

United States Senate Committee on Finance

June 3, 2025

Hearing to Consider the nominations of Joseph Barloon, of Maryland, to be a Deputy United States Trade Representative (Geneva Office), with the rank of Ambassador, vice Maria Pagan, resigned; Janet Dhillon, of Virginia, to be Director of the Pension Benefit Guaranty Corporation for a term of five years, vice Gordon Hartogensis, term expired; and Brian Morrissey, Jr., of Virginia, to be General Counsel for the Department of the Treasury, vice Neil Harvey MacBride.

Question for the Record submitted to Janet Dhillon from Senator Todd Young.

Question 1: The Susan Muffley Act is intended to restore pension benefits for a group of retirees whose plan was terminated during the financial crisis. While many pension terminations involve underfunded plans, this case involved retirees who had expected full, earned benefits.

From your perspective, how should fairness be weighed in pension recovery policy—particularly in cases where beneficiaries had no role in the financial distress that led to termination?

Answer: It is a tragedy when pension plan participants have their benefits reduced through no fault of their own. Like nearly all participants facing a benefit reduction, Delphi retirees were not the cause of the plan's financial distress.

The PBGC assumes responsibility for single-employer defined benefit pension plans when any such a plan terminates and lacks the resources to pay benefits according to its terms. The benefits that the PBGC pays to plan participants is set by law and there is a legal cap on the benefits that the PBGC can pay to plan participants.

I understand that several bills, including the Susan Muffley Act, have been introduced in Congress to restore benefits to certain retirees of Delphi Corporation whose pension benefits were reduced by application of the PBGC's guarantee. The treatment of these retirees during the General Motors bankruptcy proceeding continues to raise questions. If confirmed, I am committed to working with Congress to address those issues.

Question 2: The PBGC's single-employer insurance program has shown significant financial improvement in recent years. Some observers believe this improved outlook could support the restoration of certain terminated plans—where participants suffered substantial benefit reductions—without undermining PBGC's broader obligations.

If confirmed, would you support conducting a formal actuarial or risk assessment to evaluate whether the trust fund can absorb such restorations responsibly? What metrics—financial, operational, or equity-based—would you consider in making that determination?

Answer: The PBGC is running a surplus, particularly with respect to the single-employer plan program, and that surplus is expected to grow. This surplus raises questions about the size of the premiums that employer plan sponsors are required to pay. For example, some plan sponsors

have suggested applying the surplus to reduce plan premiums, so that more single-employer plans are maintained. Of course, the PBGC does not set these premiums. If confirmed, I commit to working with career staff at the PBGC to provide technical assistance so that Congress has the resources to fully understand and address the implications of the PBGC's surplus.

Question 3: Under ERISA Section 1347, the PBGC has discretionary authority to restore a terminated pension plan if doing so is "appropriate and consistent" with its responsibilities. Those responsibilities include protecting retirees, maintaining the insurance program's integrity, and minimizing losses to the system. This authority has been rarely used, and there are no clear public criteria to guide its application.

If confirmed, how would you approach the use of Section 1347? What principles would guide your judgment in determining when restoration is appropriate—particularly in balancing fairness to affected retirees with the long-term financial health of the PBGC's insurance program?

Answer: The PBGC has rarely invoked its authority to restore terminated pension plans. If confirmed, I will work with career staff, including by drawing upon their institutional knowledge, and be governed by applicable Supreme Court authority, in determining when and if to exercise this authority. Any restoration must not put the trust fund at risk. Additionally, such restoration should treat similarly situated plans fairly while not creating a disadvantage for healthy plans.

Questions for the Record submitted to Janet Dhillon from Ranking Member Wyden.

Question 1:

If you are confirmed, do you commit to fully implementing the special financial assistance program for distressed multiemployer pension plans, as that program was enacted by Congress as part of the American Rescue Plan Act and pursuant to guidance on the assistance program issued by the Pension Benefit Guaranty Corporation (PBGC), as such guidance is currently in effect? If the answer is no, please explain your answer in detail, including any regulatory provisions or guidance that you would change or believe should be reviewed for possible changes.

Answer: The special financial assistance program (SFA) was enacted by Congress as part of the American Rescue Plan and is administered by the PBGC. If confirmed, I will work with career staff to implement and enforce laws passed by Congress and administered by the PBGC.

Portions of the PBGC's guidance implementing the SFA are the subject of litigation, and thus it would be inappropriate for me to comment on that guidance.

