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"Strengthening the Multiemployer Pension System: What Reforms Should Policymakers Consider?"

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Thank you for inviting me to testify about options to strengthen multi employer pension plans. I am Teresa Ghilarducci, Bernard and Irene L. Schwartz Professor of Economics Policy Analysis, and Chair of the Economics Department, at The New School for Social Research, in New York City. I am the author of several books on retirement policy including the only academic book on multiemployer pension plans.

Though I am a full-time academic I have practical experience representing retirees and managing postemployment benefits. I am a trustee of two retiree health plans for the United Auto Workers and Steelworkers retirees of the three American auto companies and Goodyear Tire – I am a trustee for nearly 900,000 retirees. I am also a former corporate director of YRCW – May 2010 – May 2011 -- a key employer-sponsor of many multiemployer plans including the Central States Pension Fund for the Teamsters. In that role I had the legal responsibility to represent the sole interest of the corporations' shareholders.[i]

I agree with the PBGC, General Accounting Office, and the findings and analysis of the National Coordinating Committee for Multiemployer Plans Commission report – *Solutions Not Bailouts*[1] – which conclude multi employer plans have economic benefit; they should and can be preserved and strengthened if action is taken quickly. Further, preventing large plan insolvency will protect the PBGC and many employers, workers, and retirees. The NCCMP proposal to prevent insolvency by allowing benefit cuts for current retirees in special circumstances is well informed and makes paramount preserving long term benefits for retirees. However, Congress should ensure that retiree protections are sufficiently protective. Insolvency hurts everyone especially retirees who

[1] Defrehn, Randy. and Joshua Shapiro. National Coordinating Committee for Multiemployer Plans. 2013. *Solutions not bailouts: a report on the proceedings, findings and recommendations of the Retirement Security Review Commission*. Washington DC. February.; Gotbaum, Joshua. 2012 and 2013. Testimony before the Health, Employment, Labor and Pensions subcommittee house Committee on Education and the Workforce. On December 12, 2012, and March 5, 2013; Jeszeck, Charles. 2013. Testimony: *Multiemployer Plans and PBGC Face Urgent Challenges*

risk taking a large cut in current benefits to the PBGC maximum or, worse, obtaining nothing if the PBGC depletes its assets. The NCCMP's statement of facts is consistent with the General Accounting Office and the PBGC's description of the financial situation of multiemployer plans.

Economic Case for Strengthening Multiemployer Plans

Multiemployer plans allow employers and workers to optimize labor contracts in situations when employers cannot or will not commit to long term contracts with employees, but still depend on skilled workers loyally attached to the industry and craft.

What needs to be emphasized is that multiemployer pension plans, health plans, and importantly apprenticeships plans are complements. They create a framework enabling many types of workers -- who otherwise would be without – obtain a decent wage, training, and employee benefits. In short, workers, who in other countries are at the bottom of the labor market, can be in the United States near middle-class construction laborers, janitor, coal miners, electricians, maids for luxury hotels, big rig truck drivers, etc.

All employers gain from the training and industry loyalty; Multiemployer pension plans would be stable if all employers who benefit paid contributions. But only unionized employers pay. The PBGC, NCCMP, and GAO do not address future sources of revenue, yet they deem, as do I, that current employers cannot contribute more without losing competitive advantages. Premium increases may be tolerated however. Thinking bigger is to consider that Congress establishing the Railroad Retirement System (see appendix) set a precedent to collect from consumers, shareholders, and current workers to pay for pensions. Congress should not give up seeking more revenue sources for the PBGC multiemployer fund.

Ways to Strengthen the Plans

I agree with the NCCMP that the next wave of PPA reform must find new revenue sources, reduce liabilities, and change plan design. What is on the table now is reducing liabilities in the form of cutting retiree benefits. The NCCMP and GAO acknowledges the necessity to do everything in terms of plan design, revenue enhancement, and benefit reductions for non-retirees before considering reductions for current retirees.

The GAO and NCCMP agree that the vast majority of multis survived the 2008 recession through shared sacrifice -- by raising contributions and cutting allowable benefits, such as early retirement benefits.

But the PBGC's multiemployer trust fund still faces probable insolvency because large critically underfunded plans, when failed, will likely petition for PBGC assistance over the next ten years and the PBGC will not have enough funds. There are several pension plans in the red zone that have done everything they can to survive and I agree some plans can't survive without reducing retiree benefits. But cutting retiree benefits is dangerous because current employees and workers may give up on the plan and employers. Delaying the cuts is good policy, every year longer is important for a retiree who have few options left to maintain living standards.

Cutting benefits for current workers are justified only when benefits will keep the plan solvent and maintain lifetime benefits and other protections are in place.

While the PBGC multiemployer plan still has assets, the GAO report shows retirees in insolvent plans would suffer, on average, a much reduced benefit up to the PBGC's guarantee. That maximum PBGC benefit of $1073 per month is about 50% of what the average long tenured retiree receives. When the PBGC runs out of money, the retiree could receive nothing.

