Turn Around America
AFL-CIO Recommendations for the Obama Administration

Retirement Security

Departments/Agencies Covered

Social Security Administration

Department of Labor
- **Employee Benefits Security Administration (EBSA)**

Department of Treasury
- **Internal Revenue Service**

Pension Benefit Guaranty Corporation

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Retirement Security

I. Overview

The labor movement's commitment to retirement income security has benefited all Americans. Unions were instrumental in the creation of Social Security -- to this day the cornerstone of American retirement security and the nation's single most important family income protection program. Through collective bargaining, unions secured defined benefit pension plans for their members in both the private and public sector, adding impetus for spreading this benefit to the non-union workforce.

Even before the current economic crisis, retirement income security was fast becoming a goal beyond the reach of most Americans. According to the April 2008 Retirement Confidence Survey by the Employee Benefit Research Institute, this year saw the sharpest one-year drop in the percentage of workers who said they were very confident about having sufficient money for retirement – from 27 percent in 2007 to just 18 percent in 2008.

Although Social Security is an all around success story -- affordable, progressive, fiscally responsible and reliable -- the income replacement rates for Social Security are now lower than in most of the other member countries of the Organisation for Economic Co-operation and Development (OECD). For the average earner, the U.S. replacement rate of about 40% is well below the OECD average of 58% and the U.S. rate will drop lower in the future. First, benefits will be lowered as the "normal retirement age" is raised from 65 to 67 (as part of the Social Security Amendments of 1983). Second, Medicare Part B premiums, automatically deducted from Social Security checks, are increasing as a result of higher healthcare costs thus taking a bigger bite out of Social Security benefits.

As for pensions, they appear, increasingly, to be relics of the past. Few, if any, new plans are being created. Apart from the current economic crisis, the Pension Protection Act of 2006, coupled with the imposition of new accounting standards, has contributed to an environment in which even healthy companies with well-funded established plans are choosing to freeze them or close them to new hires. Companies are even filing for bankruptcy as a business strategy to eliminate their pension obligations.

Alarmingly, there is little hope that 401(k) plans or other defined contribution plans can compensate for the loss of a guaranteed defined benefit. Savings that accrue from defined contribution plans fail to provide sufficient funds to enable all but the most affluent to retire. The data speaks for itself: even before the economic crisis, half of all American families had no retirement savings whatsoever. As to families closest to retirement, nearly two-in-five had no retirement savings. Of the near-retirement families with some retirement savings, half had less than $83,000 – enough for a monthly retirement income at age 65 of only several hundred dollars. While the damage has yet to be completely assessed, estimates are that, over the last twelve months, more than a trillion dollars have evaporated from 401(k) plans as a direct result of the crisis in the capital markets. According to a recent survey,[1] one in five middle-aged workers stopped contributing to their retirement plans in the last year because they had trouble making ends meet. And, if the economy does not improve significantly, over six in ten workers aged 45 or older say they will need to delay retirement. A year ago, it could be said that a retirement security crisis is looming; now, that crisis is here.

II. Approach and Recommendations for the New Administration

By any standard, Social Security is the most effective anti-poverty program ever enacted in the United States, yet years of relentless attacks on its value and solvency have left public confidence in the system at an all time low. The next President must lead the effort to restore the country's understanding of and support for Social Security. Without fearmongering, he must lead the effort to restore Social Security to long-range balance and stand in strong opposition to any efforts at privatization or other proposals that undermine or reduce Social Security's guaranteed benefits.

Priority for Day 1: An immediate decision for the next President will be who should lead the Social Security Administration (SSA). The SSA Commissioner and Deputy Commissioner must not only have the management experience to oversee the more than 60,000 SSA employees nationwide in SSA field offices, teleservice centers, hearing offices and processing centers, but also must be substantively equipped to defend the mission and principles of the program by being visible, forceful, and articulate players in the forthcoming debate over Social Security's future.

