

# SOCIAL INSECURITY: A PROPOSAL TO REFORM THE UNITED STATES SOCIAL SECURITY RETIREMENT SYSTEM

JACLYN TWEEDY\*

## I. INTRODUCTION

The United States of America faces a retirement crisis in the wake of the depleting trust fund that supports Social Security retirement benefits.<sup>1</sup> Without reform, the Old-Age, Survivors, and Disability Insurance (OASDI) Trust Fund will be unable to support full payment of benefits sometime between 2033 and 2037.<sup>2</sup> The trust fund depletion is attributed to the retirement of the baby boom generation.<sup>3</sup> Through 2037, OASDI pay outs are expected to increase more rapidly than noninterest income because the number of beneficiaries will increase more quickly than the number of American workers.<sup>4</sup> As a result, only 78% of scheduled benefits will be able to be paid on time after 2034.<sup>5</sup> The most recent legislative proposals for reform would still be inadequate to guarantee full payment of benefits to eligible, retiring Americans after 2034.<sup>6</sup>

Depletion of the OASDI Trust Fund is problematic, because many Americans have failed to adequately save for retirement, instead expecting the United States government to shoulder the burden of retirement through the Social Security Administration and Medicare programs.<sup>7</sup> Without the Social Security retirement benefits, many Americans will have inadequate funds to quit working before their death.<sup>8</sup> Under the current retirement scheme of the Social Security

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\* J.D. Candidate, 2018, Indiana University Robert H. McKinney School of Law; B.A., *cum laude*, 2010, Economics and Political Science, Hanover College. The author would like to thank her family and friends for their support throughout life and law school. The author would further like to thank the II&CLR Volume 28 staff and faculty board for their diligence and expertise regarding the publication of this Note.

1. See generally U.S. Soc. Sec. Admin., *Proposals Affecting Trust Fund Solvency*, <https://www.ssa.gov/OACT/solvency> (last updated July 13, 2016) [<https://perma.cc/P2XH-TZU9>].

2. *Id.*

3. *Id.*

4. THE 2015 ANNUAL REPORT OF THE BOARD OF TRUSTEES OF THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE AND FEDERAL DISABILITY INSURANCE TRUST FUNDS, H.R. Doc. No. 114-51, at 4 (2015).

5. Memorandum from Stephen C. Goss, Chief Actuary of U.S. Soc. Sec. Admin., to Rep. Linda Sanchez, U.S. House of Rep. (Sept. 9, 2016), [https://www.ssa.gov/OACT/solvency/LSanchez\\_20160909.pdf](https://www.ssa.gov/OACT/solvency/LSanchez_20160909.pdf) [<https://perma.cc/Y8RA-QV9C>]. [Hereinafter Chief Actuary Memorandum.]

6. *Id.*

7. U.S. Soc. Sec. Admin., *Introduction to Vision 2025*, <https://www.ssa.gov/vision2025/introduction.html>. (last visited Sept. 26, 2017) [<https://perma.cc/67J6-RZUX>].

8. Teresa Ghilarducci, *Senior Class: America's Unequal Retirement*, THE AM. PROSPECT (Apr. 24, 2015), <http://prospect.org/article/senior-class-americas-unequal-retirement> [<https://perma.cc/3GEC-YGW2>]. (explaining that due to the “erosion of pensions . . . the vast

Administration, Americans already receive an inadequate amount of retirement benefits compared to other industrialized nations.<sup>9</sup> The United States ranks sixth from last place in a study of 25 countries' retirement plans in adequacy of retirement benefits paid to retirees.<sup>10</sup> A decrease in benefits where the Social Security Administration can only pay 79 percent of projected benefits to retirees would decrease the adequacy of retirement benefits Americans receive even further.<sup>11</sup> Reform is necessary to maintain current retirement benefits paid to American retirees.

The retirement crisis is not unique to the United States. Many other countries have reformed or are reforming their retirement systems to prolong their solvency as the baby boomers near retirement.<sup>12</sup> The Swiss recently passed reforms to increase the retirement age for women from 64 years of age to 65 years of age and increase tax revenue.<sup>13</sup> The Swiss government also passed a constitutional amendment that would trigger an automatic increase in the retirement age any time the retirement trust fund reserves drop below a certain level.<sup>14</sup> The Swiss retirement system is ranked as more sustainable and providing more adequate benefits than the United States Social Security system in one study.<sup>15</sup> Further, the Swiss retirement system is ranked overall above the United States in that study and another study based on indices quality of life, finances, health, and material well-being.<sup>16</sup>

Further, other countries have developed systems that are substantially different from the United States' Social Security system. Singapore's Central Provident Fund (CPF) promotes societal values of self-reliance<sup>17</sup> and is fully

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majority of Americans over 65 in the bottom 90 percent of the income distribution will likely have to work longer than the affluent, even as they also expect to die sooner").

9. AUSTL. CTR. FOR FIN. STUD., MELBOURNE MERCER GLOBAL PENSION INDEX (2015), <https://www.globalpensionindex.com/wp-content/uploads/Melbourne-Mercer-Global-Pension-Index-2015-Report-Web.pdf> [<https://perma.cc/PGK2-ULYZ>].

10. *Id.*

11. Chief Actuary Memorandum, *supra* note 5.

12. NATIXIS GLOB. ASSET MGMT., 2016 NATIXIS GLOBAL RETIREMENT INDEX 6, (2016), <https://www.globalpensionindex.com/wp-content/uploads/MMGPI2016-Report.pdf> [<https://perma.cc/8S8C-67L2>].

13. Barbara Ottawa, *Pensions in Switzerland: Retirement Reform Revisited*, INV. & PENSIONS EUR. (Dec. 2015), <https://www.ipe.com/pensions/pensions-in/switzerland/pensions-in-switzerland-retirement-reform-revisited/10010940.fullarticle> [<https://perma.cc/4JAR-5L5V>].

14. Press Release, Le Parlement suisse, La commission souhaite garantir l'avenir de l'AVS et des caisses de pension (Aug. 19, 2016, 2:30 p.m.), <https://www.parlament.ch/press-releases/Pages/mm-sgk-n-2016-08-19-b.aspx?lang=1036> [<https://perma.cc/L3X8-E5Z5>]. [Hereinafter Press Release.]

15. AUSTRALIAN CENTRE FOR FINANCIAL STUDIES, *supra* note 9, at 8.

16. *Id.* See also NATIXIS GLOBAL ASSET MANAGEMENT, *supra* note 12, at 8.

17. Cent. Provident Fund Board, *History of CPF*, SINGAPORE GOVERNMENT, (last accessed Oct. 1, 2017), <https://www.cpf.gov.sg/Members/AboutUs/about-us-info/history-of-cpf> [<https://perma.cc/WJ3H-XPLL>].

funded.<sup>18</sup> In Singapore, the government has set up a compulsory savings scheme where employees and employers must contribute a certain percentage of gross income into accounts that belong to the individual employee.<sup>19</sup> In many respects, this system is similar to 401(k) retirement accounts already implemented in the United States. However, the accounts in the Central Provident Fund (CPF), gain a minimum of two-and-a-half percent interest through the issuing of government bonds instead of through a combination of mutual fund, stock, bond, and money market returns.<sup>20</sup> After an employee reaches a certain income, contributions into the CPF account are mandatory for both the employee and the employer.<sup>21</sup>

Retirement benefits under the Central Provident Fund are paid out in direct relation to the amount of the retiree's contributions into his or her own CPF account.<sup>22</sup> Singapore permanent residents or citizens must have a minimum amount in their account before they are able to withdraw money for retirement, but they may begin withdrawing money after they reach 55 years of age.<sup>23</sup> Under the CPF, retirees may only withdraw as much as is in the CPF account, and any money remaining in the account after the account holder's death may be bequeathed to the account holder's beneficiaries.<sup>24</sup>

In Section II, this Note will provide a brief history into the development of the retirement systems in the United States, Switzerland, and Singapore. This section will also provide the reader with an overview of how retirement benefits are contributed and paid out in those countries. Section III will look at the retirement crisis and cultural, political, and economic barriers to reform in the United States. Section IV is a comparative analysis of features from the Swiss retirement system and the CPF considering American values and constraints to reform. Section V will provide recommendations for reform utilizing ideas from the Swiss and Singaporean retirement systems.

Finally, Section V of this Note concludes that the United States should enact reforms such as increasing the retirement age, increasing tax revenue (including raising the cap on earnings subject to Social Security withholding), and phasing

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18. Lim Tin Sing, *The History of the Central Provident Fund (CPF)*, ALL SINGAPORE STUFF (Jan. 6, 2014, 1:40 a.m.), <http://www.allsingaporestuff.com/article/history-central-provident-fund-cpf> [<https://perma.cc/TZB8-2QHP>].

19. *Id.*

20. *Id.* See also *What is a 401(k)?*, WALL STREET J., (last visited Sept. 26, 2017), <http://guides.wsj.com/personal-finance/retirement/what-is-a-401k/> [<https://perma.cc/J56Z-F9M8>].

21. *CPF Contribution for Employees*, CEN. PROVIDENT FUND BOARD, (last visited Sept. 26, 2017), <https://www.cpf.gov.sg/Members/Schemes/schemes/other-matters/cpf-contribution-for-employees> [<https://perma.cc/WHP4-U323>].

22. Sing, *supra* note 18.

23. *Id.*

24. Lorna Tan, *Choosing the Right CPF Life Plan*, STRAITS TIMES (Aug. 23, 2015), <http://www.straitstimes.com/business/invest/choosing-the-right-cpf-life-plan> [<https://perma.cc/E7BB-GE3E>].

into a decentralized retirement scheme similar to the CPF as a long-term solution for the insolvency of the Social Security Administration. A plan, administered by the government or private management brokers on contract with the government, with mandatory savings accounts for each individual citizen would be able to provide financial security in retirement, limit the government's ability to overspend and borrow against the funds, and decrease tax pressure on the government.

## II. HISTORICAL BACKGROUND

### *A. Switzerland*

#### *i. Why Switzerland?*

The Swiss Confederation embodies values of democracy and federalism, which are also important values in the United States' governance structure.<sup>25</sup> Switzerland is a confederation of 26 Swiss states, 20 cantons and 6 half-cantons, that have their own cantonal governments.<sup>26</sup> Inside of the cantons are municipalities, which also have their own governments.<sup>27</sup>

The federal government contains an executive, legislative, and judicial branch.<sup>28</sup> The executive branch is comprised of a President, Vice-President, and the Federal Council, which is an indirectly elected cabinet of members.<sup>29</sup> The legislative branch, the Federal Assembly, has a bicameral structure and is comprised of the Council of States and National Council similar to the United States' House of Representatives and Senate.<sup>30</sup> The Federal Supreme Court is comprised of 36 judges and is divided into five sections.<sup>31</sup> Each canton has its own court system as well.<sup>32</sup>

Some marked differences in the way officials are elected distinguish the Swiss and American governments.<sup>33</sup> The Swiss executive and judicial branch members, for example, are indirectly elected by the Federal Assembly by political

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25. See generally Thomas Fleiner, *Recent Developments of Swiss Federalism*, 32 PUBLIUS 97 (2002) a. Cf. Larry Cata Backer, *The Extra-National State: American Confederate Federalism and the European Union*, 7 COLUM. J. EUR. L. 173, 180-81 (2001).

