

United States Senate

WASHINGTON, DC 20510

May 24, 2018

The Honorable Donald J. Trump
President
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Trump:

We are writing today seeking to understand your decision to replace the Director of the Pension Benefit Guaranty Corporation (PBGC), Tom Reeder, in the middle of his five-year term. Last week, you nominated Gordon Hartogensis—who seems to have little to no prior experience relevant to the pension system and the work of the PBGC—to replace Mr. Reeder. In light of your Administration’s pattern of politically motivated and ethically questionable personnel decisions, the decision to replace Mr. Reeder, who has decades of experience working on pensions and other employee benefit issues, raises serious concerns. We are troubled by this unexpected and seemingly unnecessary change in the agency’s leadership, particularly as the country faces a multiemployer pension crisis.

The PBGC was established by the Employee Retirement Income Security Act of 1974 (ERISA) to “encourage the continuation and maintenance of private sector defined benefit pension plans, provide timely and uninterrupted payment of pension benefits, and keep pension insurance premiums at a minimum.”¹ The agency is responsible for protecting pension benefits for over 40 million people, and it currently pays benefits for about 1.5 million people in failed pension plans.² The agency leads two separate programs: one for single-employer pension plans and one for multiemployer pension plans.

Since 2006, the PBGC Director has been nominated by the President and approved by the Senate for a five-year term of office.³ The first Senate-confirmed PBGC Director served the length of his term,⁴ and the second elected to resign before his term expired.⁵ Mr. Reeder was nominated to the position by President Obama in May 2015 and confirmed by voice vote in the Senate in October 2015; his term is set to end in 2020.⁶ Yet, last week, you nominated Mr. Hartogensis to replace Mr. Reeder as PBGC Director. Mr. Reeder has reportedly been asked to continue serving as PBGC Director as Mr. Hartogensis moves through the confirmation process, suggesting continued confidence in Mr. Reeder’s ability to lead the agency.

¹ <https://www.pbgc.gov/about/who-we-are>

² <https://www.pbgc.gov/news/press/releases/pr15-10>

³ 29 U.S.C. § 1302(c)

⁴ <https://www.ai-cio.com/news/charles-millard-former-pbgc-head-exonerated/>

⁵ <https://www.wsj.com/articles/joshua-gotbaum-to-exit-as-director-of-federal-pension-plan-agency-1405110925>

⁶ <https://www.congress.gov/nomination/114th-congress/513>

During his tenure as PBGC Director, Mr. Reeder has overseen improvements in the single-employer program and has been a vocal proponent of reforms to address the multiemployer program's looming insolvency. Under Mr. Reeder's leadership, the single-employer program has seen its deficit halved, from a \$20.6 billion deficit at the end of fiscal year 2016 to \$10.9 billion at the end of fiscal year 2017.⁷ Mr. Reeder has indicated that continued improvement is projected and the program could be out of a deficit position by 2022. While the multiemployer program faces a \$65 billion deficit and insolvency within the next decade, Mr. Reeder has repeatedly called on Congress to adopt bipartisan reforms and to raise the program's premiums to delay insolvency.⁸ Just last week, Mr. Reeder testified before the Joint Select Committee on Solvency of Multiemployer Pension Plans, where he warned of the potentially catastrophic effects of the program's insolvency and underscored the need for legislative action.⁹

Central to the PBGC's mission is "enhance[ing] retirement security by preserving and encouraging the continuation of private pension plans, and protecting the benefits of workers and retirees in traditional pension plans."¹⁰ In order to fulfill this mission, the PBGC must have expert leadership that understands the pension system and the needs of workers and retirees. We are concerned that your decision to replace Mr. Reeder failed to account for these considerations. To help us better understand the Administration's decision, please respond to the following questions no later than June 7, 2018:

1. How was the decision made to replace Mr. Reeder?
 - a. When and why did the Administration first consider replacing Mr. Reeder?
 - b. When and why did the Administration ultimately decide to replace Mr. Reeder?
 - c. When and why did the Administration select Mr. Hartongensis as its nominee for PBGC Director?
2. What actions did the Administration determine merited replacing Mr. Reeder prior to the end of his five-year term?
 - a. Did the Administration have concerns about any of the opinions expressed or actions taken by Mr. Reeder as PBGC Director?
 - b. Did the Administration have concerns about Mr. Reeder's ability to lead the agency for the remainder of his term?
3. Why has the Administration asked Mr. Reeder to remain PBGC Director as Mr. Hartongensis' nomination moves forward?
4. Did the Administration consider any other nominees before selecting Mr. Hartongensis?
 - a. If so, did any of the candidates have experience with pensions or the work of the PBGC?
 - b. If not, why is that experience considered unnecessary for this position?

⁷ <https://www.pbgc.gov/sites/default/files/pbgc-testimony-ew-help-subcommittee-11-29-2017.pdf>

⁸ https://www.washingtonpost.com/news/get-there/wp/2016/11/16/shortfalls-grow-for-the-insurance-fund-protecting-millions-of-pensions/?utm_term=.661d75f7a78e; <https://www.bna.com/outlook-2018-pension-n73014473690/>; <https://www.forbes.com/sites/edknutson/2018/05/17/some-union-retirees-could-see-pension-benefits-cut-90-pbgc-chief-warns/#f8cbb9b769c3>

⁹ <https://www.pensions.senate.gov/content/structure-and-financial-outlook-pension-benefit-guaranty-corporation>

¹⁰ <https://www.pbgc.gov/about/who-we-are>

- c. What experience or qualifications led the Administration to pick Mr. Hartogensis over other candidates?

Thank you in advance for your prompt attention to this critical matter. If you have any questions, or would like to further discuss compliance with this request, please contact Elizabeth Letter of Senator Murray's HELP Committee staff at 202-224-0767 or Ian Nicholson of Senator Wyden's Finance Committee staff at 202-224-1550.

Sincerely,



Patty Murray
United States Senator
Ranking Member, Senate Health,
Education, Labor, and Pensions Committee



Ron Wyden
United States Senator
Ranking Member, Senate Finance
Committee