Priority for First Year: Cuts to SSA's administrative budget have resulted in staff shortages, huge backlogs of disability claims, long waits for applicants and impossible caseloads for staff. To ensure the system's efficiency and responsiveness, adequate funding for SSA must be provided for FY 2010 and FY 2011. The Agency's focus on electronic filings and new requirements that claimants perform functions formerly provided by SSA staff should be reversed. SSA's administrative expenses, like Social Security benefits, should be off budget and the Commissioner should be required to submit SSA's appropriation request directly to Congress. SSA's no-match program should be halted.

Longer Term Priorities: Any reforms to ensure the long-range balance of the system must respect Social Security's insurance design and role as the core tier of retirement security. Social Security should continue to

[1] AARP October 2008 Survey: "Retirement Survey or Insecurity? The Experience of Workers Aged 45 and Older."

> replace a larger share of past earnings for low-income workers. It should continue to provide larger benefits to workers who made greater contributions during their careers; that is, the link between benefits and contributions should not be broken. Progressive reforms to raise revenue to be considered include: raising the cap on taxable earnings; dedicating revenue from a reformed estate tax, i.e. maintaining the estate tax at its 2009 level, rather than repealing it; and allowing workers to purchase additional Social Security credits.

Part of the decline in traditional pensions can be attributed to the falling unionization rate, given the role unions play in educating members about the importance of pensions and negotiating retirement benefits.[2] Accordingly, improving retirement security for America's workers is yet another reason compelling the swift enactment of the Employee Free Choice Act (EFCA).

Because of the decline in pension coverage, the conventional wisdom seems to be that individual account defined contribution plans are the best way for workers to provide for their retirement. But this view is based more on idealogy than on reality. Defined benefit plans consistently have achieved higher rates of return than 401(k) plans.[3] To the extent American workers have been able to achieve retirement security, it is because our system has been one of mutual responsibility -- government provided Social Security, employer provided pensions, and personal savings. To begin the long-term thinking about a comprehensive solution to the brewing retirement income crisis, the President must reintroduce and reaffirm the concept of our nation's mutual, rather than an individual's sole, responsibility for retirement security.

> **Priority for Day 1**: The President should issue an Executive Order establishing an Advisory Panel to explore how best to provide American workers with a guaranteed retirement benefit in addition to Social Security, while reflecting the following principles: at full retirement age, full career workers should be able to retire with at least 70% of their pre-retirement income (including Social Security and savings); retired workers and their beneficiaries should receive guaranteed lifetime income; spousal and disability benefits should protect against death and the inability to work; financing should be shared, with contributions from both

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[2] Sixty-nine percent of union workers have defined benefit pension plans, compared with just 15% of non-union workers. (National Compensation Survey: Employee Benefits in Private Industry in the United States, March 2007)

[3] From 1988 to 2004, defined benefit plans outperformed 401(k) plans by one percentage point. Munnell, et al. "Investment Returns: Defined Benefit vs. 401(k) Plans," Center for Retirement Research Issue Brief, September 2006, Number 52. Several reasons may account for this difference: 401(k) plans often have high investment fees; 401(k) investment decisions are participant, rather than professionally, directed; and defined benefit plans can utilize institutional investment strategies with lower costs and, often, higher returns.

employees and employers; retirement benefits should be portable; and assets should be professionally managed.

Priorities for First Year: The President should advocate for legislation to stabilize and revive our private pension system, i.e., for bankruptcy reform legislation with retirement security provisions (per H.R. 3652/S. 2091); for technical changes to the Pension Protection Act of 2006 (PPA) (per H.R. 6143[4] and possibly more depending on the state of our economy). The PPA provisions that punish plan participants for an employer's failure to fund a defined benefit plan, restrict the benefit guaranteed by the Pension Benefit Guaranty Corporation (PBGC), and permit self-interested investment advice to be provided to 401(k) plan participants should be repealed. Further, as to defined contribution plans that provide for participant directed investments, plan fiduciaries should be required to include a government insured investment option (e.g. a money market or government bond fund).

Beyond enforcing existing law, the Departments of Labor and Treasury play a central role in developing policies and strategies for safeguarding Americans' retirement plans. Restoring these Departments as worker advocates in the area of retirement security is another challenge for the next Administration.

