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U.S. CHAMBER OF COMMERCE

Statement of the U.S. Chamber of Commerce

ON: **Pension Modernization for a 21st Century Workforce**

TO: **The Senate Committee on Health, Education, Labor, and Pensions**

DATE: **September 20, 2012**

The Chamber's mission is to advance human progress through an economic,
political and social system based on individual freedom,
incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation, representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations.

More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees, 70 percent of which have 10 or fewer employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business – manufacturing, retailing, services, construction, wholesaling, and finance – is represented. Also, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. It believes that global interdependence provides an opportunity, not a threat. In addition to the U.S. Chamber of Commerce's 115 American Chambers of Commerce abroad, an increasing number of members are engaged in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross section of Chamber members serving on committees, subcommittees, and task forces. More than 1,000 business people participate in this process.

Statement on
PENSION MODERNIZATION FOR A 21ST CENTURY WORKFORCE
Roundtable Discussion before
UNITED STATES SENATE
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS
on behalf of the
U.S. CHAMBER OF COMMERCE
Thursday, September 20, 2012

The U.S. Chamber of Commerce would like to thank Chairman Harkin, Ranking Member Enzi, and members of the Committee for the opportunity to participate in today's Roundtable Discussion on Pension Modernization for a 21st Century Workforce. I am Aliya Wong, Executive Director of Retirement Policy for the U.S. Chamber of Commerce. The Chamber is the world's largest business federation, representing more than three million businesses and organizations of every size, sector and region. Over ninety-six percent of the Chamber members are small businesses with fewer than 100 employees.

The topic of today's hearing – Pension Modernization for a 21st Century Workforce– is of significant concern to our membership. Businesses in America, large and small, maintain a long-held commitment to providing voluntary benefits that support the welfare of their workers. Retirement security in particular is a significant focus of voluntary benefit offerings. As Americans live longer, healthier lives, retirement security becomes a greater concern. The private employer-provided retirement system has contributed greatly to the current retirement security of millions of Americans.

While the focus of today's Roundtable is on defined benefit plans, I would be remiss not to mention the success of the entire private retirement system which also includes defined contribution and individual account plans. Today, 82 million households have defined benefit plans, defined contribution plans, or individual retirement accounts. These households have a combined $17.9 trillion earmarked for retirement.[1] Moreover, income from defined benefit and defined contribution plans represented 19% of retiree income in 1975; whereas, by 2009, it accounted for 26% of retiree income. The number of retirees receiving retirement income from employment-based plans has also grown, from 20% of retirees in 1975 to 31% in 2009.[2] Much of this growth can be attributed to defined contribution plans. Since 1975, the number of defined contribution plans has almost quadrupled, from 207,748 to 659,530 in 2007.[3] In 1992–93, 32% of workers in private industry participated in a defined benefit plan, while 35% participated in a

[1] Investment Company Institute, Retirement Assets Total $17.9 Trillion in Fourth Quarter 2011, April 2, 2012, http://www.ici.org/research#retirement_research. These figures also include assets held in government-sponsored plans because there is overlap in participation between private and government plans and participation in government plans is also an important part of retirement security.
[2] Investment Company Institute, Helping Working Americans Achieve a Financially Secure Retirement: How the 401(k) System Is Succeeding, July 2011, http://www.ici.org/pressroom/speeches/11_pss_ayco_401k.
[3] U.S. Department of Labor, Employee Benefits Security Administration, Private Pension Plan Bulletin Historical Tables, December 2011, p. 1, http://www.dol.gov/ebsa/pdf/historicaltables.pdf.

defined contribution plan.[4] According to the 2008 National Compensation Survey, private industry workers' participation in defined benefit plans decreased to 21%, while participation in defined contribution plans increased to 56%.[5] These numbers show that participation in the entire retirement system is steadily increasing.

In April of this year, the Chamber issued a white paper entitled "Private Retirement Benefits in the 21st Century: A Path Forward" in response to concerns about retirement security. The paper was developed with members of the Chamber's Employee Benefits Committee to offer guidelines on initiatives and reforms that will continue to bolster the voluntary employment-based retirement benefits system and retirement security for workers. The answers to the Roundtable questions below reflect the ideas and positions contained in the white paper as agreed upon by our membership.

