Averting the Multiemployer Pension Solvency Crisis

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ABSTRACT

The Pension Benefit Guaranty Corporation (PBGC) multiemployer pension insurance program faces projected insolvency, driven by systemic underfunding of multiemployer pension plans. To address this brewing crisis, Congress has established a joint select committee to develop multiemployer pension reforms. Primary causes of the crisis include lax funding rules and inaccurate valuations of pension assets and liabilities. Explanations frequently offered for underfunding, such as financial market downturns and the declining proportion of active workers, fail to account for the relative weakness of multiemployer pension finances. Reforms should establish accurate asset and liability measurements, safeguards against further deterioration of underfunded plans, improved incentives for plan trustees, stronger funding requirements, and risk-based premiums. Legislators may wish to consider authorizing the PBGC to relieve plans of so-called orphan liabilities, subject to strict requirements that any relief must reduce projected claims on pension insurance. Lawmakers must be firm in declaring that no taxpayer funds will be used to bail out multiemployer pensions.

JEL codes: G23, J32

Keywords: multiemployer pensions, PBGC, Pension Benefit Guaranty Corporation, pension insurance, joint select committee, liability discounting, orphan liabilities, bailout, pension funding, underfunding, union pensions, PBGC premiums

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The Pension Benefit Guaranty Corporation (PBGC) multiemployer pension insurance program faces projected insolvency, driven by systemic underfunding of multiemployer pension plans nationwide that would, under current law, result in claims on the insurance system exceeding its projected financial resources. This situation represents a substantial threat to workers who rely on these pensions, whose benefits would be cut to the PBGC's multiemployer pension guarantee limits when their own plans run out of funds, and cut still further if the PBGC itself becomes insolvent. To address this brewing crisis, Congress has established a joint select committee to develop multiemployer pension reforms.

Primary causes of the crisis include inaccurate valuations of pension assets and liabilities, which induce plan trustees to promise benefits well in excess of the levels that employer contributions can fund. Multiemployer pension insurance premiums are also inadequate to finance PBGC insurance coverage, and they are poorly designed in the sense of insufficiently recognizing the risks to the insurance system posed by underfunded plans. Other features specific to the multiemployer pension system have also contributed to underfunding, among them inadequate safeguards against sponsors withdrawing after failing to first contribute sufficient funds to cover their own benefit promises. Explanations frequently offered for multiemployer pension underfunding, such as financial market downturns and the declining proportion of active workers among plan participants, fail to account for the relative weakness of multiemployer pension system finances in comparison with the single-employer pension system.

To be effective and enduring, multiemployer pension reforms should incorporate the following principles: accuracy in asset and liability measurements, safeguards against further deterioration of underfunded plans, improved incentives for plan trustees, stronger funding requirements, and premium assessments that reflect risks to the pension insurance system. Multiemployer plans that cannot meet their benefit obligations should be terminated in a manner similar to insolvent single-employer plans, rather than be allowed to place escalating, destabilizing claims on the insurance program to the detriment of workers nationwide. Legislators should consider authorizing the PBGC to relieve multiemployer plans of orphan liabilities that were fostered in part by lax federal funding and withdrawal rules, with any such relief contingent upon requirements that pension obligations to non-orphan workers be properly measured and fully funded and that relief be provided only in the context of offsetting plan modifications that reduce potential claims on pension insurance. Above all, lawmakers must be firm in declaring that no taxpayer funds will be used to bail out underfunded multiemployer pensions, for reasons of fairness as well as to preserve incentives for responsible funding.

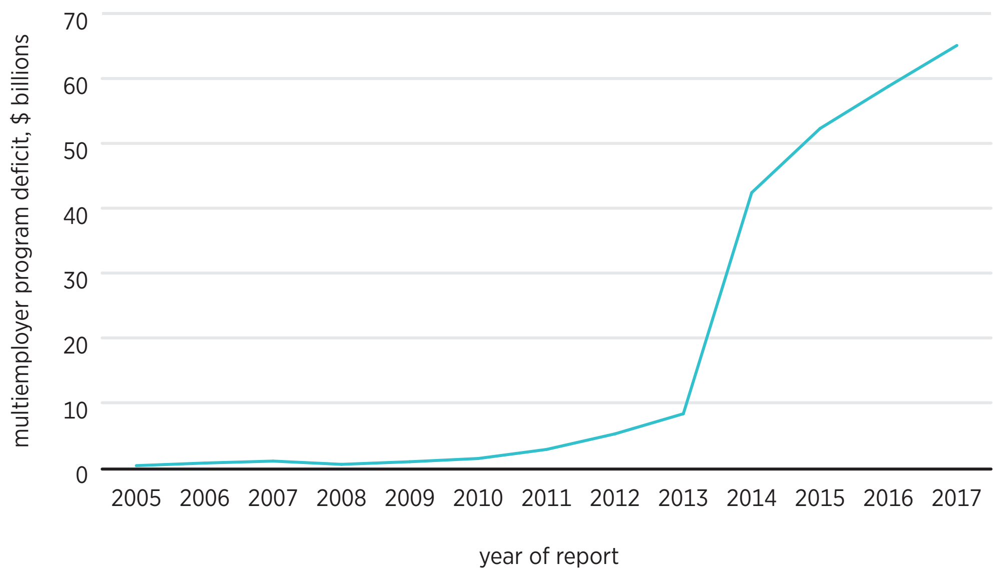
BACKGROUND: THE MULTIEMPLOYER PENSION SOLVENCY CRISIS

Multiemployer pension plans are, as their name suggests, private-sector defined benefit (DB) pension plans sponsored jointly by a union and multiple employers. Multiemployer pension plans are established most typically on behalf of a pool of workers employed in a common industry or geographic region but by different companies. For workers, especially those in industries where short-term employment is common, such pensions offer the advantage of portability in that workers continue to accrue pension benefits in the same plan even if they move to other employers. These plans are established under collective-bargaining agreements between labor unions and multiple employers.[1] They are administered and governed by a board of trustees, typically with labor and management equally represented.[2]

Multiemployer pensions, like other US private-sector DB pensions, are insured by the federally chartered PBGC. The PBGC's multiemployer pension insurance program faces a worsening crisis in the form of a reported $65.1 billion deficit: $67.3 billion in projected liabilities versus only $2.3 billion in assets. The insurance program is projected to become insolvent in FY 2025, threatening hundreds of thousands of workers with a near-total loss of their pension benefits.[3]

1. Pension Benefit Guaranty Corporation (PBGC), *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 2013, 1.
2. PBGC, "Introduction to Multiemployer Plans," 2018, https://www.pbgc.gov/prac/multiemployer/introduction-to-multiemployer-plans.
3. PBGC, *FY 2017 Annual Report*, November 2017, 30; Joshua Gotbaum, "What Congress Can Do to Help People in Multiemployer Pension Plans" (Testimony before the Senate Committee on Finance, March 1, 2016). In the event of PBGC insolvency, losses in benefits for affected workers are estimated to reach 90 percent, for reasons explained later in this study.

FIGURE 1. NET DEFICIT OF PBGC MULTIEMPLOYER PENSION INSURANCE PROGRAM, AS REPORTED IN ANNUAL PBGC REPORTS, 2005–2017



Note: PBGC = Pension Benefit Guaranty Corporation.

In response to the crisis, Congress recently established a bipartisan, bicameral Joint Select Committee on Solvency of Multiemployer Pension Plans, which was charged with formulating recommendations "to significantly improve the solvency of multiemployer pension plans and the Pension Benefit Guaranty Corporation."[4]

The enormous multiemployer insurance program deficit first appeared on the PBGC's balance sheet in its 2014 report, based largely on a projection that two especially large multiemployer pension plans would become insolvent and receive ongoing financial assistance.[5] Since that determination, the PBGC's estimates of its financial shortfall from these and other failing multiemployer pension plans have only continued to grow, as shown in figure 1.

The deficit in the PBGC insurance system threatens hundreds of thousands of workers with the loss of critical pension benefits, which employers, labor representatives, and plan trustees promised to deliver and which the federal

4. Christopher M. Davis, *Joint Select Committee on Solvency of Multiemployer Pension Plans: Structure, Procedures, and CRS Experts* (Washington, DC: Congressional Research Service, February 20, 2018).
5. PBGC, *FY 2014 Annual Report*, November 2014, 20.

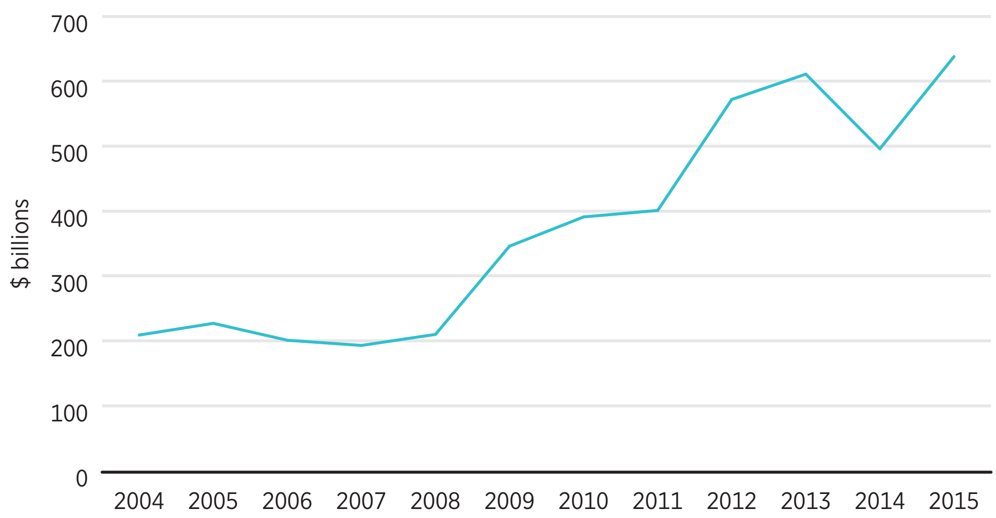
government established the PBGC to insure.[6] This deficit represents an urgent public policy problem to be confronted and solved. At the same time, the PBGC's insurance program deficit is but a symptom of a much wider problem of systemic underfunding in US multiemployer pension plans. Unless this wider underfunding problem is ameliorated, it will continue to place escalating and eventually unmanageable demands on the PBGC insurance system.

Figure 2 shows the PBGC's estimates of total underfunding throughout the multiemployer pension insurance system. The estimate for 2015 is roughly $638 billion, or more than $60,000 per insured worker.[7] Joshua Rauh of the Hoover Institution estimates even greater underfunding: $722 billion for the 2016 plan year.[8] The PBGC's insurance program deficit of $65 billion therefore reflects but a small fraction of the more than $600 billion of underfunding in multiemployer pensions themselves.

