

Special Financial Assistance Program Update

AFL-CIO Union Lawyers Alliance

Advanced ERISA Seminar

September 27, 2024

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All PBGC remarks are off-the-record and not for attribution.



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Special Financial Assistance (SFA)

PBGC

- The SFA Program authorized under the American Rescue Plan Act ensures that millions of America's workers, retirees, and their families receive the pension benefits they earned through many years of hard work.
- 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 final rule implements the program and establishes conditions to keep multiemployer plans sustainable long into the future.
- PBGC Final Rule 87 FR 40968 – <https://www.govinfo.gov/content/pkg/FR-2022-07-08/pdf/2022-14349.pdf> (effective 8/8/2022). Amended [Federal Register Special Financial Assistance by PBGC-Withdrawal Liability Condition Exception](#) (effective January 26, 2023).

Special Financial Assistance Expected Reach

The American Rescue Plan Act provides for special financial assistance to enhance retirement security for millions of Americans.



SFA Applications – Current Status

(as of September 10, 2024)

	Approved	Under Review	Withdrawn (not yet resubmitted)	Waiting List
Number of Applications	127	23	13	N/A
Number of Plans	92	23	13	68
Aggregate \$ SFA (approved or requested)	\$68.0 billion	\$2.5 billion	\$5.2 billion	N/A
Aggregate Participant Count	1,156,033	117,486	518,002	N/A

SFA Application Metering Process

- The priority group application period ended March 10, 2023.
- PBGC has temporarily closed its e-Filing portal due to its capacity to effectively review SFA applications having been reached.
- While the portal is closed, PBGC accepts requests to be placed on a waiting list for plans seeking to apply for SFA.
- PBGC will provide updates of the intended date the e-Filing portal will be re-opened and will provide advance notice to the plans at the top of the waiting list that will be allowed to apply at that time.
- Eligible plans that are insolvent or expected to be insolvent within one year of an application retain the ability to submit emergency filings when the e-Filing portal is closed.
- Plans may “lock-in” base data when the e-Filing portal is closed by submitting a pro-forma initial application.
 - Base data includes the SFA measurement date, interest rates and participant census date.

Waiting List Update & Application Preparation

- For plans on the waiting list, as you near the top, expect to be contacted at least 7 days in advance of the portal opening. We try to give the plans as much notice as we can.
- Once a plan is invited to apply, we will then give at least 7 days for the plan to submit their application to PBGC.
- The PBGC website is updated every Friday. To track an application's status and/or check a plan's location on the waitlist, visit: [American Rescue Plan \(ARP\) Special Financial Assistance Program | Pension Benefit Guaranty Corporation \(pbgc.gov\)](https://www.pbgc.gov/american-rescue-plan-arp-special-financial-assistance-program-pension-benefit-guaranty-corporation)
- Plans are encouraged to contact PBGC to request an informal preapplication consultation on any question that may arise in preparing the application for SFA, including development of projection assumptions.
- PBGC initially posted Special Financial Assistance Assumptions Guidance on its website on July 11, 2021, and has updated the guidance four times since then (latest posted November 30, 2023).
 - While this guidance is nonbinding, it informs the public of PBGC's current thinking on this topic.
 - It is intended to help SFA applicants assess the PBGC's thinking on the "reasonableness of projections assumptions used to determine the amount of SFA, particularly with regard to the amount of data/analysis/rationale that should be included in SFA applications in support of proposed assumptions.

SFA Application Process Changes

- PBGC has implemented an expedited reapplication process for applicants that only need to make minor changes.
 - The goal is to complete the review process as close to the previous submission's 120-day deadline.
- With the advent of the waiting list to submit an SFA application, applicants will be limited to two revisions before being required to go to the end of the waiting list.

