



September 26, 2018

The Honorable Kevin Brady  
U.S. House of Representatives  
1011 Longworth House Office Building  
Washington, DC 20515

The Honorable Richard Neal  
U.S. House of Representatives  
341 Cannon House Office Building  
Washington, DC 20515

**Re: Tax Reform 2.0 Legislation: H.R. 6757, Family Savings Act**

Dear Representatives Brady and Neal:

The Committee on Investment of Employee Benefit Assets (CIEBA) welcomes Congress's efforts to improve retirement savings for American workers. We would like to provide comments on two specific aspects of new bills collectively known as "Tax Reform 2.0," and in particular on H.R. 6757, the Family Savings Act of 2018 (FSA).

As explained below, we are:

- (1) very concerned about a provision implementing a study of single-employer PBGC premiums because the study fails to expressly require a review of the negative impact premium increases have had on the defined benefit plan system and directs consideration of premium structures that could result in an inappropriate role for PBGC (*e.g.*, consideration of plan sponsor creditworthiness), and
- (2) very supportive of a provision that would provide needed clarity and technical nondiscrimination relief for employers trying to continue to provide DB benefits through defined benefit pension plans in which newly-hired employees do not participate.

CIEBA Members are the chief investment officers of more than 100 of the Fortune 500 companies who individually manage and administer Employee Retirement Income Security Act (ERISA) - governed corporate retirement plan assets. CIEBA Members voluntarily sponsor plans and manage over \$2 trillion of retirement assets on behalf of more than 15 million participants, representing a very significant portion of the largest private defined benefit and defined contribution pension plans in the United States.

**1. CIEBA has strong concerns with the FSA provision to study single-employer PBGC premiums and with having the government review the creditworthiness of plan sponsors.**

CIEBA members are the chief investment fiduciaries for some of the largest single-employer defined benefit pension plans in the country. From this perspective, we are very concerned with the provision in FSA that would commission a study to look at the sufficiency of Pension Benefit Guaranty Corporation (PBGC) single-employer premiums. We are particularly concerned given

that PBGC's own FY 2017 Projections Report<sup>1</sup> very conservatively projects that by 2027, PBGC will have a large and growing surplus – over \$20 billion – in its single-employer insurance program.

The FSA provision contains especially troubling requirements to study alternative structures and levels of premiums, which would possibly have the government judge the creditworthiness of pension plan sponsors and judge the appropriateness of pension plan investments. These are simply not roles the government should be playing, and they are roles that Congress has considered and strongly rejected in the past.

Our view is that, overall, this FSA study provision is inappropriately narrow in its design and fails to expressly require a review of the impact prior premium increases have had, and future premium changes could have, on employers' willingness to continue to offer defined benefit plans. Increasing PBGC premiums, for example, would only accelerate the trend of employer plan sponsors deciding to cease sponsoring defined benefit plans altogether. If anything, Congress should be looking for ways to responsibly reduce single-employer PBGC premiums, which have skyrocketed in recent years. Indeed, the PBGC's own Participant and Plan Sponsor Advocate issued a report stating that: "A reduction in future PBGC premiums would have a *significant beneficial impact* [emphasis added] on preserving the remaining plans in the defined benefit pension universe."<sup>2</sup>

Instead of the study proposed under FSA, CIEBA encourages Congress to follow the approach laid out by H.R. 3596, the Rightsizing Pension Premiums Act of 2017, sponsored by Reps. Kelly and Kind. This bipartisan legislation has 136 cosponsors in the House, and it would implement responsible protections that are based on the funded status of the PBGC single-employer trust and would prevent single-employer premiums from being increased for budgetary reasons that are unrelated to the retirement system.<sup>3 4</sup>

**2. CIEBA is very supportive of technical nondiscrimination testing relief for partially frozen defined benefit plans.** CIEBA is very supportive of the FSA provision that includes relief from nondiscrimination rules for soft-frozen pension plans, by clarifying that a plan that passed nondiscrimination testing at the time it was soft-frozen will be deemed nondiscriminatory, as long as the plan is not amended in any otherwise discriminatory manner. Freezing plans often causes discrepancies over time between the benefit obligations owed to older, generally highly compensated employees and the obligations owed to younger, generally non-highly compensated employees, the latter of whom are often provided other retirement benefits under separate plans. Under existing law, this could cause a plan to fail nondiscrimination testing, despite the discrepancy being completely unintentional by the plan sponsor. Thus, the relief from nondiscrimination testing in this bill is most welcomed given that

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<sup>1</sup> [FY 2017 PBGC Projections Report](#)

<sup>2</sup> [PBGC Participant and Plan Sponsor Advocate Pension De-Risking Study](#)

<sup>3</sup> [CIEBA Statement on the Rightsizing Pension Premiums Act of 2017 \(H.R. 3596\)](#)

<sup>4</sup> [H.R.3596 - Rightsizing Pension Premiums Act of 2017](#)

it would allow employers in this situation to continue to accrue benefits for these older, longer-service employees.

Thank you for giving us the opportunity to comment on the upcoming “Tax Reform 2.0” legislation, and we appreciate the continued efforts to help improve the American private retirement system.

Sincerely,

A handwritten signature in black ink, appearing to read 'D Simmons', with a long horizontal flourish extending to the right.

Dennis Simmons  
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Committee on Investment of Employee Benefit Assets  
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CC:

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