As of: 7/21/26, 11:59 AM
Received: July 07, 2026
Status: Posted
Posted: July 20, 2026
Tracking No. mrb-4wlu-7w8a
Comments Due: August 17, 2026
Submission Type: Web

PUBLIC SUBMISSION

Docket: PBGC-2026-0133
Technical Amendments: Special Financial Assistance

Comment On: PBGC-2026-0133-0001
Special Financial Assistance

Document: PBGC-2026-0133-0003
Comment on FR Doc # 2026-12100

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General Comment

I support PBGC's objective of clarifying the SFA rules and codifying prior guidance where appropriate. Clearer rules can reduce uncertainty for plans, participants, employers, and service providers. However, several proposed provisions should be clarified before finalization so that the rule gives fair notice, is administrable in practice, and is supported by a reasoned explanation under the Administrative Procedure Act.

Under 5 U.S.C. § 553(c), PBGC must consider the relevant matter presented in comments and include a concise general statement of basis and purpose in any final rule. Because this proposal would convert prior guidance and agency practice into binding regulatory text, the final rule should explain the agency's choices with enough specificity to support meaningful public participation, consistent compliance, and review under 5 U.S.C. § 706(2)(A). The concern is whether several operative standards are sufficiently bounded.

First, PBGC should further define what qualifies as a "short period of time" for transitional derivative exposure under proposed 29 C.F.R. § 4262.14(h). The NPRM explains that SFA funds generally should not be invested in derivatives, but that temporary derivative positions may be allowed when they substitute for permissible physical securities that are not immediately available. That clarification is useful, but the proposed facts-and-circumstances standard leaves plans without a clear compliance boundary.

Because ERISA § 4262(l), 29 U.S.C. § 1432(l), limits how SFA funds may be held and invested, PBGC should provide a safe-harbor period, an outer limit absent PBGC approval, or additional examples distinguishing a permissible acquisition bridge from an impermissible hedge or risk-changing strategy.

PBGC should also specify what documentation a plan should retain to show that physical securities were not reasonably available.

Second, PBGC should more fully justify the valuation date for withdrawal-liability settlement approval under proposed 29 C.F.R. § 4262.16(h)(1)(ii). The NPRM proposes using the last day of the plan year preceding the withdrawal. A fixed date may be administrable, but market or interest-rate changes after that date may materially affect whether a settlement crosses the approval threshold.

PBGC should explain why the prior-plan-year-end date remains the best proxy in volatile conditions, or consider a limited fallback when later market movement would materially change the approval determination. This would better connect the approval condition to PBGC's authority under ERISA § 4262(m)(1), 29 U.S.C. § 1432(m)(1), to impose reasonable conditions on SFA plans.

Third, PBGC should clarify the aggregation rule in proposed 29 C.F.R. § 4262.16(h)(1)(iii). The anti-avoidance purpose is understandable, but terms such as "related withdrawals," "transactions," "arrangements," and "principal purpose" are consequential gatekeeping terms. Plans, employers, actuaries, and counsel need to know how to apply them before entering settlements.

PBGC should provide examples covering partial withdrawals over multiple years, controlled-group settlements, staged settlements, different bargaining units or contribution obligations, legitimate business transactions, and transactions PBGC would treat as approval-threshold avoidance. PBGC should also consider whether a look-back period or documentation standard is needed.

Fourth, PBGC should address reliance and transition issues related to repeal of the contribution-reallocation exception. If PBGC now concludes that the exception is inconsistent with the best reading of ERISA § 4262, the final rule should explain that statutory conclusion and state whether any plans or bargaining parties may have relied on the existing procedure. PBGC should also clarify how the retained good-faith allocation provisions apply after repeal.

Finally, PBGC should strengthen the record supporting its economic, Paperwork Reduction Act, and Regulatory Flexibility Act conclusions. The NPRM estimates $18.65 million in annual cost savings, including approximately $18.4 million from easing investment restrictions and $250,000 from eliminating expected exception requests. PBGC should disclose enough of the assumptions behind those estimates to allow meaningful comment, including the affected SFA asset base, the percentage of affected plans, the 15-year decline assumption, and the advisory-fee differential.

Even if the proposal reduces burden overall, the derivative timing and related-settlement provisions may still require legal, actuarial, or investment-management judgment in particular cases. The final preamble should acknowledge and evaluate that remaining compliance burden.

I respectfully recommend that PBGC finalize the proposed clarifications only after it addresses the aforementioned concerns.