I was a critic of the Pension Protection Act of 2006; but I am pleased and surprised at the success of the Act, with the good faith of Congress, to help many multiemployer survive the recession no one predicted.

Now, that I have established multiemployer plans should continue, how can we strengthen them? Cutting benefits for current retirees is the last resort. Each plan will have unique circumstances and futures so is it is not possible to legislate how the benefit cuts should be implemented. The NCCMP proposal outlines key due diligence criteria: the cuts must prevent insolvency, the cuts must help participants maintain their benefits in the long run – the long run is emphasized; the cuts must reduce exposure of employers in order to attract new employers to the multiemployer plans; and to protect the PBGC's risk of insolvency.

Further, the NCCMP acknowledges that the plans have to meet objective standards of insolvency and that no benefits will be improved until the cuts are restored.

Specific Ideas to Protect Retirees

As a trustee of the Voluntary Employee Benefits Trust the Auto and Steelworker VEBAS for almost 8 years; I've been involved in an orderly and transparent process to reduce retiree benefits in their health plans in order to maintain and maximize their benefits. The retirees understand that increasing cost-sharing and restrictions on drug and medical benefits are necessary to keep their retiree health plans intact, and immediate restrictions keep the plan going for a lifetime so the cuts aren’t permanent and drastic.

What is the legal authority? The VEBAs were established by the courts, without a bankruptcy and not within bankruptcy codes, which designated independent trustees and, in the case of the Steelworkers, specific representatives of retirees. As an independent trustee I and my fellow public trustees represent the beneficiaries of the plan soley, and the court instructs us to distribute cuts to keep the very old and poor safe from cuts. The Autoworkers and Steelworkers plans each have unique structures that hue to the core principle of protecting retirees. In some of the cases, current workers and the employer have an obligation in the court agreement to continue to contribute to the retiree health obligations.

When the courts established the VEBAs – the retiree health care plans – it constituted a transfer of employer liability to a trust fund for retiree health benefits, the court was very concerned about the governance structure of the plans and that retirees, who are most vulnerable and the state has an interest in protecting, were represented. In addition to having very specific language about how the cuts but the court agreements defined who vulnerable retirees are. In the case of the auto VEBA, retirees who had very low pension amounts were defined as vulnerable and in the Goodyear – Steelworker case vulnerable retirees include the very old retirees. Different rules and definitions of vulnerability are appropriate for different settings.

In summay, I agree with the basic principles in the NCCMP Commission's report that the governance of an insolvent plan that cuts retiree benefits must include affirmative and specific protections for retirees. I support the analysis of the NCCMP Commission's report and the direction of the solutions. Based on my experience and research, Congress needs to provide a governance structure so that retirees are represented by an independent and well-resourced fiduciary.

I agree that the PBGC is a good place to house a retiree advocate. However Congress should ensure that the retirees have an advocate actively responsible to ensure fair treatment of retirees. Effective retiree representatives have to help shape the cuts, assess the distribution and define, in terms particular to the plan and industry, who the most vulnerable retirees are. I have learned that different rules will have very different distributional effects under different circumstances.

Congress should not give up on the idea that there could be new revenue sources to multiemployer plans besides from employers in critical status (who are already paying many more times the average contribution to the fund). Congress should give serious thought to an industry-wide assessment to help pay for these legacy cost. (See Appendix.)

Last, I am quite excited about the report's description of new benefit designs, including the target benefit – though discussion of new flexible and attractive design is for another day – they should be included in a PPA 2.0. Any solution to insolvency risks should include a design that mitigates future risks of insolvency.

APPENDIX: More Revenue Sources

The United States faced a similar situation with mature and insolvent employer pension plans in the early 1900s and an industry tax restored retiree benefits. The American Express company (a railway) established the first corporate pension plan in 1875. Recessions and competition from smaller new railroads caused the first plans to cut and stop paying benefits. If not for retiree protests, Congress would not have created the Railroad Retirement system in 1934 before Social Security. The Railroad Retirement system collects pension contributions from all employers in the industry to pay for the depreciation of long tenure employees. The underlying justification was that the young railroads enjoyed legacy benefits provided by railroads – the development of the industry – and they should share in paying for the legacy costs.

In 2010, during my tenure as corporate director for YRCW, it was public knowledge that the trucking company had three problems: loss of revenue from the 2008 recession, a shortage of skilled truck drivers, and, more importantly, a large nonunion logistics company's setting prices below costs to gain permanent market share in key markets. Both firms would benefit from more people wanting to be truck drivers, but the newer nonunion company's strategy was early 20th century nonunion railroads' strategy- to slash prices and labor costs; making hard physical labor even less attractive.

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[i] I also taught economics at the University of Notre Dame for 25 years which is in South Bend, Indiana the site of the Studebaker corporation whose abrogation of pension benefits in 1963 which generated support for ERISA. I lived in a community with many retirees benefiting from PBGC insurance and Studebaker retirees who did not. The peace of mind and increase in the material standard of living of elderly households with a modest, but secure, source of Social Security supplement is significant.