2024 Annual Report of the Participant and Plan Sponsor Advocate

January 17, 2025

OFFICE OF THE PARTICIPANT AND PLAN SPONSOR ADVOCATE

PBGC
Pension Benefit Guaranty Corporation

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INTRODUCTORY COMMENTS BY THE ADVOCATE

As required by section 4004(e) of the Employee Retirement Income Security Act (ERISA), I am pleased to submit this Annual Report discussing the activities of the Office of the PBGC Participant and Plan Sponsor Advocate (Office of the Advocate).

The PBGC Board of Directors selected me to serve as Advocate in January of 2025, following Connie Donovan's retirement after more than ten years as PBGC's first Advocate. The following report describes the work of Office of the Advocate staff as of December 31, 2024: Connie Donovan, participant and plan sponsor advocate (retired August 2024); Camille Castro, senior associate participant and plan sponsor advocate; and Emily Spreiser, associate participant and plan sponsor advocate. I'm particularly thankful for Camille and Emily's continued work following the previous Advocate's retirement and their thoughtful preparation of this year's Annual Report. This report reflects their hard work, achievements, and insights and I'm grateful to step into such an accomplished team.

This year's report includes themes and issues outlined in previous Advocate's reports and describes both improvements and familiar recurring challenges. New to the report this year are sections on the office's future goals and activities, metrics and information on 2024 cases, and a final report on the Advocate's Retirement Security Policy Initiative.

My focus will be on customer service – the Advocate serves the participants in trusteed plans and the plan sponsors who rely on PBGC and the work they do. I will work to improve that service by strengthening interactions with the PBGC Board and management while creating new opportunities for support and advocacy for our customers and stakeholders.

The years ahead will bring real challenges for PBGC's customers and stakeholders. We need to have thoughtful conversations around premium reform and the increasing Single-Employer Program surplus, decreasing plan trusteeship activity, multiemployer reform and SFA oversight, and the slow but steady decline of the defined benefit pension system.

The Office of the Participant and Plan Sponsor Advocate is well-positioned to facilitate and encourage these conversations, and I'm looking forward to working with my staff and our stakeholders for the benefit of PBGC's customers.

Respectfully submitted,

Anne Henderson
PBGC Participant and Plan Sponsor Advocate
January 17, 2025

LARGER THEMES AND AREAS FOR IMPROVEMENT

In 2024, the Office of the Advocate observed larger interrelated themes occurring across multiple departments at PBGC that affected participant and plan sponsor experiences with the agency. These themes emerged from individual participant and plan sponsor cases and have also been highlighted in past Advocate Annual Reports. They present areas where PBGC can foster growth and improvement through agency-wide or cross-departmental initiatives, which would have the added benefit of creating learning and professional development opportunities for staff.

Escalation and Oversight: Strengthen Escalation Procedures and Increase Supervisory Involvement in Complex Issues

PBGC departments that handle participant and plan sponsor cases process the vast majority of these matters both efficiently and appropriately. Problems can occur, however, when a matter arises that presents issues not anticipated by the routine workflows and procedures regularly implemented by contractors and front-line federal employees, which are optimized to quickly address the most common issues. Complex and atypical matters frequently require the attention of a more senior member of PBGC staff with greater expertise and authority. When cases are not escalated appropriately, they can go unresolved for extended periods, and participants and plan sponsors must dedicate outsized time and resources to resolve the issue.

The Office of the Advocate encountered several such cases in 2024, including, for example, a matter in which PBGC repeatedly failed to honor requests by a participant's legal guardian and nursing home to change the payee of the participant's payment account, and one in which PBGC informed a plan sponsor that its premium filing needed to be amended, but was unable to explain why. In these and other matters, contractors and federal staff handling the case failed to escalate the inquiry to more appropriate senior staff, and the cases remained unresolved until the Office of the Advocate's intervention. When the Office of the Advocate received these inquiries, it escalated them to senior employees within the responsible departments, who were able to then resolve these matters very quickly.

PBGC departments should train staff and contractors on how to spot complex situations and the procedures for properly escalating such matters. Opportunities should be given to less senior staff to assist in the resolution process, when appropriate, since this exposure can provide a valuable learning opportunity. Additionally, senior PBGC staff should also routinely review and improve, as needed, procedures for providing oversight and quality control over case matters regularly handled by contractors and less senior PBGC employees.

Processes and Procedures: Improve Written Procedures to Document Existing Practices and Procedures, Clarify Employee Discretion, and Promote Transparency

There is a need across PBGC for various departments to develop written procedures documenting informal processes that are already being implemented. While the agency has some formalized procedures, it is important to memorialize processes to preserve institutional knowledge. Written procedures ensure consistency so participant representatives and plan sponsors who interact regularly with PBGC can anticipate what to expect in future matters, rather than encountering varying requirements and responses across similar issues.

Written procedures are also an important tool for managing and counterbalancing employee discretion. In many areas throughout the agency, formal written procedures are sparse or lack detail, conferring significant discretion on individual agency employees to handle matters as they find appropriate. Some degree of discretion is necessary to enable employees with appropriate expertise to implement non-standard solutions in atypical situations. However, too much discretion can lead to inconsistency and disparate treatment of similarly situated participants and plan sponsors, with real consequences for the individuals and entities affected by those decisions.

When there is a need for discretion, PBGC should carefully consider what levels of employee discretion are appropriate under what circumstances, who should exercise that discretion, and who will exercise oversight. PBGC departments should then review, revise, and expand their formal written procedures to be consistent with these findings.

Communications: Evaluate and Enhance Communication Practices

There are various areas where PBGC should reevaluate and assess ways to improve its communications with participants, plan sponsors, and the public. PBGC can do more to educate the public on the agency's mission, how it operates, and how pension plans work. Greater communication via PBGC's website and social media – and in a variety of accessible formats, such as short videos, FAQs, and infographics – could help promote understanding of topics affecting participants and plan sponsors. Such communications could also reduce the amount of time PBGC staff and contractors must spend repeatedly providing the same information on an individual-by-individual basis.

Participants and plan sponsors who interact with the agency would also benefit from stronger public communication about complex PBGC processes. Agency departments that work directly with participants and plan sponsors should collaborate with PBGC's Communications and Legislative Affairs Department to identify additional opportunities to increase public awareness about their functions, increase transparency over the agency's internal processes, and improve interactions with stakeholders.

There is also room to improve PBGC's direct communications with participants and plan sponsors regarding specific case matters. Direct communications often lack necessary details, such as expected timeframes for processing of requests or the rationale for PBGC's position on a matter. In particular, communications with participants and beneficiaries regarding benefit entitlement questions often fail to include a sufficient explanation or supporting detail. It can be difficult for participants to fully understand PBGC's decisions and assess whether to dispute those decisions. Participants and beneficiaries must proactively request additional information through a Freedom of Information Act request if they wish to fully understand a benefit denial, but they often do not know what documents and information to request.

PBGC should endeavor to include more supporting documentation and explanatory material in its direct communications to participants and beneficiaries. It should also work to better educate the participant community, both in direct communications and through informational content on its website, about what kinds of information and documents PBGC has available, when and how they are useful, and how to obtain them.

NOTABLE PARTICIPANT AND PLAN SPONSOR ACTIVITIES AND RECOMMENDATIONS

In 2024, the Office of the Advocate received a total of 386 new participant and 6 new plan sponsor assistance requests. Additionally, the Office assisted with multiple complex participant and plan sponsor cases that originated in 2023 but did not reach resolution until 2024. Appendix I provides greater detail on the Office of the Advocate's 2024 participant and plan sponsor case data. These cases directly informed the Office's recommendations for improving areas where participants and plan sponsors face challenges when dealing with the agency.

The Office of the Advocate also engaged in information-gathering meetings with both internal and external stakeholders, including leadership and senior staff from multiple PBGC departments, as well as organizations representing the interests of participants and plan sponsors. These efforts allowed parties to offer feedback and updates on any ongoing internal efforts to address past Advocate Annual Report recommendations.[1] Additionally, the meetings with external stakeholders helped promote the Office's awareness of any issues affecting participant and plan sponsors that may not have arisen as part of its regular case activity.

PARTICIPANT RECOMMENDATIONS

Increase Transparency by Posting Plain English Versions of PBGC's Benefits Administration Policies and Procedures on PBGC.gov: The 2023 Advocate Annual Report recommended that PBGC post its benefits administration policies and procedures on the agency's website. Conversations between the Office of the Advocate and PBGC's Office of Benefits Administration (OBA) management indicate that this recommendation is currently under consideration, but there are implementation concerns about whether posting internal policies and procedures would be helpful to participants, as the documents are not written in an easily-accessible manner.

OBA relies on its policies and procedures when making a benefit determination. In the absence of any publicly-available information, participants must submit a Freedom of Information Act (FOIA) request to PBGC's Disclosure Division to obtain copies of these documents. If a participant wishes to appeal a benefit determination, a FOIA request can prolong the process, since the participant must then ask PBGC's Appeals Board for an extension of time to file the appeal.

Developing and posting plain English versions of PBGC's benefits administration policies and procedures would reduce these requests for information. It would also be consistent with the online content available by other benefit paying agencies, such as the Social Security Administration (SSA).[2] SSA offers a strong model for PBGC to consider since its publicly-available

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[1] The Advocate's 2023 Annual Report included various recommendations for improving longstanding participant and plan sponsor issues with the agency. While there has been progress by PBGC on many of the recommendations, upon further review, the Office is no longer pursuing the 2023 Report's recommendations to establish a new CEO position and create a mediation option for participants going through the agency's administrative review process.

[2] The Social Security Administration's Program Policy Information Site contains a public version of its Program Operations Manual System. *See* https://secure.ssa.gov/apps10/poms.nsf/Home?readform.

policies are technical, but it has also developed a more accessible Social Security Handbook, which includes a plain English explanation of its policies. Further, PBGC could increase transparency in its decision-making and improve its benefit determination letters by citing directly to its policies, since the information would be accessible online.

Develop External Guidance and Clarify Requirements for the Potentially Omitted Participant Claim Review Process: Many participants contact PBGC and the Office of the Advocate as part of their search for a lost benefit. These inquiries become potentially omitted participant (POP) claims when they involve plans that have completed a standard termination or have been trusteed by the agency, and the participant does not appear in the standard termination distribution data or trusteed plan's records. These cases often take a long time to review since PBGC and the participant must gather and review information from various external sources, such as detailed Social Security earnings data or tax transcripts. Despite the high level of effort required to review these claims, very few result in a benefit entitlement, particularly since PBGC places the burden of proof on the participant to show that he or she did not receive a distribution of the benefit. While this can often be proved only by providing tax returns, OBA has expressed openness to considering other documentation that may be similarly probative.

While OBA has some basic internal POP claim processing procedures, participants and their representatives frequently misunderstand the overall review process, expected timeline, and required supporting documentation.[3] Additionally, participants and their representatives often raise questions and seek guidance about POP-related issues that have already been addressed by the agency, but for which existing agency determinations have not been posted publicly or used to inform more robust, formal policies standardizing those decisions. Without written guidance memorializing the agency's positions, these questions become new issues that consume time and resources to address every time they are raised.

Creating publicly-available guidance for POP claims would bring transparency to the review process, memorialize and formalize the agency's actual practices, and help set participant expectations regarding the claim review timeline. Future guidance should address topics including what constitutes a POP matter, how and why POP scenarios occur, expected timeframes for claim review, whether there is alternate documentation other than tax returns that can be used to show that a participant did not receive a distribution, and the circumstances under which appeal rights are granted if the claim is denied.

