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Good morning. I would like to welcome everyone to our annual Lawyers and Administrators meeting. My name is Michael Scott and I am the Executive Director of National Coordinating Committee for Multiemployer Plans. It is a tremendous honor for me to be here with you today. I am thrilled with the speakers and content that we have for you, and I look forward to your active participation in the discussions that we will have today.

I will make some remarks about the past year and how we go forward with the Joint Select Committee. While many of the issues that we discussed last year remain, the landscape has changed and there is new information that we need to bring into the discussion.

First, I want to frame the establishment of the Joint Select Committee. Overall, for the multiemployer system, there is both opportunity and peril with the Committee.

In the opportunity category, there is the potential for a rationale, reasonable, and fair understanding of the actual facts involved in the various issues facing the multiemployer system, which may be analyzed and thoughtfully acted upon. There is hope that the political system can work together on a bipartisan basis to agree on sound solutions and policies that will allow these challenges to be addressed.

In the peril category, there are almost too many to list. Factual and thoughtful analysis can be ignored in favor of preconceived notions, populist rhetoric, partisan sloganeering, or a fervent belief in solutions that have no hope of being passed by Congress or, alternatively, implemented by the Executive Branch.

There is also great peril in the time delay that this process has imposed on the multiemployer community, as well as in the topics that could be explored, many of which have been part of prior legislative reforms.

The Select Committee will be critical for solutions to plans heading toward insolvency as well as for solving the PBGC's crisis. We have a Select Committee because of the failure to achieve a bipartisan legislative solution in the past year. The time for advocating for approaches that will fail, that will never obtain bipartisan support, that will never be implemented by the Executive Branch, or that damage the rest of the multiemployer system, is long past. We need to be more thoughtful this time around, and ideally, coalesce on the most practical solutions.

Multiemployer plans, the multiemployer system, and the multiemployer insurance program at the PBGC are not well understood. Congress needs a much deeper level of understanding of these plans; what happens under current law to the retirees of insolvent plans; the economic impact of the multiemployer system and the enormous financial contributions that these plans make to governments; what is likely to happen to employers and jobs of insolvent plans, and the economic contagion that result from systemically important insolvencies; the financial impact of the various policy choices that the Congress could make; the role that the U.S. Government has played in getting us to where we are today; the massive differences between the PBGC's single employer and multiemployer insurance programs, and how to ensure that the PBGC is an insurer that can honor its commitments; and finally, the types of solutions and their capacity to achieve the policy objectives of maximizing retiree benefits, restoring plan solvency, improving the PBGC's finances, and ensuring that taxpayer support does not turn into a bailout.

The easiest outcome for the Joint Select Committee is to do nothing – inaction. So let's start with what happens to retirees of insolvent multiemployer plans under current law. This is one subject that everyone needs a common understanding of the facts. I have been consistently amazed at the number of people that imply that current law somehow provides full contractual benefits and that anything less is the breaking of a federal promise.

It wasn't until I read the March 20, 2018 PBGC Primer by the Congressional Research Service that I had any way to square this with the statutory limitations in the PBGC's multiemployer guarantee. CRS is important because members of Congress respect their research and rely on it.

CRS said that "Most workers in single-employer plans taken over by PBGC and multiemployer plans that receive financial assistance from PBGC receive the full pension benefit that they earned." This is true in the single-employer program. Unfortunately, the multiemployer data set that it relied on is not representative of the plans that are going insolvent today or will in the future.

When the Teamsters Road Carriers Local 707 Pension Fund went insolvent last year, the PBGC issued a press release that indicated that retirees in this plan would face an average benefit reduction of 53%.

Separately, NCCMP analyzed the benefits payable for 12 of the 15 applicants to Treasury under the Multiemployer Pension Reform Act of 2014, or MPRA. This retiree group has annual contractual benefits of $6 billion, and would have received $4.1 billion annually if their plan's MPRA applications were approved. This represents a 36% reduction in benefits.

However, this is a far better outcome, than what will occur under current law, if their MPRA applications are denied. When these plans go insolvent, this group of retirees would receive $2.8 billion in benefits, or a 53% reduction from their contractual benefit.

