TESTIMONY BEFORE THE

COMMITTEE ON EDUCATION AND THE WORKFORCE

OF THE

UNITED STATES HOUSE OF REPRESENTATIVES

ON RETIREMENT SECURITY: CHALLENGES CONFRONTING PENSION PLAN SPONSORS, WORKERS, AND RETIREES

BY

DENNIS T. DELANEY

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Thank you, Chairman Kline, Ranking Member Miller, and members of the Committee for the opportunity to appear before you today to discuss challenges for sponsors of defined benefit and defined contribution plans. My name is Dennis Delaney, Executive Vice President, Human Resources & Administration for Ingram Industries Inc.

Ingram is a privately held company with a portfolio of operating businesses headquartered in Nashville, Tennessee, consisting of Ingram Marine Group, the largest inland marine transportation company in the country with over 140 motor vessels and 4,000 barges, and Ingram Content Group, which provides a competitive suite of physical book and digital content distribution, print on demand and content management and fulfillment services for retailers, publishers, libraries and educators both in the U.S. and internationally.

Ingram administers benefit programs for over 5,000 domestic associates who live in 36 states. We have over 2,400 active associates with a frozen defined benefit, 765 retirees and over 1,900 terminated vested plan participants. My testimony reflects my 34 years of experience in the human resources field, 14 of which have been with Ingram Industries and 20 of which were with Ford Motor Company.

I appreciate the opportunity to testify before you today on the challenges facing plan sponsors and in particular, Ingram's experience as it relates to our defined benefit and defined contribution plans.

At the outset, I want to emphasize that these challenges do not just impact plan sponsors - they also have the potential to significantly impact the financial security of current workers and retirees. While we can each recognize real problems with the current retirement system, the employer–provided retirement system has been overwhelmingly successful in providing retirement income and security for employees. Private employers, with contributions and fees, spent over $200 billion on retirement income benefits in 2008[1] and paid out over $449 billion in retirement benefits.[2] According to the Bureau of Labor Statistics, in March of 2009, 67% of all private sector workers had access to a retirement plan at work, and 51% participated. For full time workers, the numbers are 76% and 61%, respectively. Eighty-three percent of workers in private sector firms with 100 or more workers are covered in an employer-provided retirement plan and 68% participate. Because some workers, such as those under age eighteen or twenty-one, or those waiting to meet a minimum service requirement, are often not eligible to participate in a plan, these statistics actually underreport the success of employer-provided retirement plans.

One of the greatest impediments to the employer-provided system today is the lack of predictability of the rules and regulatory flexibility to adapt to changing situations. Since 2002, Congress has passed five laws that address defined benefit funding.[3] For over a decade, the legality of hybrid plans was unresolved and those plan sponsors were unable to get determination letters.[4] During the recent financial crisis, plan sponsors faced unexpected financial burdens due to inflexible funding rules. These issues have each had a negative impact on the employer-provided retirement system and have acted as a disincentive for employers to continue to provide these benefits. Therefore, I strongly urge Congress to provide

[1] EBRI Databook, 2009, Chapter 2.

[2] EBSA Private Pension Plan Bulletin Historical Tables and Graphs, 2009

[3] Job Creation and Worker Assistance Act of 2002 (PL 107-147 increasing the range of permissible interest rates for determining pension liabilities, lump sum distributions, and PBGC premiums for under-funded pension plans to 120% of the current 30-year Treasury bond interest rate; Pension Funding Equity Act of 2004 replacing the interest rate assumption for two years; Pension Protection Act of 2006 fundamentally changing the funding rules for both single- employer and multiemployer defined benefit plans; The Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA") providing limited funding relief; The Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, providing defined benefit plan funding relief for both single-employer and multiemployer plans.

[4] In 1999, the Service's Director of Employee Plans issued a Field Directive that effectively halted the determination letter applications of hybrid plans from being processed. In 2002, the Treasury Department, with input from the Equal Employment Opportunity Commission and the Department of Labor, issued proposed regulations addressing the issue of age discrimination in hybrid plans but withdrew the proposed regulations in 2004 in order to clear a path for Congress to act. The uncertainty surrounding hybrid plans has been even more considerable in the litigation arena with contradictory decisions among various circuit courts.

legislative solutions which inject the necessary predictability and flexibility into the retirement system to ensure that employers can continue to maintain plans that contribute to their workers' retirement security.