26. Cent. Intelligence Agency, *The World Factbook: Switzerland*, (last updated Jan. 12, 2017), <https://www.cia.gov/library/publications/the-world-factbook/geos/sz.html> [<https://perma.cc/LZ3R-73DP>].

27. Fleiner, *supra* note 25.

28. *Id.*

29. *Id.*

30. *Id.* Cf. Cent. Intelligence Agency, *The World Factbook: United States*, (last updated Jan. 12, 2017), <https://www.cia.gov/library/publications/the-world-factbook/geos/us.html> [<https://perma.cc/88HJ-J58L>].

31. The World Factbook: Switzerland, *supra* note 26.

32. *Id.*

33. *Id.* Cf. The World Factbook: United States, *supra* note 30.

party proportionally to turnout in the federal elections.<sup>34</sup>

The Swiss and American economies are similar as well.<sup>35</sup> Both countries have retained sovereignty over their economies while still actively participating in the global economy.<sup>36</sup> Switzerland has maintained its sovereignty over its economy by abstaining from joining the European Monetary Union (“EMU”).<sup>37</sup> It can exercise more latitude with its own economic policy than European countries that have joined the EMU.<sup>38</sup> Switzerland and the United States also have similar per capita GDPs.<sup>39</sup>

The three-tiered Swiss retirement system is similar to the retirement system in the United States as a whole – after considering both public and private mechanisms to save for retirement.<sup>40</sup> Nevertheless, Switzerland’s retirement system consistently ranks superior to the United States’ retirement system in at least two retirement and pension indices.<sup>41</sup> Given the similar governance structure, economies, and value systems in the two countries, the United States could utilize some ideas from the Swiss retirement system seemingly without much substantive change in the overall retirement mechanisms currently available to Americans.

#### *ii. The Development of the Swiss Retirement System*

By the late Nineteenth Century, more than one thousand private funds had been created to support Swiss workers after accidents or illnesses rendered them unable to work.<sup>42</sup> These funds were particularly popular in urban, industrialized areas and were primarily supported by professional associations, employers, and trade unions.<sup>43</sup> The Swiss Confederation did not have constitutional authority to establish national social policy until 1890 when a constitutional amendment was

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34. The World Factbook: Switzerland, *supra* note 26.

35. *Id.* Cf. The World Factbook: United States, *supra* note 30.

36. The World Factbook: Switzerland, *supra* note 26. Cf. The World Factbook: United States, *supra* note 30.

37. The World Factbook: Switzerland, *supra* note 26.

38. *See Id.*

39. *Id.* (2016 per capita GDP in Switzerland was \$59,600 in 2016 USD). Cf. The World Factbook: United States, *supra* note 30 (2016 per capita GDP in the United States was \$57,300 in 2016 USD).

40. *See* George A. Mackenzie & Jonathan B. Forman, *Reforming the Second Tier of the U.S. Pension System: Tabula Rasa or Step by Step?*, 46 J. MARSHALL L. REV. 631, 634 (2013).

41. *See* AUSTRALIAN CENTRE FOR FINANCIAL STUDIES, *supra* note 9. *See also* NATIXIS GLOBAL ASSET MANAGEMENT, *supra* note 12.

42. Geschichte der Sozialen Sicherheit in der Schweiz, 1850 – 1890: *Bescheidene Leistungen, beschränkte Reichweite: Vorsorgemodell der Hilfskassen*, (last accessed Jan. 16, 2017), <http://www.geschichtedersozialensicherheit.ch/synthese/#c49> [<https://perma.cc/42VN-9G5D>].

43. *Id.*

passed by popular vote.<sup>44</sup> Prior to the amendment, all authority to establish social policy was vested in the cantons.<sup>45</sup> Even though authority had been granted to the Swiss Confederation to establish national policy, it would be several years before a national retirement system was enacted.<sup>46</sup>

Prior to 1914, retirement in Switzerland was linked to risks of poverty due to the elderly population's susceptibility to disability and illness coupled with an uncertain income.<sup>47</sup> Very few pension funds existed and were offered only in the public sector and a few innovative private companies.<sup>48</sup> If government-funded retirement insurance was available, it was through the individual cantons, namely, the member states of the Swiss Confederation.<sup>49</sup> In 1916, the Swiss Confederation made pension fund contributions exempt from the war-time income tax.<sup>50</sup> The tax shelter for pension contributions led to a ten-fold increase in the number of pension funds.<sup>51</sup> However, the pension funds were disproportionately available to those in the public sector.<sup>52</sup>

After World War I, the workers' unions began to demand retirement and social security insurance; however, the public was opposed government run, mandatory pensions, favoring decentralized local charities and cantonal pensions, until after World War II.<sup>53</sup> Public opinion is particularly important in Switzerland because most major political decisions and tax policy decisions must be passed through referendum due to a direct democracy form of governance.<sup>54</sup>

In 1947, the Swiss Old-Age Disability and Survivors' Insurance program

44. Geschichte der Sozialen Sicherheit in der Schweiz, 1890: *Der Erste Schritt auf dem Weg zum Sozialstaat*, (last accessed on Jan. 16, 2017), <http://www.geschichtedersozialensicherheit.ch/synthese/#c37> [https://perma.cc/A32E-NUZC].

45. *Id.*

46. See Geschichte der Sozialen Sicherheit in der Schweiz, 1939 – 1945: *Im Zeichen des Kriegs: Aufbruch oder Stagnation in der Sozialpolitik????*, (last accessed on Jan. 14, 2017) <http://www.geschichtedersozialensicherheit.ch/synthese/#c73> [https://perma.cc/QH7H-4TY9]. [Hereinafter, *Geschichte der Sozialen Sicherheit in der Schweiz, 1939 – 1945.*]

47. Geschichte der Sozialen Sicherheit in der Schweiz, *Alter*, (last accessed on Jan. 15, 2017), <http://www.geschichtedersozialensicherheit.ch/risikogesichte/alter/> [https://perma.cc/JAK5-9WV3].

48. *Id.*

49. Geschichte der Sozialen Sicherheit in der Schweiz, 1931: *Zu zentralistisch, zu etatistisch: Weshalb die Lex Shulthess an der Urne scheiterte*, (last accessed on Jan. 14, 2017), <http://www.geschichtedersozialensicherheit.ch/synthese/#c70> [https://perma.cc/L6S8-2RNT].

50. Geschichte der Sozialen Sicherheit in der Schweiz, 1916 – 1924: *Hinter den Kulissen der AHV-Debatten*, (last accessed on Jan. 14, 2017), <http://www.geschichtedersozialensicherheit.ch/synthese/#c66> [https://perma.cc/UH5M-PBZ9].

51. *Id.*

52. *Id.*

53. Geschichte der Sozialen Sicherheit in der Schweiz, *Alter*, *supra* note 47.

54. See generally, Kris Kobach, *The History of Direct Democracy in Switzerland*, (last accessed Jan. 16, 2017), <http://www.athene.antenna.nl/MEDIATHEEK/KOBACH-1.html> [https://perma.cc/8SG6-VV4L].

(AHV) passed through a referendum and was established as a social insurance and mandatory government pension system.<sup>55</sup> At the time, the pensions provided by the AHV were very modest and occupational pensions remained voluntary.<sup>56</sup> Several revisions were made to the AHV over the next two decades.<sup>57</sup> Most notably, pension amounts were increased to provide 35 percent of the retirees' wages – up from ten percent, the wage deductions were increased, and the pensions would adjust according to the cost of living.<sup>58</sup>

In 1972, as a response to the inadequacy of retirement funds and a minimum standard of living for retirees, voters overwhelmingly affirmed the Swiss government's proposal to add the three-pillar retirement structure into the Federal Constitution.<sup>59</sup> The amendment guaranteed that retirees would receive at least 60 percent of their income and a minimum of CHF (Swiss Francs) 6,000 per year.<sup>60</sup> The occupational pensions were mentioned in the 1971 amendment to the Constitution, but they were not made mandatory until passed through a referendum in 1986.<sup>61</sup>

Since 1986, the three-pillared Swiss retirement system has consisted of a mandatory state pension, mandatory occupational pension, and optional private pension.<sup>62</sup> The first pillar, the state pension fund, is similar to the United States' Social Security system. It is funded through state Old Age and Survivors' Insurance ("AHV") fund and includes disability insurance, insurance for maternity and military leave, and unemployment insurance.<sup>63</sup> The Old-Age Pension Fund is primarily funded by employee and employer contributions.<sup>64</sup> Swiss workers contribute 4.2 percent of gross earnings to the state pension fund, and the employer contributes 4.2 percent of their payroll to the fund.<sup>65</sup> Tax

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55. Geschichte der Sozialen Sicherheit in der Schweiz, 1939 – 1945, *supra* note 46.

56. *Id.*

57. Geschichte der Sozialen Sicherheit in der Schweiz, *Alter*, *supra* note 47.

58. *Id.*

59. Geschichte der Sozialen Sicherheit in der Schweiz, 1972: *Verankerung der Drei-Saulen-Doktrin in der Bundesverfassung*, (last accessed Jan. 14, 2017), <http://www.geschichtedersozialensicherheit.ch/synthese/#c93> [<https://perma.cc/V5RT-N2GB>].

60. *Id.*

61. U.S. Soc. Sec. Admin., *Social Security Systems throughout the World: Europe, 2012 – Switzerland*, (last accessed Oct. 1, 2017), <https://www.ssa.gov/policy/docs/progdesc/ssptw/2012-2013/europe/switzerland.html> [<https://perma.cc/VJB5-5N8E>]. *Here after*, U.S. Soc. Sec. Admin., *Social Security Systems*.

62. *How Do I Manage my Retirement Provision?*, SWISS AUTHORITIES ONLINE, (last accessed Oct. 1, 2017), <https://www.ch.ch/en/manage-retirement-provision/> [<https://perma.cc/9ZRE-NT2K>].

63. *Id.*

64. Urs Geiser, *Parliament Vetoes Old Age Pension Reform*, SWISS INFO (Oct. 10, 2010, 13:39), <http://www.swissinfo.ch/eng/parliament-vetoes-old-age-pension-reform/28451922> [<https://perma.cc/977Y-LN3J>].

65. U.S. Soc. Sec. Admin., *Social Security Systems*, *supra* note 61.

revenue from alcohol and tobacco sales, the value added tax (VAT), and cantons also contribute to the Old-Age Pension Fund.<sup>66</sup>

The second pillar employer pension funds are mandatory once an employee earns more than CHF 21,150 per year.<sup>67</sup> These mandatory occupational pensions are funded by the employee at a contribution rate between seven and eighteen percent of her gross earnings with employer contributions that must match or exceed employee contributions.<sup>68</sup> The amount of pension benefits received from occupational pensions is directly related to the contributions made throughout one's working life and can be paid out as a pension or a lump sum upon retirement.<sup>69</sup> If a retiree opts to take a pension, the current conversion rate is 6.8 percent for retirees at the normal retirement age.<sup>70</sup>

The third pillar, a private pension, is entirely voluntary and additional to the mandatory state and occupational pensions.<sup>71</sup> Private pensions are set up through the individual and her bank or insurance company.<sup>72</sup> Contributions are tax deductible and any gains are tax-free when withdrawn after the individual has reached the retirement age.<sup>73</sup> There are limits to the amount of contributions a person may put in the private pension fund per year.<sup>74</sup> In 2016, individuals could contribute a maximum of CHF 6,768 into their private pension.<sup>75</sup> A self-employed individual could contribute up to twenty percent of her annual income subject to a maximum of CHF 33,840.<sup>76</sup>

Swiss retirement has also been under pressure due to the aging population.<sup>77</sup> As a result, several reforms have been proposed, but most have failed until recently.<sup>78</sup> In 2004, voters rejected a referendum that would make the AHV more sustainable by increasing the women's retirement age to 65 and by increasing the VAT.<sup>79</sup> Further, in 2008, voters rejected a referendum that would provide for a

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66. Geiser, *supra* note 64.

