

Special Financial Assistance Program for Financially Troubled Multiemployer Plans (Section 9704 of ARP)



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Introduction



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- The American Rescue Plan (ARP) Act of 2021 is historic legislation.
- The Special Financial Assistance (SFA) Program included in the law addresses the immediate financial crisis threatening the retirement security of over three million American workers, retirees, and their families.
- Additionally, it assists plans by providing funds to reinstate suspended benefits and addresses the solvency of PBGC's Multiemployer Insurance Program, which was projected to become insolvent in 2026.
- PBGC's interim final rule implements the program and establishes conditions to keep multiemployer plans sustainable long into the future.

Special Financial Assistance (SFA) Expected Reach

The American Rescue Plan (ARP) Act creates special financial assistance to enhance retirement security for millions of Americans.



Estimates cover all eligible groups of plans and are consistent with CBO's estimates.



**Special Financial Assistance by PBGC
(interim final rule)**

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Special Financial Assistance Program

Provides financially troubled multiemployer plans with SFA payments under new Section 4262 of ERISA.

Funded by Treasury general revenue transfers to PBGC, not PBGC premiums.

Allows applications for SFA through 12/31/2025 (or through 12/31/2026 for revised applications).

Plans that receive SFA are subject to certain conditions and restrictions.

Eligibility Criteria

- Critical and declining status in any plan year beginning in 2020 through 2022.
- A suspension of benefits that has been approved under the Multiemployer Pension Reform Act of 2014 (MPRA) as of 3/11/2021.
- Critical status with a low funding ratio (<40%) and a mature population (active-to-inactive ratio <67%) in any plan year beginning in 2020 through 2022 (doesn't have to be the same year for each requirement).
- Became insolvent after 12/16/2014 and has remained insolvent and has not terminated as of 3/11/2021.

Amount of Special Financial Assistance

- SFA is the amount required to pay all benefits due through 2051.
 - Assumptions mandated, but plans may change assumptions, other than interest rate, if baseline assumption is unreasonable.
 - SFA payment is the amount by which the value of all plan obligations exceeds the value of all plan resources, as of the plan's SFA measurement date, and limited to the period through the plan year ending in 2051:
 - Includes amounts to make up payments for participants with previous suspensions for MPRA plans (\$550 million) and eligible insolvent plans (\$150 million).
 - Includes repayment to PBGC of loans for regular financial assistance for insolvent plans.
- Paid as a single lump sum with no requirement for repayment.



Application and Review Process



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Application Timing and Review

- Under ARP, PBGC must process applications within 120 days.
- PBGC's goal, consistent with the statute, is an expeditious and thorough review of plan applications.
- The interim final rule facilitates expeditious reviews in several ways, including a mechanism to **prioritize the most impacted plans and participants first**.
 - For example, the highest priority is given to applications of plans that are already insolvent and those projected to become insolvent by March 11, 2022.
- Plans that apply later **are not harmed** because the amount of special financial assistance for all eligible plans, regardless of their application timing, is the amount required to enable the plan to pay all benefits due through 2051.

Six Priority Groups of Plans

Priority Group	Plan Descriptions	Application Period Begins*	Estimated Number of Plans
1	Already insolvent or projected to become insolvent before 3/11/2022	7/9/2021	25
2	Implemented MPRA benefit suspensions before 3/11/2021 or expected to be insolvent within one year of the date application was filed**	1/1/2022	18
3	Critical and declining status plans with greater than 350,000 participants	4/1/2022	1
4	Projected to become insolvent before 3/11/2023	7/1/2022	3
5	Projected to become insolvent before 3/11/2026	2/11/2023	22
6	Present value of financial assistance in excess of \$1 billion	2/11/2023	11

*Application dates for priority groups 2-6 may be earlier depending on volume, processing time, and capacity. The first SFA payments are expected to be made by 12/31/2021.

**MPRA plans can restore benefits under Treasury regulations before applying for and receiving SFA.

Note: Non-priority plans can apply beginning 3/11/2023.

The Application Process Is Very Customer-Focused

The goal is to process the largest number of expected applications within the 120 days mandated while avoiding both “floods” and “droughts.”