Issues Facing the Defined Benefit Funding System

This unpredictability and the resulting inability to assess future funding needs has forced my company to come to grips with this uncertainty by making difficult choices in balancing the needs of our employees with the needs for prudent and sound financial management of our company.

Subsequent to a major acquisition Ingram made in 2002, we took a long look at our defined benefit plan which had been in place since 1978. After 18 months of review and 80 iterations of plan design changes, the decision was made to maintain the defined benefit plan for active participants but to close it to new entrants as of January 1, 2005.

On August 17, 2006, the Pension Protection Act of 2006 ("PPA") was signed into law. The act fundamentally changed the funding rules for both single-employer and multi-employer defined benefit plans. A major impetus behind the PPA funding rules was to increase the funding level of pension plans. Consequently, most plan sponsors entered 2008 fully prepared to comply with the new funding rules, and based their contribution estimates on these rules. However, the severe market downturn at the end of 2008 drastically changed the situation. [5] Because of the accelerated funding scenarios spelled out in the PPA, and notwithstanding the efforts of Congress to provide some temporary funding relief, Ingram was faced with the reality of having to contribute tens of millions of dollars beyond our normal costs, in a short period of time, to a plan that, by design was intended to bridge generations and handle the economic cycles – both good and bad – which occur over a long period of time. The persistent turmoil in the market and the interest rate environment created a reality for Ingram that was defined by one of our owners as "unacceptably unpredictable." Consequently, Ingram froze its

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[5] At the beginning of 2008, the average funded level of plans was 100%. Data from a study published by the Center for Retirement Research at Boston College[5] indicates the following as of October 9, 2008:

- In the 12-month period ending October 9, 2008, equities held by private defined benefit plans lost almost a trillion dollars ($.9 trillion).
- For funding purposes, the aggregate funded status of defined benefit plans unpredictably fell from 100% at the end of 2007 to 75% at the end of 2008. (See footnote 5 of the study).
- Aggregate contributions that employers will be required to make to such plans for 2009 could almost triple, from just over $50 billion to almost $150 billion.

defined benefit plan effective December 31, 2010.

Adding to the unpredictability in defined benefit plans is the consideration of increases to Pension Benefit Guaranty Corporation (PBGC) premiums. Increasing PBGC premiums without the opportunity for discussion of details, careful consideration of the potential impact, or buy-in from all interested parties would present another challenge to the private sector defined benefit system.

Raising the PBGC premiums, without making contextual reforms to the agency or the defined benefit system, amounts to a tax on employers who have voluntarily decided to maintain defined benefit plans. An increase in PBGC premiums, when added to the multi-billion dollar impact of accelerated funding enacted in 2006, could divert critical resources from additional business investment and subsequent job creation.

The Defined Contribution Plan System

Auto Enrollment and Auto Escalation Programs. The inclusion of automatic enrollment and automatic escalation in PPA has gone a long way to further retirement security.

Ingram implemented auto-enrollment on January 1, 2005. New hires are enrolled in the defined contribution plan at a 3% deferral rate. Participation moved from 70% in 2005 to 88% in 2010. Currently, our lowest participation is 77% for the group of associates with 6 – 10 years of service. These associates were hired prior to implementation of auto-enrollment. Our highest participation is 96% for associates with 1 year or less of service. Since implementation of auto-enrollment, the average pre-tax deferral of all associates eligible for the defined contribution plan moved from 3.9% in 2005 to 4.66% in 2010. The average pre-tax deferral of all participants in the defined contribution plan moved from 5.57% to 5.31%. This decline is due largely to the number of associates now participating in the plan at the auto-enroll deferral rate of 3%.

Ingram does not currently use auto-escalation. Our plan recognizes that service with the company is important, and Ingram matches 50% of the first 5% contributed during an associate's first 5 years of employment. Between years 5 to 9, Ingram matches 75%, and at 10 years and beyond, the match is 100%.

