NCCMP Annual Conference
SEMINAR 2 OPTION 2
SPECIAL FINANCIAL ASSISTANCE: A PLAN PERSPECTIVE

Susan Boyle, Senior Vice President and Actuary, Segal
Kevin McCaffrey, President, Teamsters Local 707
Rob Projansky, Partner, Proskauer

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2:45 – 4:00pm

Goal for today's workshop:

An interactive discussion of practical things to think about in advance of filing an ARPA application (or "things I wish someone told me before I filed my application")

Today's Agenda

- Brief background on the final rules
- Selecting assumptions and PBGC interaction in the process
- Application timing considerations
- Communications issues
- Preparing for a large infusion of funds/disbursing funds

. . . and whatever else is on your mind

Final Rule Background

Final Rule Background

- Things left unchanged
  - Eligibility
  - Special Financial Assistance (“SFA”) as the amount needed to pay benefits through 2051 – amount needed so that projected assets are zero at end of plan year ending in 2051
  - General application/review process
  - Reporting and monitoring

- Methodology for calculating amount of SFA
  - Plan projected to remain solvent at all times through plan year ending 2051, rather than present value calculation
  - Exclusion of negotiated contribution rate increases after July 9, 2021
  - Special rule for MPRA plans – greatest of three calculations (generally indefinite solvency)

Final Rule Background

- Dual interest rate approach
  - SFA: add 0.67% to the average of the three segment rates
  - Other assets: add 2.0% to the third segment rate

The gory details:

- Segment rates are based on the lowest rate for the four months prior to filing the application (the month of filing or the prior three months)
- Resulting rate is capped at the rate in the pre-2021 PPA certification

Final Rule Background

- SFA investments
  - 33% can be in return-seeking assets
    - Measured at initial purchase of return-seeking assets and at least one day every rolling 12 months
    - U.S. stocks and non-investment grade bonds
    - Some minor modifications on the other 67% of the portfolio (e.g., no collateralized loan obligations)
  - At a minimum, must have investment grade bonds sufficient to pay at least 1 year of benefit payments and administrative expenses

- Withdrawal liability
  - Same as before
    - After receiving SFA, plan must use mass withdrawal rates for at least 10 years to determine unfunded vested benefits ("UVB") and amortization schedule
    - PBGC approval still required for settlements over $50 million (lesser of UVB or present value of payments)
  - Modifications
    - For 10 years or, if longer, until SFA is **projected to be** exhausted **(assuming it is used first)**
    - For UVB calculation, SFA assets are phased in over the period they are projected to be exhausted

Final Rule – Timing Issues

- Priority and metering process generally unchanged, with all filings due 12/31/25 (12/31/26 for revised applications)
  - Priority groups unchanged

- Measurement date
  - Last day of third calendar month before the initial application, instead of last day of prior quarter
  - Assets valued as of the measurement date
  - Census data: Based on the valuation in the plan year containing the measurement date or the prior plan year if not available

- Lock-in option: can file short-form application to lock in the measurement date for assets, interest rates, census data

Final Rule – Timing Issues

Lock-In Applications

- Purpose: avoids burden of preparing an application only to find that it can't be filed because the PBGC is temporarily not accepting applications

- Eligibility
  - After March 11, 2023 OR
  - Before March 11, 2023, if in a priority group <u>and</u> e-filing portal is closed

- Process: submit pro forma application by email, which PBGC then denies as incomplete

- Effect
  - Lock-in application is considered the initial application
  - Base data is locked in for subsequent applications

- Considerations
  - Beneficial if subsequent experience is good (interest rates rise, market recovers, experience gains)
  - Hurts if subsequent experience is bad (interest rates fall, contributions fall, investment losses) or there is significant time between lock-in and filing

