September 21, 2026

Legislative and Regulatory Affairs Division, Office of the General Counsel
Pension Benefit Guaranty Corporation
445 12th Street SW
Washington, DC 20024–2101
RIN 1212-AB50

Re: PBGC Proposed Regulations RIN 1212-AB50

Dear Sir or Madam:

We appreciate the opportunity to comment on the Pension Benefit Guaranty Corporation's proposed rule, "Penalties for Failure to Provide Certain Notices or Other Material Information," published July 21, 2026.

WTW is a leading global professional services company that employs over 45,000 colleagues worldwide, over 1,200 of whom are retirement actuaries. We provide actuarial and consulting services to more than 1,700 defined benefit plans. The undersigned have prepared our company's response with input from others in the company.

We support PBGC's efforts to promote transparency, consistency, and timely compliance with statutory and regulatory reporting obligations. We also understand that significant time has elapsed since the penalty policy was revisited, and updating the penalty amounts for the passage of time could make sense. WTW's comments are limited to PBGC's proposed conditions for reconsideration and waiver of penalties.

Proposed Reconsideration and Waiver Conditions

In the preamble under Section VIII.A PBGC notes that most of the proposed amendments codify or explain existing PBGC policies and practices. It also notes that it is clearly outlining the grounds for waivers and reductions of penalties for transparency.

The statistics that PBGC provides in this section illustrate a relatively lenient policy over the 6-year period from 2019 – 2024. Waivers were issued in the overwhelming majority of standard post-distribution certification violations and premium *filing* violations (distinct from payment), and while waivers for 4010 and reportable event filings were generally not granted, PBGC acknowledges that it has chosen not to assess any penalties for these violations.

Our understanding (which is reinforced by the actual reporting of values in the preamble) is that PBGC penalties are meant to encourage self-reporting and as a deterrent to non-reporting, rather than being remedial or revenue raising, especially for an organization like PBGC which is projected to have its surplus position grow as shown in the most recent PBGC projection report[1]. In that context, these higher penalty amounts combined with the tightening of waiver

[1] PBGC FY 2024 Projections Report, https://www.pbgc.gov/sites/default/files/documents/fy-2024-projections-report.pdf. Single-employer status projected to $104.8 billion at the median in 2034.

criteria do not seem congruent with the PBGC's stated number one goal of preserving plans and protecting pensions of workers and retirees.

PBGC's proposed rule imposes waiver conditions that align very closely with those for late premium payments outlined in sections 21-25 of the Appendix to PBGC §4007 regulations. Since those regulations became effective, for the plans WTW provides actuarial services to, our experience has been that the granting of waivers in corrective premium payment situations has been limited in practice. Our concern is that by applying this same criteria for informational filings there will effectively be no waivers in all but extraordinary circumstances.

This is because the "reasonable cause" definition for granting a waiver itself is extremely narrow. In our experience, we have not seen PBGC approve late premium payment waivers for anything other than unpredictable events like fires, natural disasters, or deaths of key plan staff. PBGC's definition and interpretation does not reflect the reality of communication or monitoring system delays. Many of these items appear to be circumstances that should qualify under "exercise of ordinary business care and prudence," but have not been considered as such in practice by PBGC. We offer two recent examples where we saw PBGC deny waiver requests for plan sponsors that we believe acted with an appropriate level of care and prudence.

1. The plan's annual trust statement mistakenly reflected a double-booked transaction, which caused the market value of plan assets to be overstated, and thus resulted in an underpayment of PBGC premiums. The sponsor had paid its premiums timely and appropriately on the basis of the trust statement it had at the time. A year following, when the sponsor switched plan auditors and the new auditor attempted to recreate the prior year financials they noticed this discrepancy. As a result, the trustee investigated and issued a revised trust statement with the lower value. The plan sponsor then paid the additional PBGC premiums owed and requested that the penalties be waived, as they had relied on their trustee and prior auditor for accurate reporting. PBGC has within its authority the ability to waive such penalties, but instead advised the sponsor to exercise more care.

2. The trustee of a pension plan submitted timely payment for PBGC premiums, but had accidentally used the incorrect plan number in their payment submission despite correct plan sponsor direction, though the plan name noted was as intended (there were two pension plans with the same plan sponsor and trustee in this situation). Many days later a refund was sent by the PBGC back to the plan trust, but no separate communication was made about the refund. Later, a separate notice of underpayment with interest and penalties was then sent to the plan from which this payment was made. The sponsor immediately paid the premium again and concurrently explained that the payment was in fact made timely to the PBGC in the amount noted and that the PBGC itself had issued the refund of this payment back to the plan sponsor. Again, PBGC has within its authority the ability to waive such penalties, but rather than doing so informed the plan sponsor they should exercise more care.

Both of these instances essentially impose the unreasonable expectation of complete perfection in all aspects of plan financial reporting and monitoring at all times. Paying late interest in these situations is statutorily required, but adding penalties in addition to the interest does not make sense if the goal is self-reporting and continued support of the sponsorship of pension plans.

The §4007 regulations make no reference to the overall risk to the PBGC insurance system in protecting the benefits of the plans it covers. The funded status of the plan and the risk such a late payment poses to the system does not seem to be a factor in providing waivers.

While PBGC's existing reportable event waivers do take into account the overall risk to the PBGC insurance system, if PBGC follows the same penalty approach for notices and material information filings it uses for premium payment, our expectation is that PBGC will not grant effective waivers of penalties at the same rate as before (as noted in the preamble, as a practical matter the waivers have been granted as no penalties have been charged). We believe that the proposed approach, as currently used for premium payment waivers, is overly narrow and sets unrealistic expectations of plan sponsors and administrators. In addition to trustee reporting and contribution scenarios outlined above, we would have concerns about the following potential scenario as another example if this approach were applied to the notices and material information filings:

- A non-de minimis business within a controlled group that is not a contributing sponsor defaults on a loan, and this information may not become known to a plan sponsor in the controlled group until after the advance-reporting due date. We do not believe that "exercise of ordinary business care and prudence" requires the continual communication between all non-related businesses within the controlled group.

We request PBGC consider applying a separate "reasonable cause" interpretation for these filings that reflects what typical plan sponsors would consider as ordinary business care and prudence, or even more helpfully, revise the §4007 regulations to also broaden the premium payment definition of "reasonable cause". Doing so would then bring expected practice in line with the preamble narrative that few changes in practice are expected. Another possibility might be to waive or significantly reduce a penalty the first time a plan has experienced late reporting, or condition such a waiver on a show of good practice such as timely payment of PBGC premiums and/or PBGC plan funded status above a specific threshold such as 90%.

If these proposed waiver conditions are not adjusted, we suggest that PBGC acknowledge that it will charge much greater penalties than it currently does in the preamble to the final regulations, so that it is fully transparent to plan sponsors and the public that PBGC will be assessing a much greater magnitude of penalties than it does today.

Other Related Suggestions

While not currently under revision, we also suggest that an automatic waiver criteria be added to regulation §4043.81 Form 200 reporting for late quarterly contributions that are satisfied with funding balance, similar to regulation §4043.25(c)(3). As already acknowledged by the Form 10 waiver in such an instance, there is no greater risk to the PBGC due to an administrative error in timing, but we find these requirements cause much anxiety for plan sponsors in the rare instances when they do occur. Without this adjustment, and absent the above suggested revisions to “reasonable cause” such instances would result in $1,000 per day penalty charges for no improved risk mitigation as the PBGC would not be in any greater risk position as a result.

Thank you for this opportunity to comment on the proposed regulations. If you have any questions concerning our comments, please contact us directly.

Sincerely,

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