# A Comprehensive Defined Benefit Pension Plan Reform Proposal

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## 1. Introduction

There can be no doubt that, before the passage of ERISA, pension plans—and particularly defined benefit plans—were in need of reform. As plan sponsorship spread from a few large corporations to a broad cross section of businesses, opportunities for abuse of the loosely regulated retirement system proliferated. This situation was exacerbated by the high-profile bankruptcies of a few large sponsors, with concomitant loss of the pension benefits of affected workers.

ERISA introduced a wide variety of reforms: minimum participation and vesting standards, minimum funding standards and tighter restrictions on tax-deductible contributions, and limits on benefits and plan termination insurance. Since the passage of ERISA, most restrictions from the original law have been tightened by subsequent legislation. With nearly 30 years of experience under ERISA behind us, it seems clear that, at least with respect to defined benefit plans, the cure has nearly killed the patient. The number of defined benefit plans and the percentage of U.S. workers participating in them have both decreased dramatically, many remaining sponsors are freezing or terminating their plans, and the plan termination insurance program is running a multi-billion-dollar deficit.

What went wrong? It is apparent that many of the ERISA reforms, although adopted in good faith, have had perverse unintended consequences. Minimum participation and vesting standards have extended coverage to employees who have no need for or interest in defined benefit plans, making it difficult for many employers, particularly in emerging industries with young workforces, to justify plan sponsorship. Limits on benefits have reduced interest in qualified plans among the most highly paid employees, who also make plan sponsorship decisions. Tight restrictions on contributions have forced employers to fund their plans in opposition to the economic cycle by limiting the buildup of assets during periods of economic expansion and making large demands on sponsors' resources during downturns. Limited underwriting has made the plan termination insurance program a mechanism for financially strong employers to subsidize the financially weak.

However well intended, it is clear that ERISA reforms were not merely inadequate, but misdirected. The following proposal charts a new direction in defined benefit plan regulation in the areas of plan termination insurance, minimum and maximum funding rules, and plan design restrictions.