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To: [RegComments](#)
Subject: Public Comments Special Financial Assistance by PBGC RIN 1212-AB53
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To: Office of Information and Regulatory Affairs, Office of Management and Budget

Attention: Desk Officer for Pension Benefit Guaranty Corporation

Re: Pension Benefit Guaranty Corporation
Special Financial Assistance by PBGC
Regulation Identifier Number (RIN 1212-AB53)

By Gail Kraker

Thank you for your work on the Butch Lewis Emergency Pension Plan Relief Act. I have read the PBGC interim rules and regulations and these are my comments.

THIS IS FROM CNBC BUFFETT WATCH FEBRUARY 27, 2021:

"Bonds are not the place to be these days"

Buffett noted that unlike many insurance companies that are forced to invest their incoming premiums in bonds, Berkshire insurers can "safely follow an equity-heavy investment strategy" due to the financial strength provided by the cash that comes from Berkshire's non-insurance businesses.

Citing as an example the 94% drop of the 10-year U.S. Treasury yield from 15.8% 40 years ago to 0.93% at the end of 2020, Buffett wrote, "Bonds are *not* the place to be these days.

Fixed-income investors worldwide – whether pension funds, insurance companies or retirees – face a bleak future.

My Comments:

THERE ARE WAYS TO PROTECT FUNDS FROM INTEREST RATES GOING UP. HERE IS A COMBINATION OF STRATEGIES:

A) Rather than ease up on the type and quality of investments as some have suggested to the PBGC, please lower the discount rates to a level that will work. Don't allow high discount rates to become an excuse for allowing riskier investments. Stay with the original PBGC plan of requiring investments in high quality investment grade bonds.

This paragraph comes from an investment advisor. I personally don't understand it, but he said I should mention it: "The discount rate used by the legislation and not addressed by the PBGC is the 3rd segment rate (under PPA) plus 200 basis points. This is inappropriate because benefit payments will be made from next month out as far as possible and the 3rd segment rate is a blended rate for 20+ year bonds. The legislation should have called for the use of all three segments under PPA and the 200 bps on top should be eliminated."

Back to My Comments:

Please don't allow stocks as some have suggested. There's surely good reason many insurance companies are forced to invest in bonds as Warren Buffett states. At a meeting with retirees in Akron, Ohio, a CSPF representative, Peter Priede, stated that one big reason for their woes is that the stock market went down during 2008 - 2009 and pensions still needed to be paid from the lower valuations. He said it made it impossible for CSPF to recover. (Ask me if you need backup or proof on what Mr. Priede said.) Please keep this in mind if CSPF suggests easing the PBGC rules for investments and please don't allow this to happen again. An investor like Warren Buffett is rare and even he says stock markets can't be timed. Pensions need to be paid.

We are headed into unprecedented times with the likelihood of interest rates going up for many decades. It will take special expertise to navigate investments during these times. **Absolutely do not allow bond ETFs, bond mutual funds or the like as suggested by some unless they're of very short duration--i.e., more like cash accounts. The reason is important:** The longer the term of bonds the more they go down in value when interest rates go up. (In other words, there's an inverse relationship between interest rates and bond values which only gets worse the longer the life of the bonds.) With longer-term **individual** bonds, the amount of Special Financial Assistance (SFA) invested that will be repaid will be known when the bonds are purchased since they have due dates to pay the debt. The funds will be better able to plan for paying pension liabilities and far less likely to go insolvent. On the other hand, if longer-term **bond ETFs and bond funds** are used and interest rates go up, the ETFs and bond funds would go down in value **indefinitely**. When

it's time to pay pension liabilities they would have to be paid from losses. Please don't allow this grave error to happen.

Please don't allow investment firms to rely on bond ratings alone when selecting investment grade bonds. It will also be important for the bonds and the organizations issuing them to be evaluated by investment advisors individually. This is another reason to not allow bond ETF's and bond funds since investment advisors wouldn't evaluate the bonds individually. Individual evaluations are important because some otherwise good companies won't do well when interest rates are going up and could even go out of business. Bond advisors need to be savvy on how to select bonds when interest rates will be increasing.

A larger portfolio of medium-term bonds with a smaller portfolio of longer-term bonds may be the better strategy. Perhaps long-term bonds should be avoided altogether for many years. Higher bond income should not be the strategy. Safety should be the only strategy.

I can't say this enough: We are heading into unprecedented times with the prospect of interest rates going up for decades. We need especially savvy investment management.

The PBGC interim rules and regulations mention 'other investments as allowed by ERISA.' Since I don't know what such other investments might be, I cannot comment on them, but I suspect the problem was never about what ERISA allows and the problem was about oversight.

B) I believe some suggested not requiring a matching strategy. Please stick with the original PBGC plan of requiring a matching strategy. It's essential to know there will be enough funds to pay pensions when they need to be paid.

