

# Multiemployer Program Update

National Coordinating Committee of Multiemployer Plans –  
Annual Meeting

September 17 - 21, 2022

***Ben Kelly and Bruce Perlin, Assistant General Counsel***

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



# Multiemployer Program – Highlights

- In FY 2021, PBGC provided over \$230 million in financial assistance to 109 insolvent multiemployer plans paying 80,786 participants
- An additional 37,172 participants in the insolvent plans are eligible to receive benefits when they retire
- Because of ARP, the number of participants receiving traditional financial assistance will decrease to 52,982, and 20,395 participants will be eligible to receive benefits when they retire
- Cumulative results of operations improved by \$64,227 million resulting in a positive result for operations of \$478 million as of 9/30/2021
- A total of 69 plans with net claims of \$61,811 million were deleted from the multiemployer inventory, the vast majority due to expected SFA

# 2021 PBGC Projections Report – Key Results

SFA is projected to be paid to approximately 200 ME plans, with total payments likely between \$75B and \$91B

The median projected solvency of ME Program improved from FY 2055 to past FY 2061  
Prior to the ARP, ME Program was expected to become insolvent in FY 2026

ME Program mean projected FY 2031 net position of negative \$5.1B  
However, the median result shows a modest positive net position of \$4.1B

The SE Program remains strong with a mean projected FY 2031 net position of positive \$53.3B, compared to the actual FY 2021 net position of \$30.9B

Report includes a stress test scenario for the SE Program that replicates the highest level of claims in PBGC's history.

# 2021 PBGC Projections Report cont'd.

- The ME Program's projected financial condition improved from the FY 2020 results
- Projected total SFA decreased by nearly \$15 billion

**Figure 2 – Projected Change in Key Financial Results (\$ in billions)**

	<b>FY 2020 Projections</b>	<b>FY 2021 Projections</b>
FY 2031 Mean Net Financial Position	(\$9.8) <sup>a</sup>	(\$5.1)
Median Year of PBGC Insolvency	FY 2055	After 2061 <sup>b</sup>
Mean SFA	\$97.2	\$82.7 <sup>c</sup>

a) The expected FY 2031 mean net financial position based on the FY 2020 projections calculated in the ME-PIMS model (used in the FY 2020 Projections Report), with the FY 2030 mean net financial position adjusted to reflect the passage of time.

b) The median projected year of PBGC insolvency based on FY2021 projections is outside ME-PIMS model's 40-year projection period.

c) The \$82.7 billion figure includes approximately \$385 million in financial assistance loan repayments that are not included in the \$82.3 billion estimated SFA in the final rule published on July 8, 2022.

# 2021 PBGC Projections Report cont'd.

- Amount of SFA depends on which plans become eligible, actual experience prior to the applications, and the assumptions used in the applications.
- The projected range of plans and SFA narrowed significantly from the FY 2020 PIMS valuation<sup>1</sup>.

