BIPARTISAN POLICY CENTER

November 3, 2016

The Honorable John Kline
Chairman, Committee on Education and the Workforce
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Kline:

We write to commend your work on the *Multiemployer Pension Modernization Act of 2016* discussion draft and to respond to your request for comments from the public. The Bipartisan Policy Center appreciates the committee's longstanding work to address the challenges of multiemployer defined benefit pensions, which impact the retirement security of more than 10 million participants in these plans and their beneficiaries.[1] This letter represents the feedback of BPC staff on the discussion draft and does not necessarily represent the views or opinions of the organization's founders, members of its board of directors, or commissioners.

Given the pervasive funding challenges of existing multiemployer pensions, the committee is wise to consider new designs for these retirement plans that would be more sustainable while continuing to offer meaningful benefits for retirees and their families. The discussion draft, which proposes to allow for the creation of *composite plans*, has many attributes in common with a recommendation from BPC's Commission on Retirement Security and Personal Savings to create what it called *lifetime income plans.*[2] Specifically, both the discussion draft for composite plans and the BPC proposal for lifetime income plans would:

- Offer benefits in the form of a monthly income for life,
- Utilize asset pooling with professional management,
- Feature contribution rates that are more stable for employers compared to existing plans,
- Set very high standards for plan funding, and
- Require plans that do not meet these funding standards to adjust contributions and benefits so that the funding target is met.

[1] PBGC. "FY 2015 PBGC Projections Report." Page 7. http://pbgc.gov/documents/Projections-Report-2015.pdf.
[2] This recommendation was included within a consensus package of proposals to expand savings for retirement, facilitate lifetime income, and address Social Security's challenges, among other issues. Detailed recommendations on lifetime income plans can be found on pp. 48-50 of *Securing Our Financial Future: Report of the Commission on Retirement Security and Personal Savings.* http://bipartisanpolicy.org/retirement-security.

Both proposals also envision these new designs as options that existing multiemployer plans could voluntarily adopt. The discussion draft includes a thoughtful approach that is clearly intended to ensure that the transition to composite plans does not endanger the funding for legacy multiemployer pension benefits. Importantly, we believe any final legislation should include strong rules for transition-funding payments to ensure that legacy plans become and remain fully funded.

We suggest two modifications to the rules for composite plans as proposed in the discussion draft. First, our understanding is that the draft would allow plan actuaries to certify that a composite plan meets the 120-percent funded-ratio standard based upon assumptions that the actuary *believes* are reasonable. We are concerned that this could enable the use of unrealistic assumptions to conclude that the plan is in compliance with the funding standards even though it would not be in compliance if realistic assumptions were used. BPC's commission recommended that the Treasury Department be charged with establishing standards for plan sponsors to demonstrate that they have met funding requirements. This would promote consistency in the evaluation of funded status across plans. At minimum, we believe that composite plans should be required to submit their certifications, all assumptions used, and any relevant data upon request to an agency with relevant experience (i.e., Treasury, the Pension Benefit Guaranty Corporation, or the Department of Labor) and that the agency should have the authority to reject a certification and require the plan to reevaluate whether the funding target is met using different assumptions if the agency concludes that the assumptions and methods were unreasonable.

Second, we recommend that the realignment process be strengthened and accelerated. The realignment program should specify—before operations of the composite plan commence—exactly what changes will be made to contributions and benefits should the composite plan fail to meet the funding standards. Further, in the event that a composite plan's actuary certifies it does not meet the funding standards, sufficient enumerated changes to reestablish compliance should be implemented quickly—within 60 days. The realignment program ought to be automatic so it is clear in advance to participants, beneficiaries, employers, trustees, and regulators which steps will be taken should the plan become underfunded. This approach does not preclude the possibility that the realignment program could be changed through negotiations of the relevant parties, but until any changes are agreed to, the existing realignment program should be specific enough to be implemented as written without delay.

We also appreciate your request for comments on how the committee might address the financing challenges of the Pension Benefit Guaranty Corporation (PBGC). This is unquestionably of paramount concern for participants, beneficiaries, and taxpayers, because the PBGC has estimated that the multiemployer program will exhaust its assets and be unable to pay all insured benefits by 2025—less than 10 years away.[3] PBGC has estimated that multiemployer premiums—currently $27 per participant—would need to increase by between 59 percent and 85 percent to achieve solvency for 10 years or by

[3] PBGC. "FY 2015 PBGC Projections Report." Page 1. http://pbgc.gov/documents/Projections-Report-2015.pdf.

between 363 percent and 552 percent to achieve solvency for 20 years.[4] These ranges attempt to account for various possibilities in how premiums could be structured—such as allowing the PBGC board of directors the authority to waive premiums in certain cases if it would avoid plan insolvency—and the uncertainty of future developments.

Given the serious financial problems facing the PBGC multiemployer program, we strongly believe that any legislation to create composite plans should include provisions that would significantly improve PBGC program finances. While BPC's commission did not make a specific recommendation on PBGC premiums, BPC staff suggest that the draft be modified to, at minimum, increase program revenues through premiums or other sources to levels that are likely sufficient to maintain program solvency for 10 years, along with providing PBGC the flexibility to waive premiums in specific cases to avoid plan insolvency. We also encourage the committee to consider structural reforms that might help to address future PBGC solvency issues in a timely manner. As an example, perhaps an accelerated process could be established for the PBGC board to propose to congressional committees of jurisdiction the changes to premium structures and amounts necessary to maintain solvency for a certain period. The proposal could then have an expedited path to action—on the board's request or some modified version—by the Congress.

Thank you for the opportunity to provide feedback on the discussion draft. Please let us know if we can be of further assistance.

Sincerely,

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Bipartisan Policy Center

Shai Akabas
Director of Fiscal Policy
Bipartisan Policy Center

[4] PBGC. "PBGC MPRA Report." Page 1. http://pbgc.gov/documents/MPRA-Report.pdf.