

MULTIEMPLOYER PROGRAM DIVISION

ANNUAL STATEMENT OF COMPLIANCE FOR MULTIEMPLOYER PLANS THAT RECEIVE SPECIAL FINANCIAL ASSISTANCE

Multiemployer plans that have received special financial assistance (SFA) under section 4262 of the Employee Retirement Income Security Act of 1974 (ERISA) and PBGC’s SFA regulation (29 CFR part 4262) are required under § 4262.16(i) to submit a Statement of Compliance for each plan year through the last day of the last plan year ending in 2051. This form is due annually, no later than 90 days after the end of the plan year and addresses compliance during the previous plan year. The first submission is due no later than 90 days after the end of the plan year in which the SFA was paid to the plan under § 4262.12.

This form must be signed and dated by a trustee who is a current member of the board of trustees and authorized to sign on behalf of the board of trustees or by another authorized representative of the plan sponsor.

Part I. Plan information

_____	_____
Plan name	Name of filer

Role of filer	
_____	_____
Street address of filer	Email address of filer
_____	_____
City, State, Zip Code of filer	Telephone number of filer
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EIN	PN

Part II. Compliance

Plan year to which this Statement of Compliance applies: _____

Amount of SFA received by the plan, or, if later, amount of the plan’s remaining SFA and earnings thereon (hereinafter “SFA funds”) as of the plan’s last actuarial valuation date: _____

For any attached explanations of non-compliance in response to the questions below, include any corrective action taken by the plan.

A. The plan is required to comply with each of the following restrictions and conditions, as stated in section 4262(l) of ERISA and §§ 4262.13, .14, and .16 of PBGC’s SFA regulation.

- (1) Use of SFA funds (section 4262(l) of ERISA).

- a. The plan used the SFA funds only to pay benefits and administrative expenses (§ 4262.13(b)(1)).
- b. The plan segregated the SFA funds from other plan assets (§ 4262.13(b)(2)).
- c. The plan invested the SFA funds only in permissible investments (§ 4262.14).

Has the plan complied with the restrictions on the use of SFA funds listed in II.A.1 during the previous plan year?

Yes ____ No ____ (If no, attach an explanation of the non-compliance.)

- (2) Benefit increases (as described in section 4022A(b)(1) of ERISA without regard to the length of time the benefit or benefit increase has been in effect). The condition on benefit increases does not apply to the reinstatement of benefits that were suspended under sections 305(e)(9) or 4245(a) of ERISA (as provided under § 4262.15) or the restoration of benefits under 26 CFR 1.432(e)(9)-1(e)(3). (§ 4262.16(b)).

- a. The plan did not adopt an amendment providing a retrospective benefit or benefit increase attributable in whole or in part to service accrued or other events occurring before the adoption date of the amendment.
- b. If the plan adopted an amendment providing a prospective benefit or benefit increase, then the plan met both of the following conditions:
 - i. The plan actuary certified that employer contribution increases projected to be sufficient to pay for the benefit increase have been adopted or agreed to.
 - ii. Those increased contributions were not included in the determination of SFA.

Has the plan complied with the conditions relating to retrospective benefit improvements and prospective benefit increases listed in II.A.2 during the previous plan year?

Yes ____ No ____ (If no, attach an explanation of the non-compliance.)

Has the plan adopted an amendment providing a prospective benefit or benefit increase?

Yes ____ No ____ (If yes, attach the plan actuary's certification that employer contribution increases projected to be sufficient to pay for a benefit increase have been adopted or agreed to and a statement by the filer that the increased contributions were not included in determination of the SFA.)

- (3) Allocation of plan assets. The plan's assets, including SFA funds, were held in permissible investments, as described in § 4262.14 of PBGC's SFA regulation, sufficient to pay for at least 1 year (or until the date the plan is projected to become insolvent, if earlier) of projected benefit payments and administrative expenses. (§ 4262.16(c)).

