American Rescue Plan Act of 2021

Multiemployer Plan Impact

Presented by: Ladd Preppernau, Sean Silva, Tim Connor & Grant Camp

MARCH 22, 2021

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Today's agenda

- Impact to multiemployer health and welfare plans
  - Federal COBRA subsidy
- Impact to multiemployer pension plans
  - Non-financial assistance provisions
  - Financial assistance provisions
- Questions

Impact to multiemployer health and welfare plans

Timeline of legislative changes

Multiemployer health and welfare plans

2020

March 6
Coronavirus Preparedness and Response Supplemental Appropriations Act of 2020

March 18
FFCRA

March 27
CARES Act

April 28
COBRA Deadline suspension guidance

November 12
Final Rule on Transparency in Coverage

December 27
Consolidated Appropriations Act, 2021

2021

February 26
COBRA Deadline suspension additional guidance

March 11
American Rescue Plan Act of 2021

Federal COBRA subsidy

- Federal government will subsidize COBRA **premiums** at 100% for **assistance eligible individuals**
  - Qualified beneficiaries who lose coverage due to an involuntary termination or reduction in hours
  - Must elect such COBRA coverage within 60 days of being notified of COBRA eligibility

- COBRA election period extended for individuals who would have been eligible for the federal subsidy **but did not elect or discontinued COBRA coverage prior to April 1, 2021**
  - If election is made, COBRA coverage begins April 1, 2021
  - There is no subsidy for COBRA coverage prior to April 1, 2021

- Subsidy period: April 1, 2021 through September 30, 2021
  - Does not extend beyond when COBRA coverage would normally end (e.g., 18 months)

Notice requirements

Plan Sponsors

- For participants who experience loss of coverage in a COBRA-qualifying event **prior to** April 1, 2021 and qualify for the election period extension, plan sponsors must provide notice of eligibility for COBRA coverage within 60 days of April 1, 2021
- For participants who experience loss of coverage in a COBRA-qualifying event **after** April 1, 2021, plan sponsors have 30 days to provide notice of eligibility for COBRA coverage, similar to normal notification period
- Must provide notice to COBRA participants that eligibility for the federal COBRA subsidy will end no sooner than 45 days and no later than 15 days prior to the end of eligibility for the subsidy

→ e.g., provide notice between August 16th and September 15th that that subsidy will end on September 30th

Participants

- Must provide notification to the plan sponsor if they become ineligible for the subsidy by becoming eligible for coverage under another group health plan or Medicare

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Claiming the subsidy

- Refundable tax credit against payroll taxes
- If a plan sponsor does not have a payroll tax liability, it can still claim the subsidy
- Additional guidance expected from Department of Treasury and Internal Revenue Service

Considerations for plan sponsors

- Must perform a lookback and notify participants who experienced a loss in coverage due to an involuntary COBRA-qualifying event prior to April 1, 2021
  - Back to November 2019

- Must comply with notice requirements
  - Federal government must issue model notices on or before April 10, 2021 that plan sponsors may use to comply