Defined benefit pension plans have provided a secure retirement for millions of middle class Americans, but it is clear that the traditional pension system is in decline and that existing defined benefit pension models may not be well-suited for some of our 21st century workforces. What should our pension system look like to meet the challenges of the global economy and the need to provide retirement security for working Americans?

In order to meet the challenges of the global economy and the need to provide retirement security, it is important that the private system remain voluntary, flexible, and include incentives for saving. In addition, we believe that any changes to the current system should focus on simplicity, and encourage innovation.

The Chamber believes that the key element of the private retirement system is its voluntary nature. While there is widespread agreement on the importance of retirement savings and programs, not every employer is able to offer a retirement program. Employers that have extremely small profit margins cannot afford mandatory benefits without losing employees. In addition, concerns about liability and administrative burdens could also negatively impact the productivity of business.

No single plan design is perfect for every company or every worker. Therefore, the private retirement system has encouraged innovation in plan design, and many employers have more than one type of plan as part of their retirement program. One of the great successes of the private retirement system has been the ability of employers to implement new plan designs to accommodate changing demographics and evolving workforce needs. Innovation in plan design has encouraged employers to continue to participate in the private retirement system.

For employers that choose to implement retirement programs, flexibility and choice are key considerations. The mix of types of benefit plans in the future will be diverse—defined benefit, defined contribution, multiemployer, and hybrid plans. Demographic and competitive needs will

[4] Allan Beckman, "Access, Participation, and Take-up Rates in Defined Contribution Retirement Plans Among Workers in Private Industry, 2006," Bureau of Labor Statistics, December 27, 2006, http://www.bls.gov/opub/cwc/cm20061213ar01p1.htm (accessed August 11, 2010).
[5] Bureau of Labor Statistics, "Percent of Workers in Private Industry With Access to Retirement and Health Care Benefits by Selected Characteristics: 2008," http://www.census.gov/compendia/statab/2010/tables/10s0639.pdf (accessed August 11, 2010).

spur the creation of plan designs that we have not even begun to contemplate. Consequently, it is more important than ever to ensure that there are no statutory, practical, or political barriers to innovation that would discourage participation in the private retirement system.

In addition to innovations in plan designs, we are witnessing an evolution of another type. Retirement in America is changing, a fact that can be attributed both to hard economic times and evolving views of what retirement should be. Many of today's older workers see retirement as a whole new life chapter rather than a time to wind down. There is no longer a monolithic vision of retirement. Therefore, flexible laws are needed to continue to serve retirees who no longer work while also encouraging those who are able and willing to continue to work.

While we work to enhance the current private retirement system and reduce the deficit, we must not eliminate one of the central foundations—the tax treatment of retirement savings—on which today's successful system is built. Employer-sponsored retirement plans have introduced tens of millions of American workers to retirement saving. Eliminating or diminishing the current tax treatment of employer-provided retirement plans would jeopardize the retirement security of tens of millions of American workers, impact the role of retirement assets in the capital markets, and create challenges in maintaining the quality of life for future generations of retirees.

What would make it easier and attractive for businesses – especially small businesses – to provide their employees with a traditional pension benefit? Would reducing the employers' risk and plan complexity help?

There is no silver bullet that will resolve the issues of retirement coverage and savings. Small businesses members have stated that the Chamber cannot over-emphasize the need for simplification and a reduction in unnecessary regulatory requirements in the current retirement system. Small businesses are focused on running a business; therefore, anything that avoids increasing their liability and decreases their administrative burdens is important. In addition, stability, predictability and consistency among the regulatory agencies would go a long way toward encouraging greater participation in the private retirement system.
We have several suggestions for making traditional pension benefits more attractive. Nonetheless, even with greater incentives and changes to defined benefit plans, we do not believe that traditional pension plans will be appropriate for every employer or employee. For example, the average job tenure is now less than 5 years. In certain industries – particularly retail – turnover rates are significantly higher. As such, a traditional pension plan would not be appropriate.

