



HealthWORKS

A Multiemployer Health and
Pension Advocacy Coalition

August 11, 2021

Regulatory Affairs Division
Pension Benefit Guaranty Corporation
1200 K St., NW
Washington, DC 20005

Re: Special Financial Assistance for Troubled Pension Plans

To Whom It May Concern:

We appreciate the opportunity to work with the Pension Benefit Guaranty Corporation (PBGC) as it develops the guidance needed to successfully implement the Special Financial Assistance Program for Financially Troubled Multiemployer Plans (SFA) pursuant to Section 9704 of the American Rescue Plan Act (ARPA).

We are writing this letter on behalf of the HealthWORKS Coalition, a group comprised of Taft-Hartley multiemployer health and pension plans, and other Taft-Hartley stakeholders. HealthWORKS member funds represent over 200,000 lives throughout the Midwest and across the country, with the majority located in Minnesota. For almost ten years, HealthWORKS has worked with fund administrators, labor and management trustees, business owners, labor leaders, providers, TPAs, actuaries, and Taft-Hartley stakeholders of all kinds to educate both member trustees as well as elected officials and policymakers in Washington D.C. surrounding the evolving landscape for multiemployer pension plans.

The Special Financial Assistance Program in the American Rescue Plan Act was a long-awaited and desperately needed lifeline designed to provide relief to troubled multiemployer pension plans. The spirit of the law is to bring about long-term financial solvency to the system which was, prior to the ARPA, in the midst of a looming crisis. This program provided hope to many plan participants that they would receive the amount they had been promised and worked their lives to achieve.

The statutory mandate in the ARPA directs that the PBGC “shall provide special financial assistance to an eligible multiemployer plan” and that the amount of the SFA “shall be such amount required by 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” We are, however, concerned that the interpretations taken by the Interim Final Rule (IFR) in the calculation of the amount of assistance required to achieve the

statutory mandate, along with the permitted investments for SFA assets, will only delay insolvency to some date prior to 2051 for many plans that receive assistance, and that a number of otherwise eligible plans will not receive any SFA at all.

Under the current guidance structure and interpretation of the ARPA, many plans will not be set on a sustainable course to long-term solvency and might even encounter significant detriments to the long-term solvency and health of their fund. This is largely due to the investment restrictions placed on the funds. These restrictions will not allow many funds to achieve the return necessary to achieve financial solvency and might cause many funds to even become insolvent before 2051. These effects are clearly contrary to the intent of the statute. In addition, we believe this guidance may result in many funds, who are otherwise eligible to participate in the SFA, choosing not to participate. Analysis of the IFR guidance also suggests that many plans which receive enough assistance to remain solvent through 2051 will then be left financially unviable immediately following this period. It was clearly not the intent of Congress for the multiemployer plans which participate in the SFA to become insolvent immediately after the program ends in 2052.

We believe this is an entirely solvable problem. Both the spirit and more importantly the specific language of the statute give the PBGC all the tools needed to achieve the goals discussed above. It is important to keep in consideration the employees and employers that this relief program was intended to help, as well as the overall goal of stabilizing the multiemployer pension system. With revisions to the Interim Final Rule that ameliorate these problems, we believe that the SFA program will serve as a successful policy to bring about long-term financial solvency for the multiemployer pension system.

Thank you for your effort to reach attainable, equitable solutions to the multiemployer pension crisis. We also thank you for your consideration of our thoughts, concerns, and suggestions. We look forward to working with the PBGC in any way that we can to ensure that the SFA Program is administered with the best possible outcome for multiemployer pension funds.