

United States Senate

WASHINGTON, DC 20510

May 20, 2010

Vincent K. Snowbarger
Acting Director
Pension Benefit Guaranty Corporation
1200 K Street, NW
12th Floor
Washington, DC 20005-4026

Dear Mr. Snowbarger:

We are writing to you to express our concern with recent decisions made by the Pension Benefit Guaranty Corporation ("PBGC") regarding premium filings.

As you know, defined benefit plan administrators may calculate PBGC variable rate premiums using either the "Standard Method" or the "Alternative Method." For 2009, the Alternative Method generally allowed plan sponsors to pay lower premiums than the Standard Method.

We have been told that many plans made their premium filings for 2009 thinking they had elected to use the Alternative Method and are now being told by PBGC that they are not entitled to use the Alternative Method because of an inadvertent error. Specifically, many sponsors neglected to check box 5 indicating that they were electing to use the Alternative Method. Although box 5 was not checked, those sponsors did, in fact, indicate their election by (i) checking the Alternative Method box on line 7, and (ii) timely paying their premium as calculated under the Alternative Method. Notably, the on-line premium filing form failed to prompt these plans to indicate the need to check both boxes. Thus, it appears to us that these plans elected to use the Alternative Method.

However, we are told that the PBGC is taking the position that this inadvertent error should disqualify the plans from using the Alternative Method. As a result, plans are facing millions of dollars in additional premiums, as well as interest and penalties.

There is no policy reason for PBGC to take such a position. This is not an instance where plans are attempting to "game the system" by making decisions with the benefit of hindsight. These plans made the decision to use the Alternative Method when they timely made their premium filings.

We strongly urge the PBGC to reconsider its decision on this issue. We also ask the PBGC to consider using its authority in a fair and reasonable manner with respect to plans that elected the Alternative Method late. According to information presented to us, some late filers paid on time, but inadvertently failed to click on "submit" to file a completed form. Other plans were late because IRS guidance critical to making an Alternative Method election was not issued until shortly before the October 15, 2009 premium due date. PBGC should take these circumstances under consideration in determining how to treat these plans.

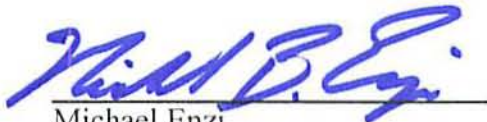
We thank you for your consideration of the views expressed in this letter.



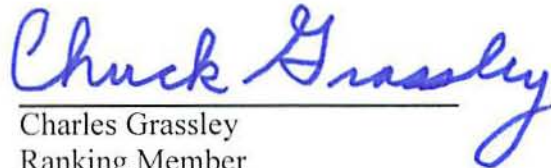
Tom Harkin
Chairman
Committee on Health, Education,
Labor and Pensions



Max Baucus
Chairman
Committee on Finance



Michael Enzi
Ranking Member
Committee on Health, Education,
Labor and Pensions



Charles Grassley
Ranking Member
Committee on Finance

cc: The Honorable Hilda L. Solis, Secretary of Labor, Chair of the Board of the Pension Benefit Guaranty Corporation
The Honorable Timothy F. Geithner, Secretary of the Treasury, Member of the Board of the Pension Benefit Guaranty Corporation
The Honorable Gary Locke, Secretary of Commerce, Member of the Board of the Pension Benefit Guaranty Corporation