Has the plan complied with the conditions relating to allocation of plan assets listed in II.A.3 during the previous plan year?

Yes ____ No ____ (If no, attach an explanation of the non-compliance.)

- (4) Contribution decreases. The contributions to the plan required for each contribution base unit are not less than, and the definition of the contribution base units used is not different from, those set forth in collective bargaining agreements or plan documents (including contribution increases to the end of the collective bargaining agreements) in effect on March 11, 2021. (§ 4262.16(d)).

Exceptions:

- The plan sponsor determined that the change lessens the risk of loss to plan participants and beneficiaries; and

- If the contribution reduction affects annual contributions over \$10 million and over 10 percent of all employer contributions, the plan submitted a request for PBGC approval.

Has the plan complied with the conditions relating to contribution decreases listed in II.A.4 during the previous plan year?

Yes ____ No ____ (If no, attach an explanation of the non-compliance.)
(If yes, and a contribution decrease occurred, attach an explanation of the plan sponsor's determination under the exception described above unless the plan requested PBGC approval.)

(5) Allocating contributions and other practices. (§ 4262.16(e) and (f)).

- a. An allocation of contributions or expenses did not decrease the proportion of income or increase the proportion of expenses allocated to the plan pursuant to a written or oral agreement or practice (other than a written agreement in existence on March 11, 2021, to the extent not subsequently amended or modified) under which the income or expenses are divided or to be divided between the plan and one or more other employee benefit plans.

Exceptions. This prohibition does not apply to a good faith allocation of:

- Contributions pursuant to a reciprocity agreement;
 - Costs of securing shared space, goods, or services, where such allocation does not constitute a prohibited transaction under ERISA or is exempted from such prohibited transaction provisions pursuant to section 408(b)(2) or 408(c)(2) of ERISA, or pursuant to a specific prohibited transaction exemption issued by the Department of Labor under section 408(a) of ERISA;
 - The actual cost of services provided to the plan by an unrelated third party; or
 - Contributions where the contributions to the plan required for each contribution base unit are not reduced, unless permitted under II.A.4 above.
- b. The plan did not engage in a transfer of assets or liabilities (including a spinoff) or merger except with PBGC's approval.

Has the plan complied with the conditions relating to allocating contributions and other practices listed in II.A.5 during the previous plan year?

Yes ____ No ____ (If no, attach an explanation of the non-compliance.)

(6) Withdrawal liability. (§ 4262.16(g) and (h)).

- a. The plan used the interest assumptions under § 4281.13(a) of PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal to determine withdrawal liability for withdrawals during the previous plan year if that plan year began after the plan year in which the plan receives payment of SFA and did not begin after the later of 10 years after the end of the plan year in which the plan receives payment of SFA, or the last day of the plan year in which the plan no longer holds any SFA funds in a segregated account as required by § 4262.13(b)(2).
- b. The plan did not, before receiving PBGC approval, make any settlement of withdrawal liability where the amount of the liability settled was more than \$50 million, calculated as the lesser of: (i) the allocation of unfunded vested benefits to the employer under section 4211 of ERISA; or (ii) the present value of withdrawal liability payments assessed for the employer discounted using the interest assumptions under § 4281.13(a) of PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal.

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Has the plan complied with the conditions relating to withdrawal liability listed in II.A.6 during the previous plan year?

Yes ____ No ____ (If no, attach an explanation of the non-compliance.)

B. Has there been any violation of any federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the SFA funds?

Yes ____ No ____ (If yes, attach an explanation of the violation.)

C. Did the plan suspend benefits under sections 305(e)(9) or 4245(a) of ERISA before receipt of SFA? (Section 4262(k) of ERISA and § 4262.15).

Yes ____ No ____ (If no, skip to Part III.)

(If yes, answer the following questions in this II.C for the previous plan year.)