What An Application Looks Like

SFA Application -- Body

Section	Required Information
A	**Plan identifying information.** Includes amount of SFA. Entered directly into PBGC e-Filing Portal.
B	**Plan documents.** Includes plan documents, actuarial valuation reports and certifications, financial statements, death audit, and other information.
C	**Plan data.** Various Excel "templates" required by PBGC. Includes historical data, actuarial projections, calculation of SFA amount, etc.
D	**Plan statements.** The main body of the application. Must include required Trustee signatures, narrative on CBU and withdrawal liability assumptions, statement of actuarial assumption changes versus 2020 status certification, reconciliation of fair market value of assets.
E	**Checklists and certifications.** Application checklist that <u>**must**</u> be fully completed. Also includes required <u>**signed**</u> certifications by Plan actuary and Trustees.

SFA Application -- Templates

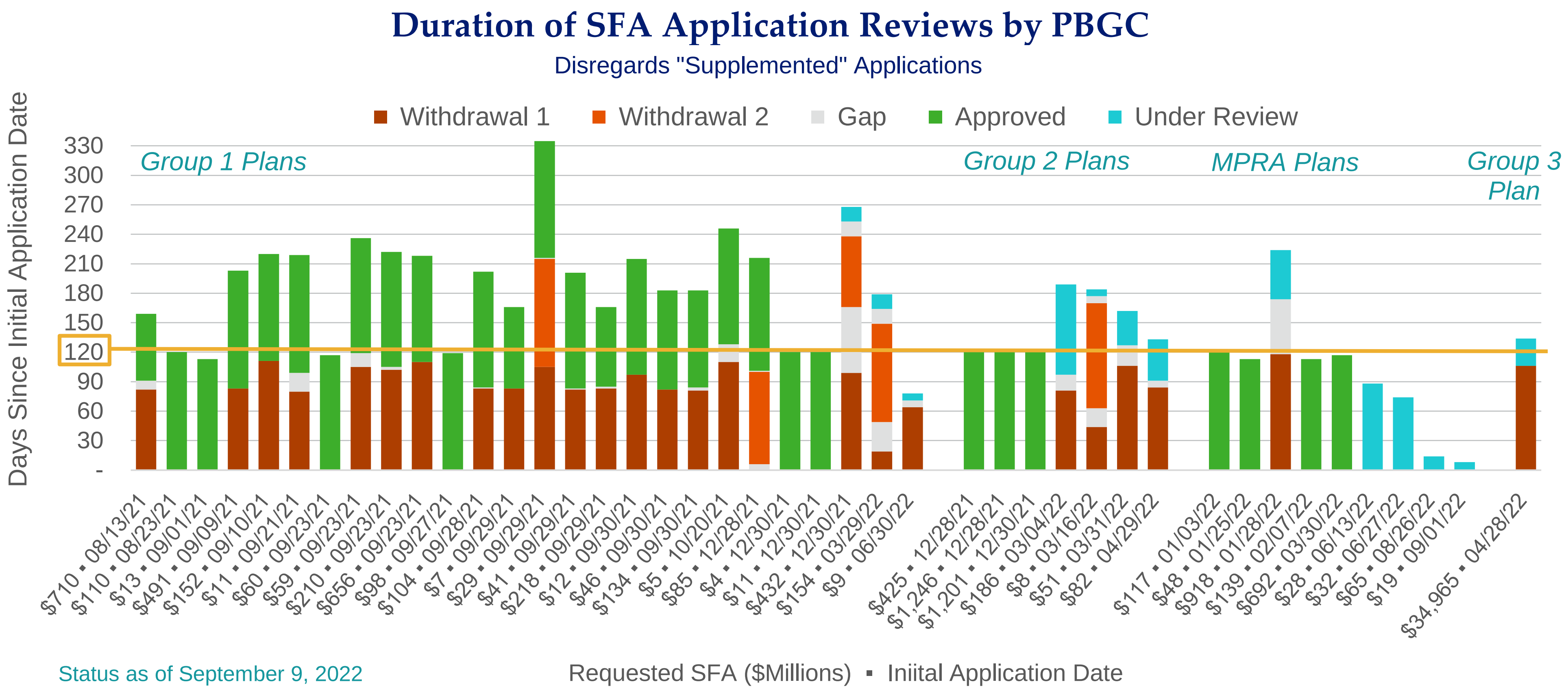
Template	Description
1	**Form 5500 projection.** Projected benefit payments from prior Forms 5500.
2	**Contributing employers.** List of top 15 employers by contributions. Required only for plans with 10,000+ participants.
3	**Historical plan information.** 10-year history of cash flows, contribution base units, contribution rates, and active participant counts.
4	**SFA determination.** The actual calculation of the SFA amount.
5	**Baseline details.** The “baseline” projection required by PBGC. Required only if Plan proposes changes to actuarial assumptions.
6	**Reconciliation details.** A separate projection to show the impact on the SFA amount of each proposed change in actuarial assumptions.
7	**Assumption changes.** A summary of any changes in assumptions versus the 2020 status certification, both for eligibility and SFA amount.
8	**Contributions and withdrawal liability details.** Projection of contributions and withdrawal liability payments used in determining the SFA amount.
9	**Participant census data.** Only for plans with over 350,000 participants.

