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Wall Street Journal and Credit Suisse 'Union Pension Bomb' Long on Drama, Short on Insight

The May 15, 2012 Wall Street Journal editorial entitled "*The Union Pension Bomb"* and the Credit Suisse report to which it refers may provide an eye-catching headline, but it contains numerous factual inaccuracies and misleading statements regarding multiemployer plans. Since their proliferation following World War II, these plans have meant the difference between a modest but dignified retirement and abject poverty for tens of millions of average working Americans.

The most obvious inaccuracy is the description of multiemployer plans as "union run" and the corresponding report conclusion that recommends the "replacement of labor managers, if need be". In truth, since 1947, federal law has required all multiemployer plans to be jointly managed by a board of trustees with equal representation from both labor and management. These plans are typically found in industries characterized by mobile workforces, such as construction, trucking, retail food and entertainment where employment patterns preclude workers from ever achieving benefits eligibility under typical corporate rules. Portability is an important factor for most workers in these predominantly low to moderate wage industries, where, contrary to the dismissive conclusion that such plans should be replaced by much less efficient, company-specific defined contribution plans, disposable income is inadequate to accumulate account balances sufficient to ever permit them to retire.

It is also incorrect to describe the Credit Suisse analysis as "fair value" and the Department of Labor figures as "actuarial" because both use actuarial projections. Actuaries measure pension liabilities using two distinct approaches. The first (Credit Suisse) approach captures the cost of settling the pension liabilities as though a plan termination were imminent by purchasing a dedicated bond portfolio. The second approach captures the cost of supporting an on-going plan with a diversified asset portfolio. This approach is more appropriate for multiemployer plans because they are not dependent on the fortunes of any single company. Unlike Credit Suisse's "analysts," Congress recognized these distinctions in crafting the funding and reporting rules contained in the Pension Protection Act of 2006 upon which the DOL requirements are based. Settlement calculations depend on the current interest rate environment, while on-going funding calculations do not.

The editorial appears to herald the work of Credit Suisse as groundbreaking and enlightening. Others, perhaps better informed with respect to these matters, may see them as alarmist and unnecessarily destructive to the plans and, more importantly, to the employers that sponsor them. Rather than acknowledging the long-term nature of pension obligations and the market fluctuations that will produce periodic and transitory periods of over- or underfunding, they chose to capitalize on the anomalies produced by artificially low interest rates, overly influenced by monetary policies intended to stimulate low-cost borrowing, at the expense of those institutions and individuals whose long-term financial survival is dependent on savings and historically dependable fixed income instruments. The sensationalism of these conclusions may play well to those whose interests are served by eliminating any sense of corporate responsibility to the workers whose efforts are as much a contributing factor to the companies' success as those who provide the capital, but no one should be fooled by this shameless and opportunistic characterization of the current rates as market driven "risk-free" rates, appropriate for such conclusions.

Regarding the figures quoted for the referenced SEIU plan, the only takeaway is that now is an extremely expensive time to settle a pension plan. This is only relevant if the plan sponsors terminate the plan, and no one has any indication that this is the case. In addition, this has no impact on the long-term cost of providing benefits.

To say that unions and CEOs have ignored these plans for years and that they are "accounting scams" is ill-informed, inflammatory and irresponsible and denigrates the selfless contributions made by thousands of dedicated men and women who serve as trustees. ERISA imposed personal fiduciary liabilities on the trustees of such plans, exposing their personal assets in the event of mismanagement, which are taken seriously by all. During the 1990s, more than 75% of such plans, faced with conflicting tax code objectives, were, as a matter of practicality, forced to increase liabilities by raising benefits rather than allowing them to be overfunded in anticipation of the adverse markets which were sure to come. This was done so that contributing employers could receive current tax deductions for making contractually required contributions to plans that were fully funded. While many multiemployer plans do face difficult funding challenges today, these challenges arose due to the 2008 financial market crisis (in some cases exacerbated by other public policy decisions made by Congress decades ago) and continue today due to the lagging recovery. Since 2008, the majority of plans have implemented measures intended to repair the damage caused to them by Wall Street's failures. The challenges facing these plans are not long-standing, and they have not been ignored.

Finally, the characterization of Senator Casey's practical proposal to reduce the cost of liabilities the government already owns by virtue of the Pension Benefit Guaranty Corporation's guaranty fund that was created in 1974 by ERISA and made effective in the Multiemployer Pension Plan Amendments Act of 1980 as "proposing to dump" some plans on the PBGC and a "bailout" is inexcusable for a news organization of the Wall Street Journal's stature and resources, reflecting either a failure to pursue the facts or a desire to pander to other interests, neither of which speaks well of its institutional reputation.

Multiemployer plans provide cost-effective retirement security to millions of working class Americans. They are responsibly managed, and despite the devastating events of 2008, most are on sound financial footing.