Transition the Pension Plan Tracing Service from the Office of the Advocate to OBA: As part of its Pension Plan Tracing Service (Tracing Service), the Office of the Advocate offers research assistance to help participants find the best point of contact for a lost pension plan. In 2023, the Office completed the development of an internal Pension Plan Tracing Research Dashboard tool, which displays select PBGC data sources used for tracing in a streamlined and easily searchable format. While certain searches require supplemental research using PBGC's records and other external sources, many plans can be successfully traced using only the data displayed in the Dashboard tool.

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[3] While PBGC has developed robust online information on Finding Lost Retirement Benefits, the content does not directly address the POP claim process *See* https://www.pbgc.gov/wr/find-unclaimed-retirement-benefits/tips.

The Tracing Service has grown in popularity since PBGC began promoting it publicly, with the Office receiving 268 requests in 2024, which is almost seven times the number of requests received in 2023 and 69 percent of its current total 2024 participant inquiries. The Office of the Advocate's case data in Appendix I provides further information about these pension plan tracing requests.

In response to this increased demand for tracing services, the Office worked with staff from PBGC's Office of the General Counsel to request and obtain Paperwork Reduction Act approval for a Pension Tracing Intake Form for participants. The Office is also currently working with PBGC's Communications and Legislative Affairs Department to update its external website to integrate this intake form and provide other supplemental tracing information and assistance sources, such as the Department of Labor's Employee Benefits Security Administration (EBSA).[4]

The Office of the Advocate coordinates with OBA when that department receives complicated pension plan tracing requests. One example of this successful collaboration in 2024 involved a cohort of department store participants who were searching for information about their lost pensions, as the store went through a series of acquisitions. The Office conducted research to determine what happened to the plan and worked with OBA to develop participant communications about the plan's history, plan participation requirements, and other pension plans related to the department store.

While the Office of the Advocate started the Tracing Service, the work relates to OBA's existing POP casework and its Missing Participants Program, and many of the Office of the Advocate's tracing cases ultimately result in referrals to OBA. It would improve the overall participant experience to move the Tracing Service to OBA since this would enable participants to work with only one single department. Pension plan tracing can provide valuable information to participants and bring finality to lost pension searches, enhancing the work that OBA does to assist participants. The Office of the Advocate can assist OBA with creating a transition plan, conduct training on the Dashboard tool, and offer support during the transition period. OBA management has been receptive to this recommendation but raised questions regarding its staff resources and an appropriate timeline for the transition.

Improve Customer Service by Adopting Common Practices and Formalizing Escalation Policies: Contractor staff in PBGC's Customer Contact Center (CCC) satisfactorily handle a very high volume of participant inquiries every year, but non-routine inquiries can occasionally lead to poor customer service outcomes if not properly escalated. Under the CCC's current escalation procedures, participant inquiries requiring additional attention are progressively escalated to more senior staff and subject matter experts. Most inquiries can be resolved after only one or two escalations, if escalation is needed at all, and so this system works well most of the time. However, it can sometimes take a long time for an inquiry to reach a higher level or the escalation never occurs. These participants end up contacting the Office of the Advocate.

While the participant inquiries that the Office of the Advocate receives are few compared to the large volume of inquiries handled by the CCC, many participant assistance requests received by the Office in 2024 and in prior years have involved situations in which a participant or beneficiary was unable to achieve a satisfactory result through CCC interactions because appropriate

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[4] EBSA's Retirement Savings Lost and Found Database provides a centralized location to find information about lost or forgotten retirement benefits. *See* https://lostandfound.dol.gov/welcome.

escalation did not occur. As a result, impacted individuals engaged the CCC repeatedly but continued to receive responses that failed to lead to a satisfactory resolution.

The Advocate's 2023 Annual Report identified escalation issues as a driver of participant and beneficiary inquiries to the Office of the Advocate and recommended that OBA make improvements. OBA has acknowledged the need to identify and ensure that complex situations are escalated appropriately and has committed to improving its current escalation procedures. OBA is currently in the process of examining its existing methods for keeping track of repeat callers and identifying and addressing the reasons for which individuals call the CCC multiple times. It is also reviewing past inquiries from the Office of the Advocate and from congressional constituent services staff to identify opportunities for CCC staff to escalate appropriate matters directly to federal employees. The Office of the Advocate encourages OBA to continue moving forward with these efforts.

Relatedly, participants have informed the Office of the Advocate that it can be difficult to obtain identifying information about call center agents that allows them to refer to past conversations when a matter involves multiple interactions. Even though calls are recorded, identifying information can be helpful to participants seeking to reconnect with someone who has already provided assistance, explain what they have previously been told, or keep track of conflicting information provided by separate call center agents. CCC agents provide only their first names and do not give an identification number to customers to later reference. While customer service agents may be unable to provide last names for safety reasons, it is common practice at customer call centers to provide an identification number and OBA should consider adopting this practice. OBA management has been receptive to this recommendation and committed to exploring potential options with its contractor staff.

Explore Areas for Interagency Communication and Collaboration: While PBGC has expertise in Title IV of ERISA, questions can arise that may require guidance from other federal agencies, such as SSA or the Internal Revenue Service (IRS). In 2024, participants and beneficiaries raised tax-related questions and issues in multiple participant assistance requests to the Office of the Advocate. One request involved questions about required minimum distributions and the ability to rollover funds from a defined contribution plan held in PBGC's Missing Participant's Program to a beneficiary's inherited IRA. Since the matter required guidance and expertise from the IRS, the Office of the Advocate recommended that OBA engage with IRS staff.

PBGC should identify areas where greater interagency coordination could enhance existing program operations as well as bring clarification to questions and issues outside of the scope of the agency's expertise or jurisdiction. A current example of successful interagency coordination is OBA's interagency agreement with EBSA to locate missing participants from PBGC's unclaimed benefit database. In FY 2024, EBSA Benefits Advisors connected 354 participants and beneficiaries with pension benefits valued at over $19.5 million.

Clarify Requirements for Using International Treasury Services for PBGC Payments to Participants Living Abroad: PBGC launched a pilot program using the U.S. Department of the Treasury's International Treasury Services to provide wire transfer services for participants living abroad in countries where it can be difficult to deposit paper checks. While many participants living abroad already have arrangements with U.S. banks to retrieve their funds electronically, approximately 33% of PBGC payees living abroad still receive paper checks. This can present issues if mail delivery services are unreliable or in situations where non-U.S. banks or financial institutions refuse to accept U.S. checks. The pilot program allows participants to receive their benefits through quarterly wire transfer payments.

During 2024, the Office of the Advocate received multiple assistance requests from participants experiencing issues when trying to provide acceptable documentation to participate in the program. The program is small, with only 40 participants currently enrolled, but four of these individuals contacted the Office for assistance, constituting ten percent of program participants. The participants raised issues with communications about the program and its requirements. While the Office worked with staff from OBA to address the inquiries, there is a need to formalize program requirements and procedures to make the enrollment process more consistent as the program matures.

Update the Records Retention Period for Standard Termination Files in PBGC's Simplified Records Schedule and Digitize Historical Standard Termination Files: Past Advocate Annual Reports have highlighted the importance of retaining historical case records, as they can contain distribution data and other relevant historical plan information used in pension plan tracing requests and POP claims. While PBGC's Standard Termination Compliance Division (STCD) has updated its internal file plan and records procedures to reflect a 40-year retention period for hard copy standard termination files, PBGC's Simplified Records Schedule still lists the retention period for these records as 7 years.[5] The Simplified Records Schedule should be updated for accuracy and further consideration should be given to whether a 40-year retention period is sufficient given the valuable information in these files. PBGC's Records and Information Management (RIM) team is responsible for coordinating this update and review.

RIM should also collaborate with STCD to explore options for preserving relevant information electronically, such as undertaking an effort to digitize historical standard termination case files. At present, many historical standard termination files are stored off-site in hard copy at the Federal Records Center (FRC), and it can take multiple weeks to obtain and digitize them when they are requested by PBGC staff. Additionally, in 2024 the FRC mailed multiple requested standard termination files to the wrong address. Fortunately, these files were recovered, but if they had been lost permanently, it could have significantly hindered PBGC's ability to review the benefit claims dependent on them. RIM, which is the agency's liaison with the FRC, was unaware that this had occurred until the Office of the Advocate brought it to their attention. Digitization of files currently stored at the FRC will mitigate the risk of future incidents while also making historical records readily accessible.

Establish an Internal Task Force to Develop Written Procedures for PBGC's Administrative Review Process and Identify Areas for Improved Communications and Enhanced Public Information: The Advocate's 2023 Annual Report recommended a series of changes to improve the agency's administrative review process, including establishing a task force to examine the overall process, creating written guidance for PBGC's Appeals Board, and increasing the reporting on pending appeals. PBGC's Appeals Board plays an important role in determining the outcome of participants' benefit claims, as it provides an independent review and the agency's final decision in individual participant matters. It is essential that the Appeals Board apply consistent procedures

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[5] See item 2.1 of PBGC's Simplified Records Schedule, *available at* https://www.archives.gov/files/records-mgmt/rcs/schedules/independent-agencies/rg-0465/n1-465-09-001_sf115.pdf.

and practice thorough quality control measures, especially in the case of single-member decisions, which do not benefit from the input of multiple Appeals Board members and are not currently made publicly available. Single-member decisions comprise a significant majority of Appeals Board decisions.

The Appeals Board relies exclusively on PBGC regulations to govern its processes. While these regulations give the Appeals Board discretion in many areas, the Appeals Board does not have written guidance to expand upon how it should apply that discretion. Additionally, while discussions with Appeals Board staff have clarified that cases undergo a quality review, this process is not formal or documented in writing. Developing detailed, transparent written procedures with input from an internal working group can help clarify the review process, set expectations, and help to address and avoid any perception that PBGC's administrative appeals process is biased or unfair, as the Appeals Board is internal to PBGC, within the Office of the General Counsel.

Additionally, while the Appeals Board's website includes some helpful resources, it should consider working with PBGC's Communications and Legislative Affairs Department to explore additional ways it can provide insight into its activities and a better understanding of what to expect during an appeal.[6] The Office of the Advocate is also willing to assist with this effort. It would also be beneficial for the Appeals Board to publicly post redacted versions of its single-member decisions as it currently does for three-member decisions, as this can promote trust through transparency and help participants learn from past cases when deciding whether to pursue an appeal.

Address Succession Planning Risk: PBGC management has previously identified succession-planning as a risk area for the agency.[7] Additionally, past Advocate Reports have discussed the negative impacts of insufficient succession-planning as experienced PBGC employees matriculate and their responsibilities are delegated to less senior employees without the same breadth of subject matter expertise and institutional knowledge. The most common consequence is that cases take significantly more time and resources to resolve. Additionally, matriculating employees' responsibilities tend to be consolidated among fewer and fewer remaining staff members who do have expertise, increasing their workload without a commensurate increase in support.

The Office of the Advocate has a very productive relationship with OBA, in large part because it holds weekly meetings and communicates regularly with senior OBA staff to resolve case matters. However, the Office has long observed single person dependencies among these senior OBA staff members, which presents risk since limitations on their availability can hinder the Office's ability to address participant inquiries. Further, as senior OBA staff have retired or begun preparations to retire, the Office has experienced less responsiveness regarding even simple requests for information, and participant matters requiring review from OBA subject matter experts are taking much longer to bring to resolution.

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[6] The Appeals Board's website includes useful information, such as how to file an appeal or request an extension. *See* https://www.pbgc.gov/wr/benefits/appeals/your-right-to-appeal. The Appeals Board also posts its case statistics online, *available at* https://www.pbgc.gov/sites/default/files/documents/pbgc-appeals-board-data.pdf.