SFA Application -- Certifications

Item	Description
Section B	The application must include a copy of the executed plan amendment required by section 4262.6(e)(1) of PBGC's special financial assistance regulation.
Section D	The application must be signed and dated by an authorized trustee who is a current member of the board of trustees or another authorized representative of the plan sponsor. The application must also include a statement on penalties of perjury signed by an authorized trustee who is a current member of the board of trustees.
Section E	The application must include a certification from the plan sponsor with respect to the accuracy of the amount of the fair market value of assets as of the SFA measurement date. The certification must reference and include information that substantiates the asset value and any projection of the assets to the SFA measurement date.

How Long is PBGC Taking to Review?

Status as of September 9, 2022



Priority groups shown above:

1: Already insolvent or projected insolvency before March 11, 2022

2: Projected insolvency within 1 year <u>or</u> implemented suspension of benefits under MPRA

3: Eligible and at least 350,000 total participants

Notes

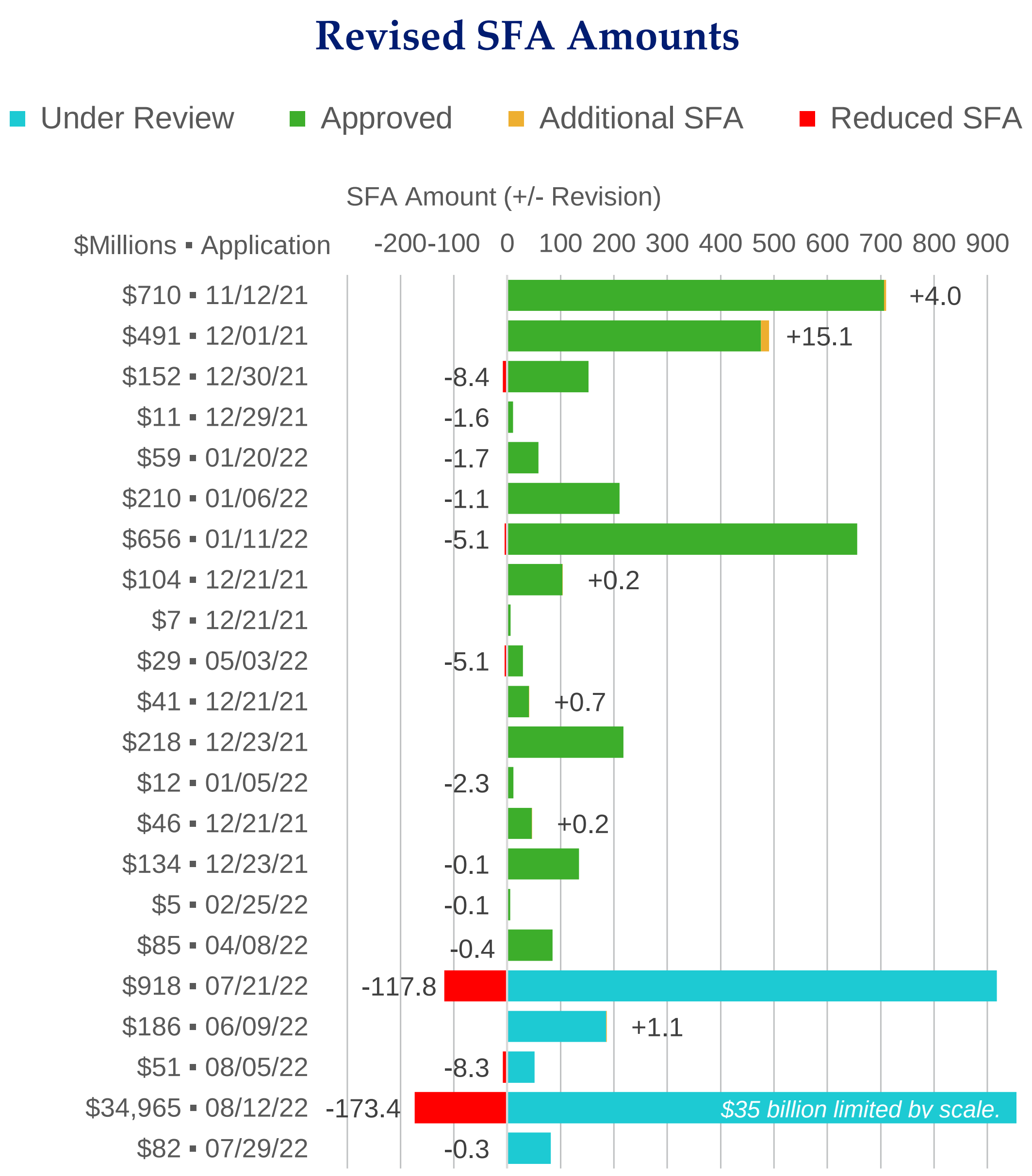
- So far, 13 out of the 30 total approved applications have been on the first attempt
- For applications approved on the first attempt, PBGC usually takes up to the full 120 days to review