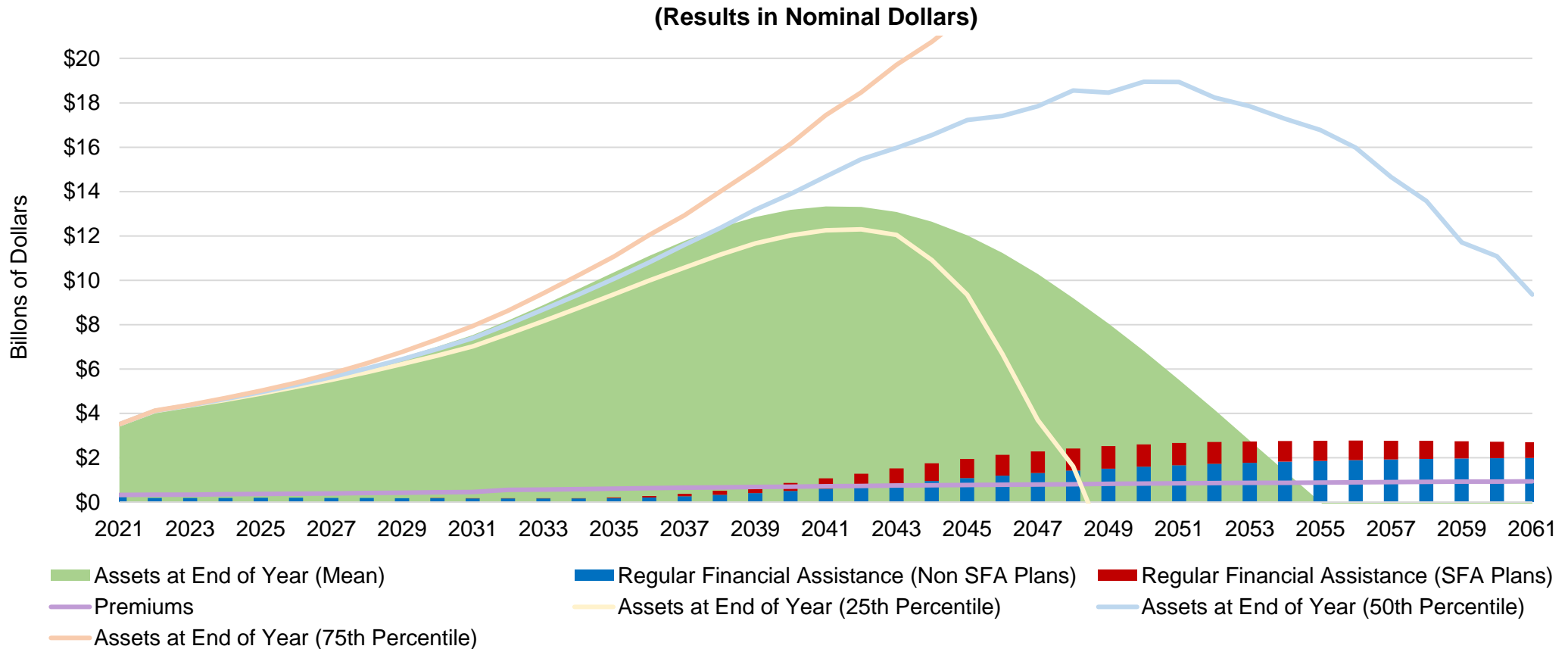
**Figure 4 – Stochastic Range of Projected SFA Distributions**

	<b>Estimated Number of Plans</b>	<b>Estimated Total SFA (\$ billions)</b>
99th Percentile	234	\$100.4
85th Percentile	224	\$91.2
Mean	197	\$82.7
50th Percentile (Median)	200	\$81.9
15th Percentile	167	\$74.7
1st Percentile	140	\$66.2

1) Last year's projection reported a range from \$66.1 billion to \$147.4 billion payable to between 158 and 482 plans.