[7] Pages 12-13, PBGC's Strategic Plan FY 2022-2026, *available at* https://www.pbgc.gov/sites/default/files/documents/pbgc-fy-2022-2026-strategic-plan.pdf.

OBA, and all PBGC departments, should invest in capturing the institutional knowledge of outgoing subject matter experts while creating professional development opportunities for employees at all levels so that they can be prepared to take over more senior roles in the future. Such opportunities include management and leadership training, and opportunities to shadow and support more senior employees on a regular basis. Additionally, when any employee takes over responsibilities for an outgoing employee, that employee's department should provide appropriate support and resources, resulting in a seamless experience for participants and plan sponsors.

Align PBGC Recoupment Rules with SECURE Act 2.0: The 2023 Advocate Annual Report recommended that PBGC incorporate changes to the rules for collecting inadvertent benefit payments from SECURE Act 2.0 into its recoupment regulation. These changes included granting plan fiduciaries discretion to decide not to pursue recovery and limiting plan fiduciaries' ability to recoup from a beneficiary overpayments made to the participant. While PBGC's position is that the changes made in the Secure Act 2.0 do not impact its existing recoupment rules, the agency's regulatory agenda indicates that it is in the Proposed Rule Stage of reviewing its recoupment regulation (29 CFR 4022).[8]

In 2024, the Office of the Advocate continued to receive inquiries from participant representatives regarding SECURE Act 2.0's impact on PBGC's recoupment regulation. After raising these questions internally, staff from PBGC's Office of the General Counsel and OBA invited the Office of the Advocate to informally provide suggestions for potential changes that would be consistent with the SECURE Act 2.0. While agency staff were receptive to the Office's feedback on these important issues, it would be beneficial to also engage participant advocacy organizations that work with individuals who may be affected by the updated rule.

PLAN SPONSOR RECOMMENDATIONS

Reform PBGC's Single-Employer Premium Structure: Plan sponsors and their advocates have been sounding the alarm on the effect of escalating single-employer premiums for years, particularly as the single-employer insurance program surplus continues to grow. While pension plans are a valuable workforce management tool, helping employers recruit and retain employees and offering lifetime income for participants, costs associated with these plans often eclipse their value due to expensive legacy liabilities as a result of high premiums and funding rules.

Although PBGC is not responsible for setting premiums, it is hard to ignore the effect such high premiums have on the overall sustainability of the defined benefit system and, ultimately, the agency. PBGC's Strategic Plan lists the defined benefit market as a risk area for the agency, since its ability to promote retirement security could be undermined if sponsors continue to exit from the system.[9] Additionally, the Office of the Advocate's Pension Plan De-risking study conducted in

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[8] See PBGC's Fall 2024 Regulatory Agenda, *available at* https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPubId=202410&showStage=active&agencyCd=1212.

[9] Page 13, PBGC Strategic Plan, *available at* https://www.pbgc.gov/sites/default/files/documents/pbgc-fy-2022-2026-strategic-plan.pdf.

2017 and 2018 found that premiums were a significant factor in plan sponsors' decisions to de-risk. In 2024, de-risking continues to rise, with many sponsors taking actions or making plans to exit the defined benefit system entirely.[10] For example, PBGC's recently issued Annual Report noted, "[i]n FY 2024, 2,103 plans, covering approximately 369,000 participants, filed standard terminations with PBGC. The number of filings in FY 2024 is 22 percent more than the average number of standard terminations filed in the five years prior to that."[11] Industry data also indicates that pension risk transfers via offloading liabilities to annuity providers continued to grow at a record pace in 2024, with no signs of slowing down in 2025.[12]

Plan sponsors and other stakeholders, including participants in the Office's Retirement Security Initiative roundtables, have informed the Office of the Advocate that premiums are the top barrier to defined benefit plan adoption and maintenance. While any changes to the premium structure must be made through legislation, PBGC can take an active leadership role in highlighting the immediate need for premium reform, which aligns with the agency's mission to encourage the continuation and maintenance of private-sector defined benefit pension plans, as well as keep insurance premiums at a minimum. Given the rapid escalation of plan sponsors exiting the system, PBGC must be proactive in advocating for premium reform to policymakers.

Implement Prior Recommendations to Continue Improving the Distress Termination and Post-Termination Liability Collection Processes: The 2023 Advocate Annual Report recommended a series of changes to increase efficiency and improve the overall experience for plan sponsors going through out-of-bankruptcy distress terminations. These recommendations included increasing communications with plan sponsors, establishing timelines and milestones for distress termination and collection cases, and requiring case reporting and enhanced supervisory oversight on open matters. The report also recommended establishing a working group to develop cross-departmental procedures for case review, memorializing existing processes and procedures related to the distress termination process, and engaging outside practitioners for feedback.

PBGC indicated repeatedly in 2024 that it was preparing a written response to the 2023 Advocate Annual Report recommendations.[13] While conversations with both agency staff and outside practitioners suggest there is a lower volume of cases and an increased willingness by PBGC staff to work productively with plan sponsors on new cases, there are still questions about the existing open case inventory and what steps are being taken to proactively close those matters and whether there has been progress on addressing the 2023 recommendations.

Plan sponsors request the Office of the Advocate's involvement at various stages throughout the distress termination and termination liability collection processes. The Office received one new

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[10] For example, MetLife's 2024 Pension Risk Transfer Poll found that "93% of companies with de-risking goals plan to completely divest all their pension plan liabilities, up from 89% last year." *See* https://www.metlife.com/content/dam/metlifecom/us/noindex/pdf/ris/insights/2024-pension-risk-transfer-poll.pdf.

[11] Page 6, PBGC 2024 Annual Report, *available at* https://www.pbgc.gov/sites/default/files/documents/pbgc-annual-report-2024.pdf.

[12] *See* https://www.limra.com/en/newsroom/news-releases/2024/limra-u.s.-single-premium-pension-risk-transfer-sales-soar-36-to-$14.2-billion-in-the-third-quarter-2024/.

[13] In January 2025, PBGC provided the Office of the Advocate with a preliminary response to the Advocate's 2023 recommendations. The Office of the Advocate looks forward to working with PBGC to review and address these outstanding recommendations.

plan sponsor assistance request involving a pending distress termination in 2024 and also remained involved with a liability collection case that originated with the Office in 2023. While both cases resolved in 2024, it would be beneficial for PBGC to engage plan sponsor practitioners for feedback on improving the distress termination and liability collection processes.

Additionally, while PBGC has indicated that it has made improvements to its liability collection process, including offering regular meetings with plan sponsors and enhanced supervisory oversight throughout the process, it is unclear whether these changes have been communicated to plan sponsors. It is also unclear what PBGC has done to respond to the 2023 Advocate Annual Report recommendation to conduct an evaluation of all outstanding cases, and questions remain about the status of existing case inventory and ongoing efforts to close cases that are older than six months. Practitioners have also raised questions about the option to mediate and whether it is consistently offered to plan sponsors, suggesting a need for greater clarity.

Enhance Communications with Standard Termination Filers Regarding PBGC's Processes for its Missing Participants Program: PBGC's Standard Termination Compliance Division (STCD) generally handles a high volume of cases without issue. In 2024, the Office of the Advocate received two requests involving questions related to missing participants filings submitted as part of the standard termination. When some missing participants on the filings contacted the agency to claim their benefits, they were told it had no record of the standard termination or their benefits. This misinformation was the result of a lack of coordination between STCD and OBA, the department responsible for paying the benefit, as there were delays in both the transmittal and processing of the missing participant information.

PBGC should seek to improve communications with filers regarding the process for claiming a missing participant benefit so that they can set appropriate expectations with participants who contact them. Additionally, there is a need for better information flow and coordination between STCD and staff in OBA's Customer Contact Center, so OBA can be responsive when participants reach out to the agency regarding standard terminations and claiming missing benefits.

RETIREMENT SECURITY POLICY INITIATIVE

The 2022 Advocate Annual Report raised the issue of retirement security in America given the ongoing decline of the defined benefit pension system. In 2023, the Advocate Annual Report introduced the Office's Retirement Security Policy Initiative to examine the private-sector defined benefit system and how PBGC can preserve, promote, and protect the system, in accordance with its statutory mission. The Office further explored these topics through a series of six roundtable discussions held throughout 2024 with various stakeholders and with assistance from Bolton Consulting. A final report by Bolton Consulting discussing the main findings and themes from these roundtables can be found in Appendix II.

One particularly notable and actionable theme from the roundtables is that PBGC is uniquely positioned to increase awareness and promote the value of the defined benefit plan structure to a variety of constituencies. The agency has significant access to data on single-employer defined benefit plans, defined benefit modeling systems, and its personnel have broad-ranging expertise.

There are a variety of contexts in which PBGC could increase outreach and public awareness. PBGC can educate employers, employees and the general public on the value of defined benefit plans in providing secure, lifetime income and financial security in retirement, and the role that defined benefit plans can play in employee recruiting and retention. Additionally, new defined benefit plan models are needed to address the needs of the modern labor market, with features that promote risk-sharing and increased portability. PBGC can lend significant expertise and data to this discussion. Likewise, PBGC single-employer premiums are a top barrier preventing employers from keeping and/or adopting pension plans and are a significant driver of pension risk transfer activities. Participants in every roundtable emphasized that PBGC single-employer premiums are the top barrier to adoption and continuation of defined benefit plans. While premiums are set by Congress, PBGC can provide expertise and data to help policymakers reach informed decisions about premiums.

PBGC can expand these outreach activities in a variety of ways. For example, it can collaborate with other federal agencies and organizations that have an effective track record of providing consumer financial information, such as the Consumer Financial Protection Bureau, and can conduct targeted outreach to decisionmakers like CEOs and CFOs. PBGC can also leverage its access to data and defined benefit modeling systems to expand upon the analysis and reports it already generates. The agency should consider creating a cross-departmental working group to review areas to improve existing communications and develop new outreach. There are a variety of delivery formats to consider, such as "how to" guides, case studies, storytelling, blogs, videos, and social media outreach. The upcoming 50th anniversary of PBGC also presents a unique opportunity to promote the agency and its successes in protecting defined benefit plans and ensuring a secure retirement for millions of participants.

OFFICE OF THE ADVOCATE'S 2025 GOALS AND ACTIVITIES

ERISA section 4004(e)(2)(a) requires the Advocate to evaluate its effectiveness in each Annual Report. While the Office of the Advocate successfully helped participants and plan sponsors resolve individual matters and larger issues in 2024, the Office is setting the following goals to improve its outreach, public awareness, and office structure in 2025.

