New York State Teamsters Conference Pension and Retirement Fund

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The Honorable Orrin Hatch
Co-Chair
Joint Select Committee on Solvency of Multiemployer Pension Plans
U.S. Senate
Washington, DC 20510

The Honorable Sherrod Brown
Co-Chair
Joint Select Committee on Solvency of Multiemployer Pension Plans
U.S. Senate
Washington, DC 20510

Dear Chairman Hatch and Chairman Brown:

These comments are filed on behalf of the participants in the New York State Teamsters Conference Pension and Retirement Fund (NYS Teamsters Fund or Fund), which provides retirement security to more than 34,000 Teamsters and their families residing not only in the State of New York but throughout the United States.

We would like to commend you and all the members of the Joint Select Committee (Committee) for your willingness to work on and identify strategies to restore the solvency of the multiemployer pension system. We have closely followed all of the Committee hearings and are encouraged by the efforts among the Committee members to find common ground and a long-term solution to a very serious issue. Indeed, we know better than most the difficult choices that need to be made to save the multiemployer pension system and the retirement security of millions of workers and their families.

In 2016, the Trustees of the NYS Teamsters Fund filed an application with the Treasury Department under the Multiemployer Pension Reform Act (MPRA) in an attempt to save the Fund and the pensions of tens of thousands of Fund participants and retirees. The Fund at the time was projected to go insolvent by 2027. One year later, the NYS Teamsters Fund became one of only three multiemployer plans at the time – and the largest among them – to receive approval to enact benefit suspensions for active participants and retirees. Those suspensions went into effect on October 1, 2017. The suspensions remain in effect and are necessary to maintain the solvency of the Fund.

We write today not only to make you aware of our experience with the NYS Teamsters Fund, but to ask that the Fund receive the same consideration for assistance as other troubled multiemployer plans.

Background

For the past 15 years, the Trustees of the NYS Teamsters Fund have used virtually every tool available to them under the law to save the Fund. When the Fund experienced severe investment losses for three consecutive years from 2000-2002 following the "dot-com bubble burst," the Trustees reduced future service accruals from 2.6% to 1.3% of contributions. The Trustees also introduced incentives to encourage participants to defer retirement.

In 2008, the Trustees adopted a "Funding Improvement Plan" in accordance with the Pension Protection Act (PPA) that imposed mandatory increases in employer contribution rates. Despite these mandatory contribution increases, the Fund's financial condition continued to worsen. The Fund then was decimated by the 2008 global financial market crash, losing approximately $822 million or one-quarter of its total assets. In response and in connection with being certified in Critical Status under the PPA, the Trustees in 2010 adopted a Rehabilitation Plan. This Rehabilitation Plan provided for further reductions in benefit accruals and the elimination of early retirement subsidies under certain schedules, and imposed significant annual employer contribution rate increases under all schedules.

The Trustees also undertook a number of other actions to protect the Fund. The Trustees on the advice and with the oversight of the Fund's professional investment consultants made changes to its overall investment strategy, including the use of alternative investments designed to improve investment returns while protecting against risk. At the same time the Trustees developed incentives for employers to remain in the Fund and changed withdrawal liability methods to require withdrawing employers to pay amounts that more accurately reflected the Fund's unfunded liability.

In 2000 the Fund had 308 contributing employers. By the end of 2008 that number dropped to only 214. The trend of losing contributing employers has continued and currently the Fund has 156 remaining with one employer representing 81% of the total contributions.

Approved MPRA Application for Suspension of Benefits

These efforts were not, however, enough to overcome the impact of the 2008 crash and the mounting unfunded liability caused by employer withdrawal. In 2016, the NYS Teamsters Fund's actuary certified that the Fund was in Critical and Declining status under MPRA – a key condition for filing an application for a benefit suspension. On August 31, 2016, the Trustees submitted a formal application to suspend benefits with the Treasury Department. This began a prolonged process, which included a public comment period and months of discussions with the Treasury Department and PBGC. During this time, the Trustees received numerous demands to withdraw the application from people who had limited or no knowledge of the complex financial and demographic issues confronting the Fund. The Trustees were among other things threatened with lawsuits and encouraged to stand back and wait for Congress to take action to save the Fund. Despite this, the Trustees did not abandon the application for benefits suspension, as they knew doing so would expose the Fund's participants and beneficiaries to even larger benefit cuts if no action was taken.

