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Regulatory Affairs Division  
Office of the General Counsel  
Pension Benefit Guaranty Corporation  
1200 K Street, NW  
Washington, DC 20005-4026  
Via email - [reg.comments@pbgc.gov](mailto:reg.comments@pbgc.gov)

RE: Pension Benefit Guaranty Corporation  
Special Financial Assistance by PBGC  
Regulation Identifier number – 1212-AB53  
Interim Final Rule

Dear PBGC:

First Actuarial Consulting, Inc (FACT) is a NY based actuarial consulting firm specializing in multi-employer pension plans. We commend Congress and the PBGC on the work done to pass the American Rescue Plan Act of 2021 (ARPA) and develop the Interim Final Rules (Rules) to guide us through the application process.

Our consultants have worked with multi-employer plans in all sectors and are well aware of the needs of many plans to get financial assistance as well as the hardships faced by many in trying to take corrective action so they would not need this type of financial assistance.

In reading through the Rules and preparing a submission for one of our funds that fall into the first priority category we came up with a few questions which we hope you will address in further guidance as you review all the comments you receive.

**Interest Rate and Investment Assumption**

Is the minimum interest rate under 4262.4 considered to be net or gross of administrative and investment-related expenses and professional fees?

If the plan is already insolvent and receiving financial assistance from the PBGC we would not have an investment expense assumption as we would have no assets invested. Is the addition of an investment expense considered a change to the current assumptions?



### **PBGC Loan Repayment**

How do we get the current loan balance for financial assistance already received by the plan? is this a number you will provide to us or will you just add this to the number we develop for the amount of special financial assistance needed?

### **PBGC Limitations on Investment of SFA funds**

In developing the amount of SFA the plan is required to use a discount rate no higher than the 3<sup>rd</sup> segment rate plus 200 bps. The 3<sup>rd</sup> segment rate is determined by averaging the rates on the IRS yield curve for years 20 – 60 but our investment horizon is years 0 – 30. This is a significant mismatch even before we consider the 200 bps added to the 3<sup>rd</sup> segment rate. While we understand that this mismatch was created by Congress we are trying to determine if there is a way we can try to close the gap at least somewhat.

We performed some analysis of a fund that has no current assets so all the money they have will be SFA funding they receive. This will be required to be invested in fixed income securities at the shorter end of the yield curve. Our analysis shows that they will struggle to pay benefits through 2038 based on this mismatch of rates and how little interest is currently provided in the early years.

Will the PBGC consider something like the following investment policy related to SFA funding? The numbers in this table are just to give an example of what can be done to try and close the gap but we would note that many plans will become insolvent by 2045.

Years	Fixed Income %	Equity %
0 – 5	100	0
5 – 10	90	10
10 – 15	75	25
15 – 20	50	50
20 – 25	25	75
25 – 30	0	100

The table above assumes all fixed income investments are utilizing an LDI approach to match the expected future benefit payments as best they can.

### **Plans in Priority Category 2 that Implemented MPRA Benefit Suspension**

For plans that implemented MPRA benefit suspensions, they were arranged such that if all actuarial assumptions were met in the future, the Plans would remain solvent indefinitely. If these plans now file for SFA and if all actuarial assumptions are met, the Plan may be projected to become insolvent by 2052. This puts the Trustees of these plans in a difficult position, particularly if the mismatch of assets discussed above pushes the plans into insolvency in the 2040s. Since the plan is forced to invest the SFA



funds in a manner that is guaranteed to fall well short of the discount rate, many plans will be projected to go insolvent well before some of the current participants are expected to retire. This may lead these plans to decline applying for the SFA, which would be going against the spirit of the law. It would be better if these plans could apply for the SFA while keeping the suspensions in place and pay out all suspended benefits with the SFA funds for as long as they last. Is there a creative way for these funds to apply for the SFA as the law was intended, while still protecting the plans from going insolvent in the next 30 to 40 years?

We welcome the opportunity to discuss the information in this document with you further.

Regards,

First Actuarial Consulting, Inc.