But this isn't the end of the benefit reductions coming, because approximately when Central States goes insolvent, the PBGC will also be insolvent, and only able to pay out what it takes in from premium income.

When this happens, the PBGC will pay out between $141 million and $353 million to this group of retirees. The reductions that the retirees in insolvent plans will see, range from 94% to 98% of their contractual benefit levels. This is an unimaginable disaster for the retirees and the entire nation, yet one that the current law will actually deliver unless we enact a legislative alternative.

So, we have some work to do in order to have everyone analyzing the problem from a common set of facts. A fuller understanding of the facts should inform Congress on the importance of MPRA as a solvency restoration tool for plans and the PBGC, as well as the need to create another tool in the form of a credibly designed subsidized loan program.

In order to help the government understand the importance of their partnership in crafting solutions for the solvency crisis, we felt that they needed to have the economic impact data on multiemployer plans. So in March 2017, NCCMP commissioned two studies. One by Segal, and the other by the National Institute on Retirement Security. I am not going to go through all the data, but I do want to note a few high level impacts.

In 2015, the multiemployer system paid $41 billion in pension benefits, $203 billion in wages to actives, provided $2.2 trillion in economic activity to the U.S. economy, generated $158 billion in federal taxes, $82 billion in state and local taxes, supported 13.6 million American jobs, and contributed more than $1 trillion to U.S. GDP.

The single year data is important, but for the U.S. Government, the 10-year data that comprises the federal budget window is even more critical. It is roughly 10.5 times the 2015 data.

In examining the potential policy choice of doing nothing and just letting the current law work its draconian magic, we estimated that the U.S. Government would lose more than $188 billion in tax revenue over the 10-year budget window from just the plans in critical and declining status.

This does not consider the separate costs of the economic contagion would come to employers and plans in the multiemployer system, as well as the national economy. Nor does it consider the social safety net spending that would occur as retirees in insolvent plans face 94% to 98% benefit reductions, and then need to access these programs.

If we put it on the same basis as required of federal loans, assuming a 30-year subsidized loan program, the net present value of the tax revenue losses approach $395 billion.

The bottom line is that the government will lose hundreds of billions of dollars of tax revenue, while it currently faces an increasing forecast for budget deficits. It will also put millions of jobs at-risk if they are not helping to solve the challenges facing the multiemployer system.

There are a lot of false, and uninformed narratives out there as to how we came to this crisis. Many want to believe that we got here from employer and union corruption, mismanagement and negligence. However, nothing could be further from the truth.

The truth is that the U.S. Government need only look in the mirror to understand the looming crisis in multiemployer plans. Through misguided and poorly designed law, the government created the seeds for this crisis.

The Tax Reform Act of 1986 penalized employer contributions to fully funded plans, incentivizing trustees to provide greater benefits to increase liabilities and reduce the funded status of plans. ERISA established the anti-cutback rule that eliminated trustees ability to adjust plan liabilities to assets.

This continued until 2014 when Congress passed MPRA. This law was intended to enable trustees to apply to Treasury for approval of benefit suspensions in order to protect retirees from the even larger benefit reductions that they will see when their plans go insolvent and subject to the PBGC guarantee.

MPRA would improve the PBGC's finances by removing an approved plan from the list of plans that comprise the PBGC's deficit. Unfortunately, Treasury rejected the largest and most systemically important applicant, the Central States Teamsters Pension Plan. The rejection will drive this plan into insolvency, bankrupt a large number of employers, push the PBGC into insolvency, and threaten the rest of the multiemployer system, which includes 1,300 plans with 210,865 employers.

The Federal Reserve's monetary policy beginning in 2009 and continuing through 2018, has crushed short and long-term interest rates. This has caused long-term pension liabilities to be overstated by these lower-than-market interest rates, and reduced investment earnings on plan assets.

The deregulation of the trucking industry through the Motor Carrier Act of 1980 decimated the legacy trucking industry and the Teamster pension plans. The Multiemployer Pension Plan Amendments Act of 1980 established withdrawal liability for employers in multiemployer plans. This has made it difficult to bring new employers into multiemployer pensions, exacerbating the poor demographic trends affecting public and private pensions, as well as Social Security.