This systemic underfunding in multiemployer pensions has been growing progressively worse for some time; for many years, the problem was simply obscured on the PBGC's balance sheet because of the nature of multiemployer pensions and the PBGC insurance thereof. In the single-employer pension system, the withdrawal of a sponsoring employer typically means termination of the plan and the assumption of benefit payment obligations by the PBGC. However, withdrawal by a sponsoring employer from a multiemployer plan more typically results first in a transfer of liabilities to other sponsoring employers in the same

6. The amounts of benefits promised by plan sponsors often exceed the amounts insured by the PBGC, especially in multiemployer pension plans, because of limits on PBGC insurance imposed by statute. See PBGC, "PBGC's Multiemployer Benefit Guarantee," 2017, https://www.pbgc.gov/sites/default/files/legacy/docs/PBGC-Multiemployer-Guarantee-Table-Years-of-Service-and-Benefit-Rates.pdf. If the PBGC were to become insolvent, it would be unable to finance benefits at these levels, and payments would be limited to those that could be made from incoming premium revenues. Former PBGC director Joshua Gotbaum estimates that PBGC insolvency would result in losses to workers in insolvent pension plans approximating 90 percent of their promised benefits. Gotbaum, "What Congress Can Do to Help People in Multiemployer Pension Plans." See also PBGC, *PBGC's Multiemployer Benefit Guarantee*, March 2015.
7. PBGC, "2016 Data Tables," table M-9, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables.pdf. These figures are based on PBGC estimates of plans' vested liabilities, on the basis of the cost of purchasing an annuity. That is distinct from the plans' reported funding percentages for actuarial valuation and compliance with statutory funding rules, which are a less accurate means of estimating actual funding percentages, for reasons that will be discussed later in this study.
8. Joshua D. Rauh, "Testimony of Joshua D. Rauh, Senior Fellow and Director of Research, Hoover Institution" (Testimony before the Joint Select Committee on Solvency of Multiemployer Pension Plans, July 25, 2018), 1, https://www.pensions.senate.gov/sites/default/files/25JUL2018RauhSTMNT.pdf. Rauh's calculation of the unfunded liability uses more precise matching of the durations of specific pension benefit payment obligations to the durations of Treasury bonds whose rates are used to discount those obligations into present-value terms.

FIGURE 2. TOTAL ESTIMATED MULTIEMPLOYER PLAN UNDERFUNDING



Source: PBGC, "2016 Data Tables," table M-9, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables.pdf.

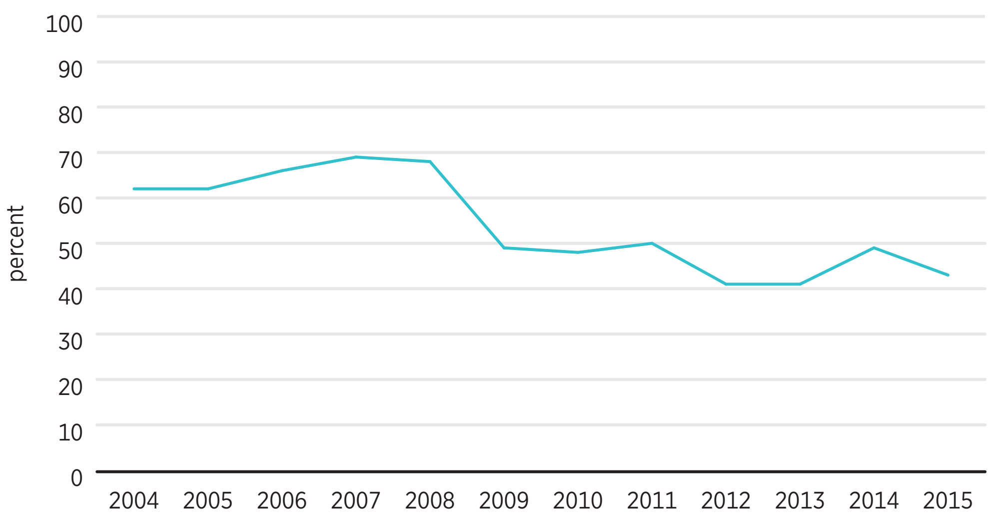
plan, with the PBGC providing financial assistance only as a final resort when a plan lacks sufficient funds to pay benefits. In other words, the PBGC represents a last line of defense for multiemployer pension benefits after other employers in the plan provide multiple, sometimes ineffective, forward lines.

For that reason, the PBGC's books did not directly show the effects of widespread multiemployer plan underfunding until it became systemically severe and advanced, to the point of posing an urgent threat to the PBGC's insurance program. For similar reasons, the PBGC's books do not yet reflect the substantial underfunding in multiemployer plans projected to become insolvent in later decades.

Figure 3 shows the evolution of average funding percentages in multiemployer plans nationwide.[9] These plans have been systemically underfunded for several years, with average funding percentages remaining consistently below

9. PBGC, "2016 Data Tables," table M-9. These figures are based on PBGC estimates of plans' current liabilities, on the basis of the cost of purchasing an annuity in the private market. That is distinct from the plans' reported funding percentages for actuarial valuation and compliance with statutory funding rules, which are a less accurate means of estimating actual funding percentages, for reasons that will be discussed later in this study.

FIGURE 3. TOTAL ESTIMATED MULTIEMPLOYER PLAN FUNDING RATIOS



Source: PBGC, "2016 Data Tables," table M-9, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables.pdf.

70 percent in every year since 2002. Funding levels plunged further to below 50 percent during the Great Recession and have remained there despite subsequent years of economic and financial market recovery.

Although the currently estimated PBGC deficit largely reflects the projected near-term insolvency of some particularly large plans, figures 2 and 3 demonstrate that the problem is not limited to those specific plans but consists of dangerously inadequate funding throughout the multiemployer pension system. Recent estimates are that even so-called green zone pension plans (those with the highest funding levels and least risk of insolvency) are only 53 percent funded on a current liability basis—an underfunding reality that is obscured, as this study will document, by lax valuation rules set in federal law.[10] Without broader reforms, many other underfunded multiemployer plans will eventually

10. Alicia H. Munnell, Jean-Pierre Aubry, and Caroline V. Crawford, "Multiemployer Pension Plans: Current Status and Future Trends" (Special Report, Center for Retirement Research at Boston College, Boston, MA, December 2017), table 6. Current liabilities are discounted at rates that may not exceed 105 percent of a weighted average of certain Treasury bond rates. Congressional Budget Office, *Options to Improve the Financial Condition of the Pension Benefit Guaranty Corporation's Multiemployer Program*, August 2016, 9.

become insolvent, depleting the PBGC's resources even if near-term insolvencies do not.

The tasks before the select congressional committee are to rescue the multiemployer pension insurance system from insolvency and to shore up the finances of multiemployer plans more generally. To aid in developing policy solutions, the following sections of this study provide additional background on multiemployer pension plans and the causes of the current crisis. First, I will review salient aspects of multiemployer funding rules and pension insurance, followed by an analysis of the primary causes of the current crisis. Afterward, I will describe some principles that should guide multiemployer pension reform legislation, followed by more specific reforms that the joint committee may wish to consider.

MULTIEMPLOYER PENSION PLANS AND THE PBGC INSURANCE SYSTEM

A typical multiemployer pension plan is funded under the terms of a collective-bargaining agreement through which labor and management agree on a rate for employer contributions to the plan.[11] It is the job and responsibility of the plan's trustees to develop a benefit structure that will be adequately funded by this contribution rate. A benefit might be defined as a percentage of the employer's contribution or as a function of each employee's years of work.[12]

The PBGC insures a portion of the benefits promised by multiemployer pension plans, but with key differences from its insurance of other pensions, such as single-employer plans. As with single-employer pensions, multiemployer plan sponsors pay premiums to receive PBGC insurance coverage, but premium rates are far lower than they are in the single-employer system for reasons that will be discussed later in this study. In 2018, the flat premium rate per participant is $28 for multiemployer plans, compared with $74 per participant in single-employer plans. This comparison understates the difference in total premium obligations because multiemployer plans are not subject to the variable-rate premiums (VRPs) that underfunded single-employer plans are. In FY 2014 and FY 2015,

11. As described later in this paper, federal law requires that plan sponsors comply with certain statutory funding contribution requirements, irrespective of what labor and management may have previously agreed to between themselves as part of a collective-bargaining agreement.
12. Ted Goldman, senior pension fellow at the American Academy of Actuaries, "The History and Structure of the Multiemployer Pension System" (Testimony before the Joint Select Committee on Solvency of Multiemployer Pension Plans, April 18, 2018).

TABLE 1. PBGC PREMIUM REVENUE, FY 2017 (IN $ MILLIONS)

Multiemployer premiums	292
Single-employer flat-rate premiums	1,785
Single-employer variable-rate premiums	4,948
Interest and penalty income	2
Termination premiums	3
Total net premiums	7,030

Source: Pension Benefit Guaranty Corporation, *2017 Annual Report*, 101, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.

single-employer plans' VRP payments represented approximately 60 percent of their total premium payments, with the result that average premiums paid per participant by multiemployer plans were less than one-sixth what they were for single-employer plans.[13]

Although premium assessments throughout the PBGC insurance system are several times lower than a private-sector insurer would charge for insurance coverage of equal value, this fact is especially true on the multiemployer side.[14] In FY 2017, multiemployer pension plans made net premium payments totaling less than $300 million (table 1), compared with projected future financial assistance from the PBGC of $67.3 billion and a net insurance program deficit of $65.1 billion.[15] Multiemployer program premium income insufficiency was far worse than in the single-employer insurance program. Sponsors of single-employer pensions contributed $6.7 billion in net premium revenue, which exceeded the PBGC's FY 2017 payments to cover participants in terminated single-employer plans, while the single-employer program's long-term deficit stood at $10.9 billion.[16]

The nature of the insurance provided by the PBGC for multiemployer plans differs from that of single-employer plans. When a single-employer plan is terminated, for example because of its lone employer sponsor going out of business, the PBGC assumes the assets of the plan as well as the responsibility for paying benefits within limits prescribed by federal law. By contrast, when a multiemployer plan sponsor goes out of business or otherwise withdraws from sponsoring the pension, the plan typically continues; the responsibility for

13. PBGC, *MPRA Report*, June 2016, 9.
14. Congressional Budget Office, *The Risk Exposure of the Pension Benefit Guaranty Corporation*, September 2005, 8.
15. PBGC, *2017 Annual Report*, 32.
16. PBGC, *2017 Annual Report*, 31.

paying the withdrawing sponsor's former workers' benefits is simply shifted to other sponsoring employers in the same plan. The obligations assumed by other employers for paying benefit obligations of their erstwhile business competitors are often referred to as "orphan liabilities," whereas the affected workers are known as "orphan participants" or "orphan workers."[17]

In theory, a withdrawing multiemployer plan sponsor is required to make a withdrawal liability payment equal to that employer's share of any unfunded vested benefits. In practice, however, actual withdrawal payments are often far less than those required to prevent the plan's financing shortfall from worsening upon the employer's withdrawal. One reason for this inadequacy is that withdrawal liability payments are limited so as to generally not exceed an employer's highest contribution rate over the previous 10 years, which means that if the employer's previous contributions were inadequate to cover its share of promised benefits, then its withdrawal liability payments will also be.[18] Withdrawal liability payments are also limited to 20 years even if this limitation results in the payments' failing to cover the employer's share of the plan's unfunded liabilities. Moreover, such payments might not be collected at all from sponsors that have entered bankruptcy.[19] Finally, withdrawal liability assessments are generally based on a plan's own actuarial assumptions, which often understate the true funding needs of the plan, as this study will later discuss in greater detail.[20] For these and other reasons, withdrawals by multiemployer plan sponsors often leave the remaining employers in the plan, as well as participating workers, facing greater financing shortfalls.

