

July 6, 2022

Fact Sheet

Special Financial Assistance for Financially Troubled Multiemployer Plans Final Rule

The American Rescue Plan (ARP) Act of 2021 (P.L. 117-2) — a historic law passed by Congress and signed by President Biden on March 11, 2021 — established the Special Financial Assistance (SFA) Program for financially troubled multiemployer pension plans. The program provides funding assistance to severely underfunded multiemployer pension plans and will ensure that millions of America’s workers, retirees, and their families receive the pension benefits they earned through many years of hard work. The Pension Benefit Guaranty Corporation (PBGC) published a [final rule](#) implementing changes to the program. The changes are responsive to public comments received on its interim final rule and will better protect the pensions earned by workers and retirees covered by multiemployer plans eligible for assistance.

Background

The SFA Program addresses the immediate financial crisis threatening the retirement security of millions of America’s workers, retirees, and their families. The program will provide an estimated \$74 to \$91 billion in assistance to enable eligible multiemployer plans to pay retirement benefits without reduction for many years into the future. The overall cost of the SFA Program is uncertain at this time because the amount of SFA each plan will receive is calculated at the time the plan applies to PBGC, based on plan projections and economic conditions at the time of application.

Enactment of the program also addresses the solvency of PBGC’s Multiemployer Pension Insurance Program, which, before enactment of ARP, was projected to become insolvent in 2026.

The SFA Program requires plans to demonstrate eligibility for SFA and to calculate the amount of assistance pursuant to ARP and PBGC’s regulations. SFA funds and associated earnings are limited in how they can be invested and must be segregated from other plan assets. Plans are not obligated to repay SFA funds to PBGC. Plans receiving SFA are also subject to certain terms, conditions and reporting requirements, including an annual statement documenting compliance with the terms and conditions. PBGC is authorized to conduct periodic audits of multiemployer plans that receive SFA.

PBGC launched the SFA Program under an interim final rule published in July 2021 and received over 100 public comments. Those comments are available on [PBGC’s website](#).

Overview of the Final Rule

The final rule makes changes to the methodology plans used to calculate the amount of SFA, the restrictions on investments of SFA funds, the conditions imposed on plans that receive SFA, and several aspects to the application process. Taken together, these changes enhance plans' ability to project that they will be able to pay benefits through 2051.

The final rule makes the following changes to investment restrictions and the calculation of the amount of SFA:

- Allows plans to invest up to 33 percent of their SFA funds in return-seeking investments (e.g., publicly traded common stock and equity funds that invest primarily in public shares); with the remaining 67 percent restricted to high-quality (investment grade) fixed income investments.
- Modifies the SFA calculation method to provide two separate interest assumptions, one for calculating expected investment returns on the plan's non-SFA assets, and a separate rate for calculating investment returns expected to be earned on the plan's SFA assets.

This change aligns the interest rates used to calculate SFA with reasonable expectations of future investment returns on plans' SFA assets, addressing the interest rate mismatch issue identified in public comments. The new, separate interest rate assumption for SFA assets is the lower of (1) the interest rate used by the plan in its most recently completed certification of plan status before January 1, 2021, and (2) the average of the three segment rates (24-month average) determined under section 430(h)(2) of the Internal Revenue Code, plus 67 basis points.

- Provides a different methodology for the calculation of SFA for plans that implemented benefit suspensions under the Multiemployer Pension Reform Act of 2014 (MPRA). For these plans, the SFA amount is the greatest of the following amounts:
 - the SFA-amount for non-MPRA plans.
 - the present value of reinstated benefits, accounting for both make-up payments for previously suspended benefits, as well as payments of the reinstated portion of the benefits expected to be paid through 2051 (valued using the SFA interest rate).
 - the amount needed for the plan to project increasing assets in 2051.

The final rule makes changes to several conditions on plans that receive SFA:

- *Benefit Increases:* Retroactive and prospective benefit improvements are permitted after 10 years with PBGC approval, if the plan can demonstrate it will avoid insolvency. The interim final rule had only permitted prospective benefit improvements where contribution increases were sufficient to pay for the benefit increase.

- *Plan Mergers*: Clarifies which conditions apply and how they apply after a merger of an SFA plan with a non-SFA plan. The change removes certain conditions and allows for waiver of certain conditions to encourage beneficial plan mergers.
- *Allocation of Contributions Across Different Types of Plans*: After five years and with PBGC approval, SFA plans may temporarily reallocate up to 10 percent of the amount of the contribution rate going to the pension plan to a health plan if the plan can demonstrate that the reallocation is needed to address an increase in healthcare costs required by a change in federal law and that the reallocation does not increase the risk of insolvency for the pension plan.
- *Withdrawal Liability*: The final rule retains mandated use of specified interest rates (ERISA 4044 annuity rates) to determine unfunded liabilities in computing an employer's withdrawal liability. This requirement applies for the later of 10 years or the projected SFA payout period, rather than actual depletion of SFA assets. Also, in determining underfunding for withdrawal liability purposes, the final rule adds a requirement that plans phase-in recognition of SFA assets over the projected SFA payout period. The condition helps to ensure that SFA funds do not subsidize employer withdrawals from participation in SFA plans. The final rule includes a 30-day request for additional public comments related to the phase-in withdrawal liability condition.

PBGC also adopted changes that address comments received on the application process:

- The final rule provides a mechanism for plans to set their SFA measurement date so that assumptions and data can be set in advance of submitting the application. The change facilitates plans' SFA calculations and the preparation of SFA application materials and eliminates the need to rework applications due to changes in the timing of an application submission.
- The final rule changes the SFA measurement date to ease data availability and timing conflicts for plans. Rather than the last day of the preceding calendar quarter, the final rule specifies the SFA measurement date is the last day of the third calendar month preceding the application date. For example, where the application date is July 15, the SFA measurement date is April 30.

Generally, the provisions of the final rule apply to new applications and are available to plans that previously submitted SFA applications under the interim rule if the plan submits a revised or supplemented application under the final rule.

Plans not approved for SFA under the interim final rule can withdraw and revise their applications under the terms of the final rule (certain data must remain the same, which is laid out in the rule and instructions). If denied, plans may also revise their application. The final rule describes how plans that filed applications under the interim final rule may supplement or revise their applications.

Impact of the Final Rule

The changes in the final rule put eligible, severely underfunded multiemployer plans on a stronger financial footing. The changes:

- Improve plans' ability to project paying benefits without reduction through 2051 (however, long-run outcomes will depend on each plan's actual investment returns and other plan experience).
- Address the potential conflict for MPRA plans under the interim final rule.
- Facilitate the SFA application process for plans applying after the initial application priority period.

About PBGC

PBGC protects the retirement security of over 33 million American workers, retirees, and beneficiaries in both single-employer and multiemployer private sector pension plans. The agency's two insurance programs are legally separate and operationally and financially independent. PBGC is directly responsible for the benefits of more than 1.5 million participants and beneficiaries in failed pension plans. The Single-Employer Insurance Program is financed by insurance premiums, investment income, and assets and recoveries from failed single-employer plans. The Multiemployer Insurance Program is financed by insurance premiums. Special financial assistance for financially troubled multiemployer plans is financed by general taxpayer money.

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