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Regulatory Affairs Division  
Office of the General Counsel  
Pension Benefit Guaranty Corporation  
1200 K Street NW  
Washington, D.C. 20005-4026

**Re: United Steelworkers comments on Pension Benefit Guaranty Corporation Interim Final Rule “Special Financial Assistance by PBGC” (PBGC-2021-0003)**

To Whom It May Concern:

These comments are submitted on behalf of the 850,000 members of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (United Steelworkers or USW). We appreciate the opportunity to comment on the PBGC Interim Final Rule. The USW has responsibility for thirteen multi-employer pension plans covering over 260,000 workers. The majority of these thirteen multi-employer pension plans are considered “green zone” plans, including the 15th largest multi-employer plan in the country, the Steelworker Pension Trust.

The American Rescue Plan Act of 2021 (ARPA) provisions regarding multi-employer pension relief are a significant recognition that working people’s pensions have been impacted by the COVID-19 pandemic. It is important to note \$1.27 trillion has been allocated to fund loan and loan guarantee programs through Congressional actions, stemming the shock that COVID-19 had on the economy. These actions by Congress have funded an estimated \$3.92 trillion in loans and loan guarantees to businesses and individuals<sup>1</sup>, which is a helpful comparison when reflecting on the \$94 billion (\$0.094 trillion) estimated cost to preserve a pension system benefiting 10 million participants. The Special Financial Assistance (SFA) program is a welcome,

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<sup>1</sup> <https://datalab.usaspending.gov/federal-covid-funding/#section-tracking>

albeit small, relief when compared to corporate relief provided during a global pandemic with significantly less restrictions to use and function of those funds.

The union approaches the interim final rule with both recognition that pension funds will see significant relief, while urging PBGC to amend the interim final rule to better ensure the solvency of the multi-employer pension system.

The USW urges the PBGC to broadly interpret the section 4262(j)(1) of the Employee Retirement Income Security Act of 1974 (ERISA) as amended by ARPA to focus PBGC SFA funds to pensions in “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”.

The intent to ensure that plans which need assistance be funded until 2051 is quite explicit and the union is concerned that the interim final rule lays the groundwork for PBGC to falter in this obligation. Adjusting the interim final rule by reviewing comments and issuing a final rule would allow PBGC to adjust structures to meet Congressional intent and ensure long term solvency of plans and the PBGC multi-employer pension fund.

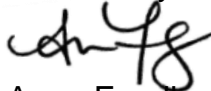
USW would encourage PBGC to adjust the interest rate assumption applicable to the calculation of the SFA amount to ensure maximum return and viability of taxpayer resources. Section 4262(j) of ERISA grants PBGC the ability to expand the scope of investment options past just investment-grade bonds. The text is quite clear, “Special financial assistance shall be invested by plans in investment-grade bonds **or other investments as permitted by the corporation**” (emphasis added).

The interim final rule issued by PBGC has limited the scope of investment options to investment grade bonds. This has created a significant underutilization of taxpayer resources toward the statutory goal of ensuring that eligible pension plans pay benefits through 2051. PBGC’s interim final rule requirement that SFA assets be invested in bonds yielding 2-3 percent versus permitting broader fund usage will mean a rate of return that is substantially lower than what could be expected with sound investment strategies in pensions. Adjusting the PBGC interim final rule to incorporate more diverse, but sound investment choices, which can create higher rates of return, will extend the life of SRA resources and have a broader economic return for the U.S. economy and taxpayers.

The union also encourages PBGC to review SFA rules that may increase the probability that employers will withdraw from plans that qualify for assistance. PBGC interpretation that SFA funds would be included as plan assets in the withdrawal liability calculation will create significant bargaining pressure on local unions as previous unfunded liability is decreased from SFA funds. Employers will have a significant incentive to terminate plans. SFA funds were designed to create stability for participants and employers, but should not be an excuse to diminish future workers' retirement security. PBGC should issue rules that limit the ability of SFA funds to allow for unnecessary plan termination by employers.

The USW urges PBGC to provide additional flexibility on investment of SFA assets and ensure that every effort is made to aid as many plans as possible. The multi-employer pension crisis was compounded by the COVID-19 pandemic, and workers across the country need a robust response from PBGC that takes a bold approach that is statutorily available to the agency. The union urges modifications to the interim final rule to accomplish those goals.

Sincerely,



Anna Fendley

Director of Regulatory and State Policy