Only when the remaining sponsors are unwilling or unable to maintain the solvency of a multiemployer plan does the PBGC's multiemployer insurance program provide financial assistance. Instead of taking over the plan as the PBGC does with single-employer plans, the PBGC instead provides "loans" to the plans to finance PBGC-insured benefits as well as administrative expenses. As the PBGC notes, "These loans are rarely repaid," so in effect they function as ongoing subsidy support to insolvent multiemployer plans from PBGC.[21]

17. PBGC, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 15.
18. PBGC, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 19.
19. PBGC, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 3.
20. PBGC, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 16.
21. PBGC, *2017 Annual Report*, 41.

The amount of benefits insured by the PBGC is much smaller in multiemployer plans than it is in single-employer plans, reflecting the last-resort nature of the PBGC's involvement in paying multiemployer plan benefits. In 2017, the PBGC insured single-employer pension benefits up to $64,432 per year for a single 65-year-old. However, multiemployer plan benefits were insured only up to $12,870 per year for a worker with 30 years of service, or $17,160 for a worker with 40 years of service.[22] It is emblematic of the substantial underfunding in multiemployer plans that—despite the PBGC's much smaller multiemployer plan benefit guarantees, and despite the fact that fewer than 11 million employees participate in PBGC-insured multiemployer plans as contrasted with roughly 28 million employees in PBGC-insured single-employer plans—the PBGC's multiemployer program deficit of roughly $65 billion is nevertheless approximately six times as large as the roughly $11 billion deficit in its single-employer insurance program.[23]

Multiemployer plans are subject to a distinct set of funding rules under federal law. The details of these funding rules are complex, arcane, and generally beyond the scope of this study.[24] This section will focus only on certain broad, salient features of these funding rules. First, the rules give broad discretion to multiemployer plan trustees to determine what worker benefit levels are commensurate with employer contribution schedules, according to actuarial assumptions of their own devising. This approach distinguishes multiemployer plans from single-employer pensions, which are required to measure plan assets to more closely approximate their actual market values and to discount liabilities via generally approved economic methods. In contrast with single-employer plans, multiemployer plans are permitted greater latitude to measure plan assets at amounts differing substantially from their current market values, and to choose their own liability discounting rates to the extent they are "reasonable."[25]

For that reason, multiemployer plan funding percentages reported for actuarial purposes are much higher than the percentages of benefits that sponsors would actually be able to finance under current projections.[26] For example,

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22. PBGC, "PBGC Guarantee Limits for Single-Employer Plans Increases for 2017," news release, October 28, 2016, https://www.pbgc.gov/news/press/releases/pr16-16; PBGC, "PBGC's Multiemployer Benefit Guarantee," 2017, https://www.pbgc.gov/documents/PBGC-Multiemployer-Guarantee-Table-Years-of-Service-and-Benefit-Rates.pdf.
23. PBGC, *2017 Annual Report*, 31–32, 36, 41.
24. For more specifics on these rules, see PBGC, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 25–58.
25. 26 U.S.C. § 431.
26. Munnell, Aubry, and Crawford, "Multiemployer Pension Plans: Current Status and Future Trends," figure 3.

TABLE 2. CATEGORIES OF MULTIEMPLOYER PLAN FUNDING STATUS

Category	Description
Neither endangered nor critical status (green zone)	No criteria triggered
Endangered status (yellow zone)	< 80% funded on actuarial basis, or funding deficiency (FD) within 7 years
Seriously endangered status (orange zone)	< 80% funded on actuarial basis, and FD within 7 years
Critical status (red zone)	Insolvent within 5 years, or insolvent within 7 years, < 65% funded, or FD within 5 years, < 65% funded, or FD within 4 years or FD within 10 years and critical last year
Critical and declining status	Critical and insolvent within 14 years, or 19 years if < 80% funded

Note: All of the funding percentages in this table are calculated as a function of a plan's actuarial liabilities, using assumptions employed by the plan's trustees.

Sources: Pension Benefit Guaranty Corporation, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 2013, 37–38; John J. Topoleski, *Multiemployer Defined Benefit (DB) Pension Plans: A Primer and Analysis of Policy Options* (Washington, DC: Congressional Research Service, March 2018).

multiemployer plans report actuarial funding percentages on their Form 5500 filings that are just below 80 percent on average, even though they are less than 50 percent funded relative to their current liabilities.[27] The adverse consequences of these measurement inaccuracies will be further discussed later in this study.

A second salient feature of the statutory multiemployer plan funding rules is that they sort plans into different categories according to their funding status and apply different requirements to each (see table 2). Plans determined to be neither critical nor endangered under federal law are considered to be in the "green zone." Less healthy plans are considered "endangered" and are referred to as being in the "yellow zone." Worse off than these plans are "seriously endangered" or "orange zone" plans. Still worse—including those heading toward insolvency in the next five to seven years—are "critical" (red zone) plans, along with a newer subcategory established by the 2014 Multiemployer Pension Reform Act (MPRA), "critical and declining" plans.[28] Multiple standards are used to assign each plan to a category, among them the plan's funding percentage as well as the time period over which it is projected to remain solvent. The rules

27. Munnell, Aubry, and Crawford, "Multiemployer Pension Plans: Current Status and Future Trends," figure 3. Current liabilities are discounted at rates that may not exceed 105 percent of a weighted average of certain Treasury bond rates. Congressional Budget Office, *Options to Improve the Financial Condition of the Pension Benefit Guaranty Corporation's Multiemployer Program*, 9.
28. John J. Topoleski, *Multiemployer Defined Benefit (DB) Pension Plans: A Primer and Analysis of Policy Options* (Washington, DC: Congressional Research Service, March 2018).

are generally designed to require stronger corrective measures of plans with greater funding challenges, but various statutory exemptions from these funding requirements have in practice allowed sponsors of red zone plans to make even smaller contributions to their severely underfunded plans than those made by the sponsors of green and yellow zone plans.[29] The adverse consequences of these funding exemptions will be further explored later in this study.

A third key feature of the multiemployer plan funding rules is that plans are not required under law to be fully funded within any effectively enforceable time period. Instead, significantly underfunded plans are required to adopt a *funding improvement plan* (FIP) or *rehabilitation plan* (RP) to improve the funding status, but these plans need only aim at goals falling well short of full funding. FIPs of endangered plans "must be designed to achieve a one-third increase in the plans' funded percentage," and RPs of critical plans "must provide for the plans to emerge from critical status over a 10-year rehabilitation period"—or even later, if the plan's trustees determine that slower improvement is the best they can achieve. If the trustees determine that even this is infeasible, their RP need only attempt to "forestall possible insolvency."[30]

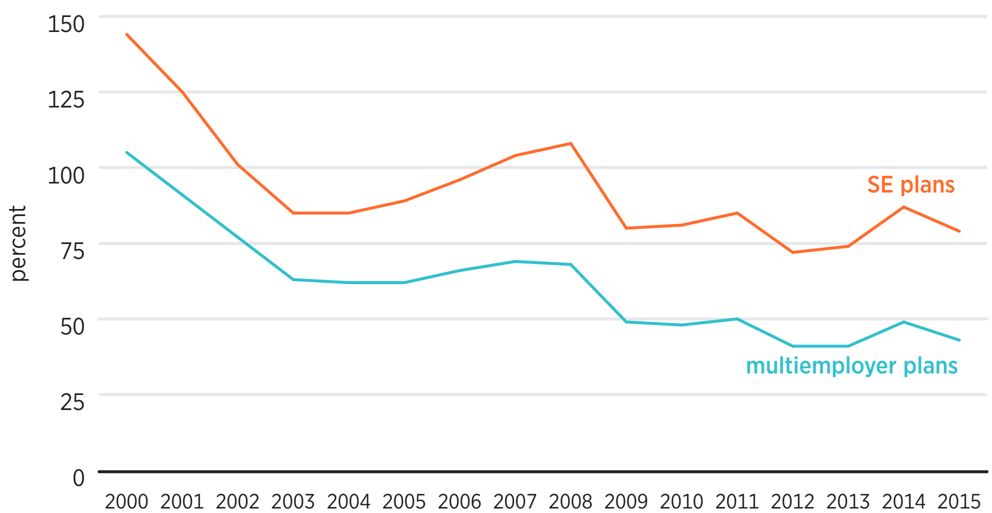
The complex, opaque, and inadequate valuation and funding rules bearing on multiemployer pension plans have contributed greatly to the current crisis and will likely require fundamental reforms to produce a durable solution, as the following sections of this study will explain.

CAUSES OF THE CRISIS

An effective response to the multiemployer pension solvency crisis requires understanding its causes, which are various and wide ranging in significance. It is often noted that the solvency of multiemployer pension plans was adversely affected by two recent financial market downturns: (1) the bursting of the dot-com stock bubble in 2000 and (2) the Great Recession of 2007–2009. Indeed, average funding percentages in multiemployer plans were much higher (averaging 105 percent of their then-current liabilities) in 2000 before the dot-com

29. Andrew G. Biggs, resident scholar, American Enterprise Institute, "The Multiemployer Pension Plan System: Recent Reforms and Current Challenges" (Testimony before the Senate Committee on Finance, March 1, 2016), https://www.finance.senate.gov/imo/media/doc/03012016%20Biggs%20SFC%20testimony%20on%20multiemployer%20pensions.pdf.
30. PBGC, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 41.

FIGURE 4. COMPARISON OF SINGLE-EMPLOYER AND MULTIEMPLOYER PLAN FUNDING RATIOS



Source: PBGC, "2016 Data Tables," tables S-44 and M-9, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables.pdf.