67. *Social Security and Pensions*, Swiss Broadcasting Company, SWISS INFO (July 14, 2016, 11:10 a.m.), <http://www.swissinfo.ch/eng/social-security-and-pensions/29236972> [<https://perma.cc/NBV7-MFAQ>].

68. U.S. Soc. Sec. Admin., *Social Security Systems*, *supra* note 60.

69. *How Much Will My Pension be When I Retire?*, SWISS AUTHORITIES ONLINE, (last accessed Jan 16, 2017), <https://www.ch.ch/en/retirement-benefits/#2nd-pillar-occupational-pension> [<https://perma.cc/57TX-ZXQR>].

70. *Id.*

71. *How Do I Manage my Retirement Provision?*, *supra* note 62.

72. *The 3<sup>rd</sup> Pillar – Private Pension Plans*, SWISS AUTHORITIES ONLINE, (last accessed Oct. 14, 2017), <https://www.ch.ch/en/3rd-pillar/> [<https://perma.cc/68NH-JNUP>].

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.*

77. Geiser, *supra* note 64.

78. *Id.* See also Ottawa, *supra* note 13.

79. Geiser, *supra* note 64.

more flexible retirement age without a loss in benefits.<sup>80</sup> Since those failed attempts at reform, the Swiss government has been tasked with a comprehensive reform project called Altersvorsorge 2020 (AV2020).<sup>81</sup> Reform has been passed to make the AHV more sustainable in the short-term.<sup>82</sup> The Swiss government has increased taxes and the statutory retirement age for women from 64 to 65 years old.<sup>83</sup> Other suggestions in the AV2020 include lowering the conversion rate for second pillar (occupational) pensions from 6.8 percent to 6 percent, thinning out regulations surrounding the CHV to reduce costs of administration, and increasing the VAT.<sup>84</sup> The main contention in the most recent debates has been how to make up for the lower conversion rate in the second pillar pensions.<sup>85</sup>

### *B. Singapore*

#### *i. Why Singapore?*

Singapore is an appropriate comparator to the United States because it offers a unique perspective and a different approach than the current United States Social Security retirement scheme. Singapore has long had a “reputation for its efficient administration, competitive economy, and corruption-free governance,” and the United States could benefit from more efficient administration of its retirement system.<sup>86</sup>

The economies of Singapore and the United States are both globally competitive. However, Singapore has an economy that is marked by highly successful free-markets with low unemployment and high per capita GDP.<sup>87</sup> Singapore also operates on a federal budget surplus and has a high national savings rate in contrast to the United States.<sup>88</sup>

Since Singapore has a successful economy, a federal budget surplus, and a reputation for efficient administration of its government, as well as an emphasis

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80. *Id.*

81. Ottawa, *supra* note 13.

82. *Id.*

83. *Id.*

84. *Id.*

85. Susanna Rust, *Swiss Pensions Reform in Question After Upper Chamber Sticks to Guns*, INV. & PENSIONS EUROPE (22 December 2016), <https://www.ipe.com/countries/switzerland/swiss-pensions-reform-in-question-after-upper-chamber-sticks-to-guns/10016809.article> [<https://perma.cc/2F2X-XJCD>].

86. M. Shamsul Haque, *Governance and Bureaucracy in Singapore: Contemporary Reforms and Implications*, 25 INT’L POL. SCIENCE REV. 227, 236 (2004).

87. Cent. Intelligence Agency, *The World Factbook: Singapore*, (last updated Jan. 12, 2017) <https://www.cia.gov/library/publications/the-world-factbook/geos/sn.html> [<https://perma.cc/9DFL-3AWX>]. (stating that unemployment was 1.2% in 2016 and per capita GDP was \$87,100 in 2016 USD.)

88. *Id.*

on values such as personal responsibility that are shared by many Americans, the United States could learn from their retirement system and improve upon its own that is currently insolvent.

*ii. The Development of Singapore's Central Provident Fund*

The Central Provident Fund (CPF) was established by the British colonial government in 1955 to provide financial security for workers after retirement or if they were otherwise unable to work.<sup>89</sup> In harmony with Singaporean values of self-reliance and personal responsibility, the workers would contribute a portion of their monthly income to build their own retirement savings.<sup>90</sup> In 1968, the Singaporean government introduced the public housing scheme into the CPF permitting funds to be used for mortgages.<sup>91</sup> Home ownership became a central goal for increasing the standard of living in retirement by eliminating the need for retirees to pay rent with their retirement funds.<sup>92</sup> The government established Medisave accounts to help CPF members utilize their savings for medical expenses for themselves and their dependents.<sup>93</sup>

In 1987, the Singaporean government introduced the minimum sum retirement scheme, requiring a minimum amount in the CPF account before members could draw down retirement, to decrease the likelihood that the member would outlive CPF savings as a result in increased life expectancies.<sup>94</sup> In 2009, the CPF LIFE annuity was also introduced to combat further increased life expectancies since members were outliving the twenty-year expected payout period.<sup>95</sup> The CPF is a compulsory savings plan through which Singapore citizens and permanent resident employees make contributions into personal accounts that can be used for needs such as housing, medical care, and retirement.<sup>96</sup> The retirement scheme of the CPF was developed in 1955 at a time when few employers other than the government and very large companies offered retirement benefits to employees.<sup>97</sup>

The contribution rate is based on a contributor's age and income.<sup>98</sup> A citizen

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89. Vernon Loke, *Singapore's Central Provident Fund*, NEW AM. (April 7, 2009), <https://www.newamerica.org/asset-building/policy-papers/singapores-central-provident-fund/> [https://perma.cc/79V2-47PT].

90. *Id.* See also Central Provident Fund Board, *History of CPF*, *supra* note 17.

91. Central Provident Fund Board, *History of CPF*, *supra* note 17.

92. *Id.*

93. *Id.*

94. *Id.*

95. *Id.*

96. *CPF Contribution and Allocation Rates*, CENTRAL PROVIDENT FUND BOARD (Aug. 12, 2016), <https://www.cpf.gov.sg/employers//employerguides/employer-guides/paying-cpf-contributions/cpf-contribution-and-allocation-rates#Item587> [http://perma.cc/PHF8-ECL5]. [hereinafter *CPF Contribution and Allocation Rates*]. See also Loke, *supra* note 89.

97. Seng, *supra* note 18.

98. *CPF Contribution and Allocation Rates*, *supra* note 96.

or permanent resident who is employed in the private sector or is otherwise non-pensionable contributes 20 percent of monthly wages if they are below 55 years of age, 13 percent if they are between 55 and 60 years old, 7.5 percent if they are between 60 and 65 years old, and 5 percent if they are over 65 years old.<sup>99</sup> The percentage of employer contributions is also inversely related to the contributor's age.<sup>100</sup> An employee in this contribution table will have 37 percent of her total wages contributed to her CPF account until she is 55 years old with the rate decreasing until only 12.5 percent of her total wages are contributed after age 65.<sup>101</sup>

Currently only citizens and legal permanent residents are eligible to contribute to CPF accounts.<sup>102</sup> Employers and employees must “contribute a percentage of the employee's monthly gross salary to the CPF.”<sup>103</sup> The contributions are made into the employee's ordinary, special, and Medisave accounts – accounts that belong to the employee.<sup>104</sup> These contributions may be used throughout the employee's lifetime for healthcare needs or to purchase a home.<sup>105</sup> Once a contributor turns fifty-five years old, she may use the money in her CPF account for daily needs as long as she has set aside a “minimum sum.”<sup>106</sup> The portion of the funds in the account for the minimum sum may be used to buy a life annuity from an insurance company, placed in a bank, or kept in the CPF retirement account.<sup>107</sup>

The amount of monthly benefits received after retirement depends directly on how much the contributor placed into her minimum sum.<sup>108</sup> Currently, a person who sets aside \$80,500.00 will receive between \$660.00 and \$720.00 per month.<sup>109</sup> This is the Basic Retirement Sum.<sup>110</sup> A person who sets aside \$161,000.00 has set aside a Full Retirement Sum and will receive between \$1,220.00 and \$1,320.00 per month.<sup>111</sup> Beginning in January, 2016, a person may place \$241,500.00 into an Enhanced Retirement Sum to receive between \$1,770.00 and \$1,920.00 per month.<sup>112</sup> The above are the expected benefits paid

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99. *Id.*

100. *Id.*

101. *Id.*

102. *Id.*

103. Seng, *supra* note 18.

104. *Id.*

105. Central Provident Fund Board, *History of CPF*, *supra* note 17.

106. Seng, *supra* note 18.

107. *Id.*

108. See *Retirement Sum Scheme*, CENTRAL PROVIDENT FUND BOARD (Aug. 15, 2016), <https://www.cpf.gov.sg/Members/Schemes/schemes/retirement/retirement-sum-scheme#Item1598> [<http://perma.cc/8GFG-PMLC>]. [hereinafter *Retirement Sum Scheme*].

109. *Id.*

110. *Id.*

111. *Id.*

112. *Id.*

if the contributor retires and begins to draw down her benefits at sixty-five years of age.<sup>113</sup> Retirees have the option of receiving greater payouts if they wait until they are seventy years old to draw down their retirement funds.<sup>114</sup> The adequacy of the payments received after retirement age to maintain the contributor's pre-retirement standard of living is directly related to how much money the contributor put in the retirement sum. If a contributor dies with unused contributions remaining in her annuity, the unused contributions are refunded to the contributor's main CPF savings account and able to be bequeathed to the contributor's heirs.<sup>115</sup>

*iii. The Development of the United States' Social Security and Supplemental Retirement Scheme*

Pensions have existed in the United States since colonial times.<sup>116</sup> At first, pensions were available only to the veterans of the military.<sup>117</sup> Large companies were the first to offer private, employer-funded pensions.<sup>118</sup> To qualify for the first private pensions, employees had to have thirty years of service with the company and retire by the time they were seventy years old.<sup>119</sup> Americans who worked at smaller companies or who did not meet the requirements for the private or military pensions did not have employer-funded pension options.<sup>120</sup>

In 1935, the Social Security system was developed "to extend pension benefits to those not covered by a private pension plan."<sup>121</sup> Under the original Social Security retirement program, benefits were paid only to the household's primary worker when the retiree reached sixty-five years old. The amount of benefits received "were to be based on payroll tax contributions that the worker made during his/her working life."<sup>122</sup> The first tax contributions to the Social Security retirement program were collected in 1937, and the first monthly benefits were paid out in 1942.<sup>123</sup>

Several amendments have been made to the Social Security program since its

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113. *Retirement Sum Scheme*, *supra* note 108.

