

PBGC's Multiemployer Program NCCMP 2010 Annual Conference

**September 27-29, 2010
Hollywood, Florida**

**Terrence M. Deneen
Chief Insurance Program Officer**



[The opinions of Mr. Deneen are his alone and do not represent the views of PBGC]

New Employees in MEPD

- **Bruce Perlin** – Manager of the Multiemployer Program Division. Previously employed at IRS Office of Chief Counsel.
- **Nick Novak** – Associate Manager of the Multiemployer Program Division. Previously employed at the PBGC in the IG's office.

New Guidance

- Technical Update 10-1 [Issued June 8, 2010]: Clarification of Instructions for Schedule R of the Form 5500, Lines 14a-14c, regarding the reporting of the number of participants under the plan on whose behalf no contributions were made by an employer as an employer of the participant for such plan year and for each of the preceding 2 plan years (ERISA sec. 103(f)(2)(C)).
- Effective for 2009 plan year: For purposes of completing Line 14, a plan is not required to review the status of any employers that made contributions on behalf of a participant for covered service prior to the participant's last contributing employer. If the participant's last contributing employer had withdrawn from the plan by the beginning of the relevant plan year, the participant is counted on Line 14.
- Partial relief for the 2009 Plan Year: Can use a reasonable approximation of the number of participants or, as an alternative, can use the number of participants of withdrawn employers.

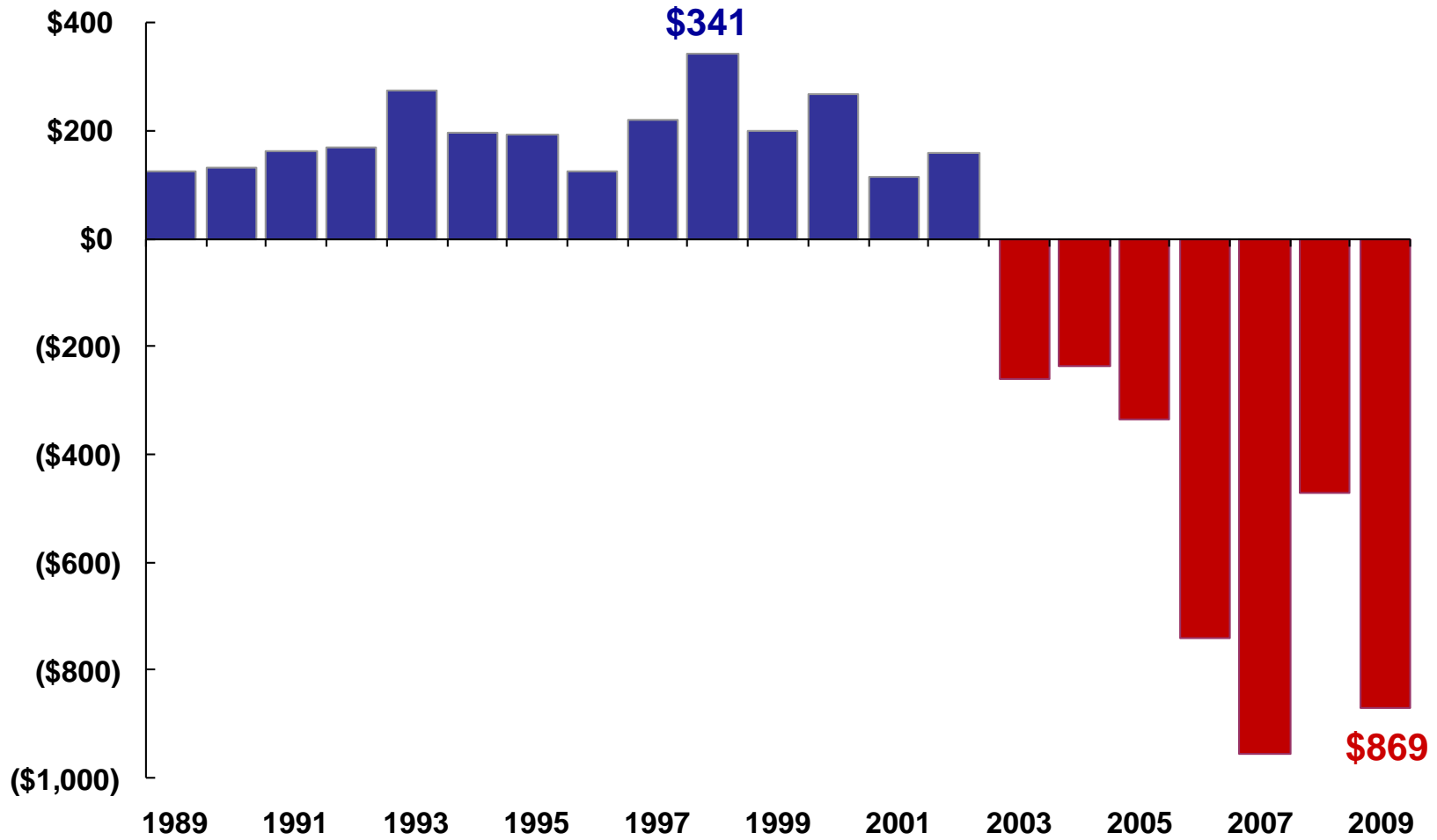
New Guidance (cont.)

