



TO: Josh Brammer, OMB Desk Officer

FROM: Hilary Duke, Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, PBGC

RE: Request for Emergency Processing of information collection under the Paperwork Reduction Act related to the interim final rule implementing Special Financial Assistance by PBGC under the American Rescue Plan Act of 2021.

The American Rescue Plan (ARP) Act of 2021 (P.L. 117-2) was signed into law on March 11, 2021. Section 9704 of ARP added a new section 4262 of the Employee Retirement Income Security Act of 1974 (ERISA). Section 4262(c) requires the Pension Benefit Guaranty Corporation (PBGC) to issue regulations or guidance setting forth requirements for special financial assistance (SFA) applications within 120 days of the date of enactment of ARP, and under section 4262(d) of ERISA, PBGC may prioritize applications of certain plans during the first 2 years after March 11, 2021. Section 4262(l) of ERISA permits PBGC to provide for how SFA and earnings thereon are to be invested, and section 4262(m) of ERISA permits PBGC, in consultation with the Secretary of the Treasury, to impose reasonable conditions by regulation or other guidance on an eligible multiemployer plan that receives SFA. Section 4262(k) of ERISA requires plans with suspended benefits to reinstate those benefits and provide for make-up payments.

PBGC is issuing an interim final rule on July 9, 2021, (120 days after enactment of ARP) and this accompanying information collection request (ICR) includes the application requirements and instructions necessary for the sponsor of an eligible plan to apply for SFA. It also includes an annual compliance statement, requests for a determination with respect to certain conditions of SFA, and a notice to participants and beneficiaries whose benefits will be reinstated. All components of this ICR are necessary or helpful for plan sponsors to know, before applying for SFA and therefore integral to the application process .

Following the normal clearance procedure for this ICR is likely to result in public harm. Delaying review of this ICR also would be contrary to the policy of ARP to allow plans to begin applying immediately for SFA on issuance of a rule or guidance by PBGC. In particular, soon-to-be insolvent plans and already insolvent plans would be permitted to apply on July 9 for SFA as the first priority group. If plans are unable to apply immediately, then SFA will be delayed, soon-to-be insolvent plans will become insolvent, and benefits for participants and beneficiaries in those plans will be reduced. For plans already insolvent with participant benefits that were already reduced, any delay will result in those participants having to wait longer to have their benefits reinstated and to receive their make-up payments. Accordingly, PBGC requests emergency processing, under 5 CFR 1320.13, of this ICR.