

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 revised information collection under the Paperwork Reduction Act related to the Special Financial Assistance by PBGC—Withdrawal Liability Condition Exception final rule (OMB control number 1212-0074).

On July 9, 2021, PBGC issued an interim final rule with a request for comment, adding to its regulations a new part 4262 to implement the requirements under section 9704 of the American Rescue Plan (ARP) Act of 2021 (P.L. 117-2), “Special Financial Assistance Program for Financially Troubled Multiemployer Plans.” On July 8, 2022, PBGC issued a final rule that made changes to the special financial assistance (SFA) program and requested comments on the condition requiring a phased recognition of SFA in a plan’s determination of withdrawal liability.

In response to this comment solicitation, PBGC received comments on the phase-in condition in § 4262.16(g)(2) as well as on the condition requiring the use of specified interest assumptions in § 4262.16(g)(1). Following consideration of these comments, PBGC determined that it would be appropriate to provide a process for plans to apply for an exception to the conditions in § 4262.16(g)(1) and (2), that would be available where application of the conditions would result in an increase in employer withdrawals.

PBGC’s operation of the SFA program requires an information collection request (ICR). This ICR includes the application requirements and instructions necessary for the sponsor of an eligible plan to apply for SFA, 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. This ICR is approved under OMB control number 1212-0074 (expires January 31, 2026).

PBGC is issuing a final rule to amend part 4262, effective on the date when it is published in the Federal Register, and is submitting changes to the previously approved collection of information. Specifically, under § 4262.16(g)(3), PBGC is adding a request for a determination from PBGC for approval of an exception from the withdrawal liability conditions under § 4262.16(g)(1) and (2). A plan may apply for an exception before the plan files its SFA application. PBGC needs the information required for a request for determination to determine whether to approve the requested exception. PBGC’s determination will affect the plan’s calculation of SFA that is required for the plan’s application.

It is in the interest of a plan eligible to apply for SFA before March 11, 2023, during the priority group period, to be able to first determine if the plan should apply for an exception to the

withdrawal liability conditions. Following the normal clearance procedure for this revised ICR or delaying review of this revised ICR would be contrary to the interests of the plan's participants and beneficiaries and could cause a delay in the submission of the plan's application and the plan's receipt of SFA. Accordingly, PBGC requests emergency processing, under 5 CFR 1320.13, of the revisions to this ICR.