Myths vs. Facts

Rebuttal to Misinformation Surrounding Multiemployer Pension Composite Plans

On the health of the multiemployer system...

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| **Composite Plans undermine the retirement security of participants and further destabilize the multiemployer system.** | • There is nothing in the GROW Act that would undermine the retirement security of workers or that would destabilize the multiemployer system.  
• To the contrary, composite plans are the voluntary election of labor and management Trustees who are required as fiduciaries to act in the best interests of the plan participants, and would not undermine the retirement security of participants.  
• The current system actually demonstrates that these two concerns are the very characteristics of the existing system.  
  o This is evidenced by the fact that current participants in plans facing insolvency see an average benefit reduction of 53 percent when their plan becomes subject to the PBGC guarantee, and will see an average reduction of 98 percent when the PBGC’s multiemployer program is insolvent in 2025.  
  o For the past 20-years, the active workforce active in financially challenged plans have seen their future accrual rates materially reduced, in some cases multiple times, while seeing the employer contributions skyrocket.  
• Composite plans align strongly with the goals of reforming the multiemployer system, in that they would provide a new plan design option that would, by design, be far more flexible and resilient to market shock than the current system on a going forward basis, while providing increased security benefits participants have already earned. |

On composite plans offering an inferior benefit...

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<td><strong>Composite plans would allow trustees from a healthy existing plan to</strong></td>
<td>• Benefits under any composite plan are highly unlikely to be inferior. Recent analysis of contribution levels about accrual rates indicate that approximately 73% of green zone plans (and 88% of yellow zone plans)</td>
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create a new composite plan that would provide inferior benefits. The GROW Act would result in substantial benefit cuts for workers.

would be able to provide the exact same benefit structure under the composite model as under the current model with the same level of contributions, while simultaneously paying off any unfunded liability in the legacy defined benefit plan.

- It is highly unlikely that the bargaining parties would agree to a reduction in future benefit accruals to transition to a composite structure. Those plans that are unable to afford the same benefit level at the current contribution level would either negotiate additional contributions to maintain the required funding – or the Trustees would instead wait until the plan were better funded to make the transition.

- Under ERISA, accrued benefits in the existing defined benefit pension plan cannot be reduced except as part of plan insolvency or an approved MPRA application.

- Under the Sec. 803 (Realignment Program) of the GROW Act (Composite Plan), if the actuary certifies that the plan’s funded ratio will be below 120 percent for the plan year, the plan sponsor must adopt a “realignment program.” This provides various tools for Trustees to get back to a 120 percent funded ratio. By having access to forward looking tools, Trustees are able to minimize the impact of plan changes. These are the types of tools that could have prevented the current crisis from occurring in defined benefit plans.

On ability to properly fund composite plan and legacy plan...

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| Funding two plans out of a single source of funds sets up both the existing plan and the new plan for failure and leaves neither plan with enough money to pay for benefits earned through years of hard work. | This is an entirely false characterization of the statutory structure of the GROW Act (Composite Plan). Recent analysis of contribution levels about accrual rates indicate that approximately 73% of green zone plans (and 88% of yellow zone plans) would be able to provide the exact same benefit structure under the composite model as under the current model with the same level of contributions, while simultaneously paying off any unfunded liability in the legacy defined benefit plan. This payment to fully fund the benefits participants have already earned is required by statute (Section 805. Composite Plan Restrictions to Preserve Legacy Plan Funding).
  o Section 805(b) requires that a plan can’t accept a collective bargaining agreement unless it provides for the transition minimum contribution;
  o Section 805(d)(2) lays out the transition minimum contribution requirements which equal (1) the legacy plan normal cost, plus (2) amortization of unfunded legacy plan liabilities over 25 years, plus (3) amortization of any subsequent increases or decreases in the underfunding over 15 years. The transition minimum contribution rate can never be lower than the rate at the point of conversion.
  o Section 805(e) says that the restrictions on acceptance of bargaining agreements continues until the plan is “fully funded.” “Fully funded” here means that the plan is 100% funded on a PBGC settlement basis for three of the last five plan years, and is |
| Composite Plans leave neither plan – the existing plan nor the composite plan-with enough money to pay promised benefits. | |
| If Congress had already passed the | |
GROW Act and it was law now, workers in a previously healthy plan that converted to a composite plan would face draconian benefit cuts. The benefits composite plan participants expected they would earn would be cut 69% and the vested benefits they already earned would be cut 7%. At the same time, the vested benefits of participants in the existing plan would be cut 28%.

expected to remain fully funded on that basis for the next four years. This is an exceptionally high bar for funding.

