

GRAPHIC ARTS INDUSTRY JOINT PENSION TRUST

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The Honorable Gordon Hartogensis
Executive Director
Pension Benefit Guaranty Corporation
1200 K Street, NW
Washington, DC 20005

RE: Pension Benefit Guaranty Corporation
Special Financial Assistance by PBGC
RIN 1212-AB53

Dear Executive Director Hartogensis,

We serve as the Board of Trustees of the Graphic Arts Industry Joint Pension Trust (JPT or Plan), a nationwide Taft-Hartley, multiemployer pension plan. We submit these comments on behalf of the 9,854 active, deferred vested and retired participants and their beneficiaries to address our concerns with certain aspects of the Interim Final Rule (IFR) issued by the Pension Benefit Guaranty Corporation (PBGC) addressing Special Financial Assistance by PBGC.

We are concerned that if the PBGC does not allow for expansion in the type of investments that can be utilized to invest the Special Financial Assistance (SFA) to be received by multiemployer plans beyond investment-grade bonds and other similar fixed income investment vehicles, many multiemployer plans, including the JPT, will fall far short of having sufficient assets to provide full benefits through their plan year 2051 thereby undermining the intent of Congress in providing the SFA.

We are also concerned that under the current application priority grouping, the JPT, which has a July 1, 2022 projected insolvency date and therefore is in the second priority group which currently opens for SFA applications on January 1, 2022, will not receive its SFA before it has to implement harmful and disruptive benefit reductions for its participants that are unnecessarily costly, burdensome and time-consuming for the Plan and the Plan's staff.

The following comments address how the PBGC can implement investment guiderails that permit the Special Financial Assistance to be invested in a diversified portfolio with a tenable risk level that along with the prudent investment of legacy assets and receivable assets will permit multiemployer plans that receive Special Financial Assistance a much more realistic opportunity to provide full benefits through their 2051 plan year.

The following comments also address measures that the PBGC can take to ensure that plans with insolvency dates in 2022, such as the JPT, can avoid having to reduce benefits and implement the corresponding administrative procedures prior to receipt of the Special Financial Assistance.

Under the IFR, the SFA is projected to delay the JPT's Insolvency only until Its Plan year beginning July 1, 2041.

The JPT is a critical and declining status multiemployer pension plan with a projected insolvency date of July 1, 2022. According to the Plan's actuary, Segal, the Plan is projected to have approximately \$25 million in legacy assets as of July 1, 2022. Under IFR § 4262.4 Amount of special financial assistance, taking into account the present value of the Plan's benefits and expenses, the fair market value of Plan assets, and the present value of future contributions, withdrawal liability payments, and other payments expected to be made to the Plan through the Plan year ending in 2051, the JPT would receive approximately \$400 million in SFA if it were provided on July 1, 2022.

Assuming an average investment-grade corporate bond rate of 3.0% based on a dedicated cash flow matching corporate bond portfolio, (i.e. the equivalent single rate based on the April 2021 yield curve projected to July 1, 2022)¹, the JPT will become insolvent in its Plan year beginning in 2039 if both the SFA, as required by PBGC Interim Final Regulation § 4262.14 Permissible investments of special financial assistance, and its legacy assets were invested in investment-grade fixed income investments. If the Plan's SFA was invested in investment-grade fixed income investments but the Plan's legacy assets as of July 1, 2022 were invested in investments earning 6% per year, then the Plan's projected insolvency would occur in Plan year beginning in 2041.

Thus, it appears highly probable (if not certain) that, as the result of the investment restrictions included in the IFR, the SFA proceeds not be sufficient for the JPT to remain solvent through its Plan year ending in 2051. Rather, it will likely become insolvent between its Plan years beginning in 2039 and 2041 or possibly earlier.

