June 3, 2013

Ms. Catherine B. Klion
Assistant General Counsel
Regulatory Affairs Group
Office of the General Counsel
Pension Benefit Guaranty Corporation
1200 K Street, NW
Washington, DC 20005

Re: Reportable Events and Certain Other Notification Requirements (RIN 1212-AB06)

Dear Ms. Klion:

The Committee on Investment of Employee Benefit Assets (CIEBA) appreciates this opportunity to provide comments to the Pension Benefit Guaranty Corporation (PBGC) regarding the recently released notice of proposed rulemaking and request for comments concerning reportable events and certain other notification requirements.

CIEBA represents more than 100 of the country's largest pension funds. Its members manage more than $1.5 trillion of defined benefit and defined contribution plan assets on behalf of 17 million plan participants and beneficiaries. CIEBA members are the senior corporate financial officers who individually manage and administer Employee Retirement Income Security Act (ERISA) - governed corporate retirement plan assets.

Overall Comments on Proposed Changes

As voluntary sponsors of large defined benefit plans, CIEBA members have a strong commitment to the long-term health and viability of the defined benefit pension system and of PBGC. PBGC believes that this proposal "is designed to reduce the burden dramatically on financially sound plans and sponsors (which present a low degree of risk)." Embedded in the PBGC's proposal is an emphasis on the financial soundness of plan sponsors as criteria to impose additional reporting burdens and costs on plan sponsors. We strongly believe that the current regulatory regime, which focuses on the funded status of a plan as criteria for additional reporting requirements, is better suited to protecting plans and their beneficiaries. Rather than providing additional security to plan participants, the use of the financial soundness of a plan sponsor as criteria to add additional regulatory burdens on them will actually discourage employers from maintaining ongoing defined benefit plans and will further promote the trend of companies freezing or terminating their defined benefit plans.

Dun and Bradstreet

When it was debating the Pension Protecting Act of 2006, Congress explicitly considered and rejected the use of credit ratings as a basis for the new, at-risk funding requirements. Rather than focusing on measures of a plan sponsor's financial soundness such as credit ratings, Congress chose to base the new at-risk funding rules on a plan's funded status. Accordingly, we believe that other alternative measures of a plan sponsor's financial soundness, such as Dun & Bradstreet,[1] should be similarly rejected in favor of focusing on a plan's funded status.

Funded Status

CIEBA also believes that the PBGC should focus on a plan's current funded status instead a plan's termination funded status. PBGC proposes a safe harbor for plans that are 100 percent funded on a termination basis. Plans, however, typically do not calculate funding on a termination basis. We strongly oppose measurements based on the PBGC's definition of termination liability. For numerous reasons, we question whether the PBGC's definition is an accurate measurement of termination liabilities. Moreover, even if it were accurate, it is not an appropriate measurement of liability for any purpose for an ongoing plan. This is clearly evidenced by the fact that Congress has never based a funding-related test applicable to ongoing plans on the PBGC's definition of termination liability. To do so here would be inconsistent with Congressional intent, as manifested consistently over many years.

PBGC also proposes a safe harbor for plans that are 120 percent funded on a premium basis while eliminating all existing waivers, such as the waiver for plans that are at least 80 percent funded. CIEBA believes that the proposed funded threshold is far too high and is set at a level that virtually no plans would meet today. Moreover, this unrealistic standard would have immediate and adverse effects on companies that have maintained strong plans in the face of historically low interest rates. Employee benefit plan investors are routinely required to sign contracts (e.g. swaps and future agreements) with certain representations, including that the plan is a tax-qualified plan, that it has not received a notice of termination from PBGC, and that no reportable event has occurred where reporting has not been waived by PBGC. Eliminating the automatic waiver for plans that are 80 percent funded could cause an unintended and unwarranted adverse impact on strong plans that sign these types of contracts when engaging in financial transactions.

[1] Dun & Bradstreet scores are a measure of a company's ability to pay its bills on time. The score reflects a short-term point of view. Many companies have found that their D&B scores are often wrong and are hard to correct. D&B simply reports information from a variety of sources. It does no due diligence or independent analysis of its own.

Alternative Proposal – Exemption for Publicly Traded Companies

Since 2000, PBGC has recorded a number of extraordinarily large claims. The largest of these claims were from plans in two distressed industries – airline and steel. PBGC was well aware of the weak funding rules that permitted these plans to become massively underfunded.

In fact, the current system of using plan funding levels as a proxy for risk to the insurance program is working well. Approximately two-thirds of all claims are from plans that are less than 50 percent funded – and only 1.5 percent of the claims come from plans that are at least 75 percent funded. Companies already report annually on the funded status of their plans, and PBGC monitors changes in those funding levels.

Currently only 580 plans - 2 percent of total PBGC-insured single-employer plans – account for about 68 percent of all insured participants. These plans are sponsored by publicly held companies that regularly report to the Securities and Exchange Commission (SEC). In their SEC filings, these companies disclose the significant negative impact of current market conditions on their pension plan asset values, the possibility of increased pension expenses, and the need for additional contributions.

Rather than a complicated system of safe harbors, CIEBA proposes that publicly traded companies be exempt from the reportable events requirements. The Administration has issued executive orders that direct agencies to assess the costs and benefits of available regulatory alternatives and to select regulatory approaches that avoid duplicative reporting. Because publicly traded companies already report significant events on their SEC filings and because these filings are already publicly available, there is no reason for plan sponsors to provide duplicative filings to PBGC. As they do currently under their early warning program, when situations warrant further review, PBGC can contact companies for additional information.

Conclusion

CIEBA commends the PBGC's attempt to target reporting requirements on the sponsors and transactions that present the most risk to the insurance system. However, we believe that these proposed rules will <u>not</u> make plan sponsors "less likely to eliminate their defined benefit plans and thereby have a beneficial effect on retirement security generally." These new reporting requirements are duplicative of the reporting that plan sponsors make to the SEC and the proposed safe harbors do not appropriately balance the benefits to the insurance program against the costs to plan sponsors and the PBGC. New, burdensome reporting requirements on plan sponsors will only serve to enhance the trend of plan terminations, resulting in fewer plans to pay premiums to PBGC and leaving only the riskiest plans in the system.

Thank you for your consideration of our views.

Sincerely,

The Committee on Investment of Employee Benefit Assets