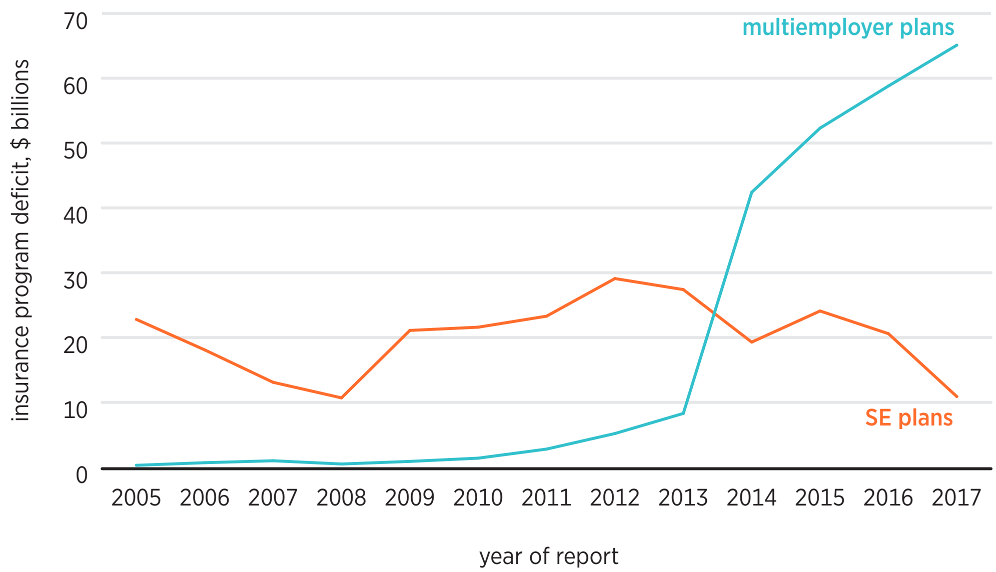
bubble burst. They declined further during the Great Recession from an average funding percentage of 69 in 2007 down to 49 in 2009, as seen in figure 3.[31]

These financial market downturns, however, provide at best an incomplete explanation for the current badly underfunded status of multiemployer pensions. First, prudent management of pension finances should encompass anticipation of inevitable, periodic market downturns. Second, financial markets have since recovered: by early 2018, the Dow Jones Industrial Average stood at nearly twice its level in late 2007 before the Great Recession, yet multiemployer pension funding ratios still remain dangerously low.[32]

Third, financial market downturns cannot account for why multiemployer plans are so much more underfunded than single-employer plans. Figure 4 shows that the financial market downturns in 2000 and 2008 hit single-employer plans

31. For funding ratios before 2004, see PBGC, *Pension Insurance Data Book 2008*, 2009, table M-9, https://www.pbgc.gov/documents/2008databook.pdf. Again, these funding percentages are calculated relative to current liabilities, discounted at rates designed to replicate the prices that the private annuities market would charge to assume pension benefit obligations.
32. Yahoo! Finance, Dow Jones Industrial Average Historical Data (dataset), January 1, 2007–May 28, 2018, https://finance.yahoo.com/quote/%5EDJI/history?period1=1167627600&period2=1527480000&interval=1mo&filter=history&frequency=1mo.

FIGURE 5. COMPARISON OF SINGLE-EMPLOYER AND MULTIEMPLOYER INSURANCE DEFICITS, AS REPORTED IN PBGC ANNUAL REPORTS, 2005–2017

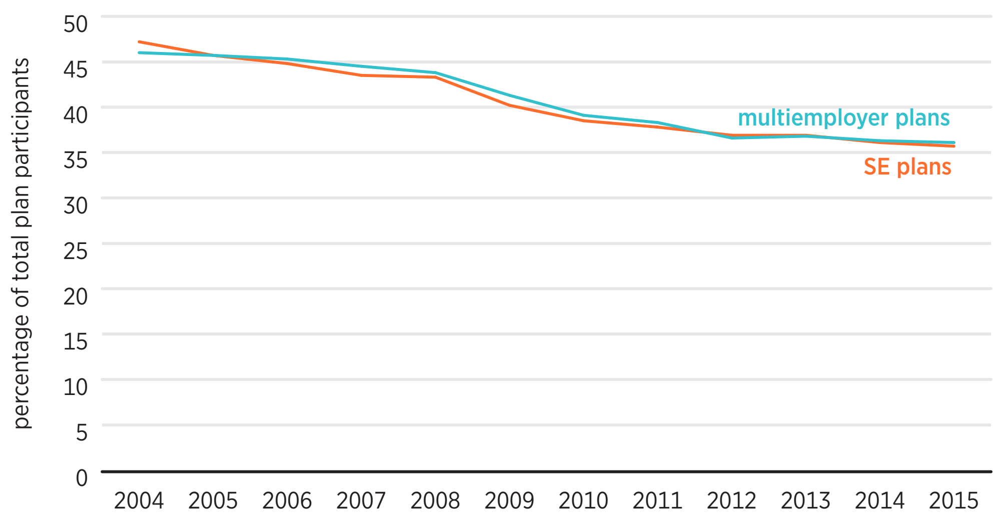


fully as hard as they did multiemployer plans. Multiemployer plans are instead in comparatively worse shape today because they were less well funded to begin with, because they had not amassed nearly as large a funding cushion during the financial markets boom of the late 1990s, and because they failed to significantly strengthen their funding position during market recovery years as single-employer plans generally have.

Although we do not have current-year data on aggregate underfunding or average funding ratios for multiemployer and single-employer pensions, a look at recent estimates for PBGC program deficits (figure 5) shows that single-employer plans have been bolstered to the benefit of the insurance system during the recent years of financial market recovery, whereas multiemployer plans have not. The deficit in the PBGC's single-employer insurance program dropped from more than $29 billion to less than $11 billion between 2012 and 2017, whereas the deficit in the multiemployer pension insurance system simultaneously ballooned. With both systems operating in the same financial markets, market trends are clearly not the primary explanation for the multiemployer pension insurance solvency crisis.

Another oft-cited explanation for the funding shortfalls in multiemployer pensions is the intensified competitive environment in which their sponsors operate, resulting in greater pressures on heavily unionized industries and in a

FIGURE 6. COMPARISON OF ACTIVE WORKERS IN MULTIEMPLOYER AND SINGLE-EMPLOYER PLANS



Source: PBGC, "2016 Data Tables," tables S-32 and M-7, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables.pdf.

declining ratio of active workers to those already retired and collecting benefits.[33] This decline in the employers' active workforce produces "a diminished economic base for collectively bargained employer contributions."[34] Such declines are undoubtedly a stress factor affecting particularly troubled plans, as multiemployer plans in the critical red zone exhibit a smaller percentage of active workers (below 33 percent in 2015) than are seen in healthier green zone plans (above 42 percent in 2015).[35] However, the decline in active workers cannot account for the relative funding weakness of the multiemployer plan system as a whole. As figure 6 shows, declines in the percentages of active workers have been nearly indistinguishable between the multiemployer pension system and the much better funded single-employer pension system.

If financial market downturns and the decline in the number of active workers are not the primary reasons for inadequate multiemployer pension

33. For examples of this explanation, see Munnell, Aubry, and Crawford, "Multiemployer Pension Plans: Current Status and Future Trends" and Goldman, "The History and Structure of the Multiemployer Pension System."
34. Goldman, "The History and Structure of the Multiemployer Pension System."
35. PBGC, "2016 Data Tables," table M-17.

TABLE 3. CONTRIBUTORS TO MULTIEMPLOYER PENSION UNDERFUNDING

Also affecting single-employer plans	Distinguishing of multiemployer plans
Financial market corrections	Looser funding/premium/benefit/termination requirements
Decline in active workforce	Orphan worker benefit liabilities

funding, then what is? The answers lie in certain features of multiemployer pension plans that differ markedly from single-employer plans (see table 3).

A primary reason multiemployer plans are underfunded relative to their needs and relative to single-employer plans is that they are governed by inadequate, lax funding rules. Potent incentives encourage even the most well-intentioned plan trustees and employer sponsors to underfund their pension promises and thereby to shift the risks and costs of current underfunding to retired workers and third parties to be faced in the future. Dollars not contributed to the pension fund are potentially available for other attractive uses, such as higher worker wages, investments in the company, or distributions to investors.[36] At the same time, the costs of underfunding arising from minimizing pension contributions within statutory allowances can be redistributed to other sponsors in the same plan, to the PBGC insurance system as a whole, and to participating worker beneficiaries. These costs may be felt long after the plan trustees who made those decisions have left their positions of responsibility.

These incentives are powerful and require equally strong countervailing incentives to restrain the shifting of financing risks from pension sponsors to workers and to third parties.[37] Unfortunately, the lax regime of multiemployer pension funding rules fails to provide such a counterweight. No solution to the

36. As James Naughton, assistant professor in the Kellogg School of Management at Northwestern University, put it in testimony before the Joint Select Committee, "A relatively low pension contribution means that employees might be able to receive higher non-pension compensation from their employers through the collective bargaining process." James P. Naughton "How the Multiemployer Pension System Affects Stakeholders" (Testimony before the Joint Select Committee on Solvency of Multiemployer Pension Plans, July 25, 2018), https://www.pensions.senate.gov/sites/default/files/25JUL2018NaughtonSTMNT.pdf.

37. Workers face substantial risks of underfunding because their benefits are cut to PBGC guarantee levels if their pension plan becomes insolvent (and potentially cut further, if the PBGC itself becomes insolvent). As the previous paragraph indicates, under the PBGC insurance system, third parties burdened by pension underfunding include other pension plan sponsors, who finance pension insurance with premium payments. If federal funds were used to provide loans or subsidies to underfunded pensions, either through the PBGC or directly to plans, the third parties would include US federal taxpayers.

multiemployer pension funding crisis is likely to last unless and until these funding rules are strengthened.

Multiemployer pension funding rules have a number of shortcomings, but foremost among them is their use of inaccurate measurements of plan assets and liabilities. Multiemployer plan assets are not measured for statutory funding purposes at their current market values but are instead "smoothed" with previous market values looking back for up to five years, producing results that are permitted to deviate by as much as 20 percent from their actual current market value.[38] This wide variance from current market values is much greater than is permitted for single-employer plans.