C) PBGC needs to seek out advice now and on an ongoing basis from highly ethical investment firms with excellent track records for conservative and safe investing. It isn't enough to rely on fund managers to do this. Please understand that pension participants (actives and retirees) are highly skeptical and worried that the managers of these funds will be the same people who have managed them for years. Out of 1,400 multi-employer funds only about 200 need SFA. That tells us that this crisis is also about management.

An example of an organization that presents itself as a group of multi-employer pension experts, but has a track record that says otherwise, is the National Coordinating Committee for Multiemployer Pensions (NCCMP). For many years

they lobbied Congress to keep PBGC premiums low for multi-employer pension funds then boasted about their success with keeping premiums low on their website. Look where that got us. NCCMP also brought us the plan that was the basis for MPRA, one of the most hated pension laws ever according to retirees, many pension experts and many employers. (Ask me if you want backup on this.) Please keep these errors in judgment in mind when NCCMP gives you their suggestions for PBGC rules and regulations.

D) Oversight, Oversight, Oversight: The funds need to have excellent oversight if SFA funding is to succeed. Please don't let oversight fail again. Let PBGC rules and regulations double down on oversight then make sure those with oversight follow through on their due diligence. Don't let them leave one stone unturned. Today's pension funds are huge and require special expertise. They're also ripe for the taking by the unscrupulous.

E) Increase Multiemployer PBGC Premiums and Benefits. Since anything can happen, it's absolutely essential to increase multi-employer PBGC premiums so full benefits can be paid for participants in funds that go insolvent, such as how it's done for single employer PBGC premiums.

Question from PBGC: "Which organizations are qualified to manage and advise on these vehicles?"

My Comments: Certainly not the organizations that hurt investors and pensions during the 2008 - 2009 market crash, sometimes illegally. Please require that funds seek out qualified and ethical investment firms with excellent track records for conservative portfolios. Require that only investment firms that were fair with investors leading up to and during the 2008 - 2009 market crash can be hired. Don't reward those who put their profits above the financial safety of their customers.

Another Comment on PBGC Premiums: Some retirees were left out of the Butch Lewis Emergency Pension Plan Relief Act because their pension cuts were under bargaining agreements, such as YRC (Yellow Freight). PBGC received millions in funding under the Trump administration. Please fully reinstate these pensions through PBGC with the funds already contributed to it plus through increased premiums. In order to treat these retirees fairly, their back pay should also be refunded the same as will be done for retirees with cuts under MPRA.

MARKET WATCH ARTICLE:

Below is an article from the July 20, 2021 Market Watch. In case you get a paywall, I've copied the pertinent paragraphs below.

“Federal government’s rescue plan for multiemployer pensions falls flat, critics say.”

<https://www.marketwatch.com/story/federal-governments-rescue-plan-for-multiemployer-pensions-falls-flat-critics-say-11626790846>

Pertinent Paragraphs:

The PBGC was “too draconian” in its approach to calculating the amount of financial assistance, says Russell Kamp, managing director at investment management firm Ryan ALM. Generally, “it doesn’t allow for these plans to survive beyond 2051 — if they even get there.”

“One concern: The PBGC’s interpretation of the American Rescue Plan’s requirement that the amount of financial assistance should be enough to pay all benefits due through 2051. Under the PBGC’s rule, the amount of assistance will equal the difference between the plan’s obligations over the next 30 years (including benefits and administrative expenses) and its resources, including current assets, contributions over the next 30 years, the earnings on those amounts, and anticipated “withdrawal liability” payments made by employers exiting the plan. Given that interpretation, after 30 years “you’ve used up every single asset you have between now and 2051,” Kamp says, including contributions that were intended to pay benefits beyond 2051. That calculation of financial assistance, he says, “is the absolute least you could come up with under the law.”

“Another concern about the new financial-assistance program is baked into the language of the law, pension experts say. The interest rate used in calculating the amount of financial assistance is substantially higher than the expected rate of return on the available investment options for that pot of money, experts say, creating a funding shortfall. “That’s pushing you into bankruptcy earlier,” says Gene Kalwarski, CEO of actuarial consulting firm Cheiron.”

My Comments on the Above Market Watch Article: If PBGC wants to protect pension participants, taxpayers, businesses, jobs, unions, federal, state and local taxes and the economy, as the new law was intended to do, please take the critiques in the Market Watch article seriously.

LAST BUT ALSO VERY IMPORTANT

Caution: What the PBGC needs to avoid is what has happened with some state pension funds. Some investment firms will give under-the-table kickbacks or other incentives to fund managers in order to have the fund managers hire them.

Investment firms make far less in fees by managing conservative bond portfolios than they make for managing stocks and other types of investments. This could give fund managers and investment firms the incentive to want PBGC to ease up on regulations on what can be invested in. When things go south, the fund managers won't go after the investment firms the way they should because they don't want to be found out. Everyone loses. Please don't allow pensions to be dependent on the whims of fund managers and investment firms when drawing up the final PBGC rules and regulations. Please protect the ones who are supposed to be protected under the new law.

Thank you for the opportunity to submit comments.