



SHEET METAL & AIR CONDITIONING  
CONTRACTORS' NATIONAL ASSOCIATION

# Usage of Segal Blend Withdrawal Calculation

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## Agenda



Overview of  
Multiemployer Pension  
Plans (MEPP)



Overview of Withdrawal  
Liability



Calculating Withdrawal  
Liability & The Three  
Common Methods



Challenges to  
Withdrawal Liability  
Calculations



# Multiemployer Pension Plans



## What are Multiemployer Pension Plans (MEPP)?

- Established under the Employee Retirement Income Security Act (ERISA) and the Multiemployer Pension Plan Amendments Act (“MPPAA”) of 1980.



Pension plans to which more than one employer contributes, usually within the same or related industries



Service with all participating employers is combined to provide a member with one pension at retirement



Established through collective bargaining agreements



## Key Aspects of MPPAA

- Plans offer portability – participants retain service if they switch employment from one contributing employer to another within the same plan.
- MPPAA provides financial stability to the plans even if employers terminate participation in the plan through “withdrawal liability.”
- MPPAA mandates that certain disputes, particularly those involving withdrawal liability, be resolved through arbitration.
- Multiemployer Pension Plans are covered by the Pension Benefit Guaranty Corporation (PBGC).



# Overview of Withdrawal Liability



## What is Withdrawal Liability?

- Statutorily created liability under the MPPAA.
- Withdrawal liability is an “exit tax” triggered when an employer withdraws from participating in a multiemployer pension plan and the plan has unfunded vested benefits allocable to the employer.





## What is Withdrawal Liability?

- A plan is underfunded when the actuarial value of the vested benefits (the value of promised future benefits) accrued by participants exceeds the value of the plan's assets.
- When the plan has unfunded vested benefits (UVBs) withdrawal liability exists for that plan. Liabilities must be discounted back to present value to calculate withdrawal liability.





## Determining if a Withdrawal Occurred

- ERISA §4203(a) – Complete Withdrawal
  - Occurs if:
    - Employer permanently ceases to have an obligation to contribute under the plan; or
    - Permanently ceases all covered operations under the plan.
  - The cessation of the obligation to contribute or covered operations is the date on which the complete withdrawal occurs.
- ERISA §4205 – Partial Withdrawal
  - Occurs if:
    - Employer experiences 70% decline in contribution base units; or
    - Partially ceases its contribution obligation
    - Facility take out
  - The last day of the plan year in which either occurs is the date of withdrawal.