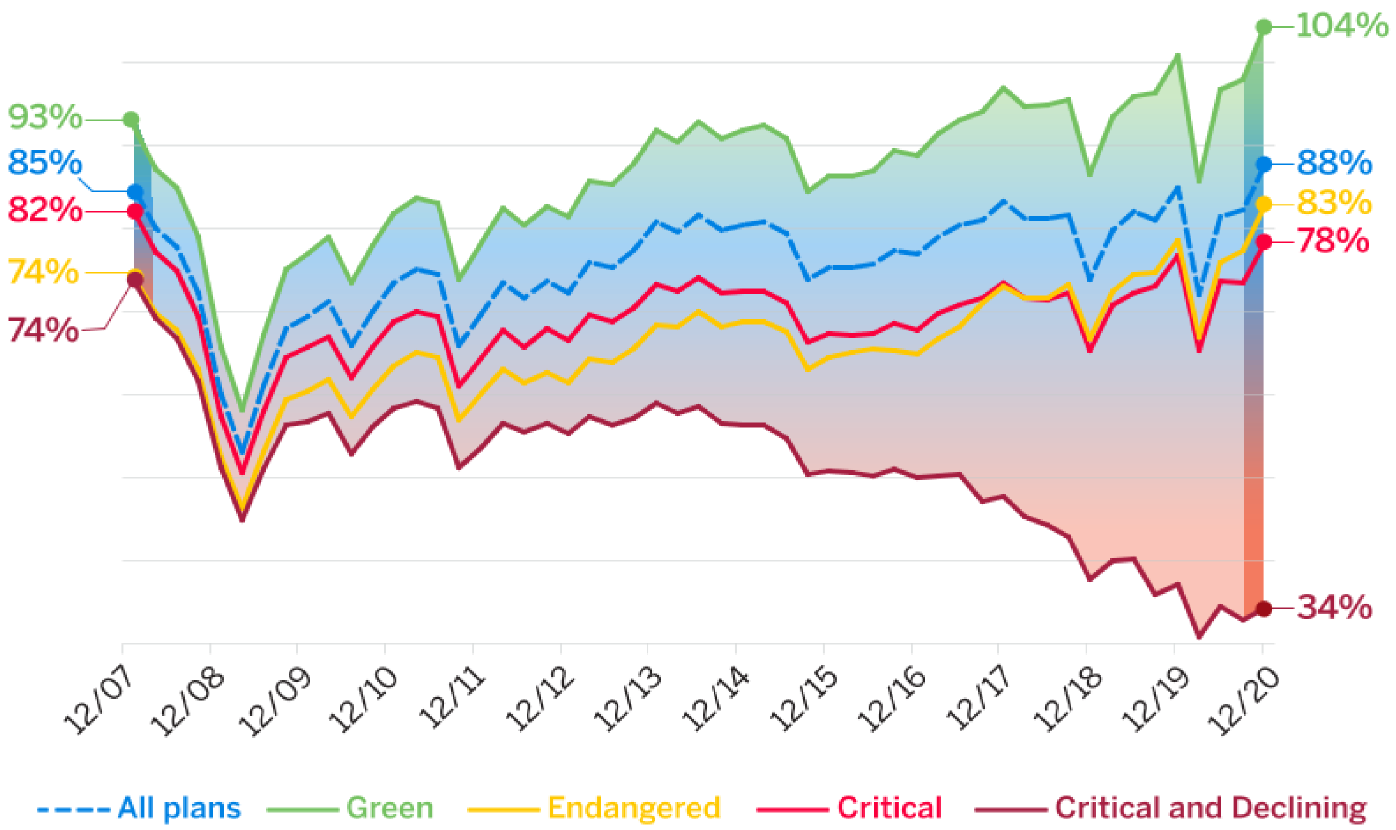
- If a plan sponsor offers more than one health plan option, it should decide whether it wants to allow a participant to elect COBRA coverage under a different plan than they were originally enrolled
  - As long as the different plan option selected is less expensive than their original plan

Impact to multiemployer pension plans

Background

Milliman Multiemployer Pension Funding Study – December 2020

FIGURE 4: AGGREGATE HISTORICAL FUNDED PERCENTAGE BY ZONE STATUS



- Nearly 50% of plans are 100% funded
- Nearly 80% are 80% funded

- 10% are less than 60% funded

- For the 124 Critical and Declining plans:

  $105 billion liability

  $36 billion in assets

  $69 billion shortfall

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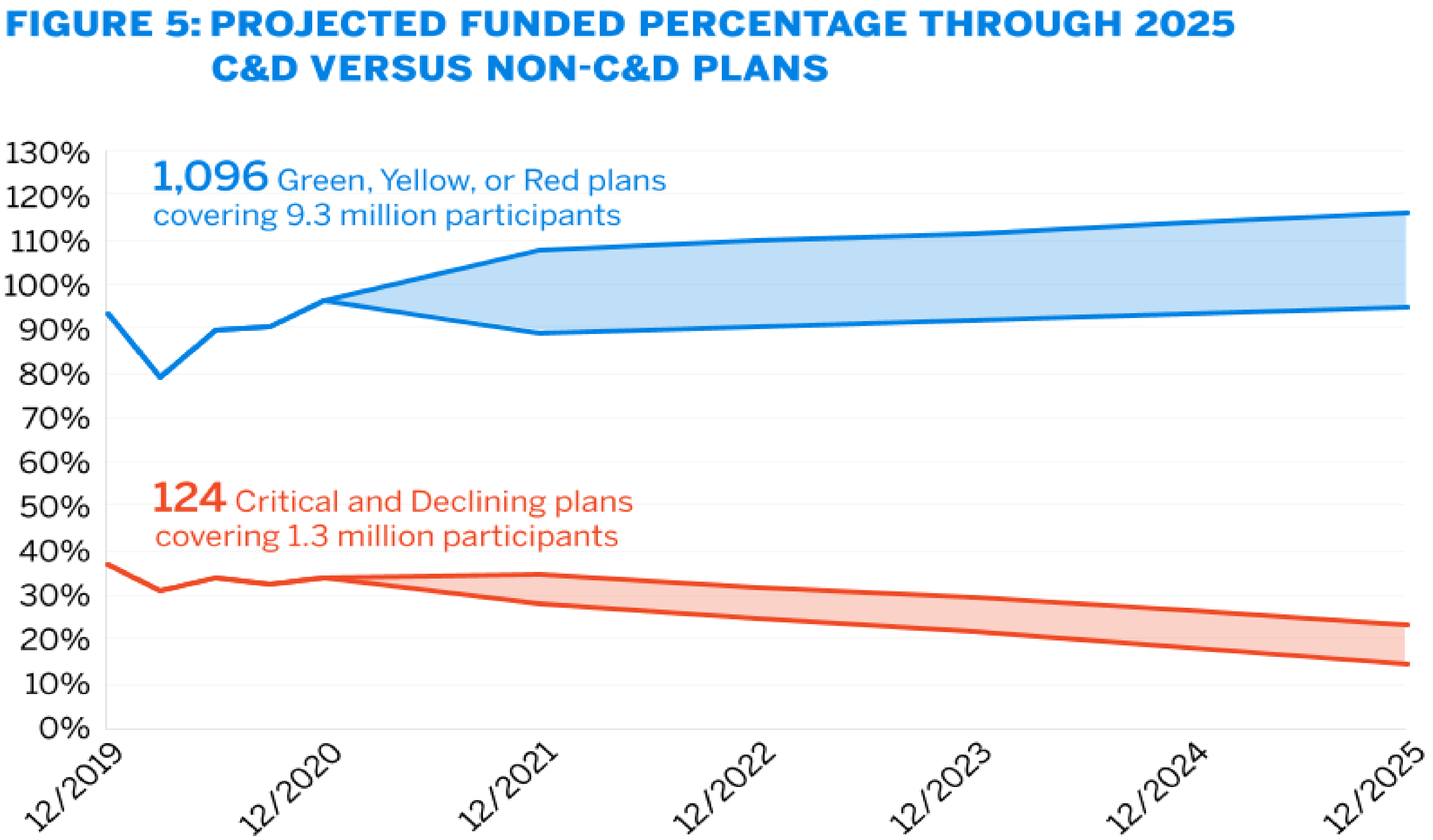
Background

Milliman Multiemployer Pension Funding Study – December 2020



- This graph shows the effect of a +/-10% investment return above/below expectations
- After earning 10% less than expected, Non-C&D plans still show improvement over time
- After earning 10% above expectations, C&D plans continue on their downward path

Freeze of PPA Zone Status

Relief Provision

- One-time optional election to stay in the same zone as the prior year
- Available for first or second plan year starting on or after March 1, 2020
- Participant notice required if elect to remain in Green zone

Plan Impact

- Allows plans time to recover from low measurement point in early 2020
- Defer update to funding improvement or rehabilitation plans
- Could be used to remain Yellow or Red and delay emerging

5-year extension of improvement period

Relief Provision

- Yellow and Red zone plans in 2020 or 2021 can extend the funding improvement or rehabilitation period by five years

Plan Impact

- Gives plans more time to satisfy the funding improvement and rehabilitation plan requirements

Longer amortization of experience losses due to COVID-19

Relief Provision

- Experience losses related to COVID-19 can be amortized over 29 years rather than 15
- Experience losses include investment losses, reductions in contributions and/or employment, and deviations from assumed retirement rates.
- Regulations may clarify how to measure experience losses related to COVID-19

Plan Impact

- May help plans avoid Yellow or Red zone status
- May help plans make scheduled progress on funding improvement and/or rehabilitation plan
- Restrictions on benefit improvements if this relief is elected
- Plans receiving financial assistance can't utilize this relief as well

Asset smoothing options

Relief Provision

- Smooth asset losses over up to 10 years in the actuarial value of assets, and/or
- Widen the asset corridor to 130% from 120% for two plan years
- Provisions can be combined or elected separately

Plan Impact

- May help plans avoid Yellow or Red zone status
- May help plans make scheduled progress on funding improvement and/or rehabilitation plan
- Restrictions on benefit improvements if this relief is elected
- Plans receiving financial assistance can't utilize this relief as well

Special Financial Assistance

Relief Provision

- One-time cash payment to eligible plans
- Financial assistance does not need to be paid back
- Financial assistance must be segregated from other plan assets and invested in investment-grade bonds or other investments permitted by the PBGC

