

Multiemployer Alert

Update on Issues Affecting Taft-Hartley Plans

NOVEMBER 2021

PBGC FY 2021 Annual Report

On November 15, 2021, the Pension Benefit Guaranty Corporation (PBGC) released its [Fiscal Year \(FY\) 2021 Annual Report](#), which details the financial health, operations, and activities of the PBGC's single employer and multiemployer insurance programs for the federal fiscal year ended September 30, 2021.

The PBGC multiemployer insurance program covers about 10.9 million pension participants across approximately 1,360 defined benefit (DB) plans. Highlights of the report related to the agency's multiemployer program include:

- **SFA program extends multiemployer insurance program solvency.** The [special financial assistance \(SFA\) program](#) was established under the American Rescue Plan Act of 2021 (ARP), enacted on March 11, 2021. The program provides a one-time cash payment to eligible financially distressed plans to help pay for expected benefit payments and expenses through the 2051 plan year. The program is paid for with transfers from the U.S. Treasury rather than from PBGC premiums. The agency expects to provide SFA to over 250 plans covering 3 million people.

As of September 30, 2021, 19 plans have applied for \$3.2 billion in SFA. All applications were in review as of that date.

As a result of ARP, 64 plans with a total liability of \$60.2 billion were removed from the agency's future financial assistance liability, helping to improve the multiemployer insurance program's net financial position from a deficit of \$63.7 billion to a surplus of \$0.5 billion, and extending the program's projected insolvency from FY 2026 to FY 2055.

- **Current and future traditional financial assistance.** Traditional (non-SFA) financial assistance of \$230 million dollars was provided to 109 plans during FY 2021, covering 118,000 participants (80,800 of whom are in pay status). This is compared to the \$173 million in financial assistance provided to 95 plans in FY 2020.

The present value of traditional financial assistance is expected to decline from \$66.9 billion in FY 2020 to \$3.0 billion in FY 2021 primarily due to the SFA program.

- **Concern over split plan arrangements.** The agency is increasingly concerned over split plan arrangements that isolate legacy liabilities (SPILL). "A SPILL occurs when a multiemployer plan is frozen, and a new multiemployer plan is created for future benefit accruals." Contributions continue to both plans, but reduced contributions to the frozen legacy plan increases its risk of underfunding and potential burden on the PBGC's multiemployer insurance program.

The PBGC entered into a settlement agreement during FY 2021 with one such SPILL involving the Food Employers Labor Relations Association (FELRA)/United Food and Commercial Workers union (UFCW) plan, which is financially distressed and covers about 50,000 participants. The PBGC required the plans involved in the SPILL to combine and then terminate via mass withdrawal. Annual withdrawal liability payments of about \$56 million from the two largest contributing employers over the next 25 years is expected to reduce the amount of traditional financial assistance the PBGC expects to provide to the plan when it becomes insolvent.

The agency is investigating seven other SPILL transactions.

- **Twelve mergers and four transfers during the year.** In FY 2021, the agency received 12 notices of plan merger and four notices of plans transferring assets and liabilities to another plan.

Please contact your Milliman consultant with any questions.

Multiemployer Alert: Update on Issues Affecting Taft-Hartley Plans is intended to provide information and analysis of a general nature. Application to specific circumstances should rely on separate professional guidance.