- If an application is withdrawn, it usually happens between 80 and 100 days after the submission

What is Impact of Revision?

Status as of September 2, 2022

Observations

- So far, 22 applications have been withdrawn, revised, and resubmitted.
- Of these revised applications, only 2 did not involve a change in SFA amount.
- In half of cases involving a change in SFA amount (10 of 20), the revised amount differed from the original amount by less than 1%.
- NY State Teamsters reduced its requested SFA by $118 million, or 11.4%, under the interim final rule.
- Central States reduced its requested SFA by $173 million, or 0.5%. The revised application was under the final rule.
- For all 22 revised applications in aggregate, the revised SFA amount is 0.8% lower than the initial SFA amount (0.4% excluding NY State Teamsters).



Selection of Assumptions

Selecting Assumptions

- Assumptions
  - Pre-2021 status certification is starting point
  - Must be changed if no longer reasonable (except interest rate, which can't be changed, but see below)
  - Must extend CBUs and administrative expenses to 2051
  - PBGC guidance on acceptable standards for changes
    - PBGC guidance is non-binding and only guidance
    - PBGC <u>will</u> scrutinize more carefully anything beyond acceptable
    - PBGC <u>may</u> scrutinize more carefully any other assumption change or no change at all!
- The impact on the amount of SFA due to assumption changes when compared to the acceptable assumptions has to be included in the application