- **Conduct outreach to participant and plan sponsor stakeholders to increase awareness of the Office of the Advocate's mission and services**. The Office of the Advocate will continue its engagement with participant and plan sponsor groups and representatives to learn about current and emerging issues relevant to these stakeholders. The Office is in the process of identifying opportunities for additional communication and education among groups that may not be familiar with the Office of the Advocate, such as Congressional Constituent Service offices, plan sponsor service providers, small actuarial firms, multiemployer plan stakeholders, and other participant and elder-focused organizations. This outreach will ensure that the Office of the Advocate is aware of and can take steps to work with the agency to address any participant and plan sponsor concerns.
- **Increase the Office of the Advocate's web presence on PBGC.gov and develop online resources to highlight the Office's services and activities**. The Office of the Advocate's website currently serves primarily as a library for past Advocate Annual Reports and related content. There is a need for greater online information about how the Office functions, its main statutory duties, and how it can assist participants and plan sponsors in resolving matters with PBGC. The Office of the Advocate will be exploring various public awareness methods and communication vehicles, such as handouts, videos, and other ways to engage and educate stakeholders.
- **Explore Options for Cross-Departmental Coordination with PBGC Management and Key Staff.** While the Office regularly meets with the PBGC Director and staff from the Executive Management Team to discuss current cases and issues, many issues the Office encounters involve multiple departments and would benefit from input from and greater coordination between those departments. In particular, participant and plan sponsor matters implicating technical and operational processes not rising to the level of the Director or Executive Management could benefit from such engagement.
- **Engage with PBGC departments to educate internal stakeholders about the Office of the Advocate and explore areas for collaboration to benefit participants and plan sponsors**. While the Office of the Advocate regularly meets with PBGC management to discuss specific issues and recommendations, many internal departments are not aware of the Office and its activities. In the past, the Office of the Advocate has provided briefings to staff members upon request, and it now plans to proactively expand internal outreach and education to other departments. In particular, the Office will focus on outreach to PBGC's Problem Resolution Officer and the Plan Sponsor Problem Resolution Specialist to identify opportunities to consolidate or streamline activities to improve participant and plan sponsor experiences.
- **Formalize the Office's internal procedures and explore ways to align the Office's existing practices with other Ombuds Offices**: While the role of the Participant and Plan Sponsor Advocate was largely modeled on the Internal Revenue Service's Taxpayer Advocate, there are additional models and best practices for the operation of offices that assist with dispute resolution and act in a liaison role. Guidance, such as the International

Ombudsman's Association's Standards of Practice and the American Bar Association's Standards for the Establishment and Operation of Ombuds Offices, encourage independence, neutrality, and impartiality, while preserving the off-the-record problem resolution role of such Ombuds functions. The Office of the Advocate will be reviewing such standards and developing its own framework to increase transparency in its operations.

SUGGESTED CHANGES TO IMPROVE AND ENHANCE THE ADVOCATE'S ENABLING STATUTE

The Advocate's enabling statute, ERISA section 4004, has not been modified since the establishment of the position in 2012. The 2018 Advocate Annual Report proposed a series of suggested legislative modifications to clarify the Advocate role and improve the Office's ability to address participant and plan sponsor issues. The following suggestions are based on both the 2018 recommendations and more recent experiences of the Office of the Advocate.

- **Amend ERISA 4004 to add a confidentiality provision**: The Advocate and Office of the Advocate staff do not currently have the authority to provide participants and plan sponsors with confidentiality as it relates to information provided by or on behalf of these parties. As PBGC employees, all Office of the Advocate staff are subject to the Privacy Act and could be required to disclose documentation or other information provided by a participant or plan sponsor, if responsive to a Freedom of Information Act request. This lack of confidentiality inhibits the Office's ability to obtain all documentation and information that may be required to help address a matter. The Internal Revenue Service's Taxpayer Advocate's enabling statute provides an example of language that could be applicable to grant the Office of the Advocate confidentiality.[14]
- **Amend ERISA 4004 to establish the procedure for naming an Acting Advocate if the Advocate position is vacant**: While the Advocate's enabling statute details the procedure for selecting the Advocate, it does not address how to name an Acting Advocate if the position is vacant. As certain duties, such as submission of the statutorily required Annual Report and supervision of Office of the Advocate staff, can only be performed by the Advocate, there is a need for clarification in the statute to ensure that such duties can be fulfilled.
- **Amend ERISA 4004(b) to clarify the Advocate's duties**: The 2018 Advocate Annual Report identified the need to clarify whether there is an intentional distinction between the Advocate's role with regard to participants and its role with regard to plan sponsors. The statute authorizes the Advocate to "advocate for the full attainment of rights of participants in plans that have been trusteed by the Corporation" and to "assist pension plan sponsors and participants in resolving disputes with the Corporation." Addressing whether the Advocate may "advocate" for both participants and plan sponsors would provide technical clarification to the statute and is consistent with a 2016 recommendation from the PBGC Office of Inspector General.[15]

In addition to these legislative suggestions, there is room for improving interactions between the Office of the Advocate and PBGC to promote discussion and implementation of participant and plan sponsor recommendations raised in the Advocate Annual Report.

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[14] 26 U.S.C. § 7803(c)(4)(A)(iv), "Each local taxpayer advocate may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer."

[15] PBGC Office of the Inspector General, Special Report: Review of Office of Participant and Plan Sponsor Advocate – Safeguards to Prevent and Detect Conflicts of Interest, *available at* https://oig.pbgc.gov/pdfs/SR-7-20-16.pdf.

Establish Quarterly Meetings with the PBGC Director, Agency Management, and the Office of the Advocate to Discuss Issues and Recommendations Raised in the Advocate Annual Report: The Advocate's enabling statute does not require any official response by PBGC to the Advocate Annual Report. In 2024, PBGC Board Agency Representatives convened a meeting with the Office of the Advocate, PBGC Director's Office staff, and PBGC Management to discuss the 2023 Advocate Annual Report and its recommendations. This meeting provided a helpful forum for discourse regarding notable participant and plan sponsor issues raised in the Report, as well as PBGC's responses and plans for addressing and implementing the Report's recommendations.

While the Office of the Advocate regularly meets with the PBGC Director and members of the agency's management team individually, many issues raised in Advocate Reports involve coordination and collaboration by multiple departments. Holding quarterly meetings would ensure that issues raised in the Report receive appropriate attention. The quarterly meetings would also bring awareness to any progress made by the agency, allowing the Office of the Advocate to report on such progress in future Annual Reports.

ERISA § 4004: PARTICIPANT AND PLAN SPONSOR ADVOCATE

DUTIES

The Participant and Plan Sponsor Advocate shall—

(1) Act as a liaison between the Corporation, sponsors of defined benefit pension plans insured by the Corporation, and participants in pension plans trusteed by the Corporation;
(2) Advocate for the full attainment of the rights of participants in plans trusteed by the Corporation;
(3) Assist pension plan sponsors and participants in resolving disputes with the Corporation;
(4) Identify areas in which participants and plan sponsors have persistent problems in dealings with the Corporation;
(5) To the extent possible, propose changes in the administrative practices of the Corporation to mitigate problems;
(6) Identify potential legislative changes which may be appropriate to mitigate problems; and
(7) Refer instances of fraud, waste, and abuse, and violations of law to the Office of the Inspector General of the Corporation.

ANNUAL REPORT

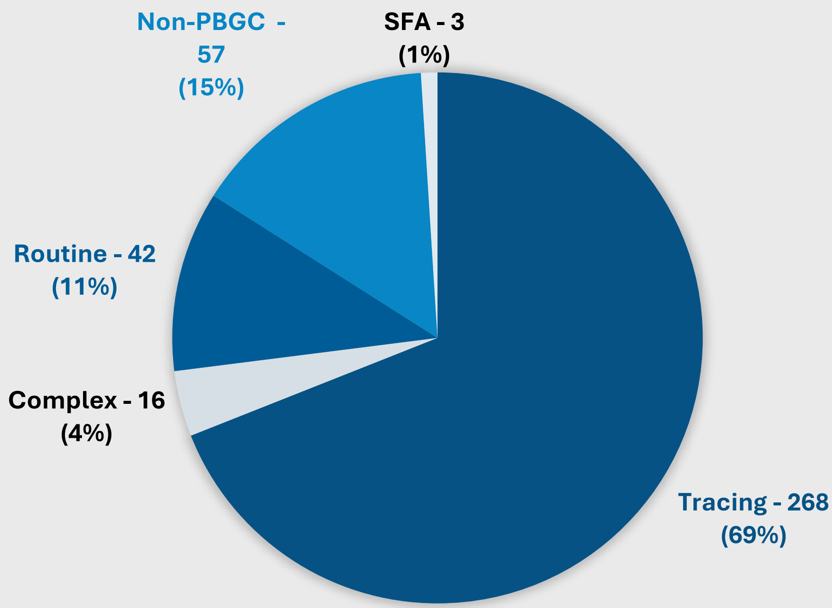
(1) In general—Not later than December 31 of each calendar year, the Participant and Plan Sponsor Advocate shall report to the Health, Education, Labor, and Pensions Committee of the Senate, the Committee on Finance of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Ways and Means of the House of Representatives on the activities of the Office of the Participant and Plan Sponsor Advocate during the fiscal year ending during such calendar year.

(2) Content—Each report submitted under paragraph (1) shall--
(a) Summarize the assistance requests received from participants and plan sponsors and describe the activities, and evaluate the effectiveness, of the Participant and Plan Sponsor Advocate during the preceding year;
(b) Identify significant problems the Participant and Plan Sponsor Advocate has identified;
(c) Include specific legislative and regulatory changes to address the problems; and
(d) Identify any actions taken to correct problems identified in any previous report.

(3) Concurrent Submission—The Participant and Plan Sponsor Advocate shall submit a copy of each report to the Secretary of Labor, the Director of the Corporation, and any other appropriate official at the same time such report is submitted to the committees of Congress under paragraph (1).

APPENDIX I – OFFICE OF THE ADVOCATE 2024 CASE DATA

TOTAL 2024 NEW PARTICIPANT INQUIRIES BY CATEGORY



TOTAL INQUIRIES: 386

Tracing: Requests for pension plan tracing assistance and subsequent benefit claims from potentially omitted participants.

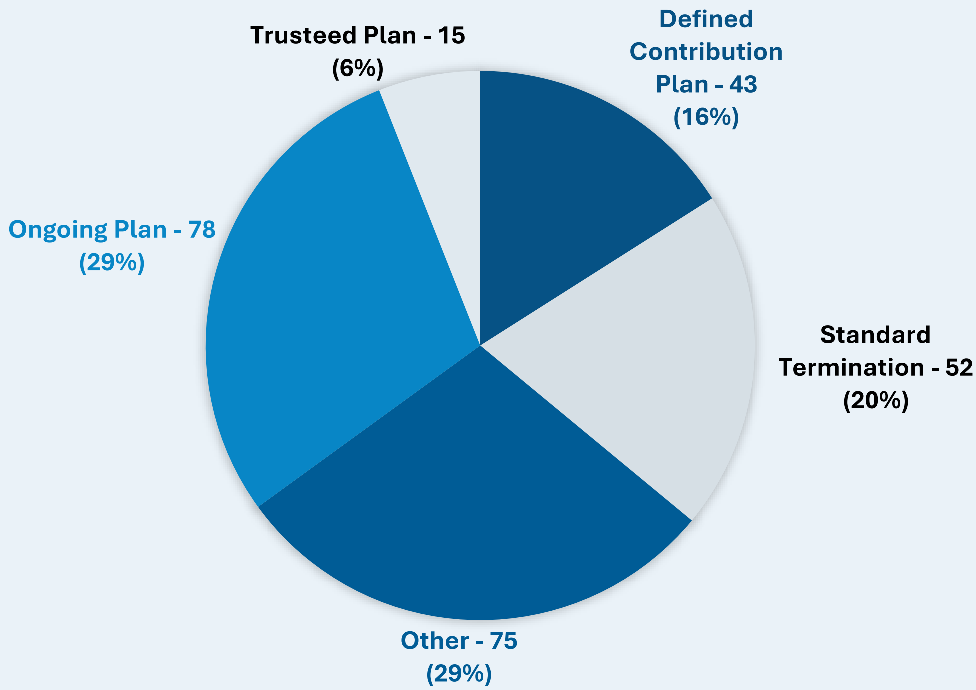
Complex: Non-routine participant inquiries involving complex and novel issues. These cases often raise questions about the agency's policies, processes, and procedures, and may require coordination between multiple PBGC departments to resolve. This category also includes high-need participants with unique circumstances that demand a greater level of effort and attention to ensure a satisfactory resolution.