Eligible Plans

1. Critical and Declining in any plan year 2020 through 2022
2. Approved suspension of benefits under MPRA
3. Critical status in any plan year 2020 through 2022 **&** current liability funded percentage <40% **&** active to inactive participant ratio of < 2/3
4. Insolvent plans that became insolvent after 12/16/2014 and have not yet terminated

Special Financial Assistance

Determining Eligibility

- Generally based on assumptions used for 2020 certification
- Cannot change interest rate assumption
- Can change other assumptions if 2020 certification assumptions are no longer reasonable, unless corporation determines changes are unreasonable

Conditions

- “Reasonable conditions” may be imposed by PBGC on plans receiving assistance
- Plans receiving special assistance cannot subsequently apply for MPRA suspensions
- Deemed to be in Critical status through 2051

Special Financial Assistance

Determining amount of assistance

- Interest rate is lesser of:
  - Interest rate used in 2020 certification, or
  - Third segment rate (in month of application or three preceding months) plus 2%

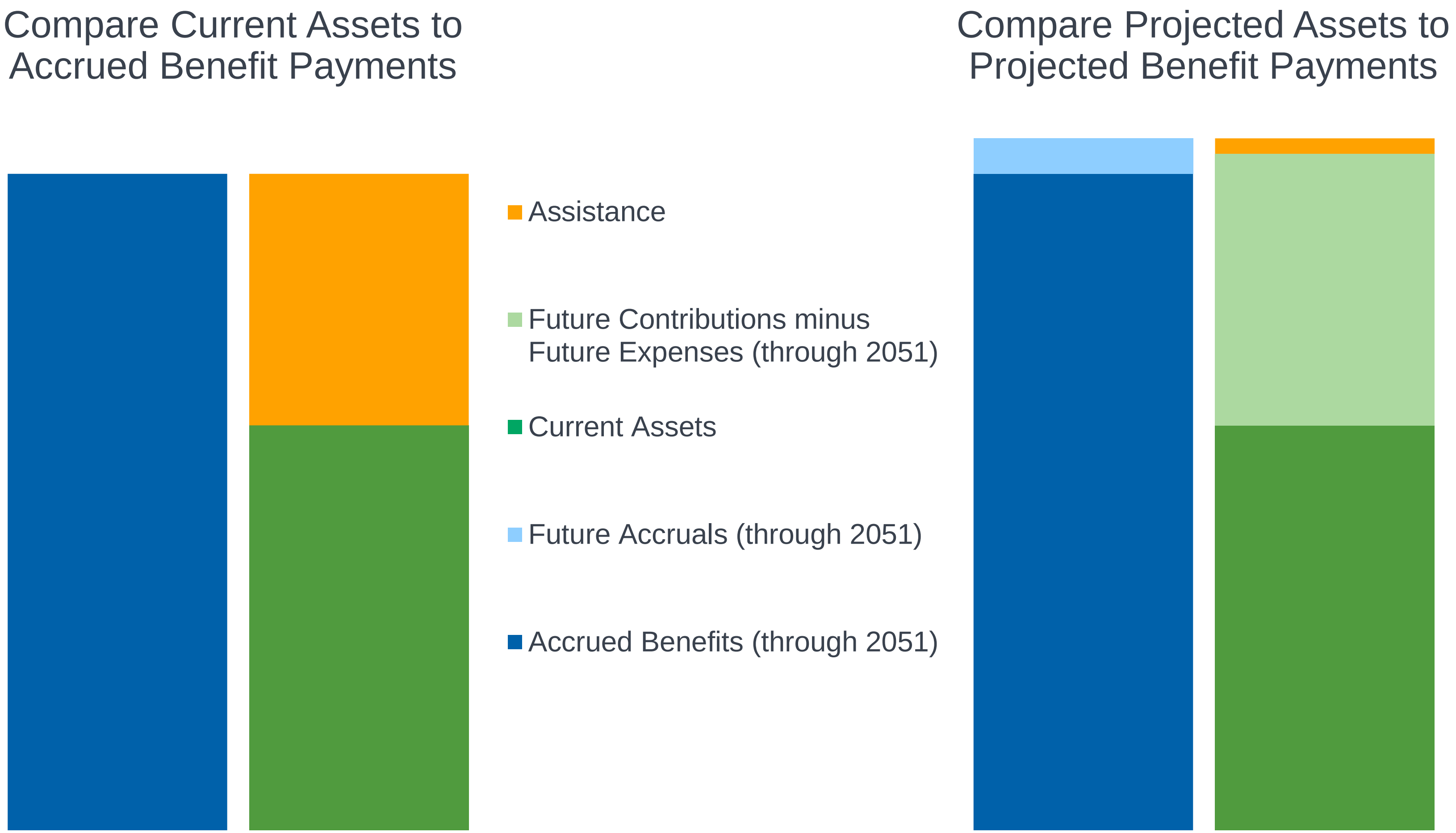
- Other assumptions: assumptions from 2020 certification unless unreasonable
  - Changes require explanation of why assumption is no longer reasonable
  - Corporation "shall accept" unless it determines the "changes are unreasonable"

