

# Your Plan Has Received SFA. What Happens Now?



Receipt of Special Financial Assistance (SFA) from the PBGC under the American Rescue Plan Act has multiple implications beyond bolstering plan assets, including following the requirements and conditions established by the [PBGC's final rule](#) on SFA and additional SFA program guidance from the PBGC, for multiemployer plans that applied for SFA after August 8, 2022 (the effective date of the final rules).

This document is an overview of what happens after a multiemployer plan receives SFA. It is based on guidance available as of May 23, 2024 and is not intended to be a comprehensive description of all the SFA requirements and conditions.

## Requirements and conditions for SFA and plan assets

- SFA may only be used to pay benefits and administrative expenses.
- SFA may be used before other plan assets.
- SFA and earnings on SFA are required to be segregated from other plan assets.
- Investment requirements apply to SFA.

## Red-zone status fixed for nearly 30 years

- The plan is deemed to be in critical status (the red zone).
- That deemed status will remain until the last plan year ending in 2051.

## Restrictions on benefit increases

- Retroactive benefit increases are generally not permitted.
- Prospective benefit increases are generally permitted if the actuary certifies employer contributions have been increased sufficiently to pay for increases.
- Exemption to the restrictions may be sought 10 years after receipt of SFA.

## Restrictions on contribution decreases and diversion

- Contribution decreases are permissible in limited circumstances. If the decrease affects annual contributions over \$10 million and over 10 percent of all employer contributions, PBGC's approval is required.
- Generally, plan trustees cannot divert contributions from an SFA-recipient plan to a non-SFA plan or increase allocation of administrative expenses of the SFA-recipient plan. Certain agreements, including reciprocity agreements, are exempt from this restriction.

## Withdrawal liability

- PBGC's [mass withdrawal interest rate assumptions](#) are used to determine unfunded vested benefits (UVBs) for the later of 10 years or the last day of the plan year by which the plan is projected to exhaust SFA.
- To determine UVBs, the plan must phase in the amount of SFA received over the number of years until SFA is projected to be exhausted in the complete application.
- PBGC approval is needed for settlements of [withdrawal liability](#) of amounts greater than \$50 million.

## Required annual statement of compliance

- [Annual Statement of Compliance](#) must be submitted within 90 days after the end of the plan year showing compliance with the SFA-related requirements and conditions. A special rule may apply for the first year.
- This requirement remains until the last day of the last plan year ending in 2051.

## Mergers and transfers

- Mergers and transfers must be approved by PBGC prior to the transaction.

## Limitations on future relief

- Suspension of benefits under the Multiemployer Pension Reform Act (MPRA) is not permitted.
- There is no change in the rules for insolvent plans with respect to the PBGC guarantee in the event of future insolvency.

Plan trustees should seek advice from their fund counsel on which amendments and other revisions, if any, are required to satisfy these requirements and conditions. Additionally, it's a good idea to ask the plan's investment consultants how to best invest and track SFA assets.

To learn more about the implications of receiving SFA, contact one of the following subject matter experts:

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