(1) The plan must reinstate previously suspended benefits (under sections 305(e)(9) or 4245(a) of ERISA) effective as of the first month in which the SFA was paid to the plan in accordance with IRS Notice 2021-38.

Did the plan timely reinstate monthly benefits of participants and beneficiaries on the date SFA was paid to the plan?

Yes ____ No ____ (If no, attach an explanation of the non-compliance.)

Were the monthly benefits of participants and beneficiaries who entered pay status during the previous plan year based on their reinstated benefits?

Yes ____ No ____ N/A ____ (If no, attach an explanation of the non-compliance.)

(2) The plan must pay make-up payments in the amount of previously suspended benefits (under section 305(e)(9) or section 4245(a) of ERISA) to any participants and beneficiaries who are in pay status as of the date that SFA is paid in accordance with IRS Notice 2021-38. The make-up payments must be paid either in the form of a lump sum or in the form of equal monthly installments over a period of 5-years. Make-up payments must be paid or commence within 3 months of the date that SFA is paid.

Did the plan timely pay make-up payments in the form of a lump sum or equal monthly installments over a period of 5 years?

Lump sum: Yes ____ No ____ N/A ____ (If no, attach an explanation of the non-compliance.)

Equal installments: Yes ____ No ____ N/A ____ (If no, attach an explanation of the non-compliance.)

(3) Did the plan send timely notices of reinstatement to every participant and beneficiary as required by § 4262.15(c) and Addendum B – Instructions for Notice of Reinstatement?

Yes ____ No ____ N/A ____ (If no, attach an explanation of the non-compliance.)

Part III. Required documents

In addition to any documentation required under Part II, attach the following documents to this form:

- Most recent audited financial statements of the plan;
- Account statements (demonstrating segregation of SFA funds from other assets);
- Restatement of the plan document (if applicable) and all plan amendments adopted within the past plan year (if any);

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- Most recent investment/custodian account statement(s) showing all remaining SFA assets and the investments in which they are held; and
- Most recent actuarial valuation report.

Part IV. Certification

The Statement of Compliance must be signed and dated by a trustee who is a current member of the board of trustees and authorized to sign on behalf of the board of trustees, or by another authorized representative of the plan sponsor.

Under penalties of perjury under the laws of the United States of America, I declare that I have examined this Statement of Compliance, including accompanying documents, and, to the best of my knowledge and belief, the Statement of Compliance contains all the relevant facts relating to the Statement of Compliance, and such facts are true, correct, and complete.

Signed

Date

Printed name of signatory

Title

PAPERWORK REDUCTION ACT NOTICE

This section provides information on the time and cost estimates for preparing and filing the Annual Statement of Compliance and required information. If you have any comments concerning the accuracy of these estimates or suggestions for making it simpler to submit the information, please send your comments to the Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street, N.W., Washington, D.C. 20005-4026.

Information filed with PBGC under these requirements is confidential to the extent provided in the Freedom of Information Act and the Privacy Act. If PBGC receives a request for confidential information, it will notify the submitter of the records, and afford them a reasonable period of time to object to the disclosure, pursuant to PBGC procedures and as required under Executive Order 12600. If PBGC decides not to sustain a submitter's objection in any request, it will provide the submitter with a written statement explaining why it has determined to disclose within a reasonable number of days before a specified disclosure date.

This information collection is necessary for PBGC to properly administer the SFA program. PBGC uses the information it receives in a plan's Annual Statement of Compliance to ensure that the plan is compliant with the restrictions and conditions imposed on the plan under section 4262 of ERISA and 29 CFR part 4262.

PBGC estimates an average per plan hour burden of 2 hours of fund office time and an average cost burden of \$2,400 in contractor costs for work done by attorneys. These are estimates and the actual time and cost per plan will vary depending on the circumstances of a given filing and the size of the plan.

This collection of information has been approved by the Office of Management and Budget (OMB) under control number 1212-0074 (expires 01/31/2022). Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.