Special Financial Assistance Final Rule

Special Considerations for Plans That Applied Under the Interim Final Rule and Other Plans Currently Eligible to Apply

July 28, 2022
PBGC does not have information about individual benefits in multiemployer pension plans.

If you have questions about your benefits, please contact your plan administrator or your union.

To protect your personal information, do not share Social Security numbers or other identifying data during this webinar.
Today’s Agenda

Focus is plans that are currently eligible to apply for SFA
Priority Groups 1, 2, 3, and 4

I. Special Financial Assistance Final Rule

II. Plans that already received SFA – 27 plans

III. Plans with applications currently under review or withdrawn and not yet refiled

IV. Other plans currently eligible to apply but have not yet applied

V. Implementation of two interest rate structure

VI. MPRA plans
Special Financial Assistance Final Rule
What has not changed:

• Plan eligibility requirements – statutory criteria

• Basic definition of Special Financial Assistance – consider all plan resources and obligations

• Basic application and review processes

• Reporting and monitoring – post-SFA receipt
Overview of Final Rule

What has changed:

- Permissible investments for SFA assets
- Interest rates used to calculate SFA
- SFA amount for MPRA plans
- Certain conditions
- Certain application requirements
Plans That Have Already Received SFA
Supplemented Applications

- What is a supplemented application
- Who can file a supplemented application and when
- What is included in a supplemented application
- Supplemented application processing
What is a Supplemented Application

Process for an Interim Final Rule filer that has received SFA to supplement its application under the terms of the Final Rule

• When supplemented application is filed, two key Final Rule provisions apply
  • Ability to invest up to 33% of SFA money in “return-seeking assets”
  • SFA phase-in condition for determining withdrawal liability

• All other Final Rule condition changes apply automatically on August 8, 2022
  • E.g., Final Rule restrictions and conditions on plan mergers involving SFA plans

• In most cases, supplemented application, once approved, will result in an additional SFA payment
Who can File a Supplemented Application and When

• Plans approved for SFA under the Interim Final Rule *and* received SFA payment may file a supplemented application on or after August 8, 2022
  
  • Must be limited to the changes and information specified in the supplemented SFA instructions included on PBGC.gov
  
  • Submitted via PBGC’s e-filing portal
Must not change:

• Plan's SFA measurement date

• Fair market value of assets

• Participant census data

• Any projection assumptions except:
  • Implementation of the two interest rate structure, and
  • Exclusion of contribution rate increases agreed to on or after July 9, 2021
Supplemented Application Processing

• The 120-day review period applies. PBGC expects to make any supplemented SFA payments within 60 days of approval.

• Supplemented applications can be withdrawn at any time prior to either being approved or denied by PBGC.
• Supplemented applications must be submitted via PBGC’s e-filing portal

• PBGC expects the e-filing portal to remain open through the end of the application Priority Group period, March 11, 2023
Plans with Applications Currently Under Review or Withdrawn and not yet Refiled
Significance of Final Rule Effective Date of August 8, 2022

- Starting August 8, 2022, eligible plans will no longer be able to submit initial OR revised applications that do not conform to the requirements of the Final Rule
  - PBGC will begin accepting supplemented applications on this date

- Plans seeking to submit initial application must be otherwise eligible to apply with respect to applicable priority group categories
Significance of Final Rule Effective Date of August 8, 2022 (cont’d)

- Conditions with respect to (a) permissible investments and (b) the requirement to phase-in recognition of SFA funds for withdrawal liability purposes, do not automatically apply to a plan when the Final Rule becomes effective on August 8, 2022.

- A plan must submit an application on or after August 8, 2022, for these two new conditions to apply to that plan, whether an initial, revised, or supplemented application.
• Plans with applications already submitted under the Interim Final Rule before August 8, 2022, will continue to be reviewed and may be approved under the terms of the Interim Final Rule

• Plans always have the option to withdraw an application filed but not yet approved or denied

• However, if an IFR application is withdrawn or denied and the revised application is submitted on or after August 8, 2022, that application must comply with the Final Rule
• Plans with Interim Final Rule applications currently under review have the option to withdraw and file a revised application under the Final Rule.

