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STATEMENT OF KAREN D. FRIEDMAN

ON BEHALF OF THE PENSION RIGHTS CENTER

ON "PENSIONS IN PERIL: HELPING WORKERS PRESERVE RETIREMENT SECURITY THROUGH A RECESSION"

BEFORE THE

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

UNITED STATES SENATE

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Mr. Chairman, Members of the Committee:

Thank you for the opportunity to testify today. I am Karen Friedman, the Executive Vice President and Policy Director of the Pension Rights Center, a 33-year-old consumer rights organization dedicated to protecting and promoting the retirement security of workers, retirees and their families.

In today's devastated economic environment, we have seen how important defined benefit plans are to the security of American workers and their families. While millions of Americans have seen their 401(k) savings accounts plummet in value, workers and retirees covered by defined benefit pension plans are the ones who are most likely to be sleeping soundly, secure in the knowledge that they will have a guaranteed lifetime stream of benefits to supplement Social Security.

Helping companies to continue their ongoing defined benefit plans is also an important part of the economic recovery process, because: (a) doing so will provide retirees with a guaranteed source of monthly income to enable them to continue to be productive citizens and to contribute to the economy; and (b) defined benefit plans generate long-term investment capital that can help expand the economy and ensure the preservation and creation of jobs.

For these reasons, the Pension Rights Center supports providing emergency funding relief to companies that have done the "right thing," and have continued to maintain ongoing defined benefit plans – as long as the relief is conditioned on certain critical protections for employees, which I will discuss today. As I will explain later, we oppose providing blanket funding relief for companies that have frozen their plans. I will also talk about why we believe, as part of this debate, certain Pension Protection Act (PPA) provisions that adversely affect participants should be repealed. I also will discuss briefly issues related to multiemployer plans, and why Congress should act to stop the use of qualified defined benefit plans to unfairly provide special benefits to selected top executives through so-called Qualified Supplemental Executive Retirement Plans, or Q-SERPs for short.

<u>I. Funding Relief Should Be Targeted to Active Defined Benefit Plans</u>: First, and most important, we support full funding relief only for companies that sponsor active defined benefit plans under which employees continue to accrue benefits. Companies that stood by their defined benefit programs while others abandoned or froze them deserve support from Congress.

The type of relief we favor for ongoing single-employer plans is to permit an extended amoritization period for losses attributable to the recession. It is important to note that it is employees who would share the downside risk with the PBGC if employers ultimately renege on their obligations. Because of this, we believe that if companies get funding relief for their defined benefit plans, they must make a commitment that employees will continue to earn new benefits under the plan at least until the end of the period in which relief is granted. This will ensure that companies will not get relief and then freeze the plan which would be unfair to employees and contrary to the purpose of receiving relief in the first place

Also, we believe that as part of funding relief, companies should be prohibited from both from making contributions into deferred compensation arrangements, such as rabbi trusts, and from paying out benefits to executives from these plans during the relief period. The reason for this recommendation is that contributions to and payments from these nonqualified plans for executives are company assets that could help fund the company's qualified plan for workers. Why should companies get funding relief for plan contributions if they are still funding and paying out benefits from deferred compensation plans for executives?

II. Companies with Frozen Plans Should Receive No Additional Funding Relief

As I said before, we believe that the best argument for granting funding relief to employers is because doing so serves a constructive societal purpose in preserving pension plans, which provide secure and adequate retirement income to working men and women. Companies that have frozen their plans – by stopping workers from accruing benefits – have severed this commitment to their workers.

It is important to keep in mind that funding relief is not free: It is essentially an unsecured loan provided by participants to the company. Employees give up wage increases in exchange for company contributions to defined benefit plans on their behalf. If a company cannot continue to fund the plan and it is later terminated, employees can lose benefits they earned if these are not fully guaranteed by the Pension Benefit Guaranty Corporation. Since it is the participants who potentially bear a great share of the financial burden of funding relief, we do not believe that emergency relief should be made available to plans in which employees are no longer earning new benefits.