Priorities for Day 1: The President's nominee to the Employee Benefits Security Administration (EBSA) at the Department of Labor should have a clear commitment to ensuring retirement income security for every American worker and an appreciation of the value of a guaranteed defined benefit, as opposed to individual vehicles for workers to save on their own. Further, EBSA must rescind all 2008 guidance regarding the legal standards imposed on pension plan fiduciaries when considering investments in "economically targeted investments" and the legal standards regarding the exercise of shareholder rights and written statements of investment policies, including proxy voting policies or guidelines. The 2008 guidance affects fiduciaries of employee benefit plans, including trustees, investment managers and others responsible for the management of employee benefit plans. Reinstate the 1994 DOL Interpretative Bulletins on these matters.

Priorities for First Year: Adequate funding for EBSA must be provided for FY 2010 and FY 2011 and its enforcement program strengthened by addressing weaknesses found by the Government Accountability Office in its reports issued 2002 and 2005. EBSA should issue regulations requiring full disclosure of 401(k) plan fees to plan sponsors and participants (per H.R. 3185) and, to participants, the disclosure of the present monthly

[4] Two aspects of this bill that do not concern pension or 401(k) plans are not supported by the AFL-CIO: the pro-rata recovery provisions addressing the enforcement of subrogation rights by welfare benefit plans and the retiree healthcare provisions.

annuity value of their current accrued account balance at the participant's Social Security normal retirement age.

Longer Term Priorities: The Internal Revenue Service (IRS) should be prevented from exercising oversight and regulation over state-level public pension plans not within their regulatory authority.

To further retirement income security for America's workers, the President should also focus on the PBGC, a federal corporation created by the Employee Retirement Income Security Act of 1974 that insures the retirement income of nearly 44 million American workers in over 30,000 private sector defined benefit pension plans.

Priority for Day 1: The Executive Director of the PBGC must have a commitment to the maintenance of the defined benefit system and be willing and granted the necessary authority to work aggressively with a plan sponsor to facilitate the maintenance of plans, if at all possible.

Priority for First Year: In many cases, plans could be maintained if plan sponsors were allowed longer payouts to meet their funding obligations. Accordingly, the PBGC should be provided with the legislative authority to negotiate an alternate funding schedule if a pension plan could thereby be preserved.[5] The PBGC should also be authorized to facilitate the protection of participants' benefits in multiemployer plans by providing subsidies from the Multiemployer Guaranty Fund to enable plan sponsors to merge healthy plans with plans that are in financial jeopardy in order to prevent the failure of the weaker plan(s).

[5] An appropriate role would have to be given to the Treasury Department, as well.

Key Federal Agency Positions – Retirement Security

Dept	Agency	Position	Nature of Position
Executive Office of the President	Office of Policy Development	Deputy Assistant to the President for Domestic Policy	PA
Office of Management and Budget	Office of Information and Regulatory Affairs	Administrator	PAS
Office of Management and Budget	Office of Information and Regulatory Affairs	Counsel to the Administrator	NA
	SSA	Commissioner	PAS
	SSA	Deputy Commissioner	PAS
	SSA	Social Security Advisory Board, Chair, Members	PAS
DOL	Office of the Secretary	Secretary of Labor	PAS
DOL	EBSA	Assistant Secretary	PAS
DOL	EBSA	Assistant Secretary for Policy	PAS
DOL	EBSA	Deputy Assistant Secretary for Policy	NA
DOL	Office of the Secretary	Secretary of Labor	PAS
DOL	Office of the Solicitor	Solicitor of Labor	PAS
Treasury		Assistant Secretary for Tax Policy	PAS
Treasury		Benefits Tax Counsel	
Treasury	IRS	Commissioner, Tax Exempt and Government Entities Division	PAS
Treasury	IRS	Deputy Commissioner, Tax Exempt and Government Entities Division	PAS
	PBGC (federal corporation, not agency)	Executive Director	SC
	PBGC	Deputy Director, Office of Policy and External Affairs	SC
	PBGC	General Counsel	SC