• A revised application filed under the Final Rule will likely result in receiving SFA somewhat later when compared to allowing the continuation of the ongoing review and possible approval of the Interim Final Rule application.

• Plans will have to consider various tradeoffs, such as:
  • Earliest the plan may receive SFA
  • When suspended benefits can be restored
  • Earliest the plan could implement the revised definition of permissible investments and the new condition on phase-in of SFA for withdrawal liability calculations.
Other Plans Currently Eligible to Apply
Some “open” Priority Group plans have not yet applied for SFA as of July 2022 under the Interim Final Rule.

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<table>
<thead>
<tr>
<th>Priority Group</th>
<th>Plan Descriptions</th>
<th>Target Date Plans May Apply for SFA*</th>
<th>Status</th>
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<tr>
<td>1</td>
<td>Already insolvent or projected to become insolvent before 3/11/2022</td>
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<td>2</td>
<td>Expected to be insolvent within one year of the date the plan's application is filed</td>
<td>12/27/2021</td>
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<td>Implemented MPRA benefit suspensions before 3/11/2021**</td>
<td>1/1/2022</td>
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<td>3</td>
<td>Greater than 350,000 participants</td>
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<td>Projected to become insolvent before 3/11/2023</td>
<td>7/1/2022</td>
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<td>5</td>
<td>Projected to become insolvent before 3/11/2026</td>
<td>2/11/2023</td>
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<td>6</td>
<td>Present value of financial assistance in excess of $1 billion</td>
<td>2/11/2023</td>
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*PBGC has 120 days to review an application. If capacity to process applications exceeds expectations, then the dates to accept applications may be accelerated.

**MPRA plans can restore benefits under 26 CFR 1.432(e)(9)-1(e)(3) at any time, including before applying for SFA.
Implications of Filing an Application for SFA
Before August 8, 2022

• Application should be prepared in accordance with the terms of the IFR

• If the application is approved, plan can file a supplemented application under the Final Rule

• If the application is withdrawn or denied, then the plan must file a revised application on or after August 8, 2022, under the terms of the Final Rule
• For Priority Group 1-4 plans that file an initial application **on or after** August 8, 2022:
  • Application should be prepared in accordance with the terms of the Final Rule
  • Precludes the need for a supplemented application

• Note: Filing on or after August 8, 2022, may result in receiving SFA somewhat later than filing prior to August 8, 2022
Implementation of Two Interest Rate Structure
Implementation of Two Interest Rate Structure

- SFA applications will need to develop cash flow models that project the SFA and non-SFA asset balances separately
  - Different interest rates apply to the two balances
  - All disbursements (benefit payments and administrative expenses) are assumed to be paid from the SFA balance until it is exhausted
  - All contributions and withdrawal liability payments are assumed to flow into the non-SFA balance

- Apply an iterative trial-and-error process to find the smallest amount of SFA that supports payment of all plan benefits and administrative expenses through 2051 with assets fully exhausted at the end of the SFA coverage period
Non-SFA Interest Rate Determination

• Lower of:
  • Plan’s interest rate used for funding standard account purposes as projected in its pre-2021 certification
  • Third segment rate (long-term corporate bonds) plus 200 basis points
    • For the month in which this rate is the lowest among the four months ending with the month in which plan’s initial SFA application was filed

• Limited to the rates available on the day before the initial application was filed

• In general, this will be the same interest rate used in the application approved under the terms of the IFR
SFA Interest Rate Determination

• Lower of:
  • Plan’s interest rate used for funding standard account purposes as projected in its pre-2021 certification
  • Average of the first, second, and third segment rates plus 67 basis points
    • For the month in which this rate is the lowest among the four months ending with the month in which plan’s initial SFA application was filed
  • Limited to the rates available on the day before the initial application was filed
Key assumptions:

- Initial application filed on January 15, 2022
- Application was approved under the terms of the IFR
- Requested SFA has been paid
- Plan’s funding rate is 7.00%

Relevant PPA segment rates are:

<table>
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<th>First Segment Rate</th>
<th>Second Segment Rate</th>
<th>Third Segment Rate</th>
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<td>January 2022*</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
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<td>December 2021</td>
<td>0.92%</td>
<td>2.62%</td>
<td>3.29%</td>
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<tr>
<td>November 2021</td>
<td>0.96%</td>
<td>2.64%</td>
<td>3.32%</td>
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<tr>
<td>October 2021</td>
<td>1.01%</td>
<td>2.65%</td>
<td>3.34%</td>
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*Note: Since the January segment rates were not published until January 22, they were not available the day before the initial application was filed and cannot be used in the determination of SFA.
Interest Rate Determination Under Final Rule – Example (cont’d)

**Non-SFA Rate**
Lesser of plan’s funding rate (7.00%) and third segment rate + 200 basis points

3.29% + 2.00% = 5.29%

**SFA Rate**
Lesser of plan’s funding rate (7.00%) and average of all three segment rates + 67 basis points

((0.92% + 2.62% + 3.29%)/3) + 0.67% = 2.95%

- December segment rates are used – smallest of the rates in month application was filed and three previous months
  - Rates must be published by the day before the application was submitted
### SFA Amount Determination Example