# 2021 PBGC Projections Report cont'd.

**Figure 5 – PBGC Multiemployer Fund Assets, Regular Financial Assistance Payments and Premiums by Fiscal Year**

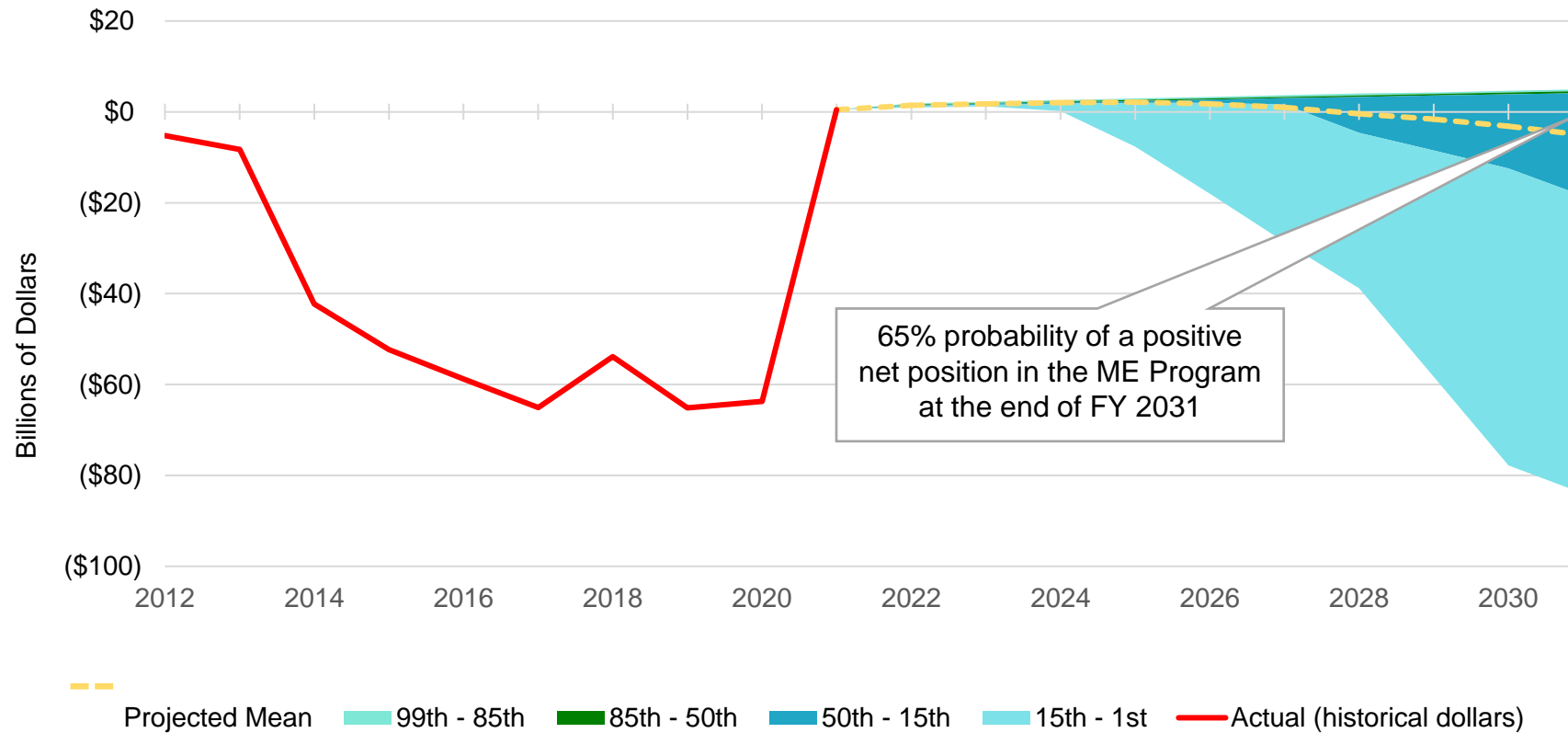


Note: Figure does not show SFA payments but reflects their impact on PBGC assets and regular financial assistance payments.

# 2021 PBGC Projections Report cont'd.

**Figure 7 – Multiemployer Program Projected Net Financial Position  
(Mean and percentile scenarios)**

Historical Experience 2012-2021 and PV 2022-2031 Projections



# ARP – Highlights

- The American Rescue Plan Act of 2021 (ARP), enacted on March 11, 2021, allows certain financially troubled multiemployer plans to apply for “Special Financial Assistance”. Upon approval of an application, PBGC will make a single, lump-sum payment to eligible multiemployer plans to enable them to pay benefits at plan levels.
- Plans are not required to repay Special Financial Assistance, which is funded by general revenues from the U.S. Treasury.
- ARP required PBGC to issue, within 120 days of enactment, regulations or guidance on the requirements and timing for applications for Special Financial Assistance.
- ARP also provides temporary elective zone status and funding relief for multiemployer plans.
- PBGC Final Rule 87 FR 40968 - <https://www.govinfo.gov/content/pkg/FR-2022-07-08/pdf/2022-14349.pdf> (effective 8/8/2022)