114. Tan, *supra* note 24.

115. *CPF Life*, CENTRAL PROVIDENT FUND BOARD (Sept. 14, 2016), <https://www.cpf.gov.sg/Members/Schemes/schemes/retirement/cpf-life#Item1535> [<http://perma.cc/PWJ5-8XCF>].

116. Joanna Short, *Economic History of Retirement in the United States*, ECON. HIST. ASS'N, <http://eh.net/encyclopedia/economic-history-of-retirement-in-the-united-states/> [<http://perma.cc/ZBT3-HKY3>].

117. *Id.*

118. *Id.*

119. *Id.*

120. *See id.*

121. Short, *supra* note 116.

122. *Historical Background and Development of Social Security*, SOC. SEC. ADMIN., <https://www.ssa.gov/history/briefhistory3.html> [<http://perma.cc/9J72-MKK6>].

123. *Id.*

inception. As early as 1939, Congress amended the Social Security Act to include survivors' benefits to the spouse and minor children of the worker.<sup>124</sup> Benefits were not adjusted for inflation until 1950 when Congress passed legislation allowing for cost of living adjustments (COLAs).<sup>125</sup> The enactment of COLAs significantly increased benefits paid to retirees since the amount of benefits had not been adjusted since the program commenced payments in 1942, and inflation rates were high in the 1940s during and following World War II.<sup>126</sup>

As early as the 1970s, it was clear that the Social Security program did not generate enough revenue to provide for all of its beneficiaries.<sup>127</sup> Congress passed the first legislation to correct sustainability problems in 1977.<sup>128</sup> Through that amendment, the payroll taxes were increased, the wage base was increased, benefits were slightly reduced, and wages and COLAs were to adjust independently.<sup>129</sup> These amendments increased Social Security's financial shortfalls for the next fifty years.<sup>130</sup>

The last major amendments to Social Security retirement were enacted in 2000, when Congress, in a bipartisan effort, repealed the requirement that set a limit on how much money retirees could earn while receiving retirement benefits.<sup>131</sup> Since the repeal of the retirement earnings test, retirees no longer have to be "substantially retired" in order to receive benefits.<sup>132</sup>

### III. THE NATURE OF THE UNITED STATES RETIREMENT CRISIS

#### *A. Aging Population*

The Social Security Retirement scheme is largely a pay-as-you-go scheme with the OASDI Trust fund to make up for any temporary periods in which revenues are less than payments to retirees.<sup>133</sup> This plan has worked for the last fifty years, in part, because the number of workers contributing payroll taxes to the Social Security fund have exceeded the number of people eligible for payouts from the fund.<sup>134</sup>

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124. *Id.*

125. *Id.*

126. *Id.*

127. See *Historical Background and Development of Social Security*, SOC. SEC. ADMIN., *supra* note 122.

128. *Id.*

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. Gayle L. Reznik, Dave Shoffner & David A. Weaver, *Coping with the Demographic Challenge: Fewer Children and Living Longer*, Social Security Bulletin, Vol. 66 No. 4 (2005-2006), <https://www.ssa.gov/policy/docs/ssb/v66n4/v66n4p37.html> [<http://perma.cc/Y8A9-U9GD>].

134. *Id.*

Americans now have a longer life expectancy and have fewer children.<sup>135</sup> The result is that a larger percentage of the population are over sixty-five leading to a strain on the Social Security retirement system.<sup>136</sup> For instance, the percentage of the population age sixty-five or older was twelve percent in 2005.<sup>137</sup> By 2020, the percentage is expected to rise to sixteen percent, and by 2040, the percentage is expected to rise to twenty percent.<sup>138</sup>

The declining fertility rates and increased life expectancy lead to a decrease in the number of people in the working population and an increase in the number of people eligible for Social Security retirement benefits.<sup>139</sup> For the Social Security system to maintain its sustainability and continue to operate as a pay-as-you-go system, it needs a worker-to-beneficiary ratio of about 2.8.<sup>140</sup> However, this ratio “has fallen from 5.1 in 1960 to 3.3 in 2005.”<sup>141</sup> The ratio is projected to fall below the 2.8 level by 2020 to a low of 2.1 by 2040.<sup>142</sup> It is clear that the aging population is straining the sustainability of the Social Security system as a pay-as-you-go retirement system.<sup>143</sup>

#### *B. Depletion of the OASDI Trust Fund*

The Social Security Administration generates revenue in two ways. First, payroll tax contributions are made to the OASDI trust fund by workers in the United States.<sup>144</sup> Second, the OASDI Trust Fund generates interest income.<sup>145</sup>

Social Security’s cost has exceeded its non-interest income since 2010.<sup>146</sup> In 2014, Social Security’s cost also exceeded its tax income.<sup>147</sup> Costs are expected to exceed income for the foreseeable future.<sup>148</sup> In 2015, the tax and non-interest income deficit was projected to be approximately \$84 billion.<sup>149</sup> It is expected that the trust fund reserves will decline beginning in 2020 until they are depleted in 2034.<sup>150</sup>

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135. *Id.*

136. *Id.*

137. *Id.*

138. *Id.*

139. Reznike, Shoffner & Weaver, *supra* note 133.

140. *Id.*

141. *Id.*

142. *Id.*

143. *See generally, Id.*

144. David Pattison, *Social Security Trust Fund Cash Flows and Reserves*, Soc. Sec. Bulletin, Vol. 75, No. 1 (2015), <https://www.ssa.gov/policy/docs/ssb/v75n1/v75n1p1.html>. [<http://perma.cc/8EPR-BKB6>].

145. *Id.*

146. H.R. Doc. No. 114-51, at 2 (2015).

147. *Id.*

148. *Id.*

149. *Id.*

150. *Id.* at 3.

*C. Legislative Constraints on Social Security Reform*

Most developed countries, including the United States, “will have to make substantial reductions in the generosity of state retirement provision in order to alleviate the growing burden on the young.”<sup>151</sup> Reform is inevitable, however, it is also a politically delicate topic since the older generation is highly dependent on government retirement.<sup>152</sup> Without Social Security, many Americans would have no retirement income.<sup>153</sup> Further, it is estimated that anywhere between twenty-nine percent and seventy percent of workers are at risk for inadequate retirement income under the current system.<sup>154</sup> If the United States tries to reform Social Security too rapidly, there would be a political backlash from the older electorate.<sup>155</sup> Additionally, the objectives of Social Security as a means to reduce poverty for the older population are worthwhile and have proven successful in the past.<sup>156</sup>

The budget deficit and size of the national debt are major legislative constraints to any sustainable reform of the Social Security system.<sup>157</sup> The continuous budget deficits and increasing national debt have largely tied Congress’s hands in reforming the Social Security system and ensuring its sustainability in the long-term.<sup>158</sup> The national debt is increased each year that the government expenditures exceed revenues.<sup>159</sup> To finance the deficit, the Treasury sells Treasury bonds to the public or the government loans itself money, primarily from the OASDI Trust Fund.<sup>160</sup> As the baby boomers retire, the government must repay its debt to the OASDI Trust Fund by increasing taxes, cutting spending in

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151. RICHARD JACKSON, NEIL HOWE, & TOBIAS PETER, *THE GLOBAL AGING PREPAREDNESS INDEX*, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES 10 (2d. ed. 2013).

152. *Id.*

153. U.S. Soc. Sec. Admin., *Introduction to Vision 2025*, *supra* note 7. (“For one out of five beneficiaries aged 64 and older, Social Security benefits are their sole source of income.”)

154. Steve Vernon, *How Big is the U.S. Retirement Crisis?*, CBS NEWS MONEYWATCH (Nov. 18, 2014, 8:53 a.m.), <http://www.cbsnews.com/news/how-big-is-the-u-s-retirement-crisis/> [<http://perma.cc/XAP2-GXKA>].

155. *See* Jackson, Howe & Peter, *supra* note 151.

156. E Gordon T. Butler, *The One Fund Solution: “It’s my Money and I Need it Now!”*, 11 HOUS. BUS. & TAX L.J. 262, 278 (2011).

157. *See generally* Charles Tiefer, *Confronting Chaos: The Fiscal Constitution Faces Federal Shutdowns and (Almost) Debt Defaults*, 43 Hofstra L. Rev. 511, 529 (Winter, 2014).

158. *See* NAT’L COMM’N. ON FISCAL RESP. & REFORM, *THE MOMENT OF TRUTH* 11, 48 (Dec. 2010).

159. Kimberly Amadeo, *The Difference Between the Deficit and the Debt*, THE BALANCE (Oct. 25, 2016), <https://www.thebalance.com/deficit-vs-debt-how-they-affect-each-other-and-economy-3305779> [<http://perma.cc/AB8C-B8J5>].

160. *Id.*

other programs, or by reducing payouts to beneficiaries.<sup>161</sup>

The United States has very large interest payments that must be paid to avoid catastrophic consequences because of the national debt.<sup>162</sup> Congress has the power to borrow and spend money;<sup>163</sup> however, the decision to raise the debt ceiling, the amount of money the government is permitted to borrow, has become controversial and politically polarizing in the wake of such high national debt and continuing budget deficits.<sup>164</sup> The interest payments alone are projected to rise to \$850 billion for fiscal year 2021, becoming the fourth largest budget item in the national budget.<sup>165</sup> As the interest payments take an increasingly greater percentage of the budget, little money remains to take care of other obligations of the United States, and each time the government needs to increase the debt ceiling, Congress must pass a statute permitting the increase.<sup>166</sup> If Congress fails to increase the debt ceiling, a series of catastrophic events ensue as the government shuts down.<sup>167</sup> In the event of a government shutdown, the Treasury must make every effort to keep current on interest payments on the national debt – even if it means delaying or stopping payments to beneficiaries of the Social Security programs or those entitled to funds as federal retirees or veterans.<sup>168</sup> A short term delay or stoppage of those benefits may not be detrimental, but a long-term stoppage would have devastating consequences as retirees, veterans, Medicaid or Medicare recipients and so on would be unable to afford items needed in their daily lives.<sup>169</sup>

President Obama created the National Commission on Fiscal Responsibility and Reform to study and report findings concerning the serious financial state of the United States Government.<sup>170</sup> The report called for many changes to government spending to ensure the sustainability of the United States government stating, “The problem is real. The solution will be painful. There is no easy way out. Everything must be on the table. And Washington must lead.”<sup>171</sup> If government spending is not curtailed and the national debt reduced, the mandatory interest payments will squeeze out funding for all priorities other than Social Security, Medicare, and Medicaid by 2025.<sup>172</sup> At the time the report was written in 2010, the Committee based its conclusions on projections by the Congressional Budget Office that the projected debt would reach 90 percent of

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161. *Id.*

162. *See generally* Tiefer, *supra* note 157.

163. U.S. CONST. art. I, § 8, cl.2.

164. Tiefer, *supra* note 157, at 529.

165. Amadeo, *supra* note 159.

166. Tiefer, *supra* note 157, at 535.

167. *Id.* at 512.

168. *Id.* at 516.

169. *Id.* at 534.

170. Paul Ryan, *Expanded Views on Fiscal Commission*, HBC PUBLICATIONS (Dec. 3, 2010), <https://budget.house.gov/hbc-publication/217405/> [<http://perma.cc/6ML2-D9CM>].