The U.S. Government owns much of the responsibility for the crisis that we face today.

Reforming the PBGC is incredibly important if it is going to be an insurer that can honor its commitment. While many want to simply throw money at the PBGC as if it's a simple math problem, this approach will either bankrupt the entire multiemployer system or require significant federal dollars to be injected into the agency.

Last year I talked about the parallels that I saw between today's PBGC and the U.S. Postal Service, and the limited reform options that the Bush Administration had after 31 years of USPS decisions. We also discussed the implication of the Nuclear Waste Policy Act and the Department of Energy's failure to uphold its statutory obligations and the subsequent court rulings against DOE as a result.

Today, I simply want to ask the question, who would buy insurance from an insurer that tells you that they cannot honor even the modest insurance that they provide? The answer is obvious.

Here, I think it is important to recognize the distinction between the single employer program and the multiemployer program. The single-employer program provides a guarantee at age 65 of

$65,045. It charges a flat rate premium of $74 per participant, plus a variable rate premium based on the level of underfunding, capped at $523 per participant.

While the multiemployer program is currently at $28 per participant, the benefits payable are at best one-fifth of the single employer plan. Further, the single employer guarantee covers on average 95.5% of the contractual benefit earned by a retiree in a trusteed plan. As late as 1999, prior to the steel and airline bankruptcies, the PBGC guarantee covered more than 99% of the contractual benefit.

Remember, today's single employer coverage of 95.5% compares to, at best, 47% in the multiemployer program today, or between 2% and 6% when the PBGC goes insolvent.

However, the financial condition of the PBGC's multiemployer program can be greatly improved by starting to use realistic discount rates to measure liabilities, implementing MPRA as it was intended, reforming MPRA based on the lessons learned since 2015, and finally adding a new solvency restoration tool in the form of a federal loan program.

I want to address the major input used to calculate the deficit itself. The PBGC utilizes interest factors that reflect what it would cost in the market to purchase annuities for these liabilities. This approach is without any economic foundation. First, that is not what happens when the PBGC provides financial assistance under its multiemployer program. Second, the market for group annuities of this size is not deep or liquid, and the pricing is very one sided in favor of the insurer. Third, the group annuity transactions that have taken place in the single employer market are often driven by economic, regulatory, and market factors that are unique to the company and its shareholders, and have nothing to do with the economics of the underlying transaction itself. Finally, nobody in the U.S. Government does it this way.

In 2017, the PBGC changed the methodology that it uses for discount rates, which starts at 1.54% in year 1 and varies annually thereafter until year 31, when the factor becomes 2.44%. In 2016, they used a 20-year select rate of 2.27% followed by an ultimate factor of 2.14%. Lower discount rates result in higher liabilities, and therefore calls for higher premiums.

To put this into some perspective, the actuary at Social Security used a discount rate of 5.3% in 2017 to discount their liabilities, which are actually full faith and credit obligations of the U.S. Government. You may ask, why does this matter?

Let's start with the fact that one of the purposes of discounting is to recognize the risk involved in the economic transaction. Until Congress changes the law, the Social Security obligations recognized in the Trustees Report are backed by the full faith and credit of the U.S. Government, or in other words, this is a risk-free benefit.

So what is the practical implication of this? Well, I am sure that you have heard that Social Security will only be able to pay out 77% of the statutory benefits when the trust fund runs out and they are only able to pay out what they take in from taxes. However, GAO, CRS and CBO have all recognized that the other 23% remains a liability until Congress changes the law. And Social Security recipients will not be waiting that long for the other 23%, because the government's Judgment Fund, which has permanent and indefinite appropriation authority, is used to settle judgments issued by a federal Court.

The 5.3% that Social Security uses to discount its risk-free liabilities, which by the way are unfunded by $12.5 trillion over the 75-year horizon and $34.2 trillion over the infinite horizon, is roughly 3% higher than what the PBGC uses to discount its highly risky multiemployer liabilities.

Remember, they will pay out 47% on contractual benefits today and between 2% and 6% of contractual benefits when the multiemployer trust fund is exhausted. In 2017, the PBGC indicated that for every 1% increase in the discount rate, their deficit decreases by $11 billion, or $33 billion lower just using Social Security's discount rate.