Routine: Routine requests that would typically be handled by PBGC's Customer Contact Center. However, these participants contacted the Advocate's office directly even though their requests could have been addressed through standard customer service channels.

SFA: Inquiries from multiemployer plan participants and retirees regarding PBGC's Special Financial Assistance (SFA) Program.

Non-PBGC: Inquiries that are not related to PBGC, such as ongoing plan assistance requests. This category also includes inquiries in which the nature of the request is unclear since the participant is non-responsive.

2024 NEW TRACING INQUIRY OUTCOMES BY SUBCATEGORY



TOTAL INQUIRIES: 268

Standard Termination: Tracing inquiries in which the plan ended in a standard termination. In these cases the historical standard termination record for the plan may contain distribution or annuity purchase data.

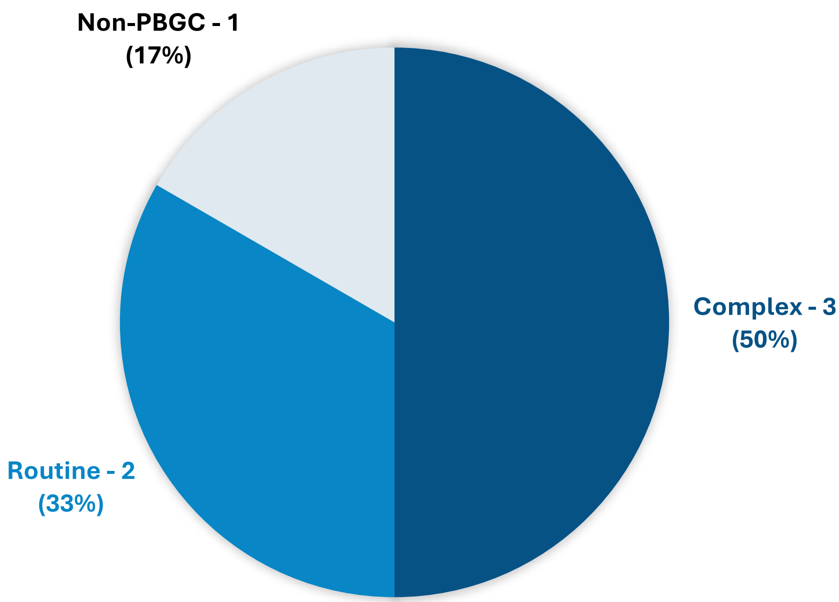
Defined Contribution Plan: Tracing inquiries in which the plan is not a defined benefit pension plan. These requests are referred to the Department of Labor's Employee Benefits Security Administration.

Trusteed Plan: Tracing inquiries in which the plan has been trusteed by PBGC.

Ongoing Plan: Tracing inquiries in which the plan is still ongoing. These requests are referred to the plan administrator.

Other: Tracing inquiries in which a final outcome cannot be determined. This is most commonly because a participant or beneficiary is unable to provide enough plan information (such as the name of the plan or the plan sponsor) to enable tracing. Participants and beneficiaries in these cases are referred to additional resources where they can locate further plan information.

TOTAL 2024 NEW PLAN SPONSOR INQUIRIES BY CATEGORY



TOTAL INQUIRIES: 6

Complex: Plan sponsor assistance requests involving complex or time-sensitive issues that often require coordination among multiple departments to resolve. Requests included distress and involuntary termination case and process issues and delays arising during negotiations.

Routine: Plan sponsor assistance requests involving delays and/or administrative and processing errors. Requests involved issues with the premium filing process and questions about missing participants filings.

Non-PBGC: Plan sponsor inquiries that are not related to PBGC, such as a dispute between two co-owners of a company with an ongoing pension plan.

APPENDIX II – RETIREMENT SECURITY POLICY INITIATIVE FINAL REPORT

September 20, 2024

Office of the PBGC Participant and Plan Sponsor Advocate’s Retirement Security Initiative

Preservation of the Defined Benefit System: Fulfilling PBGC’s Statutory Mission

2024 Roundtable Discussions

Bolton
1 W. Pennsylvania Ave.
Suite 600
Towson, MD 21204

410.547.0500
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solutions@boltonusa.com

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> ***"As demographics change, people live longer, and more lifetime annuity options disappear from the landscape, a major policy question faces our nation: what does retirement security look like in America beyond the baby boomer generation, and for many Americans who do not have access to a defined benefit plan?"***
>
> - Office of the PBGC Participant and Plan Sponsor Advocate 2022 Annual Report

The Office of the Advocate and Bolton wish to thank those individuals who gave of their time and shared their insights as participants in these roundtable discussions. The views expressed in this report are a compilation of the opinions expressed by roundtable participants that reflect the substance of the collective conversations, and do not necessarily reflect the views of Bolton.

Objective and Background

Set against the backdrop of the 50th anniversary of the enactment of the Employee Retirement Income Security Act (ERISA), the Office of the Pension Benefit Guaranty Corporation (PBGC) Participant and Plan Sponsor Advocate sponsored a series of roundtable discussions as part of its Retirement Security Initiative, with support from Bolton, to explore what PBGC can do, in accordance with its statutory mission, to promote, preserve, and protect the private sector single-employer defined benefit system.

PBGC's Statutory Mission:

- Protect the retirement income of workers in private sector defined benefit plans
- Encourage the continuation and maintenance of these plans
- Provide timely and uninterrupted payment of pension benefits
- Keep pension insurance premiums at a minimum

These roundtable discussions touched on topics related to the preservation of the single-employer defined benefit system, the impact of PBGC premiums and surplus, and how new plan designs can address current barriers to defined benefit plan sponsorship and the needs of the modern workforce. The roundtable participants provided deep insight into plan sponsor and participant attitudes toward defined benefit plans in the U.S. and changes that would support the continuation and revitalization of these plans as a crucial component of Americans' retirement security.

How PBGC Can Promote the Continuation and Maintenance of Single-Employer Defined Benefit Plans

Roundtable participants emphasized that PBGC's extensive knowledge of the defined benefit system enables the agency to provide education to participants, plan sponsors, policymakers, and the public regarding PBGC's mission and services, as well as other wide-ranging topics related to defined benefit plans. They suggested that PBGC could expand its educational efforts in a variety of ways to inform stakeholders on issues related to the defined benefit system, lifetime income security, and financial literacy using various formats.

Roundtable participants also noted that PBGC has significant access to data on single-employer defined benefit plans and has invested in building sophisticated defined benefit modeling systems. As such, PBGC is uniquely able to promote understanding and informed decision-making by educating policymakers and other stakeholders on a myriad of issues related to financial risk and to the range of future outcomes for the defined benefit system. Possible areas where PBGC can support policymakers through research and modeling include:

- Evaluating how changes in PBGC premium structure would affect plan sponsor de-risking behavior and PBGC's future financial health,
- Stress testing a variety of future economic and demographic scenarios (in combination with potential alternative premium structures), and
- Illustrating how increased utilization of new and innovative plan designs would impact the single-employer defined benefit system.

Roundtable participants noted that individuals often struggle to find trusted, unbiased information on defined benefit plans, retirement security, and financial literacy, and that PBGC is well-positioned, as a trusted source, to support plan participants and the public by offering broad financial education. Roundtable participants suggested that PBGC collaborate with other federal agencies, such as the Consumer Financial Protection Bureau, to expand its educational efforts through various formats, including guides, videos, and case studies.

PBGC Single-Employer Premium Reform

Roundtable participants cited PBGC single-employer premiums as the top barrier to the adoption and continuation of defined benefit plans. While premiums are set by Congress, roundtable participants encouraged PBGC to take an active role in educating and providing data to support legislative changes that can address this barrier.

Roundtable participants overwhelmingly identified the disconnect between increasing annual PBGC premiums and the current surplus in PBGC's insurance program as a significant threat to the maintenance and continuance of the single-employer defined benefit system. PBGC's statutory mission to "keep premiums at a minimum" positions the agency front and center to provide support and technical expertise to further any policy discussions around premium reform and surplus management.

Roundtable participants opined that premium rates should be established by law using a principles-based framework that considers the current and projected financial state of the single-employer defined benefit system (including both the sponsored plans and the PBGC Single-Employer Insurance Program). Features of a reformed premium structure may include:

- ensuring premiums reasonably compensate for the insured risk, increasing when risk increases, and decreasing (or being eliminated) when it declines,
- incorporating reasonable anti-volatility measures to avoid significant, unexpected increases in premiums at a time when plans can least afford them, and
- maintaining a reasonable reserve (surplus) to provide financial stability to the system.

Removing the incentive to reduce headcount within pension plans, which is a significant driver of pension risk transfer activities, must factor prominently into any reform of the PBGC insurance structure.

Meeting the Needs of the Modern Labor Market

The trend toward increased workforce mobility and shorter worker tenure, combined with increased financial risks, additional regulatory burden, administrative complexity, and escalating costs (especially PBGC premiums), are driving employers out of the defined benefit system. The volatility of annual contribution costs and the significant limits (and penalties) on upside gain compared to the magnitude of the downside risk to plan sponsors has made defined benefit plans unattractive to employers seeking to minimize risks not related to their core business.

The shift toward defined contribution plans as the primary employer-sponsored retirement plan places participants in the tenuous position of assuming primary responsibility for accumulating adequate retirement savings. Without ready access to the guaranteed lifetime income provided by a defined benefit plan, workers are at risk of being underprepared for a financially secure retirement.

PBGC is also well-positioned to provide support and promote the continuation and maintenance of the defined benefit system by using its broad-ranging expertise to educate plan sponsors, participants, and the public regarding the value of defined benefit plans in improving retirement security outcomes for Americans, as well as the risks to participants and plan sponsors associated with these plans. As hybrid plan designs that blend features of defined benefit and defined contribution plans become more popular, roundtable participants suggested that PBGC educate stakeholders on how these plans work to share risk between plan sponsors and participants, such as by showcasing examples of effective risk-sharing designs and features.

Roundtable participants recognized that there is a looming retirement crisis in the U.S. that will have a detrimental effect on our economy, and that defined benefit plans may be the solution to reverse the trend and promote good retirement outcomes for workers. To accomplish this, defined benefit plans need to be promoted, rebranded, and redesigned to fit the needs of a modern economy, industry, and workforce, and PBGC premiums need to be rightsized to align with PBGC's statutory mission.

Methodology

The Office of the Advocate's Retirement Security Initiative involved six virtual roundtables, each ranging from two to two-and-a-half hours in length. The roundtables were held from April through August 2024 and all discussions were limited to nine or fewer participants. Four roundtables consisted of a diverse cross-sectional grouping of participants, one involved defined benefit plan participant stakeholders and representatives, and one included individuals representing the interests of plan sponsors. Bolton facilitated the roundtables and provided participants with a discussion guide tailored to the roundtable prior to each discussion. The discussions were not recorded, and the identity of roundtable participants and their affiliated organizations is confidential.

Overall, 52 individuals participated in the roundtables, representing participant and plan sponsor advocacy organizations, actuarial professionals, consulting firms, academics and research institutions, economists, defined benefit plan service providers, legal professionals, individuals with human resources expertise, individuals with investing backgrounds, and other thought leaders in the retirement industry. Furthermore, plan sponsor representatives came from organizations of varying size and industry (including manufacturing, telecommunications, transportation, publishing, healthcare, technology, and financial services), as well as taxable and non-profit organizations. Government observers were present during some but not all substantive discussions. More information about the composition of the participants and the roundtable groupings is provided in Appendix A.