Question 2:

The *New York Times* reported recently that President Trump and his administration—with help from Palantir—might be creating a “master list of personal information on Americans that could give him untold surveillance power.” (*New York Times*, May 30, 2025, “Trump Taps Palantir to Compile Data on Americans.”) Much of the data for a powerful new database like this would come from information that federal agencies collect in their everyday work in helping Americans, such as workers and retirees in failed pension plans that the PBGC insures. If you are confirmed, will you commit to ensuring that any data that the PBGC maintains with respect to workers and retirees is used solely for administering the PBGC’s pension insurance programs and for addressing any legal issues that arise from that work? If your answer is no, please explain your answer.

Answer: Ensuring the protection of personally identifiable information is key to maintaining the public trust in our government. If confirmed, I will abide by all laws that govern the treatment and protection of data in the PBGC’s possession.

Question for the Record submitted to Janet Dhillon from Senator Warren.

Question 1: If confirmed, can you commit to performing an annual analysis of how investments in the private markets, including private equity, affect the returns and viability of defined-benefit retirement plans?

Answer: If confirmed, I will work with career staff to determine what additional analysis can be provided by the PBGC to policy makers, consistent with the PBGC’s statutory purposes as set out at 29 USC 1302(a), to (1) encourage the continuation and maintenance of voluntary private pension plans, (2) provide for timely and uninterrupted payment of pension benefits to plan participants, and (3) maintain premiums at the lowest level consistent with carrying out the PBGC’s obligations under ERISA.

Question 2: The PBGC has had to take over pension plans that have failed as a result of being heavily invested in private equity. One of the more prominent examples is the US Airways pilots’ [pension plan that failed](#) as a result of investing in 35 high-risk, high-cost, illiquid, and opaque (“blind pool”) private equity investments. While the PBGC investigated what causes the plan to fail, it did not make its report public. Can you commit to providing Congress with detailed investigative reports on failed pension plans that the PBGC takes over if confirmed?

Answer: I am committed to operating the PBGC with transparency, consistent with applicable laws.

Because I previously worked for US Airways, if confirmed, I plan to recuse myself from matters involving that entity.

Question 3: Will you impose additional requirements on retirement plan administrators that permit their clients to invest in private markets, in order to maintain high investor protection standards?

Answer: Retirement plan sponsors are governed by the fiduciary obligations set out in ERISA and the Internal Revenue Code, including the duties of loyalty and prudence. The PBGC does not have the authority to alter the requirements set out in those statutes.

Question for the Record submitted to Janet Dhillon from Senator Sanders.

1. As you know, the mission of the PBGC is to encourage the continuation and maintenance of private pension plans for the benefit of participants. Do you believe pension plans are the most effective way to provide retirement income to workers? Do you believe that employers should be encouraged to sponsor defined benefit pension plans? If so, how?

Answer: I believe that defined benefit pension plans are an important part of achieving financial security for American retirees. Whether an employer should be encouraged to sponsor a defined benefit pension plan depends, at least in part, on the employer's business model. Some organizations have workforces that tend to be employed by that entity for a relatively short period of time. In those situations, a defined contribution plan could be a better, more portable, solution for the workers and the employer. Other employers have business models that seek to attract workers who will stay with the organization for much of their career. In those situations, a defined benefit pension plan may be a better solution because, among other things, it can act as a more powerful retention tool for the employer than most defined contribution solutions.

I do believe that employers should be encouraged to maintain defined benefit pension plans consistent with the employer's business model. The decline of single employer defined pension plans can be attributed to many factors, but an important one is the size of the single employer defined benefit pension plan premiums. A 2024 report by the Office of the PBGC Participant and Plan Sponsor Advocate addressed this issue. In the report, titled "Preservation of the Defined Benefit System: Fulfilling PBGC's Statutory Mission – 2024 Roundtable Discussions," the participants cited the PBGC single employer plan premiums "as the top barrier to the adoption and continuation of defined benefit plans." Report at 4. If confirmed, I look forward to working with Congress to address this issue.

2. The Butch Lewis Act, named for a former Teamster-truck driver who fought to protect union pensions, ensures that some 2 million workers are able to receive their hard-earned retirement benefits, at least through 2051. If confirmed, will you commit to fully implement the Butch Lewis Act?

Answer: If confirmed, I commit to implementing and enforcing all laws passed by Congress, including the Butch Lewis Act.

3. As you know, the Secretary of Labor has signaled her strong support for the Butch Lewis Act and SFA funding. The PBGC is continuing to implement this much needed program.