- Amount of assistance:

  *"the **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**"*

Special Financial Assistance

Example of eligible plan with “late” projected insolvency



Special Financial Assistance

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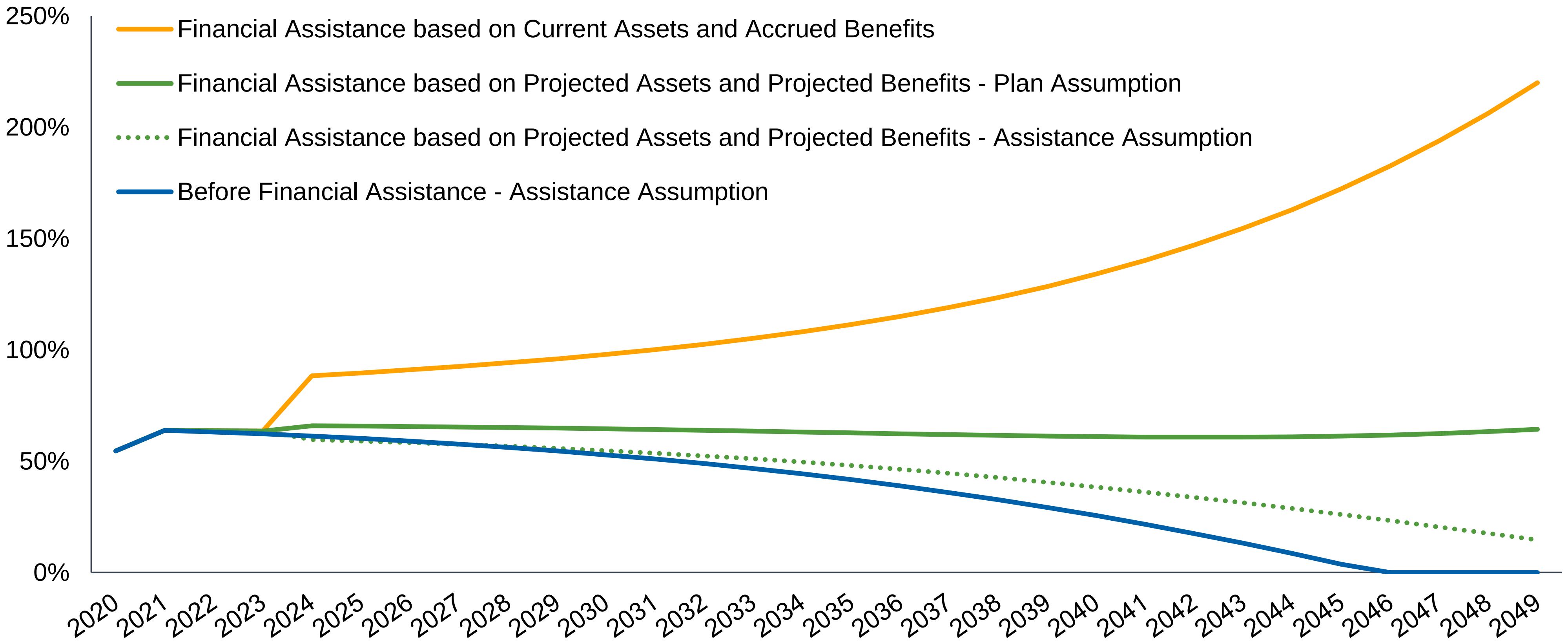

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Special Financial Assistance

Impact on Withdrawal Liability Calculations:

Initial House version of the Bill

- Excluded the financial assistance from unfunded vested liability calculations for 15 years
- Conceptually similar to exclusion of the impact of Adjustable Benefit removals

Final version of the law

- Senate removed the exclusion language
- Essentially left it to PBGC to issue any special rules regarding assistance received

Questions

Thank you

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