MPRA provides a very real tool, if it is allowed to work, to further reduce the deficit. An approval of Central States alone would have reduced the deficit by roughly $20 billion. In its 2017 Annual Report, the PBGC indicated that three plans came out the net deficit calculation, one of which was a successful MPRA applicant, which reduced the 2017 net deficit by $2.8 billion.

Now, there are some important lessons learned from MPRA where technical changes can make it a more predictable and reliable tool to restore plan solvency, make it more equitable, and protect retirees from the draconian cuts coming if their plans go insolvent. This includes applying the clearly erroneous standard to a plan's entire application, rather than the narrow interpretation taken today.

Additionally, the Committee may explore the 110% limitation, the solvency requirement, or the inequities caused by MPRA's protected classes. This last issue has resulted in benefit reductions ranging from zero to 70%. So while 36% was the average reduction, this is highly misleading to the person receiving a 70% reduction.

Let's discuss the new solvency restoration tool. Early last year the only proposal that was public was from UPS. Since then, Senator Brown and Ranking Member Neal have introduced a loan and grant proposal, largely based on the work of the Teamsters.

Federal credit programs and their use as tool for public policy in distressed situations is something that I have been deeply involved with from both a policy and an execution perspective during my tenure at Treasury, and later during the financial market crisis when I served as the senior advisor to the Chairman of the Securities and Exchange Commission. Last year, NCCMP brought on Brian Roseboro as the Deputy Executive Director. Brian also brings a wealth of policy and execution experience in this area, as he served as Treasury's Assistant Secretary for Financial Markets and the Under Secretary for Domestic Finance during the Bush Administration.

Given what is at stake for Central States, its participants and employers, other Teamster plans, the entire multiemployer community, and the national economy, we believe that the concept of a subsidized loan program that allows plans to earn their way through their funding challenges is, if I may borrow a great line from the movie Argo, by far, the best bad idea available.

However, the structural details are incredibly important because federal credit is a very arcane and complicated product. There is a 1990 federal law that governs all federal credit programs. There is also a well established set of policies that govern federal credit. What I am trying to tell you, is that there is a way to get a federal credit program passed and actually lending money, and there is a way to get it passed and ensure that it never lends a dime. Since time is of the essence for Central States, the Mine Workers, and others, we are focused on a program that can get passed and actually lends money.

Last spring, NCCMP retained the preeminent federal credit consulting firm in Washington, Summit Consulting, as well as Treasury's former Assistant General Counsel for Banking and Finance, to work with us to design a federal credit program that will solve the financial problems of critical and declining status plans, but to do so in a way that will solve the numerous concerns that Congress and the Executive Branch will have with this type of program.

Historically, regardless of administration, OMB and Treasury oppose federal credit programs. This is important, because OMB owns all aspects of federal credit. Under the Federal Credit Reform Act of 1990, or FCRA, OMB owns the scoring process, as well as the process that allows for programs to be executed and loans disbursed.

The last credit program that Congress passed was in June 2014. The Water Infrastructure Finance and Innovation Act will make its first loan for $134 million later this month, and this is considered a fast implementation. The normal federal credit process will not save Central States or the Mine Workers.

If there is any doubt that Treasury and the Executive Branch can and will kill off programs that they do not like, Treasury's implementation of MPRA and it's handling of the Central States application should dispel those doubts. And unlike a credit program, MPRA did not cost the U.S. Government a penny, and would have actually significantly reduced the PBGC's deficit.

I am not going to go through all of the details of the loan proposal that NCCMP published, it is available on our website, I simply want to mention the principles that we used to develop it, and then through some of the basics.

The first principle is that time is a critical concern for Central States and the Mine Workers, so we need to get the solution enacted soon, and one that will get executed by the Executive Branch. The proposal must maximize the probability of success and the likelihood of implementation by the U.S. Government – it simply does us no good to pass something that will not get executed.

Second, the proposal must be credible to the U.S. Government and must solve the actual problems of the plans and of the government. This includes conservative assumptions.