PBGC Guidance

Assumption Changes for Calculating SFA

Acceptable	**A. Required for PBGC baseline:** not included in pre-2021 zone certification 1. **Contribution base units (CBUs)**: Same as in pre-2021 certification through year of insolvency; flat thereafter through 2051 2. **Administrative expenses**: Same inflation assumption as in pre-2021 certification, extended through 2051; adjust for PBGC premium increase in 2031; cap as percentage of benefit payments **B. Mortality:** Update to Pri-2012 blue collar mortality tables with recent improvement projection scale **C. New entrant profile:** Assumed new entrant characteristics based on plan experience in last 5 years **D. “Missing” terminated vested participants:** Can include terminated vested participants age 85 and under who were previously excluded Changes due to A, B and C do not have to be quantified
Generally Acceptable	**A. CBUs:** Based on trends over last 10 years (excluding “COVID period”); limited to 3% declines for first 10 years; 1% declines thereafter through 2051 **B. Mortality:** Update to Pri-2012 blue collar mortality tables with recent projection scale, *with updates for full or partial credibility* **C. Plan experience:** Reflect changes in participant census data prior to SFA measurement date, e.g., due to withdrawal of major employer(s)

Selecting Assumptions -- Considerations

- Mortality
  - Able to change to a Pri-2012 Blue Collar Table, and recent MP improvement scale, without detailing impact of the change
  - Any adjustments to a base table must have credibility, even if used in the pre-2021 certification

- Deferred vested participants beyond NRA
  - Many actuaries make a practice of excluding those beyond RBD from the valuation
  - As shown on prior slide, PBGC guidance allows them to be added back in until age 85 (or even longer if the plan can show experience that they are located)
  - A number of plans were withdrawn and resubmitted with this update

- When benefits and administrative expenses are paid
  - Many actuaries have a standard assumption (a default parameter in the valuation program) regarding timing of benefit payments and administrative expenses
  - Changing that assumption to one that assumes more precise timing, could mean millions of dollars of difference in SFA.
    - 0.2% of $1 billion is $2 million

Selecting Assumptions -- Considerations

- CBUs
  - Assumption must be based on historical data
  - COVID exclusion period is included in non-bonding guidance
  - Some plans have used a higher contraction than the "generally acceptable" assumptions
- Future withdrawal liability assumption
  - Extension of employers already paying according to their payment schedules
  - With higher contraction, withdrawal liability income would be expected from future withdrawals
  - PBGC may question why future patterns differ from the past
- New Entrants
  - Must include a description of the distribution of new entrants
  - Consideration of different benefit levels

Selecting Assumptions -- Considerations

- Other demographic assumptions
  - Can look for trends in recent experience
  - May want to consider exclusion of COVID period, if appropriate
- Administrative Expenses
  - PBGC premiums separate from other expenses
  - Same inflation assumption as used in the pre-2021 certification
  - Cap as a % of benefit payments is not always appropriate, especially for small plans

Important:

- Must disclose why original assumption is no longer reasonable <u>and</u> why new assumption is reasonable
- PBGC may question if assumptions were changed after the pre-2021 certification, but not included in SFA application

Selecting Assumptions – Pre-submission discussions

- Pre-submission discussions are highly recommended
  - PBGC has been forthright and practical
  - General perception that these communications have been more useful than they had under MPRA process
  - PBGC is still clear that the discussion is informal and it is not making a ruling as to what is reasonable, but it is sharing thoughts about possible approaches in the application

- Post-submission discussions
  - Mostly focused on backup for assumptions

One would have expected PBGC to ask for back up when assumptions have been changed from the prior zone certification, but keep in mind that PBGC is also asking about assumptions that were unchanged, mostly in cases where experience differed (e.g., CBUs)

Application Timing

Application Timing

Measurement date: date on which asset values determined for application purposes

- Interim final rule: last day of calendar quarter prior to application

Filing date	IFR Measurement Date
February 2023	December 31, 2022
March 2023	December 31, 2022
April 2023	March 31, 2023
June 2023	March 31, 2023

