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Pension Benefit Guaranty Corporation
A U.S. GOVERNMENT AGENCY

PBGC Issues Final Rule on Special Financial Assistance for Financially Troubled Multiemployer Pension Plans

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WASHINGTON, D.C. — The Pension Benefit Guaranty Corporation (PBGC) today announced a final rule implementing changes to the Special Financial Assistance (SFA) Program for financially troubled multiemployer pension plans. The changes are responsive to public comments received on PBGC's interim final rule and will better protect the pensions earned by workers and retirees covered by multiemployer plans eligible for assistance.

"Today President Biden's American Rescue Plan fulfilled the promise of a secure retirement for millions of America's workers for decades to come," said U.S. Secretary of Labor Marty Walsh, Chair of the Pension Benefit Guaranty Corporation Board of Directors. "Without this Special Financial Assistance, the pension benefits of many hardworking union members and their families, through no fault of their own, were in danger. Today's final rule will improve the financial wellbeing of multiemployer plans receiving Special Financial Assistance and improve their ability to pay pension benefits through 2051."

"The Special Financial Assistance Program provides a lifeline to protect the retirement security of millions of American workers, retirees, and their families," said PBGC Director Gordon Hartogensis. "The final rule makes thoughtful improvements to the interim final rule and puts severely underfunded pension plans on stronger financial footing."

PBGC launched the SFA Program under an interim final rule published in July 2021. PBGC received over 100 public comments on many provisions of the interim rule including the funds, the conditions imposed on plans that receive SFA, and several other aspects of the interim rule.

The final rule makes various changes that address the public comments received:

- Allows plans to invest up to 33% of their SFA funds in return-seeking investments (e.g., publicly traded common stock and equity funds that invest primarily in public shares); with the remaining 67% restricted to high-quality fixed income investments.
- Modifies the SFA calculation method to use separate interest rates for plans' SFA and non-SFA assets; and aligns the interest rates used to calculate SFA with reasonable expectations of investment returns on plans' SFA assets.
- Provides a different methodology for the calculation of SFA for plans that implemented benefit suspensions under the Multiemployer Pension Reform Act of 2014 (MPRA).

Taken together, these changes enhance plans' ability to project that they will be able to pay benefits through 2051.

The final rule also makes changes to several conditions applicable to plans that receive SFA:

- Helps ensure that SFA funds do not subsidize employer withdrawals by requiring plans to phase-in recognition of SFA funds for purposes of computing employer withdrawal liability.
- Clarifies the conditions applicable to a plan that merges with a plan that receives SFA.
- Makes changes to the restrictions on plan benefit increases and reallocation of contributions to other plans.

In addition, PBGC adopted changes that address stakeholder comments on the application process, including changes that facilitate plans' SFA calculations and the preparation of SFA application materials.

Generally, the provisions of the final rule apply to new applications and are available to plans that previously submitted SFA applications under the interim rule if the plan submits a revised or supplemented application under the final rule.

The overall amount of SFA that will be distributed to plans will depend on the financial status of eligible plans and economic conditions at the time plans apply for SFA over the next several years. PBGC has updated its estimates of the cost of the SFA Program to reflect the provisions of the final rule and to incorporate more recent plan and economic data available as of the end of 2021. Based on these updates, PBGC estimates that the likely range of total SFA to be distributed to plans is $74 billion to $91 billion.

The final rule is available for public inspection tomorrow at FederalRegister.gov and is scheduled for publication in the Federal Register on July 8, 2022. The final rule becomes effective on August 8, 2022. PBGC has included a 30-day public comment period in this rulemaking, solely on the change to the withdrawal liability condition requiring a phased-in recognition of SFA assets for purposes of computing employer withdrawal liability. All interested parties may submit their comments, suggestions, and views on this provision here: reg.comments@pbgc.gov or http://www.regulations.gov.