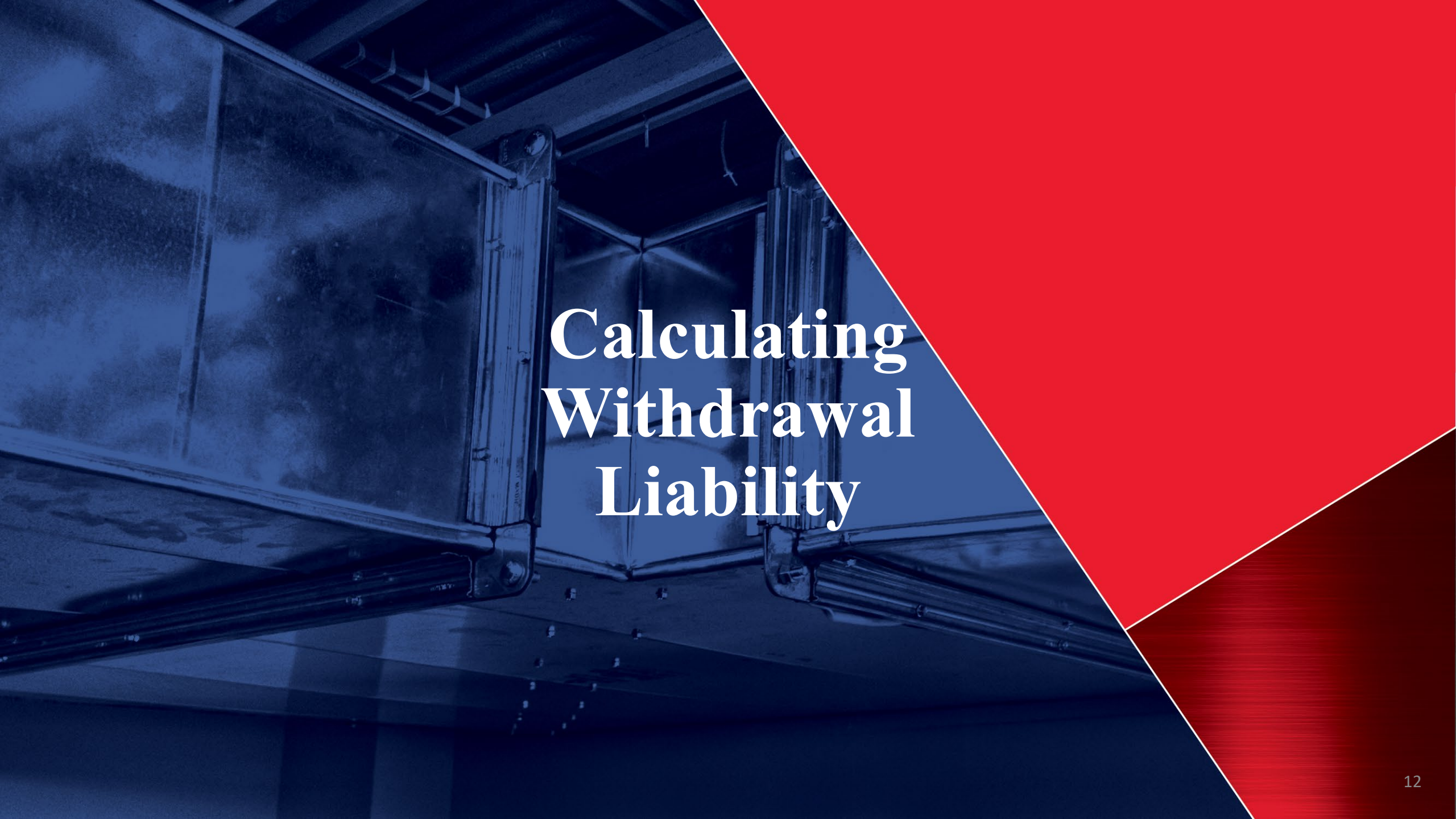
## Special Rules for Construction Industry Employers

- ERISA §4203(b) - a complete withdrawal occurs only if:
  - The employer ceases to have an obligation to contribute to the plan
  - AND**
  - The employer continues to perform the same type of work within the jurisdiction of the collective bargaining agreement
  - OR**
  - Resumes performing work within 5 years



## Triggering Withdrawal Liability – General Rule

- Employers experience a complete or partial withdrawal **even if**:
  - Cessation of operations was beyond its control (e.g., involuntary bankruptcy)
  - It was against the employers wishes (franchise termination)
  - It resulted from employee action (decertification)
  - The withdrawal liability dramatically exceed the pension contributions during the contract term



# Calculating Withdrawal Liability



## Amount of Withdrawal Liability

- ERISA §4219(b)(1) - The assessment must be as soon as practicable after a complete or partial withdrawal.
- ERISA §4202 – The plan sponsor assesses withdrawal liability. They -
  - Determine the amount of the employer's withdrawal liability;
  - Notify the employer of the amount of withdrawal liability; and
  - Collect the amount of the withdrawal liability from the employer.
- The amount of withdrawal liability depends on:
  - The date or dates when the plan's assets and liabilities are valued.
  - **The actuarial assumptions and methods used to value the assets and benefits.**
  - The allocation method chosen by the plan.
  - The employer's contribution history.
- A lower withdrawal liability interest rate generates greater withdrawal liability, which favors the MEPP and the employers not withdrawing from the plan.