171. NAT'L COMM'N ON FISCAL RESP. & REFORM, *supra* note 158, at 6.

172. *Id.* at 11.

GDP in 2020.<sup>173</sup> However, Congress has taken no action to alleviate the problem pursuant to the bipartisan commission's report aside from instating a tax holiday in 2011, which, without a decrease in spending only served to exacerbate the problem.<sup>174</sup> The debt was 101.8% of GDP in 2015 and is now projected to be 102.4% in 2020.<sup>175</sup>

While the budget deficit and national debt should drive Congress to action to ensure the sustainability of these programs, it seems the politicians are most likely to live by the mantra, "Never vote against a spending bill or for a tax increase" if you want to be (re)elected.<sup>176</sup> Significant changes to the Social Security structure have proven politically impossible in the last several years. As Tom Barrack, an advisor to Donald Trump during the 2016 Presidential campaign stated, a politician will not make the case to the American people that some portion of entitlements have to be given up in light of the national debt because to do so is "political suicide."<sup>177</sup> Most recently, President George W. Bush could not garner enough public support to pass the measure through a Republican controlled Congress in his second term in office.<sup>178</sup> "The American public strongly supports Social Security, across party and demographic lines," and 85 percent of American's say it is "more important than ever to ensure that retirees have a dependable income."<sup>179</sup> Americans like the Social Security program, and the public support for the program have made reform a politically delicate topic.<sup>180</sup>

Chances of significant policy changes are seemingly increased after the 2016 elections as the Republicans control the executive and legislative branches of government.<sup>181</sup> However, the White House Chief of Staff Reince Priebus has

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173. *Id.*

174. Amadeo, *supra* note 159. See also NAT'L COMM'N ON FISCAL RESP. & REFORM, *supra* note 158, at 43.

175. OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, FISCAL YEAR 2017 HISTORICAL TABLES, TABLE 7.1 FEDERAL DEBT AT THE END OF YEAR: 1940-2021.

176. Tiefer, *supra* note 157, at 326.

177. Interview on *Trump Advisor on the Need to Reform Social Security*, CNN (Oct. 31, 2016), <http://money.cnn.com/2016/10/31/news/economy/trump-social-security/index.html> [<http://perma.cc/ZB9A-F6PC>].

178. William Galston, *Why President Bush's 2005 Social Security Initiative Failed, and What it Means for the Future of the Program*, BROOKINGS (Sept. 21, 2007), <https://www.brookings.edu/research/why-the-2005-social-security-initiative-failed-and-what-it-means-for-the-future/> [<http://perma.cc/66EB-DRS6>].

179. *Public Opinions on Social Security*, NAT'L ACAD. OF SOC. INS. (last accessed on January 16, 2017), <https://www.nasi.org/learn/social-security/public-opinions-social-security> [<http://perma.cc/2B3E-CV28>].

180. Butler, *supra* note 156.

181. Sarah Frostenson, *Republicans now Control the Presidency, Senate, and the House*, VOX (November 9, 2016, 9:00 a.m.), <http://www.vox.com/presidential-election/2016/11/9/13572972/republicans-control-presidency-senate-house> [<https://perma.cc/UJ4H-53PV>].

indicated that the repeal and replacement of the Affordable Care Act are priorities, and “there are no plans...moving forward to touch Medicare and Social Security.”<sup>182</sup> Further, President Donald Trump and the Republicans have different views of what Social Security reform should accomplish.<sup>183</sup> While many Republicans are in favor of privatizing benefits, Donald Trump would like to see the Social Security system remain intact, and he believes the economic growth from his other policies will be enough to curtail Social Security’s shortfalls.<sup>184</sup> It is, therefore, unclear what impact a Republican-controlled Presidency, House, and Senate may have on Social Security reform over the next four years.

#### IV. INSIGHTS FOR REFORM FROM THE RETIREMENT SCHEMES IN SWITZERLAND AND SINGAPORE

##### *A. Lessons from Switzerland*

The Swiss retirement system is ranked higher in adequacy, sustainability, and system integrity than the United States’ Social Security system.<sup>185</sup> According to the Melbourne Mercer Global Pension Index, the Swiss retirement system is ranked fifth best in the world.<sup>186</sup> The Swiss system is more adequate in the amount of benefits that are paid out to its retirees than the American system.<sup>187</sup> A Swiss retiree can expect to receive approximately sixty percent of her final income from the mandatory state and employer pensions.<sup>188</sup> Further, the Swiss retirement system is more sustainable than the American retirement system.<sup>189</sup>

Overall, the Swiss retirement system is similar to the United States Social Security retirement system, but it is more comprehensive in that it encompasses employer and private pensions as well.<sup>190</sup> There are three pillars that define the

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182. Ali Dukakis, *No Plans by Trump ‘to Touch Medicare or Social Security’*: Priebus, ABC NEWS (January 15, 2017, 3:54 p.m.), <http://abcnews.go.com/ThisWeek/plans-trump-touch-medicare-social-security-priebus/story?id=44793829> [https://perma.cc/ETE7-EZ33].

183. Jeanne Sahadi, *Social Security, Trump and Pence Couldn’t be More Different*, CNN (July 15, 2016, 5:59 p.m.), <http://money.cnn.com/2016/07/15/news/economy/trump-pence-social-security/?iid=EL> [https://perma.cc/W7VD-PWT9].

184. *Id.*

185. AUSTRALIAN CENTRE FOR FINANCIAL STUDIES, *supra* note 9.

186. *Id.* The Melbourne Mercer Global Pension Index is an annual study conducted by the Australian Centre for Financial Studies (ACFS). Australian Centre for Financial Studies, *Melbourne Mercer Global Pension Index* (2017), <http://australiancentre.com.au/projects/melbourne-mercator-global-pension-index/>. (ACFS is a public-interest research center within the Monash Business School. *Overview*, AUSTRALIAN CENTER FOR FINANCIAL STUDIES (2017), <http://australiancentre.com.au/about-us/overview/>).

187. AUSTRALIAN CENTRE FOR FINANCIAL STUDIES, *supra* note 9.

188. Swiss Info, *Social Security and Pensions*, *supra* note 66 [https://perma.cc/88AW-AXJV].

189. AUSTRALIAN CENTRE FOR FINANCIAL STUDIES, *supra* note 9.

190. *Old-age and Survivors’ Insurance (AHV)*, Gov’t of Switzerland, <http://www.ahv-iv.ch/de/Sozialversicherungen/Alters-und-Hinterlassenenversicherung-AHV/Allgemeines#qa-730>

Swiss system. The first pillar is like Social Security.<sup>191</sup> The AHV is a pay-as-you-go system with a trust fund that is primarily financed by the current, actively working population.<sup>192</sup> Workers pay four-and-one-fifth percent (4.2%) of gross earnings and employers match the percent of their payroll.<sup>193</sup> In the United States, workers contribute six-and-one-fifth percent (6.2%) of their gross wages and employers match that percent into the OASDI fund.<sup>194</sup> Self-employed individuals must contribute the entire 12.4 percent.<sup>195</sup>

The Swiss system is premised on a social contract theory whereby the younger generation continues to support the older generation.<sup>196</sup> Theoretically, this is supposed to lead to the current pensioners receiving benefits that are more highly valued than their own contributions.<sup>197</sup> However, like the United States, Switzerland has dealt with an increasingly aging population placing a strain on the sustainability of the Swiss retirement system.<sup>198</sup>

Very recently, the Swiss passed some reforms to deal with their changing population.<sup>199</sup> Parliament increased the retirement age from sixty-four years of age to sixty-five years of age.<sup>200</sup> It also increased the amount of federal contributions to the AVS trust fund.<sup>201</sup> Finally, a new Constitutional Amendment provides that if the AVS reserves drop below eighty percent of annual expenditures, the retirement age will automatically increase by four months each year, up to sixty-seven years old, unless Parliament can agree on another solution.<sup>202</sup>

The second pillar of the Swiss retirement system is the mandatory occupational pension.<sup>203</sup> Occupational pensions are funded by employee contributions of seven to eighteen percent of the employee's gross income as well as employer contributions that are at least equal to the employee contributions.<sup>204</sup>

This second tier is the part of the Swiss retirement scheme that is most different from that in the United States. Occupational pensions are available for

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[<https://perma.cc/XT42-2XSL>].

191. *Id.*

192. *Id.*

193. U.S. Soc. Sec. Admin., *Social Security Systems*, *supra* note 60 [<https://perma.cc/J3YJ-YWTD>].

194. U.S. Soc. Sec. Admin., *Social Security and Medicare Tax Rates* (last accessed January 17, 2017), <https://www.ssa.gov/OACT/ProgData/taxRates.html> [<https://perma.cc/LA8T-T94F>].

195. *Id.*

196. *Old-age and Survivors' Insurance (AHV)*, *supra* note 190.

197. *Id.*

198. Press Release, *supra* note 14.

199. *Id.*

200. *Id.*

201. *Id.*

202. *Id.*

203. U.S. Soc. Sec. Admin., *Social Security Systems*, *supra* note 61.

204. *Id.*

some workers in the United States, but it is not mandatory that employers offer them to their workers.<sup>205</sup> In fact, most employers do not offer pensions to their employees, and the number of employers offering pensions has declined.<sup>206</sup> Occupational pensions are great for the employee because the financial risk is borne by the employer.<sup>207</sup> If the rate of return is insufficient to meet the predetermined payout amount, the employer bears the cost of providing the payout to the retiree.<sup>208</sup> The costs of administration of defined benefit plans are high, but they are also borne by the employers – not the government.<sup>209</sup> However, pensions are expensive to the employers because they are primarily funded by the employer.<sup>210</sup>

In the United States, employers just choose not to have occupational pensions available to workers, and, instead, opt for defined contribution plans such as the 401(k) accounts.<sup>211</sup> The Swiss second pillar requires that a minimum amount of benefits be provided by all employers.<sup>212</sup> Employers, therefore, must provide pensions to any employee who makes more than CHF 21,150 per year.<sup>213</sup>

The third pillar of the Swiss system is a tax deductible, individual, voluntary pension.<sup>214</sup> Contributions to this individual pension are subject to an annual maximum.<sup>215</sup> Most recently, the maximum that a worker with an occupational pension can contribute to the third pillar was approximately \$6,768.<sup>216</sup> Self-employed individuals may contribute more, up to twenty percent of their income subject to a maximum of approximately \$33,840.<sup>217</sup> Both contributions and gains are tax free for the pensioner which provides a significant advantage to the contributor.<sup>218</sup> The third pillar is similar to a Roth IRA in the United States;

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205. See Jerry Geisel, *Fewer Employers Offering Defined Benefit Pension Plans to New Salaried Employees*, WORKFORCE (October 3, 2012), <http://www.workforce.com/2012/10/03/fewer-employers-offering-defined-benefit-pension-plans-to-new-salaried-employees/> [<https://perma.cc/H3L8-RY8T>].

206. *Id.*

207. *How Does a Defined Benefit Pension Plan Differ from a Defined Contribution Plan?*, INVESTOPEDIA (March 2015), <http://www.investopedia.com/ask/answers/032415/how-does-defined-benefit-pension-plan-differ-defined-contribution-plan.asp> [<https://perma.cc/YZ79-8KK6>].