The roundtable discussions largely focused on PBGC's mission to preserve and maintain the defined benefit system, actions the agency could take to fulfill its mission, and other PBGC-related factors relevant to the retirement security of Americans and the future of the single-employer defined benefit system.

Key Findings

Two significant elements of PBGC's statutory mission are to encourage the continuation and maintenance of private-sector defined benefit pension plans and to keep pension insurance premiums at a minimum. Roundtable participants offered insights into the factors that are driving the views of today's employers and workforce toward defined benefit plans, and shared wide-ranging suggestions and ideas for ways that PBGC could actively support the continuation of single-employer defined benefit plans, consistent with the agency's mission.

Promoting Continuation and Maintenance of Single-Employer Defined Benefit Plans

A recurring theme of the roundtable discussions was opportunities for PBGC to act within its statutory mission as an educator, thought leader, and champion for the continuation and evolution of the single-employer defined benefit system. PBGC's statutory mission empowers the agency to provide education to policymakers, plan sponsors and participants, and the public on a broad range of issues relating to retirement security for Americans.

Taking a More Active Role to Provide Public Awareness and Education

Roundtable participants stressed that education for participants, plan sponsors, and decision-makers is crucial to promoting the defined benefit system, and PBGC can play an active role in this education.

The roundtable participants shared that, increasingly, CEOs, CFOs, and advisors today did not "grow up" with a defined benefit plan, which has led to a lack of understanding of the advantages of a defined benefit plan as the most efficient vehicle for delivery of retirement income through the pooling of risk, and as a powerful tool for recruiting and retaining their workforce. Further, many rank-and-file employees often lack understanding about PBGC and defined benefit plans, and a lack of financial literacy education overall can negatively affect their ability to plan for and achieve a financially secure retirement. Collectively, this has led to a decline in appreciation for the role of defined benefit plans in supporting financial security in retirement.

"PBGC has an important role to play in the education, outreach, and promotion of defined benefit plans."

Roundtable participants emphasized that PBGC's extensive knowledge of the defined benefit system enables the agency to provide education to participants, plan sponsors, policymakers, and the public on PBGC's mission and services, as well as other wide-ranging topics related to defined benefit plans. These topics include the benefits and mechanics of defined benefit plans, the value of risk pooling for managing longevity and other financial risks, innovative plan designs, and the need both for liquid assets to pay for large expenses and reliable lifetime income in retirement.

Participants and the public often have difficulty finding trusted, impartial sources of information. PBGC is well-positioned to be a trusted voice regarding matters of retirement security beyond the information it currently provides to those whose benefits have been trusteed. In fact, ERISA contemplated a role for PBGC to provide broad-based financial education as it relates to defined benefits, specifically with respect to portability of benefits.

ERISA § 4009 (29 U.S. Code § 1309) grants PBGC statutory authority to:

> "…provide advice and assistance to individuals with respect to evaluating the economic desirability of establishing individual retirement accounts or other forms of individual retirement savings… and with respect to evaluating the desirability, in particular cases, of transferring amounts representing an employee's interest in a qualified plan to such an account upon the employee's separation from service with an employer."

This education can help highlight the advantages and strategic value of defined benefit plans.

Roundtable participants also suggested considering potential partnerships for educational efforts, such as a collaboration between PBGC and the Office of the Advocate or other agencies. These educational efforts could take on many forms, including "how to" guides, case studies, storytelling, glossaries of key terms, translation services, blogs, videos, and public service announcements. Other organizations can provide examples, best practices, and templates for promoting these educational efforts, particularly those related to financial literacy. For example, the Consumer Financial Protection Bureau (CFPB) provides easy to access and understand information on financial literacy topics.[1] Roundtable participants suggested that PBGC engage in similar educational activities, potentially in collaboration with the CFPB or other federal agencies.

> **"People find it difficult to visualize their future... They need tools to help them understand how today's decisions related to retirement distributions, savings levels, and debt impact their future financial security."**

Artificial intelligence and other emerging technologies have tremendous potential to support participants with making better financial decisions around retirement savings and managing distribution options, and support plan sponsors with streamlining and automating the administration and financial management of retirement plans. This is another area where roundtable participants expressed that PBGC could utilize these technologies to support educational efforts.

Defined Benefit System Promotion Through Research and Modeling

PBGC has extensive expertise in modeling the future financial state of the defined benefit system and conducting research related to the defined benefit system. With significant access to data and defined benefit modeling systems, PBGC is well-equipped to project a range of future outcomes and provide insight on future defined benefit plan trends. PBGC regularly produces analysis and reports on policy alternatives to its internal and external stakeholders. Roundtable participants agreed that PBGC can – and should – do more in this area.

The annual PBGC Projections Report includes modeling of the future financial state of the PBGC Single-Employer Insurance Program (Single-Employer Program) over the next 10 years,

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[1] *Financial Literacy Annual Report*, Consumer Financial Protection Bureau, August 2024. https://files.consumerfinance.gov/f/documents/cfpb_financial-literacy-fy-2023_annual-report_2024-08.pdf

including a single stress test scenario.[2] PBGC could leverage this work to model other economic and demographic scenarios, giving a more complete understanding of how various risk factors affect the single-employer system and the mitigating effect of its asset allocation strategy on these stressors.[3]

Roundtable participants suggested that PBGC could also utilize its data and modeling capabilities to evaluate the effect on the single-employer system of broader adoption of new and innovative plan designs. Showcasing alternative and hybrid plan designs and illustrating how they meet the needs of the modern workforce and employers while reducing risk within the system (by utilizing the best features of traditional defined benefit and defined contribution plans) could facilitate the normalization of these designs in the market.

Improving Interactions with Participants and Plan Sponsors

> **"As the environment in which defined benefit plans operate changes, so must the way in which they are monitored and regulated."**

Roundtable participants agreed that PBGC would increase its value to plan sponsors by advocating for the business community (without which there would be no private sector defined benefit plans) and championing changes that support the modernization of defined benefit plans. Most employers do not interact with PBGC often, other than to pay premiums. These employers generally feel that they pay high premiums, are a low risk to PBGC's solvency, and do not receive commensurate support, value, or return on investment for the premium paid. For employers to remain in the system and incur this expense, they want to feel that they derive a benefit of comparable value.

Those who do interact with PBGC during monitoring activities and corporate transactions frequently find that it takes an extensive amount of time and resources to respond to PBGC inquiries and information requests. As a result, they incur substantial consulting and legal fees that add to the cost of maintaining the defined benefit plan and reduce the financial resources available for funding the plan and operating their business. These fees are particularly burdensome for smaller employers. Roundtable participants suggested that the focus of these requests should be primarily on the future viability of the sponsoring entity and its ability to provide promised benefits.

> **"Empower PBGC employees to make smart, reasonable, customer-service focused decisions… This will avoid the undesirable outcome of driving good risks out of the system and leaving behind the less desirable risks by… focusing enforcement efforts on those who genuinely pose the greatest risk to the system."**

Concerns about time and cost also apply to the out-of-bankruptcy distress termination process, where a lengthy review and negotiation jeopardizes the sponsor's ability to continue in business and undermines the purpose of the process (which is to save the company). Even for employers

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[2] The stress test considers a high-claims event similar to that experienced during the period 2001 – 2006, where the system's equity assets incur a 33.5% loss and new bankruptcy claims over a six-year period equal to $38 billion.

[3] *Pension Benefit Guaranty Corporation Investment Policy Statement*, PBGC, August 2023.

that are not likely to exit the system through this process, knowing that, should a distress termination become necessary, it will be a reasonable process to navigate may increase their willingness to enter or remain in the system rather than moving forward with a standard termination process to avoid the possible “pain” and cost that comes with a distress termination.

Participants’ most complex interactions with PBGC relate to benefit claims, and of particular concern are situations in which participants are mistakenly excluded from data the plan administrator turns over to PBGC. Roundtable participants expressed that there should be greater acknowledgement by PBGC that, despite reasonable and diligent efforts, past records of a plan sponsor are often full of gaps. For this reason, participants can face difficulty when trying to prove to PBGC that they are owed a benefit from a terminated plan, and in some cases the agency’s administrative review process can take years to resolve. This delay can be particularly troublesome for survivors who depended on benefits earned by their spouse as a source of their retirement income. PBGC’s processes should be evaluated so that they are more consistent with the burden of proof required by of a typical plan sponsor for similar claims.[4]

PBGC Single-Employer Premium Reform

Roundtable participants overwhelmingly identified premium reform as the single change that would have the greatest impact on the preservation of the single-employer defined benefit system. PBGC should leverage its resources to advise policymakers regarding the structure of the private insurance system, including how premiums and surplus are connected.

Reversing the Pension De-Risking Trend

The private defined benefit system is, overall, in better financial condition today than in the early 2000s. Yet, at the same time, the cost and complexity associated with defined benefit plan sponsorship has significantly increased, and the costs are borne by plan sponsors. The legal, administrative, actuarial, and, most notably, PBGC premium costs of a pension plan make it more difficult to execute the sponsoring organization’s primary purpose of producing goods and providing services. These costs can be especially prohibitive for smaller employers, often discouraging these organizations from sponsoring defined benefit plans.

The avoidance or reduction of PBGC premiums – which currently range from $100 to nearly $800 per participant – is a significant driver of the increased appetite for de-risking strategies over the last decade.[5] Many plan sponsors are choosing to exit the system through de-risking strategies that include pursuing lump sum windows, group annuity buyouts, and full plan termination, since these activities are often more cost-efficient over the long term than paying high PBGC premiums to retain benefits within the plan. Research conducted by PBGC and the Life Insurance Marketing and Research Association (LIMRA) illustrate this trend:

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[4] In many cases, a plan sponsor will accept documentation such as pay stubs, W-2 statements, employee IDs, and service award letters that substantiate the period of employment and compensation paid, along with an attestation from a participant that no distribution was previously received.

[5] The avoidance of PBGC variable rate premium is also a significant driver of many sponsors’ contribution policies as those who can afford to will often fund their plan to eliminate unfunded vested benefits.

- From 2015 – 2022, over 4.1 million participants were removed from private sector single-employer defined benefit plans as the result of pension risk transfer activity.[6] Approximately half of these participants accepted a lump sum offer, and the remainder were settled through purchase of a group annuity buy-out contract.
- In 2023 insurers wrote $41.3 billion in group annuity buy-out contracts to settle defined benefit plan obligations.[7] Comparable 2015 sales were $13.6 billion.[8]

Lowering premium rates overall is essential to slowing the trend of plan sponsors taking risk off their balance sheets by transferring it to participants and the private insurance market, where ERISA and PBGC insurance protections are diminished.[9]

PBGC Premiums and Surplus are Inextricably Linked and Should be Managed as Such

Roundtable participants discussed the need for a premium structure that reflects the current risk environment and surplus levels. Premium rates are inextricably linked to surplus in any insurance system, as they work in tandem to ensure the system remains financially strong and able to meet its future obligations.

Although premium setting authority does not lie with PBGC, PBGC's statutory mission calls for it to "keep premiums at a minimum." Consequently, the agency can use its unparalleled data and insight into the drivers of risk within the defined benefit system to advise policymakers regarding reforms to the premium structure.