## Who Determines the Funding Deficiency?

- The plan actuary determines the withdrawal liability calculation. They must make certain assumptions in calculating this value.
- ERISA §4213(a) states –
  - Withdrawal liability shall be determined by each plan on the basis of -
    - (1) actuarial assumptions and methods which, in the aggregate, are reasonable (taking into account the experience of the plan and reasonable expectations) and which, in combination, offer the actuary's best estimate of anticipated experience under the plan, or
    - (2) actuarial assumptions and methods set forth in the corporation's regulations for purposes of determining an employer's withdrawal liability.
- The assumptions used to calculate withdrawal liability must be reasonable 'in the aggregate.'
  - This is arguably different than the assumptions used to calculate minimum funding rates which must 'each' be reasonable.



## Three Common Actuarial Approaches

1. Funding rate interest assumption –
  - Applies the interest rate assumption under §431(b)(6) of the Internal Revenue Code (IRC) & §304(b)(6) of ERISA to satisfy both standards of ERISA §4213(a).
  - The same interest rate assumption used to determine minimum funding requirements.
  - Favorable to withdrawing employers.



## Three Common Actuarial Approaches

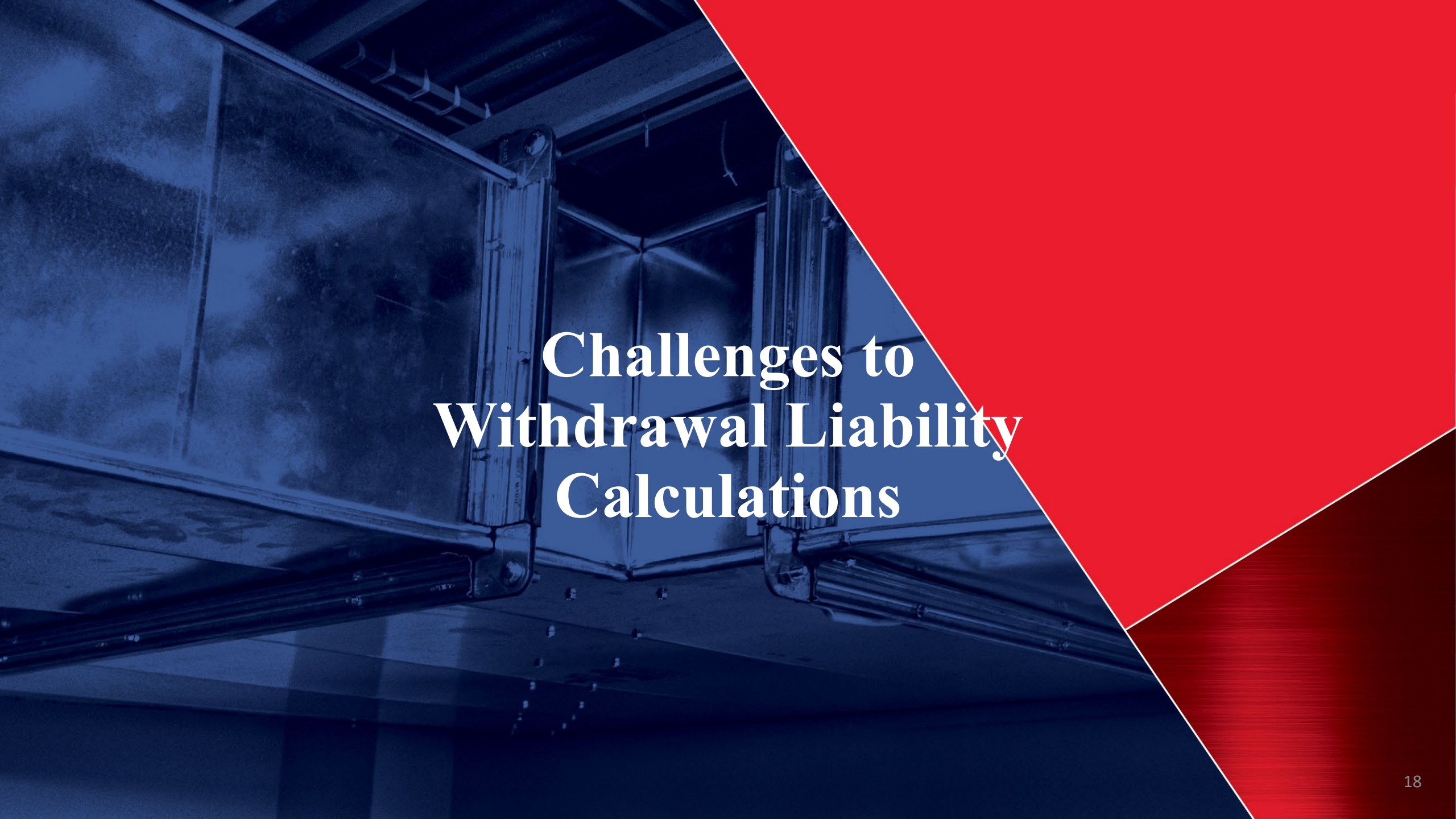
### 2. Settlement interest rate assumption –