- Technical update 10-3 [Issued July 15, 2010]: Simplified Methods for Applying the Requirement to Disregard Benefit Reductions in Determining Withdrawal Liability.
- Section 432(e)(9) of the IRC directed PBGC to provide guidance on simplified methods for application of the requirement that multiemployer plans in critical status disregard certain benefit reductions in determining the plan's unfunded vested benefits (UVBs) for purposes of determining employer withdrawal liability.
- Initial change in the UVBs due to the reduction of adjustable benefits ("RAB pool") is amortized over 15 years and allocated to employers pro-rata based on contributions over the 5 years preceding year of withdrawal.
- How the adjustment procedure works: The value of the RAB pool is determined as of the end of the year the adjustment was adopted and is written down at the valuation interest rate in effect that year. A withdrawn employer is charged an allocable share of the RAB pool as of the end of the plan year preceding its withdrawal which is added to the withdrawn employer's allocable share of UVBs determined under ERISA Sec. 4211.

Contents of Program Financials

- Net financial position – currently an \$869 million deficit
- Breakdown of insured participants (plan size, active/inactive participants, and by industry)
- Historical premium rates and revenue
- Financial assistance to plans

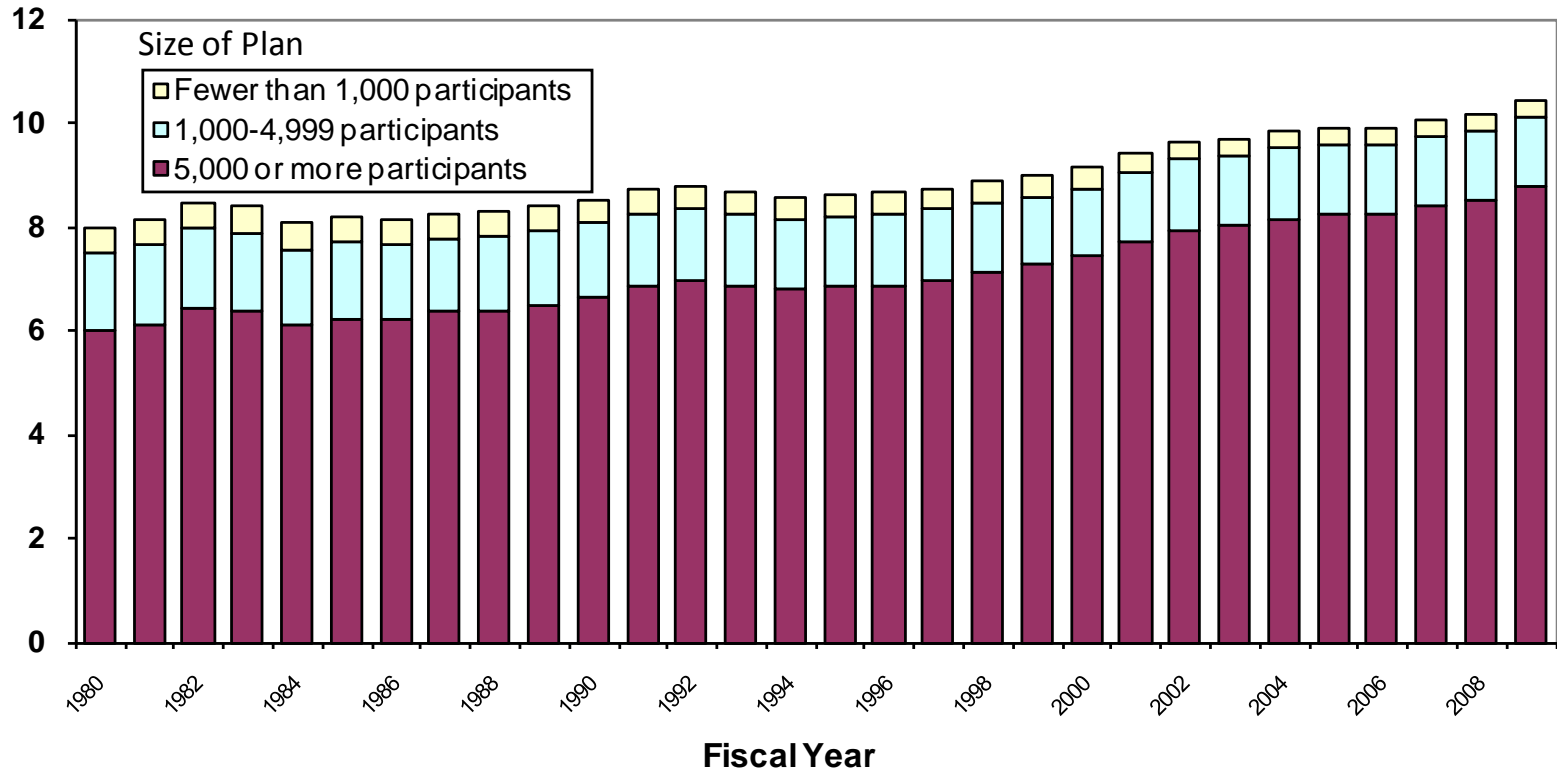
PBGC Net Financial Position



Participants in PBGC-Insured Plans, Multiemployer Program (1980-2009)