- As stated above, many plans will be able to afford the exact same benefit level under the composite model (those that can’t, will either negotiate additional contributions to fund the same benefit level, or will not convert until plan funding improves). All benefits earned after the point of conversion will be earned under the composite plan. At the same time, participants will keep the benefits earned under the legacy defined benefit plan, but will not earn any more benefits in the legacy defined benefit plan. The total benefits earned will be the same. And the total contributions received will be the same. The only difference is that the benefits earned after conversion will be more flexible in times of financial crisis to ensure that the plan stays well-funded. Importantly, every contribution that is made to the legacy portion of the plan will reduce any underfunding, and will ensure that all benefits are more securely funded. This also reduces the PBGC’s financial exposure to the unfunded liabilities of the legacy plan that the PBGC insures, which reduces system-wide risk.

- The existing accrued benefits in the legacy defined benefit plan are subject to the same statutory protections as today, including the anti-cutback rule. This means that accrued benefits in the legacy plan cannot be reduced by one penny, and certainly not 28 percent.

On having an adverse impact on PBGC funding...

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| Composite plans would create a new solvency crisis for the PBGC by allowing employers to withdraw from existing plans without paying their fair share of plan liabilities, which would leave fewer employers to fund existing plan benefits, and exempt new composite plans from paying PBGC premiums. The combination of employer withdrawals and... | - This is patently false. Employers may not withdraw from legacy plans and contribute to composite plans. Section 805(c)(1) of the GROW Act states that participants of an employer that withdraws from a multiemployer plan may not earn a benefit under a composite plan for 60 months. No union would agree to a collective bargaining agreement that meant that their participants would not earn benefits for 5 years.  
- The GROW Act does not change any other withdrawal liability requirements that exist today for employers.  
- In addition, Section 805(d)(1) requires that all collective bargaining agreements that provide for contributions to a composite plan provide a Transition Minimum Contribution to the legacy plan. The contribution is designed to pay down any unfunded liability in the legacy plan. All employers must make this contribution, including new employers. The requirement that new employers (who are expected to be more willing to sign a collective bargaining agreement that includes a GROW Act plan) make the same Transition Minimum Contribution means that more employers will contribute to paying down any unfunded liability in the legacy plan than before.  
- PBGC premiums are due on all participants as long as a portion of their benefit is guaranteed by the PBGC. Premiums will be due for all participants who have earned a benefit under the legacy plan (i.e. all... |
increasing liabilities at the same time would very likely accelerate the PBGC’s insolvency crisis and undermine the system as a whole.

The GROW Act compounds the insolvency problems faced by the Pension Benefit Guaranty Corporation (PBGC). The GROW Act reduces the cost to employers of withdrawing from a plan, thereby incentivizing employers to leave existing plans and placing plans at greater risk of offloading their liabilities onto the PBGC. Moreover, composite plans are not required to pay PBGC premiums, even though their creation will increase the PBGC’s liabilities.

- The PBGC does not collect premiums on plans where the PBGC does not guarantee a benefit. For example, the PBGC does not receive premiums from the 580,000 401(k) plans with 58 million participants. Nor does the PBGC receive premiums from the 5,500 state and local government defined benefit plans that have 21 million participants. The benefits provided by a GROW Act plan are not guaranteed by the PBGC.
- Rather than accelerating the PBGC’s insolvency crisis or undermining the system, the composite model offers system-wide stabilizing features.
- For plans where the Trustees decide to convert to a composite model, they are able to retain their current employers, attract new employers, and pay down any unfunded liability of the legacy plan sooner and with certainty.
- For participants in the legacy plan, their accrued benefits are more secure. For participants in the GROW Act plan, they receive a lifetime benefit that will be more secure due to higher funding requirements than the current system requires.
- For employers in the legacy plan, GROW Act plans offer a path to eliminate withdrawal liability in a legacy defined benefit plan with certainty over a 25-year period.
- For the PBGC, GROW Act plans provide a path to reduce the PBGC’s guarantee exposure to legacy defined benefit plans with unfunded liabilities.

participants who are currently active, terminated vested, or retired in the multiemployer plan today).