These investment restrictions, however, are not required by the statute. New ERISA Section 4262(l) states in relevant part: "Special financial assistance shall be invested by plans in investment-grade bonds **or other investments as permitted by the corporation.** (Emphasis added)." Thus, Congress has specifically envisioned that the PBGC would permit plans that receive the SFA to invest in investments other than investment-grade bonds. In order to ensure that the statutory mandate to provide funding to multiemployer plans enabling them to provide full benefits to their participants through their Plan year 2051, it is imperative that the PBGC permit plans to invest the SFA in investments other than investment-grade bonds.

In order to assist the JPT, and other similarly situated multiemployer plans, to remain solvent through its Plan year ending in 2051, it is crucial that the PBGC offer flexibility in the types of investments in which a multiemployer plan can invest its SFA and not place any restrictions on the investment of legacy assets beyond ERISA's fiduciary duties that already govern the investment of those assets.

¹ Based on current actual bond yields, the 3% used in these projections may be overly optimistic. If the 3% return is overly optimistic, it substantially overstates the period during which the Plan would remain solvent.

The Chart below illustrates the impact on the Plan’s projected insolvency of 0.5% increases in the investment return on all assets and on SFA assets only.

<u>Investment Return</u>	<u>Insolvency Date July 1</u>	
	<u>All Assets*</u>	<u>SFA Assets Only**</u>
3.0%	2039	2040
3.5%	2040	2042
4.0%	2041	2043
4.5%	2043	2045
5.0%	2046	2048
5.5%	2051	2051+
6.0%	2051+	2051+

* *Legacy assets assumed to be \$25 million if the Plan receives its SFA on July 1, 2022*

** *Legacy assets assumed to earn 6.0%*

Thus, the Plan will need to be able to invest both its legacy assets and its SFA in investments that produce an investment of 5.5% or more in order to remain solvent through its Plan year 2051.

Expanding permissible investment vehicles for SFA beyond investment-grade bonds promotes diversification and a better return potential without incurring an untenable amount of additional risk.

According to the JPT’s Investment Consultant, Segal Marco Advisors, there are two potential advantages of expanding the fixed income and the overall asset class opportunity set for plans that receive SFA monies, including higher potential returns and enhanced portfolio diversification. The chart below provides data to support this. Based on Segal Marco’s 2021 capital market assumptions, a portfolio of Core Fixed Income (which includes Treasury and non-Treasury bonds with a credit rating of BBB or better – representative of investment grade bonds) is projected to earn approximately 2.5% annually over the long-term (Column A). In order to construct a portfolio projected to earn a return equal to the discount rate of 5.5% and keep a plan solvent through 2051, the SFA monies would need to be invested in a balanced portfolio of 50% Core Fixed Income and 50% Equities (Column C). At a minimum, consideration should be given to allow for an allocation of 15% to Equities. A portfolio comprised of 15% Equities and 85% Core Fixed Income (Column B) produces a higher projected return than a full allocation to Core Fixed Income, and with lower projected volatility due to the low correlation between Equities and Core Fixed Income. Note, however, that this portfolio is not projected to earn a long-term return of 5.5%, and therefore would not be expected to keep the plan solvent through 2051. The addition of diversifying fixed income assets to include High Yield (Column D) enhances the return projection with less risk than the 100% Core Fixed Income portfolio. Ultimately, expanding the fixed income opportunity set and the overall asset class opportunity

set produces more optimal portfolio projections and would likely help mitigate the funding gap.