Applications submitted on PBGC e-filing portal

- Schedule for priority groups but may be accelerated.
- Priority groups 5 and 6 notified at least 21 days in advance (as specified on PBGC’s website).

Application process

- Filing window opens/closes based on capacity.
- Dedicated webpage for applications (includes status and expected timing).
- Emergency filings for MPRA plans and plans within one year of insolvency.

Review process

- Payment targeted for within 60 days after approval.
- Denials will be in writing and will specify reasons.
- Plans denied may file revised application with new 120-day period or withdraw.
- Revised applications may address only reasons for denial to streamline process.

Resources Available During the Application Process

WEBSITE



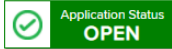
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American Rescue Plan (ARP) Special Financial Assistance Program

When the application period opens, PBGC will accept as many applications as the agency estimates it can process in 120 days. Once the number of applications reaches that level, the application period will temporarily close until PBGC has capacity to process more applications. PBGC will update this page when the application period opens, when the application period closes, and with information about the status of submitted applications. PBGC will also contact prospective applicants via email when new information is available.

American Rescue Plan Act of 2021 Resources

- [PBGC American Rescue Plan Overview](#)
- [PBGC ARP FAQs](#)
- Status of Applications [.xls]
- Instructions / Templates / Webinars
- Final Regulation and Preamble
- [American Rescue Plan \(ARP\) Act of 2021# \[congress.gov\]](#)



The [Filing Portal](#) is open and now accepting applications.

APPLICATION CHECKLIST

Checklist Item #	Description of Item	Response Options	Plan Respons
Application to PBGC for Special Financial Assistance (SFA)			
APPLICATION CHECKLIST			
Plan name:			
EIN:			
PN:			
SFA Amount Requested:			
Plan Statements, Checklist, and Certifications			
	Is this application a resubmission of a previously filed application?	Yes No	
1.	Does the application include a fully completed Application Checklist, including the required information at the top of the Application Checklist (plan name, employer identification number (EIN), 3-digit plan number (PN), and SFA amount) requested ?	Yes No	

GUIDANCE

July 9, 2021

PBGC SFA 21-02

Special Financial Assistance Assumptions

I. Introduction

This guidance provides guidelines for changes to certain assumptions that plans may use for purposes of determining eligibility for special financial assistance (SFA) and the amount of SFA. Plans may, but are not required to, use the guidelines if they are reasonable for the plan. Guidelines are available for contribution base units (CBUs), administrative expenses, mortality, contribution rates, new entrant profiles, and investment expenses.

This guidance is divided into five sections:

- o Background
- o Acceptable assumption changes
- o Generally acceptable assumption changes
- o Generally not acceptable assumption changes
- o Additional information

II. Background

APPLICATION TEMPLATE

TEMPLATE 4 - Sheet 4-1

SFA Determination - Interest Rate

Provide the interest rate used, including supporting details on how it was determined.

PLAN INFORMATION

Abbreviated Plan Name:	
EIN:	
PN:	
Application Submission Date:	
Measurement date:	Last day of the calendar quarter immediately preceding the application submission
Last day of first plan year ending after the measurement date:	



Restrictions, Conditions, and Reporting



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SFA and Any Earnings Thereon Are Restricted

- Must be segregated from other plan assets.
- May be used, at plan's discretion, before other plan assets.
- Must be invested in investment-grade bonds or other permissible investments.
 - May be held in individual fixed-income securities or in commingled funds such as Exchange Traded Funds (ETFs), mutual funds, pooled trusts, or other commingled securities.
 - Five percent allowance for a plan to hold on to investments that were considered investment grade at the time of purchase but are no longer investment-grade credit quality.

Conditions on Plans Receiving SFA

- ARP grants authority to impose reasonable conditions on plans receiving SFA related to:
 - Increases in future accruals and any retroactive benefit improvements.
 - Allocation of plan assets.
 - Reductions in employer contribution rates.
 - Diversion of contributions to, and allocation of expenses to, other benefit plans.
 - Withdrawal liability.
- PBGC is prohibited from imposing conditions related to:
 - Prospective reductions in plan benefits.
 - Plan governance, including selection of, removal of, and terms of contracts with trustees, actuaries, investment managers, or other service providers.
 - Any funding rules related to plans receiving SFA.
- With respect to certain events such as mergers, transfers and spinoffs, the amount of SFA is limited to the amount determined as if the given event had not occurred.