Also problematic is the discretion given to multiemployer plan trustees to understate their plans' liabilities by using inflated discount rates when translating them into present-value terms. It is tactfully said that "experts sharply disagree on which approach should be taken to discount these plans' estimated obligations," but a more precise way of expressing this phenomenon is that wide conceptual agreement exists among economists on how to properly discount liabilities, and that most plans' actuarial practices as well as the statutory funding rules simply disregard this consensus.[39] In testimony before the Joint Select Committee, Joshua Rauh of the Hoover Institution noted, "On this one point, that measuring liabilities using these kinds of rates understates pension liabilities and costs, the [economics] profession has been nearly unanimous."[40]

As economists Jeffrey Brown and George Pennacchi have summarized the literature, "Most financial economists argue that liabilities should be discounted using a rate that reflects the risk of the liabilities," and not a higher rate of return assumed for the pension's investment portfolio, as many plan trustees and actuaries do in practice.[41] Andrew Biggs and Kent Smetters of the American Enterprise Institute note similarly, "Economists are united in believing that the appropriate discount rate is a function of the liability rather than of the assets."[42]

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38. PBGC, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 25.
39. Government Accountability Office, *Pension Plan Valuation: View on Using Multiple Measures to Offer a More Complete Financial Picture*, September 2014.
40. Rauh, "Testimony before the Joint Select Committee," 4.
41. Jeffrey R. Brown and George G. Pennacchi, "Discounting Pension Liabilities: Funding versus Value" (NBER Working Paper No. 21276, National Bureau of Economic Research, Cambridge, MA, June 2015), 1.
42. Andrew G. Biggs and Kent A. Smetters, *Understanding the Argument for Market Valuation of Public Pension Liabilities* (Washington, DC: American Enterprise Institute, May 2013), 5. Although the paper concerns the valuation of public pension liabilities, this particular analytical point applies equally to the issue of valuing multiemployer pension liabilities.

In his testimony before the Joint Select Committee, James Naughton explains that plans' common practice of discounting on the basis of "anticipated investment returns" of equity holdings means that "the present value of benefits calculation does not reflect the economic value of pension promises."[43]

In effect, prevailing discounting methods used by multiemployer plans assume that the more aggressive the plan's investment portfolio, the smaller the plan's liabilities. This approach is inconsistent with well-established economics principles. The amount that a private-sector entity would charge to assume the liabilities of a pension plan should be unaffected by the previous sponsor's investment choices. It is instead a function of the certainty of the commitment by the sponsor (or by any entity assuming those liabilities) to pay those pension benefits, as well as of the time window over which they are to be paid. "Standard financial theory suggests that financial streams of payment should be discounted at a rate that reflects their risk, and in particular their covariance with priced risks."[44] For that reason, federal law requires that pension liabilities in single-employer plans be discounted using prevailing high-quality corporate bond rates, taken from a bond rate yield curve simplified by breaking it into three segments reflecting the approximate durations of specific benefit obligations.[45]

Multiemployer plans' prevalent use of higher self-selected discount rates for valuation purposes has large detrimental effects on their funded status. The vast majority of multiemployer plans use discount rates of 7 percent or higher for funding purposes, or roughly twice the rates the PBGC uses to compute their current liabilities.[46] The discount rate difference is the biggest reason why multiemployer plans report funding percentages of nearly 80 percent on average, even as their current liability funding percentages average less than 50 percent.[47]

43. Naughton, "How the Multiemployer Pension System Affects Stakeholders," 2.
44. Robert Novy-Marx and Joshua Rauh, "The Liabilities and Risks of State-Sponsored Pension Plans," *Journal of Economic Perspectives* 23, no. 4 (November 2009): 195. Although this paper also concerns the valuation of public pension liabilities, this particular analytical point applies equally to valuing multiemployer pension liabilities.
45. Internal Revenue Service, "Funding Yield Curve Segment Rates," September 18, 2018, https://www.irs.gov/retirement-plans/funding-yield-curve-segment-rates.
46. Plan Forms 5500 filed with the PBGC, Schedule MB. As mentioned earlier, the PBGC's current liability measure discounts liabilities at rates designed to reflect the prices of annuities on the private market.
47. Munnell, Aubry, and Crawford, "Multiemployer Pension Plans: Current Status and Future Trends," 18. That inflated discount rates obscure pension underfunding is implicitly acknowledged even by proponents of their use. Ben Ablin and David Pazamickas, "The Impact of Alternative Discount Rates on Multiemployer Pension Plan Funding" (Horizon Actuarial Services LLC, Silver Spring, MD, June 2018). Ablin and Pazamickas found that "over 60% of multiemployer plans are currently certified in the green zone. If discount rates were based on current corporate bond yields, only

Defenses of the use of these higher discount rates take a number of forms: Some actuaries assert that their use better captures how a given investment portfolio will cause funding obligations to be distributed over time, arguing that using lower risk-reflecting rates would result in charging "current generations an amount greater than the expected long-term cost."[48] Others claim that smoothed assets and higher discount rate assumptions are necessary to dampen volatility in contribution requirements, which is a major concern for employers.

The arguments cited above are unpersuasive. Volatility in contribution requirements can be dampened by statutorily constraining the variation in required contributions from one year to the next.[49] More generally, the severity of contribution requirements should be considered separately from the question of liability discounting. To the extent statutory contribution requirements are deemed to be too stringent, this problem should be ameliorated by changes to the contribution rules themselves, not by the mismeasurement of pension liabilities. Using inaccurate measurements of a plan's assets and liabilities is not necessary to these purposes and serves only to lessen financial transparency.

Moreover, the current inadequate levels of funding in multiemployer pension plans are themselves a powerful argument that higher rate-of-return-based discounting assumptions are imprudent. If these higher discount-rate assumptions were reliably reflective of actual plan funding needs, multiemployer pensions would not be as underfunded as they now are. As Rauh has documented, not only do multiemployer plans' typical discount rate assumptions fail to account for risk, but their most commonly assumed returns exceed the average long-term pension investment returns actually realized over the past two decades.[50]

Multiemployer pension funding rules suffer from other inadequacies as well. Whereas single-employer plans are generally required to amortize their

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7% of multiemployer plans would be in the green zone." This finding dramatizes the great extent to which the use of inflated discount rates hides underfunding under current law. The Horizon authors conclude that "funding standards that provide for discount rates based on reasonable estimates of the long-term expected rates of return on plan assets are still appropriate for multiemployer pension plan funding," despite economists' consensus that discount rates should instead reflect the degree of risk in the liabilities. The authors' recommendation appears to be driven by the difficult choices that would be recognized if liabilities were properly discounted, among them the choice between substantial funding contribution increases and benefit reductions to levels "that would not be appreciated by participants." Although it is undoubtedly true that employers would rather provide, and beneficiaries would rather receive, benefits in excess of those that employers have actually funded, this wish does not obviate the economic realities underlying liability discounting.

48. Government Accountability Office, *Pension Plan Valuation*, 39.

49. Plans can also dampen contribution volatility on their own, by holding more conservative investments with less variation in returns.

50. Rauh, "Testimony before the Joint Select Committee," 7.

underfunding over seven years, multiple statutory amortization schedules exist for addressing multiemployer plan underfunding, and they tend to be substantially longer (15–30 years). The coexistence of longer amortization schedules for addressing underfunding, when it is attributed to certain specific causes, impedes the overriding policy objective of correcting total underfunding within a prudently expeditious time frame, irrespective of the underfunding's cause. Beyond these longer amortization schedules, it is relatively easy for plans to receive 5-year amortization period extensions, while extensions of 10 years are also potentially available.[51] Also, as earlier mentioned, requirements that endangered plans adopt an FIP do not stipulate that they pursue a target of full funding.[52] Critical (red zone) plans are further allowed to certify that even the RP standard cannot be met with "reasonable" measures; in that scenario, the plan is essentially excused from improving its funded status, and its potential cost to the PBGC is permitted to grow.[53]

Benefit increases and lump sum payments by endangered and critical multiemployer plans are subject to some restrictions, but they are generally weaker than the restrictions imposed on single-employer plans and are insufficient to prevent many plans' underfunding from worsening. Perhaps most seriously of all in view of its severely underfunded condition, a critical plan that has adopted an RP is "not liable for contributions otherwise required under the general funding rules," and the "excise tax for failure to meet the funding requirements . . . does not apply."[54] These provisions effectively waive funding requirements for the very plans for which increased funding is most needed.

Multiemployer plans are also permitted to dig their financial holes deeper in other ways that single-employer plans are not. For example, a single-employer plan that fails to or cannot meet its funding obligations is subject to involuntary termination by the PBGC, reducing its benefit obligations to the levels the PBGC guarantees. By contrast, critically underfunded multiemployer plans are

51. PBGC, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 30; Internal Revenue Service, "Extension of Amortization Periods for Multiemployer Plans," March 27, 2018, https://www.irs.gov/retirement-plans/extension-of-amortization-periods-for-multiemployer-plans.
52. Plans with FIPs are required only to aim at reducing their underfunded percentage by one-third, whereas plans with RPs are required only to aim to emerge from critical status within 10 years and sometimes longer.
53. PBGC, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 41.
54. Joint Committee on Taxation, "Present Law Relating to Multiemployer Defined Benefit Plans" (prepared for a hearing of the Joint Select Committee on the Solvency of Multiemployer Pension Plans, April 2018), https://www.pensions.senate.gov/sites/default/files/x-30-18.pdf.

permitted to continue paying full benefits without making even minimally adequate contributions, and their benefits are not cut to the PBGC guarantee levels until the plan runs out of funds. Finally, as mentioned previously, the premiums paid by multiemployer plans are on average less than one-sixth as large as those paid by single-employer plans, despite the fact that the financial pressures on the PBGC's multiemployer plan insurance system are projected to be nearly six times greater. In effect, the premium burden on multiemployer plans is over 30 times smaller, relative to the needs of the insurance program, than is the case with single-employer plans.

Multiemployer plans have been provided with these far more relaxed funding rules than those applying to other DB plans, based on the reasoning that the inherent nature of multiemployer pensions will mitigate systemic risk. This assumption is not being borne out. As the PBGC has reported to Congress,

> The funding of multiemployer plans is quite different from the funding of single-employer plans. Contribution rates are fixed by collective-bargaining agreements and generally stay in effect for the duration of the contract period. The funding rules therefore permit multiemployer plans to be funded over longer periods. It was assumed that the risks of a longer time horizon are mitigated by the pooling of employer contributions, plan assets, and liabilities, which spreads the risk of fully funding plan benefits among numerous employers. The multiemployer plan rules are designed to allow some employers to exit the plan (possibly with withdrawal liability) and others to enter on the expectation that the long-term funding prospects for the plan would not be affected. It is now apparent, however, these expectations for multiemployer plans are unlikely to hold true in the foreseeable future.[55]

The other phenomenon adversely affecting multiemployer pension funding in a distinctive way is that of orphan liabilities—that is, obligations of plans to pay benefits to former employees of employers that have since withdrawn, without necessarily having paid withdrawal liabilities sufficient to finance those benefits. As earlier described, an employer withdrawing from a multiemployer pension plan is theoretically obligated to make a withdrawal liability payment equal to that employer's share of unfunded vested benefits, but various limitations

55. PBGC, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 25–26.

and exceptions often cause actual withdrawal payments to fall well short of this amount. Thus, whereas a sponsor of a single-employer plan will generally only be required to finance benefits on behalf of workers employed by that sponsor, sponsors of multiemployer plans may find themselves responsible for financing benefits of workers whom their own companies never employed.