		(A)	(B)	(C)	(D)	(E)	(F)
		All Bond Portfolio	Low Risk Portfolio	Balanced Portfolio	High Yield Illustrative	IG Corp Only	IG Corp w/Equity
Bonds	Cash						
	Core Fixed Income	100.0%	85.0%	50.0%	75.0%		
	High Yield				15.0%		
	IG Corporate Only					100.0%	90.0%
Equity	US Equity		15.0%	50.0%	10.0%		10.0%
	Developed Equity (U)						
	Emerging Markets Equity						
Alternatives	MACS						
	Private Credit						
	Commodities						
	Real Estate (UL)						
Sum		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Risk & Return	Average Return	2.5%	3.4%	5.5%	3.5%	2.8%	3.4%
	Compound Return	2.4%	3.3%	5.1%	3.4%	2.6%	3.2%
	Standard Deviation	5.0%	4.8%	9.1%	4.9%	5.5%	5.5%
	Sharpe Ratio	0.12	0.31	0.40	0.33	0.16	0.27
		All Bond Portfolio	Low Risk Portfolio	Balanced Portfolio	High Yield Illustrative	IG Corp Only	IG Corp w/Equity
0.0%	Probability of Achieving At Least over 5 Years	66.9%	81.1%	82.6%	82.0%	69.5%	77.2%
5.5%	Probability of Achieving At Least over 5 Years	2.3%	4.8%	33.1%	5.6%	4.4%	7.0%
0.0%	Probability of Achieving At Least over 20 Years	98.4%	99.9%	99.5%	99.9%	98.5%	99.6%
5.5%	Probability of Achieving At Least over 20 Years	0.3%	2.2%	42.8%	2.9%	1.2%	3.5%

Based on the chart above, and irrespective of projected returns, permitting an allocation of 15-25% to non-investment grade fixed income is sensible from a diversification and overall risk perspective. Additionally, publicly traded equities and high yield bonds are transparent, liquid and accessible via low fee vehicle structures. Importantly, however, limiting SFA assets to only 15-25% allocations to asset classes with more return potential than investment grade bonds would still not prolong the JPT's expected solvency date to 2051. In this scenario, the hope would be that extending the plan's solvency by a few years would create a path to potential

longevity should higher interest rates materialize providing incremental opportunity for investment at higher yields, thus mitigating the funding gap.

As far as inequitable outcomes resulting from restricting the investment of SFA monies to investment grade bonds, according to Segal Marco, the risk is greater for those plans whose overall asset allocation would be dominated by SFA assets (i.e., currently insolvent plans or plans that are expected to be insolvent within the next few years, like the JPT). Two factors contribute to this higher level of risk. First, plans dominated by SFA assets and limited in their investment of SFA monies into investment-grade bonds, are more restricted in their overall investment guidelines and asset allocation strategy. These plans cannot holistically combine the legacy assets and SFA assets to construct a portfolio with the same overall level of diversification, risk-efficiency and cost effectiveness as those plans that have a higher ratio of legacy assets to SFA assets. Second, plans dominated by SFA assets have virtually no ability to rebalance and purchase securities at lower prices in the event of a market downturn. In this respect, restricting SFA asset investment guidelines to one particular asset class or segment of the market increases both systematic and unsystematic risk and may result in more unfavorable outcomes for plans that have to rely upon SFA assets to pay benefits.

Accordingly, permitting diversification of SFA assets beyond investment-grade bonds not only has the potential for enhancing investment return to achieve the Congressional mandate of plans that receive SFA funding full benefits through their 2051 plan year, but also reducing risk in attempting to achieve that goal.

Instead of addressing SFA assets independently, the PBGC should address investment assets holistically by requiring that a certain percentage of all of a multiemployer plan's assets (SFA and legacy assets) be invested in investment grade fixed income securities.

Segal Marco believes it would be most prudent to consider the totality of assets between current assets and the new SFA assets. Each pool of assets can have their unique/particular asset allocation but the total investable assets should remain the primary consideration in order to achieve the goal of meeting benefit payments and extending the corpus to meet payments for as long as possible.