SFA Conditions and Reporting

- Retroactive – Not permitted if attributable in whole or in part to service accrued or other events occurring before the adoption date of the amendment.
- Prospective – Only if funded with new contributions.
- Flexibility offers active participants more attractive benefits subject to affordability.

Benefit Improvements



- Hold at least one year of plan benefits and expenses in fixed income investments through 2051.
- Prudent approach that prevents excessive risk-taking.

Allocation of Plan Assets



- Only if it reduces the risk of loss to plan participants and beneficiaries,
- Subject to PBGC approval if it affects annual contributions >\$10M and >10% of all employer contributions.
- Prevents reductions that may accelerate plan insolvencies while providing limited flexibility for employers with special financial circumstances.

Contribution Decreases, Allocations



SFA Conditions and Reporting (Continued)

- Only with PBGC approval.
- Cannot increase PBGC risk of loss or adversely impact overall interests of participants.
- Must comply with merger rule requirements (part 4231).

Transfers or Mergers



- Must use mass withdrawal interest assumptions to determine liabilities.
- Approximate insurance company market prices.
- Assets include SFA balance.
- Applies until the later of 10 years or depletion of SFA assets.
- Settlements > \$50M require PBGC approval.
- Does not incentivize employer withdrawals.

Withdrawal Liability



- Annual filing – statement of compliance with terms and conditions, including specified documentation.
- PBGC may conduct periodic audits to review compliance with terms and conditions.
- Participant notices that include the amount of reinstatement and make-up payments.