Lessons Learned: Actuarial

- Many plans locked in measurement dates in 2022. As you approach the top of the waitlist, these plans should review their subsequent experience to ensure the assumptions track with actual experience. Our review teams may ask for that subsequent experience during the review of the application.
 - Note that significant events (such as the withdrawal of a major contributing employer) that occur after the measurement date always need to be reflected in the SFA projections.
 - Similarly, please ensure the assets as of the SFA measurement date are correct. Incorrect asset values will require withdrawal of the application. Most plans have a measurement date of 12/31/2022. Plans should have the correct asset value, if it's a calendar year plan. PBGC will ask for audited assets statements and/or account statements for each asset category in the plan's portfolio.

Lessons Learned: Actuarial

- Check for double counting benefits in the development of a new entrant profile.
- It's best to set up an informal preapplication consultation call with PBGC to discuss key assumptions, novel approaches, or complicated plan issues. Provide Template 10 in advance to get the most out of a discussion.

Lessons Learned: Legal

- When submitting the executed amendment regarding compliance as required by 29 C.F.R. Part 4262.6(e)(1), refer to the updated filing instructions for guidance on the Board of Trustees signature requirements [General Instructions for Multiemployer Plans Applying for Special Financial Assistance \(pbgc.gov\)](https://www.pb.gc.gov/General-Instructions-for-Multiemployer-Plans-Appealing-for-Special-Financial-Assistance).
 - The Compliance Amendment must follow the procedures as stated in the Trust Agreement for amending the Plan Document.
- For plans on the waiting list that submitted a lock-in application, the filing instructions have since been updated and we may require additional documentation or a revised amendment. If you have questions about the sufficiency of your amendment pre-application, please contact us to set up a pre-application conference.

Death Audit Updates

- Applicants are now required to submit a listing of all participants (name, SSN and participant category only) to facilitate an independent death audit which identifies participants with SSNs that appear in the Social Security Administration's Death Master File.
 - Plans are encouraged to submit data in advance of finalizing their SFA application.
 - PBGC will provide plans with the listing of SSNs that appear in the Death Master File and request that plans submit their proposed treatment of records with matching SSNs.
 - PBGC will review the plan's proposal and either request additional clarification or advise that the plan may proceed to prepare its application on the basis of its proposal.
- As of September 13, 2024, 16 plans have received letters requesting retroactive repayment for deaths identified that were factored into the amount of SFA received.
 - 11 have paid, four plans had 0 deaths, and 44 more letters will go out as the review is completed.
 - The repayment request carries a 2.25% interest rate.

Death Audit Updates Continued

- Plans can submit their census data for our independent death audit review at any time, regardless of where they are on the waiting list.
- Many plans have already done this but for those that do not submit on their own, we try to contact plan representatives at least one month before they might be contacted about the portal opening to ensure enough time for our review. By not submitting in advance of the application, it becomes very likely the plan will have to withdrawal and resubmit the application to reflect found matches.
- The amount of time it takes for PBGC to complete a plan's independent death audit in advance of their application can vary depending on the size of the plan, the number of deaths found, and the completeness of the records provided.

SFA Permissible Investments

- What does “investment grade” mean in the context of SFA?
 - “Investment grade” is defined in § 4262.14 of the SFA regulation as “securities for which the issuer (or obligor) has at least adequate capacity to meet the financial commitments under the security for the projected life of the asset or exposure.”
- Will PBGC identify whether a particular investment strategy is permissible before a plan invests?
 - No, it is not anticipated that PBGC will provide upfront advice about, or confirmation of, whether a particular asset class, sub-asset class, fund structure or investment strategy is permissible. However, upon review of a plan’s Annual Statement of Compliance or an audit, PBGC may determine that a particular asset is not permissible.
- PBGC posted an update to our permissible investments FAQ page on July 16, 2024: [American Rescue Plan Act FAQs | Pension Benefit Guaranty Corporation \(pbgc.gov\)](https://www.pbgc.gov/american-rescue-plan-act-faqs)



Thank you!

For official PBGC statements, please contact
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