To be eligible for Special Financial Assistance, a multiemployer plan must satisfy one of the following criteria:

- The plan is in critical and declining status in any plan year beginning in 2020 through 2022;
  - A suspension of benefits has been approved for the plan under the Multiemployer Pension Reform Act of 2014 (MPRA) as of March 11, 2021;
  - In any plan year beginning in 2020 through 2022, the plan is in critical status, has a “modified funded percentage” (as defined by the law) of less than 40 percent, and has a ratio of active to inactive participants of less than two to three; or,
  - The plan became insolvent after December 16, 2014, and has remained insolvent and has not been terminated as of March 11, 2021.
- For more information about the Special Financial Assistance Program, visit [www.pbgc.gov/arp-sfa](http://www.pbgc.gov/arp-sfa)

# Simplified Methods for Computing Withdrawal Liability

## Final Rule Published 2021 (removed from Reg Agenda)

### Simplified Methods for Computing Withdrawal Liability/MPRA

- Final rule published January 8, 2021, applicable to withdrawals occurring in plan years beginning on or after February 8, 2021.
- Provides simplified methods to:
  - Disregard reductions and suspensions of nonforfeitable benefits in determining the plan's unfunded vested benefits for purposes of calculating withdrawal liability.
  - Disregard certain contribution increases if the plan is using the presumptive, modified presumptive, or rolling-5 method for purposes of determining the allocation of unfunded vested benefits to an employer.
  - Disregard certain contribution increases for purposes of determining an employer's annual withdrawal liability payment.

## Proposed Rule Stage

- **Proposed Rule on Multiemployer Guaranteed Benefits**

- This rulemaking would clarify and codify policies on the determination of guaranteed benefits for participants in multiemployer plans.

- **Actuarial Assumptions for Determining Withdrawal Liability**

- Section 4213(a) of ERISA authorizes PBGC to prescribe assumptions that an actuary may use in determining withdrawal liability.
- In a footnote to PBGC's interim final rule implementing the Special Financial Assistance Program under ARP, PBGC stated that it intends to propose a rule under section 4213(a).

## **PBGC continues to receive and process requests for determinations unrelated to the new Special Financial Assistance Program**

- Requests for compliance determinations
  - mergers of multiemployer plans
  - transfers of assets and liabilities between multiemployer plans
- Requests for approval of alternative rules for allocating withdrawal liability

# Withdrawal Liability Rule Requests

- **Alternative Withdrawal Liability Rules:** PBGC rules provide a procedure for approval of plans' alternative methods for allocating unfunded vested benefits to employers that withdraw
  - Two pool methods – to attract or retain participating employers
  - Deemed contributions – Allocation of UVBs reflect contribution obligations suspended while plan relatively well funded
  - Special contribution by employer – plan rules enabling a sizable employer contribution in excess of CBA requirements that does not increase the employer's potential withdrawal liability
- **Special Withdrawal Liability Rules:**
  - PBGC has authority to approve plan withdrawal liability rules comparable to the construction and entertainment industry rules if the industry, or a portion of an industry, has “construction-like” characteristics and if these rules do not pose a significant risk to PBGC's Multiemployer Insurance Program.
  - PBGC publishes notices of plan requests in the Federal Register

# Withdrawal Liability Rule Requests

- **Alternative Terms and Conditions to Satisfy Withdrawal Liability:** PBGC Guidance issued in 2018 (sec. 4224)
  - Plan may adopt alternative payment rules that can reduce amounts employers would otherwise pay upon withdrawal under ERISA
  - Plan may, but is not required to, seek assurance from PBGC that an alternative rule is consistent with ERISA



# Thank You!

For official PBGC statements, please contact  
PBGC Public Affairs at 202-229-4343 or  
[PBGCExternalAffairs@PBGC.gov](mailto:PBGCExternalAffairs@PBGC.gov).