



PBGC Multiemployer Program

2011 NCCMP ANNUAL CONFERENCE
September 26 – 28, 2011 – Hollywood, FL

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The opinions of Mr. Perlin are his alone and do not
represent the views of the PBGC

WHAT'S NEW AT PBGC



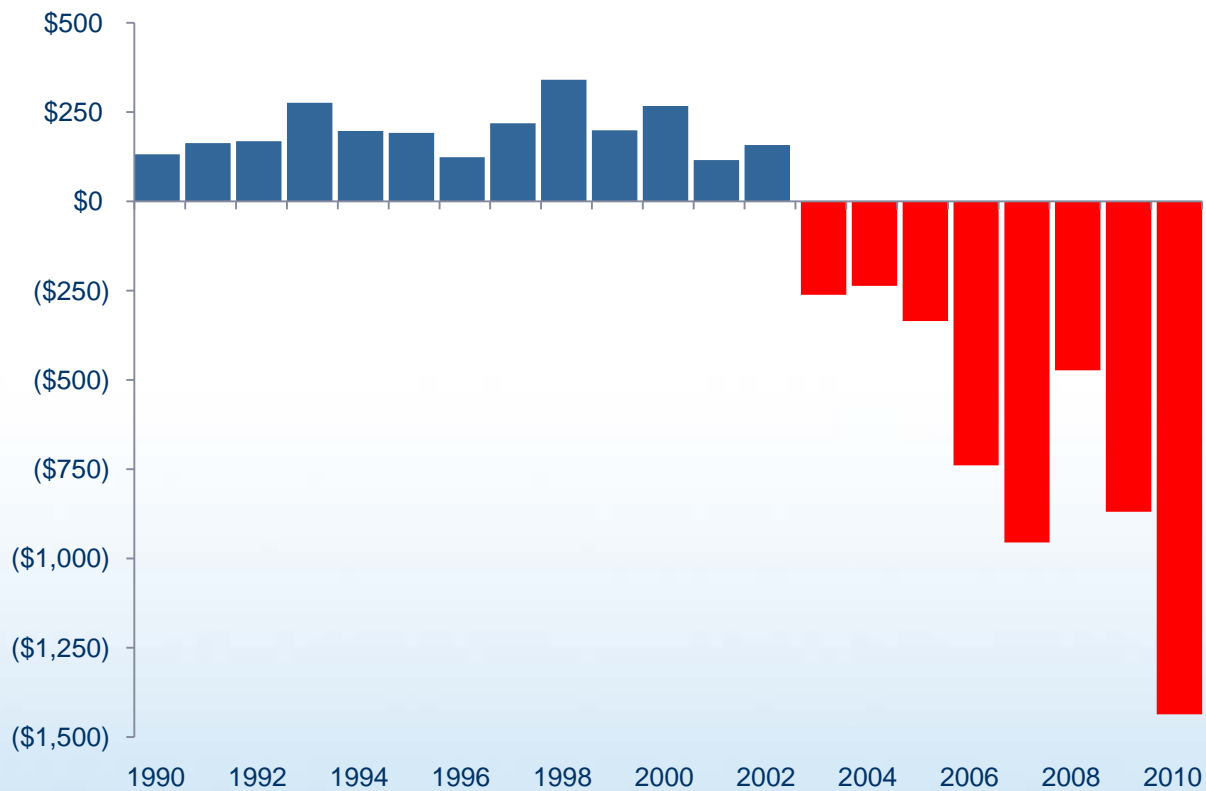
- Leadership – New Director and New Deputy Director for Policy
- The Office of Chief Counsel has a group of attorneys that focus on multiemployer plans -- led by Assistant Chief Counsel Eric Field
- The Multiemployer Program Division (“MEPD”) now includes auditors who focus on financial assistance to insolvent plans
- Four new plan insolvencies in Fiscal Year 2011
- We expect the number of plan insolvencies to increase from the current 46 plans to over 90 plans within the next 5 years
- Five plans were closed out with annuities in 2011

PROGRAM FINANCIALS (2010 Fiscal Year)