208. *Id.*

209. *Id.*

210. *Id.*

211. Geisel, *supra* note 205.

212. *Country Profiles: Switzerland*, PENSION FUNDS ONLINE (2017), <http://www.pensionfundsonline.co.uk/content/country-profiles/switzerland/107> [<https://perma.cc/9JJU-J42R>].

213. Swiss Info, *Social Security and Pensions*, *supra* note 67.

214. *How Do I Manage my Retirement Provision?*, *supra* note 62.

215. *The 3<sup>rd</sup> Pillar*, *supra* note 72.

216. *Id.*

217. *Id.*

218. *Id.*

however, only the gains and not the contributions have a preferred tax status.<sup>219</sup>

Despite the similarities between the Swiss retirement scheme and the United States retirement scheme, the Swiss system consistently outranks the United States in retirement index studies.<sup>220</sup> In the Mercer Melbourne retirement index, Switzerland's retirement system receives a grade of "B" while the United States only received a "C" rating.<sup>221</sup> Switzerland outranks the United States in all indicators: adequacy, sustainability, and integrity.<sup>222</sup>

Further, the Swiss system has higher rankings in the Natixis retirement index.<sup>223</sup> The Natixis index is a composite of financial indicators, quality of life, material well-being, and availability of healthcare.<sup>224</sup> Switzerland has an overall ranking of second, and the United States is ranked fourteenth out of the nations involved in the index.<sup>225</sup>

This Note is primarily concerned with the indicators involved in the financial and adequacy categories as they are most enlightening as to the types of benefits provided. The sustainability index of the MMGPI is also important in this Note. The adequacy index ratings measure the benefits provided, savings, tax pressure, benefit scheme design, and availability of growth assets.<sup>226</sup> The adequacy of retirement funds available is also impacted by incentives for the middle-income worker to save, restrictions on the minimum access age, and savings available outside of government retirement and pensions.<sup>227</sup> Switzerland received a score of 73.9 in the adequacy category as opposed to poor performance by the United States with a score of 55.1.<sup>228</sup>

The Swiss system is more centralized and has a larger participation rate than the United States system because occupational pensions are mandatory. The Swiss first and second pillars combined guarantee retirees approximately 60 percent of their wages.<sup>229</sup> In the United States, Social Security net wage replacement has decreased from 41 percent in 2002, and is projected to continue to decrease to approximately 36% in 2030.<sup>230</sup> Since the defined contribution plans

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219. Fidelity Viewpoints, *Nine Compelling Benefits of a Roth IRA*, FIDELITY INVESTMENTS (April 2, 2015), <https://www.fidelity.com/viewpoints/retirement/nine-reasons-roth> [<https://perma.cc/2FFZ-HMYQ>].

220. AUSTRALIAN CENTRE FOR FINANCIAL STUDIES, *supra* note 9. *See also* NATIXIS GLOBAL ASSET MANAGEMENT, *supra* note 12.

221. AUSTRALIAN CENTRE FOR FINANCIAL STUDIES, *supra* note 9, at 7.

222. *Id.* at 8.

223. NATIXIS GLOBAL ASSET MANAGEMENT, *supra* note 12.

224. *Id.* at 3.

225. *Id.* at 8.

226. AUSTRALIAN CENTRE FOR FINANCIAL STUDIES, *supra* note 9, at 6.

227. *Id.* at 13.

228. *Id.* at 8.

229. Geschichte der Sozialen Sicherheit in der Schweiz, 1972, *supra* note 29.

230. *Social Security Replacing Smaller Portions of Workers' Income*, ECON. POL'Y INST. (January 20, 2011), [http://www.epi.org/publication/social\\_security\\_replacing\\_](http://www.epi.org/publication/social_security_replacing_)

and other retirement options in the United States are not mandatory, the only guarantee that United States retirees have is to replace a meager 36 percent of their income. Only about one-third of United States workers have access to a work-related retirement plan.<sup>231</sup> Of those to whom work plans are available, 60 percent contribute only between one and seven-and-a-half percent of their earnings.<sup>232</sup> Even with access to such funds, Americans are not utilizing them near the maximum contributions.<sup>233</sup>

To more closely resemble the adequacy of the Swiss retirement system with its mandatory first and second pillar, the United States could implement a provision requiring employers to provide all employees with retirement options such as 401(k) accounts. This is not likely in the wake of the aftermath of the Affordable Care Act that required most employers to offer and most Americans to purchase health insurance.<sup>234</sup> The United States could also require higher company match requirements to attempt to incentivize more workers to contribute to their plans, but that would face similar political pressures to the employer mandate of the Affordable Care Act of 2010.<sup>235</sup>

Another way that the United States could ensure the adequacy of contributions would be to make the benefits means tested like the Swiss system. Switzerland had markedly better ratings than the United States in the Natixis retirement index in the material well-being index.<sup>236</sup> The United States did very poorly in this category due to income inequality despite having a high per capita income and low unemployment levels.<sup>237</sup> Under the first pillar of the Swiss system, the minimum monthly base pension is CHF 1,160.<sup>238</sup> The maximum base pension is CHF 2,320 or twice the minimum base pension.<sup>239</sup> Further, the multiplier used to calculate benefits is favorable to lower-income retirees.<sup>240</sup> If the worker had an annual income up to CHF 41,760, a base rate of CHF10,301 per year is paid plus an amount equal to annual income multiplied by 0.0216.<sup>241</sup> A worker who had an annual income greater than that amount begins with a base of CHF 14,477 per year plus an amount equal to annual income multiplied by .013.<sup>242</sup>

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smaller\_portions\_of\_workers\_income/ [https://perma.cc/SMV8-WCQR].

231. NATIXIS GLOBAL ASSET MANAGEMENT, *supra* note 12, at 15.

232. *Id.* at 12.

233. *Id.*

234. See Mark Miller, *Pushing Aside 401(k)'s for Mandatory Savings Plans*, NY TIMES (December 11, 2015), [https://www.nytimes.com/2015/12/12/your-money/pushing-aside-401-k-s-for-mandatory-savings-plans.html?\\_r=0](https://www.nytimes.com/2015/12/12/your-money/pushing-aside-401-k-s-for-mandatory-savings-plans.html?_r=0). [https://perma.cc/Y663-5J3L].

235. *Id.*

236. NATIXIS GLOBAL ASSET MANAGEMENT, *supra* note 12, at 8.

237. *Id.*

238. U.S. Soc. Sec. Admin., *Social Security Systems*, *supra* note 61.

239. *Id.*

240. *Id.*

241. *Id.*

242. *Id.*

The United States Social Security system is not means adjusted.<sup>243</sup> This is likely due to American aversion to welfare even though one of the goals of the system “is to prevent destitution and dependency.”<sup>244</sup> Recipients of means tested programs tend to be stigmatized in the United States, and, by making the Social Security program not means tested, American values of hard work and independence remain intact.<sup>245</sup>

In contrast to Switzerland’s social policy goal that is based on a sense of duty from the younger generation to the older generation,<sup>246</sup> Americans view Social Security as an “earned right” that is created as the individual contributes in her working life rather than an entitlement that is awarded out of need.<sup>247</sup> This attitude may make reform toward a more centralized, means tested system difficult. An attitude that Social Security income is earned makes it less likely that the public would embrace a means adjusted method of benefit calculation or any sort of calculation that would provide progressive benefits to the lower-income earners.

Although the Swiss retirement system is theoretically more sustainable and adequate than the Social Security system in the United States, what appears to be absent from the retirement indices is the fact that the Swiss system also must undergo serious reform to ensure sustainability for the aging population.<sup>248</sup> Further, the political debate over how to reform their system is hotly contested and has most recently ended in political stalemates even after a change in the balance of power in the Upper and Lower Chambers of government.<sup>249</sup> While the political debates are not productive at this point, at least the Swiss are engaging in attempted reform efforts – which is more than the United States can say at this point.

The primary deterrent from moving toward a more comprehensive system that would closely resemble the Swiss system is the cost. The AHV/AVS is better funded than the Social Security retirement system.<sup>250</sup> Additionally, employers in the United States have already moved away from defined benefit pension plans due to large administrative costs and high-risk liabilities.<sup>251</sup> It is unlikely that the United States could implement mandatory defined benefit pension plans due to the lobbies for businesses combined with the current GOP-run government. The United States already has a similar overall structure to the three pillared Swiss

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243. Kathryn Moore, *Article: An Overview of the U.S. Retirement Income Security System and the Principles and Values it Reflects*, 33 COMP. LAB. L. & POL’Y J. 5, 13 (Fall 2011).

244. *Id.*

245. *See id.*

246. *Old-age and Survivors’ Insurance (AHV)*, *supra* note 190.

247. Moore, *supra* note 243, at 9.

248. Ottawa, *supra* note 13.

249. *Id.* (“The chances of the reform package passing successfully have not increased with the election result...Compromises have become more difficult to achieve.”).

250. *See* Press Release, *supra* note 14. *Cf.* H.R. Doc. No. 114-15, at 2 (2015).

251. *See* Terrance O’Reilly, *A Public Pensions Bailout: Economics and the Law*, 48 U. MICH. L.J. REFORM 189, 190 (Fall 2014).

system with its Social Security retirement, occupational defined contribution plans, and other individual savings and investment mechanisms.<sup>252</sup> Further, the proposals needed to make such a system sustainable have been on the table since the early 1990s and nothing has yet been done to implement them. If it were feasible to increase the retirement age, decrease benefits, increase contribution rates, and decrease the national debt and deficit spending so that the government would stop borrowing from the OASDI Trust funds, Congress has had its time to pass such measures to provide for the solvency of the current system.<sup>253</sup>

### *B. Lessons from Singapore*

In contrast to the welfare aspects of the Swiss system, Singapore has long had the CPF as a means for citizens and legal permanent residents to save income for retirement and other life events such as home ownership and medical expenses. Singapore has based the CPF with its multi-purpose individual accounts on a theory of asset based poverty reduction.<sup>254</sup> Asset-based policy seeks to enhance social welfare through long-term asset accumulation and investment due to increased financial security as well as other positive behavioral effects.<sup>255</sup> The result of this asset-based policy in Singapore is the CPF made of individual accounts where each worker contributes approximately 16 percent of her income.<sup>256</sup>

Every Singapore worker who makes more than \$750 per month must contribute a percentage of gross income into her CPF fund.<sup>257</sup> Further, every employer must make contributions into its employees CPF accounts based on the employees' wages.<sup>258</sup> In 2011, these contribution rates were 20 and 16 percent of gross wages respectively.<sup>259</sup> However, the contribution rates have historically been much higher.<sup>260</sup> In 1984, the contribution rate was 25 percent each for the individual and employer.<sup>261</sup>

Americans generally do not like being forced to be part of a market – even if they were already planning to participate in the market.<sup>262</sup> However, Americans

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252. Mackenzie & Forman, *supra* note 40.

253. See generally Susan J. Stabile, *Is it Time to Admit the Failure of an Employer-Based Pension System?*, 11 LEWIS & CLARK L. REV. 305 (Summer 2007).

254. Loke, *supra* note 89.

255. *Id.*

256. Sing, *supra* note 18.

257. *CPF Contribution and Allocation Rates*, *supra* note 96.