| SFA Measurement Date | Plan Year Start Date | Plan Year End Date | Contributions | Withdrawal Liability Payments | Other Payments to Plan (excluding financial assistance and SFA) | Benefit Payments (should match total from Sheet 4-A) | Make-up Payments: Amt Available to Reinstate of Benefit Suspended through the SFA Measurement Date | Administrative Expenses: (excluding interest owed) PBO, under CSI of LEFFA, should match total from Sheet 4-A | Benefit Payments (even) (4) and (5) and Administrative Expenses (even) Paid from SFA Assets | Benefit Payments (even) (4) and (5) and Administrative Expenses (even) Paid from SFA Assets of SFA | Benefit Payments (even) (4) and (5) and Administrative Expenses (even) Paid from SFA Assets of Non-SFA | Benefit Payments (even) (4) and (5) and Administrative Expenses (even) Paid from SFA Assets of SFA | Benefit Payments (even) (4) and (5) and Administrative Expenses (even) Paid from Non-SFA | Benefit Payments (even) (4) and (5) and Administrative Expenses (even) Paid from SFA Assets of Non-SFA | Benefit Payments (even) (4) and (5) and Administrative Expenses (even) Paid from SFA Assets of Non-SFA | Non-SFA Investment Income Based on SFA Interest Rate | Projected Non-SFA Assets at End of Plan Year (prior year assets + (7) + (10) + (13) + (16)) |
|---------------------|---------------------|-------------------|--------------|-------------------------------|-------------------------------------------------|--------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|
| 1/2/2021            | 1/30/2021           |                   | $0           | $0                            | $0                                              | $0                                               | $0                                              | $0                                              | $0                                              | $0                                              | $0                                              | $0                                              | $0                                              | $0                                              | $0                                              | $0                                              | $0                                              | $0                                              |
| 1/18/2022           | 1/31/2022           |                   | $398,516.90  | $31,175.00                    | $0                                              | $37,963.90                                      | $0                                              | $30,200.00                                      | $0                                              | $313,118.00                                    | $0                                              | $315,043.54                                    | $0                                              | $88,385.53                                      | $1,044,343.10                                  | $1,045,428.63                                  |
| 1/18/2023           | 1/31/2023           |                   | $414,147.25  | $31,175.00                    | $0                                              | $39,901.25                                      | $0                                              | $30,422.00                                      | $0                                              | $313,118.00                                    | $0                                              | $315,043.54                                    | $0                                              | $88,385.53                                      | $1,044,343.10                                  | $1,045,428.63                                  |
| 1/18/2024           | 1/31/2024           |                   | $414,475.00  | $31,175.00                    | $0                                              | $39,901.00                                      | $0                                              | $30,422.00                                      | $0                                              | $313,118.00                                    | $0                                              | $315,043.54                                    | $0                                              | $88,385.53                                      | $1,044,343.10                                  | $1,045,428.63                                  |
| 1/18/2025           | 1/31/2025           |                   | $419,796.90  | $31,175.00                    | $0                                              | $39,901.00                                      | $0                                              | $30,422.00                                      | $0                                              | $313,118.00                                    | $0                                              | $315,043.54                                    | $0                                              | $88,385.53                                      | $1,044,343.10                                  | $1,045,428.63                                  |
| 1/18/2026           | 1/31/2026           |                   | $429,017.00  | $31,175.00                    | $0                                              | $39,901.00                                      | $0                                              | $30,422.00                                      | $0                                              | $313,118.00                                    | $0                                              | $315,043.54                                    | $0                                              | $88,385.53                                      | $1,044,343.10                                  | $1,045,428.63                                  |
| 1/18/2027           | 1/31/2027           |                   | $439,237.00  | $31,175.00                    | $0                                              | $39,901.00                                      | $0                                              | $30,422.00                                      | $0                                              | $313,118.00                                    | $0                                              | $315,043.54                                    | $0                                              | $88,385.53                                      | $1,044,343.10                                  | $1,045,428.63                                  |
| 1/18/2028           | 1/31/2028           |                   | $449,457.00  | $31,175.00                    | $0                                              | $39,901.00                                      | $0                                              | $30,422.00                                      | $0                                              | $313,118.00                                    | $0                                              | $315,043.54                                    | $0                                              | $88,385.53                                      | $1,044,343.10                                  | $1,045,428.63                                  |
| 1/18/2029           | 1/31/2029           |                   | $459,677.00  | $31,175.00                    | $0                                              | $39,901.00                                      | $0                                              | $30,422.00                                      | $0                                              | $313,118.00                                    | $0                                              | $315,043.54                                    | $0                                              | $88,385.53                                      | $1,044,343.10                                  | $1,045,428.63                                  |
| 1/18/2030           | 1/31/2030           |                   | $469,897.00  | $31,175.00                    | $0                                              | $39,901.00                                      | $0                                              | $30,422.00                                      | $0                                              | $313,118.00                                    | $0                                              | $315,043.54                                    | $0                                              | $88,385.53                                      | $1,044,343.10                                  | $1,045,428.63                                  |
| 1/18/2031           | 1/31/2031           |                   | $480,117.00  | $31,175.00                    | $0                                              | $39,901.00                                      | $0                                              | $30,422.00                                      | $0                                              | $313,118.00                                    | $0                                              | $315,043.54                                    | $0                                              | $88,385.53                                      | $1,044,343.10                                  | $1,045,428.63                                  |

### Table Notes:
- Contributions: Amount contributed to the plan.
- Withdrawal Liability Payments: Amount paid out as a result of withdrawal liability.
- Other Payments to Plan: Payments other than contributions or withdrawal liability.
- Benefit Payments: Benefits paid out.
- Make-up Payments: Amount available to reinstate suspended benefits.
- Administrative Expenses: Administrative costs paid.
- Benefit Payments (even) and Administrative Expenses (even): Payments and expenses paid from SFA and Non-SFA assets.
- Benefit Payments (even) and Administrative Expenses (even) Paid from SFA Assets: Payments and expenses paid from SFA assets.
- Benefit Payments (even) and Administrative Expenses (even) Paid from Non-SFA Assets: Payments and expenses paid from Non-SFA assets.
- Non-SFA Investment Income Based on SFA Interest Rate: Estimated income from Non-SFA assets.
- Projected Non-SFA Assets at End of Plan Year: Estimated assets at the end of the plan year.