Millions

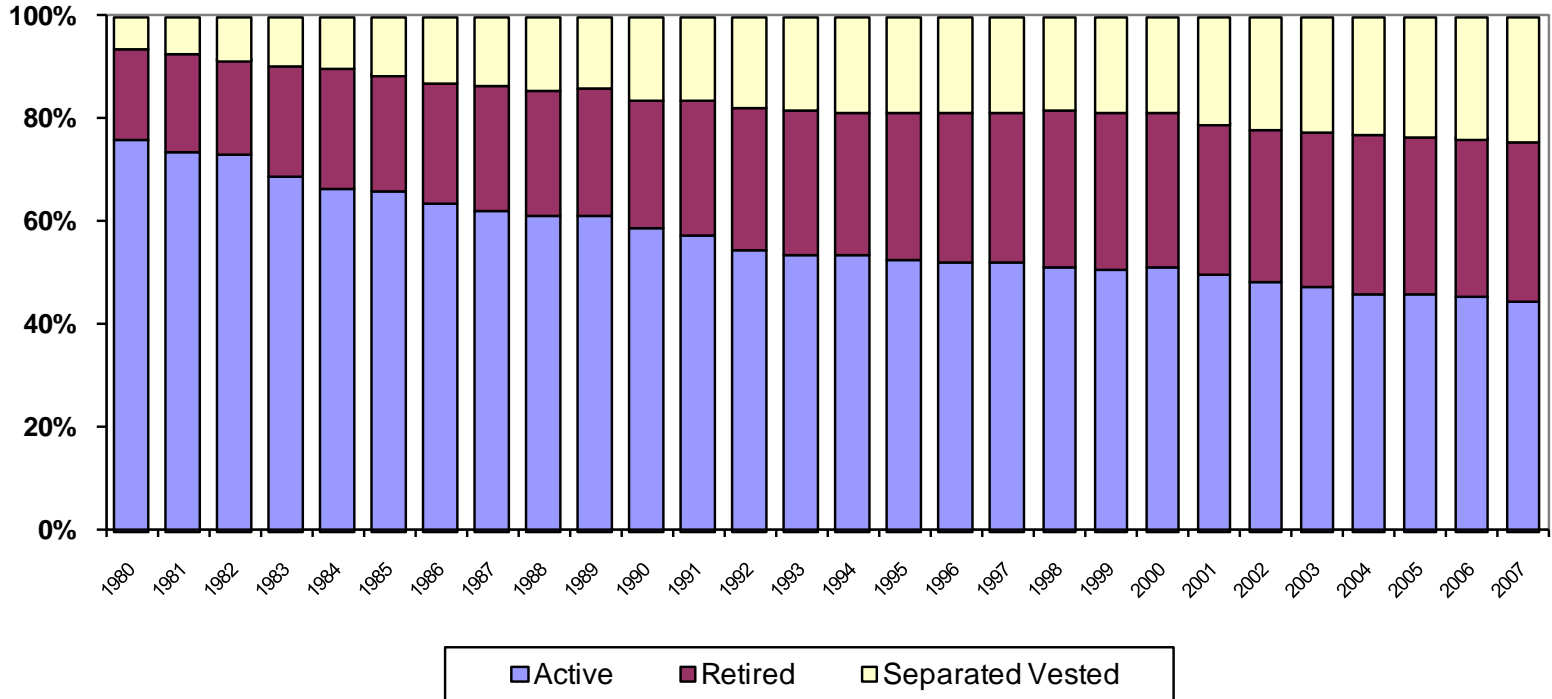


PBGC Pension Insurance
 Data Book 2009.
 Source: PBGC Premium
 Filings, various years.

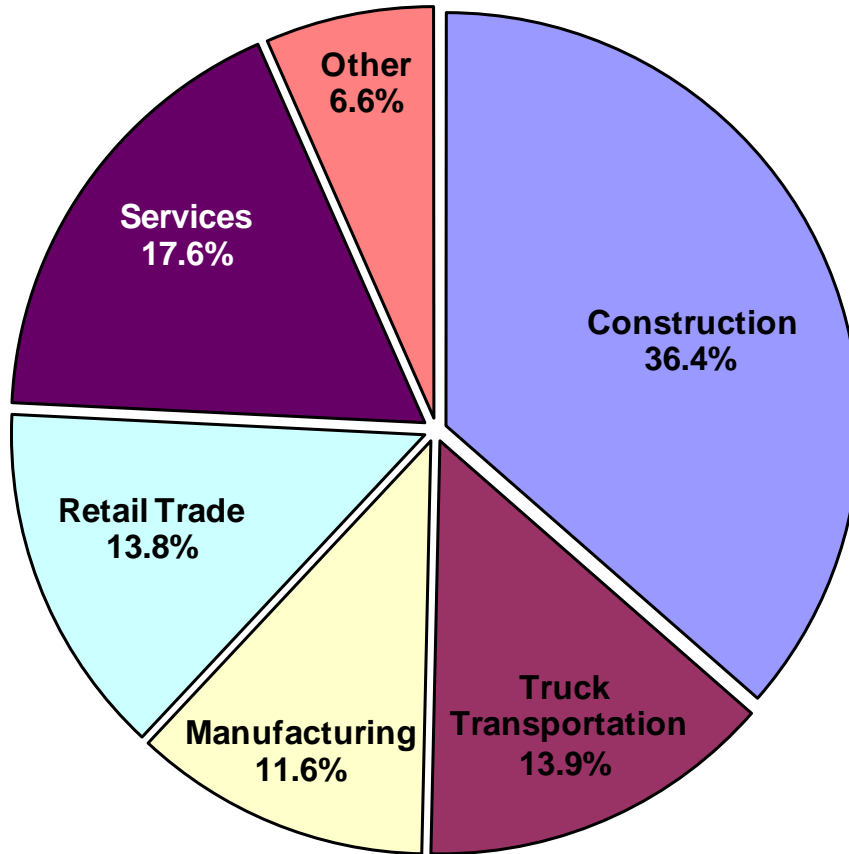
PBGC-Insured Participants by Participant Status, Multiemployer Program (1980-2007)



Percent of Total Participants



Reference Table M-7 of the PBGC Pension Insurance Data Book 2009.
 Source: Internal Revenue Service Form 5500 Series filings for multiemployer plans.
 Data for plan years prior to 1999 include only plans with 100 or more participants.