PBGC premium increases enacted through the Pension Protection Act have addressed the concerns of the early 2000s regarding the long-term solvency of the Single-Employer Insurance Program. The agency reported a surplus of $44.6 billion for FY23[10] that is projected to continue growing over the next decade.[11] Additionally, the PBGC's current investment policy adopts a liability-driven investing strategy that is designed to hedge 95% of the system liability's interest rate risk.[12]

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[6] *Updated Analysis of Single-Employer Pension Plan Partial Risk Transfer*, PBGC, June 2024.

[7] *U.S. Pension Risk Transfer Premium Jumps 53% in Fourth Quarter 2023*, LIMRA, March 2024.

[8] *Buyout Sales by Quarter 1Q 2012 – 4Q 2016*, LIMRA, 2017.

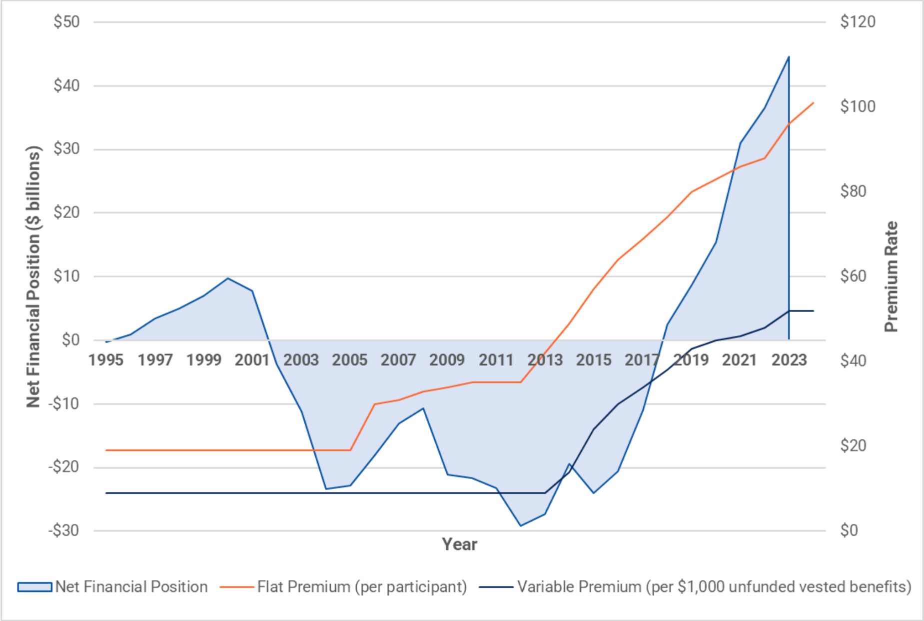
[9] State guaranty association coverage, which varies from state to state, along with solvency and reserve requirements imposed on private insurers, replace PBGC insurance protections following a group annuity purchase.

[10] *2023 Annual Report*, PBGC, November 2023. https://www.pbgc.gov/sites/default/files/documents/pbgc-annual-report-2023.pdf.

[11] PBGC's FY 2023 Projections Report shows that even under the most adverse scenario modeled the PBGC's Single-Employer Insurance Program remains solvent for the next 10 years. https://www.pbgc.gov/sites/default/files/documents/fy-2023-projections-report.pdf.

[12] *Pension Benefit Guaranty Corporation Investment Policy Statement*, PBGC, August 2023.

Historical PBGC Single-Employer Program Net Financial Position and Premium Rates



Source: *PBGC 2021 Pension Insurance Data Tables*, S-1 (net financial position) and S-39 (premium rates), https://www.pbgc.gov/prac/data-books

> **"It is hard for companies with large stable balance sheets to understand why they have to pay $100 per person for the opportunity to sponsor a plan that functionally poses no risk to PBGC and, by virtue of that, other companies."**

A healthy surplus in PBGC's Single-Employer Insurance Program, combined with PBGC's investment policy (designed to minimize the risk of future deficits) and the overall improvement in the funded status of individual plans, makes this an ideal time to consider options for reforming the premium structure to reflect these changed conditions.

Among roundtable participants there was significant interest in tying premiums to the funded status of PBGC. While some level of PBGC surplus should be encouraged, certain thresholds in PBGC funded status could trigger the premium calculations to be reduced, and at a certain level, could result in a temporary premium holiday.

There was broad agreement among roundtable participants (including individuals representing of both plan sponsor and participant interests) that premium rates should be established by law using a principles-based framework that factors in the financial state of the PBGC Single-Employer Insurance Program, and that any changes in premium rates must come "off budget" and not be considered in the legislative scoring process. Roundtable participants were strongly in agreement that the use of PBGC premiums in the budget to fund unrelated initiatives has allowed premiums to continue to increase when the surplus in the Single-Employer Insurance Program has significantly mitigated the need for this source of income.

Roundtable participants were generally in favor of Congress establishing a premium structure with benchmarks and related guidelines for setting specific premium rates that PBGC or an independent oversight body could then apply. Such a structure must be carefully designed to ensure that any mechanism to restore premiums following a drop in the PBGC program's funded status is not triggered at the worst possible time for plan sponsors (for example, in times of economic distress).

The subject of reflecting plan sponsor risk into the premium rate structure garnered mixed reactions from roundtable participants. While many acknowledged that this is a legitimate risk factor for consideration, some participants expressed concern about how employers would view a premium structure that puts them into different categories based on risk factors such as perceived employer or plan financial strength, investment policy, or plan design features.

Meeting the Needs of the Modern Labor Market

Today's labor market is different from the labor market when ERISA was enacted. Ensuring the continuation of a robust private sector defined benefit system necessitates evolving how plans are designed, administered, communicated, and regulated to address the factors that currently serve as a barrier to defined benefit plan sponsorship and meet the needs of the modern-day workforce.

Flexibility, Portability, and Future Income Security

Roundtable participants observed that the modern workforce experiences frequent job changes, shorter tenures, multiple part-time positions or gig work, and has different views and expectations on direct and indirect compensation. Traditional single-employer defined benefit plans are efficient for long-term workers and much less so for workers who tend to change jobs frequently. The modern workforce's enhanced mobility often results in the forfeiture of defined benefit accruals if individuals change jobs prior to meeting the typical three-to-five year vesting requirements.[13] Even when benefits vest, employees may not appreciate the value of a relatively small annuity benefit left behind at a prior employer and, if permitted, will often convert that annuity benefit to a lump sum that may be rolled over to another retirement plan or used to pay current expenses, leading to a leakage of the retirement income of American families.[14]

This trend toward employee mobility, along with a variety of other cost and risk factors, are driving employers toward defined contribution plans as the primary or sole retirement benefit. Defined contribution plans place most of the risk and responsibility for accumulating sufficient retirement funds, as well as managing the decumulation of those assets, on the participant. Low levels of financial literacy, particularly related to lifetime income and longevity, mean that many Americans don't adequately understand how much they will need to save for retirement.[15] Exacerbating this lack of financial literacy is that many Americans struggle to save for retirement due to current financial constraints such as housing costs, student loans, childcare (or eldercare), disability, and irregular income. These issues affect American workers in different ways. Younger workers new to the workforce may focus on meeting current financial needs rather than long-term savings, while stay-at-home parents and those who experience a

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[13] The median tenure of workers in the U.S. was 4.1 years in 2022, with significant variation based on demographic factors such as gender, ethnicity, age, industry, and education. *Employee Tenure in 2022*, Bureau of Labor Statistics, https://www.bls.gov/news.release/pdf/tenure.pdf.

[14] The leakage of retirement assets from long-term savings reduces the pool of money available to support both the participant and their spouse during retirement, which disproportionately affects the surviving spouse who often has fewer options to rebuild depleted savings.

[15] The *2023 Retirement Income Literacy Study* from the American College of Financial Service found the overall average retirement income literacy score in the U.S. is only 31%. with knowledge of retirement plans (31%), retirement income (29%), life expectancy (27%), and annuities (12%) trailing the average score. https://insights.theamericancollege.edu/rils-key-findings/.

disability lose access to employer-funded benefits while out of the workforce (as well as income from which to save on their own).

Roundtable participants also cited survivor and spousal benefits as extremely valuable aspects of defined benefit plans for participants. Survivor and spousal benefit protection is particularly valuable for lower income workers and women who may spend significant time out of the workforce. These are two groups that face some of the greatest challenges in accumulating enough retirement income, particularly in situations where employer-funded contributions are not available.[16]

Without access to employer funded benefits, individuals take on the entire burden of saving for retirement. Of the 126 million private-sector workers in the U.S. only 53% participate in any employer-sponsored retirement plan, and only 11% participate in a defined benefit plan.[17]

Employer Concerns with Volatility, Complexity, and Risk

Roundtable participants remarked that plan sponsors tend to view defined benefit plans as having greater risk than defined contribution plans. Resurrecting interest in defined benefit plans requires addressing the concerns of human resources, finance, and legal executives.

HUMAN RESOURCES	FINANCE	LEGAL
Recruiting, rewarding, retaining, and eventually retiring talent needed to support the organization Employee appreciation Ability to communicate the value of stability and longevity protection provided by defined benefit plans	Relatively high level of cost certainty and predictability Protection from incurring the worst financial results when the business can least afford it Opportunity for gain and loss on the organization's investment on a level playing field	Ability to maintain regulatory compliance and fulfill fiduciary responsibilities Legislative certainty/stability Litigation risk (real or perceived)

Defined benefit plans designed with the needs of today's workforce in mind can serve as a valuable tool for the attraction and retention of desired talent if they are communicated to emphasize plan features that appeal to workers. Roundtable participants felt that educating plan sponsors on designs that address these needs and on effective ways to communicate these benefits to participants falls within PBGC's mission to preserve the defined benefit system.

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16 *Growing Disparities in Retirement Account Savings,* U.S. Government Accountability Office, August 2023. https://www.gao.gov/blog/growing-disparities-retirement-account-savings.

17 *National Compensation Survey: Employee Benefits in the United States*, Bureau of Labor Statistics, March 2023. https://www.bls.gov/ebs/publications/employee-benefits-in-the-united-states-march-2023.htm.

Further, under the current ERISA and IRS requirements and the U.S. GAAP accounting requirements,[18] defined benefit plan costs can vary significantly from year to year. Often, the annual cost of a defined contribution plan is higher than the annual cost of a defined benefit plan that provides a comparable level of retirement income, however the lower volatility of defined contribution plan costs is attractive for sponsors.

Sponsors are more willing to assume volatility in costs and investments if they see there is value for that cost and an opportunity for both gain and loss on a level playing field. In the current defined benefit system, there is a perceived imbalance (or asymmetry) in the risk-reward trade-off that is leading plan sponsors to exit the system. Sponsors are faced with very little upside to the investment in the plan and significant downside when assets decrease with no change to liabilities. Roundtable participants consistently cited several examples of this asymmetry:

- The need to fund investment losses quickly to maintain funded status (to reduce or eliminate PBGC variable rate premiums and avoid benefit restrictions) without having the ability to utilize surplus assets when funding improves significantly,
- Incurring high excise taxes on surplus assets accumulated within a plan that most commonly result from favorable investment or demographic experience, and
- Paying PBGC premiums into an insurance program for coverage that may not be utilized without the possibility of reduction in premium or refund when the system is overfunded.

"The combination of the PBGC premium structure and the 50% excise tax on reversion of surplus assets creates a 'heads they win, tails you lose' scenario for plan sponsors who choose to fund their plans to eliminate variable rate premiums."