The combination of lax withdrawal liability rules and inaccurate liability discounting methods is a toxic one for pension funding. As Naughton notes, inadequate withdrawal liability payment requirements "create incentives for the most financially healthy employers to withdraw," incentives that are "especially strong when the withdrawal liability is less than the anticipated cost of remaining in the plan." That is quite often the case, given that plans have and typically employ the option to measure their share of unfunded vested benefits (upon which withdrawal liability is based) at an inflated discount rate, as explained earlier.[56] This combination of factors frequently leads to the remaining sponsors in multiemployer plans carrying substantial unfunded orphan liabilities after other sponsors withdraw.

That the orphan liability phenomenon contributes to multiemployer plan underfunding is well established, despite inadequacies in reporting and quantifying orphan workers. Current methods for counting orphan workers may exaggerate their numbers, as this paper will later explain. But even with these reporting inadequacies, certain trends are clear. Alicia Munnell, Jean-Pierre Aubry, and Caroline Crawford found that orphan workers constituted more than 27 percent of participants in critical (red zone) status plans in 2015, as opposed to only 10 percent in green zone plans. Intriguingly, the authors also projected that partitioning the most troubled "critical and declining" plans to take all liabilities currently classed as orphan liabilities off their hands would indefinitely postpone the insolvency of many of them.[57]

Summarizing, the causes of the multiemployer pension funding crisis are various and include some factors that almost certainly cannot be corrected by any select committee's recommendations (e.g., periodic financial market downturns, unfavorable demographics), while also including others that could (e.g., lax valuation, funding, withdrawal and premium rules, inequities in the financing of orphan liabilities). The committee would do well to focus on addressing the causes of the problem that can be significantly ameliorated by federal policy changes.

56. Naughton, "How the Multiemployer Pension System Affects Stakeholders," 4–5.
57. Munnell, Aubry, and Crawford, "Multiemployer Pension Plans: Current Status and Future Trends," tables 3 and 10.

PRINCIPLES FOR REFORM: ACCURACY, TRANSPARENCY, DAMAGE CONTROL, INCENTIVES, PRACTICALITY, AND EQUITY

The 2006 Pension Protection Act (PPA), although imperfect, stands as an example of how pension law can be reformed to the benefit of plan participants and the pension insurance system as a whole. Reforms of single-employer pension funding enacted in the PPA arrested the decline in the stability of single-employer pension insurance. They helped single-employer pensions to withstand the Great Recession and facilitated recent improvements in the single-employer insurance program's financial outlook. A significant reason the PBGC's multiemployer program is in relatively worse shape today is that the PPA did not implement multiemployer pension funding reforms comparable to those enacted for single-employer plans; instead, it granted severely underfunded multiemployer plans even greater latitude to worsen their funding shortfalls.[58] Certain policy principles—many of which were followed in the PPA's single-employer pension reforms—may be useful when considering reforms to the multiemployer pension system.

Accuracy

Adequate pension funding necessarily depends on accurate measurements of plan assets and liabilities. Plan assets should be measured as closely as practicable to their current market values. Any "smoothing" of asset values should only be permitted to correct for the extent to which values on a particular reporting date may be unrepresentative of ongoing values, and there should be no blending with valuations that are significantly out of date.

In the interest of similar accuracy, benefit obligations should be discounted into present-value terms according to their risk level: Treasury bond rates are appropriate for discounting wherever the aim is for benefits to be guaranteed and risk free; alternatively, corporate bond rates are appropriate to the extent that

58. PBGC, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 72. The PPA "provided funding relief that did not exist under prior law, including the automatic use of 5-year amortization extensions for certain plans, the elimination of excise taxes on employers for funding deficiencies in critical status plans, and a framework for plans to improve their funding status over an extended period of ten or fifteen years. In addition, certain plans will not have to take any steps that go beyond reasonable measures if those steps could risk the voluntary continuation of the plans by employers and unions."

benefits are subject to some risk of nonpayment.[59] These realities have long been recognized in the rules governing single-employer plan funding, which Rauh finds to be "one of the main reasons that the corporate single-employer system is in better financial condition."[60] Liabilities and discounting methods should be duration-matched: a benefit payable next year should not be discounted at a higher long-term rate.

To the extent accurate measurements of assets and liabilities introduce volatility or onerousness into annual funding requirements, those effects should be dampened by refining the contribution rules, not by adopting distorted valuations. The same point can be made in reverse: if minimally adequate funding standards are not being maintained, none of the inadequacy should be perpetuated by distorted or inaccurate valuations, as is occurring currently.[61] While it may be impractical to require all pension plans to achieve full funding in the near term, the true extent to which pensions fall short of funded status should not be obscured by asset and liability mismeasurement. These principles of accuracy should apply to all pension plans, whether underfunded or fully funded.

Transparency

Workers, policymakers, and markets need full, clear information about plans' funded status and their prospects for continued solvency. Plans' funded status should be disclosed using the aforementioned methods for accurately valuing assets and liabilities.[62] Aspects of law that interfere with transparency—such as the multiple amortization schedules and loopholes under current law—should be repealed and replaced. A single, clear, and transparent amortization schedule for addressing all sources of underfunding is optimal. Multiemployer plans as a

59. Interpreted precisely, this would suggest that insured pension benefits should be discounted at Treasury bond rates, whereas only pension benefits exceeding the PBGC's statutory guarantee limits should be discounted at higher corporate bond rates. Relative to these specifications, even single-employer plans—which are permitted to discount all liabilities at corporate bond rates for purposes of funding rule compliance—are allowed to somewhat understate their actual liabilities under current law.
60. Rauh, "Testimony before the Select Joint Committee," 5. Rauh further asserts that the funding rules binding single-employer plans lead to "more prudent decisions about benefits and investment strategies."
61. Rauh, "Testimony before the Joint Select Committee," figures 6, 7, and 8. The figures demonstrate that plans' statutory latitude to select their own liability discount rates obscures the extent to which most multiemployer plans are failing to fund even their annual normal cost increases plus interest on existing underfunding, thereby allowing their true funded status to deteriorate.
62. Rauh states, "The mere disclosure of the number that the finance profession agrees is the right way to measure the solvency of a pension system should not be controversial." Rauh, "Testimony before the Joint Select Committee," 15.

class may require a longer amortization schedule than the seven years applied to single-employer plans, though not one that is so long (nor coupled with easy opportunities for extension) as to be essentially ineffective. In any event, workers and markets should know that every ongoing multiemployer pension plan is at least capable of moving down a path toward full funding over a publicly disclosed time certain.

Damage Control

Central to the PPA reforms was the conception that underfunded single-employer plans would not be permitted to dig their funding holes deeper and to shift mounting costs to the PBGC insurance system (and to workers at risk of losing benefits). Similar restrictions should be imposed on multiemployer plans. There may be some instances where statutory limitations on the variance of required contributions allow plans not to make steady progress toward full funding. However, this should never result in a significantly underfunded plan's failing to meet its normal cost obligations or in its funding percentage declining still further.[63] In such instances, freezes of benefit increases and lump-sum payments, or constraints on accruals, should take effect to the extent necessary to prevent funding percentage declines.

Nor should underfunded plans be permitted to draw on previous "credit balances" to avoid making the minimum contributions necessary to stabilize funding percentages. A *credit balance* is earned by a plan under current law whenever it makes more than the minimum required funding contributions in a particular year. Established to reward plans for additional discretionary contributions during good times, credit balances should not be a reason for a plan's failure to make other contributions necessary to maintain adequate funding. To a certain extent, a credit balance provides its own reward to a plan sponsor by increasing a plan's funded percentage, thereby requiring fewer contributions later.

Withdrawal liability rules should be strengthened so that withdrawing sponsors pay for their proportionate shares of a plan's unfunded vested benefits, accurately measured and irrespective of the adequacy of previous contributions, so that a sponsor's withdrawal does not worsen a plan's underfunding.

63. *Normal cost* is the cost of benefits earned during the current year.

In general, funding rules should require sponsors to fund their plans adequately, or to terminate them if they cannot.[64] In a worst-case scenario in which an underfunded plan simply cannot maintain its funded percentage during its worst years, or cannot realistically progress toward full funding pursuant to a statutory amortization schedule, the PBGC should have additional authority to initiate an involuntary termination of the plan as it does with single-employer plans, as well as a statutory obligation to employ this authority as necessary to protect the insurance fund.[65] That authority would limit the costs of unavoidable terminations relative to the current framework in which the PBGC provides ongoing financial assistance in the form of loans to multiemployer plans that are never repaid, while plans' funding needs progressively worsen.

Incentives

Current multiemployer pension law is riddled with counterproductive incentives. The existence of pension insurance itself creates a moral hazard incentivizing plan trustees to shift the risks of pension underfunding to others. Funding rules must be strong enough to meaningfully counter this induced tendency to underfund. Withdrawal liability penalties must be strong enough to deter sponsors from withdrawing and shedding their benefit funding obligations. Variable rate premiums should be assessed on sponsors of badly underfunded multiemployer plans, as recently proposed by the Trump and Obama administrations and as is done in the single-employer insurance program.[66]

Trustees should be held fully accountable for funding shortfalls, to constrain their latitude and mitigate their incentives to precipitate underfunding by

64. To accomplish the necessary damage control, this also means that plans should not be permitted to bypass benefit restrictions by terminating the original plan and promising additional benefits in a new one. Note also Joshua Rauh's observation that "if a [single-employer] plan cannot or does not make required contributions, the sponsor must face an excise tax or terminate the plan," a principle that should extend to multiemployer pensions as well. Rauh, "Testimony before the Joint Select Committee," 8.

65. PBGC, "Pension Plan Termination Fact Sheet," last modified April 27, 2017, https://www.pbgc.gov/about/factsheets/page/termination. One possible reform is to create "automatic triggering events" for the PBGC to take control of a troubled plan, as suggested by Naughton, "How the Multiemployer Pension System Affects Stakeholders," 6.