Net Position September 30, 2009	(\$869 million)
Premium Income	\$93 million
Investment Income	\$183 million
Administrative Expenses	(\$12 million)
Losses From Financial Assistance	(\$831 million)
Net Position September 30, 2010	(\$1.4 billion)

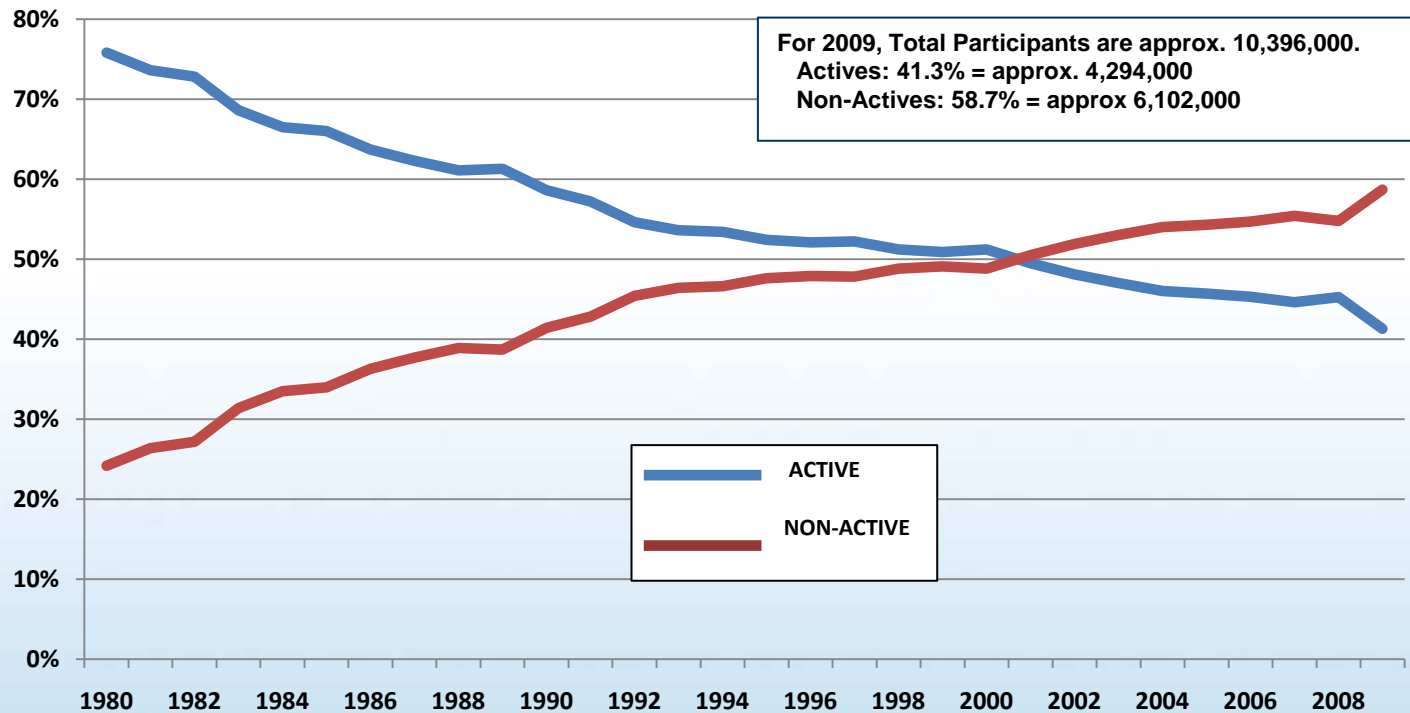