Treasury on September 13, 2017 ultimately approved a revised application submitted by the Fund, approximately one year after the initial filing. The approved application provided for an average benefit suspension of 18% for active employees and 29% for retirees, for an average suspension of 13.54% across the entire Fund population.

While one year may not appear to be a lengthy period of time, it's important to note that the New York Fund was facing an insolvency date of 2027. The Fund was fortunate that the one year MPRA application process did not foreclose the Fund's ability to remain solvent. For many pension funds in Critical and Declining status, any delays can result in the pension fund entering a "death spiral" that precludes any chance to avoid insolvency and the draconian benefit cuts that inevitably result. Simply put, time is not on the side of Critical and Declining pension funds. The longer the funds go without an infusion of cash, the less likely it becomes that the fund can be saved.

Conclusions from Our Experience

The filing of an application for benefit suspensions under MPRA and the implementation of the benefit cuts were not actions the Trustees undertook lightly. It was extraordinarily difficult. The affected individuals were employees, coworkers, neighbors, friends, and family members. As Trustees, we held numerous meetings throughout the State to explain the circumstances that lead to the decision. At these meetings we heard heartbreaking stories about participants' individual circumstances and how the benefit cuts would affect them. We heard of mortgages that would go into foreclosure, of medications that would no longer be affordable, and the countless pleas to keep the promise made to retirees who had worked their entire lives counting on the pension they had earned. We selected an independent retiree representative to advocate on behalf of retirees, beneficiaries, and deferred vested participants during the development and submission of the application. The retiree representative and his outside legal counsel and actuary attended numerous meetings, provided suggestions on the actuarial information being used, and were fully engaged throughout the process.

Today, because of the approved MPRA application, the NYS Teamsters Fund's funding status has stabilized and the Fund is projected to remain solvent through 2040 and possibly beyond. This is over 13 years beyond the original projected insolvency date of 2027. We believe that filing the suspension application was the only viable and responsible option we had at the time to save the Fund. Had we not pursued the MPRA application or had the application been rejected by Treasury, the Fund's retirees very likely would have seen their retirement benefit reduced to the PBGC minimum and quite possibly well before the original projected insolvency date of 2027. While we have avoided insolvency in the near-term, however, we still face a long-term challenge to ensuring the viability of the Fund.

Recommendations

Based on our experience as Trustees of a multiemployer pension plan in Critical and Declining status that has successfully navigated through the MPRA application process, we offer the following recommendations to the Committee:

First, there is the need among multiemployer plans for financial assistance, preferably in the form of a loan program. The NYS Teamsters Fund is no different. Red Zone plans – and certainly plans in Critical and Declining status – typically are heavily reliant on investment returns in order to meet their benefit obligations. The financial condition of the NYS Teamsters Fund has improved following its implementation of the MPRA suspensions last year, but it still has a long way to go. Indeed, the Fund will need years of stable contribution levels and positive investment returns to avoid insolvency in the long-term. These factors are, however, in many respects outside the Fund's control. A loan program would provide additional means for the Fund to solidify its financial position and long-term future.

Second, plans like the NYS Teamsters Fund that made the difficult decision to suspend benefits under MPRA should have the same ability to access a loan program as any other distressed multiemployer pension fund, under the same conditions and requirements. Stated differently, the NYS Teamsters Fund should not be precluded from participating in any program developed through the Committee just because its Trustees made the difficult decision to pursue and implement the relief afforded under MPRA.

On behalf of the Board of Trustees, we want to thank you and all the Committee members for your consideration of these comments.

Sincerely,

Kenneth Stilwell
Executive Administrator