Applications and payments to plans are currently happening in a timely manner. Will you commit to continuing the prompt implementation of this important legislation?

Answer: If confirmed, I commit to implementing and enforcing all laws passed by Congress, including the Butch Lewis Act.

4. Will you commit to expanding the scope of the Butch Lewis Act if directed to do so by the Second Circuit under *Board of Trustees of the Bakery Drivers Local 550 v. PBGC*?

Answer: Because this matter is the subject of ongoing litigation, I cannot comment on this topic. If confirmed, I will ensure the PBGC complies with final court judgments.

5. The Special Financial Assistance (SFA) program has statutory deadlines that will end the program in the near future. *Bloomberg* reported that that Trump's PBGC will revise SFA regulations to provide employers with access to the SFA proceeds in any withdrawal liability calculation. More recently, there is concern that this Administration will revert to the Interim Final Rule's single interest rate. Both of these would cause massive problems for the plans that have already received SFA as well as for those waiting for their SFA application to be approved. This would harm plan participants. It would also negatively impact the funded status of PBGC's multiemployer fund. Is this your intent? If so, what would your rationale be for reverting back to the interim final rule?

Answer: The PBGC adopted a dual interest rate structure in the final rule implementing the special financial assistance authorized by the American Rescue Plan of 2021. The final rule departed from the approach taken in the interim final rule, where the PBGC stated it did not have the authority to bifurcate the statutorily mandated interest rate. In making the change in the final rule, the PBGC advised that the Corporation and its Board considered comments to the interim final rule and the Corporation performed its own actuarial modeling.

If confirmed, I will consult with career staff and examine the process that led to the promulgation of the final rule. I note that pursuant to the PBGC's By-laws, "approval of any policy matter (other than administrative policies) that would have a significant impact on the pension insurance program," must be approved by the PBGC's Board of Directors. 29 CFR 4002.1(a)(3)(v). The Board consists of the Secretaries of Labor (Chair), Commerce and Treasury.

6. The PBGC has a highly trained staff, many of whom are lawyers and actuaries with years of training in the intricacies of employee benefits; these are the people who are responsible for protecting the pensions of 31 million Americans. How do you anticipate dealing with the brain drain the agency has already experienced, or may experience in the future, from buyouts and reductions in force (RIFs)?

Answer: I agree that the PBGC has a highly trained, sophisticated workforce. If confirmed, I will work with career staff to assess resources and identify any gaps. I am committed to ensuring that the PBGC is appropriately staffed, and that resources are utilized efficiently and effectively.

7. Do you believe that Department of Labor Interpretive Bulletin 95-1, which provides guidance for employer plan sponsors and fiduciaries when moving forward with a pension risk transfer, provides retirees with sufficient protections? Should this guidance be changed, and, if so, how?

Answer: The PBGC does not have the legal authority to stop a standard termination of a single-employer defined benefit pension plan. The PBGC can audit such terminations and, if the audit uncovers an error in a plan sponsor's calculations, seek to recover those monies for the plan participants. I am not aware of any situation where the transfer of a plan sponsor's obligations to an annuity provider has resulted in the loss of benefits to plan participants. If confirmed, I will consult with the PBGC's career staff on the standard termination process, the PBGC's role in that process, and the application of Department of Labor's Interpretative Bulletin 95-1 (29 CFR 2509.95.1).

8. What steps do you think plan sponsors and fiduciaries should be required take to ensure that the retirement benefits of those impacted by pension risk transfers are protected?

Answer: When a single-employer plan elects to terminate a fully funded plan, it is required to notify the PBGC. The PBGC does not have the ability to stop standard terminations, but it does have the authority to audit standard terminations to verify that the plan administrators accurately calculated the benefits owing upon termination. According to the PBGC's FY 2024 Annual Report, the PBGC completed 238 standard termination audits in fiscal year 2024. Annual Report at 6. Those audits resulted in more than \$2.1 million in additional benefits being paid to participants of the terminated plans. Id.

The Department of Labor's Interpretive Bulletin 95-1 (IB 95-1) (29 CFR 2509.95-1) provides guidance to pension fiduciaries who seek to purchase annuities to transfer the benefits owed to participants to an annuity provider. IB 95-1 refers to the selection of the "safest annuity available." "[C]ost consideration may not . . . justify the purchase of an unsafe annuity." IB 95-1 identifies factors that must be taken into consideration in evaluating an annuity provider's claims-paying ability and creditworthiness.