PBGC NET FINANCIAL POSITION



Breakdown of Multiemployer Plan Participants by Status



LESS THAN HALF OF ALL ME PARTICIPANTS ARE ACTIVE EMPLOYEES

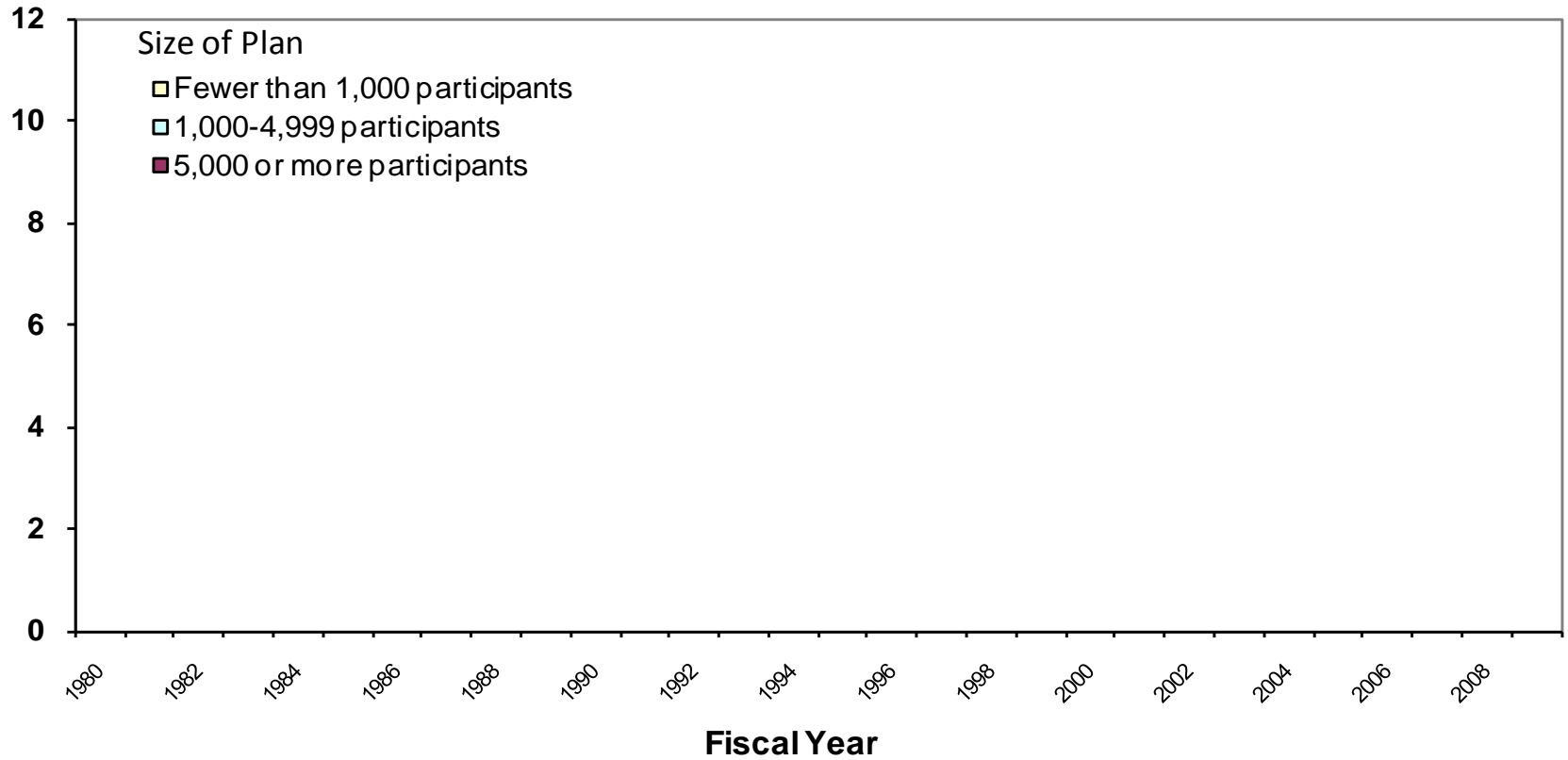


Non-Active Employees Include Retired and Terminated Vested Pension Plan Participants