66. Donald J. Trump, "The Budget for Fiscal Year 2018," 2017, 740, https://www.pbgc.gov/sites/default/files/presidents-2018-budget-fy-2018-pbgc-federal-funds.pdf. For a PBGC analysis of the extent to which some of the increased premium revenue might be offset by triggering additional insolvencies of plans that cannot handle the additional premium expense, see PBGC, *MPRA Report*, 14–15; and Specialized Carriers and Rigging Association, "Obama Administration Seeks $15 Billion Hike in Multiemployer Plan Premiums," news release, February 25, 2016.

adopting unrealistic actuarial assumptions.[67] Federal policy should not penalize responsible sponsors who have adequately funded their plans by subsidizing the pension benefits of business competitors who have not. Importantly, the federal government should signal that no taxpayer dollars will be used to bail out underfunded pensions, because of the incentive a potential bailout would create for all sponsors to reduce their pension contributions, potentially triggering a catastrophic surge in systemic underfunding.

In sum, pension law should encourage multiemployer pension sponsors who are capable of funding their plans to do so without exiting the system, while limiting the financial damage caused by those who simply cannot adequately fund their pension promises.

Practicality

Although full funding of multiemployer pensions is an appropriate policy goal, it cannot be achieved overnight or, given current underfunding, in the near term. The employer contributions required to achieve substantial progress against systemic underfunding would threaten the viability of many plan sponsors.[68] Policymakers must recognize the limits to what can be achieved in any particular policy direction.

On the one hand, many ongoing plans cannot be propped up and permitted to worsen their underfunding without thereby exacerbating the eventual damage to the pension insurance system. On the other hand, many sponsors cannot make the contributions required to attain full funding in the near term without precipitating plan terminations that might not otherwise occur. It will likely be beyond the capabilities of the select committee to fully repair the problem of multiemployer pension underfunding in the near term. That suggests pursuing

67. One possible means of strengthening accountability—in addition to reforming the valuation and funding rules themselves—would be for lawmakers to strengthen the language of section 502(a) of the Employee Retirement Income Security Act to further clarify that it constitutes a breach of fiduciary duties for plan trustees to rely on assumptions that precipitate inadequate funding, or to establish a plan benefit structure that negotiated contributions are inadequate to finance. See 29 U.S.C. § 1132. Joshua Rauh argues that many such breaches have clearly occurred as defined by current statutory wording: "Statute requires the plan trustees to use reasonable assumptions, and the trustees who budgeted to pay pensions using excessively high discount rates violated that statute by using unreasonable assumptions. Trustees have fiduciary obligations to plan participants, which many have broken by making unrealistic pension promises on which the plans had little chance of making good." Rauh, "Testimony before the Joint Select Committee," 2.
68. Munnell, Aubry, and Crawford, "Multiemployer Pension Plans: Current Status and Future Trends," especially table A1.

more modest goals of gradually improving pension funding for the long term, while reducing near-term claims on the PBGC and strengthening its capacity to withstand them, thereby maintaining the insurance program's solvency for the foreseeable future.

Equity

Perhaps most important, any policy solution will be a lasting one only to the extent that it is tolerably equitable. It is unfair to workers if pension plan trustees do not adequately fund their promised benefits. It is unfair to both workers and plan sponsors if the federal government fails to ensure the solvency of the insurance system undergirding those pension benefits. It is unfair to responsible sponsors who have funded their own compensation promises if their competitors are allowed to deliver pension benefits to their own workers without paying for them. It is unfair to federal taxpayers if general government revenues are used to subsidize pension benefits that only a small minority of them are eligible to receive. Federal policy can remain equitable only if it prevents those various unfair outcomes.

A FRAMEWORK FOR REFORM

It may be useful to conceptualize a general framework for multiemployer pension reform by dividing participating workers into three categories:

1. Nonorphan workers (those employed by continuing plan sponsors)
2. Quasi-orphan workers (those who were formerly employed by a sponsor that has since withdrawn from the plan, but who were also employed by a continuing sponsor)
3. Orphan workers (those who were formerly employed by a sponsor that has since withdrawn and who were not employed by a continuing sponsor)

The equities associated with each category of workers are different and suggest distinct policy considerations for each.

Nonorphan Workers

The equities associated with funding the benefits of workers employed by continuing sponsors are relatively straightforward. These workers were promised benefits by their plan trustees, employers, and union representatives, who are and should be responsible for ensuring that those benefits are paid. This commitment requires adequate funding, which in turn depends on accurate measurements of plan assets and liabilities. Plan assets should be accurately valued by limiting smoothing in a manner similar to statutory requirements for single-employer plans. Future benefit obligations should be discounted at rates no higher than reflected in a yield curve of high-quality corporate bond rates simplified by breaking into segments, as is done for single-employer plans.[69] Previously described loopholes in funding and withdrawal liability rules should be closed, and underfunded plans should not be permitted to progressively worsen their funding status without being subject to involuntary termination by the PBGC. It would be optimal for underfunding to be reduced pursuant to a single, uniform amortization schedule, although it might be necessary for it to be longer than the law allows for single-employer plans.

It would be inequitable for taxpayers to shoulder the burden of paying these pension benefits, whether through overt subsidies or through subsidies disguised as loans. This principle holds irrespective of whether taxpayer-financed subsidies are provided directly to plans or funneled through the PBGC. The obligations to finance these benefits were freely entered into by boards of plan trustees consisting of labor representatives and management, on behalf of workers who remain associated with the plans' continuing sponsors. Most taxpayers are ineligible to receive these benefits and had no representation when they were negotiated.[70]

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69. Internal Revenue Service, "Funding Yield Curve Segment Rates." In principle, both single-employer plans and multiemployer plans should be required to use accurate valuation methods. Doing so would necessitate—in addition to applying the stipulations above to multiemployer plans—also repealing the 25-year smoothing currently permitted for single-employer plans. This smoothing permits plan sponsors to discount liabilities using rates long out of date and unreflective of current market valuations, and therefore also unreflective of current funding needs. Note that the use of higher, smoothed discount rates creates the appearance but not the reality of reduced liabilities. A study by the Society of Actuaries found that were it not for the 25-year smoothing permitted under current law, 84 percent of single-employer plans would show unfunded liabilities in 2015 instead of 11 percent. This underfunding is imprecisely described in the study: "11% of plans had an unfunded liability for 2015," using the smoothed corporate bond rates. It would be more precise to say that unfunded liabilities face a far higher percentage of plans but that the use of smoothed discount rates obscures them. Lisa Schilling and Patrick Wiese, *U.S. Single Employer Pension Plan Contribution Indices: 2009–2015* (Schaumburg, IL: Society of Actuaries, January 2018), https://www.soa.org/resources/research-reports/2017/single-employer-contribution-indices/.

70. Rachel Greszler, "'Protecting' Private Union Pensions with Bottomless Bailouts Is a Recipe for Disaster" (Issue Brief No. 4792, Heritage Foundation, Washington, DC, December 4, 2017). "The government and taxpayers never had a seat at the negotiating table of these unions and employers, and the government and taxpayers never made any compensation promises to these workers" (2).

It is a hardship for workers and employers alike whenever an employer cannot remain in business while meeting obligations to pay wages and benefits promised to workers. However, more harm than good would come from having taxpayers rescue corporations whenever this unfortunate outcome occurs. Precisely to address the final resort in which plans cannot meet their obligations, the self-financing PBGC insurance system has been established to provide assistance with paying benefits within long-established statutory limits. For similar reasons, the PBGC has been invested with authority to terminate plans in some circumstances, rather than to allow financially incapable sponsors to continue to accrue unfunded liabilities at mounting cost to the pension insurance system.

The particular role of inaccurate valuation methods in contributing to existing underfunding further clinches the case against federal taxpayers' subsidizing benefit payments for plans' nonorphan workers. Inflated discount rate assumptions affect benefit promises in ways specific to the multiemployer pension system. It is not solely a matter of inaccurate discounting assumptions contributing to plan underfunding as they would in any pension plan; rather, in multiemployer plans, they directly inflate the benefit promises made to workers.

A typical multiemployer plan is built around a sponsor contribution rate negotiated between participating employers and labor representatives. It is then incumbent on the plan's trustees, with the assistance of the plan's actuaries, to translate those contributions into a set of benefit promises that they can safely fund. If the plan's trustees employ inflated discount rates, this decision not only would produce plan underfunding but also would inflate the plan's benefit promises to workers. It would be inappropriate and inequitable to then transfer responsibility for those inflated benefit promises from the plan trustees who made them to federal taxpayers.

A key necessity and obligation of the federal government is to ensure that the PBGC has sufficient revenue to discharge its obligations, by collecting adequate flat-rate premiums and establishing a VRP, to recognize the systemic risk caused by underfunded plans and to improve funding incentives. Collecting a portion of premium revenue in the form of exit premiums paid by sponsors who exit the system would also help optimize the efficacy of premium collections. The PBGC has reported to Congress that premiums designed in this way would do more to extend the PBGC program's solvency than would crude increases in flat-rate premiums affecting all plan sponsors.[71] Lawmakers should also consider whether the premium base can be broadened to include organizations (such as

71. PBGC, *MPRA Report*, 14.

labor unions) represented on plan trustee boards that have thus far escaped responsibility for insuring benefits they have joined in promising.

Importantly, evidence indicates that multiemployer plan sponsors could potentially fund benefits for their nonorphan workers without precipitating PBGC insurance program insolvency in the near term. Munnell, Aubry, and Crawford conducted projections for 15 "critical and declining" multiemployer pension plans that have applied for relief under the MPRA. They find that "for most plans where orphans account for more than 30 percent of total members, removing the orphan burden restores long-term solvency."[72] In other words, most of these plans could possibly be stabilized if they are required to fund benefits only for their nonorphan workers, though it should be noted that such projections are highly sensitive to plans' investment returns. Continued solvency of these troubled plans would ease the potential threat to the viability of the PBGC insurance system.

Quasi-Orphan Workers

Inadequate data on the number of orphan workers are an impediment to a lasting solution to the multiemployer plan solvency crisis. Munnell, Aubry, and Crawford note that "PBGC guidance permits plans to report as orphan participants those participants whose most recent contributing employer had withdrawn from the plan, even if an employer with whom the participant earned earlier service credit continues to participate in the plan."[73] These workers are not orphan workers in the true sense, because a former employer is still in the plan with an obligation to contribute funding on their behalf. At the very least, any benefits the worker earned while in the employ of a continuing sponsor should be funded from plan assets. As with nonorphan liabilities, no compelling policy rationale exists for third parties (such as taxpayers) to assume responsibility for that portion of a multiemployer plan's benefit obligations.

