by Congressman Pomeroy and Minority Leader Boehner. FEI chooses not to comment at this time on investment advice for employees in employer sponsored tax-qualified savings plans.

## **THE ENACTMENT OF THE PENSION PROTECTION ACT**

FEI members' companies have significant interest in legislative proposals and actions affecting the U.S. defined benefit pension plan system and the funding requirements under the Pension Protection Act of 2006 (PPA).

PPA was enacted in August 2006 and completely overhauled the calculations for the contributions required to fund U.S. tax-qualified single employer defined benefit plans. (CBF recognizes that changes were made to many other U.S. tax-qualified employee benefit plans, such as defined contribution savings plans, et. al.) PPA is governed by Treasury Regulations, in proposed and final format. The most recent regulations were published on October 7, 2009 governing new Internal Revenue Code Sections 430 and 436. CBF is aware that final regulations for cash balance and other account based pension benefits are forthcoming before the end of 2009.

PPA requires plan sponsors to annually measure the actuarial value of accrued benefits (funding target) and fund any deficit (shortfall) between the funding target and value of pension plan assets over a period of seven years. In addition, a contribution of the value of the benefits accruing during the Plan Year (target normal cost), as well as expected reasonable plan expenses payable from the pension trust is required as well.

Interest rates for these calculations are published monthly by the Treasury Department and are based on high-quality corporate fixed income investments. Treasury also published tables of life expectancy, and the plan's enrolled actuary develops reasonable rates of termination, disability and retirement. There are certain "phase-in" rules that expire in Plan Years beginning after Plan Year 2011.

## **THE NEED FOR PENSION FUNDING RELIEF**

Framing our interest more explicitly, FEI's members are senior financial executives from over 8,000 companies which connect them to thousands of retirement plans containing billions of dollars. FEI members' companies have a history of meeting pension obligations to retirees or their beneficiaries, paying their PBGC premiums and they have had robust funded ratios for many years.

### ***CBF Supports Two-Year Temporary Relief***

CBF supports the idea that a two-year temporary relief for 2009 and 2010 from the rigorous rules enacted under PPA is appropriate, reasonable and fair to all stakeholders. CBF is not looking for an infusion of cash or a handout from the federal government, and believes this relief will provide much needed flexibility to manage and prudently plan FEI members' companies' cash flows and will restore the plans to actuarial and economic soundness with the primary objective of securing the benefits promises companies made to their employees. CBF also believes this temporary relief will not threaten the solvency of the Pension Benefit Guaranty Corporation (PBGC).

The inability for companies to find pension funding relief will exacerbate the worsening economic picture by forcing companies to divert money to meet pension obligations instead of investing in their workforce or new capital projects. When you consider that the current unemployment rate is 9.8 percent - a number that does not account for the roughly 18 percent of workers marginally attached to or cannot find work - you will agree that the time to act and act sensibly is upon us in order to help cash strapped companies provide retirement security to their workers.

We are confident that FEI members' companies, by their past actions, exhibit the characteristics of prudent sponsorship in our role as fiduciaries in a voluntary employee benefit system that Congress and the PBGC should welcome and encourage.

### ***CBF Supports an Extended Amortization Period and a Wider Corridor***

CBF supports the provision in Mr. Pomeroy's bill to extend the amortization period of the funding shortfall beyond PPA's statutory seven years to 15 years and the provision to widen the corridor around the actuarial value of assets to plus-or-minus 20 percent, from plus-or-minus 10 percent, of the market value of assets as reasonable. We do believe that companies need some additional flexibility in the selection of the IRS yield curve in 2010.

CBF applauds the decision for complete flexibility for the selection of the IRS yield curve in Plan Year 2009 and for automatic approval for the selection of the IRS yield curve in Plan Year 2010 as written in the final PPA funding and benefit restriction regulations that were released on October 7<sup>th</sup>.

### ***CBF Supports a Voluntary System of Employee Benefits***

CBF is concerned that the corresponding maintenance of effort (MOE) provisions required to engage the provisions for longer relief may prohibit members' companies

from availing themselves of the reasonable relief and believe that the MOE is contrary to the notion of a voluntary system of employee benefits. There may also be significant administrative changes to our benefits systems that could take much time to be implemented and tested, as well as significant amount of time to bring the plans into legal compliance for the temporary period. As well, some of our members have frozen their defined benefit plans and shifted to defined contribution plans which could result in much higher cash costs to members' companies, defeating the purpose of the relief.

FEI members' companies, like all employers and citizens, were adversely affected by the unexpected and catastrophic collapse of the global economy in 2008. FEI is here today to build on the situation we have been dealt and provide ideas to obtain adequate future funding of our pension plans, as opposed to offering useless and perhaps polarizing criticism of what companies have experienced in the markets in the recent past. CBF members emphasize that the relief we seek is seen in the context of temporary relief and no additional monies are sought from the Treasury to meet these pension obligations. However, FEI members' companies do need the additional time to get our pension plans back to a position of actuarial and economic soundness. The final regulations do not afford us the flexibility of a second year in 2010.