258. *Id.*

259. Sing, *supra* note 18.

260. *Id.*

261. *Id.*

262. See Jennifer Pinto, *Public Opinion of the Health Care Law*, CBS NEWS (June 28, 2012, 10:36 a.m.), <http://www.cbsnews.com/news/public-opinion-of-the-health-care-law/> [<https://perma.cc/VG7B-96D9>] (“The requirement that nearly all Americans obtain health insurance

do tend to value personal responsibility which the CPF scheme promotes.<sup>263</sup> Singapore embraces a “national philosophy of an active government support for self-reliance,” and the values of individual effort and responsibility are encompassed in Singapore’s social policies.<sup>264</sup>

Even though the Singapore CPF system requires individuals to contribute savings to their accounts, there is a fair degree of autonomy for the contributor in the use of those accounts.<sup>265</sup> The CPF account can be used for healthcare, housing, and retirement income.<sup>266</sup> Upon retirement, the account holder may choose whether to set aside the minimum retirement sum in a bank account, annuity, or left in a retirement account with the CPF.<sup>267</sup> Unlike with Social Security benefits, retirement benefits from the CPF are paid out in direct proportion to how much money the contributor has put into his Retirement Sum at all income levels.<sup>268</sup>

Further, the money contributed to the CPF account belongs to that account holder.<sup>269</sup> It is not subject to the uncertainty that there may not be funds for the current generation due to the current aging population, because the money that a worker contributes to his CPF account belongs to him in much the same way as a bank account belongs to the account holder. The CPF system is, therefore, more sustainable than many pay-as-you-go systems.<sup>270</sup>

Unlike the pay-as-you-go systems that are categorically being strained by the aging population in most developing countries, the CPF is sustainable and requires very minimal public funding.<sup>271</sup> The CPF retirement scheme is not a pay-as-you-go system such as Social Security or the first pillar of the Swiss retirement scheme.<sup>272</sup> There are positive and negative aspects to such a system. The CPF is not subject to government infighting in the same manner as the Social Security retirement system and seems to be simpler to manage than more centralized retirement schemes.<sup>273</sup>

Singapore’s ratings in the Mercer Melbourne Global Pension Index are in

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– does not sit well with the American public.”).

263. See Central Provident Fund Board, *History of CPF*, *supra* note 17.

264. Central Provident Fund Board, *History of CPF*, *supra* note 17.

265. *Id.*

266. *Id.*

267. Sing, *supra* note 18.

268. U.S. Soc. Sec. Admin., *Social Security Benefit Amounts*, <https://www.ssa.gov/oact/cola/Benefits.html> [<https://perma.cc/YVM4-5CDH>]. See also *Retirement Sum Scheme*, *supra* note 108.

269. *Retirement Sum Scheme*, *supra* note 108.

270. See generally AUSTRALIAN CENTRE FOR FINANCIAL STUDIES, *supra* note 9.

271. Loke, *supra* note 89.

272. See generally *Retirement Sum Scheme*, *supra* note 108. Cf. Joanna Short, *supra* note 116. See also *Old-age and Survivors’ Insurance (AHV)*, *supra* note 190.

273. AUSTRALIAN CENTRE FOR FINANCIAL STUDIES, *supra* note 9 (explaining that tax pressures on Singapore’s government due to CPF are very low).

between the United States and Switzerland.<sup>274</sup> Singapore ranks higher than the United States in sustainability and integrity of private investment systems and governance.<sup>275</sup> The Singapore index is virtually tied in the category of adequacy.<sup>276</sup> Effecting the adequacy rating is the fact that the CPF is unavailable to non-residents in Singapore and that the expected growth in assets is less than 10 percent.<sup>277</sup>

As the Natixis index reports, the responsibility for adequate standard of living in retirement is increasingly becoming the responsibility of the individual.<sup>278</sup> In this index, Singapore does not fare as well as the United States in any category except for financial security.<sup>279</sup> Singapore's CPF outranks the Swiss three-tiered system in financial stability as well.<sup>280</sup> Contributing to this high ranking is the low tax burden on the Singaporean government and a fully funded retirement system.<sup>281</sup>

A large advantage of the CPF retirement plan over the Social Security retirement or Swiss retirement plans is that any remaining funds in the account are available to be bequeathed as part of the account holder's estate.<sup>282</sup> For example, an individual who set aside the Basic Retirement Sum would be paid \$1,110 to \$1,275 per month and would be able to bequest between \$78,800 to \$81,200 to her beneficiaries if they died at eighty-five years old.<sup>283</sup> The amount left to the beneficiaries does not include interest that accrued while the funds were held in the CPF trust account or life account, but it is still a sizeable inheritance for the individual's beneficiaries.<sup>284</sup> By keeping the interest, the sustainability of the CPF accounts is increased.<sup>285</sup>

In contrast, Americans contribute to the Social Security system through payroll taxes anytime they receive a paycheck.<sup>286</sup> Even though a person may have contributed to the Social Security system her entire life, they gain no equity from their contributions through the Social Security Administration.<sup>287</sup>

One aspect of the CPF retirement system that is problematic is that, since it

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274. *Id.* at 8.

275. *Id.*

276. *Id.*

277. *Id.*

278. Natixis, *supra* note 200, at 4.

279. *Id.* at 8.

280. *Id.*

281. *Id.*

282. Tan, *supra* note 24.

283. *Id.*

284. *Id.*

285. *See id.*

286. Joanna Short, *supra* note 116.

287. *See* Tami Luhby, *Social Security: Many Pay More in Taxes than They'll Get Back*, CNN MONEY (April 13, 2013, 11:48 p.m.), <http://money.cnn.com/2013/04/14/news/economy/social-security-benefits/> [<https://perma.cc/QNF2-54X4>] ("Today's workers' taxes are funding the monthly checks being sent to today's retirees.").

is funded by the individual, there is not much of a safety net if the CPF account has not reached the minimum sum and the individual has not otherwise saved for retirement.<sup>288</sup> Singapore has very little welfare, and if the money runs out or is insufficient to sustain the worker's standard of living, the government will not provide assistance except in cases of handicaps or to protect the elderly.<sup>289</sup> Even in cases where Singapore will provide welfare, it is more minimal assistance than Americans are accustomed to.<sup>290</sup>

While Americans generally value personal responsibility, most Americans also favor some assistance for people in order to maintain a minimum standard of living.<sup>291</sup> In order for a system of individually funded retirement to pass political muster in the United States, it is likely necessary for some provision to be made for workers who do not have these types of accounts (i.e. if the worker did not make over the income threshold to be a mandatory contributor or was not a legal permanent resident) or whose accounts did not accrue enough to sustain an acceptable standard of living, per the American standard, after retirement.

#### V. SUGGESTIONS FOR REFORMATION OF THE UNITED STATES SOCIAL SECURITY RETIREMENT SYSTEM

Reforming the Social Security program to make it sustainable in the long-term is going to take bipartisan effort and support. The options for reform are not easy – especially in light of constraints due to the mounting national debt.<sup>292</sup> While no one can agree where the crisis point is as to how much debt is too much,<sup>293</sup> the fact is the debt of the United States exceeds GDP and interest payments take a large portion of the national budget each year.<sup>294</sup>

The United States is going to have to increase Social Security taxes and likely other types of taxes as well. The Treasury has borrowed money to the OASDI Trust Fund that will need to be repaid. In addition, the federal government will need more revenue for the general fund since it has lacked funds and been borrowing to pay obligations in the first place.<sup>295</sup>

While Americans do not tend to support compulsory programs, it is necessary for individuals to save for retirement on their own. Social Security was never

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288. Loke, *supra* note 89.

289. *Id.*

290. *See id.*

291. Butler, *supra* note 156, at 263.

292. *See generally*, NAT'L COMM'N. ON FISCAL RESP. & REFORM, *supra* note 158.

293. Jacob Davidson, *How Much Does America's Huge National Debt Actually Matter?*, TIME (Feb. 11, 2016), <http://time.com/4214269/us-national-debt/> [<https://perma.cc/DDH8-UJ78>] (explaining that the debt is a highly partisan issue and stating, "at some point you really can have too much of a good thing").

294. Amadeo, *supra* note 159.

295. *See* Butler, *supra* note 156, at 312.

meant to provide a full standard of living in retirement.<sup>296</sup> Social Security was meant to replace approximately 40 percent of a person's wages. However, it is estimated that 70 percent of the person's wages are needed to maintain the same standard of living in retirement as while one was still working.<sup>297</sup> Therefore, an individual's occupational pension or defined contribution plan in addition to other private retirement accounts or savings must make up approximately 30 percent of that individual's wages to maintain the same standard of living in retirement.<sup>298</sup>

In practice, the Social Security retirement has not acted as only a supplement for many Americans.<sup>299</sup> One out of five beneficiaries over 65 years old rely on Social Security benefits as their sole source of income, and two-thirds say that Social Security is at least half of their total income.<sup>300</sup> Many Americans have access to occupational retirement accounts such as the 401(k), but they are not using them.<sup>301</sup> Further, one-third of workers do not have access to work-related pension plans.<sup>302</sup>

Since Americans do not tend to save for retirement themselves, and it is necessary to have adequate retirement to ensure that one will be financially secure when they are at the retirement age or become unable to work, the United States needs to implement a form of mandatory savings account. Even while it might be difficult to rally support for a national mandatory savings rate, if offered enough choices, it may be possible to promote the necessary savings needed to an adequate retirement and garner enough public support to be politically feasible.<sup>303</sup> Scholars, Cass Sunstein and Richard Thaler, advocate a policy of libertarian paternalism.<sup>304</sup> Under their theory, it is possible for the government to consciously implement policy changes that will cause individuals to make the choices that the government seems best for the individual and society as a whole.<sup>305</sup> For example, if the government wishes to increase retirement savings, they should have opted in to the employer's 401(k) as the default plan.<sup>306</sup> If the employer wanted to opt out they could do so at no penalty.<sup>307</sup> Congress has, in fact, allowed employers to set the default election for 401(k) participation to "opt-in" and dramatically increased 401(k) participation rates.<sup>308</sup>

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296. U.S. Soc. Sec. Admin., *Understanding the Benefits* at 4 (2016), <https://www.ssa.gov/pubs/EN-05-10024.pdf> [<https://perma.cc/TB6U-UAQL>].

297. *Id.*

298. *Id.*

299. U.S. Soc. Sec. Admin., *Introduction to Vision 2025*, *supra* note 7.

300. *Id.*

301. NATIXIS GLOBAL ASSET MANAGEMENT, *supra* note 12, at 12, 15.

302. *Id.* at 15.

303. *See* Butler, *supra* note 156, at 263.

304. Cass R. Sunstein & Richard H. Thaler, *Article: Libertarian Paternalism is Not an Oxymoron*, 70 U. CHI. L. REV. 1159 (2003).

305. *See generally, id.*

306. *Id.* at 1159-60.

307. *Id.* at 1162.

308. *Id.* at 1159. *See also* David K. Randall, *The 401(k) Rethink*, FORBES (August 20, 2009,

The libertarian paternalistic approach is non-compulsory and focused primarily on influencing the choices an individual makes about her own welfare through providing default choices that promote a desired societal outcome. Effectively, this approach, the authors argue, is not very paternalistic since in most situations people would act in the manner that is best for them if they were fully informed of the options and did not lack self-control.