- Uses the settlement interest rate assumptions prescribed by PBGC under § 4044 of ERISA to determine the amount sufficient to release a withdrawing employer from any future financial obligations to the plan.
- Used to approximate the market price of purchasing annuities to cover the withdrawing employer's share of the plan's benefit liabilities, which are generally paid in the form of life annuities.
- These rates are unfavorable to withdrawing employers



## Three Common Actuarial Approaches

3. A “blend” approach determines the withdrawal liability interest rate by blending the funding interest rate with settlement interest rate published the Pension benefit Guaranty Corporation (PBGC).
- This approach has the effect of inflating the appearance of a plan’s underfunding, requiring a higher withdrawal liability payment, in some cases double or tripling the unfunded liability.
  - This approach has been the subject of judicial scrutiny.



# Challenges to Withdrawal Liability Calculations



## Challenges to Actuarial Assumptions

- Three U.S. Courts of Appeals have held that a MEPP's use of a Withdrawal Liability Interest Rate that is lower than the Funding Interest Rate violates MPPAA.
  - *Sofco Erectors, Inc v. Ohio Operating Engineers Pension Fund*, 15 F.4th 407 (6th Cir. 2021).
  - *United Mine Workers of America 1974 Pension Fund v. Energy West Mining Co.*, 39 F.4th 730 (D.C. Cir. 2022).
  - *GCIU-Employer Retirement Fund v. MNG Enterprises, Inc.*, 51 F.4th 1092 (9th Cir. 2022).



## Challenges to Actuarial Assumptions

*Sofco Erectors, Inc. v. Trustees of Ohio Operating Engineers Pension Fund*, 15 F.4th 407 (6th Cir. 2021)

- A blend of actuarial assumption no. 1 (minimum funding interest rate) and actuarial assumption no. 3 (a risk-free rate).
- Court rejected the use of the Segal Blend because it was not the “best estimate of anticipated experienced under the plan.”
- The PBGC Rates (“a set formula that is not tailored to unique characteristics of the plan”) diluted the actuary’s “best estimates” with rates on investments that the plan “is not required to and might never buy.”



## Challenges to Actuarial Assumptions

*United Mine Workers of Am. 1974 Pension Plan v. Energy W. Mining Co.*, 39 F.4th 730 (D.C. Cir. 2022)

- To determine the amount of withdrawal liability owed, instead of using the interest rate assumption based on the plan's historical investment performance (7.5%), the plan used a risk-free discount rate of 2.71%.
- Withdrawal liability was \$75M greater than if the higher interest rate had been used.
- Fund used a settlement rate because the employer no longer was subject to the risk of the unfunded liability.
- D.C. Circuit rejected the Fund's argument.
- Withdrawal liability calculations must reflect the plan's investment policy and experience.
- The assumptions used by a multiemployer defined benefit pension plan in calculating the amount of withdrawal liability owed by an exiting employer must reflect the actual and projected experience of the plan.



