

CLIENT BULLETIN

Joint Select Committee on Multiemployer Pensions Meets Again In Educational Session On the PBGC

In previous newsletters we have discussed the Joint Select Committee Of The Solvency Of Multiemployer Plans ("Joint Committee") and followed its progress in seeking a solution to the multiemployer pension crisis. The Select Committee met again on May 17 to hear testimony on [The Structure and Financial Outlook of the Pension Benefit Guaranty Corporation](#) (PBGC) from the Director of the PBGC.

Joint Committee PBGC Meeting

A video of the hearing is available for viewing on the Joint Committee [website](#) or on [Youtube](#). The opening statements of the Co-Chairs, Senator Orin Hatch (R-UT) and Senator Sherrod Brown (D-OH) have also been posted on the hearing website:

- [Senator Hatch's Statement](#)
- [Senator Brown's Statement](#)

The only testimony was provided by The Honorable W. Thomas Reeder, Director of the PBGC, Washington, DC. As is customary, he also submitted [written testimony](#) to the Joint Committee. The 14-page document contains various facts and illustrations of the precarious financial future of the PBGC. Director Reeder noted that if Congress does nothing and the PBGC's multiemployer insurance system becomes insolvent, it would be able to provide only about one-eighth or 12.5% of the already low benefit that it guarantees to pay.

Co-Chair Brown announced that the Select Committee would hold two more hearing in June and two more in July and hopes that serious negotiating on a legislative solution would begin this coming July. The hearing was sparsely attended due to several committee members having other hearings at the same time on other committees.

Much of the "questioning" from Select Committee members was as much a summary of the questioner's understanding of the problem as a question. Some

of the recurrent themes in the session were: (1) the need for structural changes to the multiemployer system to avoid a repeat of the problem; (2) that the problem was partially caused by the government setting too low of funding caps that prohibited overfunding of pension plans; (3) bad guys on Wall Street; (4) that if the government has engaged in loan programs to save "corporations", it should do so to save "people"; and (5) that the failure of the PBGC and multiemployer pension system could have a direct, negative impact on the national economy.

Other questioners, returned to the problems with the dischargeability in bankruptcy of withdrawal liability or unpaid contributions, and various miscellaneous items. One concept that received significant discussion was the theory of "contagion." Contagion is a type of domino-effect theory where the failure of one multiemployer plan impacts and leads to the failure of other multiemployer plans and perhaps the collapse of the whole system.

Two examples of contagion were discussed. One example was where the failure of a multiemployer pension plan could possibly cause failure of other multiemployer pension plans in which the affected employers also participate. According to the PBGC Director, this situation would most likely occur as a consequence of the insolvency of a very large plan. Another example discussed was where the failure of an employer that contributes to more than one multiemployer plan could lead to the failure of several plans. This would most likely occur as a consequence of the failure of a company that is a dominant employer in several plans. The Director's written testimony noted, "We have not yet experienced the failure of a very large plan, so it is too early to test the contagion theory, *but it seems plausible.*" (emphasis added)

Conclusion

We will follow the upcoming hearings scheduled in June and July and report on them as they occur.

Resources

[Client Bulletin 2018-12](#) – discussed the establishment of the Joint Committee.

[Client Bulletin 2018-24](#) - discussed the March 14 organizational meeting.

[Client Bulletin 2018-27](#) – discussed the April 18 meeting on [The History and Structure of the Multiemployer Pension System](#).

[Benefit News Brief 2017-74](#) - discussed the 2017 Annual Report on the financial shape of the PBGC.

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