As of 2009, half of larger employers had automatic 401(k) enrollment plans.<sup>309</sup> Participation rates increased after Congress decided to allow employers to begin that approach from 70 percent of workers to 90 percent in automatic enrollment companies.<sup>310</sup> Further, younger and lower-income people were investing with their company.<sup>311</sup> However, at that time, 401(k) accounts were not great investments as many companies had frozen their match post-recession and interest rates were very low.<sup>312</sup>

Companies do not always offer the most beneficial retirement options to employers.<sup>313</sup> For instance, the Roth IRA or 401(k) might be more beneficial to a young, low to middle-income earner when interest rates are currently low but expected to rise due to the nature of the tax benefits associated with the Roth IRA or Roth 401(k).<sup>314</sup> Many times companies provide only one option that may or may not be beneficial to the employee in the long-run.<sup>315</sup>

If a person is not allowed to make informed decisions about their own trade-off costs, it really does not benefit the person in some instances to have her choices directed in a certain way.<sup>316</sup> Of course, the libertarian paternalistic approach would provide that there are few or no consequences associated with opting out<sup>317</sup>; however, that does not solve the problem that too few Americans are saving for retirement. Therefore, it is necessary to keep the Social Security program as a means to ensure retirees have a basic standard of living – especially those who have been counting on Social Security to be there when they retire.

The United States should use the opportunity of the insolvency of the current Social Security system to phase into a scheme that more closely fits American ideals of an “earned” retirement benefit.<sup>318</sup> Phasing in a central fund, similar to the CPF in Singapore, while simultaneously increasing Social Security taxes in

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2:20 p.m.), <http://www.forbes.com/forbes/2009/0907/investing-retirement-ira-saving-401k-rethink.html> [<https://perma.cc/84GH-AC2R>].

309. Randall, *supra* note 308.

310. *Id.*

311. *Id.*

312. *Id.*

313. *Id.*

314. *Id.*

315. *See* Randall, *supra* note 308.

316. NATIXIS GLOBAL ASSET MANAGEMENT, *supra* note 12, at 12 (explaining that some younger workers cite student loan repayment as a barrier to retirement savings).

317. Sunstein & Thaler, *supra* note 304, at 1162.

318. Amadeo, *supra* note 159.

the short-term would increase Social Security solvency for the baby boomer retirees. It would also ensure a fully funded retirement benefit system moving forward immunizing it from some of the political firestorm that currently surrounds Social Security reform. The proposed fund could be administered by the government or by private companies so long as there was appropriate regulation to ensure the risk was manageable.

The government would also need to be involved through tax policy to ensure more income equality as both Singapore and the United States are ranked poorly in that indicator.<sup>319</sup> Inclusion of the poor is the main challenge in asset-based poverty reduction policy.<sup>320</sup> Many of the instruments that the United States has implemented to assist with retirement planning such as 401(k)s, IRAs, and Thrift Savings Plans have tax benefits, but the tax policy, especially in the area of retirement, is very regressive.<sup>321</sup> For instance, the wage base for the OASDI Trust tax is limited to those making \$127,200.00 or less.<sup>322</sup> Therefore, the maximum contribution that a person making a higher income than \$127,200 is \$7886.40 for each the taxpayer and employer regardless of whether the taxpayer's earnings are \$127,200.00 or millions per year.<sup>323</sup> Further, 93 percent of retirement tax benefits are received by households with incomes over \$50,000.00, and 67 percent of the benefits are received by households with incomes over \$100,000.00.<sup>324</sup> In moving toward an even more asset-based approach, the United States will have to make efforts to increase participation by the poor.<sup>325</sup>

The United States already has several provisions in place that would make a single fund relatively simple to implement.<sup>326</sup> The United States has already moved toward asset-based social policy through the introduction of 401(k)s, IRAs, Educational Savings Accounts, Medical Savings Accounts, and so on.<sup>327</sup> Further, homeownership has been encouraged through FHA loans,<sup>328</sup> and the United States is currently debating its role in medical insurance.<sup>329</sup> The United States has already developed a program for low income individuals to participate

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319. NATIXIS GLOBAL ASSET MANAGEMENT, *supra* note 12, at 31.

320. Michael Sherraden, *Building Assets to Fight Poverty*, NAT'L HEALTH INST. (2000), <http://www.nhi.org/online/issues/110/sherraden.html> [<https://perma.cc/FUQ8-RMHY>].

321. *Id.*

322. U.S. Soc. Sec. Admin., *Contribution and Benefit Base* (2017), <https://www.ssa.gov/OACT/COLA/cbb.html> [<https://perma.cc/K4YS-YTXV>].

323. *Id.*

324. Sherraden, *supra* note 320.

325. *Id.*

326. *Id.*

327. *Id.*

328. *Let FHA Loans Help You*, U.S. DEP'T OF HOUSING AND URBAN DEV. (last visited March 11, 2017 at 11:43 a.m.), <https://portal.hud.gov/hudportal/HUD?src=/buying/loans> [<https://perma.cc/H7BC-TZD4>].

329. See, e.g., Associated Press, *A Look at the Opposing Sides on the GOP Health Care Bill*, N.Y. TIMES (March 9, 2017, 3:39 a.m.), [https://www.nytimes.com/aponline/2017/03/09/us/politics/ap-us-health-overhaul-opposing-sides.html?\\_r=0](https://www.nytimes.com/aponline/2017/03/09/us/politics/ap-us-health-overhaul-opposing-sides.html?_r=0) [<https://perma.cc/L88U-HFHU>].

in a special matched savings account through the Individual Development Account program.<sup>330</sup> With so many tax preferred asset building options already in place and a structure to maintain subsidized individual accounts for low income individuals, a step toward government administrated, or privately administrated government accounts is not far out of reach. Phasing in a retirement system that would utilize retirement savings instruments that are already in place should save the government money and free up tax expenditures to be used for something other than just retirement.

In Singapore, the CPF allows members to utilize pre-tax dollars to pay for medical expenses, homeownership, education, and retirement.<sup>331</sup> Further, if withdrawals are made pursuant to those purposes, the growth on investments is also tax free.<sup>332</sup> With the dawn of electronic tax returns, it seems like implementing a mandatory savings rate would be fairly simple either with the government as the fund administrator or by allowing individuals to invest the money through a private administrator, subject to government regulations concerning the risk of the investments for the designated funds.

For example, if the government wanted individuals to save 15 percent in accounts that could be utilized for retirement or other sanctioned purposes, payroll deductions could send that money directly to the government for management or to another investment broker or manager. The amount saved by the employee could be reported on income tax returns in the same manner as health insurance coverage is currently reported on income tax returns. If the amount saved did not meet the 15 percent savings requirement, that amount would be taken out of tax refunds or due to the government.

This approach is not without its challenges. There is still an increase in mandatory contributions by employers which would be difficult to pass through the legislature. Further, the reason for the proposal is that Americans are not contributing enough to their own retirement plans, and it is unlikely that they would eagerly accept a mandatory retirement savings plan.<sup>333</sup> However, the retirement system needs to be reformed and changes must be made.<sup>334</sup> If retirement security is an important social goal, United States lawmakers must make difficult decisions to provide for its citizens and residents.<sup>335</sup> This proposal would free up government funds to provide for other needs of Americans, and it may also be helpful in the dialogue regarding reforming other social programs such as federally funded healthcare insurance.

The idea of this fund follows along with the concept of American

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330. Corp. for Enterprise Dev., *IDA Basics* (2016), [http://cfed.org/programs/idas/ida\\_basics/](http://cfed.org/programs/idas/ida_basics/) [<https://perma.cc/XQ2E-2JFV>].

331. Central Provident Fund, *History of CPF*, *supra* note 13.

332. *Id.*

333. Stabile, *supra* note 253, at 328 (suggesting that mandatory employment-based reform would face serious opposition).

334. *See generally* NAT'L COMM'N. ON FISCAL RESP. & REFORM, *supra* note 157.

335. Stabile, *supra* note 253, at 329.

Paternalism. American Paternalism is “the uniquely American belief that government has an obligation to guarantee government assistance to those who need it while keeping the assistance “consistent with individual freedom of choice and should not be so large as to dominate every life decision.”<sup>336</sup> Even slightly less than American Paternalism, a proposal to enact mandatory savings funds for each American does not provide government assistance as much as it promotes individual action to promote that person’s own welfare. By increasing savings, and therefore decreasing the likelihood that an individual will need actual government assistance later in life, the United States would be benefitted.

## VI. CONCLUSION

In conclusion, the United States needs to address Social Security reform expediently and efficiently to ensure continuity of full benefits to Americans who are currently thinking about retirement. Those benefits have been promised to the currently retiring generation. However, to ensure continuity of benefits, the United States must increase taxes to increase revenue to the Social Security Administration. Spending cuts in some areas may also be necessary as the national debt has legislators’ hands tied with expanding social policy.

For the younger generations, the United States should phase in a retirement system that relies on individual accounts similar to the CPF in Singapore. This retirement scheme would promote American values of hard work and “earned” benefits as the amount of retirement benefits one would receive would be directly related to the amount the individual saved and, if other use provisions were enacted as with the CPF, how the individuals chose to use their savings prior to retirement.<sup>337</sup>

Unlike in Singapore, the United States should continue to provide Social Security retirement insurance through a smaller amount of payroll contributions to guarantee a basic standard of living for lower-income workers. Other tax reform will be necessary to decrease income inequality if the United States implemented a system like the CPF in Singapore which is based largely on the theory of asset-based poverty relief.<sup>338</sup> The government would have a role in ensuring that all ages and income levels were actively participating in asset building in some manner.<sup>339</sup>

The United States government has been talking about the insolvency of the Social Security system for decades<sup>340</sup>; however, the last amendments to prolong the life of Social Security were enacted in 1983.<sup>341</sup> It is now forty years later,

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336. Butler, *supra* note 156, at 263.

337. See Moore, *supra* note 243, at 9.

338. Sherraden, *supra* note 320.

339. *Id.*

340. Edward M. Gramlich, *Report of the 1994-1996 Advisory Council on Social Security*, SOC. SEC. ADMIN. (Jan. 1997), <https://www.ssa.gov/history/reports/adccouncil/report/toc.htm> [<https://perma.cc/7AER-NJVA>].

341. Soc. Sec. Amend. 1983, P.L. No. 98-21, 97 Stat. 65 (1983).

Social Security income is exceeded by payable benefits, but no significant steps to reform have been taken.<sup>342</sup> While newly-elected President Donald Trump has stated that he will not touch the Social Security program in his term as president, time is running out and Congress must act to ensure continued benefits for the baby boom generation in retirement.<sup>343</sup> Further, Congress must take a bipartisan approach to reform Social Security in the long-run.<sup>344</sup> All options must be on the table.<sup>345</sup>

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342. See NAT'L COMM'N. ON FISCAL RESP. & REFORM, *supra* note 158.

343. Tami Luhby, *The Problem with Trump's 'Plan' to Save Social Security*, CNN MONEY (Oct. 31, 2016, 8:38 a.m.), <http://money.cnn.com/2016/10/31/news/economy/trump-social-security/index.html> [<https://perma.cc/97ZA-E8HV>].

344. See NAT'L COMM'N. ON FISCAL RESP. & REFORM, *supra* note 158, at 6.

345. *Id.*