

SOUTHWEST OHIO REGIONAL COUNCIL OF CARPENTERS PENSION FUND



August 11, 2021

VIA ELECTRONIC MAIL – reg.comments@pbgc.gov

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

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

To Whom It May Concern:

We serve as the Board of Trustees of the Southwest Ohio Regional Council of Carpenters Pension Plan (“Plan”). Our Multiemployer Pension Plan currently provides benefits to 5,411 participants, including 2,666 retirees and beneficiaries, 1,587 active participants, and 1,158 vested terminated participants. Due to the actions we have taken which are described below, the ability to be able to provide the benefits currently promised to these participants weighs heavily on the Board.

We have multiple concerns regarding the Special Financial Assistance (SFA) outlined in the Interim Final Rule (IFR) issued by the Pension Benefit Guaranty Corporation (PBGC). These concerns include having to invest SFA in assets that will not be able to earn the interest rate used to determine SFA and having to include SFA in Plan assets for withdrawal liability calculations. We will leave it to others to describe these issues so we can focus on what is the biggest problem facing the Board which is **the amount of SFA will not come close to covering the amount of benefits that must be unsuspending as a condition to receive SFA.**

Multiemployer Pension Reform Act of 2014 (MPRA) Benefit Suspensions

After exhausting all other options, including making all benefit adjustments (benefit cuts) allowed for critical status pension plans under the Pension Protection Act of 2006 (PPA) and large increases in the Plan’s hourly contribution rates, the Board of Trustees made the painful decision to apply to suspend benefits under MPRA. This was the only action that would keep the Plan from becoming insolvent in the near future.

After the MPRA application was approved, our participants’ benefits were suspended beginning on April 1, 2019. We were able to craft the suspensions so that 26% of Plan participants suffered benefit suspensions of less than 5% and 64% of participants suffered benefits suspensions of between 5% and 20%. However, 10% of our participants suffered benefit suspensions greater than 20%.

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Imagine our relief when the American Rescue Plan Act of 2021 (ARPA) was passed earlier this year. Because of ARPA, the Board would be able to unsuspend benefits and pay back the benefits that had been suspended since SFA was defined under ARPA to be:

“The amount of financial assistance provided to a multiemployer plan eligible for financial assistance under this section shall be such amount required for the plan to pay all benefits due during the period beginning on the date of payment of the special financial assistance payment under this section and ending on the last day of the plan year ending in 2051, with no reduction in a participant’s or beneficiary’s accrued benefit as of the date of enactment of this section,”

Unsuspending Benefits

To accept SFA, the Board would be required to unsuspend all of the benefits that were suspended under MPRA. We would also be unable to suspend benefits in the future if the Plan were to again face insolvency. This is unsurprising since the purpose of SFA as we just cited above was to allow eligible multiemployer plans to pay all benefits promised for the next 30 years.

Our Actuary has done the calculations regarding the Plan’s potential SFA versus the cost of unsuspending benefits. Since the Plan’s funding interest rate is 6.5%, under the IFR the current interest rate used to calculate SFA would be approximately 5.5%.

If our benefit suspensions were undone, the Plan would be required to pay an additional \$160.8m in benefit payments over the next 30 years. At 5.5%, the present value of the unsuspending benefit payments equals \$102.5m. Unfortunately, under the IFR, the Plan would be eligible for only \$68.3m in SFA. Of the \$68.3m, \$20.0m would be back-payments of 2019-2021 suspended benefits. Therefore, our Plan would face a shortfall in SFA equal to \$34.2m.

As far as we can tell, nothing in the IFR addresses this SFA shortfall for plans that have suspended benefits under MPRA. **At a minimum, SFA should not be less than the present value of unsuspending benefits.** Otherwise, our Plan will have to decide between not applying for SFA so the Plan can remain solvent or applying for SFA and then almost certainly facing insolvency within the next 30 years. We believe that the PBGC has the authority to address this SFA shortfall in the final regulations by having a minimum SFA amount equal to the present value of unsuspending benefits.

We are available to answer any questions you may have regarding our concerns as you finalize the regulations on the amount of SFA that the PBGC will be providing. We sincerely hope that the final regulations address the current shortfall in the amount of SFA that would be provided to our Plan, and others, that have suspended benefits under MPRA.

Respectfully submitted,

Board of Trustees, Southwest Ohio Regional Council of Carpenters Pension Plan