CUNI, RUST & STRENK
ACTUARIAL CONSULTING

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Regulatory Affairs Division
Office of the General Counsel
Pension Benefit Guaranty Corporation
1200 K Street, NW
Washington, DC 20005-4026

VIA ELECTRONIC MAIL – reg.comments@pbgc.gov

Re: Comments on PBGC Interim Final Rule – Special Financial Assistance, RIN 1212-AB53

To Whom It May Concern:

Cuni, Rust & Strenk is a Cincinnati based actuarial consulting firm that serves multiemployer pension plans throughout the Midwest of the United States. The following is a summary of the concerns that we have with how the Special Financial Assistance (SFA) is to be calculated as outlined in the Interim Final Rule (IFR) issued by the Pension Benefit Guaranty Corporation (PBGC).

Multiemployer Pension Reform Act of 2014 (MPRA) Benefit Suspensions

We serve two multiemployer pension plans that have suspended benefits under MPRA. To receive SFA, they would be required to unsuspend future benefits and pay back amounts that have been suspended to those participants eligible for unsuspended future benefits. Unfortunately, for these two plans, the amount of SFA that we have calculated only covers approximately 65% of the present value of the difference between the unsuspended and suspended benefits.

This leaves these two plans with having to choose between unsuspending benefits, making the back payments, receiving SFA but then facing insolvency (again) or not accepting the SFA and leaving benefits suspended. This is a horrible choice for these Boards of Trustees. We believe that most, if not all, plans with MPRA benefit suspensions will face this same choice.

We would respectfully request that the PBGC add a special additional SFA calculation that recognizes this potential shortfall in the SFA amount. This shortfall could be eliminated with a minimum SFA amount equal to the present value of the difference between the unsuspended and suspended benefits. This minimum SFA amount would use the same assumptions prescribed by the IFR to calculate SFA.

SFA Calculation/Investment Disconnect

In the IFR, the PBGC recognizes the disconnect between using, for example, a 5.5% interest rate to calculate SFA and then being only able to invest the SFA in assets that earn substantially less than 5.5% due to the current low rates of return on fixed income securities. The use of an adjusted discount rate could correct the mismatch between the interest rate used in the SFA present value calculation and fixed income rates of return.

An adjusted discount rate would reflect both the statutory interest rate in the present value calculation and the fixed income return on that year's SFA amount by applying the fixed income spot rate for that time period. Using the FTSE Pension Liability Index (https://www.soa.org/sections/retirement/ftse-pension-discount-curve/) and assuming the present value interest rate is 5.5%, the adjusted discount rate for year one would be:

$[1 + (5.50\% - 0.25\%)] \div (1 + 5.50\%) = 0.9976$. This factor would reflect what the SFA would be expected to earn in year one.

For year 30, the adjusted discount rate would be:

$[1 + (5.50\% - 2.86\%)] \div (1 + 5.50\%) = 0.9729$. This factor would reflect what the SFA would be expected to earn in year 30.

Just like the current SFA calculation, the adjusted discount rate would compound geometrically each year. Using an adjusted discount rate would result in a larger SFA amount but not an amount larger than what is needed based on the current yield curve.

SFA Administrative Expense Limit as a Percentage of Benefit Payments

In the SFA assumptions guidance released by the PBGC in tandem with the IFR, administrative expenses are limited to a percentage of benefit payments when calculating SFA. This administrative expense limit does not account for the fixed costs that all plans have, regardless of the size of their benefit payments. This cap disproportionately impacts the amount of SFA for smaller plans that have administrative expenses which are outside of the limit prescribed in the actuarial assumption guidance. In other words, administrative expenses are not necessarily scalable to the amount of a plan's benefit payments.

Therefore, we respectively request that the PBGC extend the table provided in the guidance to account for these smaller plans, to allow for administrative expenses of at least 50% of benefit payments for those plans that have small (less than $1 million) in annual benefit payments, or to perhaps eliminate the cap entirely for these small plans.

Future Benefit Increases

Our understanding of the IFR is that plans that have received SFA can only increase future benefits if the plan's actuary certifies that the benefit increase is paid for with additional plan contributions.

Prospective. A benefit or benefit increase must not be adopted during the SFA coverage period unless —

> *(i) The plan actuary certifies that employer contribution increases projected to be sufficient to pay for the benefit increase have been adopted or agreed to; and*
>
> *(ii) Those increased contributions were not included in the determination of the special financial assistance.*

For almost all critical or critical and declining pension plans only a very small percentage of the contribution rate goes towards benefit accruals that are earned by active participants. Therefore, active participants have been paying to keep their plans solvent while not earning a benefit commensurate to the amount that is being contributed to the plan on their behalf.

During the next 30 years, with the SFA and an increase in hours worked coupled with better than expected asset returns, a plan could be positioned to be able to increase future benefit accruals without a corresponding increase in the contribution rate. We respectively request that the PBGC allow plans to increase future benefits under these circumstances, subject to an actuarial certification that the plan can afford such an increase.

SFA Withdrawal Liability
We commend the PBGC for the IFR stating that *"Using mass withdrawal interest assumptions for purposes of calculating withdrawal liability is reasonable because withdrawal liability is the final settlement of the withdrawing employer's obligation to pay for unfunded vested benefits."*

We also look forward to the PBGC proposing *"a separate rule of general applicability under section 4213(a) of ERISA to prescribe actuarial assumptions which may be used by a plan actuary in determining an employer's withdrawal liability."*

An additional step for the PBGC to consider would be to subtract the SFA from plan assets when calculating withdrawal liability. This would further the PBGC's objective *"To preserve SFA for the payment of benefits and expenses and avoid an indirect transfer of SFA to a withdrawing employer by reducing the employer's withdrawal liability,"* Our understanding is that the PBGC believes that subtracting SFA from plan assets for withdrawal liability calculations would be administratively complex but in practice it would not be, especially given that SFA assets need to be segregated, and would follow the methodology already required for plans that have suspended benefits under MPRA.

Thank you for your consideration. Please do not hesitate to contact us with any questions or comments that you have regarding this information.

CUNI, RUST & STRENK

Allen L. Pauly, EA, CERA, MAAA, ASA
Senior Actuary

M. R. Rust, EA, MAAA, ASA
President, Lead Actuarial Consultant