The Pension Stability Act

The bill would provide additional funding to the PBGC by imposing a user fee on QPAM waiver applications sought by financial firms convicted of criminal acts

Background on QPAM Waivers

A "qualified professional asset manager" (QPAM) is an entity, such as a financial services firm, that manages the interests of an employee benefit plan in an investment fund. Under the Employee Retirement Income Security Act (ERISA), this would be a prohibited transaction if it were not for a class exemption issued by the Department of Labor (DOL) that permits such transactions.

Prohibited Transaction Exemption 84-14 (PTE 84-14) details the requirements for entities to serve as QPAMs. If, however, an entity, which broadly includes its affiliates, meeting those requirements has been convicted of a crime, it must seek an individual exemption from DOL, which is often called a QPAM waiver, in order to continue working with retirement plan assets. DOL has granted exemptions to all but one firm seeking them since 1997. These individual exemptions are tailored specifically to each firm and have become more extensive in recent years. Crimes committed by firms seeking a QPAM waiver range from currency price fixing to false tax filings to securities fraud.

QPAM Waiver User Fees

Currently, DOL does not charge user fees for reviewing applications for individual exemptions. This bill would change that practice for financial firms that are convicted on criminal charges, thereby violating Section I(g) of PTE 84-14. This bill would direct the Secretary of Labor to establish regulations setting a user fee schedule based on the severity of the crime committed with a minimum $1 million user fee. For repeat offenders, the user fee would be increased by the number of prior waivers sought.

Strengthens PBGC

This bill would direct that any user fees collected by DOL would be directed to the multiemployer program at the Pension Benefit Guaranty Corporation (PBGC). Transfers would be directed to this program until such time as the multiemployer program was in a substantially similar financial condition as the single employer program, at which time the collected user fees would be divided equally between the programs. If the finances of the programs diverge at a later date, the Director of the PBGC and the PBGC Board would be able to reallocate this revenue to match the programs' financial needs.

This bill is a novel approach to shore up the PBGC's finances because raising PBGC premiums substantially on multiemployer plans raises the expenses and exacerbates the already-dire financial condition of many multiemployer plans since premiums are paid out of fund assets. In PBGC's FY2016 Projections Report, PBGC explained that the multiemployer program is projected to run out of money in 2025. Though this bill will not completely solve PBGC's financial issues, it is one critical step in addressing its projected deficit without undermining the current system.

The *Pension Stability Act* is supported by the Pension Rights Center.