Investment Advice. Defined contribution plans require greater employee participation than traditional defined benefit plans. To ensure that participants are

getting the most benefit from their defined contribution plans, investment and financial education is critical. Ninety-two percent of all 401(k) plan participants are responsible for making investment decisions about their contributions to their retirement plan.[6] As such, it is important that these participants have the necessary tools and information to maximize their investment decisions. A major concern for employers is the ability to provide investment advice and financial education to their employees without incurring liability. The Pension Protection Act of 2006 (PPA) created an exemption for investment advice provided to participants in 401(k) and other participant-directed pension plans pursuant to an Eligible Investment Advice Arrangement. Under the PPA, employers may arrange for investment advice to be provided to their plan participants, while shielding the employers from liability for the investment advice that is actually provided. While this provided important protection for plan sponsors, plan sponsors still face potential liability for investment advice given that does not fall within the exemptions in the statute or regulations. Consequently, we encourage Congress to continue to engage on this issue to ensure that plan sponsors are able to provide as much investment advice as possible without fear of additional liability.

In addition to investment advice, some employers would like to provide general financial education. The financial education would make employees more knowledgeable, and thus savvier, in financial matters. Legislation to encourage employers to provide financial advice which includes appropriate protection from liability would be beneficial even if employees pay a nominal fee.

Ingram has offered workshops for associates nearing retirement including overviews of the defined benefit and defined contribution plans, Social Security, personal savings and investments, information on insurance needs (including health (Medicare), life, disability, and long term care), estate planning, common mistakes in retirement, etc. We actively promote National 401(k) Day and communicate retirement information through the internet, postcards, flyers, posters, quarterly newsletters and quarterly reports on investment performance. In addition, for the defined contribution plan, we currently offer asset allocation guidance through Morningstar. We have hesitated to offer more robust advice in the form of investment recommendations, contribution increases and rebalancing due to the uncertainty of the regulations regarding advice services. Nearly 30% of our associate population is considered "engaged achievers" (more experienced and well-established participants who are interested and involved in retirement

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[6] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, PRIVATE PENSIONS: *Changes Needed to Provide 401(k) Plan Participants and the Department of Labor Better Information on Fees* 5 (2007).

planning) or “aspiring planners” (associates who have a high interest in retirement planning and are willing to contribute to their accounts more than the average). A full 33% are considered “uninvolved savers” – associates who lack the interest or the time for retirement planning.

Challenges in the Regulatory System

In general, greater regulation often leads to greater administrative complexities and burdens. Such regulatory burdens can often discourage plan sponsors from establishing and maintaining retirement plans. The following are just a few examples of these regulatory disincentives.

Notice and Disclosure. Plan sponsors are faced with two increasingly conflicting goals—providing information required under ERISA and providing clear and streamlined information. In addition to required notices, plan sponsors want to make information available that is pertinent to the individual plan and provides greater transparency. However, this is difficult given the amount of required disclosures that currently exist. Although there is usually a good reason for every notice or disclosure requirement, they have a tendency to overwhelm the participants with information, making it difficult for them to distinguish the routine notices, e.g., summary annual reports, from the important information. It is critical that Congress coordinate with the agencies and the plan sponsor community to determine the most effective way to streamline the notice and disclosure requirements.

Accounting Rules**.** In 2006, the Financial Accounting Standards Board (“FASB”) undertook a project to reconsider the method by which pensions and other benefits are reported in financial statements. [7] They completed Phase I of the project but delayed Phase II, which would have removed smoothing periods from the measure of liabilities, until a later date. After significant concerns raised by the plan sponsor community, FASB indefinitely postponed the implementation of Phase II.

Accounting changes from FASB can create worry for plan sponsors. These changes can and have had significant ramifications for businesses – impacting credit determinations and loan agreements – without having any impact on the

[7] Statement of Financial Accounting Standards No. 158, “Employers’ Accounting for Defined Benefit Pension and Other Postretirement Plans” (FAS 158). This statement requires companies to report the net financial status of pension and other benefits on the company’s balance sheet rather than in the footnotes. In addition, plan assets and benefit obligations must be measured as of the date of the employer’s fiscal year end and employers must use the projected benefit obligation measure of liabilities.

actual funding of the plans. This can discourage participation in the employer-provided retirement system and has had a significant impact on the long term prospects of providing post-retirement medical plans for new and existing participants.

