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Remarks by

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It's a pleasure to be here—and an honor to share the stage with such distinguished panelists.

In surveying recent pension developments in the United States, there is, as with many things, some good news, some bad news, and some ugly news to report. I'm going to start with the ugly, which means that I am going to start with the DB world.

Social Security, America's earnings-related state pension system, is seriously underfunded. Yet rather than debate the proper relative weight of benefit trims and revenue raisers in a reform package, what we are getting is delay, denial, and diversion. One of the presidential candidates swears he will never touch Social Security, while the other promises to expand it—despite the fact that every dollar of new projected federal revenue over the next ten years is already precommitted to paying for the growth in existing entitlement promises and interest on the debt.

As for funded DB plans, we seem to be on the cusp of a final unravelling. Please don't misunderstand me. Unlike many U.S. retirement policy experts, I think the ongoing shift from DB to DC is a positive development. Traditional DB plans rob job leavers to cross subsidize career employees, bribe workers to retire prematurely, and force employers to save more in economic busts and less in economic booms, which isn't terribly sensible economics. Quite simply, DC plans are much better suited to the needs of our mobile workforces and aging societies.

Still, even if the shift is desirable, the end game for the U.S. DB system is shaping up to be an unpleasant one. I'm not thinking so much about corporate plans. Roughly two-thirds are already frozen or closed, while those that remain are busy derisking. It's the rest that are a mess. Multi-employers plans, which are concentrated in rust-belt industries, are in a death spiral. Without deep reductions in accrued benefits, many will default—and the PGBC doesn't have the cash to bail them out. State and local plans are also vastly underfunded, even based on the bogus expected return assumptions that they are allowed to use in their valuations but corporations are not. There are two possible scenarios. In one, contractual obligations will be upheld, retirees will be held harmless, and everyone else will suffer as vital public services are progressively crowded out of public budgets. In the other we will see a spate of new Detroit-style bankruptcies in municipalities desperate to get out from under the millstone of their unfunded pension liabilities.

Let me now turn to the DC world. One of the biggest stories here involves new initiatives to expand coverage and participation, which despite the growing prevalence of auto-enrollment remains stuck at just half of the private-sector labor force.

There is some good news and some bad news. The bad news is that any hope of a federal employer mandate is delusional. The United States is not going to get a NEST-type reform at the national level, much less a SUPER.

The somewhat better news is that there is at least some bipartisan support in Congress for amending ERISA to allow financial services providers to set up open multi-employers plans, or MEPS, that would be available to all comers. The idea is that such plans will be more attractive to small employers, who are most of the coverage problem. The reason is that they would shift much of the fiduciary burden of sponsoring a 401(k) plan, including compliance with nondiscrimination rules, from the sponsoring employer to the provider.

The really good news is that the states, or at least many "blue zone" states, are responding to congressional gridlock by taking the lead in expanding pension coverage themselves. There are two basic approaches. In the first, being pursued by California, Illinois, Oregon, Connecticut, and Maryland, employers would be required to set up an auto-IRA for their employees. The second approach, being pursued by Washington and New Jersey, would also mandate coverage, but instead of requiring auto-IRA enrollment the states would set up a managed 401 (k) marketplace or exchange. DOL has given a green light to both approaches, and we may see some plans operational within a year.

Even municipalities are stepping up to the plate—or at least one is. New York City has proposed a very ambitious plan called the NYC Nest Egg that includes both auto-IRAs and a managed 401(k) marketplace. There would even be a public plan option. Unlike the state plans, moreover, all employers who do not already offer a pension would be required to participate. There would be no exemptions for very small employers, which kind of makes sense if the whole purpose of the reform is to get very small employers to offer pension plans.

Beyond all the action on the coverage front, there are a couple of other significant DC trends and developments worth touching on One is the rash of recent lawsuits that have held, often successfully, that sponsors have violated their fiduciary obligations when plan fund menus do not include the lowest fee options available. To date most of the plaintiff wins have involved plans that offered a higher cost retail shares option when a lower cost institutional shares option was available.

But now the lawyers are expanding the suits to include cases when there may have been lower cost fund options available that have the same objective or the "same investment style," whatever that means. For better or worse, the litigation is inexorably pushing the industry further and further in the direction of passive investment.

From a public policy perspective, lower fees are highly desirable. Yet one has to worry about the potentially chilling effect on coverage expansion when a lawsuit can claim fiduciary negligence on the part of a sponsor who offered a fund with a 4 basis points fee when an equivalent one with a 2 basis points fee was available.

Another development involves the new DOL fiduciary rule for investment advisers. Under the old rule, advisers weren't considered fiduciaries unless the advice was "regular" and served as the "primary" basis for investment decisions. Under the new rule, which mainly affects the retail sector, all that's required is that an advisor give specific investment advice to an individual. The idea of course is that workers will get better advice if advisors are held to fiduciary standards. But then again, maybe they will just get less advice and pay more for it.

Finally, there are a number of proposals under consideration at DOL and in Congress that aim to facilitate longevity pooling in DC plans. The most important of them would clear away regulatory obstacles and ease fiduciary concerns that currently prevent sponsors from making annuitization the default option in 401(k)s. This is the biggest problem with the DC model, and action on this front is clearly desirable. It remains to be seen, however, whether anything will come of it.

To sum up, most of the positive momentum is now at the state and local level, and I'm not holding my breath for a major new federal reform package. To be sure, there is considerable bipartisan consensus on some constructive reforms, including open MEPs. But there are also deep partisan divides on critical issues, especially employer mandates. Meanwhile, the unravelling of the DB system threatens to cast its long shadow over the DC debate. There's a good chance that DC reform will be held hostage to a bailout of multiemployer plans—and that's likely to be the case whoever wins the election today.