## Challenges to Actuarial Assumptions

*GCIU-Employer Retirement Fund v. MNG Enterprises, Inc.*, 51 F.4th 1092 (9th Cir. 2022)

- 9th Cir. held that the calculation of withdrawal liability using PBGC Rates violated MPPAA.
- Using PBGC Rates “ignore[ed] the expected returns of the plan’s assets.” This meant the actuary “fell short of the best estimate standard because it was not tailored to the features of the plan.”
- Blanket prohibition against the use of PBGC Rates: “[t]he discount rate assumption cannot be divorced from the plan’s anticipated investment returns.”

*City of Tacoma v. Western Metal Industry Pension Fund*, 2025 WL 1519157 (W.D. Wash. May 28, 2025)

- Pension plan’s use of PBGC settlement rates to calculate withdrawal liability, without considering the plan’s actual experience and expected returns, violated ERISA’s “best estimate” standard.
- The arbitrator correctly reordered recalculation of withdrawal liability using 7% interest rate assumption, the rate used for calculating minimum funding requirements.
- Relied on the *GCIU-Employer Retirement Fund* as binding precedent.



## Challenges to Actuarial Assumptions

*Pension, Hospitalization & Benefit Plan of the Electrical Industry v. ConvergeOne Dedicates Services, LLC*, 730 F.Supp.3d 41 (S.D.N.Y. 2024)

- The Pension Plan used the Segal Blend when assessing ConvergeOne's withdrawal liability.
- ConvergeOne challenged the use of the Segal Blend method. They alleged that the difference in the Pension Plan's predicted return rate and the blended rate under the Segal Blend tripled their withdrawal liability from \$2.5 million to \$7.8 million.
- The court acknowledged the 2nd Cir. has yet to rule on the permissibility of the Segal Blend. However, they held the use of the Segal Blend method violated ERISA's provisions for the same reasons cited in *Sofco*:
  - The Segal Blend method violated ERISA because the actuary's assumptions were not based on the plan's actual investments.
  - "The actuary violated ERISA by using an interest rate that [they] acknowledged was not entirely based on the Pension Plan's expected return on assets."



## Challenges to Actuarial Assumptions

*In re Yellow Corporation*, 2025 WL 419249 (Bankr. D. Del. Feb. 5, 2025)

- Yellow Corporation withdrew from five multiemployer pension plans in 2023, triggering withdrawal liability.
  - Three plans used the Segal Blend (blending the minimum funding rate with PBGC’s published interest rate on annuities) & two plans used the IRS rates approximating risk-free returns to calculate the withdrawal liability.
- Held the use of the Segal Blend and other risk-free rates for withdrawal liability calculations was inconsistent with ERISA’s “best estimate” requirements.

| Plan  | Minimum Funding Rate | IRS Rate |
|---|----------------------|----------|
| Teamsters Local 710 Pension Fund <sup>28</sup>    | 6.5%                 | 2.57%    |
| Philadelphia Teamsters Pension Fund <sup>29</sup> | 7%                   | 2.53%    |

| Plan  | Minimum Funding Rate | Segal Blend Rate                               |
|---|----------------------|--|
| Central Pennsylvania Teamsters Pension Fund <sup>25</sup> | 7.5%                 | 3.9% for first 20 years. 3.65% for remainder.  |
| New England Teamsters Pension Fund <sup>26</sup>          | 8.5%                 | 4.21% for first 25 years. 4.34% for remainder. |
| Virginia Teamsters Pension Fund <sup>27</sup>             | 7.0%                 | 3.9% for first 20 years. 3.65% for remainder.  |