Consider two plans for illustrative purposes: Plan A, which is currently insolvent and will receive \$100 million in SFA and Plan B, which is currently 50% funded (discounted at 7%), has \$50 million in legacy assets and will receive \$50 million in SFA. Under the current guidelines, both Plan A and Plan B's SFA assets are to be segregated and invested only in investment grade fixed income. This means that 100% of Plan A's assets are expected to earn around 2.5% over the long term with a discount rate of 5.5% (assuming that is the lower of the two rates). Plan B, however, has an asset allocation of 50% investment grade fixed income, and 50% of return-seeking assets (such as equities, high yield bonds, real estate, private equity, etc.). Plan B has an aggregated (SFA plus legacy) of \$100 million of assets with a blended discount rate of 6.25%. However, because Plan B has legacy assets are not subject to the investment constraints imposed by the guidance, Plan B has a much higher probability of achieving its discount rate and

maintaining solvency, at least through 2051, than Plan A. In this example, it would seem as though the permissible investment guidelines create inequitable outcomes for plans of differing circumstances. With the obvious disadvantage to the current or soon to be insolvent plans, such as the JPT.

Multiemployer plans should be permitted to invest their legacy assets subject only to the satisfaction of the trustees' fiduciary duties.

Limiting the investment of a multiemployer plan's legacy assets will doom many multiemployer plans to insolvency prior to their plan year 2051. As the investment of legacy assets is already subject to the fiduciary duties of prudence, diversification, and loyalty to the best interests of plan participants and beneficiaries, further restrictions are unnecessary. Moreover, because multiemployer plans that receive SFA will be able to invest their legacy assets over a longer period of time, using SFA assets that will have lower investment returns to pay benefits and expenses as they come due and thus preserving legacy assets until the SFA assets are exhausted, the legacy assets will be able to weather investment cycle peaks and valleys thereby resulting in a higher long-term asset return.

Additionally, when investing legacy assets, the trustees should be permitted to take into account the percentage of SFA assets in investment-grade fixed income securities in fulfilling their fiduciary duties with respect to asset allocation and the overall investment program for the plan. Otherwise, a plan's assets will be heavily over weighted to fixed income investments resulting in a depressed return that inevitably will force many plans to fall woefully short of the statutory mandate for these plans to pay benefits through their plan years ending in 2051.

The PBGC should take steps to ensure that the JPT does not have to prepare administratively for insolvency or become insolvent prior to receiving its Special Financial Assistance.

As the JPT is currently projected to become insolvent July 1, 2022, it is in the second priority group for filing its application for SFA, currently on or after January 1, 2022. Even under the best of circumstances--the JPT immediately files its application when it is permitted to do so, the PBGC grants the Plan's SFA application within 120 days, and the Plan receives its SFA 60 to 90 days after its application has been granted--there is a possibility that the Plan will not receive its SFA until after it has become insolvent. This would result in a reduction in retiree and beneficiary benefits to PBGC guarantee levels and the need to restore those benefits at a later date. Additionally, the Plan will have to notify its participants of insolvency and benefit cuts at least 90 days before they are set to occur sowing significant – and unnecessary – fear and uncertainty. It will take the JPT months to develop programs, test and implement a benefit reduction/restoration protocol into its computer system for its 5,500+ participants in pay status. Accommodations for treating SFA as an expected resource benefit or slight adjustments to the prioritization process for SFA could remedy this otherwise inevitable imbroglio for plans like the JPT on the cusp of insolvency.

Thus, we recommend that the PBGC adopt one or more of the following measures:

resources in determining whether they are insolvent for a particular plan year.

- Allow plans to file emergency petitions for consideration in the first priority group.
- Move up the date of opening the application process for the second priority group.
- Include an allowance in the first priority category for plans that otherwise would be included in the second priority category but are projected to be insolvent within 7 months from their otherwise earliest filing date.

The 9,854 retired, active and inactive participants and beneficiaries of the Graphic Arts Industry Joint Pension Trust are indebted to you for your efforts to preserve, for as long as possible, the modest pension benefits that they have spent their entire working lives to secure.

We are available to answer any questions related to your efforts to finalize the regulations to implement the provision of Special Financial Assistance by the PBGC.

Respectfully submitted,

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