

# Multiemployer Alert

Update on Issues Affecting Taft-Hartley Plans

JULY 2022

## PBGC issues final rule on special financial assistance program under the American Rescue Plan Act of 2021

On July 6, 2022, the Pension Benefit Guaranty Corporation (PBGC) issued the [final rule](#) regarding the special financial assistance (SFA) program established under the American Rescue Plan Act of 2021 (ARP).

Eligible plans may apply to receive a one-time cash payment in the amount required for the plan to pay projected benefit payments and administrative expenses through the plan year ending in 2051.

The PBGC issued [an interim final rule](#) on July 9, 2021, which provided direction on the application requirements, identified which plans have priority, and established conditions and restrictions that apply to plans that receive the assistance.

The final rule modifies the interest rate assumption used to calculate the SFA, allows up to 33% of the SFA to be invested in return-seeking investments, and adjusts the SFA methodology for plans with approved Multiemployer Pension Reform Act of 2014 (MPRA) suspensions to ensure their assets are increasing in 2051. Changes were also made to the conditions imposed on plans that receive SFA, including permitting benefit increases after 10 years with PBGC approval, clarifying the conditions that apply following a merger between an SFA plan and non-SFA plan, and adjustments to the calculation of withdrawal liability. Plans that previously submitted applications under the interim final rule may submit a revised application under the final rule. The final rule is effective August 8, 2022.

Plans are eligible for the SFA program if they meet any one of the following four eligibility criteria:

1. Plans in critical and declining status in any plan year beginning in 2020 through 2022
2. Plans with an approved suspension of benefits under MPRA
3. Plans in critical status in any plan year beginning in 2020 through 2022, with a current liability funded percentage below 40%, and which have an active to inactive participant ratio of less than 2 to 3
4. Plans that became insolvent after December 16, 2014, and have not been terminated as of March 11, 2021

To date, 40 plans have applied to the PBGC for \$43.6 billion in SFA. Twenty-seven applications have been approved for \$6.7 billion in assistance, and 13 are in review. The PBGC estimates that approximately 200 critical and critical and declining plans will be eligible for SFA and the program will provide \$74 billion to \$91 billion in assistance.

Watch for a [Multiemployer Review](#) and invitation to a [complimentary webinar](#) summarizing the new guidance.

In the meantime, for more information on whether the SFA may affect your plan, please contact your Milliman consultant.