Some have argued that extending relief to frozen plans will help save jobs because money not contributed to the pension plan could be used to create and preserve jobs. But this argument is unsupported by firm evidence. The fact is that this money could be used for any purpose, including moving jobs overseas, automation or even executive compensation.

It should also be noted that there are provisions in current law that allow employers to request a funding waiver from the Internal Revenue Service if they can show temporary substantial business hardship and that failure to grant a waiver would be adverse to the interests of plan participants

We would support providing the I.R.S. with resources to streamline the process to review waiver requests in cases of companies with frozen plans that need relief. One option might be for

Congress to establish a special temporary funding review board and require that waivers be ruled on in an expedited manner (perhaps within 60 or 90 days of the request).[1] A company with a frozen plan that wants further funding relief could qualify for that relief by unfreezing the plan and accepting the conditions we described above.

IV. Repeal Certain Pension Protection Act Provisions:

- Repeal the PPA provision mandating the automatic freeze of benefit accruals in single-employer plans that are less than 60 percent funded. Congress should not penalize plan participants because employers have not funded the plan. Alternatively, the PPA provision could be converted into a temporary suspension of benefit accruals rather than a freeze, with the suspended accruals automatically restored once a plan has attained a specified funding level.
- Repeal the PPA provision that allows the PBGC to set the date of a distress termination as the date the plan sponsor filed bankruptcy rather than the date the plan is officially terminated by the bankruptcy court. When the PBGC uses the earlier date, the agency effectively cuts workers benefits by not counting additional accruals that were earned before the plan was actually terminated.

V. Protections for Employees in Multiemployer Plans

- Raise the maximum PBGC guarantee for multiemployer plan benefits to at least $20,000 for a full-career worker.
- Multiemployer plans in the future may find their way out of the current crisis and become over-funded by a significant amount. If so, we hope that Congress will explore ways to reinstate subsidized early retirement benefits (and subsidized survivors benefits) that may have been eliminated under the "Red Zone" (critical status) provisions of the PPA.

VI. Eliminate Q-SERPs

Two years ago, the *Wall Street Journal* revealed a practice in which companies use pension plans that were set up for rank-and-file workers to provide increased benefits for a small number of high-paid executives. The enhanced benefit formulas for a privileged few were known as Qualified Supplemental Executive Retirement Plans, (Q-SERPs.) These provisions were an inequitable use of plan assets and may have contributed, at least at the margins, to the current funding problems of some plans. Congress should eliminate Q-SERPs.

Conclusion

The economic meltdown of the last year has shown the tremendous value of defined benefit plans to employees and retirees. Congressional response to the economic crisis should be to help ensure the survival of existing defined benefit plans and stand by those companies that stood by their defined benefit plans in an era when too many companies abandoned their plans.

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[1] In the case of companies that are continuing their plans for current employees but have frozen them for new hires, a tiered approach to funding relief might be appropriate. For example, these plans might be allowed to amortize only a portion of the recessionary losses, or be permitted to amortize them over a shorter period of time. A similar approach could be used for plans that no longer credit current employees with future service, but allow their benefits to reflect future increases in compensation.

Also, we hope that this Committee continues to hold retirement income hearings both to examine ways of encouraging new defined benefit plans as well to look at broader issues for the future. We would encourage you to look at both how to shore up the current system for current workers and also to examine whether we need a new retirement income system – on top of Social Security – for future generations. The Pension Rights Center recently joined with the AFL-CIO, the Economic Policy Institute, the National Committee to Preserve Social Security and Medicare and the Service Employees International Union to convene Retirement USA, a new initiative working for a visionary retirement system – one that is universal, secure and adequate. Retirement USA has established 12 Principles for a New Retirement System. These can be viewed at www.retirement-USA.org, and I would be pleased to answer any questions you may have about this initiative.