CBF recognizes that members of Congress are engaged with many important issues facing Americans today, such as historic unemployment rates, supporting our heroes that protect our country on the mainland and overseas and possible changes to the US healthcare system. The relief we seek is very important to our members' companies as they wish to recover from the harmful impacts of the economic recession. CBF is very willing and eager to work closely with Congress in shaping defined benefit relief provisions and welcome the opportunity to have additional dialogue.

### **DEFINED BENEFIT PENSION PLANS TODAY**

According to the 2008 PBGC data book, there are 33.8 million Americans who are receiving or who are scheduled to receive pension benefits from 28,000 single employer defined benefit pension plans insured by the PBGC. Additionally, there are millions more Americans who are covered under other pension arrangements from the federal, state and local governments. This evidence supports the idea that pension plans have not "disappeared" and Americans will continue to rely on them for retirement income for many future years.

There has been considerable concern expressed about the funding levels of the defined benefit system, in particular with respect to the initial year of the PPA coupled with the collapse of the global financial markets, both of which occurred in 2008. As you know, the Treasury Department, who was under enormous pressure to deal with many issues, such as the administration of TARP, was only able to release, on October 7<sup>th</sup>, the final regulations governing the technical calculations of the actuarial liabilities

At the end of 2007, the median funded ratios of accrued benefits of the S&P500 companies sponsoring defined benefit plans was 105 percent. FEI members' companies

prepared multi-year forecasts based on 2007 year-end results of cash contributions using expected parameters of risk for interest rates and asset portfolio returns. FEI members' companies have achieved robust returns over many years and we understand the importance of the setting of our forecast assumptions. When the global economy collapsed in 2008, government, businesses and citizens were caught flat-footed, and the value of our defined benefit pension plan assets and our corporate investments were victims of these adverse events. Our pension plans' asset values declined by approximately 25 percent (at the median) during 2008.

We pause here to add the comment that we have no desire in this testimony to examine specific causes or to blame entities or individuals for the results of 2008. We only say that we need to examine the consequences, act prudently, responsibly and restore the actuarially sound funded ratios we had at the start of 2008. No more, no less. FEI members are committed to our current and former employees to meet these pension obligations.

We do applaud and welcome the modest relief provided by the Worker, Retiree and Employer Recovery Act (WRERA) in December 2008 and for the PPA final regulations for funding. As you are aware, the provisions of that relief are only for 2009, and do not fully provide enough relief as we plan for cash contributions and the funded status that we report to shareholders at the end of our fiscal years after 2009. We need more time to prepare and budget for more than just one year.

A few plan sponsors provided analysis and demonstrated at Mr. Pomeroy's April 20<sup>th</sup> hearing that cash forecasts over a multi-year period increased significantly when compared to similar forecasts made before the financial market collapse. These forecasts are consistent with those made by FEI members' companies. We are all sharing in the cash funding requirements problem and other issues such as continuous rise in health care costs and contributions to our defined contribution savings plan.

## **TWO-YEAR TEMPORARY RELIEF AND PBGC SOLVENCY**

CBF also wishes to take the opportunity to address the issue of the PBGC and the effects that two-year temporary relief may have on its solvency. FEI members' companies as well as many defined benefit plan sponsors have dutifully made and not missed PBGC premium payments. We have also seen much debate about disclosing the termination value of defined benefit pension plans.

While CBF understands the concern of the PBGC and its reported deficit, we have read reports that PBGC is still funded well enough and in a prudent asset allocation to make payments for the next one to two decades for plans they are now responsible to administer. Note that PBGC prepares the value of its actuarial liabilities using discount rates that are far more conservative than that required by PPA.

CBF uses that comment in the context of many requests to disclose the value of our members' defined benefit plans on the same basis. Companies that sponsor defined

benefit pension plan are not required to calculate nor report the liquidation value of the entire company on the balance sheet when annual financial disclosure is required. CBF believes that singling out the DB plan is not a meaningful exercise and may unnecessarily lead to confusion for the readers of companies' financial position.

## **CONCLUSION**

FEI's CBF thanks the Committee for this opportunity to speak and to offer our comments supporting two-year temporary relief for 2009 and 2010 for the funding requirements under the rules of the Pension Protection Act of 2006. CBF agrees that at the heart of the matter is the need for more time to pay down the deficits caused by the collapse of the global economy in 2008. CBF supports the sensible idea of increasing the number of years over which the deficit can be amortized, but we have concerns that the maintenance of effort provisions which could be required in order to use the relief is counter to the idea that the US employee benefit system is offered by employers in a voluntary manner.

CBF believes that the two-year temporary relief will not trigger catastrophic events that threaten the solvency of the PBGC.

Last and of course most importantly, FEI members' companies recognize their roles as prudent fiduciaries and stewards of the benefits earned by participants. We will not abandon our employees after they spent some portion of their working career with us, and contributed to our past and future success.

**Supplemental Sheet:**

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