So, if you missed filing by a day or two, you had to wait for a whole quarter's worth of new information

- Final rule: last day of third month prior to initial SFA application

Filing date	FR Measurement Date
February 2023	November 30, 2022
March 2023	December 31, 2022
April 2023	January 31, 2023
June 2023	March 31, 2023

Now, it is a rolling three months, so you have more flexibility in filing

Application Timing

- Significance: you can now make a bit more informed decision about whether to file in a particular month because you know whether the market went up or down

When I'm ready to file in March based on December data, I will know the approximate asset values in January and can decide if it is beneficial to wait until April

Filing date	IFR measurement	FR measurement
March 2023	December 31, 2022	December 31, 2022
April 2023	March 31, 2023	January 31, 2023

- Considerations
  - Interest rate increases could offset any reduction in assets
  - Census Data may change depending on measurement date
  - When will we know private asset values
  - Participant communications
  - Lock-in applications

Communication with Stakeholders

Communications -- Participants

- Communications with Participants
  - What do they want/need to know and when?
  - Setting expectations: application assumptions differ from what we actually think will happen after we get the SFA
    - Potential difference between interest rates in the application and what we think the plan will earn
    - Contribution increases agreed to after July 9, 2021
  - Setting expectations on timing
    - May be requirements to delay filing
    - May be strategic reasons to delay filing

Based on ARPA assumptions, non-MPRA plan will be insolvent in 2051, whereas based on post-ARPA assumptions, plan could be far healthier and even solvent indefinitely. What are we comfortable saying and how reluctant are we to discuss 30 years out when speaking to membership?

Communications – Don’t Forget the Employers

- Employer engagement is much higher than it was in the past
  - Many are assessing their funding obligations and withdrawal liability in thinking about their bargaining approach
    - Likelihood of mass withdrawal is significant element of their consideration: am I risking a far higher liability if I continue in the plan
    - Mass withdrawal generally deemed less likely if plan is unlikely to become insolvent
  - Let the employers know you have a strategy
    - Same issue with participants re ARPA application projections vs. post-ARPA relief projections
  - Consider explanation of withdrawal liability impact
    - Use of PBGC mass withdrawal rates to discount liabilities will increase liability for many plans not currently using those rates
    - SFA assets excluded from assets for withdrawal liability purposes over a phase-in period
    - Payment schedule unchanged: may not matter for employer that is 20 year payor

Preparing to Receive SFA

Preparing for an Influx of SFA

- Depending on the amount of the SFA the Fund receives, you may be required to do a “Federal Wire” which requires documentation from the bank receiving the SFA Funds.
- The Bank must send to the PBGC a notarized statement on bank letterhead attesting to the account name and number receiving the funds.
- Insolvent or MPRA Funds need to prepare to not only receive SFA funds but also disperse SFA funds to participants whose benefits were reduced.

Retroactive Payments

- Retro payment requirements:
  - The PBGC requires offering beneficiaries receiving these “retro benefits” the option of receiving a “DIRECT ROLLOVER” to an IRA or other Qualified Retirement Plan OR a direct “PAID TO ME” option which requires the total lump sum to be paid directly to the participants, less 20% in federal income tax withholding.
  - The pension fund needs to develop and send to participants entitled to a retro payment an election form which allows participants to elect their preferred option.
  - The PBGC requires a “Special Tax Notice” be sent to participants eligible to receive a lump sum retro payment along with the “Rollover Election Form”
  - Participants requesting the “Paid to me” option simply receive a direct deposit to their existing direct deposit account minus 20%.

Considerations

- Programming considerations:
  - Allow benefit software to print paper checks to an IRA custodian for those who selected the Direct Rollover option.
  - Make sure the amount fields can accommodate larger retro payment amounts; Many were in excess of $100,000
- Participant considerations:
  - It is important participants enter the proper information on the Direct Rollover forms.
  - The information required account information and the name and address of the IRA custodian.

Questions?

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