### Additional Notes:
- The calculations are based on a 1% interest rate for the SFA and Non-SFA assets.
- The plan year is from January 1 to December 31.
- Contributions are assumed to be equal to the plan's contributions.
- Withdrawal liability payments are assumed to be equal to the plan's withdrawal liability payments.
- Other payments are assumed to be zero.
- Benefit payments are calculated based on the plan's benefit payments.
- Make-up payments are calculated based on the plan's make-up payments.
- Administrative expenses are calculated based on the plan's administrative expenses.
- Benefit payments (even) and administrative expenses (even) paid from SFA and Non-SFA assets are calculated based on the plan's payments and expenses.
- Benefit payments (even) and administrative expenses (even) paid from SFA assets are calculated based on the plan's SFA assets.
- Benefit payments (even) and administrative expenses (even) paid from Non-SFA assets are calculated based on the plan's Non-SFA assets.
- Non-SFA investment income based on SFA interest rate is calculated based on the plan's income from Non-SFA assets.
- Projected non-SFA assets at end of plan year is calculated based on the plan's assets at the end of the plan year.
### SFA Amount Determination Example

<table>
<thead>
<tr>
<th>(7) Benefit Payments (from (4) and (5)) and Administrative Expenses (from (6)) Paid from SFA Assets</th>
<th>(8) SFA Investment Income Based on SFA Interest Rate</th>
<th>(9) Projected SFA Assets at End of Plan Year (prior year assets + (7) + (8))</th>
<th>(10) Benefit Payments (from (4) and (5)) and Administrative Expenses (from (6)) Paid from Non-SFA Assets</th>
<th>(11) Non-SFA Investment Income Based on Non-SFA Interest Rate</th>
<th>(12) Projected Non-SFA Assets at End of Plan Year (prior year assets + (1) + (2) + (3) + (10) + (11))</th>
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MPRA Plans
Three Methods of Determining SFA for MPRA Plans

- Amount of SFA payable to plans that implemented benefit suspensions under MPRA will be the greatest of three amounts:
  - **Basic Method**: SFA determined in the same manner as that used for non-MPRA plans
  - **Increasing Assets Method**: SFA determined such that as of the end of the SFA coverage period, the sum of projected SFA assets and projected non-SFA assets is greater than the amount of such sum as of the end of the immediately preceding plan year
  - **Present Value Method**: SFA equal to the present value of the MPRA benefit suspensions
The present value of MPRA benefit suspensions includes:

- Amount of retroactive benefit restoration determined as of the SFA measurement date without adjustment for interest

- Present value of benefit suspensions that would have occurred in the absence of ARP during the SFA coverage period (through 2051)
  - Calculated as of the SFA measurement date using a discount rate equal to the SFA interest rate
Restoration of Suspended Benefits (Back Payments) Under MPRA Plans – Reminders

• Must be initiated after the plan receives SFA and before three months after receipt of SFA

• Apply only to participants in pay status on the SFA effective date
  • Defined in IRS Notice 21-38 as the date SFA is actually paid

• For MPRA plans seeking to reinstate suspended benefits before receiving SFA, Treasury regulations include an exception to the MPRA prohibition on benefit improvements applicable to MPRA plans for restoration of benefit suspensions for participants in pay status (except for back payments)
Final Rule Resources

- PBGC.gov American Rescue Plan (ARP) Special Financial Assistance Program resource page: [American Rescue Plan (ARP) Special Financial Assistance Program | Pension Benefit Guaranty Corporation (pbgc.gov)](https://www.pbgc.gov); examples:
  - Final Rule
  - Fact Sheet
  - Press Release
  - Public Briefing Presentation and Recording
  - SFA Application Instructions, Templates, and Guidance
  - [Status of SFA Applications](https://www.pbgc.gov)

- Webinar Series targeting trustees and practitioners
  - Today – focus is plans currently eligible to apply; decisions before August 8, 2022
  - Next webinar (targeting late next week) – all eligible plans; overview of changes in the final rule, application process and expanded assumptions guidance

- Pre-filing consultations
  - Available by request
Questions?