Major Construction Groups:

Electrical Work	7.6%
Building Construction	7.0%
Foundation, Structure, and Exterior Work	5.0%
Heavy Construction	4.3%
Plumbing, Heating, and Air Conditioning	4.1%

Reference Table M-8 of the PBGC Pension Insurance Data Book 2009.

Source: PBGC Premium Filings.

PBGC's Historic Premium Rates, Multiemployer Program



For Plan Years Beginning	Premium Rate (per participant)
September 2, 1974 - August 31, 1979	\$0.50
September 1, 1979 - September 26, 1980	\$0.50 for plan years beginning in September 1979, growing gradually to \$1.00 for plan years beginning September 1, 1980, to September 26, 1980
September 27, 1980 - September 26, 1984	\$1.40
September 27, 1984 - September 26, 1986	\$1.80
September 27, 1986 - September 26, 1988	\$2.20
September 27, 1988 - December 31, 2005	\$2.60
2006 - 2007	\$8.00*
2008 - 2010	\$9.00

* Beginning in 2007, this amount is adjusted annually based on changes in the national average wage index (as defined in section 209(k)(1) of the Social Security Act). The premium rate will not decline even if the national average wage index declines. The adjusted premium rate is rounded to the nearest multiple of \$1.

PBGC Premium Revenue, Benefit Payments, and Expenses, Multiemployer Program (1980-2009)



Fiscal Year	Total Premium Revenue (in millions)	Benefit Payments (in millions)	Administrative & Investment Expenses (in millions)	Premiums Minus Benefits Paid and Expenses (in millions)
1980	\$5	\$4	\$2	-\$2
1985	14	4	4	7
1990	21	2	2	17
1995	22	2	*	20
1996	22	2	*	20
1997	23	1	*	22
1998	23	1	*	22
1999	23	1	*	22
2000	24	1	*	23
2001	24	1	*	23
2002	25	1	*	24
2003	25	1	*	24
2004	27	1	*	26
2005	26	1	*	25
2006	58	1	*	57
2007	81	*	*	81
2008	90	*	*	90
2009**	95	*	*	95

Source: PBGC Annual Reports (1980-2009).

Due to rounding of individual items, numbers may not add up across columns.

* Less than \$500,000.

**Beginning in FY 2009, PBGC started to reflect premium income net of bad debt expense for premium, interest, and penalties.

PBGC Financial Assistance to Insolvent Plans, Multiemployer Program (1981-2009)



Year	Plans Receiving Financial Assistance ⁽¹⁾	Total Amount of Financial Assistance (in thousands)	Plans Receiving a Lump-Sum Payment ⁽²⁾	Amount of Lump-Sum Payment (in thousands)	Plans Receiving Periodic Payments ⁽¹⁾	Amount of Periodic Payments (in thousands)	Repayments of Past Financial Assistance (in thousands)
1981	1	\$311.3	---	---	1	\$311.3	---
1985	3	1,300.0	---	---	3	1,300.0	---
1990	3	1,000.0	---	---	3	1,000.0	---
1995	9	4,346.4	---	---	9	4,346.4	---
1996	12	4,021.8	---	---	12	4,021.8	---
1997	14	4,494.1	---	---	14	4,494.1	---
1998	18	5,437.6	---	---	18	5,437.6	\$3,175.5
1999	21	19,219.7	1	\$14,150.0	20	5,069.7	---
2000	21	91,032.6	2	86,513.6	19	4,519.0	---
2001	22	4,526.3	1 ⁽³⁾	53.4	22	4,472.9	---
2002	23	4,893.9	---	---	23	4,893.9	---
2003	24	5,022.1	1	230.9	23	4,791.2	---
2004	27	10,120.8	1 ⁽³⁾	282.2	27	9,838.6	---
2005	29	13,757.7	1 ⁽³⁾	535.0	28	13,222.7	---
2006	33	70,096.5	1	176.0	32	69,920.5	---
2007	36	71,869.5	3 ⁽³⁾	641.1	36	71,228.4	---
2008	42	84,623.4	5 ⁽⁴⁾	5,810.3	40	78,813.1	---
2009	43 ⁽⁵⁾	85,636.5	4 ⁽³⁾	7,308.7	41	78,327.8	---
TOTAL ⁽⁶⁾	62	\$503,396.3	20	\$115,701.2	55	\$387,695.0	\$3,340.5 ⁽⁷⁾

Sources: PBGC Annual Reports and internal calculations.