Third, the proposal must be consistent with FCRA and longstanding federal credit policies. Take your pick of crisis related programs, all came under FCRA and followed federal credit policies.

Fourth, the program must be paid for either by the borrower or the U.S. Government, and not the multiemployer community at large.

Finally, the proposal must be structured in a way that minimizes the possibility of failure, as failed federal rescues are typically paid for by the entire industry. All multiemployer plans have enough calls on plan assets and contributions in the form of PBGC premiums, without having to pay for the loan losses of the government because the program was poorly structured.

Using these principles, we developed the proposal using actual data from 5 plans, with each plan demonstrating solvency and repayment of the federal loan. We agreed with the concept that UPS advanced of a 1% loan for 30 years. While our approach is structurally different from the others, fundamentally, we agree that a subsidized loan is the only way to allow plans to earn their way through the funding challenges that they face.

We then require that the plan demonstrate solvency and repayment of the loan using assumed rates of return of 5.5% or less. This requirement is based on a judgment of what OMB and Treasury would consider reasonable for a program whose purpose is investment arbitrage.

We leave the policy decision of who pays for the credit subsidy cost of the program and any benefit reduction requirements to Congress. We provide three alternatives. The first is no benefit reduction and the government pays 100% of the credit subsidy costs. This is an option that Congress could select, although in the history of federal credit programs where the government was providing some form of rescue, my team is unaware of a borrower's liabilities being fully paid out.

The second alternative requires a 20% benefit reduction which is then paid to the government as a fee to offset the credit subsidy costs. While highly specific to each plan, the government's costs ranged from 0% to 18% for the plans that we modeled.

The third alternative requires a 20% benefit reduction or such higher amount as needed to achieve a zero credit subsidy cost. In the 5 plans that we modeled, each had different additional benefit reduction requirements, ranging from zero to 19.4%.

In both the second and third alternatives, there is a limitation that benefit reductions cannot be below the PBGC guarantee.

We also require that the loan proceeds are held in a separate trust account for the U.S. Government and that the loan proceeds cannot be used to pay benefits. The loan account will distribute investment earnings semi-annually up to 4.5% semiannually. Earnings in excess of this are kept by the loan account to be used to offset future below expectation returns. To the extent that earnings are negative and the corpus of the loan has suffered losses, the Trustees are required to forfeit investment earnings until the corpus is restored, or alternatively, bargain additional benefit reductions or contribution increases.

Each loan is required to have two ratings from rating agencies that are at least BB+. I have heard the heartache that this provision causes some people. However, I want to clarify two things. First, they are rating the loan, not the plan. And second, a rating is an integral part of the credit subsidy calculation process under FCRA, and the alternative is to have career credit staff perform this role, which historically has resulted in lower ratings.

The legislation also prohibits the inclusion of the loan proceeds, investment earnings, or benefit reductions in any withdrawal liability calculation. However, if the loan account has suffered losses to the corpus, those losses are included in any withdrawal liability calculation.

Further, if the plan suffers material experience losses, whether through the assumptions that supported the government's approval of the loan or provided the basis of the rating, these experience losses must be made up through the forfeiting of investment distributions, or bargained benefit reductions, or contribution increases.

If the Plan ever becomes insolvent or suffers a mass withdrawal, then the loan account is immediately transferred to the U.S. Government.

While our program has a stated size of $100 billion and an eligibility requirement, these in fact are simply policy choices for Congress. For example, if Congress decides to have this program replace MPRA, the required size of the program increases.

In any case, a successful loan applicant would remove that plan from the list of plans comprising the PBGC's net deficit, and improving the finances of the PBGC.

Later today, Anthony Curcio from Summit Consulting will be going into more depth about federal credit. Summit's expertise is in designing federal credit programs, executing these programs within agencies, and calculating the cost of individual loans and programs for the OMB. They are involved in $2.7 trillion of the U.S. Government's $3.7 trillion credit book.

In closing, I want to thank all of you for attending today. We are excited for the program that we have for you, and are privileged to have a roster of great speakers for you. NCCMP wants to be a resource to you and your plans, or your clients, and encourage you to reach out to us whenever we can be of assistance. I am pleased to open it up for any questions.