In 2023, the Advisory Council on Employee Welfare and Pension Benefit Plans to the United States Department of Labor issued a Statement Regarding Interpretive Bulletin 95-1. A majority of the Advisory Council did not recommend any changes to IB 95-1.

9. If confirmed, will you commit to working with the Department of Labor to perfect its public Retirement Savings Lost and Found Data Base so that workers easily can locate the retirement benefits they have earned?

Answer: Reconnecting workers with their lost benefits is a worthy goal promoted by SECURE 2.0. If confirmed, I will work with career staff at the PBGC to assist the Department of Labor in building out its Retirement Savings Lost and Found Data Base.

10. Recent news reports revealed that the Trump Administration is compiling a database of personal information on people currently living and working in the United States. This includes, at a minimum, data from the Social Security Administration and the Department of Education, as well as data from citizens and undocumented workers. The actions of the Trump Administration show that this type of personal data collection without the knowledge or consent of individuals is likely to expand. Given this, will you commit to keeping all data collected by the PBGC private and allowing its use only for the payment of retirement benefits?

Answer: Ensuring the protection of personally identifiable information is key to maintaining the public trust in our government. If confirmed, I will abide by all laws that govern the treatment and protection of data in the PBGC's possession.

Question for the Record submitted to Janet Dhillon from Senator Warnock.

Question 1: The Butch Lewis Act, signed into law in 2021 as part of the American Rescue Plan, allocated \$86 billion to prevent the collapse of multiemployer pension plans, thereby safeguarding the retirement security of over one million workers.

- If confirmed, do you plan to hold the provisions of the Butch Lewis Act?

Answer: If confirmed, I commit to implementing and enforcing all laws passed by Congress, including the Butch Lewis Act.

- What is your plan to ensure the long-term solvency of both multiemployer and single-employer insurance plans?

Answer: The single-employer defined benefit pension plan insurance program protects the benefits of approximately 10.4 million workers and retirees in approximately 23,000 pension plans. The single-employer program is financially healthy; the PBGC is running a surplus that is over \$50 billion and expected to grow.

The PBGC's multiemployer program protects approximately 11 million workers and retirees in approximately 1,355 pension plans. This program has a surplus of approximately \$2 billion.

The Special Financial Assistance Program (SFA), enacted as part of the American Rescue Plan of 2021, provided funding to the most severely underfunded multiemployer pension plans. The SFA program extended the solvency of the PBGC's multiemployer

program. The PBGC's most recent projections reflect that the multiemployer program is expected to remain solvent for 40 years.

However, the SFA program did not address the fundamental structural problems with the multiemployer pension plan system, and a significant number of plans remain underfunded. I believe that this was a missed opportunity. If confirmed, I look forward to working with Congress to address the structural weaknesses in the multiemployer pension plan system.

- If confirmed, how do you plan to balance your responsibility to protect workers' and retirees' earned benefits and your duty to protect assets of the private sector?

Answer: If confirmed, I will work with career staff at the PBGC to ensure that the PBGC executes on the PBGC's statutory purposes as set out at 29 USC 1302(a), to (1) encourage the continuation and maintenance of voluntary private pension plans, (2) provide for timely and uninterrupted payment of pension benefits to plan participants, and (3) maintain premiums at the lowest level consistent with carrying out the PBGC's obligations under ERISA.

- If confirmed, how will you work to improve PBGC's oversight of distressed pension plans and its responsiveness to beneficiaries?

Answer: The PBGC operates an Early Warning Program for single-employer defined benefit pension plans. Under the program, the PBGC works with employers to preserve their plans, working with the plan sponsor to structure financial protections for participants. The PBGC also reviews corporate transactions and other events that could implicate the funding status of these plans. In appropriate circumstances, the PBGC may gather information from the plan sponsor to assess the potential impact of a transaction or other event on the plan's funding status. If confirmed, I will work with the PBGC's career staff to ensure that the Early Warning Program remains effective and operates in a timely fashion.

The PBGC owes participants timely and accurate information about their benefits, as well as prompt response to their questions. The PBGC has established goals and metrics that govern payment of benefits (both timeliness and accuracy). The PBGC also uses the American Customer Satisfaction Index to measure retiree satisfaction with the PBGC's level of service. If confirmed, I will work with career staff to ensure that the appropriate metrics are in place. I will also regularly consult with the Participant and Plan Sponsor Advocate to incorporate their input and feedback into client service goals and metrics.