(1) A number of plans received financial assistance in more than one year.

(2) Lump-sum payments were made to these insolvent multiemployer plans to facilitate mergers and closeouts.

(3) These plans received periodic payments before receiving lump-sum payments.

(4) Three of these five plans received periodic payments before receiving lump-sum payments.

(5) Two of these plans received small lump-sum payments to finalize closeouts initiated in 2008. These two plans are not included with plans receiving a lump-sum payment for 2009.

(6) Total for plan columns represents the total number of multiemployer plans that ever received the stated type of financial assistance from PBGC's Multiemployer Insurance Program.

(7) Only one plan has repaid any of its past financial assistance. That plan repaid only the principal amount of the loans it received.

- 30 year amortization of net investment losses in either or both of the first 2 plan years ending after August 31, 2008 (prior law was 15 years)
- 10 year smoothing period for the difference between expected and actual returns for either or both of the first 2 plan years ending after August 31, 2008 (prior law was 5 years)
- Expansion of the asset smoothing corridor to 130% of market value of plan assets for either or both of the first 2 plan years ending after August 31, 2008 (prior law was 120%)

- Solvency test – In order for a plan to be eligible for this relief, the plan actuary must certify that the plan is projected to have sufficient assets to pay all expected benefit pmts. and other expenditures over 30 yrs.
- Benefit increases – Plans that elect any of the relief provisions are prohibited from adopting any benefit increases within 2 years of a plan year to which the relief provisions apply, unless it is paid for out of additional contributions
- Notice – The application for relief must be sent to Ps and Bs and the PBGC must be informed (to be prescribed)

New Plan Partition: Chicago Truck Drivers (Independent) Pension Fund

- ERISA Sec. 4233: Authorizes the PBGC to order the partition of a multiemployer plan if certain requirements are met.
- CTDU applied for partition because the plan was running out of money to pay benefits. Over 50 contributing employers were bankrupt and had withdrawn from the plan. This substantially reduced the plan's funding levels.
- The plan was likely to become insolvent in the near future and the use of partition reduced the likelihood of plan insolvency.
- Without partition, CTDU may have become insolvent in 2013 and PBGC guarantee limits would have applied to all participants.
- With partition, CTDU will likely remain solvent until at least 2019.
- The partition was effective July 1, 2010.
- The new partitioned plan is a terminated and insolvent plan with no assets. At the time our press release was issued it was estimated that 1,500 employees of the bankrupt employers would be shifted to the partitioned plan. We also estimated that approximately \$4 million annually would be needed for financial assistance.

- O’Neill told the fund it was preparing for its “termination and liquidation.”
- The fund deemed this notification a withdrawal.
- In addition, because O’Neill was liquidating, the fund, acting under the terms of the plan and the statute, deemed O’Neill to be in default and required immediate payment of the entire amount of withdrawal liability – approximately \$1.7 million.
- The issue was whether O’Neill had to immediately pay its entire withdrawal liability, notwithstanding O’Neill’s arbitration demand, under the fund’s substantial likelihood of default clause.
- PBGC filed an amicus brief at the request of the Seventh Circuit.
- PBGC’s regulations under ERISA section 4219 prohibit defaults due to missed payment while an arbitration is pending but do not establish a similar restriction for defaults described under plan rules.
- Our view is that this distinction is necessary because certain events pose an acute risk that a withdrawn employer will be unable to pay its withdrawal liability.

- In holding that O'Neill was required to immediately pay the full amount of its withdrawal liability, notwithstanding its arbitration demand, the Court gave our views on the statute substantial deference under the *Chevron* line of cases.

PBGC Multiemployer Program

Thank You