Roundtable participants emphasized the urgent need to provide plans sponsors with reasonable flexibility to access plan surplus without jeopardizing benefit security for participants. They cited the recent decision by IBM to reopen their cash balance plan as an illustration of how excess defined benefit assets can be used to achieve a positive outcome for both the plan sponsor and participants. IBM shifted employer-funded benefit accruals away from a defined contribution plan and into a cash balance defined benefit plan to utilize the surplus for the benefit of employees in one of the few ways that is permissible under current rules. The existence of that surplus also creates a "soft landing" for a plan sponsor getting back into the defined benefit plan space by providing a cushion against volatility of accounting results in the short-term. In addition, by moving the employer contribution into a defined benefit structure, IBM allows employees who need to take a temporary saving holiday to still accrue employer-funded benefits rather than falling further behind in preparing for retirement.

[18] U.S. GAAP Accounting for defined benefit plans is governed by the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) Section 715. These standards require benefit costs to be expensed as accrued on a basis that reflects a combination of current market conditions and long-term assumptions. The resulting annual expense can be more or less than the cash contribution required under ERISA, and the asset or liability recognized on the plan sponsor's balance sheet can vary greatly from year to year.

Other options for utilizing defined benefit plan surplus raised by roundtable participants include allowing plan sponsors to use their surplus defined benefit plan funding to pay for other tax-preferred employee benefits (such as healthcare) or reducing the excise tax on surplus reversions (with sensible limitations to avoid abuse). Of course, these options require legislative change, which should include guardrails to ensure surplus is not depleted too quickly, since funded status can fluctuate. The surplus assets available for use outside the defined benefit plan could be held in a separate "sidecar trust," or commingled within the pension plan trust.

The complexity that comes with defined benefit plans relative to defined contribution plans is also a concern for executives. Extensive regulations and annual filing requirements from PBGC and other government agencies add to the cost and complexity of administering pension plans. Plan sponsor decision-makers are more willing to accept complexity when they can articulate the value of that added complexity to their business. Roundtable participants shared the concern that many executives today are not able to do so, which presents an educational opportunity for PBGC.

Roundtable participants suggested that a more principles-based approach to regulation and enforcement – including the use of more regulatory safe harbors - could go a long way to reduce the weighting of compliance and litigation risk in employers' analysis of whether to stay in or exit the defined benefit system. Frequent legislative action also introduces uncertainty for plan sponsors that is unappealing and can factor into the decision to terminate plans.

Modernizing Plan Design

Roundtable participants indicated that employers would have a greater appetite for defined benefit plan options that allow for more risk-sharing between employer and employee. Future pension plan designs should aim to integrate the best features of defined benefit and defined contributions into hybrid solutions that:

- provide automatic employer-funded benefit accruals (including during disability),
- balance risk among stakeholders,
- provide reliable income for retirees,
- offer income protection for surviving spouses, and
- facilitate portability of annuity benefits.

Roundtable participants identified market-return cash balance plans and variable annuity plans as options that effectively integrate the best features of defined benefit and defined contribution plans. These hybrid, "risk-sharing" plans typically allocate all or most of the investment risk to participants while retaining longevity and other demographics risks with the employer. Variable annuity plans, originally developed in the 1950s, are also making a comeback and offer many of the same benefits as market-based cash balance plans. Today's variable annuity plans often include anti-volatility features (such as floors and caps on the adjustments related to investment return), allowing the employer to design a plan that offers the appropriate level of risk sharing with their participants.

"Early adopters of market-based cash balance plans (dating back to the early 2000s) have demonstrated that these designs can weather events like the 2008 financial crisis and still provide participants with a reasonably secure, stable level of post-retirement annuity income."

The "composite plan" concept developed by the National Coordinating Committee on Multiemployer Plans (NCCMP) could also be a consideration for single-employer plans. Structured like a traditional defined benefit plan, the plan sponsor defines the level of benefits to be paid as annuities, and retains the investment, mortality, and other demographic experience risk. When significant underfunding occurs, the sponsor is empowered (or required) to take action to correct the underfunding through a combination of increased contributions, reduced future (or in extreme cases, legacy) benefit accruals, or the scaling back of ancillary benefits.

Roundtable participants also shared that pooled employer defined contribution plans are growing in popularity in the U.S. and would translate well to the defined benefit system. The UK and Canada have been successful with pooled employer and multi-employer pension schemes. For example, the Canadian Association of Administrators and Trusts (CAAT) Pension Plan in Canada demonstrates the effective implementation of a pooled employer plan that shares cost and risk between employers and employees. In the CAAT Plan:

- Contribution rates are fixed. Each employer can choose what level of contributions are made, and both members and employers contribute.
- Benefits accrue based on annual contributions and the benefit rate is consistent across all employers.
- Accrued benefits can be adjusted based on funded status to make the plan sustainable.
- Employees receive a lifetime income benefit with conditional inflation protection.
- The program is funded on a going concern basis, not a solvency or wind-up basis.
- There is no walkaway (withdrawal) liability for sponsors.

The benefits of pooled employer arrangements include shared governance and risk, centralized administration (including participant communication and education), economies of scale to reduce costs, professionally managed investments, and portability of benefits among employers as workers change jobs.

Facilitating the transfer of annuity benefits between plans of unrelated employers allows participants to retain the benefit of risk pooling without requiring their prior employer to assume that risk.[19] Pooled employer plans could be implemented that allow an employee to participate for a full life cycle (active employment and retirement) or that are only open to terminated employees and retirees buying into the plan to convert an account balance to an annuity.

These hybrid plans reduce or eliminate many of the barriers that inhibit employers from adopting and maintaining defined benefit plans while providing features that are attractive to today's workforce.

[19] Participants may also find it beneficial to be able to roll defined contribution assets into a defined benefit plan to access the benefits of risk pooling.

Conclusion

PBGC's statutory mission empowers and obligates the agency to take an active role to encourage the continuation and maintenance of the defined benefit system by identifying and providing education addressing barriers to plan sponsorship and to participant appreciation of the valuable lifetime income benefits these plans provide. The conversations with roundtable participants illuminated three key points:

- **PBGC is uniquely positioned to offer thought leadership to educate stakeholders, including policymakers, on a wide range of issues related to the retirement security of Americans.** PBGC personnel have broad-ranging expertise that is invaluable to providing education for policymakers, plans sponsors, and consumers about defined benefit plans and their value in providing lifetime retirement income and financial stability during retirement. Assessing policies for regulatory enforcement and benefits administration to ensure they reflect current risks and best practices is critical to PBGC's support of participants and plan sponsors.
- **As high PBGC premiums are the top barrier to plan continuation and adoption, there is an urgent need to right-size premiums in light of the current PBGC program surplus.** Developing a principles-based framework that reflects the inextricable link between premiums, surplus and risk is essential to continuation of the defined benefit system. Without premium reform, plan sponsors will continue to exit the system through pension risk transfer activities.
- **The future of defined benefit plan sponsorship will need to look different to address the needs of the modern labor market.** This includes a more balanced sharing of risk, encouraging plans to be well-funded without the risk of inaccessible surplus, increased portability of annuity benefits, and less dependency on individuals making prudent financial decisions.

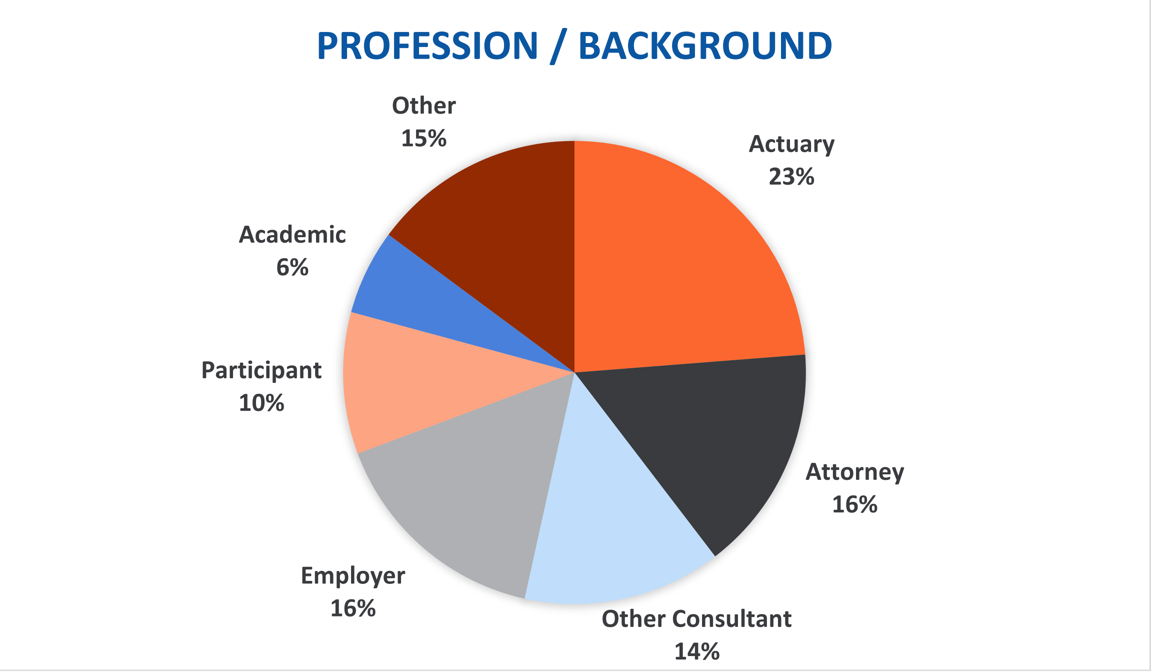
Preserving the private sector defined benefit system requires a coordinated effort among all stakeholders and policymakers to modernize how these plans are designed, administered, communicated, regulated, and insured. Maintaining the status quo will continue to have materially detrimental consequences for the retirement security of all generations of Americans, but enhanced educational efforts by PBGC can have a meaningful impact.

APPENDIX A – Roundtable Participant Demographics

The roundtable discussions involved a total of 52 participants with varied backgrounds, including:

- Plan sponsors,
- Defined benefit plan retirees and retiree associations,
- Labor unions and employee benefit associations,
- Pension assistance projects,
- Public policy and advocacy organizations for plan participants and sponsors,
- Actuaries, investment advisors, attorneys, administrators, and other service providers,
- Academic and research institutions specializing in retirement policy,
- Public policy and advocacy groups focused on retirement policy and reforms, and
- Experts in defined benefit plan systems outside the U.S.

The chart below summarizes the experience and focus areas of these individuals.



Roundtable participants representing employer interests were drawn from a diverse group of employer industries and had experience that spanned small employer, mid-market, and large employer, as well as perspectives from outside the United States. The following table summarizes the demographic composition of the employer representatives in the roundtables.

Industry	Employer Size	Plan Status	U.S. Geography	Representation
Manufacturing	5,000 - 25,000	Closed	South/Midwest	Finance
Technology	250,000+	Open	National	HR/Benefits
Media	5,000 - 25,000	Open	National	HR/Benefits
Shipping	250,000+	Open	National	Finance
Telecomm	100,000 – 150,000	Partially closed	National	HR/Benefits
Non-Profit	Less than 1,000	Closed	Mid-Atlantic	Legal
Manufacturing	1,000 - 5,000	Closed, partially frozen	South	HR/Benefits
Healthcare	1,000 - 5,000	Open[20]	Mid-Atlantic	HR/Benefits

The roundtable discussions were structured around three areas of focus identified by the Office of the Advocate:

- Preservation and maintenance of the single-employer defined benefit system, including actions PBGC could take to encourage plan continuation and mitigate factors that drive sponsors to de-risk,
- Current and future PBGC single-employer premiums, and
- Future considerations for the single-employer defined benefit system, including alternative and innovative plan designs.

[20] This plan sponsor had a second frozen defined benefit plan that is now terminated.

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