## Decisions Sustaining the use of the Segal Blend

*Manhattan Ford Lincoln, Inc. v. UAW Local 259 Pension Fund*, 331 F.Supp. 3d 365 (D. N.J. 2018)

- UAW’s actuary used the Segal Blend which yielded a \$2.55 million value in withdrawal liability allocatable to Manhattan Ford. If the actuary used the minimum funding interest rate, the withdrawal liability would have been \$0.
- Court held the arbitrator did not err in finding that the actuary’s reasonably used the Segal Blend.
  - “ERISA imposes no *per se* ban on different actuarial assumptions for the purposes of funding and withdrawal liability.” (i.e., funding rate assumption method not required).
- Rejected Manhattan Ford’s argument that the PBGC rate does not satisfy the applicable standards of 4213(a) because they were not invested in “risk-free investments” and never intended to invest in such assets.
- “The ‘best estimate’ provision does not embody a substantive standard so much as it commits the issue to the judgment of the actuary.”



## Decisions Sustaining the use of the Segal Blend

*Colorado Fire Sprinkler, Inc. v. National Automatic Sprinkler Industry Pension Fund*, 725 F.Supp.3d 1248 (D. Colo. 2024)

- Court held there is no per se ban on the use of the Segal Blend and rejected CFS's argument that withdrawal liability rates must be 'the same or similar' to the minimum funding rates.
- However, the court found the fund actuary did not properly base the interest rate on the "anticipated experience under the plan." The PBGC rates used in the Segal Blend reflect a hypothetical plan termination, which was not anticipated here.
- Demonstrates the use of the Segal Blend may be appropriate only in specific circumstances.



## Proposed PBGC Rule

- In 1980, when enacting MPPAA, Congress delegated authority to PBGC to issue regulations relating to interest rate assumptions. To date, the PBGC has not done so.
- Pension Benefit Guaranteed Corporation issued a proposed rule on October 14, 2022, in response to the 6th, 9th and D.C. Cir. Court rulings.
- According to the PBGC:

The proposed rule clarifies that it is reasonable to base the interest assumption used to calculate an employer's withdrawal liability on the market price of purchasing annuities from private insurers, such as by use of settlement interest rates prescribed by the PBGC under Section 4044 of ERISA.

- The proposed rule states that a plan's actuary would be permitted to determine withdrawal liability without regarding to §4213(a)(1)'s "best estimate" requirements.
- The proposed rule would specifically permit the use of an interest rate anywhere in the spectrum from 4044 rates alone to funding rates alone.



## **PBGC Rule**

- Finalization of the current proposed rule will likely result in the Segal Blend and any other reasonable assumptions being determined to be acceptable and protected from future litigation as long as plan actuaries state the method used is based on the “anticipated experience under the Plan.”
- This will likely result in use of lower interest rates and greater employer withdrawal liability calculations.



## **Financial Impact of Proposed Rule**

- PBGC estimates that, in the 20 years following the final rule's effective date, there will be a nominal increase in cumulative withdrawal liability payment ranging between \$804 Million and \$2.98 Billion.



## Impact of *Loper Bright v. Raimondo*

- *Chevron* deference was an established practice of courts that would have allowed them to defer to PBGC's interpretation of ERISA and the proposed rule.
- In *Loper Bright Enterprises v. Raimondo*, 144 S.Ct. 2244 (2024), SCOTUS held courts must now exercise independent judgment in reviewing the agency's interpretation of a statute. The decision states that courts can uphold a regulation if it finds the agency's interpretation of the statute persuasive.
- The PBGC proposed rule directly contradicts judicial interpretations of §4213(a)(1)'s best estimate requirements. It also contradicts the recent Circuit Court decisions and judicial interpretation of MPPAA.
- Thus, any proposed regulations will likely be challenged and resolved under the less-deferential standard of *Loper Bright*.



**THANK YOU!**