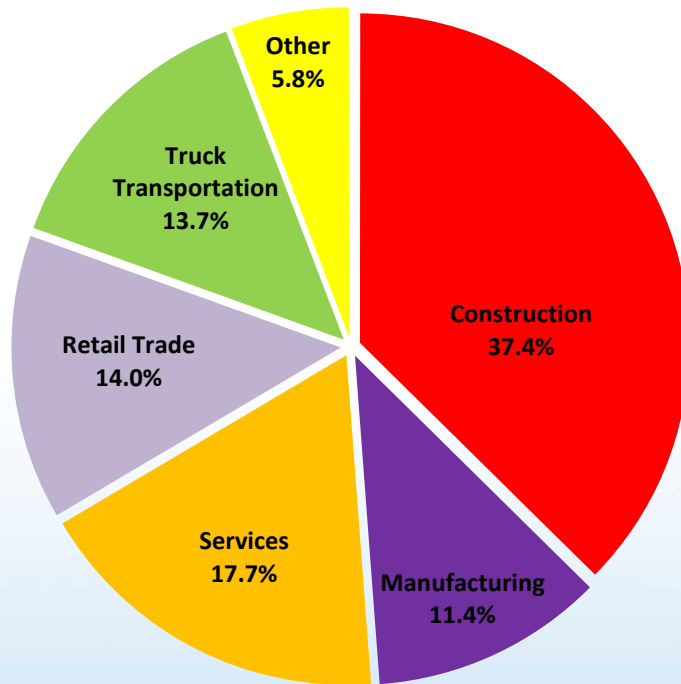
Participants Insured by PBGC Multiemployer Program (1980-2009)



Millions



Participants Insured by Multiemployer Program by Industry (2009)



Major Construction Groups:

Electrical Work 7.6%

Building Construction 6.8%

Heavy Construction 5.8%

Foundation, Structure & Exterior Work 5.2%

Building Finishing Contractors 4.6%

Plumbing, Heating & A/C 3.8%

Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PRA 2010)



- 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 payments and other expenditures over 30 years.
- 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 participants and beneficiaries and the PBGC must be informed (See IRS Notice 2010-83).

New PBGC Amicus Brief Filing: National Shopmen
Pension Fund v. DISA Industries (7th Circuit, December 10, 2010)



- Employer contributed to multiemployer plan for only two full plan years then withdrew. Plan calculated employer's annual withdrawal liability payment based on averaging the contribution base units ("CBUs") over two rather than three plan years (after initially having determined the annual payment by averaging in a zero year).
- After prevailing in the district court on the plan's interim withdrawal liability complaint, the employer withdrew its arbitration demand, and made annual payments at the lower annual payment amount originally assessed. After defaulting employer for failing to pay the higher contribution rate, plan filed collection suit for full amount of withdrawal liability.
- District court held that employer did not waive its right to contest its annual payment amount when it withdrew its arbitration demand because plan did not object to this withdrawal. Court further held that plan should have calculated annual withdrawal liability by including a zero year and dividing the contribution base units by three instead of two.

National Shopmen Pension Fund v. DISA Industries (Cont.)



- Plan appealed to the Seventh Circuit, and following oral argument, the Court requested PBGC file an *amicus* brief on the issue.
- PBGC filed an *amicus* brief arguing that the employer waived its right to contest its annual payment amount when it withdrew its arbitration demand. The initial district court opinion merely held that the plan could not compel the employer to pay the higher interim payment. It did not decide the substantive issue of whether the plan's calculation was correct.
- Seventh Circuit agreed with PBGC and ruled that regardless of earlier court ruling, an employer must exhaust the arbitration process before it can ignore a fund's revised demand for withdrawal liability payments.
- The PBGC's *amicus* brief also said that the liability calculation should be determined over a three-year period with no exceptions for employers that contribute for less than three years.

Annual Funding Notice (AFN)



- Required to be sent to PBGC and others under ERISA
- Due 120 days from end of the plan year
- PBGC sent reminder letter to plans that did not send their AFN
- PBGC informed DOL of the plans that did not send their AFNs

PPA Multiemployer Study



- Report due by December 31, 2011 to Congress
- DOL, Treasury, and PBGC study of the effects of PPA on the operation and funding status of multiemployer plans
- Study matters: effect of funding difficulties, funding rules in effect before PPA was enacted, and effect of PPA on small business

Reducing Regulatory Burden



- Annual valuation requirement for terminated but not insolvent multiemployer plans
- Withdrawal liability rules
- Notices of insolvency and of insolvency benefit level
- Filing requirements for mergers of multiemployer plans

PBGC Multiemployer Program

Thank You