The
ERISA
Industry
Committee

January 22, 2009

Dear Member of Congress:

As the representative of America's major employers on pension issues, The ERISA Industry Committee would like to express our grave concern regarding the lack of meaningful, temporary relief for pension plans in the current draft of the economic stimulus legislation, the "American Recovery and Reinvestment Act of 2009." As Congress and the Administration consider plans to stimulate the economy, real relief for America's pension plans is an absolute necessity. Failure to provide meaningful relief will slow economic recovery, increase unemployment, and put retirement security at risk.

The ERISA Industry Committee (ERIC) is a non-profit association committed to representing the advancement of the employee retirement, health, and compensation plans of America's largest employers. ERIC's members provide benchmark retirement, health care coverage, compensation, and other economic security benefits directly to tens of millions of active and retired workers and their families. ERIC has a strong interest in proposals affecting its members' ability to deliver those benefits, their cost and their effectiveness, as well as the role of those benefits in the American economy.

The Worker, Retiree, and Employer Relief Act of 2008 corrected a number of technical errors in the Pension Protection Act of 2006 and clarified some points of contention between plan sponsors and the regulatory agencies. It did not, however, adequately provide the substantive relief needed to prevent plan sponsors from making an unfortunate choice between funding their pension plans and retaining current employees, hiring new employees, and the capital investments necessary to stimulate the economy. We strongly urge you to include such relief in any stimulus bill.

As you are aware, the last four months of 2008 have posed a significant challenge for defined benefit pension plans that, in compliance with the PPA 2006, had reached or were close to full funding. A dramatic and unexpected decline in the equity markets significantly reduced the assets held by these through no fault of the plans or their sponsors. While the tightened credit markets elevated interest rates, thus temporarily reducing liabilities and muting the impact of the plunge in asset values, the Emergency Economic Stabilization Act has succeeded in thawing those markets, sharply increasing plan liabilities without any offsetting gains in the equity markets. As a result, pension plans that were fully funded only one year ago—or even six months ago—are now substantially underfunded under the standards set by the PPA 2006.

Pension plan sponsors are not asking for a bailout—we are not asking that the government provide plan sponsors with money or take on plan sponsors' liabilities. ***Plan sponsors simply need additional time over which to make their pension contributions.***

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The Pension Protection Act significantly tightened the nation's pension funding rules. There are no provisions in the Act that contemplated the current economic crisis. Plan sponsors have spent the two-plus years since the legislation was enacted preparing to meet the new law's funding requirements, but they, like Congress when the law was enacted, did not and could not anticipate the financial crisis through which the nation is now progressing. The confluence of tighter funding laws and the current economic environment create a "perfect storm" that requires relief.

Many major employers that have responsibly funded their pension plans are now facing required contributions in the coming year that exceed the previous year's contributions by magnitudes of thousands of percent. The sheer size of the contributions leaves employers in an untenable position: they must either cut jobs and delay hiring and investment, or allow their plans to go underfunded, in many cases, resulting in restrictions on the benefits that workers can claim as they retire. In some cases, the pension liabilities that must be met under the requirements of the Pension Protection Act may exceed the net worth of the company.

While a failure to provide relief will undoubtedly have real pension implications including an increased risk to the PBGC and the loss of pension benefits and plan freezes for many workers, the repercussions will stretch far beyond pensions to the whole of economic growth. With required contributions for many employers reaching tens and hundreds of millions of dollars, the job and investment consequences of failing to act are real. We urge you to provide real, temporary relief that allows plan sponsors additional time to fully fund their pension plans as part of any stimulus bill. Failure to do so will significantly diminish the economic impact of the bill.

Thank you for your consideration of and prompt attention to this matter.

Sincerely,

Mark J. Ugoretz
President
The ERISA Industry Committee