- <u>Reform Single-Employer Defined Benefit Funding Requirements.</u> The number of defined benefit plans has been declining. Plan sponsors face a number of challenges, the greatest of which is the need for predictability and flexibility. Since 2002, Congress has passed five laws that address defined benefit funding. For more than a decade, the legality of hybrid plans was unresolved, and plan sponsors of those plans were unable to get determination letters. Since the recent financial crisis, inflexible funding rules have created unexpected financial burdens for plan sponsors. All of these scenarios have had a negative impact on the employer-provided retirement system. Therefore, the Chamber urges Congress to keep in mind the need for predictability and flexibility to ensure that employers can continue to maintain plans that contribute to their workers' retirement security.

Policymakers can take several steps to encourage sponsorship of defined benefit plans. To improve defined benefit plan funding, the law should allow for unlimited prefunding up to the amount of projected future benefits in the plan. Additionally, the Internal Revenue Service (IRS) should eliminate the tax penalty for the reversion of assets in a pension plan after all promised benefits have been paid out to participants.

- Clarify the Hybrid Plan Rules and Regulations. The Chamber views hybrid plans as an important part of the private retirement system. Therefore, the Chamber worked for several years toward the confirmed legality of hybrid plans in the Pension Protection Act (PPA) (and as amended by the Worker, Retiree, and Employer Recovery Act of 2008). However, because of the previous controversy surrounding hybrid plans, they are less widespread than they should be. Therefore, we believe that the rules provided under the PPA and the ensuing guidance from the Treasury and the IRS should provide plan sponsors with enough certainty to establish and maintain hybrid plans and to allow for greater participation in these plans. Specifically, we urge the Treasury and IRS to set forth a clear and rational approach to PPA compliance for Pension Equity Plans. More broadly, because of the complexity of hybrid plans and their regulation, additional guidance is critical to ensure that plan sponsors have enough clarity and flexibility to adopt and maintain hybrid pension plans with legal certainty.

- Streamline Notice Requirements and Allow for Greater Use of Electronic Disclosure. Consolidating and streamlining certain notice requirements would make retirement plan sponsorship more attractive for business and for small businesses in particular. Currently, plan sponsors and participants are overwhelmed by the disclosure requirements. This feeling is particularly acute for small businesses that may not have a human resources department to focus on notice requirements. Furthermore, the notice requirements do not occur in a vacuum - employers are required to provide many other notices outside of the ERISA context. A thorough Congressional review could identify many ways of relieving unnecessary administrative burdens of little or no utility while ensuring that participants receive information that is meaningful and relevant.

  In addition to consolidation and elimination, it is important for regulators to recognize the benefit of electronic delivery, which is faster, cheaper, and better than any other form of delivery. We believe that it is critical for the Department of Labor, Department of the Treasury, and the Pension Benefit Guaranty Corporation (PBGC) to create a single, uniform electronic disclosure standard and we recommend that all of the agencies change their standards to encourage the use of electronic delivery and to allow, for plan sponsors that wish, electronic delivery to be the default delivery option for benefit notices. The Chamber believes that modernizing the restrictive rules on electronic delivery is a critical element in the larger task of reforming employee benefit plan notice and disclosure requirements. These changes can allow important information to be provided without being submerged in an avalanche of rarely used information.

- Create Greater Transparency in Accounting Standards for Employer-Provided Benefit Plans. Under Sarbanes-Oxley, the Securities and Exchange Commission designates an accounting standard-setter and sets its budget. The Financial Accounting Standards Board (FASB), a quasi public-private organization, has been designated as this accounting standard-setter. The Chamber fully supports independent standard-setting. However, dialogue and input from stakeholders is important to the process, and we believe that process improvements, such as transparency and cost-benefit analysis, are needed to ensure appropriate levels of input.

  Various accounting rules and practices in the past have discouraged the continuation of defined benefit pension. Despite the best efforts of policymakers to create an environment that encourages more assertive action in these areas, these efforts can be significantly affected or undone by the actions of FASB. The negative impact of FASB standards has been seen in the area of retiree health care plans, single-employer defined benefit plans, and, most recently, multiemployer defined benefit plans. To ensure that employers are not unintentionally discouraged from participation in the retirement system, it is necessary to address the accounting practices associated with voluntary benefit plans.

- Give Small Businesses a Dedicated Voice on Advisory Councils. Small businesses play an important role in the debate over the effectiveness of the voluntary employer-provided system; therefore, it is important to increase their representation in the debate. The advisory councils to the DOL, IRS, and PBGC are important sources of input to those agencies. However, none of them have a seat specified for small business. An important way to increase the voice of small business in the discussion of the employer-provided system is to have a small business representative on each of these advisory councils.