Current Trends in Retirement Plans – The Shift from DB to DC Plans

The number of defined benefit plans has been declining over the past several years.[8] While there has been a shift away from defined benefit plans, the number of defined contribution plans has increased exponentially. Since 1975, the number of defined contribution plans has almost quadrupled from 207,748 to 658,805 in 2007.[9] In 1992-93, 32 percent of workers in private industry participated in a defined benefit plan, while 35 percent participated in a defined contribution plan.[10] According to the 2008 National Compensation Survey, the participation for private industry workers in defined benefit plans decreased to 21 percent, while participation in defined contribution plans increased to 56 percent.[11]

The reasons for this shift are numerous: cost considerations; changing demographics of the workforce; uncertainty surrounding future liabilities associated with a defined benefit plan; and a sense that workers undervalue these plans, among other things.

Ingram implemented a money purchase plan for a certain segment of our employee population in 2007. This was in response to the need to "replace" the defined benefit plan, which was closed to new hires in 2005, due to recruiting and retention

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[8] In 2007, 54 of the 100 largest employers offered a traditional pension plan to new workers, down from 58 in 2006, according to Watson Wyatt Worldwide. That 7% decline compares with a 14% drop as recently as 2005. Levitz, Jennifer. "When 401 (k) Investing Goes Bad". The Wall Street Journal Online 4 Aug. 2008. http://online.wsj.com/article/SB121744530152197819.html (accessed August 21, 2009) Also see Private Pension Plan Bulletin Historical Tables: U.S. Department of Labor, Employee Benefits Security Administration, June 2010, http://www.dol.gov/ebsa/pdf/1975-2007historicaltables.pdf (accessed August 11, 2010).

[9] Private Pension Plan Bulletin Historical Tables: U.S. Department of Labor, Employee Benefits Security Administration, June 2010, http://www.dol.gov/ebsa/pdf/1975-2007historicaltables.pdf (accessed August 11, 2010).

[10] Beckman, Allan. "Access, Participation, and Take-up Rates in Defined Contribution Retirement Plans Among Workers in Private Industry, 2006". Bureau of Labor Statistics. December 27, 2006. http://www.bls.gov/opub/cwc/cm20061213ar01p1.htm (accessed August 11, 2010).

[11] "Percent of Workers in Private Industry With Access to Retirement and Health Care Benefits by Selected Characteristics: 2008", Bureau of Labor Statistics, http://www.census.gov/compendia/statab/2010/tables/10s0639.pdf (Accessed August 11, 2010).

concerns. Under this plan, Ingram makes an annual contribution to associates based on a formula that uses age, years of service and compensation.

Nonetheless, there is still a great need and desire for some of the characteristics of the traditional defined benefit plan. In many instances, employers like us are freezing or terminating the defined benefit plan while adding features to the defined contribution plan that resemble the benefits of the old plan. For example, employers are adding annuity options to their defined contribution plans. Moreover, new defined contribution plan designs are being introduced that incorporate defined benefit features. Consequently, while the names and designs may end up being different, it is very possible that many of the features that are now in the defined benefit system will continue to be an important part of the private retirement plan landscape. In Ingram's money purchase plan, contributions are invested in a life path fund depending on the associates year of birth. This, along with annuity options, is intended to create a "defined benefit-like" retirement plan for associates.

The keys to ensuring the continuation of the private retirement system are flexibility and predictability. The mix of types of benefit plans in the future will be diverse – defined benefit, defined contribution, multiemployer, cash balance, and hybrid plans. In addition, demographic and competitive needs will spur the creation of plan designs that we have not even begun to contemplate. Consequently, it is increasingly important to ensure that there are no statutory, practical, or political barriers to innovation that would discourage participation in the private retirement system.

Conclusion

The challenges facing plan sponsors are numerous. As stated before, these challenges impact not only the employer but also the retirement security of current and future retirees. I hope that Congress continues to work with plan sponsors to enact legislation that will further encourage participation in the employer-provided system and "keep them in the game". I thank you for the opportunity to testify today and look forward to any questions you may have.