Reporting and Audit





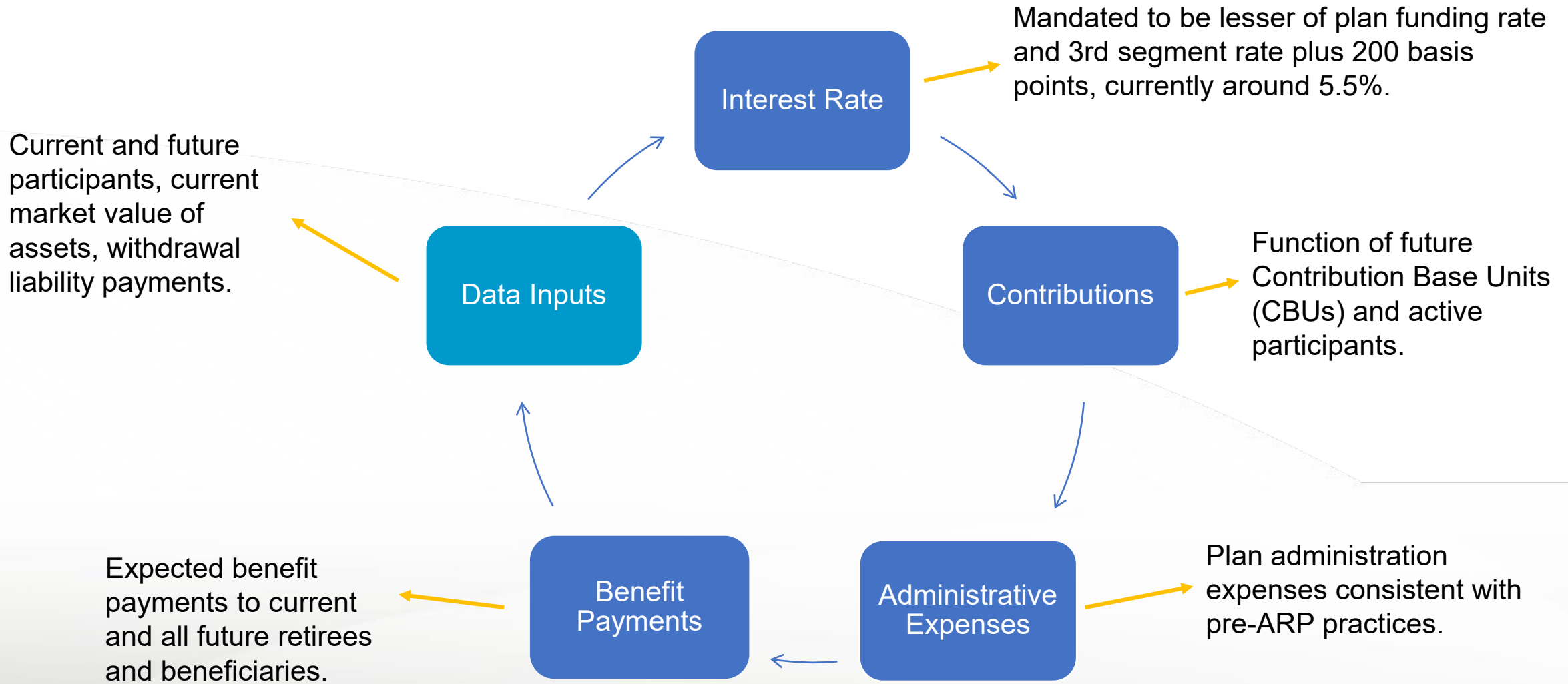
PBGC Guidance



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- Eligibility assumptions
 - If based on certification of plan status completed before 1/1/2021, must accept unless clearly erroneous.
 - If based on certification after 1/1/2021, must use pre-1/1/2021 assumptions, unless assumptions are unreasonable, with changes only if an assumption is no longer reasonable.
- SFA calculation assumptions
 - Baseline also uses pre-1/1/2021 certification assumptions, with changes only if an assumption is no longer reasonable.
- Changes to assumptions
 - Evidence and support for changes must be submitted.
 - Changed assumptions must be individually reasonable and reasonable in the aggregate.
- SFA interest rate assumption is based on ARP mandate; no exceptions.

Key SFA Assumptions Project Experience Through 2051



Three Categories Included in PBGC Guidance Document

- **Acceptable assumption changes**

- Guidance for assumptions not previously factored into pre-2021 certification plan status filings.
 - Projected Contribution Base Units (CBUs) and administrative expenses beyond 20 years or previously projected insolvency date.
- Guidance for reflecting other ARP provisions or general updates.
 - ARP PBGC premium increase to \$52 per participant effective 2031.
 - Current mortality tables.
 - Contribution rates that reflect collective bargaining agreements.
 - New entrant profile assumptions aligned with recent experience.

- **Generally acceptable assumption changes**

- Guidance for CBU, mortality, and significant plan experience after the participant census date.

- **Generally not acceptable assumption changes**

- For CBU – if not sufficiently supported by data.
- For investment expenses – if change in methodology from pre-2021.
- For short-term plan experience after the participant census date.



Role of Departments of Treasury and Labor

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Treasury and Labor Have Key Responsibilities Related to SFA

- Department of the Treasury
 - Access to applications and PBGC–Treasury consultation requirement on plan applications proposing a change in assumptions.
 - Guidance on reinstatement of benefits previously suspended under MPRA or for insolvency of ongoing plan after enactment of MPRA.
 - Funding of PBGC’s SFA payments to plans and PBGC’s associated administrative costs.
- Department of Labor
 - Access to applications.
 - Ensure benefits are reinstated and previously suspended benefits are paid.
 - Title I regulation and enforcement.



Program Communications and Resources



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Ongoing Program Information and Resources

- Interim final rule publicly available on July 9, 2021.
- Publish interim final rule in the Federal Register on July 12, 2021.
- 30-day comment period.
- Press release issued on July 9, 2021.
- PBGC e-filing portal available for applications.
- PBGC informational and instructional sessions scheduled for July.
 - For plan trustees and practitioners.
 - Objective is to provide information to applicant plans and optimize the application/review process.
- Additional resources – [PBGC.gov/arp-sfa](https://pbgc.gov/arp-sfa)
 - Frequently Asked Questions.
 - Recorded Informational Session.
 - Register for email distributions to receive updates and information.
- Final Rule – TBD.

Questions?

For official PBGC statements, please contact
PBGC Public Affairs at 202-229-4343 or
PBGCExternalAffairs@PBGC.gov.