What do employees need from a pension plan to ensure that they will have a secure retirement?

Much like employers, employees also need flexibility and innovation. While asset accumulation has long been the focus of retirement planning discussions, the decumulation of those assets in retirement has become an important consideration. As people live longer in retirement, they must consider ways to manage assets to provide a steady retirement income stream. Policymakers, industry, and employers are increasingly focused on ways to help individuals convert their accumulated savings into retirement income streams (including guaranteed options and systematic withdrawals) that will see them through a retirement that could last more than 30 years. The Chamber supports greater education for participants, innovation among products, and flexibility for employers to try new products and programs.

- Phased Retirement. Given current unemployment numbers, it is difficult to imagine an employment shortage. However, because of the demographics of our population, we can expect employment strains in certain industries and regions. Although there is no official definition of phased retirement, it generally refers to any arrangement whereby a worker at or near regular retirement age continues to work, but at a reduced schedule, a reduced salary, reduced responsibility, or a combination of all three. Sometimes the phased retiree will continue receiving health benefits or will begin receiving a pension. Many phased retirement arrangements are informal, but some employers—particularly universities—have formal phased retirement programs.

Employers looking at a possible brain drain want to keep their experienced and skilled workers in order to remain competitive. However, several barriers exist to phased retirement. Legal barriers restrict when benefits can be paid out. Fiscal barriers include the costs associated with employing older workers, such as increased pension payments and higher health care coverage costs. Policy and practical barriers include how accruals should be calculated during phased retirement or how to apportion the payout. These barriers have prevented many employers from implementing phased retirement programs. In summary, we believe the following principles are necessary in discussing any phased retirement policy:

  - Continue to treat phased retirement programs and practices as discretionary arrangements;
  - Legislative and regulatory modifications required (for example, to the anti-cutback rules and the non-discrimination rules);
  - Allow, but not require, employers to continue to offer health benefits.

- Encourage Additional Distribution Options. To encourage continued innovation and growth of financial products, it is important that lawmakers approach decumulation issues in a product-neutral manner. Public policy in this arena should encourage education on the various distribution options and to encourage product innovation to meet the varied needs of savers and retirees. Employers should not be required to offer specific distribution options in their retirement plans. Rather, lawmakers should encourage and incentivize employers to implement additional payout options beyond the lump-sum option.

- Encourage Employers to Offer Voluntary Products. There are a number of voluntary products that participants might find helpful in managing retirement assets. However, not every product will be appropriate or necessary for every participant. Therefore, we recommend that employers be able to make these products available to their workers in the most efficient and flexible way possible, such as through a cafeteria plan or with 401(k) plan savings.
  - Retiree Health Care. Rather than requiring that employers offer specific products or implement retiree health plans, the Chamber recommends that plan sponsors be allowed to offer insurance products and retiree health savings accounts through cafeteria plans. This step would provide important tools for employees to manage future costs in retirement. It could also reduce retiree reliance on state and federal government support systems.
  - Long-term Care Insurance. The increase in life expectancy is spurring a need for long-term care. Encouraging the purchase of long-term care policies could have far-reaching benefits. It would reduce the extreme financial burden of long-term

care costs to individuals and their families, and to government support systems. To help pay for long-term care insurance premiums while they are affordable, employees should be able to access 401(k) plan assets during their working years. Another alternative is to encourage employers to offer long-term care insurance through a cafeteria plan on a pretax basis.

- Longevity Insurance. The increase in life expectancy also increases the chances that retirees will outlive their retirement income. To avoid this situation, a retiree could purchase longevity insurance, a form of deferred annuity with a payment start date that begins at a later age in retirement. One way to encourage the purchase of longevity insurance is to exclude money used to buy the product from the required minimum distribution rules. Also, as with long-term care insurance, longevity insurance could be purchased through a cafeteria plan or with 401(k) plan savings.

In conclusion, the Chamber encourages action by policymakers that will maintain the success of the current system and ensure that employer-provided plans continue to play an important role in retirement security. We look forward to working with this Committee and Congress to forward ideas that will encourage further participation in the employer-provided system rather than driving employers out of it. Thank you for your consideration of this statement.