A useful reform would be to improve disclosure and data concerning orphan liabilities. To be eligible for relief from a portion of these liabilities, plans could be required to disclose the portion of their liabilities that reflect accrued benefits for workers exclusive of any benefits earned in the employ of continuing plan sponsors. Calculation and disclosure of these more precisely defined orphan liabilities would embody a substantial record-keeping burden. Hence,

72. Munnell, Aubry, and Crawford, "Multiemployer Pension Plans: Current Status and Future Trends," 26.
73. Munnell, Aubry, and Crawford, "Multiemployer Pension Plans: Current Status and Future Trends," 25.

policymakers could consider making the additional paperwork optional, with the tradeoff that plans eschewing this record keeping would be ineligible for orphan liability relief. It would be inappropriate and impracticable for the PBGC to intervene to relieve plans of orphan liabilities without explicit information as to what percentage of the plan's liabilities can accurately be described as such.

Orphan Workers

The equities of financing benefits for orphan workers are arguably different from those for other categories of plan participants. As with other workers, the case is unpersuasive for using taxpayer dollars to finance orphan worker benefits, for like other workers the orphans have been promised their benefits by plan trustees without the consent of taxpayers, most of whom are ineligible to receive such benefits. However, it is reasonable to believe that, just as the PBGC exists to insure the benefits of single-employer plan participants whose employers withdraw from sponsorship, sponsors in the multiemployer system pay premiums to the PBGC in part to insure workers against total benefit loss in the event of a sponsor's withdrawal destabilizing a multiemployer plan.[74]

The PBGC currently has some authority to partition multiemployer plans, which could be expanded and employed to bifurcate plans into two sections: one administered by the PGGC covering true orphan liabilities, and the other covering the plan's other workers, whose benefits current sponsors would remain responsible for paying, pursuant to requirements outlined earlier in this paper.[75] The PBGC could be given authority to assume the obligations of the portion that covers true orphan liabilities, subject to the stipulation that offsetting changes are made to the other portion of the plan, such that the combined actions reduce projected claims on the PBGC insurance program. The offsetting changes could take the forms of reductions in future benefit accruals, benefit freezes, additional funding contributions, or other actions, subject to the overriding constraint that the PBGC is able to certify that the sum total of their effects improves the PBGC insurance program's net financial position.

74. It should be acknowledged that this argument is not dispositive; one could counter with the argument that sponsors of multiemployer plans knowingly accepted the risk of potentially funding orphan worker liabilities when they first agreed to cosponsor a multiemployer plan. But that argument could be countered with the further argument that the federal government—in failing to maintain adequate statutory withdrawal liability payment requirements—subjected continuing multiemployer plan sponsors to funding risks they should not have faced.

75. PBGC, "Multiemployer Plans and Partition," accessed October 8, 2018, https://www.pbgc.gov/prac/pg/mpra/multiemployer-plans-and-partition.

Munnell, Aubrey, and Crawford estimate the cost to the PBGC of financing orphan worker benefits for all multiemployer plans at $88 billion.[76] The reform outline presented here would represent a substantially lower cost to the PBGC insurance system than the one they estimated for the following reasons:

- As a condition of partition, the PBGC would require offsetting changes to the remaining nonorphan plan, to an extent that enables the PBGC to certify that each partition creates a net improvement in the PBGC's financial position.
- The $88 billion estimate is based on the number of orphan workers reported in the PBGC Form 5500 filings by multiemployer plan sponsors. These filings as previously mentioned include some workers who are not completely orphans, in the sense that they have accrued a portion of their benefits working for an employer who continues to sponsor the plan. Limiting the PBGC's assistance to true orphan worker liabilities would result in fewer PBGC outlays. At the same time, it would result in certain liabilities now classified as orphan liabilities remaining on the sponsors' books.
- The PBGC would not assume the entire obligation for paying benefits to orphan workers—only those up to the PBGC's statutory benefit guarantee limits. The Munnell-Aubry-Crawford calculations already take this into account; they estimate orphan liabilities in all multiemployer plans at $124 billion, of which $88 billion would be payable under the PBGC's benefit guarantees. Still, actual expenditures are likely to be substantially lower if, as recommended here, a partition is contingent on the plan's only being permitted to "top up" orphan workers (i.e., pay benefits in excess of the PBGC's guarantees) if it has sufficient funding to do so without discriminating in favor of orphan workers. If treating nonorphan workers similarly to orphan workers would result in projected plan insolvency, the plan would be required to make additional offsetting across-the-board benefit reductions, further reducing the potential risk to the pension insurance system.[77]

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76. Munnell, Aubry, and Crawford, "Multiemployer Pension Plans: Current Status and Future Trends," 26.

77. To understand how this requirement might work in practice, consider this example. Assume that an orphan worker has been promised a pension benefit of $15,000 but that the PBGC's statutory limit is $10,000. The plan could pay the orphan worker the remaining $5,000 if it could also afford to pay a comparably situated nonorphan worker a $15,000 benefit without precipitating insolvency, assuming that this policy is extended throughout the plan. If the plan could not afford to top up orphan workers at the same time as delivering comparable benefits to nonorphan workers, further across-the-board benefit reductions would be required.

The stipulations presented in this reform outline are stringent, and deliberately so. Some plan sponsors may be unwilling or unable to reduce other unfunded benefits sufficiently to offset the PBGC's cost of relieving them of their orphan liabilities, even if the partition is contingent upon their doing so.[78] This situation would result in less-than-universal assistance to multiemployer pension plans, but also in fewer financial obligations for the PBGC.

Such a restrictive framework may be a necessary condition for continued PBGC solvency. The PBGC will require additional premium revenue to remain solvent; in 2016, the PBGC estimated that multiemployer premium collections must increase by 85 percent to maintain insurance program solvency for 10 years, taking into account the likelihood of additional partitions during that period as well as the risk that higher premiums would trigger additional employer exits from the system.[79] Looking forward 20 years, the PBCG's projected revenue requirements are several times higher. It is essential for the stability of the PBGC's insurance program that the only plan sponsors made eligible for orphan liability assistance are those willing to take concrete steps to significantly reduce their potential claims on the PBGC.

In summary, a responsible solution to the multiemployer pension crisis would require plan trustees to adopt accurate measures for valuing their plans' assets and liabilities, while moving toward fully funding their pension promises to their own workers. If, and only if, such broader reforms are enacted, the PBGC could also be authorized to deploy insurance program assets to relieve petitioning pension plans of their true orphan liabilities, contingent on those plans making offsetting changes to reduce their potential claims on the insurance system.

PBGC premiums would also be reformed to increase insurance program revenues and to improve incentives, specifically by collecting a substantial portion of premium revenue in the form of VRP assessments on underfunded plans, and as exit premiums assessed on withdrawing sponsors. Moreover, loopholes in the minimum contribution and withdrawal liability rules should be closed, both to eliminate incentives for underfunded plans to become more so and to

78. Nothing in this outline should be construed as suggesting that sponsors' flexibility to reduce other benefit accruals should be further limited relative to current law in the context of orphan liability relief. On the one hand, where the alternative is projected plan insolvency and the loss of all benefits in excess of PBGC guarantees, future benefit accrual reductions or freezes deemed necessary by a plan's trustees to preserve solvency are preferable and should be permitted. On the other hand, plans not facing insolvency should not be permitted to cut benefits that have already accrued, nor should new allowances be created for any plans to cut already-accrued benefits below PBGC-insured levels.
79. PBGC, *MPRA Report*, 15.

reduce incentives for sponsors to withdraw from the system while leaving other employers to shoulder increased liabilities.

In any reform effort, certain missteps should be avoided. The PBGC should not be charged with financing benefits in excess of its statutory guarantees for any portion of the beneficiary population. Doing so would establish a precedent that would ultimately spread to other beneficiaries of multiemployer plans, dramatically worsening the financial exposure of the insurance system at a time when this cannot be afforded.

Nor should further assistance be provided to insolvent plans from the PBGC or the federal Treasury in the form of loans virtually certain not to be repaid. A loan program would in effect be an expansion of problematic features of current law, whereby the PBGC provides financial assistance to insolvent multiemployer pension plans ostensibly as loans while allowing them to dig their financial holes deeper. This ongoing practice contrasts with single-employer pension insurance, in which plan terminations followed by the PBGC's assumption of plans' assets and liabilities are more effective in stopping the financial bleeding. If a multiemployer plan remains badly underfunded because of its untenable internal demographics, even amidst a generally healthy surrounding economy, then providing it with a loan in the hope that it can invest its way out of the shortfall would be an inducement for imprudent investment risks, with the most likely outcome being that the funding shortfall worsens further.[80]

Finally, it is imperative to clarify that federal taxpayer dollars will not be used to bail multiemployer plan sponsors out of compensation they promised to their workers in the form of pension benefits. It would be inequitable for taxpayers to pay for the workplace benefits of others more fortunate to receive them. It would also create injurious incentives if the signal were sent to employers nationwide that the taxpayer stands waiting in the wings to subsidize benefits that they promise to their own workers but that they cannot or do not fund. In such a circumstance, it is virtually certain that multiemployer pension plan underfunding, now estimated at more than $600 billion, would further increase as plan sponsors respond to the diminished incentives to fund their benefit promises.

80. It could be argued that this policy has, in effect, been the one pursued to date by limiting plans' required contributions, per the PPA and other funding relief legislation, in the hopes that high investment returns would eliminate or reduce underfunded plans' funding shortfalls. It hasn't worked. The result has been the predictable one that funding shortfalls have progressively worsened. See PBGC, *Multiemployer Pension Plans: Report to Congress Required by the Pension Protection Act of 2006*, 72.

CONCLUSION

The nation's system for insuring multiemployer pensions faces a crisis deriving from systemic underfunding of such pension plans. The federal government has an obligation to stabilize the insurance system that it established to guarantee a base portion of multiemployer pension benefits, and that is designed to be financed by premiums paid by participating plan sponsors. Although financial market downturns, as well as a declining proportion of active workers, have exacerbated underfunding in multiemployer pension plans, the primary reasons for underfunding are inadequate valuation and funding rules in addition to the distinct design of multiemployer plans, in which withdrawing sponsors can leave remaining sponsors with additional unfunded liabilities for paying benefits to orphaned workers.

The pension insurance system lacks sufficient premium revenues to discharge its projected obligations, and current premium assessments are not structured to mitigate the risks of underfunding and of sponsor withdrawals. Solutions to these problems require more accurate valuation of pension assets and liabilities, and closing loopholes in funding requirements. At the same time, pension funding shortfalls have already grown to the point where creative policies may be warranted to relieve pension plans of orphan worker liabilities while simultaneously requiring offsetting actions to reduce potential claims on the PBGC insurance system.

Lawmakers should resist calls for taxpayers to bail out troubled pension plans with direct subsidies or loans from the federal Treasury, whether provided directly to pension plans or funneled through the PBGC. Doing so would unfairly transfer responsibility for pension underfunding from plan trustees to taxpayers and would likely exacerbate existing underfunding.

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